



MEMORANDUM

DATE: March 16, 2016

TO: Mayor and City Council Members

FROM: Leif J. Ahnell, C.P.A., C.G.F.O.
City Manager

A handwritten signature in blue ink, appearing to be "Leif J. Ahnell", is written over the "FROM" field.

SUBJECT: An Ordinance of the City of Boca Raton to amend Chapter 28 "Zoning," City's Code of Ordinances, relating to Building Height and Height provisions; Amending Section 28-391 to delete allowance for additional building height in the R-2 Zoning District; Amending Sections 28-451, 28-481, and 28-511 to set the maximum height for accessory structures at 25 feet (and delete allowance for additional height) in the R-3-A, R-3-B, and R-3-C Zoning Districts; Amending Section 28-780 to delete allowance for additional building height in the B-1 Zoning District; Amending Sections 28-874, 28-983, 28-1074, and 28-1099 to delete the reference to "stories" and retain measurement of height in feet in the C-1, LIRP Employee Service Node, M-1 and M-2 Zoning Districts; Amending Section 28-1126 to delete allowance for additional height for accessory structures in the M-3 Zoning District.

RECOMMENDATION

Consistent with City Council direction provided at the September 21, 2015 City Council Workshop, I recommend adoption of the attached Ordinance that, if approved, will amend building height regulations in Chapter 28, Code of Ordinances. The Development Services Department finds the proposed amendments to the City Code of Ordinances to be consistent with the Comprehensive Plan.

BACKGROUND

At the May 27, 2015 City Council meeting, the City Council directed staff to analyze, and provide assessments and recommendations regarding a Zoning Code provision currently found in both the Multifamily Residential (R-2) and Local Business (B-1) Zoning Districts that allows for an increase in the maximum permitted heights for structures based upon an approval by City Council after a review and recommendation by the Planning and Zoning Board ("Board"). As a result of City Council's directive, a "zoning in progress" was established for additional height requests in the R-2 and B-1 Zoning Districts.

At the June 8, 2015 City Council Workshop meeting, staff provided the following outline of items to be considered in order to effectively evaluate the issue:

1. The standards for determining whether additional height in the R-2 and the B-1 Zoning Districts is appropriate;

2. Whether the height increase provision is obsolete, unnecessary, or inadvisable; and
3. What impacts a change in these districts' regulations for additional height may have elsewhere in the City Code, either in zoning districts or in general provisions.

At the September 21, 2015 City Council Workshop, staff provided its analysis and findings to the City Council regarding building height and height regulations (see September 11, 2015 memorandum). The City Council gave its consensus on the following staff recommendations:

1. Delete current allowances for possible additional building height in both the R-2 and the B-1 Zoning Districts;
2. Set a maximum height of 25 feet for accessory structures in the Multifamily Residential Zoning Districts of R-3-A, R-3-B, and R-3-C;
3. Delete the reference to "stories" and retain the measurement of height in feet for the Commercial Zoning District (C-1), Light Industrial and Research Park (LIRP) Employee Service Node Zoning District, Light Industrial Zoning District (M-1) and General Industrial Zoning District (M-2); and
4. Delete the allowance for accessory structures to exceed maximum height in the Manufacturing Industrial Zoning District (M-3).

PLANNING AND ZONING BOARD REVIEW

The Planning and Zoning Board held two (2) workshops on the proposed amendments to the City's Code of Ordinances on November 5, 2015 and January 7, 2016. At these workshop meetings, the Board provided its consensus review of the City Council recommendations and also requested additional analysis from staff. Note that at the January 7, 2016 Board workshop, the Board was provided a draft Ordinance, submitted by Mr. Robert A. Eisen, proposing to keep the allowance for additional height in the B-1 Zoning District subject to the standards for Conditional Use Approvals provided in Section 28-102 of the City Code of Ordinances as well as additional compatibility standards provided by Mr. Eisen (see attached Planning Report).

At the March 3, 2016 Board public hearing on this item, a motion to recommend approval of the proposed Ordinance failed (2 to 4). The Board then proceeded to approve the following recommendations relating to building height provisions in Chapter 28 based on discussion at the January 7, 2016 Board Workshop and at the March 3, 2016 Board meeting (see attached Board recommendation No. 2016-0002):

1. Motion to adopt the following prior Planning and Zoning Board's recommendations set forth at the January 7, 2016 Workshop meeting (4-2).

R-2 Zoning District (as it relates to Section 28-391 of the City Code):

- Keep the additional height provision for permitted nonresidential buildings.
- Replace the word "injurious".

B-1 Zoning District (as it relates to Section 28-780 of the City Code):

- Keep the additional height provision for permitted buildings.
- Replace the word "injurious".
- Add an additional rear setback (one (1) foot in width for every two (2) feet by which the building height exceeds 30 feet).
- Model the additional rear setback, noted above, against existing B-1 Zoning District parcels that abut residential zoning districts.

Multifamily Residential R-3-A, R-3-B, and R-3-C (as it relates to accessory building/structures height):

- Revise the maximum height for accessory building/structures from 15 feet to 25 feet.

Reference to “stories” in the C-1, LIRP Employee Service Node, M-1, and M-2 Zoning Districts:

- Keep the references to “stories” and provide a definition.

M-3 Zoning District (as it relates to the additional height provision for accessory buildings/structures):

- Revisit this provision and evaluate it against permitted accessory uses.

2. Motion to keep references to “stories” as proposed on the table provided on page 6 of the March 3, 2016 Board meeting staff report in the C-1, LIRP Employee Service Node, M-1 and M-2 Zoning Districts (5-1).
3. Motion to strike “injurious” and instead substitute the following criteria that would apply to the consideration of additional height for any building or structure that exceeds the maximum permitted height in the R-2 and B-1 Zoning Districts (5-1):
 - (a) The compatibility of the proposed additional height of the building, feature or structure with the character of the surrounding area;
 - (b) The proportion of the additional height of the proposed building, feature or structure in relation to the property on which it is to be constructed or to the building to which it is to be attached;
 - (c) The appropriateness of the location of the additional height of the proposed building, feature or structure, on the parcel or on a building or structure, and with respect to adjoining land uses;
 - (d) The architectural compatibility of the proposed additional height of the building, feature or structure with the character of a building or structure to which the feature is proposed to be attached; and,
 - (e) The purposes of the additional height of the proposed building, feature or structure and the compatibility of such use with adjoining land uses.

The Board also requested that an advisory memorandum to the City Council be prepared advising the City Council to consider treating the following areas of the City differently in terms of allocation of height (see attached):

1. The B-1 zoned area along East Palmetto Park Road from the Intracoastal Bridge to Ocean Boulevard; and
2. The B-1 zoned corridor along Northwest 2nd Avenue.

PROPOSED CODE AMENDMENTS

The following proposed amendments to the City Code of Ordinances, indicated by strikethrough and underline format, are consistent with staff’s analysis and recommendation and with the City Council’s consensus provided at the September 21, 2015 City Council Workshop:

- *Section 28-391. - Building height.*

No building or structure in R-2 districts shall be erected or altered to a height exceeding 25 feet. ~~Permitted nonresidential buildings except accessory structures may be erected or altered to a height not exceeding 50 feet, if approved by the council as being not injurious to surrounding property and in accordance with the spirit and purpose of this chapter.~~

- *Section 28-451. - Building height (R-3-A Zoning District).*

(1) No building or structure or part thereof in an R-3-A district shall be erected to a height exceeding 75 feet.

(2) No accessory building or structure shall be erected to exceed 25 45 feet. ~~When such accessory building serves more than 1 multifamily structure, the planning and zoning board may approve an increase in height of such accessory buildings to 25 feet, when considered fully justified and not in violation of the provisions of this Code.~~

- *Section. 28-481. - Building height (R-3-B Zoning District).*

(1) No building or structure or part thereof in an R-3-B district shall be erected to a height exceeding 50 feet.

(2) No accessory building or structure shall be erected to exceed 25 45 feet. ~~When such accessory building serves more than 1 multifamily structure, the planning and zoning board may approve an increase in height of such accessory building to 25 feet, when considered fully justified and not in violation of the provisions of this chapter.~~

- *Section 28-511. - Building height (R-3-C Zoning District).*

(1) No building or structure or part thereof in an R-3-C district shall be erected to a height exceeding 50 feet.

(2) No accessory building or structure shall be erected to exceed 25 45 feet. ~~When such accessory buildings serve more than 1 multifamily structure, the planning and zoning board may approve an increase in height of such accessory buildings to 25 feet, when considered fully justified and not in violation of the provisions of this chapter.~~

- *Section 28-780. - Height.*

No building, structure, or part thereof, shall be erected, or altered in a B-1 district to a height exceeding 30 feet, ~~; provided, that permitted buildings may be erected or altered to a height not exceeding 50 feet upon consideration of the planning and zoning board and recommendation to the city council. The city council shall approve such construction as being not injurious to surrounding property and in accord with the spirit and purpose of this chapter.~~

- *Section 28-874. - Building height (C-1 Zoning District).*

No building or structure, or part thereof, shall be erected or altered in a C-1 district to a height exceeding ~~4 stories or~~ 50 feet.

- *Section 28-983. - Employee service node uses allowed (LIRP – Employee Service Node Zoning District).*

(4) Employee service nodes used in the LIRP district shall conform to all of the following requirements:

(h) No building or structure or part thereof shall be erected to a height exceeding 25 feet ~~or 2 stories.~~

- *Section 28-1074. - Building height (M-1 Zoning District).*

No building or structure, or part thereof, shall be erected or altered in an M-1 district to a height exceeding ~~2 stories or~~ 30 feet.

- *Section 28-1099. - Building height (M-2 Zoning District).*

No building or structure, or part thereof, shall be erected or altered in an M-2 district to a height exceeding ~~4 stories or~~ 60 feet.

- *Section 28-1126. – Height (M-3 Zoning District).*

Except as provided herein, a building or structure, or part thereof, shall not be erected or altered in an M-3 district to a height exceeding 30 feet. A building or structure primarily used as a bank or financial institution, business or professional offices, or a hotel or motel, or a combination thereof, may be erected or altered to a height not exceeding 50 feet, provided that a parking structure for such uses shall not exceed 30 feet in height. A building or structure used primarily as a food product distribution center, of which at least 40 percent thereof is refrigerated, may be erected or altered to a height not to exceed 40 feet, provided all parking shall be at grade. ~~The height of accessory structures, including antennas, may be permitted in excess of the foregoing height limitations upon approval by the city manager and the planning and zoning board.~~

CRITERIA

Section 23-34, Code of Ordinances, states that the administration of the Comprehensive Plan shall be governed by the principle that all development, all actions in regard to development orders, and all land development regulations and codes enacted or amended by a governmental agency shall be consistent with the Comprehensive Plan. In addition, Section 163.3194(b), Florida Statutes, requires that all land development regulations enacted or amended shall be consistent with the adopted Comprehensive Plan; and that any land development regulations existing at the time of adoption which are not consistent with the adopted Comprehensive Plan, shall be amended so as to be consistent. Staff has determined that the proposed amendments to the Code of Ordinances are consistent with the Comprehensive Plan.

SUMMARY

Consistent with City Council direction provided at the September 21, 2015 City Council Workshop, staff recommends that the City Council adopt the attached Ordinance amending various building height and height provisions in Chapter 28, Code of Ordinances. Staff has provided all of the Planning and Zoning Board's comments from their prior workshops as well as their recommendation from the March 3, 2016 public hearing on the proposed Ordinance to include an advisory memorandum to the City Council.

FISCAL IMPACT

There is no fiscal impact to the City associated with the adoption of this Ordinance.

Document originated by: Ingrid Allen, Senior Planner



ORDINANCE

5345

1
2 AN ORDINANCE OF THE CITY OF BOCA RATON TO
3 AMEND CHAPTER 28 "ZONING," CITY'S CODE OF
4 ORDINANCES, RELATING TO BUILDING HEIGHT AND
5 HEIGHT PROVISIONS; AMENDING SECTION 28-391
6 TO DELETE ALLOWANCE FOR ADDITIONAL
7 BUILDING HEIGHT IN THE R-2 ZONING DISTRICT;
8 AMENDING SECTIONS 28-451, 28-481, AND 28-511
9 TO SET THE MAXIMUM HEIGHT FOR ACCESSORY
10 STRUCTURES AT 25 FEET (AND DELETE
11 ALLOWANCE FOR ADDITIONAL HEIGHT) IN THE R-3-
12 A, R-3-B, AND R-3-C ZONING DISTRICTS; AMENDING
13 SECTION 28-780 TO DELETE ALLOWANCE FOR
14 ADDITIONAL BUILDING HEIGHT IN THE B-1 ZONING
15 DISTRICT; AMENDING SECTIONS 28-874, 28-983, 28-
16 1074, AND 28-1099 TO DELETE THE REFERENCE TO
17 "STORIES" AND RETAIN MEASUREMENT OF HEIGHT
18 IN FEET IN THE C-1, LIRP EMPLOYEE SERVICE
19 NODE, M-1 AND M-2 ZONING DISTRICTS; AMENDING

1 SECTION 28-1126 TO DELETE ALLOWANCE FOR
2 ADDITIONAL HEIGHT FOR ACCESSORY
3 STRUCTURES IN THE M-3 ZONING DISTRICT;
4 PROVIDING FOR SEVERABILITY; PROVIDING FOR
5 REPEALER; PROVIDING FOR CODIFICATION;
6 PROVIDING AN EFFECTIVE DATE (AM-15-14/15-
7 92500014)

8
9 WHEREAS, at the May 27, 2015 City Council meeting, the City Council directed staff
10 to analyze, and provide assessments and recommendations regarding a zoning code provision
11 found in both the Local Business (B-1) and Multifamily Residential (R-2) Zoning Districts that
12 allows for an increase in the maximum permitted building height for structures based upon an
13 approval by City Council after a review and recommendation by the Planning and Zoning Board;
14 and

15 WHEREAS, as a result of City Council's direction, "zoning in progress" was
16 established, therefore, prohibiting the Development Services Department from processing any
17 applications requesting additional height under the Local Business (B-1) and Multifamily
18 Residential (R-2) Zoning Districts; and

19 WHEREAS, staff proceeded to analyze the height provisions in the B-1 and R-2
20 Zoning Districts, as well as other district height provisions that deviated from the typical height
21 regulations in the City Code; and

22 WHEREAS, at the September 21, 2015 City Council Workshop meeting, City staff
23 presented its recommendations and the City Council directed an ordinance be presented on the
24 following issues: 1) delete current allowances for additional building height in both the
25 Multifamily Residential Zoning District (R-2) and the Local Business Zoning District (B-1); 2) set
26 a maximum height of 25 feet for accessory structures in the Multifamily Residential Zoning

1 Districts of R-3-A, R-3-B, and R-3-C; 3) delete the reference to “stories” and retain the
2 measurement of height in feet for the Commercial Zoning District (C-1), Light Industrial and
3 Research Park (LIRP) Employee Service Node Zoning District, Light Industrial Zoning District
4 (M-1) and General Industrial Zoning District (M-2); 4) delete the allowance for accessory
5 structures to exceed maximum height in the Manufacturing Industrial Zoning District (M-3); and

6 WHEREAS, staff reviewed existing structures in the R-2 and B-1 Zoning Districts and
7 determined that no existing permitted nonresidential building in the R-2 Zoning District and no
8 existing permitted building in the B-1 Zoning District exceeds the height requirement and that
9 only one prior request for additional height in either Zoning District has been considered and
10 approved by the City Council; and

11 WHEREAS, an approved development order for additional building height in the R-2
12 or B-1 Zoning Districts may proceed unless the development order has expired; and

13 WHEREAS, the Development Services Department has recommended amending the
14 Code of Ordinances to incorporate the above issues pertaining to building height and height
15 provisions; and

16 WHEREAS, the Planning and Zoning Board, after notice and public hearings, has
17 considered the proposed amendments to the Code of Ordinances, more specifically described
18 herein, and upon taking testimony of interested parties, submitted its recommendation to the
19 City Council; and

20 WHEREAS, the City Council, after notice and public hearing, has considered the
21 proposed amendments to the Code of Ordinances, the recommendations of the Planning and
22 Zoning Board and all public comments; and

23 WHEREAS, the City Council desires to amend the Code of Ordinances in order to
24 incorporate the above issues pertaining to building height and height provisions into the City
25 Code; now therefore

26

1
2 THE CITY OF BOCA RATON HEREBY ORDAINS:
3

4 Section 1. Section 28-391, Code of Ordinances, (relating to the R-2 Zoning District)
5 is hereby amended to read:

6 Section 28-391. - Building height.

7 No building or structure in R-2 districts shall be erected or altered to a height
8 exceeding 25 feet. ~~Permitted nonresidential buildings except accessory structures may be~~
9 ~~erected or altered to a height not exceeding 50 feet, if approved by the council as being not~~
10 ~~injurious to surrounding property and in accordance with the spirit and purpose of this chapter.~~

11 Section 2. Section 28-451, Code of Ordinances, (relating to the R-3-A Zoning
12 District) is hereby amended to read:

13 Section 28-451. - Building height.

14 (1) No building or structure or part thereof in an R-3-A district shall be erected to a
15 height exceeding 75 feet.

