

ORDINANCE NO. 01-24

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES AT CHAPTER 78. ZONING. TO ADOPT NEW OVERLAY ZONING THAT IMPLEMENTS CERTAIN RECOMMENDATIONS CONTAINED IN THE OCTOBER 2022 VILLAGE OF TEQUESTA COMMERCIAL CORRIDOR MASTER PLAN AS PREPARED BY THE TREASURE COAST REGIONAL PLANNING COUNCIL AND ADOPTED BY THE VILLAGE COUNCIL ON NOVEMBER 10, 2022; SPECIFICALLY AMENDING THE FOLLOWING SECTIONS: 78-4 DEFINITIONS. BY ADOPTING NEW DEFINITIONS FOR “FORMULA BUSINESS,” “FORMULA RESTAURANT,” “FORMULA RETAIL,” “OVERLAY DISTRICT,” “FAÇADE TRANSPARENCY,” AND “CIVIC OPEN SPACE;” 78-96 DISCONTINUANCE OF NONCONFORMING USES. BY ADDING LANGUAGE TO EXPLAIN THE CONTINUATION OF NON-CONFORMING USES IN AN OVERLAY ZONE; 78-176 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT. BY ADDING PERMITTED AND SPECIAL EXCEPTION USE REGULATIONS APPLICABLE TO OVERLAY ZONING; SEC. 78-177 C-2 COMMUNITY COMMERCIAL DISTRICT. BY ADDING PERMITTED AND SPECIAL EXCEPTION USE REGULATIONS APPLICABLE TO OVERLAY ZONING; SEC. 78-178 C3 GENERAL COMMERCIAL DISTRICT. BY ADDING PERMITTED AND SPECIAL EXCEPTION USE REGULATIONS APPLICABLE TO OVERLAY ZONING; SEC. 78-180 MU MIXED USE DISTRICT. BY ADDING PERMITTED AND SPECIAL EXCEPTION USE REGULATIONS APPLICABLE TO OVERLAY ZONING, AND RESOLVING ANY CONFLICT BETWEEN MU ZONING AND OVERLAY ZONING IN FAVOR OF OVERLAY ZONING; FURTHER CREATING AN ENTIRELY NEW ARTICLE VI DIVISION 3 ENTITLED “OVERLAY DISTRICTS.” WITH NEW CODE SECTIONS 78-201 THROUGH 78-204; ADOPTING SEC. 78-201 “TEQUESTA DRIVE OVERLAY,” CREATING AND DEFINING THIS OVERLAY DISTRICT, PROVIDING PURPOSE AND INTENT, PROVIDING DESIGN, SETBACK, FAÇADE, PARKING, FORMULA BUSINESS AND RESTAURANT, OPEN SPACE, AND LANDSCAPING GUIDELINES; PROVIDING FOR PAYMENT IN LIEU OF CERTAIN OPEN SPACE REQUIREMENTS; PROVIDING FOR WAIVERS; RESOLVING ANY CONFLICT BETWEEN GENERAL REGULATIONS AND OVERLAY ZONING REGULATIONS IN FAVOR OF OVERLAY ZONING REGULATIONS; ALSO ADOPTING SEC. 78-202 “US HIGHWAY 1 OVERLAY,” CREATING AND DEFINING THIS OVERLAY DISTRICT, PROVIDING PURPOSE AND INTENT, PROVIDING DESIGN, SETBACK, FAÇADE, PARKING, FORMULA BUSINESS AND RESTAURANT, OPEN SPACE, AND LANDSCAPING GUIDELINES; PROVIDING FOR PAYMENT IN LIEU OF CERTAIN OPEN SPACE REQUIREMENTS; PROVIDING FOR WAIVERS; RESOLVING ANY CONFLICT BETWEEN GENERAL REGULATIONS AND OVERLAY ZONING REGULATIONS IN

FAVOR OF OVERLAY ZONING REGULATIONS; ALSO ADOPTING SEC. 78-203 “VILLAGE CENTER OVERLAY,” CREATING AND DEFINING THIS OVERLAY DISTRICT, PROVIDING PURPOSE AND INTENT, PROVIDING DESIGN, SETBACK, FAÇADE, PARKING, FORMULA BUSINESS AND RESTAURANT, OPEN SPACE, AND LANDSCAPING GUIDELINES; PROVIDING FOR PAYMENT IN LIEU OF CERTAIN OPEN SPACE REQUIREMENTS; PROVIDING FOR WAIVERS; RESOLVING ANY CONFLICT BETWEEN GENERAL REGULATIONS AND OVERLAY ZONING REGULATIONS IN FAVOR OF OVERLAY ZONING REGULATIONS; AND ADOPTING SEC. 78-204 “WAIVERS” TO PROVIDE A PROCESS FOR OBTAINING WAIVERS FROM THE VILLAGE COUNCIL FROM CERTAIN OVERLAY DISTRICT REQUIREMENTS, PROVIDING FOR AN APPLICATION, AND PROVIDING CRITERIA FOR THE GRANTING OF A WAIVER; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 78. ZONING. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, not unlike many other local governments in Palm Beach County, the Village of Tequesta has, over recent years, felt increasing development pressure for residential, including mixed-use, development; and

WHEREAS, while the Village of Tequesta currently has a Mixed-Use Zoning District by name, it does not function as a traditional mixed use zone, having developed with adjacent but separate and more traditional areas of residential and commercial uses as opposed to blending these uses into one area; and

WHEREAS, commercially zoned areas have also been, and continue to be, pursued for residential redevelopment through the “Live Local Act” recently adopted by the State Legislature, and other re-development; and

WHEREAS, these recent development trends gave cause to the Village Council to be concerned that the Village’s current zoning map designations and land development code text regulations are in need of re-evaluation and update to provide clearer direction on the community’s expectations for future growth; and

WHEREAS, as a result, in November 2021 the Village Council of the Village of Tequesta contracted with the Treasure Coast Regional Planning Council (TCRPC) to review existing Village land development regulations, engage the public including land owners and other interested stakeholders in a public design charrette process, and develop a master plan which creates a vision for the development and re-development of the commercial corridors and mixed-use areas within the Village; and

WHEREAS, On Saturday April 9, 2022, the TCRPC team kicked off a five-day public design charrette held at the Tequesta Village Council chambers, which culminated two months of pre-charrette stakeholder interviews, as well as meetings with the Charrette Host Committee to organize the logistics of the effort; and

WHEREAS, On Wednesday, April 13, 2022 a work-in-progress public presentation

was given to illustrate work to date and solicit even more public input from property owners, stakeholders and other interested persons; and

WHEREAS, during publicly noticed meetings on August 22, 2022 and October 3, 2022, the Village Council publicly reviewed and commented on draft versions of the Commercial Corridor Master Plan; and

WHEREAS, on November 10, 2022, the Village Council of the Village of Tequesta formally adopted the final version of the Commercial Corridor Master Plan; and

WHEREAS, the final adopted Commercial Corridor Master Plan contains data and recommendations for implementation, with emphasis on amendments to land development regulations that include restrictions on formula based uses, provision for civic spaces, and revised façade, setback, and parking concepts, and the creation of overlay districts to accomplish the implementation of the vision contained therein, which started with input from Tequesta residents, commercial corridor and mixed use land owners, and other stakeholders and interested persons; and

WHEREAS, Village of Tequesta Planning staff and planning consultant, Chen Moore & Associates, has, since the adoption of the Commercial Corridor Master Plan by the Village Council, undertaken the task of creating land development regulation amendments establishing three separate overlay zones which implement many of the Commercial Corridor Master Plan recommendations; and

WHEREAS during publicly noticed meetings on May 30, 2023, July 31, 2023, October 30, 2023, December 4, 2023, and January 29, 2024 the Village's Planning Consultants, Chen Moore & Associates presented a draft land development overlay code and explained how said overlay code amendments would implement the Commercial Corridor Master Plan into Village code; and

WHEREAS, the Village Council now desires to amend its land development regulations by adopting the overlay code amendments prepared by Village staff and the Village's planning Consultant Chen Moore & Associates; and

WHEREAS, the Village of Tequesta Planning & Zoning Board, sitting as the Local Planning Agency, conducted a public hearing on March 21, 2024 to review the land development regulation amendments establishing three separate overlay zones which implement many of the Commercial Corridor Master Plan recommendations and make a recommendation to the Village on the adoption of such land development regulation amendments; and

WHEREAS, following the Local Planning Agency public hearing, the Village Council conducted additional public workshops in April and May 2024, and received additional public comment primarily from the business community and as a result, directed further revision to the overlay codes; and

WHEREAS, having considered the recommendation of the Local Planning agency, and having conducted all required advertised public hearings, and having considered the public comments from the Village's business community and others, the Village Council of the Village of Tequesta has determined that adoption of this ordinance, containing the land development regulation amendments establishing three separate overlay zones which implement many of the Commercial Corridor Master Plan recommendations, is in the best interest of the Village of Tequesta, and will promote the public health, safety and welfare for the residents of the Village of Tequesta.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, THAT:

Section 1: Chapter 78. Zoning. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article I. In General. Sec. 78-4. Definitions, by adopting new definitions for “formula business,” “formula restaurant,” “formula retail,” “overlay district,” “façade transparency,” and “civic open space; placing said definitions alphabetically into the list of definitions; providing that section 78-4 shall hereafter read as follows:

Sec. 78-4. - Definitions.

The following words, terms and phrases, when used in this chapter, unless otherwise specified, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All words used in the present tense include the future; all words in the singular number include the plural and the plural the singular. The word "building" includes the word "structure." The word "shall" is mandatory. The word "person" includes a firm, corporation or municipal corporation as well as a natural person. The word "map" shall mean the official zoning map of the village. The term "council" shall mean the Council of the Village of Tequesta and the word "village" shall mean the Village of Tequesta, a municipal corporation of the State of Florida. The word "used" shall be deemed to include the words "arranged, designed or intended to be used," and the word "occupied" shall be deemed to include the words "arranged, designed or intended to be occupied." Any word or term not interpreted or defined by this section shall be used with a meaning of common or standard utilization.

Business, formula means an establishment that offers health care, medical, dental, personal service, or real estate services with a standardized array of services and/or merchandise, employee uniforms, decor, facade design, signage, color scheme, trademark or service mark, name, or similar standardized features; and is one of a chain or group of ten or more in the nation.

Open space, civic means an outdoor area that is maintained as an urban amenity and is accessible to the general public during reasonable hours. Civic open spaces typically take the form of a green, a plaza, a playground, a square or others.

Overlay district means an area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements, and height

limitations. Overlay districts are layered on top of certain portions of existing zoning districts, and apply additional or different standards to all areas within the overlay.

Restaurant, formula means any establishment that is one of a chain or group of ten or more restaurants in the nation, and which satisfies at least two of the following three descriptions:

(1) It has the same or similar name, trade name, or trademark as others in the chain or group;

(2) It has standardized and limited menus, ingredients, food and beverage preparation;

(3) It offers any of the following characteristics in a style that is distinctive to and standardized among the chain or group:

a. Exterior design or architecture;

b. Interior design; or

c. uniforms, except that a personal identification or simple logo will not render the clothing a uniform.

Retail, formula means a type of retail sales activity or retail sales establishment with a standardized array of services and/or merchandise, employee uniforms, decor, facade design, signage, color scheme, trademark or service mark, name, or similar standardized features; and is one of a chain or group of ten or more in the nation. Formula retail stores do not include establishments providing professional services, including, but not limited to, real estate offices, medical offices, dental offices, offices of health practitioners, banks, mortgage and securities brokers, personal services, accounting services, appraisers, insurance agents, and interior decorators.

Transparency, façade means the amount of transparent window glass or other openings in a building's facade along a street frontage, relative to the overall surface area of the facade. This ratio is expressed as a percentage and is calculated separately for the ground story of a facade and for each upper story.

Waiver means a request to deviate from a specific code requirement where alternative solutions are provided that can be demonstrated to provide a substantial public benefit that is specifically recognized by the Village Council to justify the waiver or result in a better design outcome than the best design option permissible under the code. Waivers

may be granted in the Tequesta Drive, US Highway One, Village Center Overlay Districts, and Planned Commercial Developments (PCD's). The substantial public benefit or the specific design outcome must be specifically and expressly identified in writing by the applicant and approved by the Village Council.

[All other definitions shall remain in full force and effect as previously adopted]

Section 2: Chapter 78. Zoning. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article IV. Nonconforming uses; nonconforming structures. Sec. 78-96. Discontinuance of nonconforming uses, by amending this section to provide regulations for legal nonconforming uses in an overlay zone; providing that section 78-96 shall hereafter read as follows:

Sec. 78-96. - Discontinuance of nonconforming uses.

When a nonconforming use has been vacated, abandoned or discontinued for a period of 90 consecutive days, any future use in such structure or on such land shall revert to the uses permitted in the district in which the structure and/or land is located, and shall not thereafter be occupied by any nonconforming use. The 90-day period set forth herein shall not apply to the discontinuation of a nonconforming use caused by flood, fire, explosion or other casualty, or act of God, government, or the public enemy. However, to the extent that structural restoration or repair is required in order for the nonconforming use to resume, Section 78-98(c) shall apply.

