

RESOLUTION NO. 07-548 Z

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING A CONDITIONAL USE PURSUANT TO DIVISION 3.3 OF THE TOWN LAND DEVELOPMENT CODE IN ORDER TO WAIVE SECTION 33.150 OF THE TOWN CODE FOR SPACING REQUIREMENTS AS APPLIED TO THE ON PREMISES SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES LOCATED WITHIN THE PARK CENTRE SHOPS SHOPPING CENTER WHICH IS IN WEST MIAMI LAKES ON THE WEST SIDE OF THE PALMETTO EXPRESSWAY, SOUTH OF N.W. 154 STREET AND WEST OF N.W. 79 COURT; PROVIDING FINDINGS; PROVIDING CONDITIONS OF APPROVAL; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR APPEAL.

WHEREAS, pursuant to Division 3.3 of the Town of Miami Lakes (the "Town") Land Development Code ("LDC"), Havana Cuba Cigar Lounge (the "Applicant") has applied to the Town for approval of a conditional use to waive Section 33-150 of the Town Code, which requires: (a) no premises shall be used for the sale of any alcoholic beverages to be consumed on or off the premises where the structure or place of business intended for such use is located less than fifteen hundred (1,500) feet from a place of business having an existing, unabandoned, legally established alcoholic beverage use which permits consumption on or off the premises; and (b) no premises shall be used for the sale of alcoholic beverages to be consumed on or off the premises where the structure or place of business intended for such use is located less than twenty-five hundred (2,500) feet from a church or public school (the "Conditional Use") for property located located within the Park Centre Shops Shopping Center which is in the West Miami Lakes area on the west side of the Palmetto Expressway, south of N.W. 154 Street, and west of N.W. 79th Court (see Exhibit "A" for a legal description); and

WHEREAS, Division 3.3 of the LDC sets forth the authority of the Town Council to consider and act upon an application for the Conditional Use; and

WHEREAS, in accordance with Division 3.9 of the LDC proper notice has been mailed to the appropriate property owners of record; the public hearing on the Conditional Use has been noticed for Tuesday, June 19, 2007, at 7:00 p.m. at Miami Lakes Middle School, 6425 Miami Lakeway North, Miami Lakes, FL 33014; and all interested parties have had the opportunity to address their comments to the Town Council; and

WHEREAS, Town Staff has reviewed the application and recommends approval of the Conditional Use, with conditions, as set forth in the Staff Analysis and Recommendation dated June 19, 2007 (the "Staff Analysis"), attached as Exhibit "B," and incorporated into this Resolution by this reference.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this resolution by this reference.

Section 2. Findings. In accordance with Division 3.3 of the LDC, the Town Council finds that the Applicant meets the criteria in Division 3.3(c), which are as follows:

- (a) Land Use Compatibility; and
- (b) Sufficient Site Size, Site Specifications, and Infrastructure to Accommodate the Proposed Use; and
- (c) Compliance with the Comprehensive Plan and Land Development Code; and
- (d) Proper Use of Mitigative Techniques; and
- (e) Hazardous Waste.

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Section 3. Approval / Denial. The Town Council approves the Conditional Use subject to the conditions in Section 4 below.

Section 4. Conditions of Approval.

- (a) That in approval of the plan, the same be in accordance with that submitted for the hearing entitled "Park Centre Shops – Master Site Plan", as prepared by Forbes Architect, dated 06-30-05, and consisting of 1 sheet, and a plan entitled "Cuban Cigar Store", as prepared by Tri-County Engineering Inc., dated 09-06-05, dated revised 11-30-05, and consisting of one sheet; and a "liquor survey", as prepared by Tri-County Engineering, Inc., dated 07-17-06, and consisting of 1 sheet.
- (b) That the applicant obtain a Certificate of Use and Occupancy, and promptly renew the same annually, upon compliance with all the terms and conditions, the same subject to cancellation upon violation of any of the conditions.
- (c) That the Smoking Lounge use permitted to sell and consume wine be limited to 168 square feet and operated solely as an accessory use to the cigar store, and if the cigar store use is terminated, the smoking club use will automatically expire.
- (d) That the operating hours for the Smoking Lounge not extend beyond those for the Cigar Store.
- (e) The applicant shall record the Resolution in the public records of the Clerk of the Circuit and County Court and shall return the original order to the Town Clerk before the Town grants approval of the alcoholic beverage license.

Section 5. Effective Date.