16 (2) No accessory building or structure shall be erected to exceed 25 15 feet. ~~When~~
17 ~~such accessory building serves more than 1 multifamily structure, the planning and zoning~~
18 ~~board may approve an increase in height of such accessory buildings to 25 feet, when~~
19 ~~considered fully justified and not in violation of the provisions of this Code.~~

20 Section 3. Section 28-481, Code of Ordinances, (relating to the R-3-B Zoning
21 District) is hereby amended to read:

22 Section 28-481. - Building height.

23 (1) No building or structure or part thereof in an R-3-B district shall be erected to a
24 height exceeding 50 feet.

25 (2) No accessory building or structure shall be erected to exceed 25 15 feet. ~~When~~
26 ~~such accessory building serves more than 1 multifamily structure, the planning and zoning~~

1 ~~board may approve an increase in height of such accessory building to 25 feet, when~~
2 ~~considered fully justified and not in violation of the provisions of this chapter.~~

3 Section 4. Section 28-511, Code of Ordinances, (relating to the R-3-C Zoning District)
4 is hereby amended to read:

5 Section 28-511. - Building height.

6 (1) No building or structure or part thereof in an R-3-C district shall be erected to a height
7 exceeding 50 feet.

8 (2) No accessory building or structure shall be erected to exceed 25 ~~45~~ feet. ~~When such~~
9 ~~accessory buildings serve more than 1 multifamily structure, the planning and zoning board may~~
10 ~~approve an increase in height of such accessory buildings to 25 feet, when considered fully~~
11 ~~justified and not in violation of the provisions of this chapter.~~

12 Section 5. Section 28-780, Code of Ordinances, (relating to the B-1 Zoning District)
13 is hereby amended to read:

14 Section 28-780. - Height.

15 No building, structure, or part thereof, shall be erected, or altered in a B-1 district to a
16 height exceeding 30 feet; ~~provided, that permitted buildings may be erected or altered to a~~
17 ~~height not exceeding 50 feet upon consideration of the planning and zoning board and~~
18 ~~recommendation to the city council. The city council shall approve such construction as being~~
19 ~~not injurious to surrounding property and in accord with the spirit and purpose of this chapter.~~

20 Section 6. Section 28-874, Code of Ordinances, (relating to the C-1 Zoning District) is
21 hereby amended to read:

22 Section 28-874. - Building height.

23 No building or structure, or part thereof, shall be erected or altered in a C-1 district to
24 a height exceeding 4 stories or 50 feet.

25 Section 7. Section 28-983, Code of Ordinances, (relating to the LIRP Employee
26 Service Node Zoning District) is hereby amended to read:

1 • Section 28-983. - Employee service node uses allowed.

2 * * *

3 (4) Employee service nodes used in the LIRP district shall conform to all of the following
4 requirements:

5 * * *

6 (h) No building or structure or part thereof shall be erected to a height exceeding 25
7 feet or ~~2 stories~~.

8 * * *

9 Section 8. Section 28-1074, Code of Ordinances, (relating to the M-1 Zoning District)
10 is hereby amended to read:

11 Section 28-1074. - Building height.

12 No building or structure, or part thereof, shall be erected or altered in an M-1 district to
13 a height exceeding ~~2 stories~~ or 30 feet.

14 Section 9. Section 28-1099, Code of Ordinances, (relating to the M-2 Zoning District)
15 is hereby amended to read:

16 Section 28-1099. - Building height.

17 No building or structure, or part thereof, shall be erected or altered in an M-2 district
18 to a height exceeding ~~4 stories~~ or 60 feet.

19 Section 10. Section 28-1126, Code of Ordinances, (relating to the M-3 Zoning
20 District) is hereby amended to read:

21 Section 28-1126. - Height.

22 Except as provided herein, a building or structure, or part thereof, shall not be erected
23 or altered in an M-3 district to a height exceeding 30 feet. A building or structure primarily used
24 as a bank or financial institution, business or professional offices, or a hotel or motel, or a
25 combination thereof, may be erected or altered to a height not exceeding 50 feet, provided that
26 a parking structure for such uses shall not exceed 30 feet in height. A building or structure used

1 primarily as a food product distribution center, of which at least 40 percent thereof is
2 refrigerated, may be erected or altered to a height not to exceed 40 feet, provided all parking
3 shall be at grade. ~~The height of accessory structures, including antennas, may be permitted in~~
4 ~~excess of the foregoing height limitations upon approval by the city manager and the planning~~
5 ~~and zoning board.~~

6 Section 11. If any section, subsection, clause or provision of this ordinance is held
7 invalid, the remainder shall not be affected by such invalidity.

8 Section 12. All ordinances and resolutions or parts of ordinances and resolutions and
9 all sections and parts of sections in conflict herewith shall be and hereby are repealed.

10 Section 13. Codification of this ordinance in the City Code of Ordinances is hereby
11 authorized and directed.

12 Section 14. This ordinance shall take effect immediately upon adoption.

13 PASSED AND ADOPTED by the City Council of the City of Boca Raton this _____
14 day of _____, 2016.

15
16 CITY OF BOCA RATON, FLORIDA

17
18 ATTEST:

19
20
21 _____
22 Susan Haynie, Mayor

23 _____
24 Susan S. Saxton, City Clerk

25
26 Approved as to form:

27
28
29 _____
30 Diana Grub Frieser, City Attorney
31
32

1
2

COUNCIL VOTE			
	YES	NO	ABSTAINED
MAYOR SUSAN HAYNIE			
DEPUTY MAYOR MICHAEL MULLAUGH			
COUNCIL MEMBER JEREMY RODGERS			
COUNCIL MEMBER SCOTT SINGER			
COUNCIL MEMBER ROBERT S. WEINROTH			

3

**DEVELOPMENT SERVICES DEPARTMENT, BOCA RATON, FLORIDA
PLANNING REPORT**

Planning & Zoning Agenda Date: March 3, 2016

CASE NO.: AM-15-14
15-92500014

An Ordinance of the City of Boca Raton to amend Chapter 28 "Zoning," City's Code of Ordinances, relating to Building Height and Height provisions; Amending Section 28-391 to delete allowance for additional building height in the R-2 Zoning District; Amending Sections 28-451, 28-481, and 28-511 to set the maximum height for accessory structures at 25 feet (and delete allowance for additional height) in the R-3-A, R-3-B, and R-3-C Zoning Districts; Amending Section 28-780 to delete allowance for additional building height in the B-1 Zoning District; Amending Sections 28-874, 28-983, 28-1074, and 28-1099 to delete the reference to "stories" and retain measurement of height in feet in the C-1, LIRP Employee Service Node, M-1 and M-2 Zoning Districts; Amending Section 28-1126 to delete allowance for additional height for accessory structures in the M-3 Zoning District.

Recommendation:

Approval



Ty Harris, Director

INTRODUCTION

At the May 27, 2015 City Council meeting, the City Council directed staff to analyze, and provide assessments and recommendations regarding a Zoning Code provision currently found in both the Multifamily Residential (R-2) and Local Business (B-1) Zoning Districts that allows for an increase in the maximum permitted heights for structures based upon an approval by City Council after a review and recommendation by the Planning and Zoning Board ("Board"). As a result of City Council's directive, and the "zoning in progress" status, should an application request for additional height in the R-2 and B-1 Zoning Districts be submitted to the Development Services Department, the processing would not commence. As of the writing of this report, no such applications have been filed with the Development Services Department.

At a City Council Workshop held on September 21, 2015, staff provided its analysis and findings to the City Council regarding building height and height regulations. The attached Ordinance is

consistent with City Council direction provided at the September 21, 2015 City Council Workshop. Staff is recommending approval of this Ordinance.

BACKGROUND

At the June 8, 2015 City Council Workshop meeting, staff highlighted the following items to be considered in order to effectively evaluate the issue (see Exhibit 1):

1. The standards for determining whether additional height in the R-2 and the B-1 Zoning Districts is appropriate;
2. Whether the height increase provision is obsolete, unnecessary, or inadvisable; and
3. What impacts a change in these districts' regulations for additional height may have elsewhere in the City Code, either in zoning districts or in general provisions.

At the September 21, 2015 City Council Workshop, staff provided its analysis and findings to the City Council regarding building height and height regulations (see Exhibit 2). As a result, the City Council gave its consensus on the following staff recommendations:

1. Delete current allowances for additional building height in both the R-2 and the B-1 Zoning Districts;
2. Set a maximum height of 25 feet for accessory structures in the Multifamily Residential Zoning Districts of R-3-A, R-3-B, and R-3-C;
3. Delete the reference to "stories" and retain the measurement of height in feet for the Commercial Zoning District (C-1), Light Industrial and Research Park (LIRP) Employee Service Node Zoning District, Light Industrial Zoning District (M-1) and General Industrial Zoning District (M-2);
4. Delete the allowance for accessory structures to exceed maximum height in the Manufacturing Industrial Zoning District (M-3); and
5. Evaluate establishing an absolute maximum height for non-residential structures in Single Family Residential Zoning Districts. (Note that staff is currently analyzing this recommendation and therefore it is not part of the proposed code amendment. Staff will present its findings on this recommendation at a future public hearing date to be determined).

At the November 5, 2015 Planning and Zoning Board Workshop, staff presented the City Council consensus provided at the September 21, 2015 City Council Workshop, however, the Board suggested keeping the current allowance for additional building height in the R-2 and B-1 Zoning Districts and adding additional setback provisions for the B-1 Zoning District (Note that Section 28-392(4) of the City Code already provides for additional setbacks for nonresidential buildings that exceed 35 feet in height in the R-2 Zoning District). As a result of the Board's suggestion, the following four (4) options relating to the current R-2 and B-1 allowance for additional building height were presented to the Board for consideration and consensus at a follow-up Board Workshop held on January 7, 2016:

1. Do not amend the existing additional height allowance regulations (not selected by the City Council);
2. Remove the allowance for additional building height (as directed by the City Council);
3. Keep the allowance for additional building height and add supplemental criteria that would apply to the consideration of additional height for any building or structure that exceeds the maximum height in the R-2 and B-1 Zoning Districts. The following proposed supplemental criteria are similar to the criteria found in Section 28-342(2)(a)-(e) of the City Code which currently apply to permitted nonresidential

buildings or structures (or the portion of the feature or structure) that exceed 50 feet in Single-family Residential Zoning Districts (*Note: In the R-2 Zoning District, the criteria standards provided below would apply to a proposed nonresidential building, feature or structure*).

- (a) The compatibility of the proposed additional height of the building, feature or structure with the character of the surrounding area;
 - (b) The proportion of the additional height of the proposed building, feature or structure in relation to the property on which it is to be constructed or to the building to which it is to be attached;
 - (c) The appropriateness of the location of the additional height of the proposed building, feature or structure, on the parcel or on a building or structure, and with respect to adjoining land uses;
 - (d) The architectural compatibility of the proposed additional height of the building, feature or structure with the character of a building or structure to which the feature is proposed to be attached; and,
 - (e) The purposes of the additional height of the proposed building, feature or structure and the compatibility of such use with adjoining land uses.
4. Same as No. 3 above but add the following additional setback provision for the B-1 Zoning District only (*Note that Section 28-392(4) of the City Code already provides for additional setbacks for nonresidential buildings that exceed 35 feet in height in the R-2 Zoning District*):
- (a) For buildings or structures greater than 30 feet in height, the required front, side and rear yards shall be increased by an additional 5 feet.
 - (b) For buildings or structures greater than 40 feet in height, the required front, side and rear yards shall be increased by an additional 10 feet.

At the January 7, 2016 Board meeting, the Board provided the following consensus on the options provided by staff:

R-2 Zoning District (as it relates to Section 28-391 of the City Code):

- Keep the additional height provision for permitted nonresidential buildings.
- Replace the word "injurious".

B-1 Zoning District (as it relates to Section 28-780 of the City Code):

- Keep the additional height provision for permitted buildings.
- Replace the word "injurious".
- Add an additional rear setback (one (1) foot in width for every two (2) feet by which the building height exceeds 30 feet).
- Model the additional rear setback, noted above, against existing B-1 Zoning District parcels that abut residential zoning districts.

Multifamily Residential R-3-A, R-3-B, and R-3-C (as it relates to accessory building/structures height):

- Revise the maximum height for accessory building/structures from 15 feet to 25 feet.

Reference to "stories" in the C-1, LIRP Employee Service Node, M-1, and M-2 Zoning Districts:

- Keep the references to "stories" and provide a definition.

M-3 Zoning District (as it relates to the additional height provision for accessory buildings/structures):

- Revisit this provision and evaluate it against permitted accessory uses.

ANALYSIS

The analysis provided for the September 21, 2015 City Council and the November 5, 2015 Board Workshops regarding various proposed building height and height provisions can be found in Exhibit 2. The analysis includes an assessment of the following items:

- Background on the current height provisions in the R-2 and the B-1 Zoning Districts; and
- Standards for determining whether additional height in either district is appropriate and what impacts a change to these additional height provisions may have on other zoning districts or in the general zoning provisions of the City Code.

Based on the Board's input and consensus provided at their January 7, 2016 Workshop meeting, staff has provided the following additional analysis:

1. Replace the word "injurious" as it relates to the additional height provision found in the R-2 and B-1 Zoning Districts.

Staff reviewed several municipal codes in an effort to find a comparable word for "injurious," however, the word "injurious" is used frequently in municipal codes as a standard for reviewing variances and is currently referenced as one of several standards for granting a variety of variances in the City's Code of Ordinances. Board comments at the January 2016 Workshop suggested that the word "injurious" (as it relates to the height provision in the B-1 Zoning District) assumes that height above 30 feet is indeed injurious. Based on this sentiment, staff suggests the Board consider the term "adversely affected."

2. Model the additional rear setback (one (1) foot in width for every two (2) feet by which the building height exceeds 30 feet) against existing B-1 Zoning District parcels that abut residential zoning districts.

Several B-1 parcels are adjacent to both the rear and side yards of a residential zoning district (see Exhibit 3) therefore, if the Board should decide to recommend an additional yard setback for building heights in excess of 30 feet in the B-1 Zoning District, the Board should consider applying the setback to all yards abutting residential zoning districts. As suggested by the Board, staff field tested the Board's proposed rear setback against various clusters of B-1 zoned parcels that abut residentially zoned districts throughout the City. The average lot sizes and lot depths for each B-1 zoned cluster abutting a residentially zoned district City-wide are provided in the table below. The table indicates that the average lot depths for the various B-1 clusters adjacent to residential zoning districts is a little more limited when compared to a segment of R-B-1 (Motel-Business) zoned parcels located along North Federal Highway. The average lot depth for a cluster of R-B-1 zoned parcels located on North Federal Highway from Northeast 28th Street to Northeast 32 Street is approximately 187 feet whereas the average lot depth for the various B-1 clusters (as noted below) ranges from 103 feet to 165 feet. Exhibit 3 indicates that several B-1 zoned parcels located along East Palmetto Park Road, the west side of Northwest 2nd Avenue north of Glades Road, and along North and South Dixie Highway are wider than they are deep.

B-1 parcel cluster location	Average lot size (acres)	Average lot depth (feet)
Parcels on East Palmetto Park Road	0.372	122
Parcels along South Dixie Hwy south of Camino Real	0.561	114
Parcels along North Dixie Hwy north of 20th Street	0.320	103
Parcels along Northwest 2nd Avenue south of 20th Street	0.740	165
Parcels along Northwest 2nd Avenue north of 20th Street	0.747	160

The following City Code setback provisions are applicable to the B-1 Zoning District:

- Section 28-779 requires a 10 foot rear and front or street yard setback.
- Section 28-304(1) requires business or commercial districts that directly abut a residential district (without any division or separator between them such as a street, alley, park or other public open space) to provide a yard of at least 25 feet in depth.