If an existing use was legally permitted on its site prior to adoption of the commercial overly code in 2024 but is not subsequently included as a permitted use in the commercial overlay code, that existing use will continue to be deemed a permitted nonconforming use. Permitted nonconforming uses that were legally permitted prior to adoption of the commercial overlay code in 2024 that have been vacated, abandoned, or discontinued, may be replaced by the same use within 180 days. When a permitted nonconforming use has been replaced with a different use, or when it has been vacated, abandoned, or discontinued for more than 180 days, it is no longer considered a permitted nonconforming use.

Section 3: Chapter 78. Zoning. of the Code of Ordinances of the Village of Tequesta is hereby amended at Sections 78-176 C-1 neighborhood commercial district, 78-177 C-2 community commercial district, 78-178 C-3 general commercial district, and 78-180 MU mixed use district, to amend use regulations consistent with the Commercial

Corridor Master Plan, provide specific regulation for formula based businesses, retail, and restaurants, provide new overlay zone regulations, and to provide code conflict resolutions; providing that Sections 78-176, 78-177, 78-178, and 78-180 shall hereafter read as follows:

Sec. 78-176. C-1 neighborhood commercial district.

(a) *Purpose.* It is the purpose and intent of the C-1 neighborhood commercial district to provide lands within the village as depicted on the official zoning map for limited retail sales and business service activities primarily designed to serve residential neighborhoods of the village. The district is not intended for use by major or large scale commercial or service concerns. Professional and business offices and service establishments and uses that specifically address the needs of surrounding residents are encouraged. Orientation to and compatibility with neighborhoods to be served are critical.

(b) *Permitted uses.* Permitted uses in the C-1 district are as follows, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

- (1) Retail sales and services, excluding retail package liquors
- (2) Business services
- (3) Health care facility or medical or dental office; professional office; professional services
- (4) Personal services
- (5) Restaurants, excluding fast food restaurants, drive-in restaurants, and carryout restaurants
- (6) Restaurant, specialty

[subsections (7) through (9) shall remain in full force and effect as previously adopted]

(c) *Accessory uses.* Accessory uses allowed in the C-1 district are as follows:
Any accessory use customarily incidental to a permitted use.

(d) *Special exception uses.* Special exception uses in the C-1 district are as follows, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

[subsections (1) through (6) shall remain in full force and effect as previously

adopted]

- (e) *Prohibited uses and structures.* The following uses and structures are prohibited in the C-1 district, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

Any use or structure not specifically or by reasonable implication permitted in this section as a permitted use, accessory use or permissible by special exception.

Sec. 78-177. C-2 community commercial district.

- (a) *Purpose.* It is the purpose and intent of the C-2 community commercial district to provide lands within the village as depicted on the official zoning map for the development of commercial activities with a location convenient to U.S. Highway 1 automotive traffic. This district will serve the community at large and provide a mixture of convenience goods and services that offers a greater variety of uses than permitted at neighborhood level.

- (b) *Permitted uses.* Permitted uses in the C-2 district are as follows, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

- (1) Retail sales and services, excluding retail package liquors
- (2) Business services
- (3) Health care facility or medical or dental office; professional office; professional services
- (4) Personal services
- (5) Restaurants, excluding fast food restaurants, drive-in restaurants, and carryout restaurants
- (6) Restaurant, specialty

[subsections (7) through (11) shall remain in full force and effect as previously adopted]

- (c) *Accessory uses.* Accessory uses allowed in the C-2 district are as follows:
Any accessory use customarily incidental to a permitted use.
- (d) *Special exception uses.* Special exception uses in the C-2 district are as follows, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and

the Village Center overlay:

[subsections (1) through (20) shall remain in full force and effect as previously adopted]

- (e) *Prohibited uses and structures.* The following uses and structures are prohibited in the C-2 district, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

Any use or structure not specifically or by reasonable implication permitted in this section as a permitted use, accessory use or permissible by special exception.

- (f) Property development regulations.

[This subsection shall remain in full force and effect as previously adopted]

Sec. 78-178. C-3 general commercial district.

- (a) *Purpose.* It is the purpose and intent of the C-3 general commercial district to provide lands within the village as depicted on the official zoning map and thereby encourage the development of a general variety of commercial uses which provide a wide range of goods and services.
- (b) *Permitted uses.* Permitted uses in the C-3 district are as follows, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

- (1) Retail sales and services
- (2) Business services
- (3) Health care facility or medical or dental office; professional office; professional services
- (4) Personal services
- (5) Retail package liquors, lounges and bars.
- (6) Restaurants, excluding fast food restaurants, drive-in restaurants and carryout restaurants
- (7) Restaurant, specialty

[subsections (8) through (21) shall remain in full force and effect as previously adopted]

- (c) *Accessory uses.* Accessory uses allowed in the C-3 district are as follows:

Any accessory use customarily incidental to a permitted use.

- (d) *Special exception uses.* Special exception uses in the C-3 district are as follows, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

[subsections (1) through (11) shall remain in full force and effect as previously adopted]

- (e) *Prohibited uses and structures.* The following uses and structures are prohibited in the C-3 district, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

Any use or structure not specifically or by reasonable implication permitted in this section as a permitted use, accessory use or permissible by special exception.

Sec. 78-180. MU mixed-use district.

- (a) *Purpose.* The purpose and intent of the MU mixed-use district is to establish a village center which creates a vital, diverse core for the principles which utilize mixed-use development concepts and which permit a combination of usually separated uses within a unified development district area. Natural features should be enhanced and environmental conditions carefully assessed. Commercial uses are intended to be limited to specialty small scale retail sales and services, business services and professional services primarily designed to serve residential neighborhoods of the village. Orientation to and compatibility with neighborhoods to be served are essential. Residential uses are intended to encourage the accomplishment of a more complete residential living environment through the application of imaginative approaches to development which establish neighborhood identity and community focus. It is further the purpose and intent of this area to provide lands for a range of residential uses from lower density single-family to higher density residential uses. Traffic circulation should not only accommodate vehicular traffic, but provide for the efficient movement of pedestrian and bicycle traffic.

- (b) *Applicability of development regulations to mixed-use development.*

[This subsection shall remain in full force and effect as previously adopted]

(c) *Conflicts with other regulations.* Where conflicts exist between the mixed-use district special regulations in this section and general zoning, subdivision and other applicable ordinance provisions, the special regulations in this section shall apply. Where conflicts exist between the mixed-use district special regulations in this section and an overlay district regulations, the overlay regulations supersede the mixed-use zoning district special regulations.

(d) *General requirements and special regulations.* The following general requirements and special regulations shall apply to planned mixed-use development within the mixed-use district:

[subsections (1) through (5) shall remain in full force and effect as previously adopted]

(6) *Mix Of Uses.* New development and redevelopment in the MU Zoning District shall comply with the requirements of Table FLU-1 of the Future Land Use Element of the Village of Tequesta Comprehensive Plan by integrating a mix of uses such that residential uses shall comprise no less than twenty (20) percent and no more than eighty (80) percent of the development or redevelopment. The Village Council may relax this requirement on a case by case basis when the development or redevelopment project parcel(s) are too small to comply, or when other circumstances necessitate the need to provide a solely commercial or residential development project.

[subsections (e) through (g) shall remain in full force and effect as previously adopted]

(h) *Permitted uses.* Permitted uses in the mixed-use district are as follows, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Multiple-family dwellings.
- (4) Small-scale retail sales and service, excluding retail package liquors. A maximum 5,000 square feet of gross leasable area is allowed for each tenant area or individually owned unit

- (5) Business services. A maximum 5,000 square feet of gross leasable area is allowed for each tenant area or individually owned unit.
- (6) Health care facility or medical or dental office; professional office; professional services. A maximum 5,000 square feet of gross leasable area is allowed for each tenant area or individually owned unit.
- (7) Personal services. A maximum 5,000 square feet of gross leasable area is allowed for each tenant area or individually owned unit.
- (8) Bakeries. A maximum 5,000 square feet of gross leasable area is allowed for each tenant area or individually owned unit.
- (9) Recreation/open space.
- (10) Restaurants (including carryout and specialty), A maximum 5,000 square feet of gross leasable area is allowed for each tenant area or individually owned unit.
- (11) Places of assembly (1,500 square feet or less), subject to the following conditions:
 - a. All presentations and events shall be conducted entirely within a building.
 - b. Allowed accessory uses are: preschool and school facilities; assembly halls, sanctuaries or similar meeting rooms; community centers or fellowship halls; administrative offices related to the facility; gift shops for merchandise related to the facility; playgrounds and athletic fields; and rectory or similar residence for facility officials or on-site caretakers, limited to one dwelling unit.
- (i) *Special exception uses.* Special exception uses in the mixed-use district are as follows, except as regulated by the Tequesta Drive overlay, the U.S. Highway 1 overlay, and the Village Center overlay:

[subsections (1) through (17) shall remain in full force and effect as previously adopted]

[subsections (j) through (m) shall remain in full force and effect as previously adopted]

Sec. 78-181—~~78-200~~ 78-220. - Reserved.

Section 4: Chapter 78. Zoning. of the Code of Ordinances of the Village of Tequesta is hereby amended by creating an entirely new Article VI Division 3 to be entitled

“Overlay districts;” creating entirely new Sections 78-201 through 78-204; adopting Sec. 78-201 “Tequesta Drive Overlay,” creating and defining this overlay district, providing purpose and intent, providing design, setback, façade, parking, formula business and restaurant, open space, and landscaping guidelines; providing for payment in lieu of certain open space requirements; providing for waivers; resolving any conflict between general regulations and overlay zoning regulations in favor of overlay zoning regulations; also adopting Sec. 78-202 “US Highway One Overlay” creating and defining this overlay district, providing purpose and intent, providing design, setback, façade, parking, formula business and restaurant, open space, and landscaping guidelines; providing for payment in lieu of certain open space requirements; providing for waivers; resolving any conflict between general regulations and overlay zoning regulations in favor of overlay zoning regulations; also adopting Sec. 78-203 “Village Center Overlay” creating and defining this overlay district, providing purpose and intent, providing design, setback, façade, parking, formula business and restaurant, open space, and landscaping guidelines; providing for payment in lieu of certain open space requirements; providing for waivers; resolving any conflict between general regulations and overlay zoning regulations in favor of overlay zoning regulations; also adopting Sec. 78-204 “Waivers” to provide a process for obtaining waivers from the Village Council from certain overlay district requirements, providing for an application, and providing criteria for the granting of a waiver; providing that Chapter 78, Article VI, Division 3 shall hereafter read as follows:

DIVISION 3. – OVERLAY DISTRICTS

Sec. 78-201. Tequesta Drive Overlay.

- (a) Purpose and intent. The Tequesta Drive Overlay is established to preserve and protect the local “hometown” village character and aesthetics, by limiting uses permitted within the corridor in a manner that balances convenience with the delivery of limited services in a way that is not disruptive to residential areas.
- (b) Conflicts with other regulations. In the event that overlay district regulations conflict with general zoning or special district regulations, the overlay district regulations supersede and control over the general zoning or special district regulations.
- (c) Design. Aesthetic considerations within the Tequesta Drive Overlay as set forth in the November 10, 2022 Commercial Corridor Master Plan should be incorporated into all new development and re-development in this Overlay Zone. Specific architectural styles are neither mandated nor banned; however, new development and re-development should strive to reflect the architectural styles listed in Appendix D (Architectural Design Guidelines) of the Commercial Corridor Master Plan.

(d) Streets. Streets within the Tequesta Drive Overlay shall be designated as primary and secondary streets. Tequesta Drive, Seabrook Road, and Cypress Drive are the only designated primary streets. All other streets are designated as secondary streets.

(e) Location of building and off-street parking.

