



**PLANNING AND ZONING COMMISSION
MEETING MINUTES
MONDAY, NOVEMBER 7, 2022 9:30 A.M.**

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Kelly Churney, Deputy Town Clerk at (561) 227-6340.

I. CALL TO ORDER AND ROLL CALL

Chair Coniglio called the meeting to order at 9:31 a.m.

Gail Coniglio, Chair	PRESENT
Rick Pollock, Vice Chair	PRESENT
Richard Kleid, Member	PRESENT (Arrived at 9:32 a.m.)
Michael Spaziani, Member	PRESENT
Eric Christu, Member	PRESENT
Marilyn Beuttenmuller, Member	PRESENT
Jorge Sanchez, Member	PRESENT
William Gilbane, Alternate Member	PRESENT (Arrived at 10:44 a.m.)
Nicki McDonald, Alternate Member	ABSENT (Excused)
John Tatooles, Alternate Member	PRESENT

Staff Members present were:

Wayne Bergman, Director of Planning, Zoning and Building
Jennifer Hofmeister-Drew, Planner III
Kelly Churney, Deputy Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Churney led the Commission with the Invocation and the Pledge of Allegiance.

III. APPROVAL OF THE AGENDA

Mr. Bergman, Director of Planning, Zoning and Building, requested to defer Item 7, Presentation on Proposed Amendments to the Commercial Zoning Districts Related to Business Tax Receipts (BTR) and Non-Conforming Permitted Uses. He indicated that staff would like time to continue to work on the presentation. He indicated it would return to the Commission either in December or January.

**Motion made by Mr. Pollock and seconded by Mr. Spaziani to approve the agenda as amended.
Motion carried unanimously, 7-0.**

Ms. Coniglio introduced Robert Garrison, a resident and architect in town, who had volunteered to be present, available as a consultant, guide the Commission when there were questions about whether projects could be done, and whether they would be beneficial to the community.

Mr. Bergman introduced Sean Sudor, ZoneCo., Planning Consultant; Joe Corradino, The Corradino Group; and Rachel Streitfeld, Esq., present to assist with the Comprehensive Zoning Code Review Presentation.

IV. **APPROVAL OF MINUTES FROM THE AUGUST 16, 2022 PLANNING AND ZONING COMMISSION**

Mr. Kleid provided two grammatical changes to the minutes. The changes were acceptable by the Commission.

Motion made by Mr. Kleid and seconded by Mr. Pollock to approve the August 16, 2022 meeting minutes as amended. Motion carried unanimously, 7-0.

V. **COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE**

Gary Pohrer, 1356 N. Ocean Blvd., expressed his appreciation for the work the Planning and Zoning Commission was doing to update the Code. He suggested the building envelope in town should be larger, with maximum standards for sizing of homes. He urged the Commission not to reduce yard space in residential areas.

VI. **DISCUSSION OF THE R-B ZONING DISTRICT MOCKUP, PREPARED BY SEAN S. SUDER, ZONECO, PLANNING CONSULTANT, AND PROPOSED NEW DISTRICT ZONING MAPS**

Mr. Suder provided an update on some of the items in the Code that he and the Corradino Group had reviewed since the last report. He reviewed the big idea, which was “crafting custom-tailored, clear, consistent, user-friendly, defensible zoning regulations that advance the Town’s development vision.” The R-B District extended from mid-town all the way to the northernmost end of the island. Within the district, development patterns included Lake Worth lagoon properties, inland properties, the historic Sea streets properties, and some properties near County and Worth Avenue that were also designated low density. He talked about the three distinct residential development patterns, all treated alike in the R-B District. Most of the R-B District included quarter-acre lots along east-west positioned streets. The district has been established as a “one size fits all” low density residential zone applicable to single residential properties not located in the estate zoning sections.

Mr. Suder discussed issues that had been identified in the R-B District and were being evaluated to achieve balance. There were also issues in the R-B District that were general to the island. He reviewed the R-B District diagnostic report in detail. This report was presented briefly at a recent joint meeting.

Mr. Suder referenced the R-B Zoning District, in its attempt to be all things to all people, created friction between residences original to the district and new construction. He considered this situation a land use conundrum, which could only be solved through particularly calibrated bulk, massing and building location standards. Such standards were being prepared for presentation to the Planning and Zoning Commission.

