

INTERPRETATIONS AND COMPATIBILITY FINDINGS OF THE ESCAMBIA COUNTY PLANNING BOARD

Listed in order by Year and Land Development Code (LDC) Section Number'; 8½ X 14; print in landscape

Document last updated: February 27, 2008

LDC Section	Date of Meeting	Query	Planning Board Determination	Status
1997				
3.00.01	02-06-97	Is a boarding house operated by the Federal Bureau of Corrections considered a "non-residential" use?	If a boarding/halfway house is built for monetary gain, it is considered a commercial use and not residential.	No further action is necessary.
6.05.11.B.2.b	08-18-97	Can a pet grooming business be considered a "personal service shop" permitted in an R-6 district?	It can be considered a "personal service shop" as long as animals are not boarded overnight and are not walked outside the building.	No further action is necessary.
1998*				
6.02.01.D	02-18-98	How is zoning determined when several parcels with one property reference number is divided by different zoning categories?	By applying the boundaries existing at the time the zoning line bisects the property. Subsequent expansion of that boundary line would not apply.	No further action is necessary.
6.04.05	02-18-98	When can a temporary sales trailer be placed on a site?	At the time of the pre-application DRC meeting.	Ordinance 98-53 adopted 12-11-98
6.05.12.B	06-17-98	Can an aluminum recycling drop-off facility be a permitted use in a C-1 zoning district?	Yes.	No further action is necessary.
6.06.00	08-19-98	Does a Planned Unit Development have the authority to transfer densities across zoning district lines and public roads.	Yes.	No further action is necessary.
7.16.02	04-15-98	Can a parcel zoned C-1 be developed commercially and transfer its residential density to adjacent residentially zoned land? Can a parcel with dual zoning be developed with both commercial and residential on the respective portions? If the majority of a parcel is R-3 and some R-4, can the density be transferred from the R-4 portion to the R-3 portion, regardless of the majority-zoning paragraph in Article 6?	The Board determined that, in all of these cases, the transfer of density would <u>not</u> be allowed and instructed staff to draft Conditional Use and rezoning approval standards for these types of transfers.	Ordinance 00-04 adopted 02-14-00
9.00.01	12-16-98	Does the note at the end of Section 9.00.01 include mobile homes?	No, the note refers only to site-built single-family houses.	No further action is necessary.
13.03.03	04-06-98	Is the BOA the authority for Conditional Uses in medium-density residential zoning districts on Pensacola Beach?	The Santa Rosa Island Authority has the authority to grant these Conditional Uses.	Ordinance 98-53 adopted 12-11-98