(1) Building Location.

a. Front Setbacks; encroachments. The maximum front setback is 20 feet and the minimum landscape buffer is 15 feet; however, the following frontage types as detailed in Appendix C of the Village of Tequesta Commercial Corridor Master Plan may encroach a maximum of four (4) feet into the minimum 15 foot landscape buffer as set forth in Table 1 and depicted in Figure 1 below:

Tequesta Drive Overlay Permissible Front Landscape Buffer Encroachments			
<u>Permitted Frontage Types</u>	<u>Tequesta Drive West</u>	<u>Seabrook Road</u>	<u>Cypress Drive</u>
<u>Porch</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>Stoop</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>Bracketed Balcony</u>	<u>No</u>	<u>No</u>	<u>No</u>
<u>Forecourt</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Arcade</u>	<u>No</u>	<u>No</u>	<u>No</u>
<u>Shopfront</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>

Table 1: Tequesta Drive Overlay

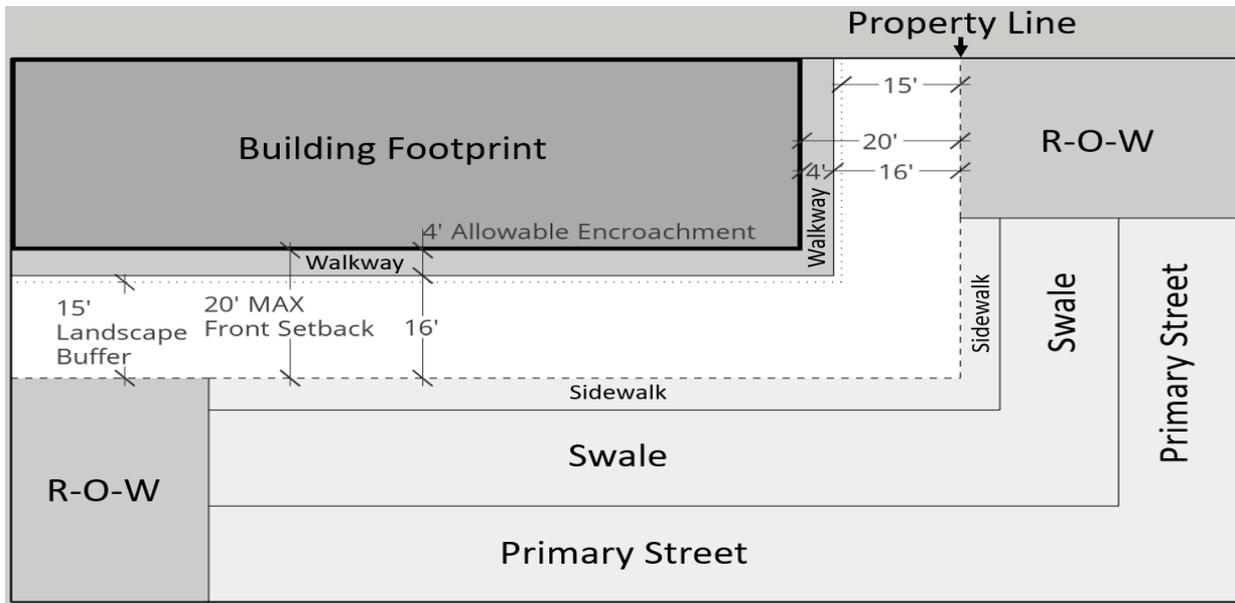


Fig. 1: Tequesta Drive Overlay

b. Front façades on any third story and above must have front setback of eight (8) to twelve (12) feet in addition to the first floor setback, as depicted in Figure 2 below:

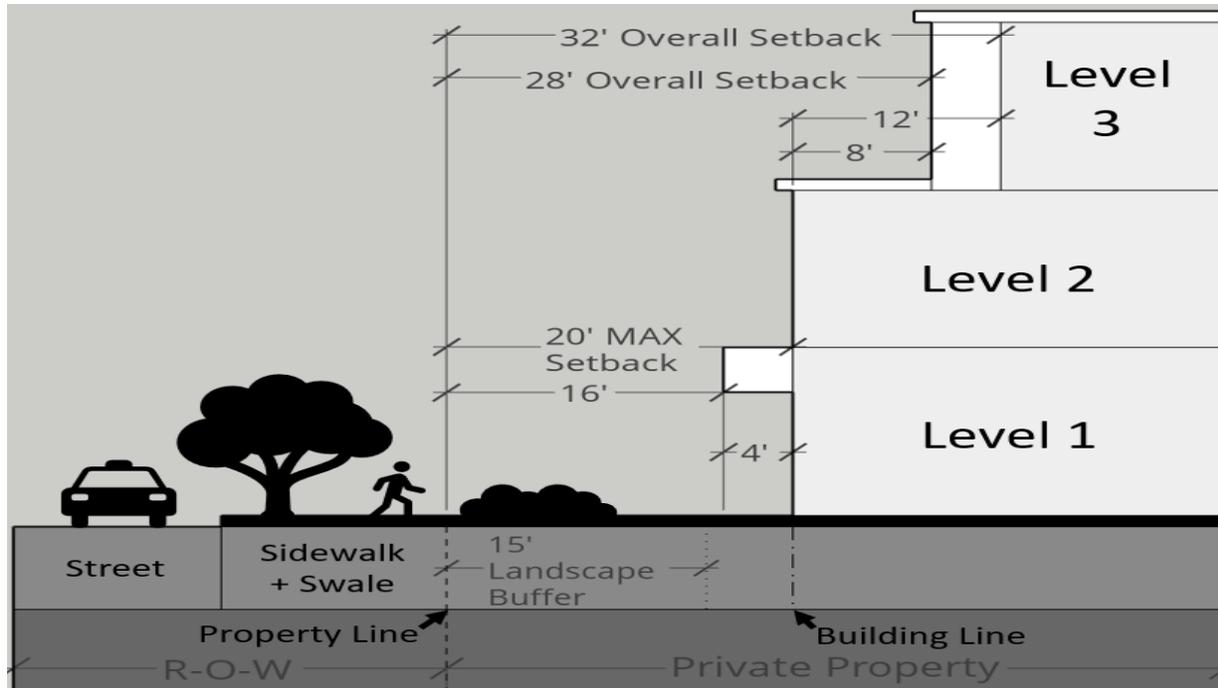


Fig 2: Tequesta Drive Overlay

c. Building facades along a street frontage shall provide the appropriate façade transparent elements such as glass windows or other approved

openings to eliminate the creation of blank and stark walls along street frontages.

d. Buildings fronting on two (2) streets must have a pedestrian entrance on both streets.

(2) Location of off-street parking.

a. Parking is not permitted in the front setbacks or in the side setbacks facing streets, parks, or civic open spaces. Figures 3, 4, and 5 below are guidelines for illustrative purposes and depict minimum requirements.

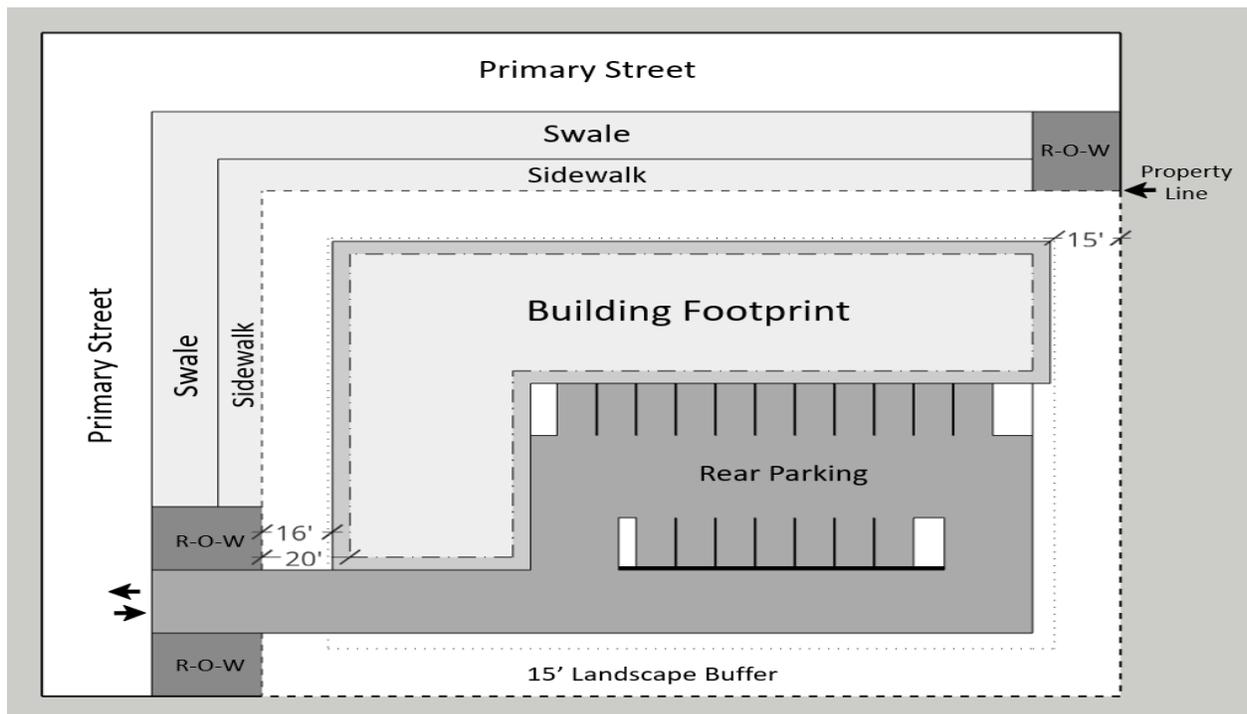


Fig. 3: Tequesta Drive Overlay

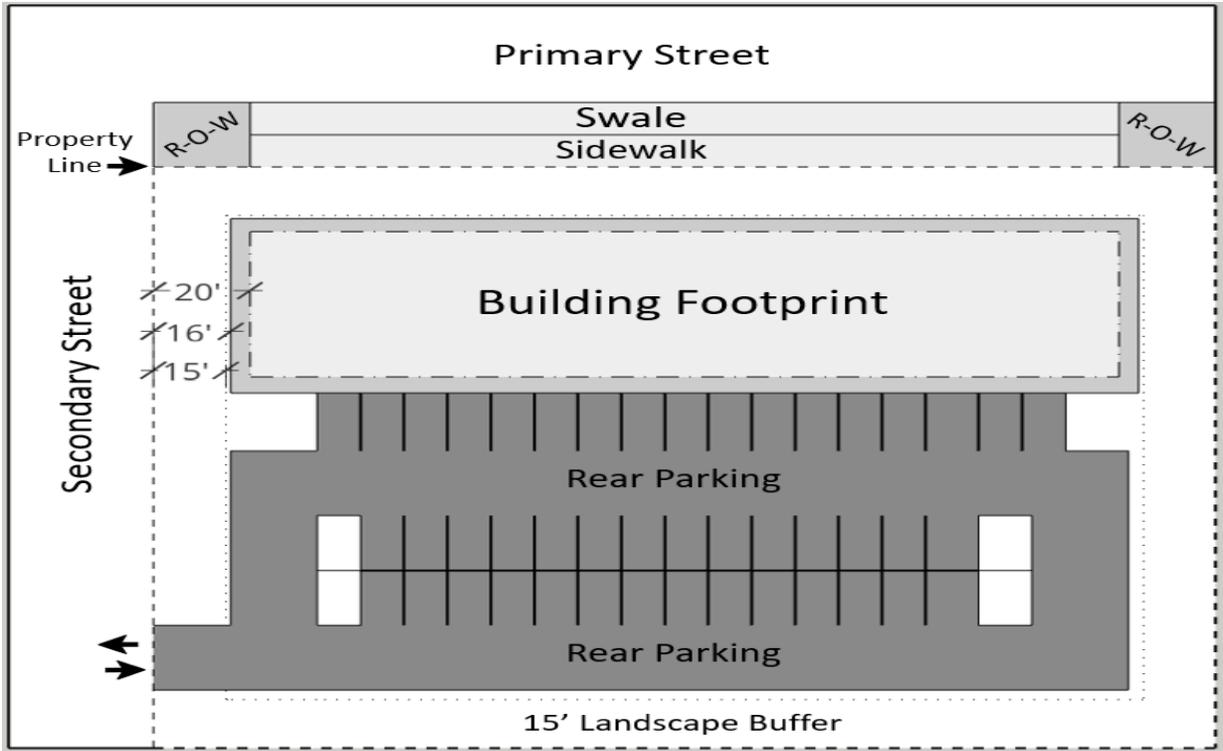


Fig. 4: Tequesta Drive Overlay

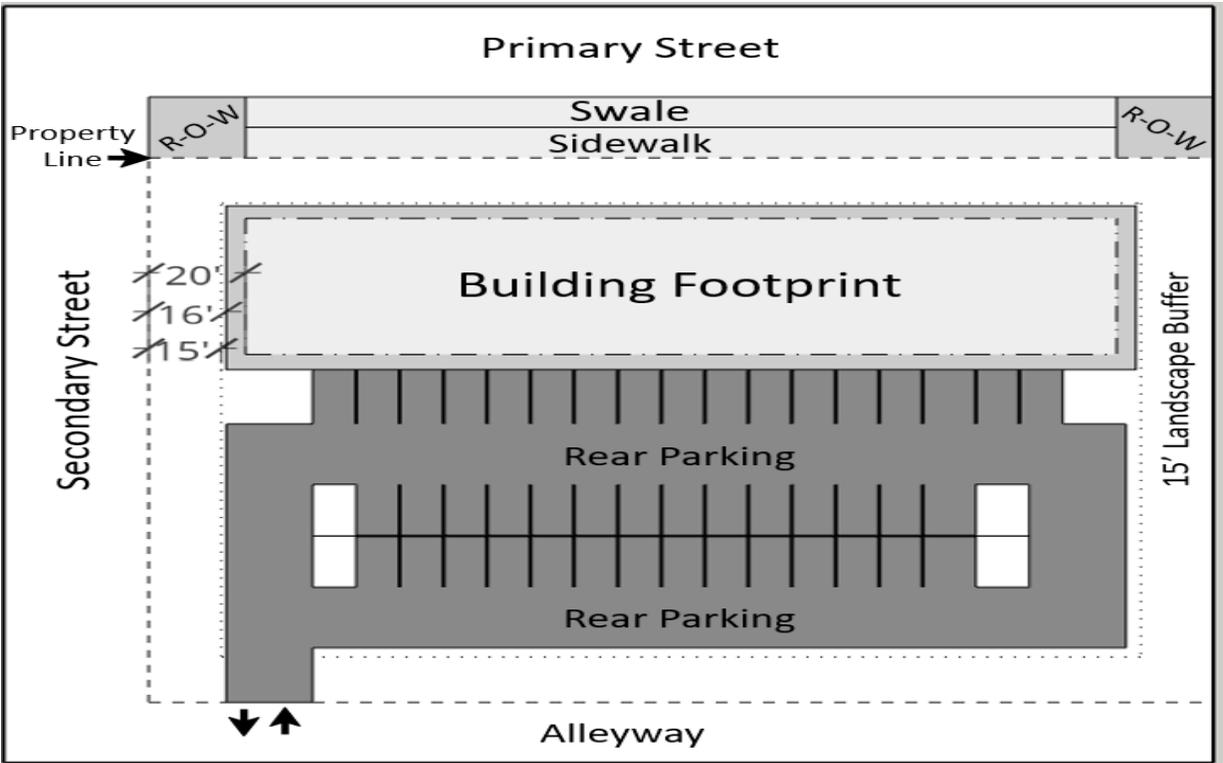


Fig. 5: Tequesta Drive Overlay

b. Surface parking lots shall be screened from public view, when possible, by either buildings or landscaping.

c. Shared parking in compliance with the requirement of Section 78-706 of the Village Code of Ordinances is encouraged.