This resolution shall become effective immediately upon its adoption.

Section 6. Appeal.

In accordance with Division 3.10 of the Town LDC, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Council by filing of a notice of appeal in accordance with the Florida Rules of Appellate Procedure.

The foregoing Resolution was moved by N. Simon and Seconded by R. Alonso, and upon being put to a vote the motion carried 6-0 with each Council Member voting as follows:

Mayor Wayne Slaton	<u>yes</u>
Vice Mayor Mary Collins	<u>absent</u>
Councilmember Roberto Alonso	<u>yes</u>
Councilmember Robert Meador	<u>yes</u>
Councilmember Michael Pizzi	<u>yes</u>
Councilmember Richard Pulido	<u>yes</u>
Councilmember Nancy Simon	<u>yes</u>

PASSED AND ADOPTED this 19 day of June 2007.

Wayne Slaton

Wayne Slaton
MAYOR

ATTEST:

Debra Eastman
Debra Eastman
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR USE ONLY BY THE TOWN OF MIAMI LAKES:

[Signature]
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
Town Attorney

EXHIBIT A

OWNERSHIP AFFIDAVIT FOR CORPORATION

STATE OF FLORIDA

Public Hearing No. _____

COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared, hereinafter the Affiants, who being first duly sworn by me, on oath, depose and say:

1. Affiants are the fee owners of the property which is the subject of the proposed hearing.
2. The subject property is legally described as: Miania Lakes Business Park
Section 1, Plat Book 126-54 Dade County
Florida folio 32-2022-637-0010

3. Affiants understand this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses

Diane Little
Signature

DIANE LITTLE
Print Name

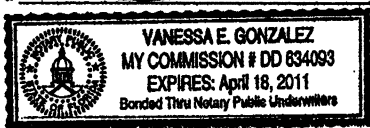
Dulce Perez
Signature

DULCE PEREZ
Print Name

The Graham Companies

Carol G. Wullie
By: Carol G. Wullie

Sworn to and subscribed before me on the 27th day of February, 2007. Affiant is personally known to me or has produced _____ as identification.



Vanessa E. Gonzalez
Notary
(Stamp/Seal)

My Commission Expires: April 18, 2011

Witnesses:

Signature

Print Name

Signature

Print Name

Sworn to and subscribed before me on the _____ day of _____, 200____. Affiant is personally known to me or has produced _____ as identification.

Notary
(Stamp/Seal)
My Commission Expires: _____

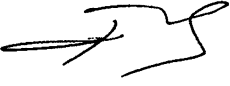


EXHIBIT B

TOWN OF MIAMI LAKES

MEMORANDUM

To: Honorable Mayor and Town Council

From: Alex Rey, Town Manager 

Subject: ZH 07-15 Public Hearing for Conditional Use Approval
Havana Cuba Cigar Lounge
15348 N. W. 79th Court
Miami Lakes, FL 33016

Date: June 19, 2007

Request:

The applicant, Havana Cuba Cigars Lounge, has applied for the following request to obtain Conditional Use Approval filed in accordance with the Town Development Code pursuant to Division 3.3 of the Town Code. Division 3.3 provides the procedures and criteria to ensure that a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity:

1. A Conditional Use approval pursuant to Division 3.3 of the Town Code from Section 33.150 of the Town Code for Spacing Requirements as applied to on the premises sale and consumption of alcoholic beverages (Beer and Wine) to permit a proposed Smoking Lounge in conjunction with a Cigar Store spaced less (approximately 1430 feet) than the required 2,500 feet from a school or religious facility and spaced less (approximately 0 feet) than the required 1,500 feet from other existing alcoholic beverage uses.

Applicable Code Section:

Request #1: Sec. 33-150. Location of Establishments.

(A)*Distance from other establishments.* Unless approved as a special exception (Section 33-311(A)(3)), no premises shall be used for the sale of any alcoholic beverages, as defined herein, to be consumed on or off the premises where the structure or place of business intended for such use is located less than fifteen hundred (1,500) feet from a place of business having an existing, unabandoned, legally established (and not one (1) of the uses excepted from the spacing requirements hereinafter provided) alcoholic beverage use which permits consumption on or off the premises. The fifteen hundred (1,500) feet distance requirements shall be measured by following a straight line from the nearest portion of the structure of the place of business.

