Recommended Changes to Town Code Regarding Relaxed Bulk Standards in Overlay Business Districts

The discussion of the comprehensive development plan during the February 10 meeting highlighted the need to ensure that the town code clearly describes opportunities available for relaxed bulk standards for large contiguous tracts of land designated as overlay districts.

- Sections 185-25 and 185-25.2 of the Town Code indicate that relaxed bulk standards are available for large tracts of land in the RB-1 and RB-3 zoning districts but do not specify which standards may be relaxed.
- Specifications for standards that may be relaxed are included in Sections 185.26.1, and 185.26.2 that define the overlay districts and designate them as PRB-1 and PRB-3.

Because the language regarding relaxed bulk standards in the sections of the code for planned resort business districts (PRB-1 and 3) and resort business districts (RB-1 and 3) is not consistent, there is the potential for confusion about how these sections should be interpreted.

- To avoid any confusion, the attached proposed solution would delete reference to relaxed bulk standards in Sections 185-25 and 185.25.2. Sections 185.26.1 and 85.26.2 already clearly describe opportunities for relaxed standards in planned overlay resort business districts. Those sections are highlighted in yellow in the attached.
- With this change, the issue of relaxed bulk standards would be treated in the same manner as for residential districts (NR and RR) in Sections 185-23 and 24 and planned residential overlay districts (PR) in Section 185-26.

The Commissioners may wish to discuss and possibly vote to refer the changes to the Planning and Zoning Commission for its review and recommendations.

§ 185-25. RB-1 Resort Business District.

A. Purpose of the district.

(1) The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities. This district permits the most intense development of such activities. Its features include structures that are both entirely dedicated to commercial use or mixed-use structures with floor area square footage of not less than 1/3 commercial land use and not greater than 2/3 residential land use. Single-family detached dwellings and buildings or structures dedicated to residential uses are prohibited.

~~(2) Relaxed bulk standards (setbacks, lot coverage, etc.) are available for contiguous tracts consisting of at least 80,000 square feet with a detailed commercial, mixed-use, and multifamily dwelling land use development plan review as an overlay district or alternate method of development, provided that there is public access to all common areas of the development and any waterfront area shall be for public use. Commercial land use is required on the first floor (or, if the first floor is substantially below grade, the street-level floor) in all structures within a mixed-use overlay district.~~

B. Permitted uses. See Table 3, Uses in Resort Business Districts.

C. Permitted accessory uses. See Table 3, Uses in Resort Business Districts.
[Amended 78 Del. Laws, c. 232, 5/1/2012; 7-27-2012 by Ord. No. 696; 10-13-2012 by Ord. No. 698]

Table 3
Uses in Resort Business Districts

	RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
Permitted uses. A building or land shall be used only for the following purposes:					
Retail food business, including grocery and specialty-food stores (e.g., bakery, fresh fruit and vegetables, fresh fish and meats, delicatessen and gourmet foods), and the like	✓	✓	✓	✓	✓
Bank and/or ATM, drive-in or otherwise, so long as driveway space shall be provided off the street for all vehicles waiting for drive-in service	✓	✓	✓	✓	✓

[1] *Editor's Note: Table 3 follows § **185-25C**.*

C. Permitted accessory uses. See Table 3, Uses in Resort Business Districts.

D. Conditional uses. See Table 3, Uses in Resort Business Districts.

E. Uses permitted by special exception. See Table 3, Uses in Resort Business Districts.

F. Special events permitted for a limited period of time. See Table 3, Uses in Resort Business Districts.

G. Permitted signs. All signs permitted by § **185-29** and signs permitted within the RB Districts by § **185-32**.

H. Height, area and bulk requirements. See Table 2, Bulk Zoning Standards in All Districts.[2]
[2] *Editor's Note: Table 2 is included as an attachment to this chapter.*

I. Reference to additional regulations. The regulations contained in this section are supplemented or modified by regulations contained in other articles of this and other chapters of the Town's municipal code, especially the following:

(1) Article **V**, General Sign Regulations.

(2) Article **VI**, Off-Street Parking.

(3) Article **VII**, Conditional Uses.

(4) Article **VIII**, Supplementary Height, Area and Bulk Regulations.

(5) Article **X**, Board of Adjustment.

(6) Definitions contained in Chapter **1**, Article **III**.

