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ORDINANCE 10, 2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA, AMENDING CHAPTER 78. LAND DEVELOPMENT REGULATIONS. AT SECTION 78-159. PERMITTED USES, MINOR AND MAJOR CONDITIONAL USES, AND PROHIBITED USES. BY REPEALING SUBSECTION (j)(61) AND READOPTING SAME, AS REVISED; FURTHER AMENDING CHAPTER 78. AT SECTION 78-222. TRANSIT ORIENTED DEVELOPMENT (TOD) OVERLAY DISTRICT. TO CREATE THE TRANSIT ORIENTED DEVELOPMENT (TOD) OVERLAY DISTRICT, PROVIDING FOR PERMITTED, PROHIBITED, AND CONDITIONAL USES, AND DEVELOPMENT CRITERIA; FURTHER AMENDING CHAPTER 78. AT SECTION 78-751. DEFINITIONS. BY ADOPTING A NEW DEFINITION FOR "ACTIVE GROUND FLOOR USES"; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 78. LAND DEVELOPMENT. 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, the City of Palm Beach Gardens is an innovative and progressive community and has a long history of supporting preparation for a future train station location; and

WHEREAS, in 2017, the City applied for and was awarded a South Florida Transit Oriented Development Grant to support economic development, ridership, multimodal connectivity and accessibility, increased transit access for pedestrian and bicycle traffic, and mixed-use development near transit stations; and

WHEREAS, through adoption of Resolution 45, 2017, the City Council entered into an Interlocal Agreement with Treasure Coast Regional Planning Council (TCRPC) to create a Transit Oriented Development Station Area Master Plan; and

WHEREAS, at the June 7, 2018, City Council meeting, an update to the South Florida Transit Oriented Design Grant Report for Station Area Planning was presented to the City Council by the TCRPC. The presentation included key recommendations for implementation that specifically include Comprehensive Plan amendments for TOD development, and Land Development Regulation amendments to provide the regulatory guidance for TOD; and

WHEREAS, the Palm Beach Gardens TOD Master Plan report prepared by TCRPC was finalized in September of 2018; and

1 **WHEREAS**, the City Council directed staff to proceed with the recommendations
2 of the plan; and
3

4 **WHEREAS**, the City Council adopted Ordinance 10, 2020 on November 5, 2020,
5 amending the City's Comprehensive Land Use Plan to create and incorporate the Transit
6 Oriented Development (TOD) District into the Future Land Use Element; and
7

8 **WHEREAS**, the City Council has determined that a need exists to amend the Land
9 Development Regulations to provide criteria for implementing the Transit Oriented
10 Development (TOD) District in accordance with the Comprehensive Land Use Plan; and
11

12 **WHEREAS**, this Ordinance for petition LDRA-20-12-00008 was reviewed by the
13 Planning, Zoning, and Appeals Board, sitting as the Local Planning Agency, at a public
14 hearing on August 9, 2022, and the Board recommended approval by a vote of 7 to 0;
15 and
16

17 **WHEREAS**, the City Council deems approval of this Ordinance to be in the best
18 interests of the health, safety, and welfare of the residents and citizens of the City of Palm
19 Beach Gardens and the public at large.
20

21
22 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**
23 **OF PALM BEACH GARDENS, FLORIDA, that:**
24

25 **SECTION 1.** Chapter 78. Land Development of the Code of Ordinances of the City
26 of Palm Beach Gardens, Florida, is hereby amended at Section 78-159. Permitted uses,
27 minor and major conditional uses, and prohibited uses. by repealing subsection (j)(61),
28 and readopting same, as revised; providing that Section 78-159. shall hereafter read as
29 follows:
30

31 **Sec. 78-159. Permitted uses, minor and major conditional uses, and prohibited**
32 **uses.**
33

34 (a) through (i) and Table 21 (These subsections shall remain in full force and effect as
35 previously adopted.)
36

37 (j) *Additional standards.* The following standards apply to specific uses as indicated in the
38 "Note" column of Table 21.
39

40 (61) Passenger station. Passenger station includes commercial intrastate and interstate
41 travel, including buses and trains. Passenger stations shall comply with the standards
42 listed below.
43

44 a. Passenger stations shall be located on city collector, county minor arterial, state
45 minor arterial, state, or state principal arterial roads.
46