(B)Distance from church or school. Unless approved as a special exception (Section 33-311(A)(3)), no premises shall be used for the sale of alcoholic beverages to be consumed on or off the premises where the structure or place of business intended for such use is located less than twenty-five hundred (2,500) feet from a church or public school. The twenty-five-hundred-foot distance requirement shall be measured and computed as follows:

- (1) From a church, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the church structure, and
- (2) From a public school, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the school grounds.

Background:

Folio No. 32-2022-037-0010

Legal Description:

MIAMI LAKES BUSINESS PARK WEST PB 147-98 T-19229 TR ALESS BEG X 76.55FT S & 35FT E OF N1/4 COR SEC 22 52 40 S 01 DEG E242.66FT S 02 DEG E 16.29FTT S 89 DEG E253.76FT

Zoning of Property: BU-2 – Special Business District

Future Land Use Designation: BO – Business and Office

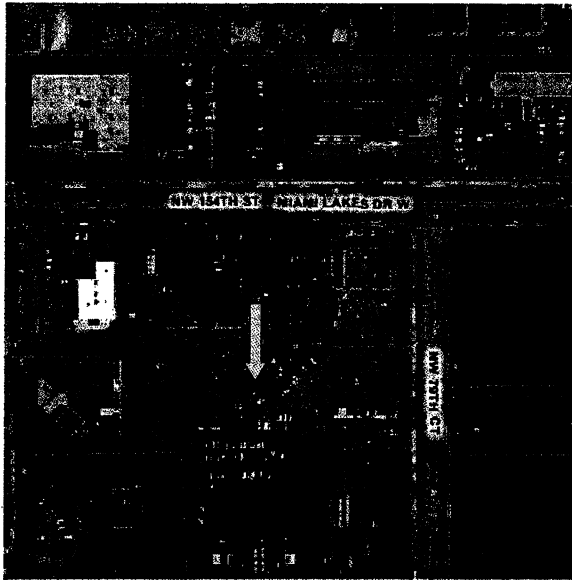
This category accommodates the full range of sales service activities including retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes, entertainment and cultural facilities, public facilities, amusements and commercial recreation establishments (such as private commercial marinas).

These uses may occur in self-contained centers, high rise structures, campus parks and municipal centers business districts.

Subject Property:

The subject property is a leased commercial establishment located within the Park Centre Shops Shopping Center which is located in the West Miami Lakes area on the west side of the Palmetto Expressway, south of N.W. 154 Street, and west of N.W. 79th Court. The 1,540 square foot leased space is situated between a Sylvan Learning Center and a Beef O'Brady's Restaurant within the 4.51 acre Park Centre shopping center which was constructed in 1988 per the Miami Dade County Property Appraiser records.

Subject Property Location Map:



Open Permits / Violations & Zoning History:

There are no open permits or violations on the subject property.

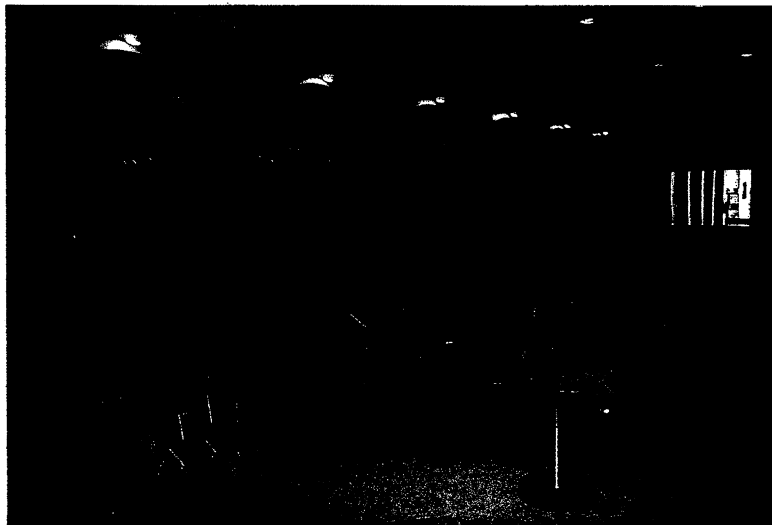
In 1971, the Miami Dade County Board of County Commissioners granted a rezoning request from GU to RU-1, BU-2, RU-TH, RU-4M, RU-4L, RU-4, IU-C, and U.U to permit a Lake Excavation (Resolution Z-281-71) which included the subject property.

In 1989, the Miami Dade County Zoning Appeals Board granted a Special Exception for a Hooligan's Night Club & Spacing of Alcoholic Beverage Use (Resolution 4-ZAB-161-89) which included the subject property.

