

**ORDINANCE 18-\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-58 OF THE CODE OF ORDINANCES NC, NEIGHBORHOOD CENTER DISTRICT REGARDING RESIDENTIAL USES AND RELATED LAND DEVELOPMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Cutler Bay (the “Town”) has adopted land development regulations to facilitate safe and orderly growth which forms an integral part of the community; and

**WHEREAS**, Arc/Treo, LLC (the “Applicant”) has submitted a Comprehensive Plan amendment application requesting an amendment to the text of the Town’s Future Land Use Element Lakes-by-the-Bay Mixed Use designation of the Comprehensive Plan (the “Comprehensive Plan”); and

**WHEREAS**, the Town Council desires to amend the standards in the land development regulations relating to residential uses within the NC Neighborhood Center Zoning District to implement the Applicant’s changes to the Comprehensive Plan; and

**WHEREAS**, the Town Council, sitting as the Local Planning Agency, has reviewed the ordinance and recommended approval; and

**WHEREAS**, the Town Council finds that this Ordinance is in the best interest and welfare of the residents of the Town.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2. Section 3-58 Amended.** The Town Council hereby amends Section 3-58 of the Town Code of Ordinances as follows:

Sec. 3-58. - NC, Neighborhood Center District.

The neighborhood center district provides for the location of pedestrian scaled shops, restaurants, services, small workplaces, and residential buildings central to a neighborhood (or grouping of neighborhoods) and within walking distance of dwellings. The neighborhood center district shall be developed on an interconnected pattern of streets and typically limited to approximately one-fourth mile in radius. Uses in the district will have a primary market area of three miles and are intended to service the daily needs of the residents of the surrounding

neighborhoods. The pedestrian is expected to be able to walk from one end of the district to the other in ten to 15 minutes.

(1) *Permitted uses.*

- a. Commercial and retail (not exceeding 25,000 square feet as a single use).
- b. Office (requiring less than 50 parking spaces).
- c. Restaurant.
- d. Multifamily (within a vertical mixed use development)- in the Neighborhood Center 1 (NC-1) zoning district. Residential uses (within a mixed use development) in the Neighborhood Center 2 (NC-2) zoning district.
- e. Civic (excluding educational facility/school).
- f. Medical.
- g. Civic.
- h. Park and open space.
- i. Place of public assembly (with a minimum distance of 1,000 feet between another place of public assembly).
- j. Outdoor dining (see supplemental standards for further regulations).

(2) *Prohibited uses.*

- a. Repair garage.
- b. Service station.
- c. Vehicle service center.
- d. Entertainment center.
- e. Kennel.
- f. Manufacturing and industrial.
- g. Outdoor storage.
- h. Self storage facility.
- i. Automobile, truck, equipment sale or rental.
- j. Funeral home.
- k. Donated goods store.
- l. Furniture store.
- m. Home improvement center.
- n. Pawn shop.
- o. Pain management clinic.
- p. Theater.
- q. Adult entertainment.

- r. Check cashing service.

(3) *Conditional uses.*

- a. Conservatory, health and fitness, martial arts or dance studio.
- b. Educational facility/school.
- c. Office (with 50 or more parking spaces).
- d. Commercial and retail (exceeding 25,000 square feet but less than 55,000 square feet as a single use).
- e. Veterinarian office (including grooming and indoor boarding).
- f. Neighborhood convenience store.
- g. Bar and nightclub.
- h. Drive-thru.