LDC Section	Date of Meeting	Query	Planning Board Determination	Status
*	07-09-98 (BCC)	The following query was made to the Board of County Commissioners (BCC): What is the definition of "vested development"?	Means those site plans and subdivisions that have been the subject of DRC approval but are not yet constructed nor yet subject to the time expiration of the plan approval; does <u>not</u> include those plans approved before the current DRC process was instituted.	
1999				
2.04.00	02-17-99	What action should be taken regarding Appeal of Administrative Decisions when the alleged infraction is a Code Enforcement issue?	If the infraction is a Code Enforcement issue, the Code Enforcement Special Master is the final authority.	Ordinance 99-25 adopted 05-12-99
4.04.05.A	02-17-99	Is the minimum width of a local street 20 feet?	Yes, 20 feet is the minimum width of a local street and could be wider.	No further action is necessary.
6.01.02	10-27-99	How is zoning designated on an un-zoned lot?	Reword Section 6.01.02 and add Section 6.01.03.	Ordinance 00-04 adopted 02-14-00
6.04.03 & 6.05.07	04-21-99	What is the allowable number of houses per lot in R-3 zoning district?	One (1) single family detached dwelling per lot is allowed in R-3 zoning district.	Ordinance 99-38 adopted 08-12-99
6.05.11.B	10-27-99	What is the definition of an appliance repair shop?	Did not define, but instructed staff to add language to this section to allow an appliance repair shop as a permitted use in the R-6 zoning district.	Ordinance 00-04 adopted 02-14-00
6.05.11.B.8	12-15-99	Is a two (2) unit commercial building compatible in an R-6 zoning district?	It is a Conditional Use in an R-6 zoning district.	No further action is necessary.
6.05.12	12-15-99	What is the maximum residential density allowed in a C-1 Retail Commercial zone?	The maximum residential density allowed in a C-1 zoning district is 25 dwelling units per acre.	Ordinance 00-08 adopted 03-06-00
6.05.19	10-27-99	What provisions determine compatible uses in environmentally sensitive lands?	Move Section 6.05.19.C to 6.05.19.B.10, the listing for permitted uses in the SDD zone.	Ordinance 00-04 adopted 02-14-00
7.17.00	07-28-99	Do Density Bonuses apply to the Villages zoning districts within the County?	Allow Density Bonuses in V-1, V-2, V-2A, V-3, V-4, and V-5.	Ordinance 99-47 adopted 10-11-99
7.18.00.L	12-15-99	What provisions provide for maintenance and replacement of a communication tower?	A tower can be replaced anywhere on the same parcel but must meet setbacks.	Ordinance 00-08 adopted 03-06-00
8.08.00	11-17-99	When does the County require removal of signs by amortization?	With proof that a sign existed prior to the Code, the County issues a "legal non-conforming sticker" with expiration date. Otherwise, the sign must be removed by the amortization date.	No further action is necessary.

LDC Section	Date of Meeting	Query	Planning Board Determination	Status
2000				
2.05.03	09-27-00	Is a Conditional Use approval required for every extension, expansion, or alteration to a use that is allowed in the zoning district as a Conditional Use or is it only necessary when the intensity of the use is increased?	If a project had Conditional Use approval once, it does not have to go through it again. If an existing use is listed as a Conditional Use in a particular zoning district, then it does not have to go through the Conditional Use.	No further action is necessary.
2.10.07	01-19-00	Is a guest cottage considered an accessory building or structure that can only be placed in the back or side yard?	A guest cottage can be built in the front yard of a waterfront lot, with Conditional Use approval from the BOA. Clarify language as to required yard and conditions.	Ordinance 00-28 adopted 07-12-00
3.00.01	07-19 & 08-16-00	Is a timeshare considered a dwelling unit or a hotel/motel unit?	A timeshare is considered a hotel/motel unit.	Ordinance 00-46 adopted 10-26-00
4.01.02.E & 4.01.03.E	04-19-00	Does the method of family conveyance between family members to be exempt from subdivision regulation and density and intensity standards have to be without "valuable consideration"?	Strike 4.01.02.E entirely and remove "without valuable consideration" from 4.01.03.E. (County Attorney's office to provide the language.)	Ordinance 00-49 adopted 11-06-00
4.01.04	01-19-00	Are County Departments exempt from Land Disturbing Permit requirements?	No; the County should adhere to LDC requirements.	No further action is necessary.
4.04.08	09-27-00	Are nonresidential (commercial) subdivisions considered the same as residential subdivisions? Should nonresidential subdivisions be less stringently regulated by exempting them from the residential subdivision requirements for submission and plan approval? Can 3-5 lot nonresidential subdivisions be subject to Mini-DRC review? Is an ordinance amendment necessary?	No to all questions.	No further action is necessary.
4.06.09.A	02-16-00	Can the DRC process take 10 days to complete and 10 days to review with comments, or is it to be read as a 10 day total for the entire process?	The DRC review process shall be complete within 10 working days, providing the package is determined to be complete at the time of submittal.	No further action is necessary.
6.03.01.E	04-19-00	Can an accessory building be greater than 50% of living area on a lot that is greater than 5 acres and is zoned R-2?	Lots 2-5 acres may have accessory structures 75% of the size of the primary structure; greater than 5 acres may be 100% of the size of the primary structure.	Ordinance 00-38 adopted 09-11-00
6.03.01.E	06-28-00	Is the "50% of the primary structure" rule for accessory buildings intended to be cumulative or does it apply to each individual accessory building up to 50% of the primary structure?	The "50% of the primary structure" rule was determined not to be cumulative, but to be applied to each individual accessory building.	No further action is necessary.
6.05.00	03-15-00	How are the numbers of dwelling units on a parcel calculated, when the formula for gross density results in a partial dwelling unit?	If there is a fractional amount of a dwelling unit greater than .5, rounding to the next whole number shall be allowed up to a maximum of one additional dwelling unit per parcel.	Ordinance 00-44 adopted 10-11-00