The Board's proposed additional 1 foot setback for every 2 feet of height above 30 feet would require the following setback for those B-1 zoned parcels abutting a residential zoning district: (Note: For those B-1 parcels that abut residential districts on both the rear and side yards, the additional setback, as noted below, would apply twice resulting in a greater total setback).

Section 28-304(1) setback (feet)	Board's proposed additional setback		Total setback abutting residential
	Height (feet)	Additional Setback (feet)	
25	35	3	28
25	40	5	30
25	45	8	33
25	50	10	35

As discussed above, staff recommends that the Board consider including in its recommendation applying the additional setback in any B-1 yard abutting residential for consistency. Other City Code regulations including but not limited to floor area ratio, parking and driveway regulations, which vary depending on building design, use, etc., can also limit the building footprint.

3. Keep the references to "stories" in the C-1, LIRP Employee Service Node, M-1, and M-2 Zoning Districts and provide a definition.

Staff reviewed several municipal codes for a definition of the word "story." Several municipal codes provided a general definition such as "that portion of a building included between the surface of any finished floor and the surface of the next floor above it or, if

there is no floor above it, the space between the floor and ceiling above it" while others incorporated actual dimensions. As noted by staff at the January 7, 2016 Board Workshop, ceiling heights are typically addressed at the building permit phase of development and as part of the life safety code. Board discussion at the January 2016 Workshop included rephrasing the current height provisions for better clarity. A proposed text revision to the current height provision in each zoning district is provided in the table below.

Zoning District	Current City Code Height Provision	Proposed Revision (based on Board's 1/7/16 Workshop discussion)
C-1	4 stories or 50 feet	50 feet but no more than 4 stories
LIRP Employee Service Node	25 feet or 2 stories	25 feet but no more than 2 stories
M-1	2 stories or 30 feet	30 feet but no more than 2 stories
M-2	4 stories or 60 feet	60 feet but no more than 4 stories

4. **Revisit the additional height provision for accessory buildings/structures in M-3 Zoning District and evaluate against permitted accessory uses.** Section 28-2 of the City Code defines "accessory building" as a "...subordinate building or structure on the same plot and not a part of the main building." Section 28-1123 of the City Code provides for 'permitted uses' in the M-3 Zoning District which includes manufacturing, fabricating, processing, converting, altering and assembling of products. All of these types of industrial uses would be considered primary not accessory uses. According to Section 28-1123 of the City Code, only the following accessory uses are permitted:

- a. Accessory uses that are compatible with permitted office uses as well as accessory sales provided that a "...separate and distant area is set aside for this purpose and provided that said area occupies less than [five] (5) percent of the total space of a permitted use. The accessory sales shall be accessory to either a wholesale, showroom or manufacturing use permitted in the zoning district and shall be limited to replacement and repair parts only. Said accessory sales shall not be permitted separate signage."

Mr. Robert A. Eisen, who represents several property owners with B-1 zoned properties, submitted to staff, a draft Ordinance (on November 23, 2015) and zoning analysis (on December 7, 2015) related to the additional height provision provided in the B-1 Zoning District (see Exhibit 4). Mr. Eisen's draft Ordinance proposes to keep the allowance for additional height in the B-1 Zoning District subject to the standards for Conditional Use Approvals provided in Section 28-102 of the City Code and additional compatibility standards as follows:

Sec. 28-102. - General standards for conditional uses.

- (a) The use is compatible with present, existing or planned development in the area proposed for the use;

(b) The use will not adversely affect population densities, light, air, and natural resources, including native ecosystems;

(c) The character of the district is suitable for the particular use requested;

(d) The use is consistent with the needs of the city for land areas for specific purposes to serve population and economic activities;

(e) The use will not create an adverse impact on playgrounds, parks, schools and public and private recreation areas;

(f) Adequate infrastructure is available, including roadway capacity and suitability, water and sewer service, drainage, parks, solid waste service and other infrastructure required for the use;

(g) The use will not necessitate the construction, installation or improvement of additional infrastructure not currently included in the first 3 years of the capital improvements element of the comprehensive plan or provided by other providers;

(h) The use is consistent with the comprehensive plan;

(i) Parking facilities, entrances and exits are adequate; and

(j) The use will not adversely affect the public health, safety comfort, convenience, order, appearance, general welfare and the city tax base.

Proposed compatibility standards (provided by Mr. Eisen):

- The compatibility of the additional height with the surrounding area with particular attention given to the compatibility of the additional height with surrounding residentially zoned properties.
- Compatibility shall mean such factors as: property values, established architectural design; appropriateness of location and separation; absence of interference with light and air; and, the appropriateness of buffers such as landscaping.
- Compatibility may be achieved by increasing setbacks against residentially zoned lands and requiring buffering landscaping between non-residential and adjoining residential uses.

Mr. Eisen suggests using the Conditional Use criteria, which apply to uses not structures (such as additional height) and would not be recommended for adoption without appropriate revisions to those criteria. Note that Section 28-304(1) of the City Code currently addresses compatibility between business or commercial districts that directly abut a residential district (without any division or separator between them such as a street, alley, park or other public open space) by requiring a yard of at least 25 feet in depth and a six (6) foot unpierced masonry wall (smoothly finished on both sides).

PROPOSED CODE AMENDMENT

The proposed amendments to the City Code of Ordinances, indicated by strikethrough and underline format, are as follows and are based on City Council consensus from the September 21, 2015 City Council Workshop:

- *Section 28-391. - Building height.*

No building or structure in R-2 districts shall be erected or altered to a height exceeding 25 feet. ~~Permitted nonresidential buildings except accessory structures may be erected or altered to a height not exceeding 50 feet, if approved by the council as being not injurious to surrounding property and in accordance with the spirit and purpose of this chapter.~~

- *Section 28-451. - Building height (R-3-A Zoning District).*

(1) No building or structure or part thereof in an R-3-A district shall be erected to a height exceeding 75 feet.

(2) No accessory building or structure shall be erected to exceed ~~25~~ 15 feet. ~~When such accessory building serves more than 1 multifamily structure, the planning and zoning board may approve an increase in height of such accessory buildings to 25 feet, when considered fully justified and not in violation of the provisions of this Code.~~

- *Section. 28-481. - Building height (R-3-B Zoning District).*

(1) No building or structure or part thereof in an R-3-B district shall be erected to a height exceeding 50 feet.

(2) No accessory building or structure shall be erected to exceed ~~25~~ 15 feet. ~~When such accessory building serves more than 1 multifamily structure, the planning and zoning board may approve an increase in height of such accessory building to 25 feet, when considered fully justified and not in violation of the provisions of this chapter.~~

- *Section 28-511. - Building height (R-3-C Zoning District).*

(1) No building or structure or part thereof in an R-3-C district shall be erected to a height exceeding 50 feet.

(2) No accessory building or structure shall be erected to exceed ~~25~~ 15 feet. ~~When such accessory buildings serve more than 1 multifamily structure, the planning and zoning board may approve an increase in height of such accessory buildings to 25 feet, when considered fully justified and not in violation of the provisions of this chapter.~~

- *Section 28-780. - Height.*

No building, structure, or part thereof, shall be erected, or altered in a B-1 district to a height exceeding 30 feet, ~~; provided, that permitted buildings may be erected or altered to a height not exceeding 50 feet upon consideration of the planning and zoning board and recommendation to the city council. The city council shall approve such construction as being not injurious to surrounding property and in accord with the spirit and purpose of this chapter.~~

- *Section 28-874. - Building height (C-1 Zoning District).*

No building or structure, or part thereof, shall be erected or altered in a C-1 district to a height exceeding ~~4 stories or~~ 50 feet.

- *Section 28-983. - Employee service node uses allowed (LIRP – Employee Service Node Zoning District).*

(4) Employee service nodes used in the LIRP district shall conform to all of the following requirements:

(h) No building or structure or part thereof shall be erected to a height exceeding 25 feet ~~or 2 stories.~~

- *Section 28-1074. - Building height (M-1 Zoning District).*

No building or structure, or part thereof, shall be erected or altered in an M-1 district to a height exceeding ~~2 stories or~~ 30 feet.

- *Section 28-1099. - Building height (M-2 Zoning District).*
No building or structure, or part thereof, shall be erected or altered in an M-2 district to a height exceeding ~~4 stories or~~ 60 feet.

- *Section 28-1126. – Height (M-3 Zoning District).*
Except as provided herein, a building or structure, or part thereof, shall not be erected or altered in an M-3 district to a height exceeding 30 feet. A building or structure primarily used as a bank or financial institution, business or professional offices, or a hotel or motel, or a combination thereof, may be erected or altered to a height not exceeding 50 feet, provided that a parking structure for such uses shall not exceed 30 feet in height. A building or structure used primarily as a food product distribution center, of which at least 40 percent thereof is refrigerated, may be erected or altered to a height not to exceed 40 feet, provided all parking shall be at grade. ~~The height of accessory structures, including antennas, may be permitted in excess of the foregoing height limitations upon approval by the city manager and the planning and zoning board.~~

Criteria

Section 23-34, Code of Ordinances, states that the administration of the Comprehensive Plan shall be governed by the principle that all development, all actions in regard to development orders, and all land development regulations and codes enacted or amended by a governmental agency shall be consistent with the Comprehensive Plan. In addition, Section 163.3194(b), Florida Statutes, requires that all land development regulations enacted or amended shall be consistent with the adopted Comprehensive Plan; and that any land development regulations existing at the time of adoption which are not consistent with the adopted Comprehensive Plan, shall be amended so as to be consistent. Staff has determined that the proposed amendments to the Code of Ordinances are consistent with the Comprehensive Plan.

PUBLIC HEARINGS

Since this request requires amending the City's Code of Ordinances, approval of this proposed ordinance will require an introduction by the City Council and one (1) public hearing.

SUMMARY

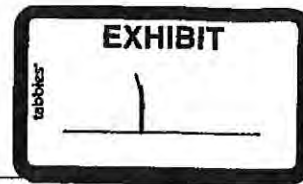
Based on the Board's consensus from the January 7, 2016 Workshop meeting, staff has reviewed the Board's proposed additional rear setback provision against B-1 zoned parcels abutting residentially zoned districts and provided supplementary analysis regarding permitted accessory uses and buildings in the M-3 Zoning District. In addition, staff has provided some options for replacing the terms "injurious" and "story". These items have not been incorporated into staff's proposed Ordinance. A draft Ordinance submitted by Mr. Robert A. Eisen proposes to keep the allowance for additional height in the B-1 Zoning District subject to the standards for Conditional Use Approvals provided in Section 28-102 of the City Code as well as additional standards that address compatibility noted previously.

RECOMMENDATION

Consistent with City Council direction, staff recommends that the Planning and Zoning Board recommend to the City Council adoption of the attached Ordinance amending various building height and height provisions in Chapter 28, Code of Ordinances. This Ordinance was originally presented to the Board at the November 5, 2015 Board Workshop meeting.

Staff will provide all of the Board's comments from their workshops and their recommendation from the public hearing on the proposed Ordinance which will include staff's research and any Board correspondence to the City Council. However, staff will continue to recommend adoption of the attached Ordinance (the Ordinance that was originally presented to the Board at the November 5, 2015 Board Workshop).

Staff report prepared by: Ingrid Allen, Senior Planner, Development Services Department



June 1, 2015

To: Mayor and City Council

From: Leif J. Ahnell, C.P.A., C.G.F.O. *LJA/SP*
City Manager

Subject: Zoning In Progress for B-1 and R-2 Zoning Districts

At the City Council meeting of May 27, 2015, City Council directed staff to review, analyze, and bring back their assessments/recommendations to City Council regarding the B-1 and R-2 zoning provisions that allow for an increase in the maximum permitted height of structures in those districts, thereby establishing "zoning in progress." (The provisions allow additional height based upon an approval by City Council after review and recommendation by the Planning and Zoning Board.) City Council also directed that staff immediately commence review of the issue and make a recommendation as expeditiously as possible. This memorandum provides an update on the matter.

In order to evaluate the issue effectively, staff will consider the following:

- The standards for determining whether additional height in either the B-1 or the R-2 zoning district is appropriate.
- Whether the height increase provision is obsolete, unnecessary, or inadvisable.
- What impacts a change in these districts' regulations for additional height may have elsewhere in the City code, either in zoning districts or in general provisions.

Staff will provide a report and recommendation on this zoning analysis at your July 27, 2015, workshop meeting. In the interim, staff will not accept applications requesting additional height under the B-1 or R-2 zoning district regulations.

c: Diana Grub Frieser, City Attorney
Jim Bell, Acting Deputy Director, Development Services

Document originated by: George S. Brown *GSB*
Deputy City Manager

City of Boca Raton



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September 11, 2015

To: Mayor and City Council

From: Lef J. Ahnell, C.P.A., C.G.F.O.
City Manager



Subject: Zoning in Progress for B-1 and R-2 Zoning Districts

At the meeting of May 27, 2015, City Council directed staff to review, analyze, and bring back as expeditiously as possible assessments and recommendations regarding the B-1 and R-2 zoning district provisions that allow for an increase in the maximum permitted heights for structures in those districts based upon an approval by City Council after review and recommendation by the Planning and Zoning Board.

As was verified with City Council on June 8, 2015, "zoning in progress" for this issue was established. Accordingly, staff has not accepted applications requesting additional height under the B-1 and R-2 zoning regulations. No such applications have been filed.

Attached is staff's report on the issue. The report:

- provides background on the current height provisions in the zoning code for the R-2 and B-1 districts;
- discusses standards for determining whether additional height in either district is appropriate, whether these height increase provisions are, from a planning perspective, obsolete, unnecessary, or inadvisable, and what impacts making a change in these additional height regulations may have in other zoning districts or in the general zoning provisions of city code; and
- offers recommendations.

Staff will present the report at the workshop meeting of September 21, 2015, and seek input from City Council on how to proceed. Please let me know if you have any questions.

C: Diana Grub Frieser, City Attorney
Linda O. MacLaren, Deputy City Attorney
Ty Harris, Development Services Director
Jim Bell, Planning and Zoning Manager

Document originated by:


George S. Brown
Deputy City Manager

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September 11, 2015

To: Leif J. Ahnell, C.P.A., C.G.F.O.
City Manager

From: George S. Brown 
Deputy City Manager

Subject: Zoning in Progress for B-1 and R-2 Zoning Districts – Building Heights

At the City Council meeting of May 27, 2015, City Council directed staff to review, analyze, and bring back their assessments/recommendations to City Council regarding the B-1 and R-2 zoning provisions that allow for an increase in the maximum permitted height of structures in those districts. City Council also directed that staff immediately commence review of the issue and make a recommendation as expeditiously as possible. Accordingly, "zoning in progress" on this issue was established, as was verified with City Council on June 8, 2015.

This memorandum:

- provides background on the current height provisions in the zoning code for the R-2 and B-1 districts;
- discusses standards for determining whether additional height in either district is appropriate, whether these height increase provisions are, from a planning perspective, obsolete, unnecessary, or inadvisable, and what impacts making a change in these additional height regulations may have in other zoning districts or in the general zoning provisions of city code; and
- offers recommendations.

BACKGROUND:

R-2 Zoning Height Regulations:

Section 28-391, Code of Ordinances, relating to building height in R-2 zoning districts, provides as follows:

"No building or structure in R-2 districts shall be erected or altered to a height exceeding 25 feet. Permitted nonresidential buildings except accessory structures may be erected or altered to a height not exceeding 50 feet, if approved by the council as being not injurious to surrounding property and in accordance with the spirit and purpose of this chapter."

In the 1956 zoning code, height of buildings in the R-2 and R-3 residential zoning districts was limited to "two and one-half stories or thirty-five feet. Provided that permitted nonresidential buildings except

accessory structures may be erected or altered to a height not exceeding four stories or fifty feet, if approved by the [planning] commission as being not injurious to surrounding property and in accordance with the spirit and purpose of this chapter." This code provision has been carried forward, with the potentially confusing provision for "stories" removed and the height limitation reduced to a maximum of 25 feet (Ord. 1330, 01/16/1969).