1 b. Passenger stations shall not be located within 500 feet of property with a
2 residential future land use designation or residential zoning designation. This subsection
3 shall not apply within the TOD District.
4

5 c. Passenger stations shall be a permitted use within the TOD District.
6

7 **SECTION 2.** Chapter 78. Land Development of the Code of Ordinances of the City
8 of Palm Beach Gardens, Florida, is hereby amended by adopting new Section 78-222.
9 To be entitled "Transit Oriented Development (TOD) Overlay District."; providing that
10 Section 78-222. shall hereafter read as follows:
11

12 **Sec. 78-222 – 78-224. Reserved.**

13
14 **Sec. 78-222. Transit Oriented Development (TOD) Overlay District.**

15
16 (a) Scope. The development regulations established in this division shall apply to all lands
17 within the Transit Oriented Development (TOD) Overlay District, herein referred to as
18 the "TOD District".
19

20 (b) Location. The TOD District shall consist of those projects or parcels within a half mile
21 of the proposed Train Station Site(s) that are proposed to be generally located on the
22 west side of the Florida East Coast railroad at the intersection of Alternate A1A and
23 Lake Victoria Gardens Avenue, as more specifically described in Policy 1.3.9.2 of the
24 Future Land Use Element of the Comprehensive Plan.
25

26 (c) Purpose and intent. The purpose and intent of this division are as follows:
27

28 (1) Encourage development that is compact, walkable, pedestrian-oriented, and
29 mixed-use centered around a regional train station. The TOD District shall employ
30 site development guidelines, as further described in subsection (f) below, that
31 emphasize the pedestrian experience through a creative and intelligent
32 combination of uses within a ¼-mile walking distance to discourage automobile
33 dependence. Densities within the TOD District should be sufficient to support a
34 variety of transit options.
35

36 (2) To implement policies regarding the TOD District recognized by the city's
37 Comprehensive Plan. Objective 1.3.9. and the associated Policies establish the
38 TOD District and provide that the TOD District shall meet development and design
39 standards that provide sufficient densities, intensities, and a mix of uses that will
40 support transit and mobility options as well as creating a lively and vibrant
41 community.
42
43
44
45
46

1 (d) Waivers. Waivers to the height, lot coverage, open space, and other development
2 standards may be granted by the City Council as part of a PUD or PCD within the
3 TOD District in accordance with Section 78-158. of the City's Land Development
4 Regulations. The city shall not grant any waiver that permits a use not authorized by
5 this division.

6
7 (e) Applicability and effects.

8
9 (1) Applicability.

10
11 a. Standards. The standards contained in this division shall apply to all properties
12 within the TOD District.

13
14 b. Existing approvals. Projects approved prior to October 16, 2022, are not
15 required to comply with the standards of this division. Major amendments to
16 previous approvals, as defined in Section 78-49, or any redevelopment, shall
17 conform with these regulations.

18
19 c. Effect on nonconformities. Nonconforming buildings, lots, and/or uses shall be
20 subject to the provisions of Article VI. Nonconformities of the City's Code.

21
22 (2) Conflicts. In the event that a conflict exists between the standards of the TOD
23 District, this chapter, or any other regulations, including the PGA Corridor Overlay,
24 the provisions of the TOD District shall prevail, or as otherwise determined by the
25 Growth Management Director.

26
27 (f) Site development guidelines.

28
29 (1) TOD District uses.

30
31 a. Applicability. Permitted uses, conditional uses, and prohibited uses within the
32 TOD District shall be consistent with the following:

33
34 b. Passenger Station:

35
36 1. Passenger Station shall be allowed as a permitted use within the TOD
37 District.

38
39 2. Stand-alone parking, garage, or surface lot may be permitted as an
40 accessory use to a Passenger station and may be located on a lot separate
41 from the Passenger station.

42
43 c. Prohibited uses. Walkability and mobility are encouraged within the TOD
44 District. Certain uses shall be prohibited that might be permitted in other zoning
45 districts not subject to the overlay.