(f) *Formula businesses, restaurants, retail and drive through facilities.*

(1) Formula restaurants, formula retail, and drive through facilities are prohibited in the Tequesta Drive Overlay. However, existing drive through facilities may be used for the same use the building was constructed for.

(2) Formula business. Formula businesses that conform with the intent and integrity of the district are permitted in the Tequesta Drive Overlay as a special exception use, subject to the following conditions:

a. The proposed formula business shall comply with the special exception requirements of Village Code Sections 78-363 and 78-364. New formula businesses within existing developments shall qualify for expedited special exception review by Village Council, provided there is no expansion to the existing development. Special exception applications that are submitted at least 30 days in advance of a Village Council meeting, and are deemed sufficient, shall be brought forward to that Village Council meeting for review.

b. The proposed formula business will not alter the identity of the zoning district in a way which detracts from its local uniqueness.

c. The proposed formula business will contribute to a diverse and appropriate blend of businesses in the district.

d. The proposed formula business will complement the existing businesses in the district and help promote and foster the local economic base.

e. The proposed formula business will be compatible with existing surrounding uses.

f. The proposed formula business has been designed and will be operated in a nonobtrusive manner to preserve the local neighborhood character and ambiance and the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites.

- g. Architectural style, design, exterior facade colors shall be compatible with the surrounding neighborhood.
- h. The proposed formula business' corporate structural elements and signage will be designed to be in harmony with architectural features and elements of the building and neighborhood as approved by the Village Council.
- i. Drive through facilities are prohibited, except that existing drive through facilities may be used for the same use the building was constructed for.

(g) Civic open space.

(1) Amount required. New development or re-development which adds gross floor area of 20 percent or more to the existing development is required to provide civic open space equal to five (5) percent of the total site's square footage. Civic open space shall be counted towards the required minimum landscaped open space.

(2) Types of civic open spaces. Civic open space shall be designed as one of the following types, and shall be identified on the site plan:

- a. **Green.** A green is at least 1,000 square feet in size and adjoins streets on at least two sides or a street and a pedestrian passageway or main building entry. Greens are designed primarily for passive uses, consisting primarily of lawn with either formally or informally arranged landscaping.
- b. **Plaza.** A plaza is at least 1,000 square feet in size and adjoins streets on at least two sides or a street and a pedestrian passageway or main building entry. Plazas are mostly hardscaped with formally arranged landscaping and a water feature.
- c. **Playground.** A playground is at least 2,500 square feet in size. Playgrounds provide children's play equipment and shaded seating. Playgrounds adjoin a street on at least one side and the configuration should ensure easy surveillance of the area from adjacent buildings and streets.
- d. **Square.** A square is at least 10,000 square feet and adjoins streets on at least three sides. Squares may be up to 50 percent hardscaped, with formal landscaping. Squares accommodate both passive uses and community gatherings.

e. **Attached Green.** An attached green is generally 2,000 to 6,000 square feet and spans the entire length of a block. Attached greens shall be at least 30 feet wide and are appropriate on the short end of a block. Attached greens are primarily lawns with formally arranged landscaping.

f. **Forecourt.** A forecourt is an open area in front of the main building entrance(s) designed as a small garden or plaza. Low walls or balustrades no higher than three feet six inches in height may enclose the forecourt. Forecourt walls are constructed of similar material as the principal building or are composed of a continuous, maintained hedge. A forecourt may afford access to one or more first floor residential dwelling units or incorporate storefronts for commercial uses. The forecourt is suitable for outdoor seating for residents or restaurants. Forecourts are typically associated with multifamily, mixed-use, and commercial buildings.

g. **Pedestrian passageway.** A pedestrian passageway is open to the sky connecting the front of the property to the rear, at least ten feet in width, and containing a minimum of 50% pervious, landscaped area, with decorative elements of interest, such as benches, trellises, sculptures, and water features which complement the design style of the building. Outdoor use areas may be provided adjacent to but not within the minimum required pedestrian passageway area.

h. For civic open space requirements less than 250 square feet, the space may incorporate elements such as: fountain, living wall, mural, or sculpture facing a street or a pedestrian passageway.

(3) Maintenance and operation of civic open space. Civic open space areas may be dedicated to the Village for maintenance and operations purposes. The Village Council shall not be obligated to accept the dedication of civic open space if it is not in the best interest of the Village. Otherwise, maintenance and operations shall be the responsibility of the owner. If a civic open space is dedicated to the Village, the Village shall assume all liability and responsibility for the property. The assumption of liability and responsibility shall be included in the dedication and shall be recorded in the public records of Palm Beach

County.

(4) Payment in lieu. In lieu of dedication of land for civic open space, the Village Council at its discretion may accept a fee in lieu of land for properties consisting of 2 acres or less. Such fee shall be equal to the appraised value of the amount of land that would otherwise be dedicated for civic open space purposes. Appraised value shall be based upon the market value of the land in its present state, prior to the proposed subdivision and/or development, as determined by the county tax assessor's appraised value.

a. A fee in lieu of land dedication may be accepted by the Village Council when the location, size, natural condition, or other similar condition exists where the dedication of land would not be in the best interest of the Village. An example of such a condition is when there is existing land available for recreational use within the immediate area of the proposed subdivision and/or land development or re-development.

b. In determining whether to accept a fee in lieu of land the Village Council shall consider the age groups of residents to be served, the availability and service capabilities of existing recreational facilities in the Village, and the general physical characteristics of the proposed civic open space.

c. Fees in lieu shall be used for the acquisition, enhancement, expansion and/or development of the Village's existing parks, recreation, land systems, or streetscapes.

d. Fees paid in lieu may be used in conjunction with waivers. If an applicant is granted a partial waiver regarding the provision of civic open space, the applicant is required to pay the fee in lieu for the remaining un-waived portion.

(h) Landscape buffers and waivers.

(1) Landscape buffers on the front and side may be reduced by no greater than 25% of each area to accommodate civic open space, as depicted in Figure 6 below.

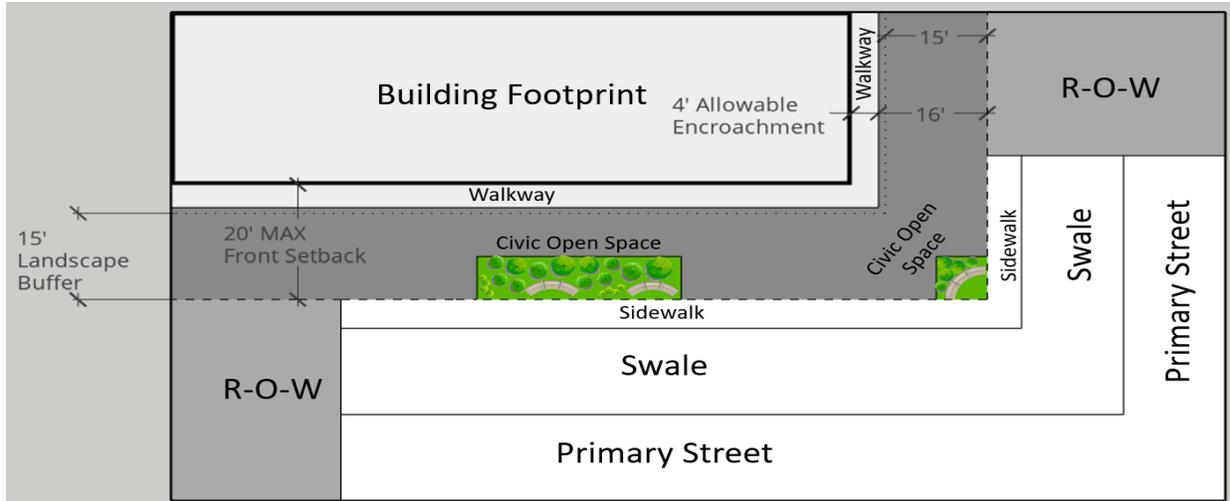


Fig. 6: Tequesta Drive Overlay

(2) Waivers. Waivers from site or landscape requirements may be requested from certain overlay zone regulations. All waivers must be granted by the Village Council in conjunction with a site plan review application. Waivers cannot be used to:

- a. Add uses that are not permitted in the overlay or zoning district.
- b. Increase the maximum allowed density/intensity.
- c. Increase the maximum allowed building height.

Sec. 78-202. US Highway One Overlay.

(a) Purpose and intent. The US Highway 1 Overlay is established to encourage and provide for a pedestrian friendly commercial corridor with enhanced physical appearance through increased landscaping of public and private property; clustering of complementary uses throughout various locations within the corridor; and construction of pedestrian oriented facilities in both public and private realms along US Highway 1.

(b) Conflicts with other regulations. In event that the overlay district regulations conflict with general zoning or special district regulations, the overlay regulations supersede the general zoning or special district regulations.

(c) Design. Aesthetic considerations within the US Highway 1 Overlay as set forth in the November 10, 2022 Commercial Corridor Master Plan should be incorporated into all new development and re-development in this Overlay Zone. . Specific architectural

styles are neither mandated nor banned; however, new development and re-development should strive to reflect the architectural styles listed in Appendix D (Architectural Design Guidelines) of the Commercial Corridor Master Plan.

(d) Streets. Streets within the US Highway 1 Overlay shall be designated as primary and secondary streets. Tequesta Drive and US Highway 1 are the only designated primary streets. All other streets are designated as secondary streets.

(e) Location of building and off-street parking.

(1) Building Location.

a. Front Setbacks; encroachments. The maximum front setback is 20 feet and the minimum landscape buffer is 15 feet; however, the following frontage types as detailed in Appendix C of the Village of Tequesta Commercial Corridor Master Plan may encroach a maximum of four (4) feet into the minimum 15 foot landscape buffer as set forth in Table 1 and depicted in Figure 1 below:

<u>US Highway 1 Overlay Permissible Front Landscape Buffer Encroachments</u>	
<u>Porch</u>	<u>No</u>
<u>Stoop</u>	<u>Yes</u>
<u>Bracketed Balcony</u>	<u>Yes</u>
<u>Forecourt</u>	<u>Yes</u>
<u>Arcade</u>	<u>No</u>
<u>Shopfront</u>	<u>Yes</u>

Table 1: US Highway One Overlay

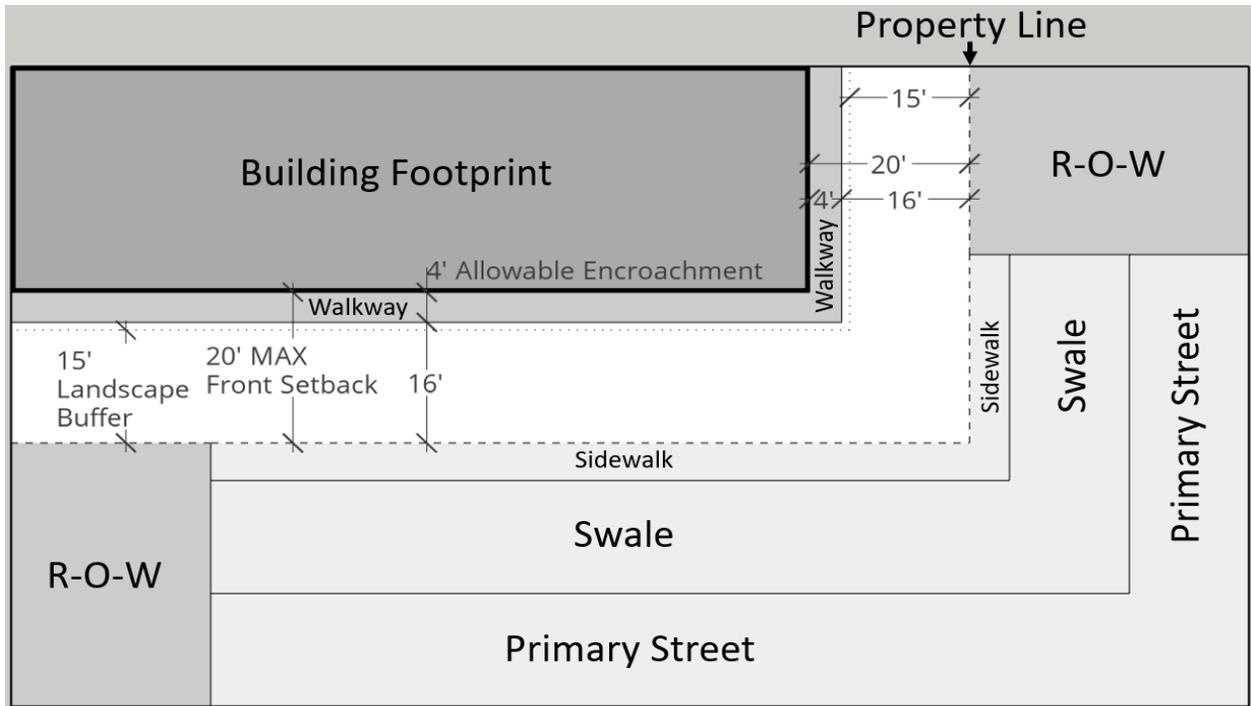


Fig. 1: US Highway One Overlay

- b. Front façades on any third story and above must have front setback of eight (8) to twelve (12) feet in addition to the first floor setback, as depicted in Figure 2 below:

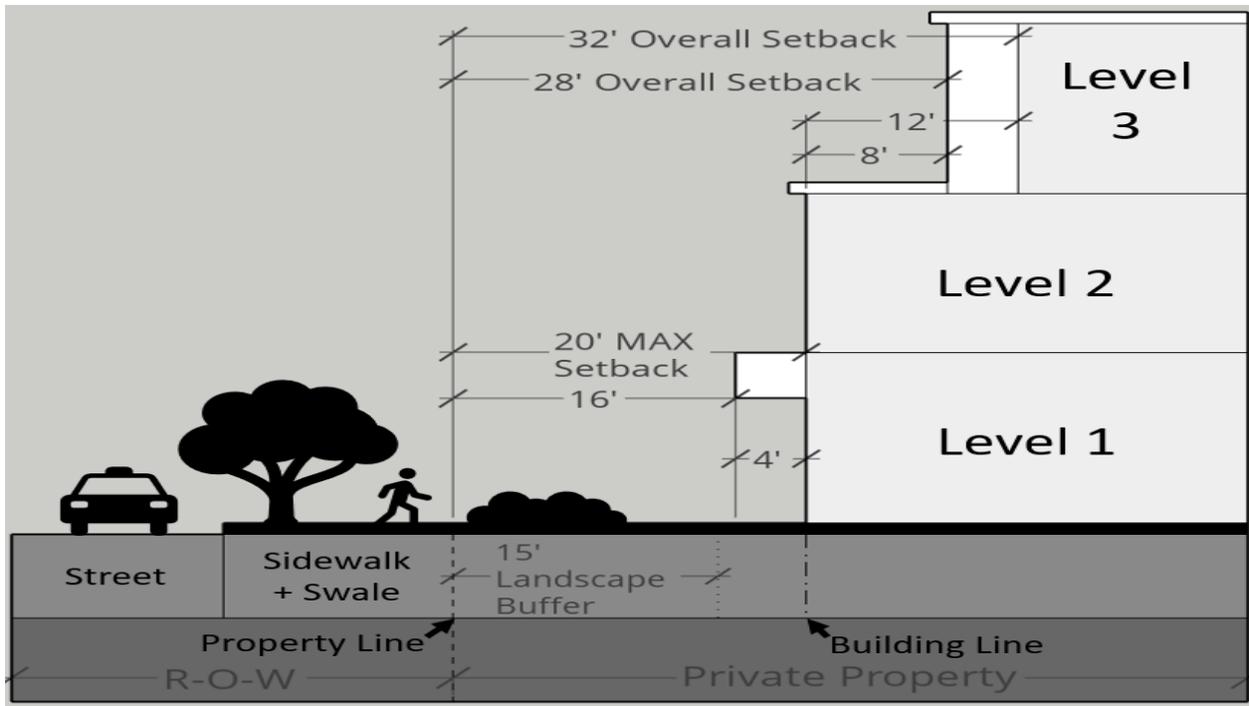


Fig 2: US Highway One Overlay

c. Building facades along a street frontage shall provide the appropriate façade transparent elements such as glass windows or other approved openings to eliminate the creation of blank and stark walls along street frontages.

d. Buildings fronting on two (2) streets must have a pedestrian entrance on both streets.

(2) Location of off-street parking.

a. Parking is not permitted in the front setbacks or in the side setbacks facing streets, parks, or civic open spaces. Figures 3, 4, and 5 below are guidelines for illustrative purposes and depict minimum requirements.

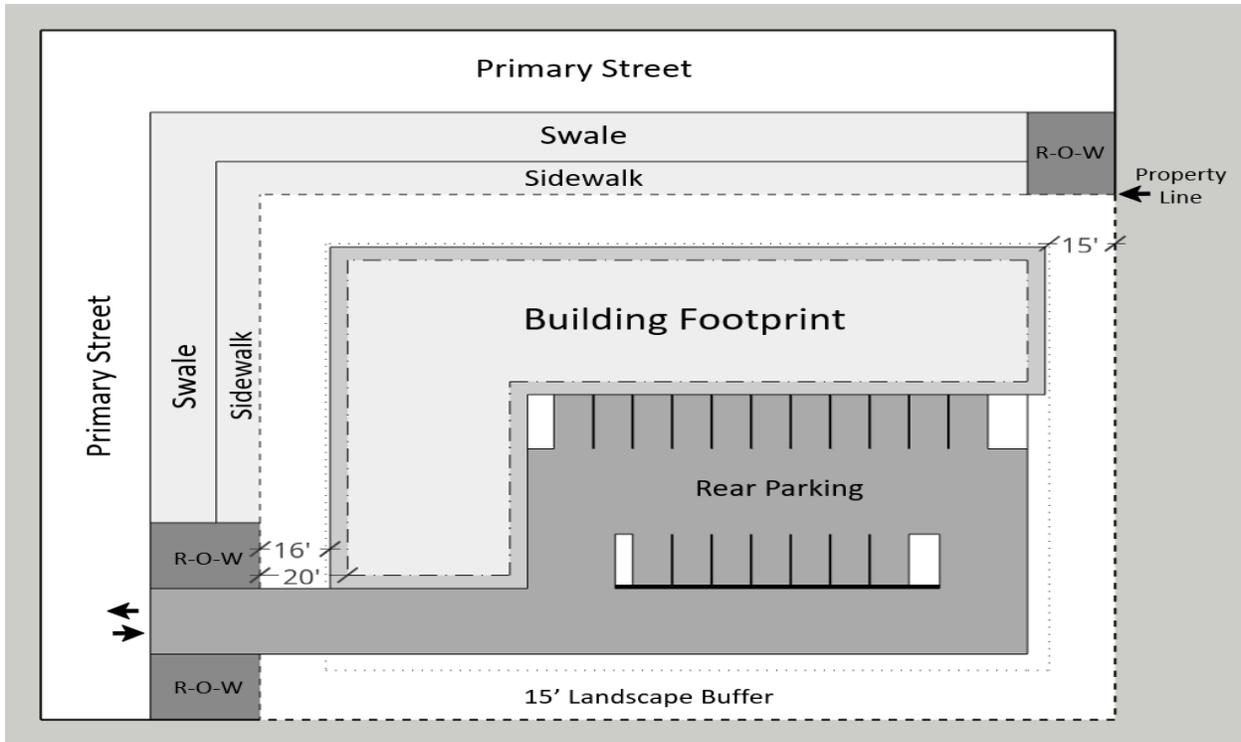


Fig. 3: US Highway One Overlay

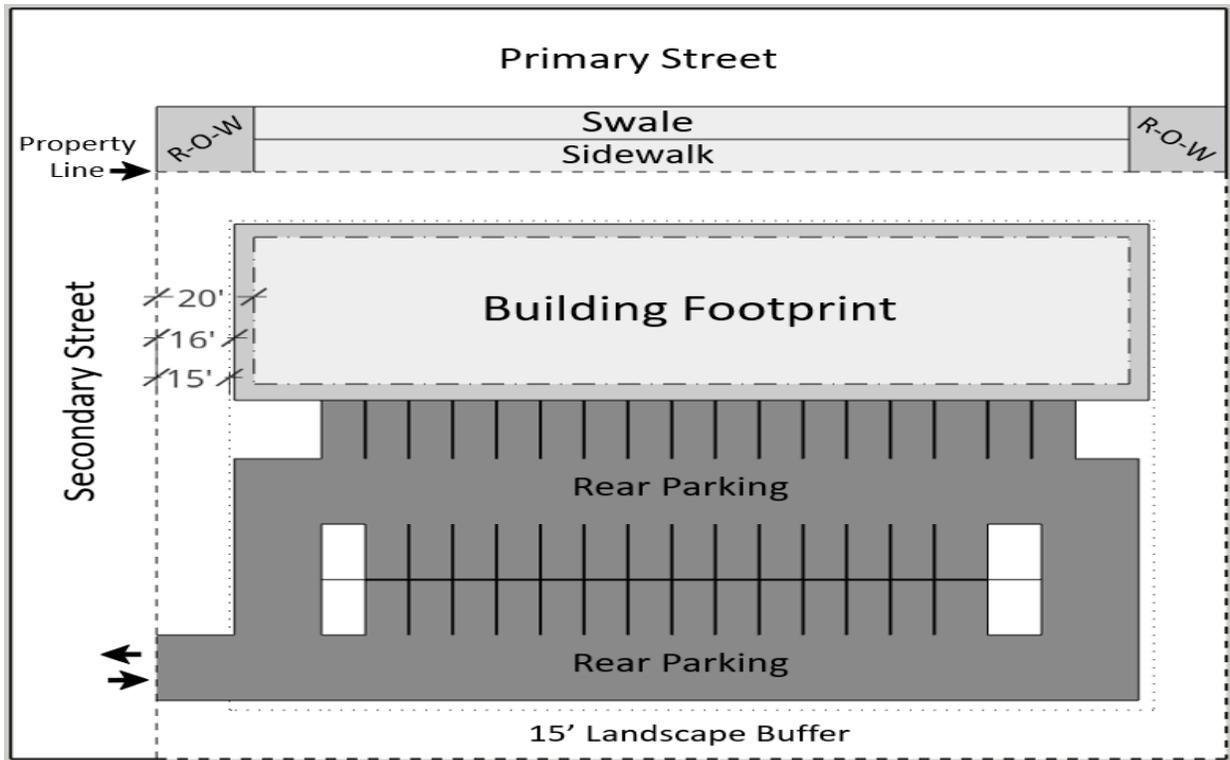


Fig. 4: US Highway One Overlay

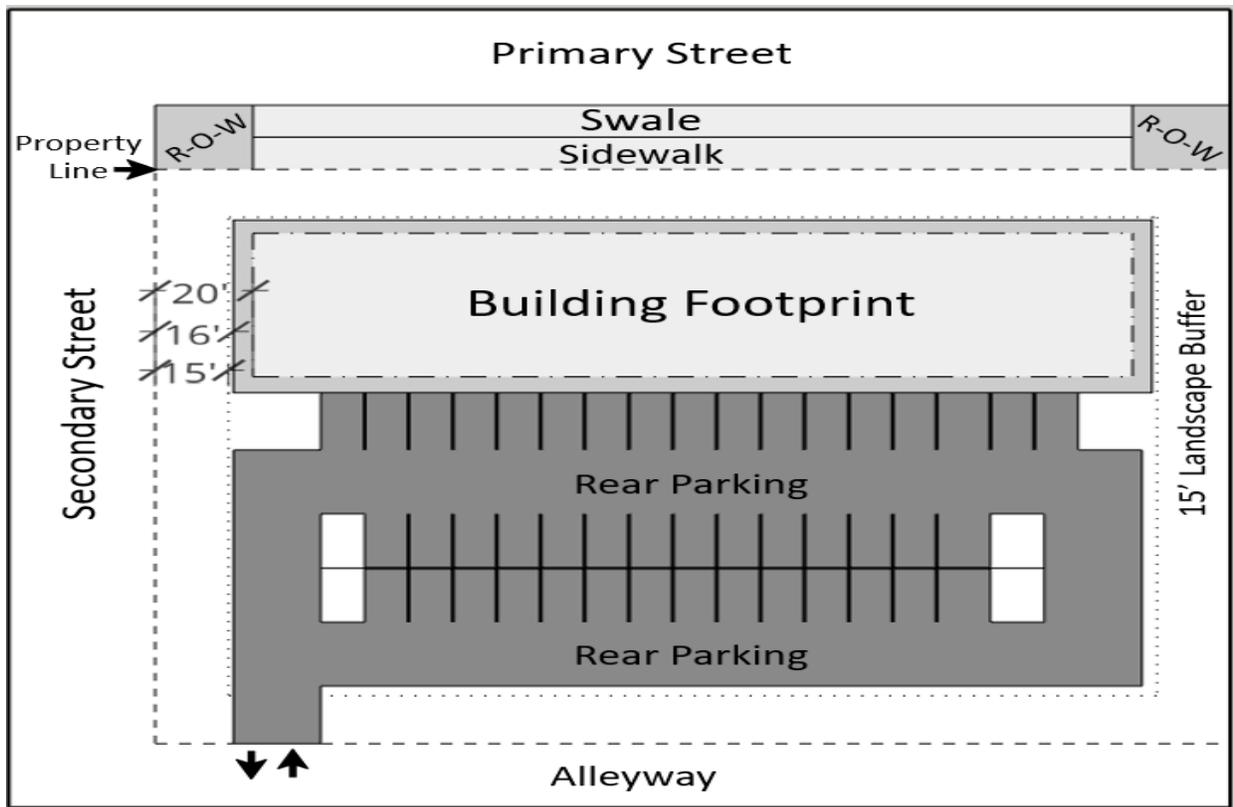


Fig. 5: US Highway One Overlay

- b. Surface parking lots shall be screened from public view, when possible, by either buildings or landscaping.
- c. Shared parking in compliance with the requirement of Section 78-707 of the Village Code of Ordinances is encouraged.
- (f) Formula businesses, restaurants, retail, and drive through facilities.
 - (1) New drive through facilities are permitted on the side and rear of the building and shall be screened from public view by landscaping.
 - (2) Full-service fuel stations or gasoline service stations shall only be located within the US Highway 1 Overlay. Full-service fuel stations or gasoline service stations shall be located a minimum of 500 lineal feet from existing or previously approved stations; however, full-service fuel stations are not permitted in those portions of the US Highway One Overlay Zone with an underlying zoning designation of Mixed Use.
 - (3) New drive through facilities shall not be located on a building façade that faces a public right-of-way, except for full-service fuel stations, which must be

screened from public view.