Note that the provision refers to "permitted nonresidential buildings except accessory structures." The ability to request additional height does not apply to residential (duplex) and accessory structures in the district. In the 1956 code, permitted nonresidential uses in R-2 lands included, among other uses, churches, museums, libraries, and recreational facilities. In the R-2 lands of the City under current zoning, buildings for permitted nonresidential uses include child care centers, as well as one "grandfathered" existing nonconforming place of public assembly (church). None of these nonresidential buildings exceeds 25 feet in height, and no request for additional height was made or required for them.

With respect to the height in the R-3 district, this provision is no longer part of the R-3 district regulations, where the maximum building height is now set at 35 feet without any provision for consideration of additional height, but the provision has been carried forward in the R-2 regulations, as noted above. Staff has analyzed all of the R-2-zoned parcels in the City and determined that all existing structures are 25 feet in height or less, measured in accordance with City Code.

B-1 Zoning Height Regulations:

Section 28-780, Code of Ordinances, relating to building height in B-1 zoning districts, provides as follows:

"No building, structure, or part thereof, shall be erected, or altered in a B-1 district to a height exceeding 30 feet; provided, that permitted buildings may be erected or altered to a height not exceeding 50 feet upon consideration of the planning and zoning board and recommendation to the city council. The city council shall approve such construction as being not injurious to surrounding property and in accord with the spirit and purpose of this chapter."

In the 1956 zoning code, height of buildings in the B-1 and B-2 commercial zoning districts was limited to "two stories or thirty feet. Provided that permitted buildings may be erected or altered to a height not exceeding four stories or fifty feet, if approved by the [planning] commission as being not injurious to surrounding property and in accordance with the spirit and purpose of this chapter." In the 1956 zoning code, B-1 and B-2 were the only non-residential districts with regulations allowing for consideration of additional height (except for the Z-1 zoning district that was applicable only to uses such as Africa USA and allowed for consideration of additional height with no maximum). All other non-residential districts had a fixed maximum height.

This provision is no longer part of the B-2 district regulations, where the height limit is now set at 50 feet without any method of consideration for additional height, but the provision has been carried forward in the B-1 regulations with the provision of stories removed. Staff has analyzed all of the B-1-zoned parcels in the City and determined that all existing B-1 structures are 30 feet in height or less, measured in accordance with City Code. The recent request for additional height considered by the City Council is the first request under the provisions of Section 28-780, Code of Ordinances.

DISCUSSION:

Standards for determining appropriateness:

The two code sections discussed above are the only regulations in the current zoning code that allow for additional height based on a City Council determination that the additional height is "not injurious to surrounding property and in accord(ance) with the spirit and purpose" of the zoning code.

By comparison, in single-family zoning districts, a portion of a feature or structure on permitted non-residential buildings and structures may exceed the maximum district height of 50 feet for such features or structures under specific conditions. Code Section 28-342(2) provides that in granting such an approval for additional height City Council shall "consider the following standards, supplemented by the standards provided in Section 28-102, Code of Ordinances, as they apply to the portion of the feature or structure that exceeds 50 feet:

- (a) The compatibility of the proposed nonresidential building, feature or structure with the character of the surrounding area and the established architectural design;
- (b) The proportion of the proposed nonresidential building, feature or structure to the building to which it is to be attached;
- (c) The appropriateness of the location of the proposed nonresidential building, feature or structure, on the ground or on a building or structure;
- (d) The architectural compatibility of the proposed nonresidential building, feature or structure with the character of the nonresidential building or structure to which it is proposed to be attached; and,
- (e) The uses or purposes of the proposed nonresidential building, feature or structure and the compatibility of such use with adjoining land uses.

The standards in Section 28-102 are the general standards for conditional uses:

- (a) The use is compatible with present, existing or planned development in the area proposed for the use;
- (b) The use will not adversely affect population densities, light, air, and natural resources, including native ecosystems;
- (c) The character of the district is suitable for the particular use requested;
- (d) The use is consistent with the needs of the city for land areas for specific purposes to serve population and economic activities;
- (e) The use will not create an adverse impact on playgrounds, parks, schools and public and private recreation areas;
- (f) Adequate infrastructure is available, including roadway capacity and suitability, water and sewer service, drainage, parks, solid waste service and other infrastructure required for the use;
- (g) The use will not necessitate the construction, installation or improvement of additional infrastructure not currently included in the first 3 years of the capital improvements element of the comprehensive plan or provided by other providers;
- (h) The use is consistent with the comprehensive plan;
- (i) Parking facilities, entrances and exits are adequate; and
- (j) The use will not adversely affect the public health, safety comfort, convenience, order, appearance, general welfare and the city tax base.

Section 28-342 does not specify a maximum height for the non-residential structure or portions thereof considered under the criteria noted above, but Section 28-343 requires an additional one-foot setback for both the rear and side yards for every foot a conditionally approved non-residential structure exceeds 25 feet in height, in effect limiting by parcel size the achievable overall height of structures considered under

these provisions. Alternatively, City Council may consider adopting an absolute maximum height for such structures. If City Council wishes to consider such an absolute maximum height limitation, further research into existing structures and the policy implications associated with such a change should be conducted.

While the application of the conditional use criteria may not always be appropriate to consideration of a structural component of a building, the standards of Section 28-342(2) and 28-102, taken together, provide appropriate criteria under which City Council may consider additional height for non-residential structures in residential districts. Such criteria, particularly Section 28-342(2) may be appropriate for considering additional height in R-2 and B-1 zoning districts, if City Council's policy direction is to continue to allow such consideration.

Appropriateness and necessity of regulations:

It is likely that the provisions for consideration of additional height for the R-2, R-3, B-1, and B-2 were included in the 1956 zoning code because the City was, at the time, largely undeveloped and the City Council at that time may have wished to have flexibility under the code to vary building heights in these districts. In 1956, there were 19 zoning districts, as compared to the 42 current districts. As the City Council considered development patterns and the overall land use plan for the City in subsequent years, additional zoning districts with specific height limits were created and existing districts were amended to implement overall land use policy, including building height.

As noted above, there are specific standards for consideration of additional height for non-residential structures in single-family zoning districts (all of such uses are only permitted under a conditional use approval). These standards have been applied in numerous cases for various parcels of land in single-family districts developed as places of public assembly (houses of worship), civic clubs, and schools, among other allowable conditional uses. In single family districts, detailed standards and criteria apply to both the non-residential use and its height as part of the conditional use review; therefore, City Council is able to evaluate the impact of the proposed additional height and the use.

The provisions in current code for consideration of additional height in R-2 and B-1 appear to be holdovers from the old code. Because neither provision has ever been utilized, according to available records, except for one recent approval in B-1, and because no existing structure in either district exceeds the base height limitation, an argument can be made that there is no need, from a planning perspective, for the provision.

From the perspective of general planning and overall code consistency, an argument can be made that height in the R-2 and B-1 zoning districts should be treated in the same manner as height in other zoning districts. In all other districts, the maximum height is specified, with three limited exceptions:

- Section 28-342 provides for special consideration by City Council for parts of certain non-residential structures in residential districts to exceed the maximum 50-foot height limit subject to the specific criteria discussed above and to additional setback requirements for additional height over 25 feet (note that this provision is for special consideration and is not a variance);
- Section 28-62 provides that City Council may consider variances for the height of single family residences up to a maximum of 35 feet, subject to specific standards for the granting of a variance; and
- in the M-3 zoning district (as discussed below).

Further, as City Council is aware, the code specifically prohibits variances that increase the maximum allowable height of a structure in any zoning district (except for single family residences up to a maximum height of 35 feet, as noted above). Height of buildings has been and remains a significant policy concern in the City of Boca Raton.

Impacts of potential changes on other zoning districts and general code provisions:

If City Council decides to eliminate the provisions in R-2 and B-1 that allow for consideration of additional height, all zoning districts will be consistent with a fixed maximum height and/or clear standards and criteria for consideration of additional height in limited circumstances as discussed above. If City Council decides to retain the additional height consideration provisions in R-2 and B-1, two districts will have height flexibility not available in other districts (except as discussed above). Alternatively, the City Council can retain the additional height consideration provisions for R-2 and B-1 and supplement the criteria to include the criteria set forth in Section 28-342(2).

In its evaluation of the additional height provision in R-2 and B-1, staff reviewed the height provisions in all the zoning districts of the City. Additional areas needing clarification were noted, as discussed below.

In the R-3-A, R-3-B, R-3-C districts, the following provision is included in the building height regulations (Sections 28-451(2), 28-481(2), and 28-511(2)):

"No accessory building or structure shall be erected to exceed 15 feet. When such accessory building serves more than 1 multifamily structure, the planning and zoning board may approve and increase in height of such accessory buildings to 25 feet, when considered fully justified and not in violation of the provisions of this Code."

Although this language establishes a maximum height of 25 feet, if this provision is retained in the three districts, supplemental criteria similar to those set forth in Section 28-342(2) may be appropriate. Alternatively, revising the provision to provide a maximum height of 25 feet for accessory structures seems reasonable from a planning perspective. Staff has not completed research into how this provision has been applied and if it has been used on any multifamily property. (The maximum heights for primary use buildings in these districts are as follows: R-3-A – 75 feet; R-3-B – 50 feet; R-3-C – 50 feet.)

In the C-1 district height regulations, Section 28-874 provides for a maximum height of "4 stories or 50 feet." In the LIRP district employee service node provisions, Section 28-893 (4)(h) provides for a maximum height of "25 feet or 2 stories." The M-1 district regulations limit height to "2 stories or 30 feet" (Sec. 28-1074). The M-2 regulations limit height to "4 stories or 60 feet" (Sec. 28-1099). "Story" was not defined in the 1956 code and it is not defined in current code. Staff has consistently applied the maximum height in feet measured in accordance with Code. Staff believes that the "stories" language in all these sections is a holdover from the old code, that retention of this language may cause confusion, and that it should be eliminated. As City Council is aware, staff is currently working on a reorganization and update of the zoning code. These holdover issues will be addressed as part of that work.

Section 28-1126, relating to maximum height in the M-3 district, provides, in part, as follows:

"...The height of accessory structures, including antennas, may be permitted in excess of the foregoing height limitations upon approval by the city manager and the planning and zoning board."

Staff has not completed research to determine if this provision has ever been utilized to approve any structures, but the section should be revisited and revised as appropriate. If the section were revised to provide that an accessory structure in excess of the maximum height required conditional use approval plus the supplemental criteria of Section 28-342(2), the height could be addressed in that process under the conditional use and supplemental criteria; alternatively, the provision could be eliminated, thus requiring accessory structures to conform to the maximum height in M-3, where the maximum height is 30, 40, or 50 feet, depending upon the use. Antenna structures used for telecommunications purposes are addressed in a separate section of the code that requires City review under specific parameters.

RECOMMENDATIONS:

The additional height provision in the R-2 zoning district has not been used and no existing structure in the R-2 district exceeds the district maximum height of 25 feet. The provision has been unnecessary. A defined maximum height provides property owners with clear guidance and simplifies the development approval process. Staff recommends that the language in Section 28-391 providing for consideration of additional height for permitted nonresidential buildings in the R-2 zoning districts be deleted from the code. If City Council determines that the additional height consideration should continue to apply in the R-2 districts, staff recommends that the criteria be supplemented to add criteria similar to that set out in Section 28-342(2).

Except for the recent approval, the additional height provision in the B-1 zoning district has also not been used and no existing structure in the B-1 district exceeds the maximum height of 30 feet. Except for the one recent project, the provision has been unnecessary. Again, a defined maximum height provides clear guidance to property owners and simplifies the development approval process. Staff recommends that the language in Section 28-780 providing for consideration of additional height for permitted buildings in the B-1 zoning districts be deleted from the code. If City Council determines that the additional height consideration should continue to apply in the B-1 districts, staff recommends that the criteria be supplemented to add criteria similar to that set out in Section 28-342(2).

In addition staff recommends that the other height provisions discussed above be revised as part of the zoning code update currently underway:

- For the R-3-A, R-3-B, and R-3-C zoning districts, establish maximum height of accessory structures at 25 feet. Alternatively, if City Council determines that the current language is appropriate, provide supplemental criteria for making the determination regarding additional height above 15 feet up to 25 feet similar to the criteria in Section 28-342(2).
- For the C-1, LIRP, M-1, and M-2 zoning districts, consistent with long-standing application of the code, delete the obsolete references to "stories" in the building height regulations.
- For the M-3 district, amend the height provision to provide that accessory structures (other than telecommunications towers and antennae, which are governed by separate regulations in City Code) in excess of the maximum height limitations are conditional uses subject to both conditional use and supplemental criteria similar to the provisions of Section 28-342(2). The additional height would then be considered along with the review of the conditional use for the accessory structure. Alternatively, eliminate this provision and require accessory structures to conform to the maximum height in M-3 for the primary use on the property.

Staff will provide an overview of this report and its recommendations and alternatives to City Council at the September 21, 2015, workshop meeting.

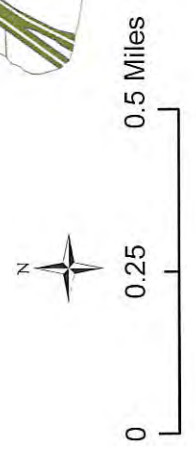
c: Diana Grub Frieser, City Attorney
Linda O. MacLaren, Deputy City Attorney
Ty Harris, Development Services Director
Jim Bell, Planning and Zoning Manager

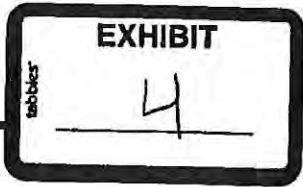
**City of Boca Raton
 B1 Zoned Parcels
 With Adjacent Zoning Districts**



Legend

- Residential (Green)
- Parcels (White)
- ZONING**
- B1 (Yellow)
- B1* (Light Yellow)
- B2 (Blue)
- B2/PCD (Dark Blue)
- B4 (Light Blue)
- M1 (Purple)
- M2 (Orange)
- POI (Pink)
- PT (Light Green)
- RB1 (Dark Purple)





Allen, Ingrid

From: Robert Eisen <reisen@investmentslimited.com>
Sent: Monday, November 23, 2015 9:50 AM
To: Allen, Ingrid
Subject: B-1 Zoning in Progress
Attachments: B-1 Zoning in Progress-Proposed Ordinance.doc

Ingrid,

Have you decided on a date that the B-1 Zoning in Progress will come back to the Planning and Zoning Board? If so, please advise.

Enclosed is Draft Ordinance which the B-1 Ownership in the City would consider acceptable and which is fully responsive to the May 27, 2015 direction to staff by City Council. The Draft Ordinance does incorporate suggestion made by Planning and Zoning Board members at the November 5, 2015 meeting.

The B-1 Ownership team has commissioned architectural studies to show the re-development potential of B-1 properties in the City. I expect them to be completed by December 31, 2015.