(7) Restrictions specific to development in flood-prone areas (including FEMA-designated VE, AE and AO flood zones) contained in Chapter **101**, Article **IV**.
[Amended 1-11-2014 by Ord. No. 708]

§ 185-25.2. RB-3 Resort Business District-3.

A. Purpose of the district.

(1) This district represents the lowest level of commercial development in coexistence with dedicated residential land use. The features of this zone include structures that are either entirely dedicated to commercial land use, are of mixed-use with floor-area footage of not less than 1/3 commercial land use and not greater than 2/3 residential land use and providing that usage of the first floor or street level is restricted to commercial land use activities, and dedicated residential land uses, including detached single-family residences and multifamily residential structures.

~~(2) Relaxed bulk standards (setbacks, lot coverage, etc.) are available for contiguous tracts consisting of at least 80,000 square feet with a detailed commercial, mixed-use, and detached single-family and/or dedicated multifamily residential land use development plan review as an overlay district or alternate method of development, provided that there is public access to all common areas of the development and any waterfront area shall be for public use. Commercial land use is required on the first floor (or, if the first floor is substantially below grade, the street-level floor) in all mixed-use structures within any RB-3 Mixed-Use Overlay District and the aggregate residential-use floor area cannot exceed two times the aggregate commercial-use floor area within any such overlay complex.~~

B. Permitted uses. See Table 3, Uses in Resort Business Districts.[1]
[1] *Editor's Note: Table 3 follows § **185-25C**.*

C. Permitted accessory uses. See Table 3, Uses in Resort Business Districts.

D. Conditional uses. See Table 3, Uses in Resort Business Districts.

§ 185-26.1. PRB-1 Planned Resort Business District-1.

A. Purpose of the district. The purpose of this planned resort business overlay is to allow overall commercial and/or mixed-use development for a large block of land rather than requiring separate commercial and/or mixed-use structures on individual lots. This overlay will permit large-scale entirely commercial or mixed-use developments as a means of creating a superior business and living environment through unified developments of large contiguous tracts of land and to provide for the application of design ingenuity while protecting existing and future developments when determined to be for the public welfare, safety and benefit.

B. Permitted uses. See Table 3, Uses in Resort Business Districts.[1]
[1] *Editor's Note: Table 3 follows § **185-25C**.*

C. Permitted accessory uses. See Table 3, Uses in Resort Business Districts.

D. Conditional uses. See Table 3, Uses in Resort Business Districts.

E. Uses permitted by special use exception. See Table 3, Uses in Resort Business Districts.

F. Special events permitted for a limited period of time. See Table 3, Uses in Resort Business Districts.

G. Permitted signs: all signs as permitted by Article **V** regarding signage for the RB-1 District.

H. Applicability of the district. To enable the district to operate in harmony with the purposes of this chapter of the Municipal Code of the Town of Dewey Beach and heights and densities embodied in these regulations, the PRB-1 Planned Resort Business District-1 is created as a special district for contiguous tracts of land to be superimposed on the Town's RB-1 Resort Business District contained in these regulations and is to be so designated by a special symbol for its boundaries on the Official **Zoning Map**. The minimum lot requirements, maximum height, maximum floor area ratio and dwelling unit density, minimum yard requirements and permitted, conditional and accessory uses shall be determined by the requirements and procedures set forth in this section, which shall prevail over conflicting requirements of these regulations or articles governing the subdivision of land.

I. Minimum district area. The minimum area for a PRB-1 Planned Resort Business District-1 under this section shall be a contiguous parcel of 80,000 square feet.

J. Ownership control. A development plan may be submitted for land in a Planned Resort Business District that incorporates more than one parcel owned by more than one person or entity, provided that adequate assurances are given that the project can be successfully completed and maintained as a whole.

K. Review standards.

(1) Relaxed bulk standards from those required in the larger RB-1 District, including setbacks between neighboring structures and interior streets and walkways, floor area ratio and number of dwelling units, frontage per structure and tiered setbacks, are available to PRB-1 Planned Resort Business District-1 under the guidelines and restrictions set forth in this section, provided there is public access to all

common areas of the development and any waterfront areas shall be for public use. However, as detailed in this section, the maximum zoning standards for height, dwelling unit density, floor area ratio and external setbacks from front and side streets shall not be relaxed from those indicated in Table 2, Bulk Zoning Standards in All Districts, for the PRB-1 Zoning District.[2]

[2] *Editor's Note: Table 2 is included at the end of this chapter.*

(2) The Town Commissioners or their designated agent shall review the conformity of the detailed zoning site plan with the standards of this chapter and recognized principles of civic design, land use planning and landscape architecture as well as aesthetics and comments of neighboring property owners. The minimum lot and yard requirements of the zoning district in which the development is located need not apply but the site plan shall insure appropriate relationships between buildings and municipal streets and the height of buildings to preserve and assure adequate open spaces. However, the maximum height of any new structure within a PRB-1 District shall not exceed 35 feet.