In 1992, the Miami Dade County Zoning Appeals Board granted a Modification to previous Resolution 4-ZAB-161-89 to submit a revised plan to expand the Special Exception for a Hooligan's Night Club & Spacing of Alcoholic Beverage Use (Resolution 4-ZAB-206-92) which included the subject property.

Conditional Use Criteria:

Please note: The Town's conditional Use standards at Section 3.3 of the Code should be applied to determine if the proposed alcoholic beverage establishment can be approved by the Council. (Attachment A: Conditional Use Criteria)



Compliance with Conditional Use Criteria:

A conditional use shall be permitted upon a finding by the Town Council that the proposed use, application, and site plan comply with the criteria herein specified. A conditional use shall be denied if the Town determines that the proposed use does not demonstrate the following:

1. Land Use Compatibility.

Within the shopping center where the proposed use is to be located are three restaurants which serve alcoholic beverages, beer and wine. To the north of the shopping center is a hotel & office building, to the east is a Burger King restaurant, to the west is a CVS Pharmacy and Boy Scout / Girls Scout Center which is separated by a masonry wall, and to the south is an Office / Industrial Park which is connected to the shopping center by a parking lot access drive.

The proposed Cigar Store and Lounge is located on the south side of the shopping center facing towards the office and industrial park complex. All of the necessary buffers, parking spaces, drives and ingress and egress for this shopping center to operate with office, retail and restaurant uses were approved when the shopping center was constructed.

The proposed retail use including its proposed scale and intensity, traffic generating characteristics, and off-site impacts will be compatible and harmonious with adjacent land uses and will not adversely impact land use activities in the immediate vicinity.

2. Sufficient Site Size, Site Specifications, and Infrastructure to Accommodate the Proposed Use.

The proposed business will be located in an existing shopping center that was approved for a combination of retail and restaurant uses and can accommodate this type of use without any modifications. The shopping center does have the required parking spaces for the proposed smoking lounge use at 168 square feet to remain without the allowance of a parking variance.

3. Compliance with the Comprehensive Plan and Land Development Code. (See Attachment B: BU-2 Uses)

The future land use designation In the Town's Comprehensive Plan for the Subject property: BO - Business and Office and the property is zoned (BU-2 – Special Business District.)

Surrounding Property:

North: Office/Residential; (RO-50 and RO-13)

East: Commercial; (BU-2)

South: Industrial and Office; (IU-C)

West: Commercial / Office; (BU-2)

The Business and Office land use designation accommodates the full range of sales service activities including retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes, entertainment and cultural facilities, public facilities, amusements and commercial recreation establishments (such as private commercial marinas). These uses may occur in self-contained centers, high rise structures, campus parks and municipal centers business districts.

A retail store selling Cigars, and Beer and Wine is permitted in this land use category.

In view of the above permitted uses which include restaurants, retail stores and pubs and bars, a Cigar Store and Smoking Lounge is a permitted use in the BU-2 zoning district.

4. Proper Use of Mitigative Techniques.

Because the proposed business will be located in an existing commercial shopping center with many different retail and restaurant uses combined with the minimal size of the proposed Cigar Store, staff does not believe that there will be any adverse impacts on adjacent land uses. Therefore, other than the two conditions of approval recommended by staff in this report regulating that; the Smoking Lounge use permitted to sell beer and wine be operated solely as an accessory use to the cigar store, and if the cigar store use is terminated, the smoking lounge use will automatically expire, and that the operating hours for the Smoking Lounge not extend beyond those for the Cigar Store; there shall be no need for additional mitigative techniques.

5. Hazardous Waste.

The proposed retail Cigar Store and Smoking Lounge is anticipated not to use any hazardous materials and not to produce any hazardous wastes.

Proposal:

The applicant is proposing to open a smoking lounge in conjunction with a cigar store in an existing 1,540 square foot commercial space. The applicant states that only beer and wine will be served and no other alcoholic beverages will be available on the premises. The proposed smoking lounge will be allocated 168 square feet, and patrons will be able to purchase a glass of wine or beer along with cigar products.