Robert A. Eisen
Legal Department
Investments Limited
215 North Federal Highway
Boca Raton, FL 33432
reisen@investmentslimited.com
Office (561) 392-8920 ext 112
Cell (954) 638-5683

DRAFT PROPOSED BY ROBERT A. EISEN

RECEIVED

NOV 23 2015

DEVELOPMENT SERVICES

ORDINANCE No. _____

1
2 AN ORDINANCE OF THE CITY OF BOCA RATON TO
3 AMEND CHAPTER 28 "ZONING," CITY'S CODE OF
4 ORDINANCES, RELATING TO BUILDING HEIGHT AND
5 HEIGHT PROVISIONS; AMENDING SECTION 28-780 TO
6 PROVIDE REVISED STANDARDS FOR THE GRANT BY
7 CITY COUNCIL OF ADDITIONAL HEIGHT ABOVE 30
8 FEET; PROVIDING FOR SEVERABILITY; PROVIDING FOR
9 REPEALER; PROVIDING FOR CODIFICATION;
10 PROVIDING AN EFFECTIVE DATE (AM-15- __)

11 WHEREAS, at the May 27, 2015 City Council meeting, the City Council directed staff
12 to analyze, and provide assessments and recommendations regarding a zoning code provision
13 found in the Local Business (B-1) Zoning District that allows for an increase in the maximum
14 permitted building height for structures based upon an approval by City Council after a review
15 and recommendation by the Planning and Zoning Board finding that the height increase to be
16 not injurious to surrounding properties; and

17 WHEREAS, staff proceeded to analyze the height provisions in the B-1 Zoning
18 District; and

19 WHEREAS, the Development Services Department has recommended amending

1 Section 28-780 to incorporate revised standards for the grant of additional height above 30 feet
2 in the B-1 Zoning District; and

3 WHEREAS, the Planning and Zoning Board, after notice and public hearings, has
4 considered the proposed amendments to the Code of Ordinances, more specifically described
5 herein, and upon taking testimony of interested parties, submitted its recommendations to the
6 City Council; and

7 WHEREAS, the City Council, after notice and public hearing, has considered the
8 proposed amendments to the Code of Ordinances, the recommendations of the Planning and
9 Zoning Board and all public comments; and

10 WHEREAS, the City Council desires to amend Section 28-780 of the Code of
11 Ordinances in order to incorporate revised standards for the grant of additional height above 30
12 feet in the B-1 Zoning District into the City Code; now therefore,

13 THE CITY OF BOCA RATON HEREBY ORDAINS:

14 **Section 1. Section 28-780, Code of Ordinance, (relating to the B-1 Zoning**
15 **District) is hereby amended to read:**

16 Section 28-780 – Height

17 No building, structure, or part thereof, shall be erected or altered in a B-1 District to
18 height exceeding 50 feet; provided that permitted buildings may be erected or altered to a height
19 not exceeding 50 feet upon ~~consideration of the planning and zoning board and~~
20 ~~recommendation to the City Council. The City Council shall approve such construction as being~~
21 ~~not injurious to surrounding property and in accord with the spirit and purpose of this Chapter,~~
22 the following:

23 (a) A request for height above 30 feet but 50 feet or less shall be processed in
24 accordance with and subject to the standards for Conditional Use Approvals, Chapter 28, Article
25 II, Division A, Code of Ordinances.

26 (b) In granting such conditional use approval, the City Council shall consider the

1 following additional standards along with the standards provided in Section 28-102, Code of
2 Ordinances;

3 (i) The compatibility as defined below of the additional height with the
4 surrounding area with particular attention given to the compatibility of the additional height with
5 surrounding residentially zoned properties.

6 (ii) Compatibility shall mean such factors as: property values,
7 established architectural design; appropriateness of location and separation; absence of
8 interference with light and air; and, the appropriateness of buffers such as landscaping.

9 (iii) Compatibility may be achieved by increasing setbacks against
10 residentially zoned lands and requiring buffering landscaping between non-residential and
11 adjoining residential uses.

12 **Section 2.** If any section, subsection, clause or provision of this ordinance is held
13 invalid, the remainder shall not be affected by such invalidity.

14 **Section 3.** All ordinances and resolutions or parts of ordinances and resolutions in
15 conflict herewith shall be and are hereby are repealed.

16 **Section 4.** Codification of this ordinance in the City Code of Ordinances is hereby
17 authorized and directed.

18 **Section 5.** This ordinance shall take effect immediately upon adoption.

19 PASSED AND ADOPTED by the City Council of the City of Boca Raton this _____
20 day of _____, 2016.

CITY OF BOCA RATON, FLORIDA

21
22
23 ATTEST:

Susan Haynie, Mayor

24
25
26
27 Susan S. Saxton, City Clerk

Approved as to form:

Diana Grub Frieser, City Attorney

1
2
3
4
5
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7

COUNCIL VOTE			
	YES	NO	ABSTAINED
MAYOR SUSAN HAYNIE			
DEPUTY MAYOR ROBERT S. WEINROTH			
COUNCIL MEMBER MICHAEL MULLAUGH			
COUNCIL MEMBER SCOTT SINGER			
COUNCIL MEMBER JEREMY RODGERS			

8
9

Investments Limited

215 N. Federal Highway
Boca Raton, Florida 33432
(561) 392-8920
Fax (561) 392-3561
www.investmentslimited.com

December 4, 2015

VIA HAND DELIVERY

Ingrid Allen, Senior Planner
Development Services
City of Boca Raton
201 W. Palmetto Park Road
Boca Raton, FL 33432

Re: B-1 Zoning in Progress

Dear Ingrid:

Thank you for keeping me informed of the status of the City Council directive to eliminate the option for additional height above 30 feet in the B-1 Zoning District. You have advised that there will be a second Planning and Zoning Board Workshop on December 17, 2015.

To review briefly, on May 27, 2015, City Council directed City Staff to review and report on the "not injurious" standard for approving additional height above 30 feet currently in the B-1 and R-2 Zoning Districts. The "not injurious" standard having been applied in the recent approval of the Downtown Boca Raton Chabad at 777 East Palmetto Park Road.

Staff responded with a Memorandum ("Staff Memo") dated September 11, 2015. The Staff Memo was discussed at City Council's September 27, 2015 Workshop. The Staff Memo concluded with the following recommendation ("B-1 Recommendation") regarding the B-1 Zoning District:

Except for the recent approval, the additional height provision in the B-1 zoning district has also not been used and no existing structure in the B-1 district exceeds the maximum height of 30 feet. Except for the one recent project, the provision has been unnecessary. Again, a defined maximum height provides clear

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DEC 07 2015
DEVELOPMENT SERVICES

Ingrid Allen, Senior Planner
Development Services
December 4, 2015
Page 2

guidance to property owners and simplifies the development approval process. Staff recommends that the language in Section 28-780 providing for consideration of additional height for permitted buildings in the B-1 zoning district be deleted from the code. If City Council determines that the additional height consideration should continue to apply in the B-1 districts, staff recommends that the criteria be supplemented to add criteria similar to that set out in Section 18-342(2).

City Council endorsed the B-1 Recommendation and directed Staff to proceed with legislation; an ordinance was prepared; and, the ordinance was initially scheduled for a public hearing before the Planning and Zoning Board ("Board") on November 5, 2015. The November 5, 2015, public hearing was changed by the Board to a Workshop. Prior to the Planning and Zoning Board Workshop, I did on October 24, 2015, send a position letter to the City and I was allowed a 5 minute presentation at the Planning and Zoning Board Workshop.

I recently provided to you a schedule of the 62 B-1 parcels in the City and the respective owners. I have been in contact with all the B-1 Property Owners in the City. I expect that the B-1 Property Owners when formally organized will appoint Investments Limited as its spokesperson. Needless to say, the B-1 Property Owners all disagree with the B-1 Recommendation.

Given that Investments Limited owns 15 of 62 B-1 parcels in the City and to date 7 other B-1 Property Owners have already designated Investments Limited as their spokesperson, that the Investments Limited team be allowed more than 5 minutes of presentation time at the upcoming December 17, 2015, Planning and Zoning Board Workshop.

The B-1 Recommendation is based on the observation that it is easier to administer a zoning code with set rather than variable heights and until the Chabad there was never a request for additional height above 30 feet by a B-1 Property Owner. Both statements are correct but are essentially administrative and historical in nature.

Ingrid Allen, Senior Planner
Development Services
December 4, 2015
Page 3

The elimination of the additional height option in B-1 is not a mere housekeeping item as suggested in Staff Memo and the B-1 Recommendation. It is, in fact, the elimination of a reasonably foreseeable, non-speculative land use which has been in existence for many years, which accounts for a demonstrable part of the market value of a B-1 parcel and which B-1 Property Owners have relied upon. As such the B-1 Property Owners submit that a comprehensive and substantive analysis of zoning policy is necessary to support the B-1 Recommendation.

The interplay of building height, setbacks, FAR, parking alternatives and project location on the density to which a property may be developed and redeveloped is a complex issue of zoning policy. Any analysis of such should proceed on a City-wide all business zoning district basis, not limited to a single zoning district. I do not see in the Staff Memo the kind or scope of zoning policy analysis that would justify such a harsh recommendation as the outright elimination of option for additional height in the B-1.

The Chabad approval clearly demonstrates that a motivated B-1 Property Owner may utilize structured parking and the additional height option to achieve the .5 FAR permitted by the Comprehensive Plan and City Code. Enclosed is a sketch prepared by Architect Douglas Mumshaw of the redevelopment of one of Investments Limited's developed B-1 parcels. There should be no question that the additional height option in B-1 is a viable tool for the B-1 Property Owner and its elimination should be taken seriously. Also enclosed are some preliminary comments by Mr. Mumshaw on the zoning policy issues to be considered.

The B-1 Property Owners have been struggling on short notice to make their views known. I submit that the possible elimination of the B-1 option for additional height above 30 feet should proceed in a more studied, orderly and collaborative fashion as follows:

- A. Separate the elimination of the additional height option in B-1 from the other recommendations in Staff Memo. Proceed with the other recommendations in the Staff Memo to which the B-1 Property Owners have no objections. In this regard, the B-1 Property Owners have no objection to updating the "not injurious" standard.

Ingrid Allen, Senior Planner
Development Services
December 4, 2015
Page 4

- B. City Staff should meet with the B-1 Property Owners and have a frank open exchange of views. City Staff should consider zoning policy and not just administrative convenience and history in formulating a recommendation of the possible elimination of the additional height option for B-1.

- C. Consideration of the possible elimination the additional height option in B-1 should not proceed in isolation but rather become part of the on-going City Zoning Code review.

The B-1 Property Owners will actively participant in the above and certainly hope that a win-win consensus can be achieved.

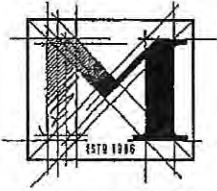
Respectfully submitted,



Robert A. Eisen
Investments Limited
Legal Department

RAE:gmj
Enclosure

DESIGN MATTERS



MUMMAW

ASSOCIATES, INC

December 4, 2015

B-1 Zoning Analysis Regarding Additional Height City of Boca Raton

Any type of restrictive zoning in an existing District is detrimental to development and land ownership. When all things are considered, commercial property land values are based on existing or potential zoning entitlements. Reducing existing zoning parameters amounts to “down-zoning” which devalues property values and reduces the potential redevelopment opportunities that will provide services and amenities to a District. Over simplifying arguments about the impact of small parcels or existing conditions negates the possibility that conditions will change in the future, which is inevitable. The 20th Street Envisioning Initiative is just one example. Small parcels can be assembled together and land areas which will permit larger, vertical developments, like mixed-use projects, are possible.

The current zoning criteria is similar to most other districts where limitations are clear. Setbacks are fixed. To the extent Uses require more density, additional height can be achieved through a city mandated due-process and Council Approval. Again, this is typical in all zoning approvals. If the word “injurious” is not clear, we can merely revise the language. Add specificity that additional height can be gained only by providing additional setbacks, for example: 2’ of additional height for every 1’ of setback. Again, this is a typical strategy in the code. Why single out B-1 only when an argument can be made for most zoning conditions and Districts in the code? There will always be a sensitive discourse where commercial properties abut residential districts. This is logical and providing a clear solution, with city due-process, is appropriate to protect both ownership interests.

B-1 Zoning currently permits .5 FAR, but this allowable density is not possible without the ability to develop vertically. A 30’ maximum Building Height, as defined in the code, is difficult to achieve in vertical design. The 30’ maximum building height prevents the ability to achieve a .5 FAR density in almost all situations. When building height is limited to 30,’ multi-story mixed use projects with structured parking, is impossible to achieve. (Refer to attached Section Exhibits).

Places of Public Assembly, which require volume and additional height to accommodate the Program, are allowed in B-1 Zoning District. Examples of Public Assembly would be Places of Worship, Theaters, Live Music Venues, etc. (Refer to attached Section Exhibit). The current zoning also permits owner / Operator Live / Work Use relationships. This specific strategy can revitalize a district, similar to many successful redevelopment projects in other cities.

ARCHITECTURE INTERIOR DESIGN GENERAL CONTRACTING

310 ESPLANADE SUITE 50A BOCA RATON, FLORIDA 33432 T : 561 361 0375 F : 561 361 0978 WWW.MUMMAW.COM
AA #C002164 IB #28001004 CGC #055122

Current zoning requires additional setbacks where commercial land abuts Residential Districts. 25' setbacks are required at a Residential property line, whereas 10' setbacks are required elsewhere. This is similar to the zoning of other districts and creates a sensitive relationship between commercial and residential properties. Where B-1 Commercial Districts abut other commercial properties, it makes reasonable sense that additional height is compatible.

The "Spirit & Purpose" of the code is subjective and permits input from staff, Planning & Zoning and City Council. That is three governing bodies who can influence and shape the outcome of the Project. The current B-1 zoning code permitting additional height above 30' allows for each property to be evaluated on a case by case basis. If a project is deemed "injurious" to the nearby residents, all three of the governing bodies have the ability to disallow the additional 20' of height.

There is a better argument to re-zone some properties to permit full Residential Uses (Non Owner-Operators) where the surrounding district of properties is evolving and needs to respond to the community's needs. This obviously requires a larger perspective and evaluation of the Comprehensive Plan. It seems pragmatic that both restrictive AND enhanced zoning options should be considered simultaneously. There are many properties in the Industrial District, such as University Shops and the old Rinker Site, where Industrial Uses are no longer warranted.

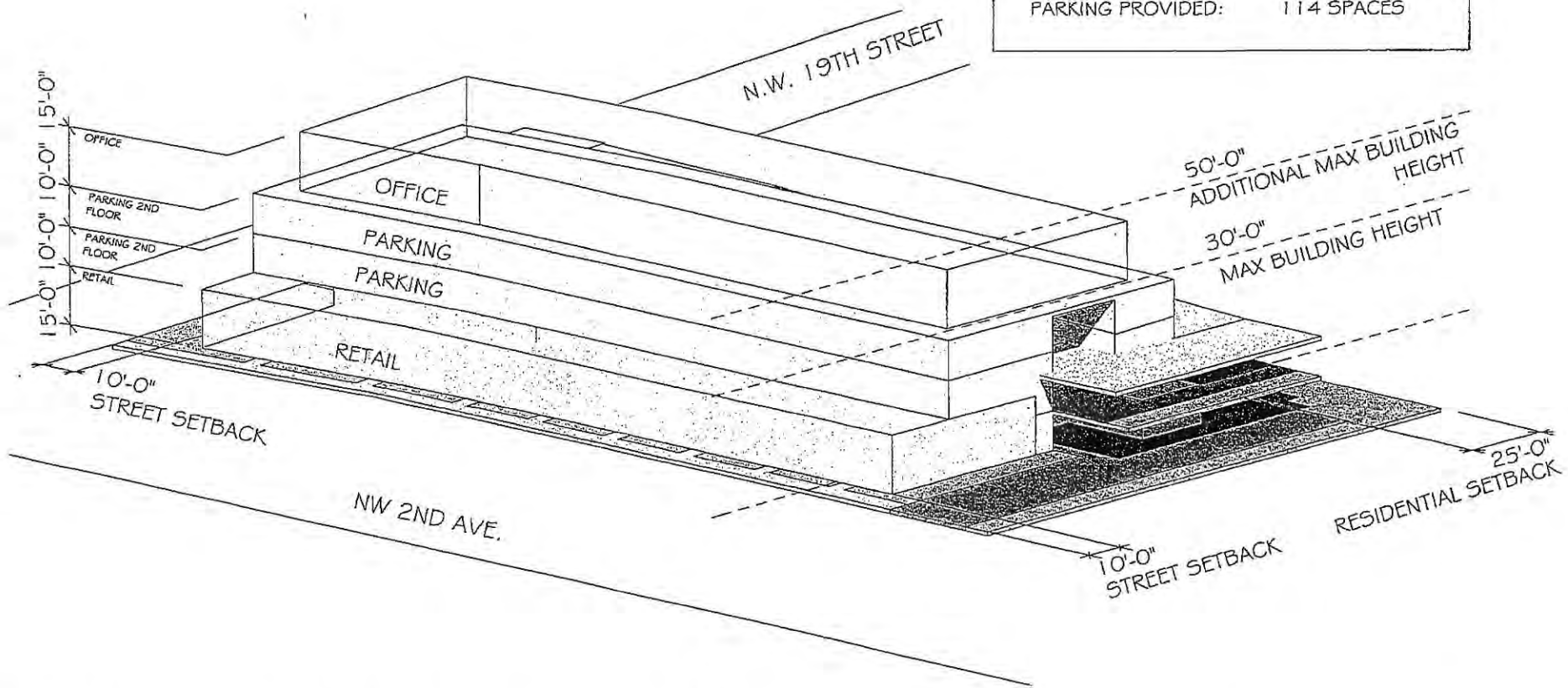
Sincerely,

Mummaw and Associates, Inc.