LDC Section	Date of Meeting	Query	Planning Board Determination	Status
6.05.08	03-15-00	Would 500 feet be an adequate amount of space to define the word " <u>adjacent</u> " in this section?	"Adjacent" means immediately adjacent parcel (next to); if no structure is on that parcel, the new structure can be no higher than 8 stories.	No further action is necessary.
6.05.08.E.5	03-15-00	What is the intended meaning of Building Heights?	Building height is set at 8 stories as measured from the base of the required elevation.	No further action is necessary.
6.05.11	03-15-00	Can radio broadcasting/telecasting stations, studios, and offices without on-site towers be permitted uses in the R-6 zoning district?	Cannot be interpreted as permitted uses in the R-6 zoning district. Staff to prepare draft ordinance adding as a Conditional Use in R-6.	Ordinance 00-50; adopted 11-06-00
6.06.00.D.3	01-19-00	What constitutes a minor change in a Planned Unit Development (PUD), what constitutes a substantial change, and what process must be followed to amend a PUD?	Changing from lodging units to dwelling units in a PUD is a minor change. Staff to prepare an ordinance defining minor and substantial changes in PUD process.	Staff to prepare a draft ordinance to amend the LDC to clarify this issue.
7.13.03.G.1	04-19-00	How is " <u>shall</u> " interpreted: "Where sufficient uplands exist to locate proposed development in the upland portion of this site, the county <u>shall</u> at the applicant's request allow the transfer of development (density) at the exchange rate of 1:1 from the environmentally sensitive lands to the non-jurisdictional portion of the site...?"	" <u>Shall</u> " is mandatory.	No further action is necessary.
7.18.00.D & 7.14.01	09-27-00	If a structure on a property restricts uses on surrounding properties (i.e. churches and alcohol uses) does a development order for the use also have ability to restrict development on the surrounding properties?	If a development order has been issued, even if no construction has taken place, development orders for surrounding properties should not be issued, when the code restricts the proximity of a new proposed use to the approved use.	No further action is necessary.
8.03.01.B & C & 8.03.02.B	04-19-00	Are disposable roadside signs (i.e., "Singles", "Lose Weight", et al) exempt identification or private informational signs as defined in Article 8.03.01.B & C, or are they prohibited signs as defined in Article 8.03.02.B?	Disposable roadside signs are prohibited signs.	No further action is necessary.
8.05.00	04-19-00	Can an off-premise sign (billboard), used to advertise a business at another location, be used to advertise a business located at the same site?	The Board moved that this issue not be acted on at this time. If a citation is given, the Special Master will decide the matter.	N/A.
8.05.03.B	06-28-00	Which street does the 1,000' spacing guideline apply to regarding a sign, the street for the billboards or both streets?	If there is a legal sign on the roadway, there cannot be another sign within 1,000 feet.	No further action is necessary.
9.07.00.D	01-19-00	Can an administrative variance be granted when a variance is needed as a result of right-of-way condemnation that results in lot size being insufficient?	The Board of Adjustment is the authority for this variance. Director of Growth Management can only grant an administrative variance for an existing building that is made non-conforming by r-o-w condemnation.	No further action is necessary.
2001				
2.05.02 & 2.10.02	04-18-01	What is the correct process required to obtain approval to construct a structure which exceeds the district height limitations?	When a use is permitted in a zoning district, exceptions to height limitations require a variance. When a use is a Conditional Use in a zoning district, the use itself requires Conditional Use approval and exceptions to height limitations require a variance.	Staff to prepare a draft ordinance to amend the LDC to clarify this issue.