(3) The Town Commissioners may impose conditions regarding the layout and design of the proposed development and buildings and, where applicable, shall require that appropriate deed restrictions or other restrictions be filed to assure compliance with its development plan.

(4) The Town Commissioners shall review the location of proposed residential, commercial and mixed-use structures and determine the appropriate character of such locations.

L. Height. See Table 2, Bulk Zoning Standards in All Districts.[3]

[3] *Editor's Note: Table 2 is included at the end of this chapter.*

M. Area. See Table 2, Bulk Zoning Standards in All Districts.

N. Commercial versus residential use ratio. See Table 1, Uses in Residential Districts,[4] and Table 2, Bulk Zoning Standards in All Districts.

[4] *Editor's Note: Table 1 follows § 185-23C.*

O. Minimum lot area and frontage, external and tiered setbacks, and number of dwelling units permitted. See Table 2, Bulk Zoning Standards in All Districts. The maximum number of dwelling units permitted shall be determined by dividing the gross lot area by the minimum lot area per dwelling unit shown in Table 2, Bulk Zoning Standards in All Districts. Any area of land in the parcel set aside for common open space, interior roads, parking other than in an underground parking garage or more than one level of a multilevel parking garage, or recreational use may be included in determining the number of dwelling units permitted. The Town Commissioners may reduce the number of dwelling units permitted as a matter of legislative discretion.

P. Bulk. See Table 2, Bulk Zoning Standards in All Districts.

Q. Off-street parking.

(1) See Table 2, Bulk Zoning Standards in All Districts.

(2) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or use of a building or premises by more than one use having the same parking requirements, the total number of off-street parking spaces required shall equal the sum of the requirements of the various uses computed separately. Design of parking lots, garages and other improvements shall be subject to site plan review and approval.

R. Other requirements.

(1) Planting and beautification areas.

(2) Use of permeable paving materials.

(3) Use of environmentally sustainable materials and construction techniques shall be considered by the developer.

(4) The applicant shall provide the Town Commissioners with proposed renderings showing the elevations and facades for the proposed building(s) and streetscape plan.

S. Completion guarantee. Upon final approval of a site plan by the Town Commissioners, the developer shall guarantee completion of the development plan within a period to be specified by the Town Commissioners and shall post an appropriate bond or other form of contractual guarantee to be approved by the Town Commissioners. No building permit shall be issued until such guarantee is posted.

T. Procedure for approving final development plan. The procedures for approval of a development plan for the PRB-1 Planned Resort Business District-1 shall follow the procedure described in Article **XI**, Administrative Provisions.

§ 185-26.2. PRB-3 Planned Resort Business District-3.

A. Purpose of the district. The purpose of this planned resort business overlay is to allow overall mixed-use development for a large block of land rather than requiring separate commercial, mixed-use or residential structures on individual lots. This overlay will permit large-scale mixed-use developments as a means of creating a superior business and living environment through unified developments of large contiguous tracts of land and to provide for the application of design ingenuity while protecting existing and future developments when determined to be for the public welfare, safety and benefit.

B. Permitted uses. See Table 3, Uses in Resort Business Districts.[1]
[1] *Editor's Note: Table 3 follows § **185-25C**.*

C. Permitted accessory uses. See Table 3, Uses in Resort Business Districts.

D. Conditional uses. See Table 3, Uses in Resort Business Districts.

E. Uses permitted by special use exception. See Table 3, Uses in Resort Business Districts.

F. Special events permitted for a limited period of time. See Table 3, Uses in Resort Business Districts.

G. Permitted signs. All signs as permitted by Article **V** regarding signage for Resort Business Districts.

H. Applicability of the district. To enable the district to operate in harmony with the purposes of this chapter of the Municipal Code of the Town of Dewey Beach and heights and densities embodied in these regulations, the PRB-3 Planned Resort Business District-3 is created as a special district for contiguous tracts of land to be superimposed on the Town's RB-3 Resort Business District contained in these regulations and is to be so designated by a special symbol for its boundaries on the Official **Zoning Map**. The minimum lot requirements, maximum height, maximum floor area ratio and dwelling unit density, minimum yard requirements and permitted, conditional and accessory uses shall be determined by the requirements and procedures set forth in this section, which shall prevail over conflicting requirements of these regulations or articles governing the subdivision of land.