(4) Formula restaurants. Formula restaurants are permitted in the US Highway 1 Overlay as a special exception use subject to the following conditions:

- a. The proposed formula restaurant shall comply with the special exception requirements of Village Code Sections 78-363 and 78-364. New formula restaurants within existing developments shall qualify for expedited special exception review by Village Council, provided there is no expansion to the existing development. Special exception applications that are submitted at least 30 days in advance of a Village Council meeting, and are deemed sufficient, shall be brought forward to that Village Council meeting for review.
- b. The proposed formula restaurant will not alter the identity of the zoning district in a way which detracts from its uniqueness.
- c. The proposed formula restaurant will contribute to a diverse and appropriate blend of businesses in the district.
- d. The proposed formula restaurant will complement the existing businesses in the district and help promote and foster the local economic base.
- e. The proposed formula restaurant will be compatible with existing surrounding uses.
- f. The proposed formula restaurant has been designed and will be operated in a nonobtrusive manner to preserve the community's character and ambiance and the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites.
- g. Architectural Style, design, exterior facade colors shall be compatible with the surrounding neighborhood.
- h. The proposed formula restaurant corporate structural elements and signage will be designed to be in harmony with architectural features and elements of the building and neighborhood as approved by the Village Council.
- i. Drive through facilities must comply with paragraphs (f)(1) and (f)(3) of this subsection.

(5) Formula business and formula retail are permitted in the US Highway 1 Overlay

in the same manner that non-formula business and non-formula retail are permitted.

(g) Civic open space.

(1) Amount required. New development or re-development which adds gross floor area of 20 percent or more to the existing development is required to provide civic open space equal to five (5) percent of the total site's square footage. Civic open space shall be counted towards the required minimum landscaped open space.

(2) Types of civic open spaces. Civic open space shall be designed as one of the following types, and shall be identified on the site plan:

a. **Green.** A green is at least 1,000 square feet in size and adjoins streets on at least two sides or a street and a pedestrian passageway or main building entry. Greens are designed primarily for passive uses, consisting primarily of lawn with either formally or informally arranged landscaping.

b. **Plaza.** A plaza is at least 1,000 square feet in size and adjoins streets on at least two sides or a street and a pedestrian passageway or main building entry. Plazas are mostly hardscaped with formally arranged landscaping and a water feature.

c. **Playground.** A playground is at least 2,500 square feet in size. Playgrounds provide children's play equipment and shaded seating. Playgrounds adjoin a street on at least one side and the configuration should ensure easy surveillance of the area from adjacent buildings and streets.

d. **Square.** A square is at least 10,000 square feet and adjoins streets on at least three sides. Squares may be up to 50 percent hardscaped, with formal landscaping. Squares accommodate both passive uses and community gatherings.

e. **Attached Green.** An attached green is generally 2,000 to 6,000 square feet and spans the entire length of a block. Attached greens shall be at least 30 feet wide and are appropriate on the short end of a block. Attached greens are primarily lawns with formally arranged landscaping.

f. **Forecourt.** A forecourt is an open area in front of the main building

entrance(s) designed as a small garden or plaza. Low walls or balustrades no higher than three feet six inches in height may enclose the forecourt. Forecourt walls are constructed of similar material as the principal building or are composed of a continuous, maintained hedge. A forecourt may afford access to one or more first floor residential dwelling units or incorporate storefronts for commercial uses. The forecourt is suitable for outdoor seating for residents or restaurants. Forecourts are typically associated with multifamily, mixed-use, and commercial buildings.

g. **Pedestrian passageway.** A pedestrian passageway is open to the sky connecting the front of the property to the rear, at least ten feet in width, and containing a minimum of 50% pervious, landscaped area, with decorative elements of interest, such as benches, trellises, sculptures, and water features which complement the design style of the building. Outdoor use areas may be provided adjacent to but not within the minimum required pedestrian passageway area.

h. For civic open space requirements less than 250 square feet, the space may incorporate elements such as: fountain, living wall, mural, or sculpture facing a street or a pedestrian passageway.

(3) Maintenance and operation of civic open space. Civic open space areas may be dedicated to the Village for maintenance and operations purposes. The Village Council shall not be obligated to accept the dedication of civic open space if it is not in the best interest of the Village. Otherwise, maintenance and operations shall be the responsibility of the owner. If a civic open space is dedicated to the Village, the Village shall assume all liability and responsibility for the property. The assumption of liability and responsibility shall be included in the dedication and shall be recorded in the public records of Palm Beach County. .

(4) Payment in lieu. In lieu of dedication of land for civic open space, the Village Council at its discretion may accept a fee in lieu of land for properties consisting of 2 acres or less. Such fee shall be equal to the appraised value of the amount of land that would otherwise be dedicated for civic open space purposes.

Appraised value shall be based upon the market value of the land in its present state, prior to the proposed subdivision and/or development, as determined by the county tax assessor's appraised value.

a. A fee in lieu of land dedication may be accepted by the Village Council when the location, size, natural condition, or other similar condition exists where the dedication of land would not be in the best interest of the Village. An example of such a condition is when there is existing land available for recreational use within the immediate area of the proposed subdivision and/or land development or re-development.

b. In determining whether to accept a fee in lieu of land the Village Council shall consider the age groups of residents to be served, the availability and service capabilities of existing recreational facilities in the Village, and the general physical characteristics of the proposed civic open space.

c. Fees in lieu shall be used for the acquisition, enhancement, expansion and/or development of the Village's existing parks, recreation, land systems, or streetscapes.

d. Fees paid in lieu may be used in conjunction with waivers. If an applicant is granted a partial waiver regarding the provision of civic open space, the applicant is required to pay the fee lieu for the remaining un-waived portion.

(h) *Landscape buffers and waivers.*

(1) Landscape buffers on the front and side may be reduced by no greater than 25% of each area to accommodate civic open space, as depicted in Figure 6 below.

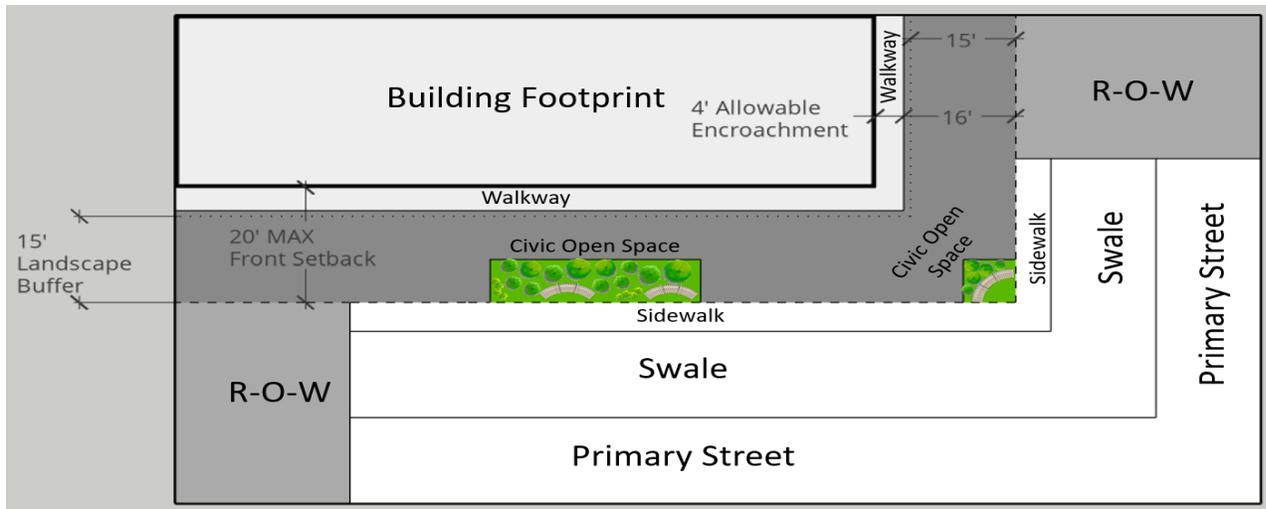


Fig. 6: US Highway One Overlay

(2) Waivers. Waivers from site or landscape requirements may be requested from certain overlay zone regulations. All waivers must be granted by the Village Council in conjunction with a site plan review application. Waivers cannot be used to:

- a. Add uses that are not permitted in the overlay or zoning district.
- b. Increase the maximum allowed density/intensity.
- c. Increase the maximum allowed building height.

Sec. 78-203. Village Center Overlay.

(a) Purpose and intent. The Village Center Overlay is established to encourage architectural character and a diversity of uses such as residential, commercial, and civic spaces while providing a pedestrian connectivity between Tequesta Drive, Bridge Road, Old Dixie Highway, and Village Boulevard. The Village Center Overlay is an appropriate location for traditional mixed-use development that provides opportunities for residents to live, work, shop, and recreate in a walkable area as contemplated by Objective 1.11.0 and Policy 1.11.2 of the Village of Tequesta Comprehensive Plan.

(b) Conflicts with other regulations. In event that the overlay district regulations conflict with general zoning or special district regulations, the overlay regulations supersede the general zoning or special district regulations.

- (c) Design. Aesthetic considerations within the Village Center Overlay as set forth in the November 10, 2022 Commercial Corridor Master Plan should be incorporated into all new development and re-development in this Overlay Zone. Specific architectural styles are neither mandated nor banned; however, new development and re-development should strive to reflect the architectural styles listed in Appendix D (Architectural Design Guidelines) of the Commercial Corridor Master Plan.
- (d) Streets. Streets within the Village Center Overlay shall be designated as primary and secondary streets. Tequesta Drive, Bridge Road, Old Dixie Highway, Main Street, and Village Boulevard are the only designated primary streets. All other streets are designated as secondary streets.
- (e) Location of building and off-street parking.
- (1) Building Location.
- a. Front Setbacks; encroachments. The maximum front setback is 20 feet and the minimum landscape buffer is 15 feet; however, the following frontage types as detailed in Appendix C of the Village of Tequesta Commercial Corridor Master Plan may encroach a maximum of four (4) feet into the minimum 15 foot landscape buffer as set forth in Table 1 and depicted in Figure 1 below:

Village Center Overlay Permissible Front Landscape Buffer Encroachments					
<u>Permitted Frontage Types</u>	<u>Tequesta Dr.</u>	<u>Old Dixie Hwy</u>	<u>Main St.</u>	<u>Bridge Rd.</u>	<u>Village Blvd</u>
<u>Porch</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Yes</u>
<u>Stoop</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>
<u>Bracketed Balcony</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>
<u>Forecourt</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Arcade</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>Shopfront</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>