LDC Section	Date of Meeting	Query	Planning Board Determination	Status
3.01.00	05-16-01	What is the point at which the minimum required elevation begins measurement?	In areas of special flood hazard, the minimum required elevation for the first habitable floor shall be that established by FEMA or FDEP, whichever is higher.	Ordinance 02-23; adopted 06-12-02
6.05.12.E	06-20-01	What is the intent of this section regarding commercial traffic on residential streets?	If a property is zoned commercial, the FLU is commercial, and the only access is a residential street, the use of the property for commercial purposes cannot be denied. That is, Section E is not intended to deny ingress/egress to an individual's property.	Ordinance 01-64; adopted 11-19-01
7.18.00	03-21-01	Do height limits for communication towers apply to the tower structure only or to the tower height combined with its attachments (lightning rods, antennae, lights, etc.)?	Height limits apply to the combined height of the tower and its attachments.	No further action is necessary.
7.18.00	05-16-01	Are communication towers considered utilities as defined in the LDC and allowed in any FLU category where utilities are allowed?	Yes. (See also Comp Plan interpretations.)	BCC denied and directed staff to prepare a report.
9.06.00 & 11.01.13	09-19-01	Does the language in Section 11.01.13 take precedence over that of Section 9.06.00 (replacement of existing uses within the AICUZ areas)?	No, Section 9.06.00 takes precedence over Section 11.01.13.	No further action is necessary.
2002				
3.00.00	03-25-02	What is the correct interpretation of the term "footprint"?	Footprint is the building area (as defined in the LDC) plus the outermost projections of any stories.	Ordinance 02-30 adopted 07-08-02
3.00.01	09-18-02	Is an apartment house considered a residential land use, and is it allowed in commercial zoning districts?	Yes, it is a residential land use; and yes, it is allowed in commercial zoning districts. (directed staff to amend LDC to clarify that apartment buildings are allowed within commercial zoning districts)	Ordinance 03-04 adopted 02-13-03
6.05.14.02.D.7 & 6.05.14.04.E.6	08-21-02	Must any automotive use meet the performance standard requiring a 500' distance between any other automotive uses that are listed under "Uses requiring special conditional use review" in the C-3 and C-4 Overlay Districts? (Example, must a rental car agency meet the requirement from any other automotive use and not just another rental car agency?)	Yes, the definition of "automotive uses" means any and all automotive uses.	Compatibility finding only. No further action is necessary.
6.05.16.B.4	06-19-02	Is a residential community corrections and substance abuse program compatible with the approved uses in ID-1, Light Industrial Zoning District?	Yes.	Compatibility finding only. No further action is necessary.
6.05.25.B.10	02-20-02	Does the sale of fire detection systems qualify as "...other uses which are similar or compatible to the uses permitted herein that would promote the intent and purposes of this district," within the VM-1 zoning district?	Yes.	Compatibility finding only. No further action is necessary.