Unless specifically exempted through the Conditional Use criteria, the Code requires a 2,500 ft. distance separation between a school or church and 1,500 ft. of separation from any establishment that sells or serves alcoholic beverages. The required distance separation to the school is measured in a straight line from the front door of the establishment to the nearest property of the school and for other alcoholic establishments to the nearest structure. The distance to the closest public school is approximately 1,430 ft. to the Bob Graham Education Center and the Sylvan Learning Center is located adjacent to the subject Cigar Store. Also the distance to the closest other alcoholic beverage establishment is approximately 0 ft. to the Beef O'Brady's Restaurant, as indicated on the Liquor Survey by Tri-County Engineering, Inc.

The 500' distance separation from a school requires municipal approval as per State Statutes. Chapter 562.45 (2) (a) of the Florida Statutes specifically states: ... "a location for on-premise consumption of alcoholic beverages may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school or secondary school unless the county or municipality approves the location ..."

Analysis:

The Conditional Use request if approved is consistent with the Comprehensive Development Plan and does not create any impact on the levels of service (LOS) standards.

This application seeks to permit a proposed smoking lounge in conjunction with a retail cigar store as permitted within the BU-2 Special Business District spaced less than the required 2,500 from a school or religious facility, and less than the required 1, 500 feet from other existing alcoholic beverage uses.

The proposed Conditional Use for a smoking lounge, within the cigar store will be located in the southern portion of the subject shopping center, adjacent to the Beef O'Brady's restaurant and the Sylvan Learning Center. There are four existing alcoholic beverage uses spaced less than the required 1,500' from the subject establishment within the shopping center and there is a school and tutoring establishments located within the required 2, 500' spacing. The following alcoholic uses are currently permitted within 1,500', Beef O'Brady's (Beer & Wine), Latin American Grill (Beer & Wine), Havana Group Cigars, Inc. (Beer & Wine), and Reno's Pizza and Pasta (Beer & Wine). Also, the following alcoholic beverage uses are located within 2,500'; Miami Lakes Service Center (Beer & Wine), Cancun Grill (Liquor), House of Sun (Beer & Wine), Winn Dixie (Wine), Lakes Seafood (Wine), Bottles Fine Wines & Spirits (Liquor), Outback Steak House (Liquor), Orchid Siam (Beer & Wine), and The Billiard Club (Liquor). Additionally the following schools and tutoring establishments are within the required 2,500' spacing, Sylvan Learning Center, Tutorific, Kinder Care Learning Center, and the Bob Graham Learning Center.

The proposed smoking lounge in conjunction and internal to the subject property with on the premises sale and consumption of beer and wine will be complimentary to the restaurants located in this shopping center, and the cigar store will provide additional service to the community. In relation to the surrounding area and the compatibility of said use with the area and its development, staff is of the opinion that the proposed spacing encroachment will not have an unfavorable effect on same, and will not be contrary to the public interest.

Numerous alcoholic beverage uses exist in the vicinity of the subject property. (See Exhibit 1 – Shopping Ctr. & Cigar Store Site Plan) The spacing of 0' between this establishment and Beef O'Brady's restaurant will not be detrimental to the surrounding area, it is a substantially different type of operation. The retail cigar store in conjunction with the aforementioned smoking lounge will not be out of character with the area, and therefore, will not cause any adverse impacts to the surrounding area, which is primarily commercial in nature, nor to the existing religious or school facilities.

Additionally, staff recommends that the designated area for the smoking lounge be defined and limited to the proposed 168 square feet in order to eliminate potential parking impacts. Therefore, staff supports approval of the subject conditional use request subject to conditions. Said conditional use is proposed in harmony with adjacent land uses, and would not adversely impact land use activities in the immediate vicinity. Accordingly, staff recommends approval of the subject application.

Recommendation: Approval with Conditions

Conditions:

1. That in approval of the plan, the same be in accordance with that submitted for the hearing entitled "Park Centre Shops – Master Site Plan", as prepared by Forbes Architect, dated 06-30-05, and consisting of 1 sheet, and a plan entitled "Cuban Cigar Store", as prepared by Tri-County Engineering Inc., dated 09-06-05, dated revised 11-30-05, and consisting of one sheet; and a "liquor survey", as prepared by Tri-County Engineering, Inc., dated 07-17-06, and consisting of 1 sheet.
2. That the applicant obtain a Certificate of Use and Occupancy, and promptly renew the same annually, upon compliance with all the terms and conditions, the same subject to cancellation upon violation of any of the conditions.
3. That the Smoking Lounge use permitted to sell and consume beer and wine be limited to 168 square feet and operated solely as an accessory use to the cigar store, and if the cigar store use is terminated, the smoking club use will automatically expire.