Table 1: Village Center Overlay

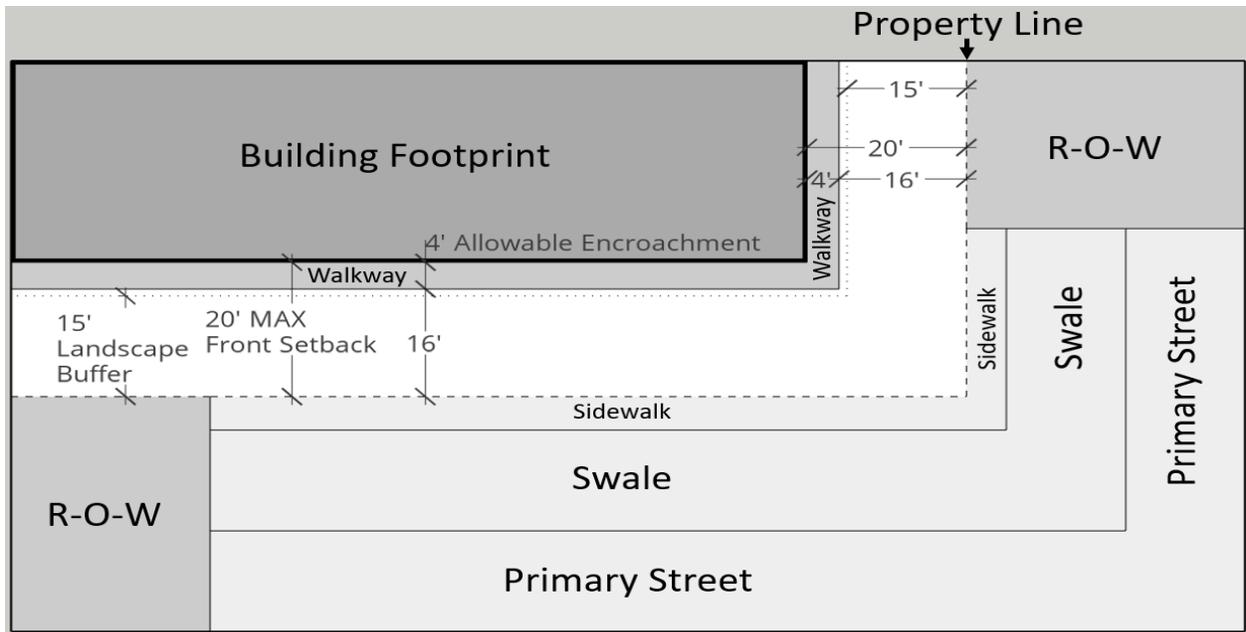


Fig. 1: Village Center Overlay

- b. Front façades on any third story and above must have front setback of eight (8) to twelve (12) feet in addition to the first floor setback, as depicted in Figure 2 below:

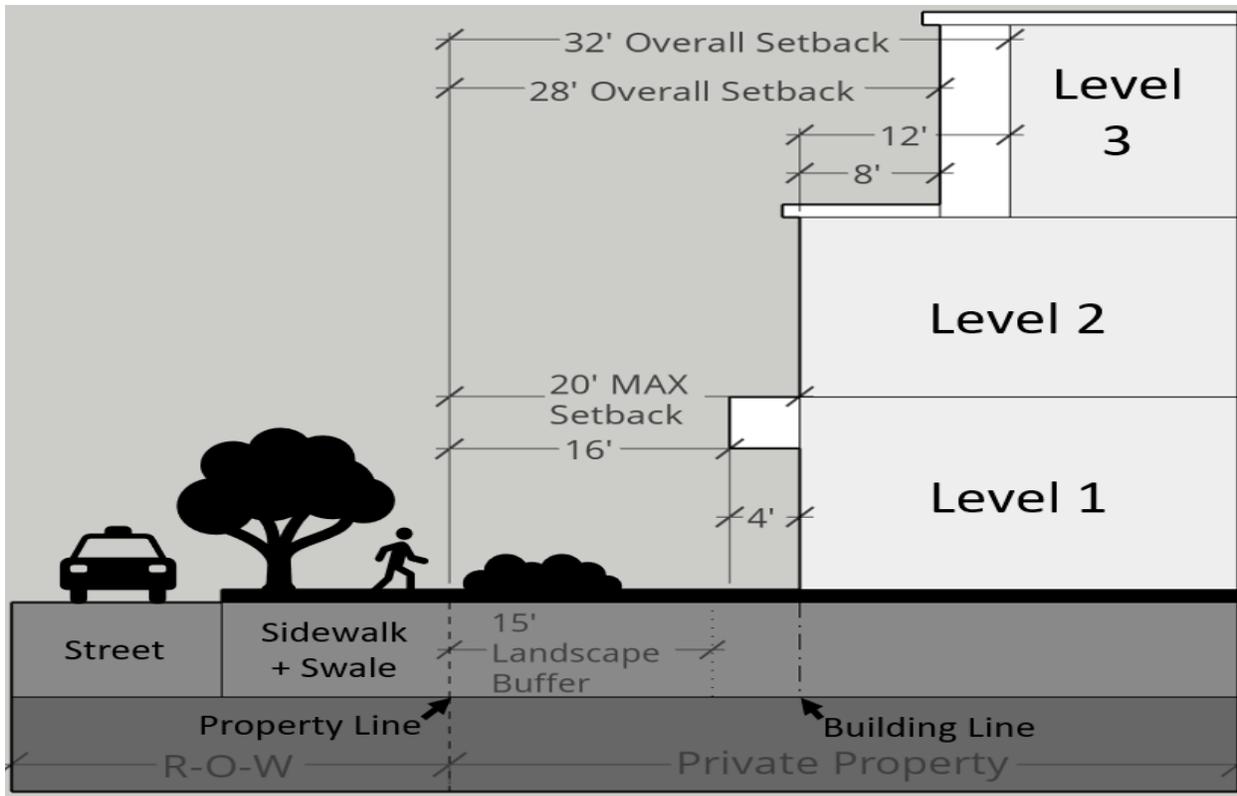


Fig 2: Village Center Overlay

c. Building facades along a street frontage shall provide the appropriate façade transparent elements such as glass windows or other approved openings to eliminate the creation of blank and stark walls along street frontages.

d. Buildings fronting on two (2) streets must have a pedestrian entrance on both streets.

(2) Location of off-street parking.

a. Parking is not permitted in the front setbacks or in the side setbacks facing streets, parks, or civic open spaces. Figures 3, 4, and 5 below are guidelines for illustrative purposes and depict minimum requirements.