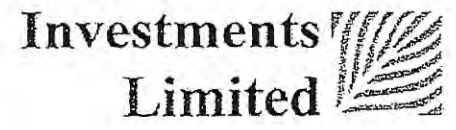
Douglas A. Mummaw, AIA, NCARB (Digital Signature)

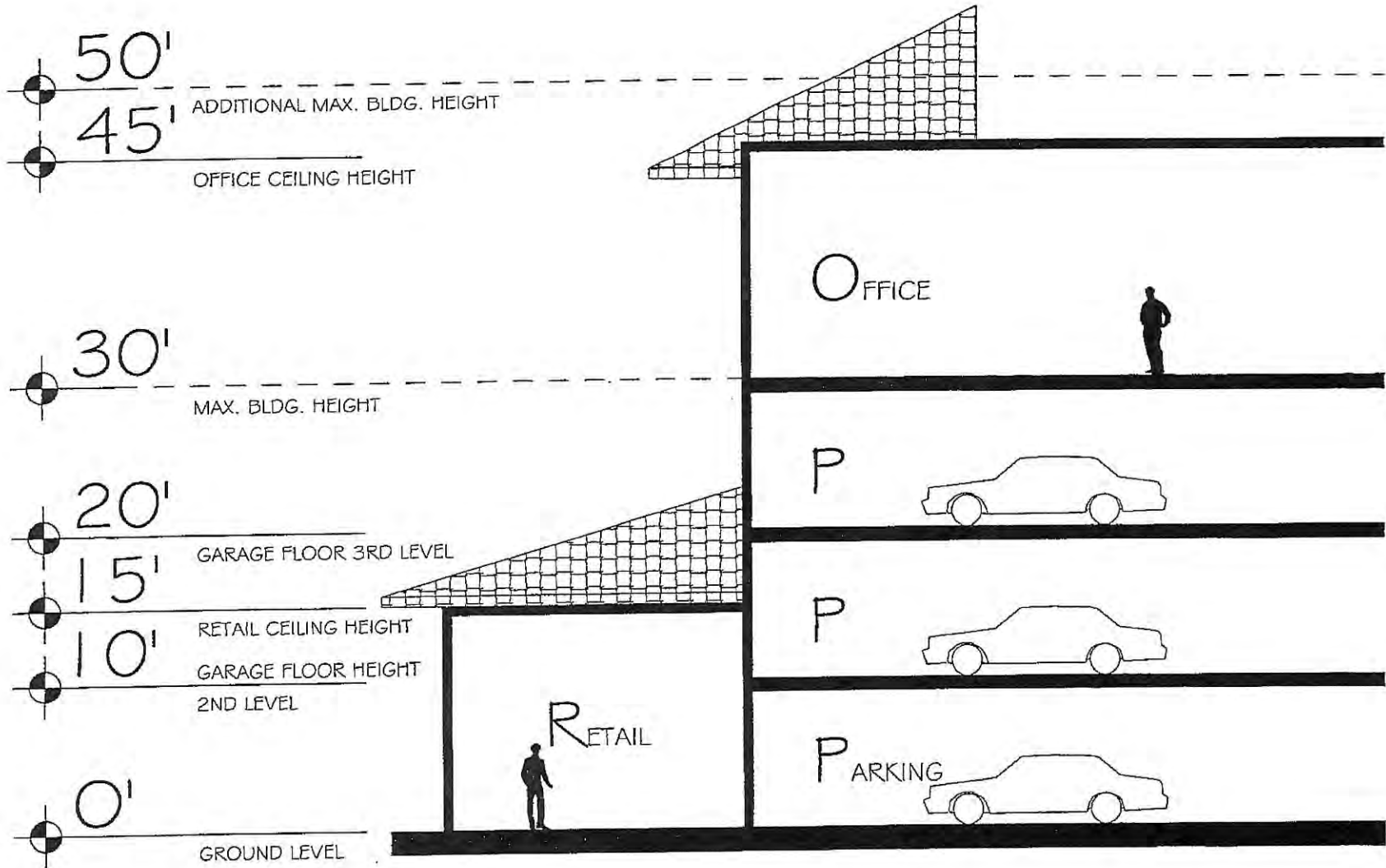
Douglas A. Mummaw, AIA, NCARB
President

LAND AREA:	1.076 ACRES (46,871 SF)
F.A.R. ALLOWED:	23,436 SF (0.5)
F.A.R. PROVIDED:	23,162 SF (0.49)
USES:	
RETAIL / SERVICE:	11,537 SF
OFFICE:	11,625 SF
PARKING	
PARKING REQUIRED:	112 SPACES
PARKING PROVIDED:	114 SPACES

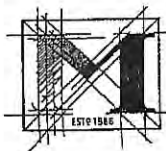


01. DENSITY DIAGRAM
 B-1 ZONING ANALYSIS
 DECEMBER 4, 2015





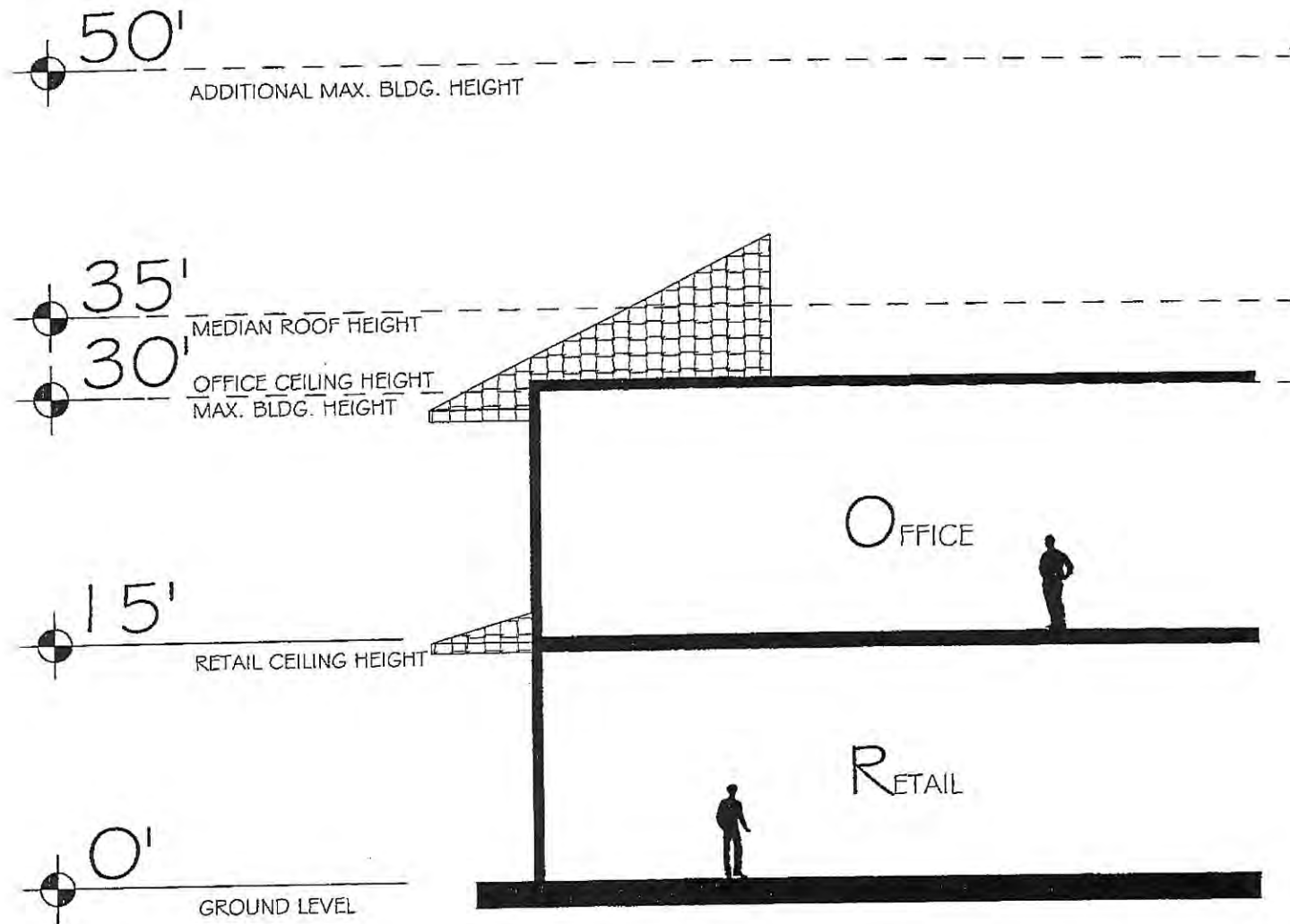
HIGH INTENSITY



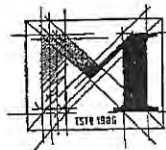
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MUMMAW
 +
 ASSOCIATES, INC

02. HIGH INTENSITY SECTIONAL ANALYSIS
 B-1 ZONING ANALYSIS
 DECEMBER 4, 2015

Investments
Limited 



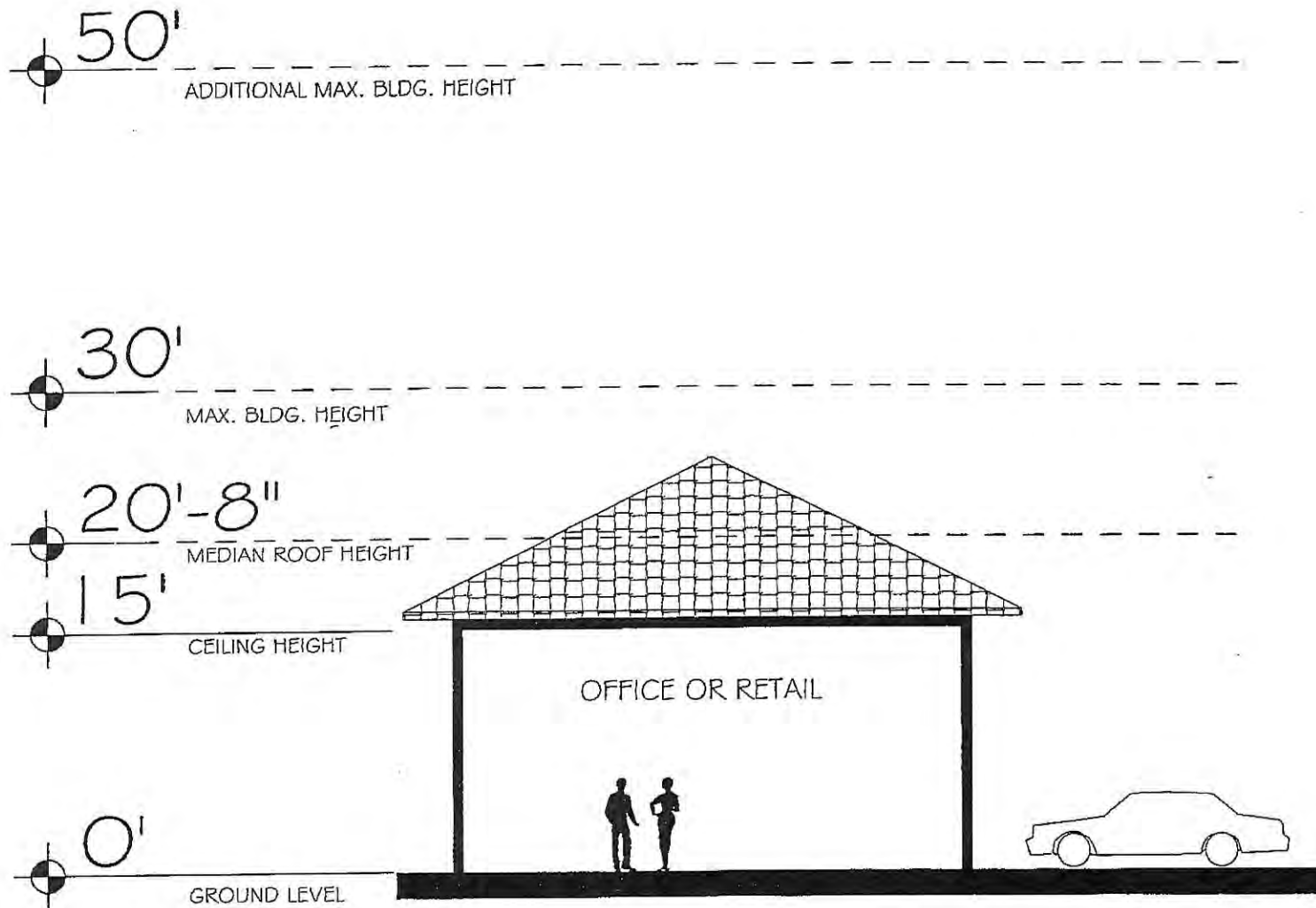
MEDIUM INTENSITY



CONCEIVED | DESIGNED | CREATED
MUMMAW
 +
 ASSOCIATES, INC

03. MEDIUM INTENSITY SECTIONAL ANALYSIS Investments
 B-1 ZONING ANALYSIS
 DECEMBER 4, 2015

Limited

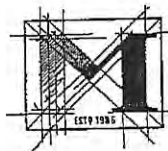
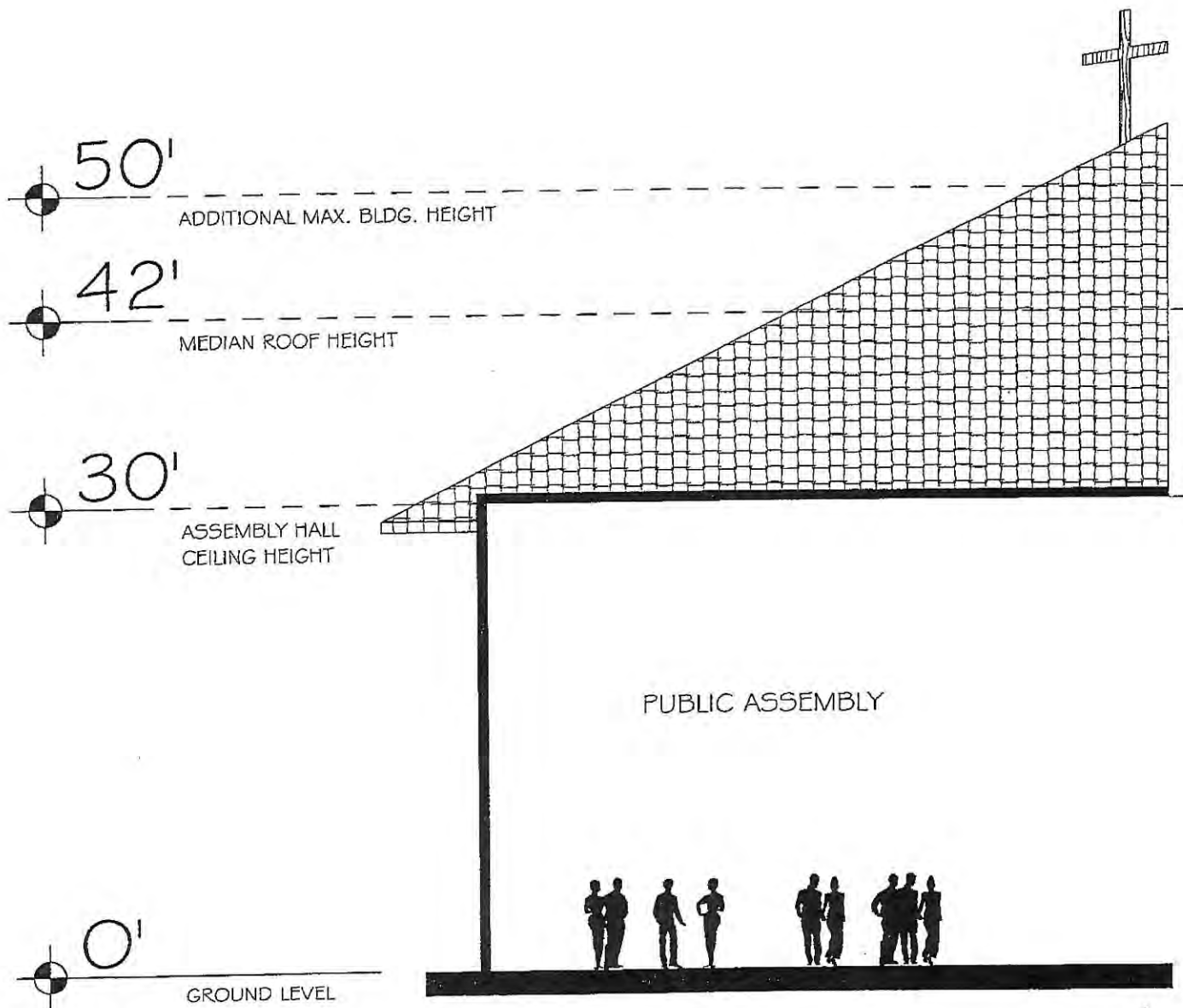