4. That the operating hours for the Smoking Lounge not extend beyond those for the Cigar Store.
5. The applicant shall record the Resolution in the public records of the Clerk of the Circuit and County Court and shall return the original order to the Town Clerk before the Town grants approval of the alcoholic beverage license.

AR:MIC

ATTACHMENT A: CONDITIONAL USE CRITERIA

1. *Land Use Compatibility.*

The conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts shall be compatible and harmonious with adjacent land uses and shall not adversely impact land use activities in the immediate vicinity.

Compatibility is defined as a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use condition is unduly negatively impacted directly or indirectly by another use or condition. Compatibility of land uses is dependent on numerous development characteristics which may impact adjacent or surrounding uses. They include: type of use, density, intensity, height, general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation and nuisances. Compatibility shall be measured based on the following characteristics of the proposed use or development in relationship to surrounding development in the immediate area:

1. Permitted uses, structures and activities allowed within the land use category.
2. Building location, dimensions, height, and floor area ratio.
3. Location and extent of parking, access drives and service areas.
4. Traffic generation, hours of operation, noise levels and outdoor lighting.
5. Alteration of light and air.
6. Setbacks and buffers such as fences, walls, landscaping and open space treatment.

2. *Sufficient Site Size, Site Specifications, and Infrastructure to Accommodate the Proposed Use.*

The size and shape of the site, the proposed access and internal circulation, and the urban design must be adequate to accommodate the proposed scale and intensity of conditional use requested. The site shall be of sufficient size to provide adequate screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

3. *Compliance with the Comprehensive Plan and Land Development Code.*

The conditional use and site plan shall comply with environmental, zoning, concurrency and other applicable regulations of this Land Development Code, and shall be consistent with the Comprehensive Plan.

4. *Proper Use of Mitigative Techniques.*

The conditional use and site plan shall incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.

5. *Hazardous Waste.*

No conditional use which generates hazardous waste or uses hazardous materials shall be located in the Town unless the specific location is consistent with the Comprehensive Plan, Land Development Code, and does not adversely impact well fields, aquifer recharge areas, or other conservation resources, as may be applicable now or in the future. The proposed use shall not generate hazardous waste or require use of hazardous materials in its operation unless the Town Council approves conditions requiring mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material, and regulate its use, storage and transfer consistent with best management principles and practices.

ATTACHMENT B: BU-2 Sec. 33-253 USES PERMITTED

Sec. 33-253. Uses permitted.

No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, occupied or maintained for any purpose in any BU-2 District except for one (1) or more of the following uses:

- (1) All uses permitted in the BU-1 and BU-1A Districts except that residential uses are subject to approval at a public hearing.
- (2) Automobile parking garages, not over six (6) stories in height, shall be permitted provided they are not located closer than two hundred (200) feet to an RU-1, RU-2, RU-TH or EU District or to a hospital, church or building used for public assemblage. Automobile parking garages shall meet all open space, lot coverage and other applicable requirements of this article.
- (3) Liquor package stores.
- (4) Major department stores.
- (5) Marinas for the following purposes only: Commercial boat piers or slips for docking purposes; yacht or boat storage, for laying up, but not for repairs or overhaul; and boats carrying passengers on excursion, sightseeing, pleasure or fishing trips.
- (6) Night clubs located no closer than five hundred (500) feet of any RU or EU District, if approved at a public hearing.
- (7) Office parks.
- (8) Pubs and bars.
- (9) Regional shopping centers.

(Ord. No. 74-24, § 1, 4-16-74; Ord. No. 96-129, § 1, 9-10-96)

BU-1A Sec. 33-247 USES PERMITTED

No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, maintained or occupied for any purpose in any BU-1A District, except for one (1) or more of the following uses:

- (1) All uses permitted in the BU-1 and BU-1A Districts except that residential uses are subject to approval at a public hearing.