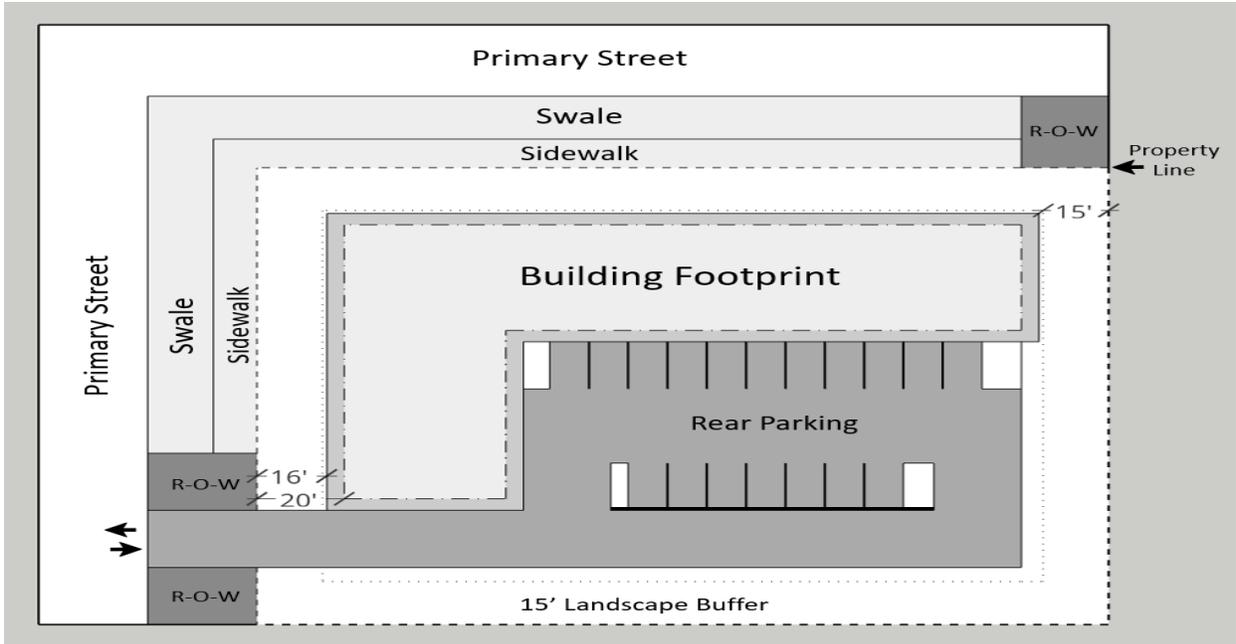


Fig. 3: Village Center Overlay

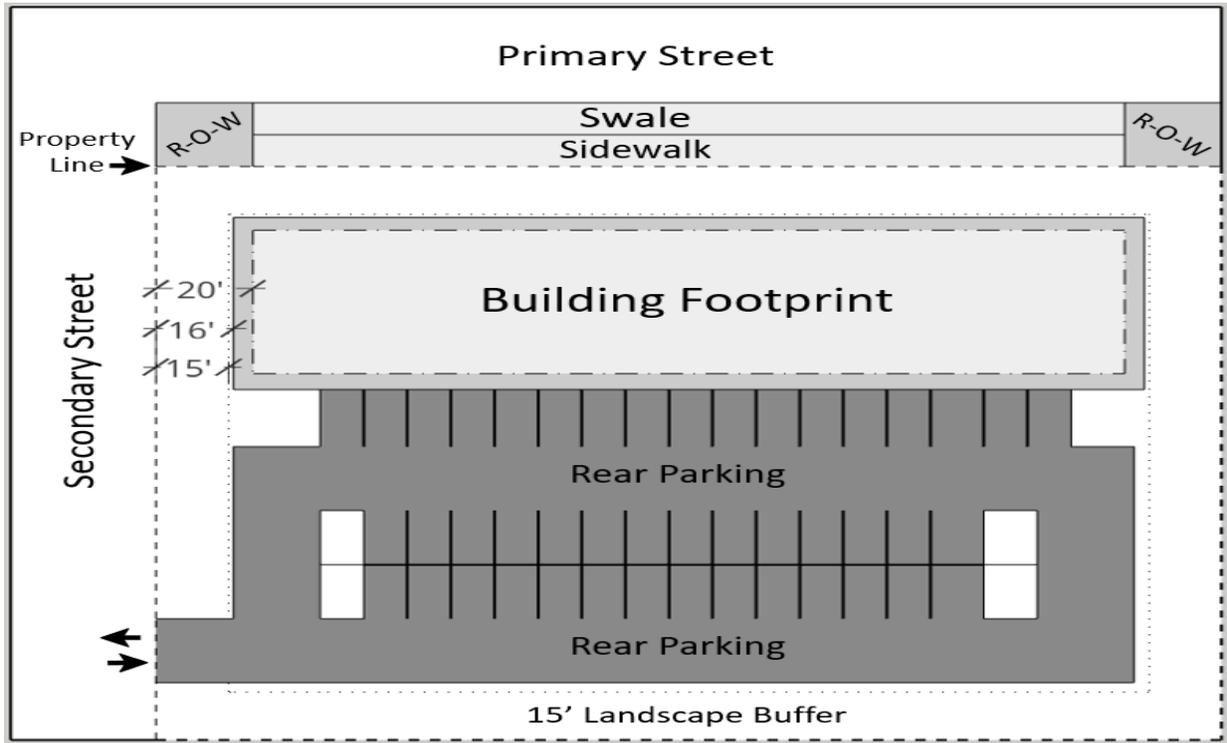


Fig. 4: Village Center Overlay

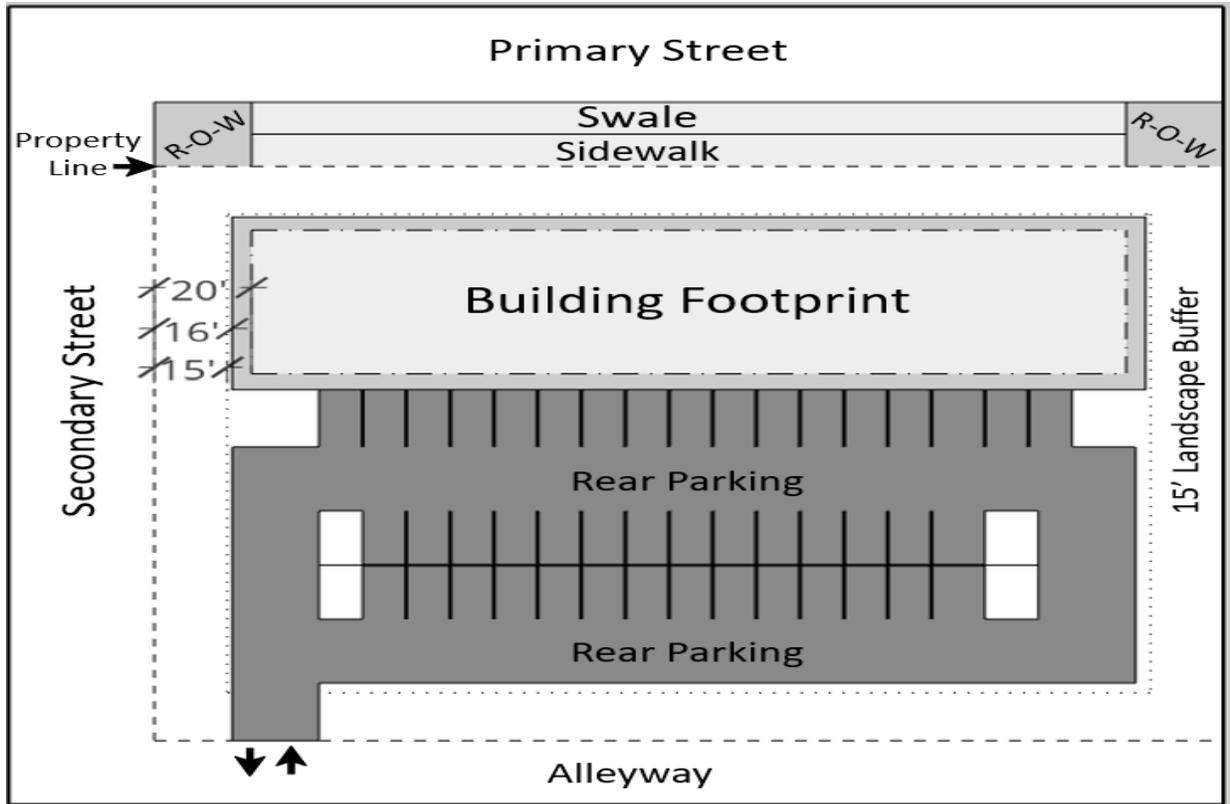


Fig. 5: Village Center Overlay

- b. Surface parking lots shall be screened from public view, when possible, by either buildings or landscaping.
- c. Shared parking in compliance with the requirement of Section 78-707 of the Village Code of Ordinances is encouraged.
- (f) Formula businesses, restaurants, retail, and drive through facilities.
 - (1) Drive through facilities are prohibited in the Village Center Overlay; however, existing drive through facilities may be used for the same use the building was constructed for.
 - (2) Formula restaurants and Formula retail. Formula restaurants and Formula retail are permitted in the Village Center Overlay as a special exception use, subject to the following conditions:
 - (a) The proposed formula restaurant or formula retail use shall comply with the special exception requirements of Village Code Sections 78-363 and 78-364. New formula restaurants and formula retail within existing developments shall qualify for expedited special exception review by Village

Council, provided there is no expansion to the existing development. Special exception applications that are submitted at least 30 days in advance of a Village Council meeting, and are deemed sufficient, shall be brought forward to that Village Council meeting for approval.

(b) The proposed formula restaurant or formula retail use will not alter the identity of the zoning district in a way which detracts from its local uniqueness.

(c) The proposed formula restaurant or formula retail use will contribute to a diverse and appropriate blend of businesses in the district.

(d) The proposed formula restaurant or formula retail use will complement the existing businesses in the district and help promote and foster the local economic base.

(e) The proposed formula restaurant or formula retail use will be compatible with existing surrounding uses.

(f) The proposed formula restaurant or formula retail use has been designed and will be operated in a nonobtrusive manner to preserve the local community's character and ambiance and the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites.

(g) Architectural style, design, exterior facade colors shall be compatible with the surrounding neighborhood.

(h) The proposed formula restaurant or formula retail use's corporate structural elements and signage will be designed to be in harmony with architectural features and elements of the building and neighborhood as approved by the Village Council.

(i) Drive through facilities are prohibited, except that existing drive through facilities may be used for the same use the building was constructed for.

(3) Formula business is permitted in the Village Center Overlay in the same manner that non-formula business is permitted.

(g) Civic open space.

(1) Amount required. New development or re-development which adds gross floor

area of 20 percent or more to the existing development is required to provide civic open space equal to five (5) percent of the total site's square footage. Civic open space shall be counted towards the required minimum landscaped open space.

(2) Types of civic open spaces. Civic open space shall be designed as one of the following types, and shall be identified on the site plan:

a. **Green.** A green is at least 1,000 square feet in size and adjoins streets on at least two sides or a street and a pedestrian passageway or main building entry. Greens are designed primarily for passive uses, consisting primarily of lawn with either formally or informally arranged landscaping.

b. **Plaza.** A plaza is at least 1,000 square feet in size and adjoins streets on at least two sides or a street and a pedestrian passageway or main building entry. Plazas are mostly hardscaped with formally arranged landscaping and a water feature.

c. **Playground.** A playground is at least 2,500 square feet in size. Playgrounds provide children's play equipment and shaded seating. Playgrounds adjoin a street on at least one side and the configuration should ensure easy surveillance of the area from adjacent buildings and streets.

d. **Square.** A square is at least 10,000 square feet and adjoins streets on at least three sides. Squares may be up to 50 percent hardscaped, with formal landscaping. Squares accommodate both passive uses and community gatherings.

e. **Attached Green.** An attached green is generally 2,000 to 6,000 square feet and spans the entire length of a block. Attached greens shall be at least 30 feet wide and are appropriate on the short end of a block. Attached greens are primarily lawns with formally arranged landscaping.

f. **Forecourt.** A forecourt is an open area in front of the main building entrance(s) designed as a small garden or plaza. Low walls or balustrades no higher than three feet six inches in height may enclose the forecourt. Forecourt walls are constructed of similar material as the principal building or are composed of a continuous, maintained hedge. A forecourt may afford

access to one or more first floor residential dwelling units or incorporate storefronts for commercial uses. The forecourt is suitable for outdoor seating for residents or restaurants. Forecourts are typically associated with multifamily, mixed-use, and commercial buildings.

g. **Pedestrian passageway.** A pedestrian passageway is open to the sky connecting the front of the property to the rear, at least ten feet in width, and containing a minimum of 50% pervious, landscaped area, with decorative elements of interest, such as benches, trellises, sculptures, and water features which complement the design style of the building. Outdoor use areas may be provided adjacent to but not within the minimum required pedestrian passageway area.

h. For civic open space requirements less than 250 square feet, the space may incorporate elements such as: fountain, living wall, mural, or sculpture facing a street or a pedestrian passageway.

(3) Maintenance and operation of civic open space. Civic open space areas may be dedicated to the Village for maintenance and operations purposes. The Village Council shall not be obligated to accept the dedication of civic open space if it is not in the best interest of the Village. Otherwise, maintenance and operations shall be the responsibility of the owner.

If a civic open space is dedicated to the Village, the Village shall assume all liability and responsibility for the property. The assumption of liability and responsibility shall be included in the dedication and shall be recorded in the public records of Palm Beach County.

(4) Payment in lieu. In lieu of dedication of land for civic open space, the Village Council at its discretion may accept a fee in lieu of land for properties consisting of 2 acres or less. Such fee shall be equal to the appraised value of the amount of land that would otherwise be dedicated for civic open space purposes. Appraised value shall be based upon the market value of the land in its present state, prior to the proposed subdivision and/or development, as determined by the county tax assessor's appraised value.

a. A fee in lieu of land dedication may be accepted by the Village Council when

the location, size, natural condition, or other similar condition exists where the dedication of land would not be in the best interest of the Village. An example of such a condition is when there is existing land available for recreational use within the immediate area of the proposed subdivision and/or land development or re-development.

b. In determining whether to accept a fee in lieu of land the Village Council shall consider the age groups of residents to be served, the availability and service capabilities of existing recreational facilities in the Village, and the general physical characteristics of the proposed civic open space.

c. Fees in lieu shall be used for the acquisition, enhancement, expansion and/or development of the Village's existing parks, recreation, land systems, or streetscapes.

d. Fees paid in lieu may be used in conjunction with waivers. If an applicant is granted a partial waiver regarding the provision of civic open space, the applicant is required to pay the fee lieu for the remaining un-waived portion.

(h) Landscape buffers and waivers.

(1) Landscape buffers on the front and side may be reduced by no greater than 25% of each area to accommodate civic open space, as depicted in Figure 6 below.

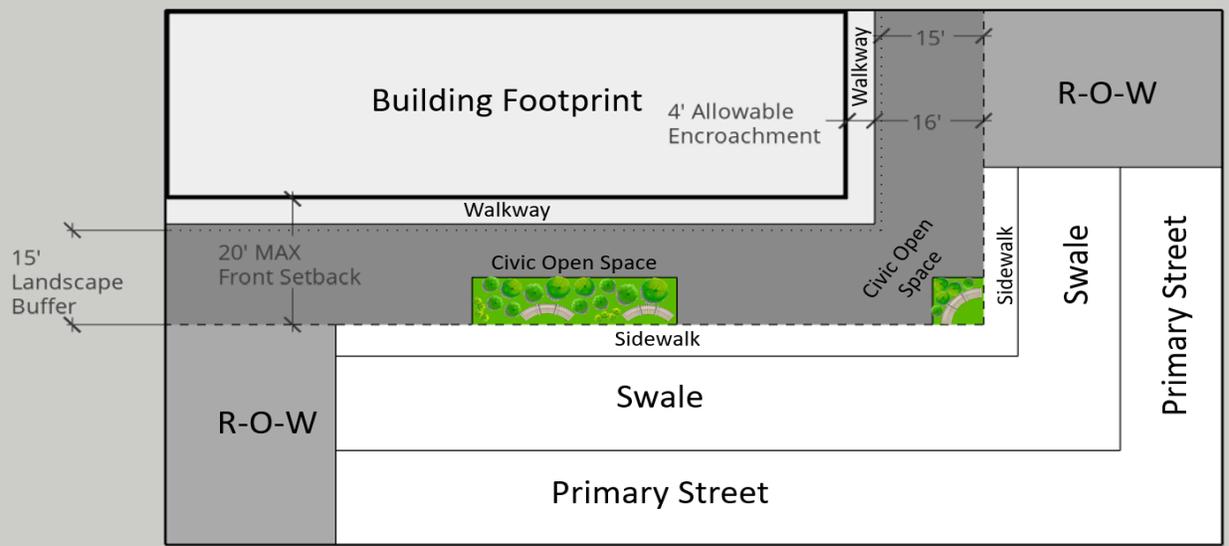


Fig. 6: Village Center Overlay

- (2) Waivers. Waivers from site or landscape requirements may be requested from certain overlay zone regulations. All waivers must be granted by the Village Council in conjunction with a site plan review application. Waivers cannot be used to:
- a. Add uses that are not permitted in the overlay or zoning district.
 - b. Increase the maximum allowed density/intensity.
 - c. Increase the maximum allowed building height.

Sec. 78-204. Waivers.

- (a) In the Tequesta Drive, US Highway One, or Village Center Overlay Districts, waivers may be requested from certain regulations in this Code. An applicant requesting a waiver shall demonstrate that the waiver provides a public benefit, including, by way of example, high-quality architectural design, pedestrian amenities, no-cost dedication of rights-of-way, construction of public parking, public art, or other improvements adjacent to the property, preservation of environmentally sensitive lands, provision of public parks and/or open spaces, or mixed uses which reduce impacts on village services.
- (b) An application for a waiver may be made by any property owner or tenant or by a governmental office, department, board, or bureau. Such applications shall be filed with the Department of Community Development in conjunction with a site plan review application. As part of the review process, the applicant shall identify the waiver request, explain the nature of the request, the extent to which it deviates from the overlay regulations, and the basis for which it is sought.
- (c) As part of the site plan approval process, the Planning and Zoning board shall review and make a recommendation to the Village Council on any waiver that is requested. The Village Council will hold a public hearing to review the waiver request. When evaluating waiver requests, the Village Council shall consider the following factors and any additional criteria set forth in the relevant zoning district:
- (1) The extent to which the alternate standard proposed by the applicant differs from the code's standard that would be waived;
 - (2) Whether the granting of the waiver will lead to innovative design in which other

minimum standards are exceeded;

(3) Whether the request clearly demonstrates the public benefits to be derived;

(4) Whether the request furthers the goals of the Village Commercial Corridor Master Plan, and exemplifies the architectural, building, and site design techniques desired;

(5) Whether the requested waiver is otherwise prohibited by Village Code;

(6) Any unusual circumstances regarding the property or immediate area, including the location of power lines, specimen trees, or shade trees;

(7) The effect of approving or denying the waiver on the development project and on the surrounding area;

(8) Consistency with the Village of Tequesta Comprehensive Plan;

(9) Testimony from the applicant; and

(10) Testimony from the public.

(d) At the conclusion of the public hearing, the Village Council shall make a decision on each requested waiver. Approval is contingent on the Village Council making these findings and any additional findings relevant to the applicable zoning district:

(1) The alternate standard proposed by the applicant is acceptable for the specific site and building;

(2) The proposed waiver does not detract from the design principles supporting these zoning districts and the broader intent of this Code;

(3) The proposed waiver will not be injurious to surrounding properties or nearby neighborhoods; and

(4) The proposed waiver is not inconsistent with the Village of Tequesta Comprehensive Plan.

(e) Public notice of all waiver hearings shall be provided as required by Section 78-370 of the Village Code.

Sec. 78-205 - 78-220. - Reserved.

Section 5: Each and every other section and subsection of Chapter 78. Zoning. shall remain in full force and effect as previously adopted.

Section 6: All ordinances or parts of ordinances in conflict be and the same are

hereby repealed.

Section 7: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 8: Specific authority is hereby granted to codify this Ordinance.

Section 9: This Ordinance shall take effect immediately upon adoption.