1 1. Unless specifically listed as a prohibited use, uses shall be permitted in
 2 accordance with Section 78-159. Table 21: Permitted, Conditional, and
 3 Prohibited Use Chart for the underlying zoning or Section 78-221. PGA
 4 Boulevard corridor overlay., as applicable. Uses not listed may be reviewed
 5 for inclusion with City Council approval.

6
 7 2. Prohibited uses:

- 8 i. Convenience stores with gas sales*;
 9 ii.
 10 iii. Auto-repair shops;
 11 iv.
 12 v. Restaurant with drive-through;
 13 vi.
 14 vii. Bank/financial institution with drive-through;
 15 viii.
 16 ix. Drug store with drive-through;
 17 x.
 18 xi. Auto, recreational vehicle, truck, and similar vehicle sales, storage, and
 19 repair;
 20 xii. Automatic/self-service car wash, or auto detailing services;
 21 xiii. Membership club, retail or wholesale;
 22 xiv. Wholesale, discount, thrift, consignment, and outlet stores;
 23 xv. Self-storage facilities;
 24 xvi. Outdoor self-storage;
 25 xvii. Stores having tenant space equal to or greater than 40,000 gross square
 26 feet.

27 *A convenience store with gas sales that existed prior to September 20,
 28 2006, shall be permitted to remain in operation consistent with Section 78-
 29 221(d)(1)b1.

30
 31 (2) Vertical and horizontal integration of uses is encouraged with commercial uses
 32 on the ground floor.

33
 34 (3) Residential uses.

35
 36 a. Density. The established base density for residential land uses and mixed-use
 37 land uses within the TOD District is 15 dwelling units per gross acre with
 38 opportunities for density bonuses.

39
 40 b. Density bonuses. Residential and mixed-use land uses shall be eligible for
 41 density bonuses granted by the City Council as provided herein:

- 42
 43 1. Provision of Affordable/Workforce Housing. Projects that provide Affordable
 44 Housing Units or Workforce Housing units may be allowed a density bonus.
 45 The provided units shall remain restricted for a minimum of 20 years after
 46 the issuance of the Certificate of Occupancy. A qualified third-party

1 reporting firm shall monitor the Workforce Housing unit reservation and
 2 provide an annual report to the city for the restriction period. A minimum of
 3 10 percent of the total number of gross units must be provided as
 4 Affordable/Workforce Housing units to qualify for a density bonus of up to 6
 5 dwelling units per acre. Workforce Housing shall be governed pursuant to
 6 Section 78-59.

7
 8 2. Environmentally friendly design. Projects that qualify for LEED Certification
 9 from the U.S. Green Building Council, or equivalent certification, or provide
 10 environmentally-friendly design elements are eligible for a density bonus of
 11 up to 2 units per acre upon demonstration of the following:

12 i. An affidavit from the Applicant detailing the proposed environmentally
 13 friendly components to be provided with the project shall be submitted
 14 with the development application for review.

15 ii. LEED Certification level of Silver or better, or equivalent green building
 16 rating system shall be utilized. A checklist of the items to be provided to
 17 qualify for the certification shall be provided for staff review.

18 iii. Elements provided to meet Code requirements, such as mobility QOS
 19 Standards, may not be counted towards density bonuses unless
 20 specifically listed in this section.

21
 22 3. Art in Public Places. Projects are eligible for a density bonus of 2 dwelling
 23 units per acre by providing an additional 1 percent of Art in Public Places
 24 on site, for a total of 2 percent, pursuant to Section 78-261.

25
 26 4. Active Ground-Floor Uses. A density bonus of up to 2 dwelling units per
 27 acre may be approved in exchange for providing and maintaining Active
 28 Ground-Floor Uses as described in subsection (7).

29
 30 (4) Height. Buildings and structures within the TOD District shall be limited to a height
 31 of 135 feet or 9 floors.

32
 33 (5) Setbacks. Setbacks for projects within the TOD District may be established for
 34 MXD projects in accordance with the project's Design Guidelines approved by the
 35 City Council pursuant to Section 78-157 (e).

36
 37 (6) Parking. Mobility options over vehicle dependence are encouraged within the
 38 TOD District. Off-street parking and loading within the TOD District shall be
 39 governed by the following criteria:

40
 41 a. Surface parking lots are discouraged and shall be screened from sight where
 42 possible by either buildings or landscaping pursuant to Section 78-315. of the
 43 City's Code.