I. Minimum district area. The minimum area for a PRB-3 Planned Resort Business District-3 under this section shall be a contiguous parcel of 80,000 square feet. Such area shall not be significantly increased or decreased once approval for preliminary site plans has been obtained.

J. Ownership control. A development plan may be submitted for land in a Planned Resort Business District that incorporates more than one parcel owned by more than one person or entity, provided that adequate assurances are given that the project can be successfully completed and maintained as a whole.

K. Review standards.

(1) Relaxed bulk standards from those required in the larger RB-3 District, including setbacks between neighboring structures and interior streets and walkways, floor area ratio and number of dwelling units, frontage per structure and tiered setbacks, are available to PRB-3 Planned Resort Business District-3 under the guidelines and restrictions set forth in this section, provided there is public access to all common areas of the development and any waterfront areas shall be for public use. However, as detailed in this section, the maximum zoning standards for height, dwelling unit density, floor area ratio

and external setbacks from front and side streets shall not be relaxed from those indicated in Table 2, Bulk Standards for All Districts, for PRB-3.[2]

[2] *Editor's Note: Table 2 is included at the end of this chapter.*

(2) The Town Commissioners or their designated agent shall review the conformity of the detailed zoning site plan with the standards of this chapter and recognized principles of civic design, land use planning and landscape architecture as well as aesthetics and comments of neighboring property owners. The minimum lot and yard requirements of the zoning district in which the development is located need not apply but the site plan shall insure appropriate relationships between buildings and municipal streets and the height of buildings to preserve and assure adequate open spaces. However, the maximum height of any new structure within a PRB-3 District shall not exceed 35 feet.

(3) The Town Commissioners may impose conditions regarding the layout and design of the proposed development and buildings and, where applicable, shall require that appropriate deed restrictions or other restrictions be filed to assure compliance with its development plan.

(4) The Town Commissioners shall review the location of proposed residential, commercial and mixed-use structures and determine the appropriate character of such locations.

L. Height: not to exceed 35 feet. See Table 2, Bulk Zoning Standards in All Districts.

M. Area. See Table 2, Bulk Zoning Standards in All Districts.

N. Commercial versus residential use ratio. See Table 1, Uses in Residential Districts,[3] and Table 2, Bulk Zoning Standards in All Districts.

[3] *Editor's Note: Table 1 follows § 185-23C.*

O. Minimum lot area and frontage, external and tiered setbacks, and number of dwelling units permitted. See Table 2, Bulk Zoning Standards in All Districts. The maximum number of dwelling units permitted shall be determined by dividing the gross lot area by the minimum lot area per dwelling unit shown in Table 2, Bulk Zoning Standards in All Districts. Any area of land in the parcel set aside for common open space, interior roads, parking other than in an underground parking garage or more than one level of a multilevel parking garage, or recreational use may be included in determining the number of dwelling units permitted.

P. Bulk. See Table 2, Bulk Zoning Standards in All Districts.

Q. Off-street parking.

(1) See Table 2, Bulk Zoning Standards in All Districts.

(2) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or use of a building or premises for more than one use having the same parking requirements, the total number of off-street parking spaces required shall equal the sum of the requirements of the various uses computed separately. Design of parking lots, garages and other improvements shall be subject to site plan review and approval.

R. Other requirements.

(1) Planting and beautification areas.

(2) Use of permeable paving materials.

(3) Use of environmentally sustainable materials and construction techniques shall be considered by the developer.

(4) The applicant shall provide the Town Commissioners with proposed renderings showing the elevations and facades for the proposed building(s) and streetscaping plan.

S. Completion guarantee. Upon final approval of a site plan by the Town Commissioners, the developer shall guarantee completion of the development plan within a period to be specified by the Town Commissioners and shall post an appropriate bond or other form of contractual guarantee to be approved by the Town Commissioners. No building permit shall be issued until such guarantee is posted.

T. Procedure for approving final development plan. The procedures for approval of any development plan for a Planned Resort Business District-3 overlay district are described in Article **XI**, Administrative Provisions.