LOW INTENSITY



04. LOW INTENSITY SECTIONAL ANALYSIS
 B-1 ZONING ANALYSIS
 DECEMBER 4, 2015

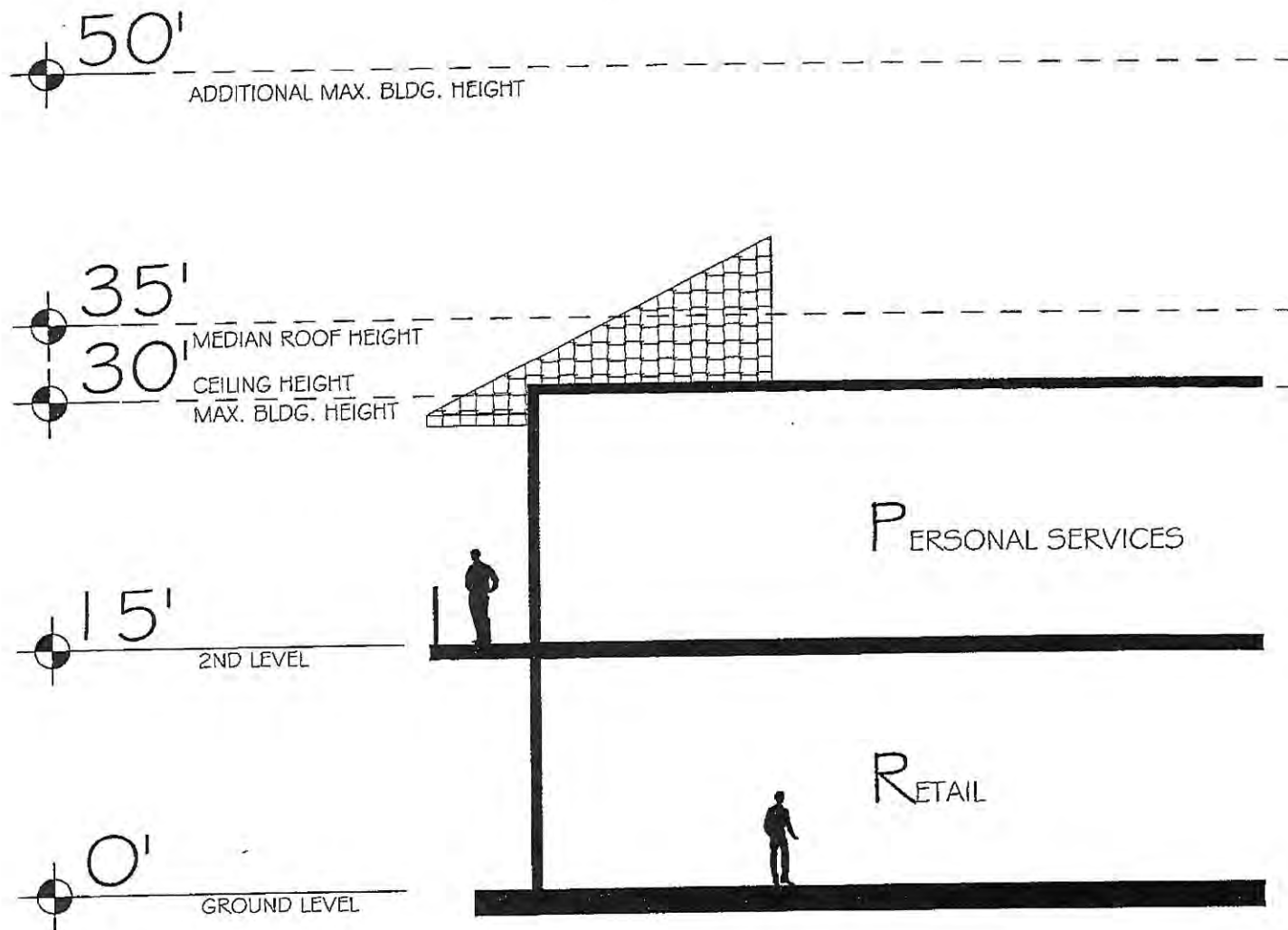
Investments
Limited 



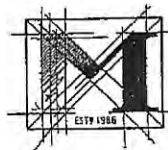
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MUMMA
 +
ASSOCIATES, INC

05. PUBLIC ASSEMBLY SECTIONAL ANALYSIS Investments
 B-1 ZONING ANALYSIS
 DECEMBER 4, 2015

Limited 



TWO STORY RETAIL



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MUMMAW
 +
ASSOCIATES, INC

06. TWO-STORY SECTIONAL ANALYSIS
 B-1 ZONING ANALYSIS
 DECEMBER 4, 2015

Investments
Limited 

The attached public comment was provided to the Board at the 11-5-15 and 1-7-16 Board Workshop meetings.

PUBLIC COMMENT

From: [Robert Eisen](#)
To: [Allen, Ingrid](#)
Cc: "dam@mummaw.com"; [Jim Batmasian](#); [Armen Batmasian](#)
Subject: B-1 Zoning in Progress
Date: Friday, October 30, 2015 10:05:44 AM
Attachments: [20151029144623794.pdf](#)

Ingrid,

Please find attached a position letter from Investments Limited on the B-1 Zoning in Progress. We actually were in the process of mailing the letter this morning when I was advised that an ordinance (AM-15-14) will be considered by the Planning and Zoning Board at their upcoming November 5, 2015 meeting.

Please make the attached letter part of the public record on AM-15-14. Also would you please forward the letter to the Planning and Zoning Board Members prior to the meeting. I ask this of you because you have better facility than I in this regard and time is short.

Speaking of a short time, I am rather surprised by the alacrity with which AM-15-14 is coming forward at least with regard to B-1. The elimination of the greater than 30 feet height option in B-1 is tantamount to a rezoning of all the B-1 properties in the City. I would of thought that the City would provide more meaningful notice to all B-1 properties and invite comment before proceeding with legislation. We at Investments Limited have knowledge of this initiative because we follow City actions closely. The average B-1 property owner does not and his/her property is affected as much as is the B-1 property of Investments Limited. In fact, I was in the process of compiling a list of B-1 property owners in the City to inform them of the City initiative to eliminate the greater than 30 feet height option.

To that end, I respectfully request that AM-15-14 be postponed at least as to the B-1 provisions. I submit that the other B-1 owners in the City deserve better notice and that the process would benefit from input from the B-1 ownership in the City before rather than during a public hearing.

As former City Council Member Al Alford was fond of saying regarding a rush to enactment of an ordinance, "Act in haste, repent at leisure."

Please send me the proposed ordinance and the Planning and Zoning Board Agenda package on AM-15-14.

Robert A. Eisen
Legal Department
Investments Limited
215 North Federal Highway
Boca Raton, FL 33432
reisen@investmentslimited.com
Office (561) 392-8920 ext 112
Cell (954) 638-5683

Investments Limited

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www.investmentslimited.com

October 29, 2015

Mayor Susan Haynie
City Council Members
Boca Raton City Hall
201 West Palmetto Park Road
Boca Raton, FL 33432

Re: B-1 Zoning in Progress

Dear Mayor Haynie and City Council Members:

This letter is a response to the September 11, 2015 Memorandum from City Manager Leif J. Ahnell to Mayor and City Council regarding "B-1 Zoning in Progress" and the City Council discussion at its September 21, 2015 Workshop Meeting.

Investments Limited owns the following B-1 properties:

- Between the Intercoastal Bridge and Ocean Boulevard:
 - 701 East Palmetto Park Road
 - 725 East Palmetto Park Road
 - 771 East Palmetto Park Road
 - 801 East Palmetto Park Road
 - 831 East Palmetto Park Road
 - 700 East Palmetto Park Road
 - 712 East Palmetto Park Road

- Elsewhere in the City:
 - 2001 NW 2nd Avenue
 - 2150 N. Dixie Highway
 - 200 Glades Road
 - 2061 NW 2nd Avenue

The initial motivation for the B-1 Zoning in Progress was the controversy in the Chabad public hearings over this particular wording of the B-1 District Regulations:

“No building, structure, or part thereof, shall be erected, or altered in a B-1 district to a height exceeding 30 feet; provided, that permitted buildings may be erected or altered to a height not exceeding 50 feet upon consideration of the planning and zoning board and recommendation to the city council. The city council shall approve such construction as being not injurious to surrounding property and in accord with the spirit and purpose of this chapter.”

Specifically, counsel for the Chabad argued that City Council was obligated to approve the additional height requested unless the City Council could point to an injurious use. Such being the exact opposite of the long used City-wide conditional use standard that the applicant has the burden to prove that the requested use is compatible with and will not adversely affect surrounding properties. Understandably, the City Council requested the City Manager to review this peculiar standard of review.

City Manager Ahnell responded to the City Council with a 6 page analysis that dealt mostly with the legislative history of the wording at issue. City Manager Ahnell's analysis concludes with the startling recommendation that the potential for height in the B-1 District above 30 feet be eliminated altogether. Akin to throwing the baby out with the bath water. A solution that the City Council in its directive to City Manager Ahnell did not seek.

City Council's directive should have been answered with simply amending the B-1 District Regulations to employ the well-used approval standards already in the City Code for additional height requests – being Sections 28-102 and 28-342(2). A simple, direct solution to which Investments Limited has no objection.

Here is what is wrong with eliminating altogether the option for additional of height above 30 feet in the B-1 District:

1. Eliminating the option for additional height in the B-1 District altogether will make the Chabad a non-conforming property if built and will prevent any extension of their site plan approval beyond its initial 24 month duration. A dilemma for the Chabad.
2. Investments Limited, as well as every other B-1 property owner in the City, has relied upon the potential additional height to 50 feet in making its decisions regarding its B-1 property. Decisions to buy, to sell or to develop. Investments Limited and every other B-1 property owner in the City always had and have now a reasonable investment backed expectation that it could seek the additional height. Now suddenly because of lawyer arguments over the semantics of an approval standard that substantive right to request additional height over 30 feet is being recommended for elimination without any consideration whatsoever to the merits of such requests for additional height.
3. Investments Limited and every other B-1 property owner in the City has paid taxes on its B-1 property with the additional height potential being a substantial factor in the Property Appraiser's valuation. In the case of Investments Limited, this approaches 30 years of prompt tax payments as to its B-1 properties.
4. It is ironic that the issue started with a concern over an action: to wit, approval of the Chabad's additional height without a meaningful approval standard and the Staff now recommends without the slightest data and analysis whatsoever that the option for requesting additional height be eliminated from the B-1 District Regulations.
5. At a minimum, the City Staff should be directed to study and report on how the recommended elimination will affect the B-1 properties in the City. To undertake such a drastic action without such analysis would be foolhardy and on dangerous legal grounds. Without such an

analysis any City action to eliminate the option for additional height in the B-1 District would be a per se violation of the Burt Harris Act. The Burt Harris Act protecting property owners from unlawful down zonings.

6. City Manager Ahnell recommends the elimination of the additional height potential primarily because, “. . . a defined maximum height provides clear guidance to property owners and simplifies the development approval process.” The very same desired certainty would result from amending the permitted B-1 height to 50 feet. This would solve the problem without adversely affecting the property rights of each and every B-1 property owner in the City.
7. Taking a step back and looking at the permitted heights in the City Business Districts one finds:

RB-1	50 ft. (Section 28-746)
B-1	30 ft. with special approval required to 50 ft. (Section 28-780)
B-2	50 ft. (Section 28-800)
B-3	Now the Downtown
B-4	50 ft. (Section 28-850)

The question must be asked why the B-1 District should be the only business district in the City with a permitted height below 50 feet. I do not want to write an essay here on the relationship of the four separate general business districts in the City. Suffice it to say at this point there is no logical or good planning based rationale why the B-1 District should be singled out for a 30 foot height limitation.

Mayor Susan Haynie
City Council Members
October 29, 2015
Page 5

In conclusion, the recommended elimination of the additional height option in the B-1 District is ill-conceived, without good planning rationale and simply arbitrary and capricious.

Respectfully submitted,



Robert A. Eisen
Legal Department

cc: City Manager Ahnell
Deputy City Manager Brown
Development Services Director Harris

From: [Robert Eisen](#)
To: [BocaCM](#); [Brown, George S](#); [Harris, Ty](#); [susancos@aol.com](#); [Mullaugh, Mike](#); [scottsinger@vmail.com](#); [rwsjnroth@freedomed.com](#); [jmr.lux@gmail.com](#)
Cc: [Allen, Ingrid](#)
Subject: FW: B-1 Zoning In Progress
Date: Friday, October 30, 2015 3:32:57 PM
Attachments: [20151029144623794.pdf](#)

All,

James Batmasian has requested that I forward to you the communication set forth below.

We seek a postponement of the consideration of AM-15-14 at the November 5, 2015, Planning and Zoning Meeting. I have identified 46 property owners who along with Mr. Batmasian own all the B-1 zoned property in the City. I am contacting each owner. I cannot effectively do that between now and November 5, 2015.

I am sure that all of you desire a fully transparent process with all the affected parties fully notified and versed in the merits.

Robert A. Eisen
Legal Department
Investments Limited
215 North Federal Highway
Boca Raton, FL 33432
reisen@investmentslimited.com
Office (561) 392-8920 ext 112
Cell (954) 638-5683

From: Robert Eisen
Sent: Friday, October 30, 2015 10:05 AM
To: 'allen@ci.boca-raton.fl.us'
Cc: 'dam@mummaw.com'; Jim Batmasian; Armen Batmasian
Subject: B-1 Zoning in Progress

Ingrid,

Please find attached a position letter from Investments Limited on the B-1 Zoning in Progress. We actually were in the process of mailing the letter this morning when I was advised that an ordinance (AM-15-14) will be considered by the Planning and Zoning Board at their upcoming November 5, 2015 meeting.

Please make the attached letter part of the public record on AM-15-14. Also would you please forward the letter to the Planning and Zoning Board Members prior to the meeting. I ask this of you because you have better facility than I in this regard and time is short.

Speaking of a short time, I am rather surprised by the alacrity with which AM-15-14 is coming forward at least with regard to B-1. The elimination of the greater than 30 feet height option in B-1 is tantamount to a rezoning of all the B-1 properties in the City. I would of thought that the City would provide more meaningful notice to all B-1 properties and invite comment before proceeding with legislation. We at Investments Limited have knowledge of this initiative because we follow City actions closely. The average B-1 property owner does not and his/her property is affected as much as is the B-1 property of Investments Limited. If fact, I was in the process of compiling a list of B-1 property owners in the City to inform them of the City initiative to eliminate the greater than 30 feet height option.

To that end, I respectfully request that AM-15-14 be postponed at least as to the B-1 provisions. I submit that the other B-1 owners in the City deserve better notice and that the process would benefit from input from the B-1 ownership in the City before rather than during a public hearing.

As former City Council Member Al Alford was fond of saying regarding a rush to enactment of an ordinance, "Act in haste, repent at leisure."

Please send me the proposed ordinance and the Planning and Zoning Board Agenda package on AM-15-14.

Robert A. Eisen
Legal Department
Investments Limited
215 North Federal Highway
Boca Raton, FL 33432
reisen@investmentslimited.com
Office (561) 392-8920 ext 112
Cell (954) 638-5683

11/3/15

TO: iallen@ci.boca-raton.fl.us

CC: reisen@investmentslimited.com

FROM: BJ & Me, INC.,
HOWARD ROTHBERG

SUBJECT: B-1 Zoning in Progress

2284 N. DIXIE HWY.
BOCA RATON FL 33431

ATTENTION:
Ingrid Allen
Senior Planner
City of Boca Raton

I own the property zoned B-1 at the above address.