(4) *Site development standards.*

- a. *Story.* Buildings shall be at least two stories. Office, commercial and retail, residential, civic or finished attic space, or facade design above the ground floor shall count as a second story when more than 50 percent of the building footprint is encompassed by the space. Each upper story shall be a minimum of eight feet in height.
- b. *Mixed use.* Buildings are encouraged to be vertically mixed use in design and character. Horizontal mixed use development is encouraged on a site that cannot otherwise accommodate vertical mixed use. Commercial and retail uses shall be located on the ground floor of a multi-story building. Office uses should be located on higher floors, while residential may exist on any level. In the Neighborhood Center-1 (NC-1) zoning district, ~~W~~when residential is part of the mix of uses, it can be no less than 20 percent or more than 80 percent, whether vertical or horizontal in form and function.
- c. *Green designation.* Buildings that pursue a height bonus and which exceed two stories shall pursue green designation per the requirements of article V of this chapter.
- d. *Buildings fronting Old Cutler Road.* Buildings which are located on Old Cutler Road shall be required to provide an outdoor plaza and/or an area for seating or cafe tables between the building and the right-of-way. No single tenant in a building fronting Old Cutler Road shall exceed 25,000 square feet in size.

(5) *Table of standards.*

Standard	NC-1	NC-2
Minimum lot area (square feet)	NA	NA
Maximum floor area ratio	1.6	<del>0.4</del> <u>0.5</u>

Maximum floor area ratio with green bonus	2.0	0.5
Maximum density (units per acre)	15	<del>NA</del> <u>7</u>
Maximum density with green bonus	30	NA
Maximum height (feet)	35	35
Maximum frontage height with green bonus	48	NA
Number of stories	3	2
Number of frontage stories with green bonus	4	NA
Adjoining residential zoning (feet)	35	<del>NA</del> <u>35</u>
Number of stories	3	<u>2</u>
Building frontage (percent)		
Along primary street	70	<del>NA</del> <u>70</u>
Along secondary street	50	<u>50</u>
Principal structure setbacks (feet)		
Front (maximum)	20	20
Side street	15	15
Interior side	0	0
Rear	20	<del>20</del> <u>15</u>
Rear (abutting an alley)	0	0
Setbacks fronting Old Cutler Road when right-of-way is less than 100 feet, as measured from the edge of payment		
Front (minimum) (feet)	12	NA

Front (maximum) (feet)	20	NA
Maximum impervious surface coverage (percent)	70	70
Minimum lot width (residential) (feet)	25	<del>NA</del> <u>21</u>
Minimum lot depth (feet)	NA	NA
Open space (percent)	5	<del>NA</del> <u>5</u>
In the form of courtyards, gardens, colonnade, forecourt, balconies, plazas or squares		
Encroachment into ROW (feet)		
Balcony	5	<u>5</u>
Awning	5	<u>5</u>
Accessory structure height (feet)	6	<del>NA</del> <u>6</u>
Only permitted in rear yards of townhomes	6	<del>NA</del> <u>6</u>

**Section 3. Severability.** That the provisions of this Ordinance are declared to be severable, and, if any section, sentence, clause and/or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, which shall remain in effect, it being the legislative intent that this Ordinance shall stand despite the invalidity of any part.

**Section 4. Conflicts.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 5. Codification.** That it is the intention of the Town Council, and hereby ordained, that the provisions of the Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be re-numbered and/or re-lettered to accomplish such intentions; and that the word, "Ordinance," shall be changed to "Section" or such other appropriate word.

**Section 6.**     **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading. However, the effective date of this Ordinance shall be 31 days after the state land planning agency notifies the Town that the related Comprehensive Plan application package is complete. If the related Comprehensive Plan application is timely challenged, this Ordinance shall not become effective until the state land planning agency or the Administration Commission enters a final order determining that the Comprehensive Plan amendment to be in compliance.

PASSED on first reading this \_\_\_\_\_ day of April, 2018.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Attest:

\_\_\_\_\_  
PEGGY R. BELL  
Mayor

\_\_\_\_\_  
DEBRA E. EASTMAN, MMC  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF  
CUTLER BAY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.  
Town Attorney

Moved By: \_\_\_\_\_  
Seconded By: \_\_\_\_\_

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell	_____
Vice Mayor Sue Ellen Loyzelle	_____
Council Member Mary Ann Mixon	_____
Council Member Michael P. Callahan	_____
Council Member Roger Coriat	_____