Uses in the BU-1 include: Antique shops, Apparel stores selling new and/or used merchandise, Art good stores, artist studios and photograph shops and galleries, Banks, excluding drive-in teller service, Beauty parlors, Bakeries, retail only (baking permitted on premises), Barber shops, Bicycle sales, rentals and repairs (nonmotorized), Confectionery, ice cream stores and dairy stores, Conservatories and music and dance schools, provided no such establishment is located within five hundred (500) feet of any RU, or EU District except after approval after public hearing, Dairy stores, Drugstores, Donated goods centers for the acceptance only of new or used merchandise, Florist shops, Grocery stores, fruit stores, health food stores, delicatessen, meat and fish markets and other similar food stores, provided such establishments contain not more than four thousand (4,000) square feet of floor area, Hardware stores, Information booth, gate house and security station, Interior design shops, office and display only, Jewelry stores, including incidental sales and purchases of used jewelry, Leather goods and luggage shops, Mail order offices, without storage of products sold, Museum, Newsstand, Office buildings, Optical stores, Paint and wallpaper stores, Photograph galleries, Pottery shops, Restaurants and coffee houses, Religious facilities located inside the Urban Development Boundary. Religious facilities outside the Urban Development Boundary will be permitted only upon approval after public hearing, Schools, Self-service post office which contains mechanical or computer equipment designed to provide limited postal service for walk-up trade, Shoe stores and shoe repair shops, Sporting goods stores, Tailor shops, provided such establishments contain not more than four thousand (4,000) square feet of floor area, Tobacco shops, Variety stores, provided such establishments contain not more than four thousand (4,000) square feet of floor area, Any property in a BU District may be used as access for egress and ingress only to property zoned in any BU classification or in any IU classification provided that both properties are under the same ownership, Outside walk-up window service (no outside stools, chairs or tables), in connection with establishments where the principal use is selling food and drink products, and where a sidewalk of at least seven (7) feet in width abuts the store unit concerned.

Uses in the BU-1A include: Amusement center, Auditoriums, Automobile new parts and equipment, sales only, Automobile and light truck, new sales agency or rental, Automobile service stations, Automobile self-service gas stations, Automobile storage within a building, Automobile tires, batteries and accessories (new) retail only installation permitted, Automobile washing, Bait and tackle shops, Banks, including drive-in teller service, Billiard rooms and pool rooms, Boats carrying passengers on excursion, sightseeing, pleasure or fishing trips, Bowling alleys, Convention halls, Dancing halls or dancing academies in air conditioned buildings providing no intoxicating beverages of any kind are served, providing that such establishments are not located closer than five hundred (500) feet to an RU, or EU District, unless such building is so constructed as to prevent the emission of sound and vibration, Dog and pet hospitals in air-conditioned buildings, Dry cleaning establishments, using noninflammable solvents in self-contained dry cleaning units of the Prosperity type or Dedrick type or an equal approved by the Director, provided such establishments contain not more than four thousand (4,000) square feet of floor area, Electrical appliance and fixtures stores including related repair shops, Employment agencies, Furniture stores, retail of new merchandise only, Grocery stores, Handcrafted-products shop, Health and exercise clubs, including bath and massage parlors, Junior department stores, Lawn mowers, retail, sales and service, Mortuaries or funeral homes, Motorcycles sales and repair, Natatoriums, Open-air theaters, Package stores in shopping centers provided the shopping center is in full compliance with all provisions of Section 33-150(E)(9) of this Code, Pet shops and dog beauty parlors in air-conditioned buildings, Post office stations and branches, operated by postal service employees or agents, which directly serve the public, Printing shops, Private clubs, Propagating and growing plants for sale. Fertilizers, manure, compost and soil shall be limited for sale. Fertilizers, manure, compost and soil shall be limited in quantities for immediate use and shall be kept at least two hundred (200) feet from residential buildings in RU and EU Districts, Pubs and bars if approved at public hearing, Restaurants, Self-service storage facility, Skating rinks, provided same are not located closer than five hundred (500) feet to an RU or EU District, unless such building is so constructed as to prevent the emission of sound and vibration, Supermarkets, Tailor shops, Telegraph stations, Telephone exchange, Theaters for live stage production and motion pictures, Variety stores, Rentals of trucks other than light trucks are allowed in conjunction with and ancillary to self-storage facilities (2) Automobile parking garages, not over six (6) stories in height, shall be permitted provided they are not located closer than two hundred (200) feet to an RU-1, RU-2, RU-TH or EU District or to a hospital, church or building used for public assemblage. Automobile parking garages shall meet all open space, lot coverage and other applicable requirements of this article. Liquor package stores. Major department stores. Marinas for the following purposes only: Commercial boat piers or slips for docking purposes; yacht or boat storage, for laying up, but not for repairs or overhaul; and boats carrying passengers on excursion, sightseeing, pleasure or fishing trips. Night clubs located no closer than five hundred (500) feet of any RU or EU District, if approved at a public hearing.