LDC Section	Date of Meeting	Query	Planning Board Determination	Status
7.13.03.N	07-17-02	Are stormwater ponds allowed in the 30' buffer between development and environmentally sensitive wetlands?	No, the definition of "development" is clear; therefore, stormwater ponds are considered development and are not allowed in the 30' buffer zone.	Compatibility finding only. No further action is necessary.
2003				
3.00.01	10-15-03	How is "lot of record" defined?	As stated in Article 3 Definitions: The effective date of "lot of record" is October 8, 1990.	No further action is necessary.
6.05.03.B.3	01-22-03	Is the definition of "public utility distribution and/or collection facilities and structures" as used in Section 6.05.03.C.3 the same as the definition of "public utility and service structures" adopted in Ordinance 2002-54?	Yes.	Staff to prepare a draft ordinance to clarify this issue.
6.05.04 et al	06-18-03	How is the height limitation determined for commercial buildings on Perdido Key? Note: This interpretation was rescinded 9-23-03. The meeting minutes do not reflect a motion to interpret a story height of 12'. It is anticipated that the PB will address this issue at a future meeting.	Maximum building height in feet on Perdido Key is determined by multiplying the maximum stories allowed by 12'	Compatibility finding only. No further action is necessary.
6.05.13.L 6.05.13.01.9.J 6.05.13.03.B	01-22-03	Can property on Perdido Key, from which residential density has been transferred, be used for subsequent commercial use ("double-dipping")?	No, on Perdido Key, it is prohibited to use property from which residential density has been transferred for subsequent commercial use.	Staff to prepare a draft ordinance to clarify this issue.
11.01.00.C	01-22-03	Are non-military structures, buildings, and above ground utility or communication lines allowed in the Clear Zone areas of NAS Pensacola and OLF's?	No.	Staff to prepare a draft ordinance to clarify this issue.
2004				
2.02.02	09-08-04	Are all state or federal permits required prior to the issuance of a building permit, preliminary plat, or development order?	Yes. (obtained means "in hand")	No further action is necessary.
2.05.02	12-07-04	Should "yard" requirements be construed to include "lot" requirements for which the BOA has authority to grant variances? and, Should the "standards contained in Article 4 and 7-12" be construed to mean "contents contained in Articles 4 and 7-12" for which the BOA has authority to grant variances?	Yes to both questions.	No further action is necessary.
3.00.01	10-04-04	In the definition for "campground", are "temporary living quarters for commercial emergency purposes" implied with the stated "temporary living quarters for commercial recreational purposes"?	Yes. However, this will be clarified by amendment of the definition.	To be clarified in the pending Article 3 draft ordinance.
6.05.04	12-07-04	Are boat repairs, sales, and service allowed as either permitted or conditional uses in the C-1 zoning district?	Only inside engine and mechanical repair of boats is a permitted use in the C-1 zoning district.	No further action is necessary.

LDC Section	Date of Meeting	Query	Planning Board Determination	Status
2005				
3.00.01	04-11-05	Interpretation 2005-01: No query; the Planning Board took this action regarding a previous 2002 interpretation concerning the term "apartment house" as to whether such proposed multi-family developments should be considered residential or commercial uses within commercial zoning districts and/or future land use categories; causal factor unknown	Continue to apply the 2002 interpretation, which states that an apartment house is considered a residential land use	No further action instructed.
[2.10.07.D; 6.03.01.E;]	08-08-05	Interpretation 2005-02: No query; staff recommendation that the Planning Board take this action regarding screened swimming pool enclosures; causal factor unknown	All screened swimming pool enclosures, whether attached to a principal structure or not, are accessory structures subject only to the area and dimensional requirements for accessory structures as otherwise required by the LDC.	No further action instructed.
6.05.15, 6.05.15.01-.03	10-10-05	Interpretation 2005-03: Is a mini-warehouse a permitted use in the C-1PK, CCPK, or CGPK zoning district?	A mini-warehouse storage facility with no outdoor storage and without multiple outdoor accesses is permissible in the C-1PK and cumulative PK districts.	No further action instructed.
2006				
2.05.02 7.15.03	09-11-06	Interpretation 2006-01: Wellhead protection performance standards and can this be a variance through the BOA?	The Code is clearly stated as is; cannot receive a BOA variance.	No further action instructed.
2007				
3.00.00 6.05.15 6.05.15.01 6.05.15.02 6.05.15.03	09-10-07	No interpretation number.	Board determined that no interpretation was necessary regarding Perdido Key building height and footprint limits, and that the literal definition applies.	No action taken.
2008				
6.05.15.01	02-11-08	Interpretation 2008-01: Are RV parks considered permitted uses in CCPK, CGPK, and PRPK?	Board determined that RV parks shall be considered commercial amusement or commercial recreational facilities, or otherwise as uses similar to or compatible with the other permitted uses of the district and that promote its intent and purpose.	No further action instructed.

(This page last updated on February 27, 2008)