I am opposed to AM-15-14 regarding the elimination of the 50 foot height option for B-1 properties.

I require more time to fully study the issue. Please postpone consideration of AM-15-14 at the Planning and Zoning Meeting of November 5, 2015.

If not postponed, Investment Limited will represent my interests at the November 5, 2015 Planning and Zoning Meeting.

Respectfully submitted,

Howard Rothberg
OWNER
7172 LORENZO LN.
DELRAY BEACH FL
561-865-3650 33446
rothberg1218@gmail.com

From: [Paul Slattery](#)
To: [Allen, Ingrid](#)
Cc: reisen@investmentslimited.com; [Miken Knutson](#); [Lee Slattery](#)
Subject: B-1 zoning in progress
Date: Monday, November 02, 2015 11:50:52 AM

Attention: Ingrid Allen
Senior Planner
City of Boca Raton

We are the owners of the following B-1 zoned properties:

2060 NW Boca Raton Blvd
2080 NW Boca Raton Blvd
2029 NW Boca Raton Blvd

We are opposed to the proposal to eliminate the 50' height option for all B-1 properties. We would like more time to study the issue and request that the city postpone consideration of AM-15-14 at the Planning and Zoning Meeting of 11 5 15.
We thank you for your consideration .

Paul J. Slattery
President

Slattery and Associates Architects/Planners
2060 NW Boca Raton Blvd., Suite 2
Boca Raton, FL 33431
(t) 561-392-3848
(f) 561-392-5402
pauls@slatteryarchitects.com

From: vodeler
To: iallen@ci.boca-raton.fl.us; Allen_Inorid
Cc: reisen@investmentlimited.com
Subject: B-1 Zoning In Progress - 1445 NW Boca Raton Blvd
Date: Thursday, November 05, 2015 9:36:38 AM

My wife and I own the property zone B-1 at the address above.

At the present time we are opposed to the AM-15-14 regarding the elimination of the 50 foot height option for B-1 projects.

We would like more time to fully study the issue. Please postpone consideration of AM-15-14 at the Planning and Zoning meeting of November 5, 2015.

If not postponed, Investment Limited will represent my interests at the Nov 5 Planning and Zoning meeting.

Alan and Ann Aker
Aker Kasten Eye Center
Work 561-338-7722
Cell 561-703-9790

From: [Michael Radu](#)
To: [Allen, Ingrid](#)
Cc: reisen@investmentlimited.com
Subject: B-1 Zoning In Progress - 1865 NW Boca Raton Blvd., Boca Raton, FL 33432
Date: Thursday, November 05, 2015 10:32:55 AM

Attention:
Ingrid Allen
Senior Planner
City of Boca Raton

I own the property zoned at the above address.

I am opposed to AM-15-14 regarding the elimination of the 50 foot height option for B-1 permits.

I require more time to fully study this issue. Please postpone consideration of AM-15-14 at the Planning and Zoning Meeting of November 5, 2015.

Respectfully,

Michael Radu, DDS

(561) 213-7188

From: [Medina, Gail](#)
To: [Ahnell, Leif](#); [Brown, George S](#); [Harris, Ty](#); [Allen, Inarid](#)
Cc: [John, Pam](#); [Calderon, Esperanza](#); [Price, Amy](#)
Subject: FW: Memorandum from Investments Limited Re: B-1 Zoning in Progress
Date: Thursday, November 05, 2015 8:40:14 AM
Attachments: [10-29-15 Investments Limited Memo.pdf](#)

FYI

GAIL M. MEDINA

Executive Office Manager
City Manager's Office
City of Boca Raton
201 W. Palmetto Park Road
Boca Raton, FL 33432
PH: 561-393-7703 / FX: 561-367-7014
gmedina@myboca.us

From: John Eubanks [<mailto:jeubanks@blesmlaw.com>]
Sent: Wednesday, November 04, 2015 9:40 PM
To: Haynie, Susan; Weinroth, Robert; Singer, Scott; Mullaugh, Mike; Rodgers, Jeremy
Cc: Frieser, Diana Grub; Brown, George S; Saxton, Susan; BocaCM
Subject: RE: Memorandum from Investments Limited Re: B-1 Zoning in Progress

Dear Mayor and City Commission members::

As you know, our office represents Royal Palm Real Estate Holdings LLC, Royal Palm Properties LLC and David Roberts (collectively "Royal Palm") the owners of that real property located at 741 East Palmetto Park Road. In that capacity, our office has been forwarded a copy of the attached analysis prepared by Investments Limited in which it makes a strong case that each and every property owner within the B-1 Business District has a reasonable investment expectation of the ability to enjoy the potential for approval of construction of a building in excess of 30 feet and up to 50 feet. This expectation is all the stronger based upon the approval of the City Council of the massive (My Israel Museum) building in excess of 30 feet proposed to be built by the Chabad of East Boca without the Chabad carrying any burden of proof that the project was not injurious to surrounding properties. As a result, Investments Limited argues that the removal of the potential for additional height without any supporting data or analysis "would be foolhardy and on dangerous grounds" and ultimately "simply arbitrary and capricious."

At the same time, in addition to the issues raised by Investments Limited, it would seem that by adding language to the City Code allowing the approval of construction over 30 feet so long as it is "not injurious," relying upon that language to grant the Chabad permission to build over 30 feet and then immediately removing the ability for any other property owner in the B-1 Business District to likewise be approved for construction over 30 feet under the same standard, the City is essentially engaging in improper spot zoning. In the alternative it would seem clear that the City has embarked upon a change in its Code which would allow the Chabad a variance for its property which it would not otherwise be able to obtain if the City actually held to the Chabad to the strict standards required for a variance under the City's Code.

As a result, Royal Palm will watch with interest how the City attempts to extricate itself from the situation it has created, and act accordingly.

John R. Eubanks, Jr.

Breton, Lynch, Eubanks & Suarez-Murias, P.A.

605 N. Olive Avenue, 2d Floor

West Palm Beach, FL 33401

Telephone: 561-721-4000

Facsimile: 561-721-4001

Direct Dial: 561-721-4002

Email: jeubanks@blesmlaw.com

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

The information contained in this electronic mail transmission may be attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 561-721-4000. Thank you.

TO: 1allen@ci.boca-raton.fl.us

CC: reisen@investmentslimited.com

FROM: Jac-Jan, Inc

SUBJECT: B-1 Zoning in Progress
1501 NW Boca Raton Blvd.
Boca Raton, FL 33432

ATTENTION:
Ingrid Allen
Senior Planner
City of Boca Raton

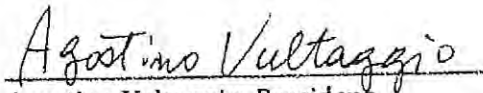
I own the property zoned B-1 at the above address.

I am opposed to AM-15-14 regarding the elimination of the 50 foot height option for B-1 properties.

I require more time to fully study the issue. Please postpone consideration of AM-15-14 at the Planning and Zoning Meeting of November 5, 2015.

If not postponed, Investment Limited will represent my interests at the November 5, 2015 Planning and Zoning Meeting.

Respectfully submitted,


Agostino Vultaggio, President
TL 561-654-7777
vulta6654@comcast.net



MEMORANDUM

DATE: March 10, 2016

TO: Mayor Haynie and City Council Members

FROM: Arnold Sevell, Vice-Chairman
Planning and Zoning Board

SUBJECT: **Advisory Memorandum relating to Proposed Amendments to Chapter 28, Code of Ordinances, regarding Building Height and Height Provisions (AM-15-14/15-92500014)**

At the March 3, 2016 Planning and Zoning Board ("Board") meeting, the Board made a motion to recommend approval of an Ordinance to amend Chapter 28, Code of Ordinances, relating to building height and height provisions (consistent with City Council consensus from the September 21, 2015 City Council Workshop). The motion failed (2 to 4). The Board then proceeded to approve several recommendations relating to building height and height provisions in Chapter 28 based on staff analysis provided at the January 7, 2016 Board Workshop and at the March 3, 2016 Board meeting (see attached Board recommendation No. 2016-002). In addition to the Board's recommendations, the Board requested that an advisory memorandum to the City Council be prepared advising the City Council to consider treating the following areas differently in terms of allocation of height:

1. The B-1 zoned area along East Palmetto Park Road from the Intracoastal Bridge to Ocean Boulevard; and
2. The B-1 zoned corridor along Northwest 2nd Avenue.

Note that the proposed amendments to Chapter 28, Code of Ordinances, are tentatively scheduled for an Introduction to City Council on April 12, 2016 with a City Council public hearing scheduled for April 26, 2016.

cc: Leif J. Ahnell, C.P.A., C.G.F.O., City Manager
George S. Brown, Deputy City Manager
Diana Grub Frieser, City Attorney
Ty Harris, Development Services Director
Jim Bell, Planning and Zoning Manager
Ingrid Allen, Senior Planner
File (AM-15-14/15-92500014)

A handwritten mark, possibly a signature or initials, consisting of several intersecting lines.

**RECOMMENDATION OF THE PLANNING AND ZONING BOARD
OF THE CITY OF BOCA RATON**

RECOMMENDATION NO. 2016-002

**MOTION: DISAPPROVAL WITH
RECOMMENDATIONS**

VOTE: Yes See Below No See Below

AYE: See Below

NAY: See Below

ABSENT: Fairman

DATE: March 3, 2016

AM-15-14/15-92500014, an Ordinance of the City of Boca Raton to amend Chapter 28 "Zoning," City's Code of Ordinances, relating to building height and height provisions; amending Section 28-391 to delete allowance for additional building height in the R-2 Zoning District; amending Sections 28-451, 28-481, and 28-511 to set the maximum height for accessory structures at 25 feet (and delete allowance for additional height) in the R-3-A, R-3-B, and R-3-C Zoning Districts; amending Section 28-780 to delete allowance for additional building height in the B-1 Zoning District; amending Sections 28-874, 28-983, 28-1074, and 28-1099 to delete the reference to "stories" and retain measurement of height in feet in the C-1, LIRP Employee Service Node, M-1 and M-2 Zoning Districts; amending Section 28-1126 to delete allowance for additional height for accessory structures in the M-3 Zoning District

WHEREAS, it is the responsibility of the Planning and Zoning Board to conduct a public hearing on all amendments to the Land Development Code and make a recommendation to the City Council, and

WHEREAS, a Notice of Public Hearing was published on February 17, 2016, and

WHEREAS, the Planning and Zoning Board conducted a public hearing on March 3, 2016, and

WHEREAS, the Planning and Zoning Board finds that this Land Development Code Amendment has been reviewed for impacts to the City's Comprehensive Plan public facilities (roads, water, sewer, drainage, solid waste, parks, schools) level of service standards, and

WHEREAS, the Planning and Zoning Board has found the Land Development Code Amendment to be consistent with the Comprehensive Plan, and the City's Land Development Regulations, and

WHEREAS, the Development Services Department recommended approval of **AM-15-14/15-92500014**, now

WHEREAS, the Planning and Zoning Board on a duly made motion voted (2 to 4) (Sevell, Coffin, Gromann, Cellon opposed) to recommend approval of **AM-15-14/15-92500014** as submitted,

NOW, THEREFORE BE IT RESOLVED, that the Planning and Zoning Board hereby recommends **DISAPPROVAL WITH RECOMMENDATIONS** of **AM-15-14/15-92500014** as follows:



1. Motion to adopt the following prior Planning and Zoning Board's recommendations set forth at the January 7, 2016 Workshop meeting (4-2) (Koen and Rustin opposed):

R-2 Zoning District (as it relates to Section 28-391 of the City Code):

- Keep the additional height provision for permitted nonresidential buildings.
- Replace the word "injurious".

B-1 Zoning District (as it relates to Section 28-780 of the City Code):

- Keep the additional height provision for permitted buildings.
- Replace the word "injurious".
- Add an additional rear setback (one (1) foot in width for every two (2) feet by which the building height exceeds 30 feet).
- Model the additional rear setback, noted above, against existing B-1 Zoning District parcels that abut residential zoning districts.

Multifamily Residential R-3-A, R-3-B, and R-3-C (as it relates to accessory building/structures height):

- Revise the maximum height for accessory building/structures from 15 feet to 25 feet.

Reference to "stories" in the C-1, LIRP Employee Service Node, M-1, and M-2 Zoning Districts:

- Keep the references to "stories" and provide a definition.

M-3 Zoning District (as it relates to the additional height provision for accessory buildings/structures):

- Revisit this provision and evaluate it against permitted accessory uses.

2. Motion to keep references to "stories" as proposed on the table provided on page 6 of the March 3, 2016 Board meeting staff report in the C-1, LIRP Employee Service Node, M-1 and M-2 Zoning Districts (5-1) (Koen opposed).
3. Motion to strike "injurious" and instead substitute the following criteria that would apply to the consideration of additional height for any building or structure that exceeds the maximum permitted height in the R-2 and B-1 Zoning Districts (5-1) (Rustin opposed):
 - (a) The compatibility of the proposed additional height of the building, feature or structure with the character of the surrounding area;
 - (b) The proportion of the additional height of the proposed building, feature or structure in relation to the property on which it is to be constructed or to the building to which it is to be attached;
 - (c) The appropriateness of the location of the additional height of the proposed building, feature or structure, on the parcel or on a building or structure, and with respect to adjoining land uses;
 - (d) The architectural compatibility of the proposed additional height of the building, feature or structure with the character of a building or structure to which the feature is proposed to be attached; and,
 - (e) The purposes of the additional height of the proposed building, feature or structure and the compatibility of such use with adjoining land uses.





Arnold Sevell, Vice Chairman
PLANNING AND ZONING BOARD



L. MacLaren

NOTICE OF PUBLIC HEARING

THE PLANNING AND ZONING BOARD

City of Boca Raton, Florida hereby gives notice:

PUBLIC HEARING at 6:30PM on March 3, 2016

City Hall Council Chamber

201 W. Palmetto Park Road, Boca Raton, Florida, 33432

SUBJECT OF HEARING: AM-15-14/15-92500014

AN ORDINANCE OF THE CITY OF BOCA RATON TO AMEND CHAPTER 28 "ZONING," CITY'S CODE OF ORDINANCES, RELATING TO BUILDING HEIGHT AND HEIGHT PROVISIONS; AMENDING SECTION 28-391 TO DELETE ALLOWANCE FOR ADDITIONAL BUILDING HEIGHT IN THE R-2 ZONING DISTRICT; AMENDING SECTIONS 28-451, 28-481, AND 28-511 TO SET THE MAXIMUM HEIGHT FOR ACCESSORY STRUCTURES AT 25 FEET (AND DELETE ALLOWANCE FOR ADDITIONAL HEIGHT) IN THE R-3-A, R-3-B, AND R-3-C ZONING DISTRICTS; AMENDING SECTION 28-780 TO DELETE ALLOWANCE FOR ADDITIONAL BUILDING HEIGHT IN THE B-1 ZONING DISTRICT; AMENDING SECTIONS 28-874, 28-983, 28-1074, AND 28-1099 TO DELETE THE REFERENCE TO "STORIES" AND RETAIN MEASUREMENT OF HEIGHT IN FEET IN THE C-1, LIRP EMPLOYEE SERVICE NODE, M-1 AND M-2 ZONING DISTRICTS; AMENDING SECTION 28-1126 TO DELETE ALLOWANCE FOR ADDITIONAL HEIGHT FOR ACCESSORY STRUCTURES IN THE M-3 ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE (AM-15-14/15-92500014)

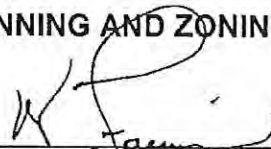
NOTICE: If any decision of the Planning and Zoning Board affects you, and you decide to appeal any decision made at this meeting with respect to any matter considered, you will need a record of the proceedings and, for such purposes, you may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This NOTICE is required by State Law. If you desire a verbatim transcript, you shall have the responsibility, at your own cost, to arrange for the transcript.

Anyone interested in reviewing the background information, if any, are invited to contact **Ingrid Allen, Senior Planner**, at the office of the Development Services Department, Planning and Zoning Division, 201 West Palmetto Park Road, Boca Raton, Florida 33432, (Phone: 561-393-7866).

CITY OF BOCA RATON

Ty Harris, Development Services Director

PLANNING AND ZONING BOARD



William Fairman, Chairman

Published: February 17, 2016