44
 45 b. Parking garages should incorporate commercial uses on the ground-floor
 46 facades that face road rights-of-way.

- 1 c. Shared parking is encouraged pursuant to Section 78-346. of the City's Code.
2
- 3 d. Reduction in the number of required parking spaces. The Growth Management
4 Director may reduce the number of required parking spaces by no more than
5 10 percent of the spaces required by Section 78-345. Requests for a decrease
6 in required parking spaces greater than 10 percent shall only be considered as
7 a waiver by the City Council as part of a PUD or PCD. Reduction in required
8 parking spaces in addition to shared parking pursuant to Section 78-346. may
9 be considered as a waiver by the City Council as part of a PUD or PCD.
10
- 11 e. Standards for reduced parking. A use wishing to provide fewer parking spaces
12 than the number required by Section 78-345. shall comply with the following
13 standards:
14
- 15 1. Provide a parking study demonstrating that the reduced parking will satisfy
16 the parking requirements for the development.
17
- 18 2. Provide an enhanced site appearance by including elements such as
19 additional landscaping and pedestrian amenities that enhance the visual
20 appearance and increase the walkability of the improved site. All such
21 enhancements will be indicated in the application for development approval.
22
- 23 (7) Building design guidelines. Buildings within the TOD District shall adhere to the
24 same design guidelines as the PGA Boulevard Overlay as set forth at Section 78-
25 221(h), unless otherwise noted in this Section.
26
- 27 (8) Active Ground-Floor Uses. Pedestrian-oriented activities are encouraged within
28 the TOD District on the first floor of buildings fronting road rights-of-way and
29 pedestrian plazas. Buildings with less active uses, such as multi-floor office
30 buildings or parking garages, should include Active Ground-Floor Uses to activate
31 the frontages.
32

33 Projects requesting a density or height bonus based upon Active Ground-Floor
34 Uses shall develop according to the following:
35

- 36 a. A minimum of 40 percent of each building façade with frontage on a road or
37 pedestrian plaza shall be comprised of Active Ground-Floor Uses accessible
38 directly to / from the street.
39
- 40 b. Ground-floor use spaces will be designed to allow for varied bay widths that
41 facilitate a variety of uses. Examples of this include column spacing at sufficient
42 widths to accommodate smaller users, smaller storefronts, and the provision
43 for microbusinesses.
44
- 45 c. A variety of uses is encouraged within the same building. Uses that are active
46 at different times of the day encourage activity throughout the day.

d. Residential buildings are encouraged to incorporate active ground-floor uses that service the residents of the building as well as the surrounding buildings. Additionally, residential buildings within the TOD District are encouraged to provide units with direct street access.

Sec. 78-223. – 78-224. Reserved.

SECTION 3. Chapter 78. Land Development of the Code of Ordinances of the City of Palm Beach Gardens, Florida, is hereby amended at Section 78-751. Definitions. by adopting new definitions for “Active Ground-Floor Uses”; providing that these definitions shall be placed within Section 78-751. in alphabetical order and shall hereafter read as follows:

Sec. 78-751. Definitions.

Active Ground-Floor Uses means uses that promote pedestrian activity, provide access to the general public, and conceal uses designed for parking, office, and other non-active uses if present. Such uses include, but are not limited to, retail, other commercial, restaurants, coffee shops, offices, financial services with no drive-through, personal services, or multi-family residential units with street-facing entrances.

SECTION 4. All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

SECTION 5. 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 6. Specific authority is hereby granted to codify this Ordinance.

SECTION 7. This Ordinance shall become effective ten (10) days after adoption.

(The remainder of this page intentionally left blank.)

PASSED this 6th day of October, 2022, upon first reading.

PASSED AND ADOPTED this 3rd day of November, 2022, upon second and final reading.

CITY OF PALM BEACH GARDENS	FOR	AGAINST	ABSENT
BY: <u>[Signature]</u> Chelsea Reed, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Rachelle A. Litt, Vice Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Carl W. Woods, Councilmember	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Mark T. Marciano, Councilmember	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Marcie Tinsley, Councilmember	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST:

BY: [Signature]
Patricia Snider, CMC, City Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: [Signature]
R. Max Lohman, City Attorney

[Signature]