Floor Area Ratios (FAR) had been an important topic with focus on addressing residential scale issues. Illustrations were shown, based on what existed today. These visuals were taken from a standard 10,000 square foot lot on one of the interior streets.

Mr. Suder reported his team had been meeting with professionals in the town and having one-on-one sessions with members of the community, designers in the community, the Architectural Review and

Landmarks Preservation Commission members. Beginning with the Purpose and Intent statement for the R-B Zoning District, Mr. Suder reviewed the code as it was currently written, while explaining proposed updates. He said rather than characterizing development as “low-density” and “of moderately spacious character”, his team has focused on uses that were “harmonious with existing residential development patterns.”

Mr. Tatoes asked about the impact of the Bert J. Harris Act on proposed changes.

Rachel Streitfeld, Attorney, responded the impact was minimal. Bert J. Harris protected private property owners with respect to uses of private property. There had been no proposals on the table to reduce, eliminate or change existing uses in the R-B District. She advised the Planning and Zoning Commission to freely deliberate and make decisions in their advisory capacity. She said the Town Council would ultimately decide whether to adopt the changes and when they did, they would do so under their authority as a legislative body.

Mr. Suder introduced the concept of lot sizes and stated the major issue was to eliminate the consolidation of lots by including a maximum lot size in the code. Mr. Spaziani wanted to be careful in making changes to the code, to make sure the north end did not turn into estates. He liked the idea that Mr. Suder was trying to reduce lot sizes. However, if the goal was to keep the north end lots smaller, why allow more square footage of construction on the lots. Mr. Suder said it would be a maximum of 15,000. Not every lot was 10,000 and it was important not to create a lot of nonconformities while maintaining some level of tolerance. A square footage of 15,000 would allow some flexibility for consolidating a portion of an adjacent lot but would not allow for lots up to half acre in size. Mr. Suder said consideration could be given to limiting the square footage to 12,000 if the Commission so desired.

Mr. Kleid liked the square footage limitation to eliminate over-building.

Mr. Spaziani agreed with Mr. Kleid. However, he thought the 15,000 square foot limit could act as an incentive for a buyer to purchase two lots and divide one. He expressed concern for the potential complications that could come along with allowing for lot splits. He preferred the reduced square footage limit.

Mr. Suder said he did not believe a nonconforming lot could be created from a lot split. There would be a maximum width and depth requirement. The objective would be to mitigate the aggregation of lots that would create something too large for a street.

Mr. Bergman reported staff had done a review of the as-built environment in the R-B District. They had reviewed 1,523 homes on 89 different streets and had obtained every individual lot size. He suggested, using Mr. Suder’s basic premise, that staff could carve out the lake front lots and the Sea streets from the R-B District and bring an average lot size back to the Commission.

Mr. Garrison agreed with Mr. Bergman’s suggestion. It would be very helpful to review what existed in the R-B District and look at making two districts where one would allow 10,000 and the other would allow another defined maximum square footage.

Ms. Coniglio asked if this approach would be a resolution to combining lots, which was a key element that must be managed.

Mr. Sanchez asked if two buyers could still purchase three lots and share the green space. Mr. Suder said if the lots were conforming, it would be allowed. Mr. Sanchez said if an individual property owner complied with the maximum 15,000 square feet for building purposes, but not necessarily lot size, he would agree with the proposed change.

Mr. Tatooles said if someone wanted a larger yard, they could buy neighboring lots, build on one and leave the other vacant. The properties would remain separate lots.

Ms. Beuttenmuller preferred regulation on the house size and green space calculations rather than a limitation on square footage.

Ms. Coniglio asked Mr. Suder what the rationale was for requiring combined lot maximum of 15,000 square feet, as opposed to allowing two 10,000 square foot lots be combined with a house that would meet maximum square footage.

Mr. Suder said if the combining of lots were allowed, there would be two things to consider. One was the idea of maintaining an existing development pattern in the R-B District, which was predominantly 10,000 square foot lots with smaller homes than the estate sized lots in Palm Beach. This was not a stand-alone requirement, it would go along with Floor Area Ratio (FAR) which was being proposed, as well. It was important to note, lots larger than 15,000 square feet would allow for larger structures. Lot sizes did impact building sizes.

Mr. Kleid said once the maximum size was increased, the entire feel of the street changed. If the idea was to minimize streets with the old charm of Palm Beach, he preferred to maintain the 15,000 square foot limitation.

A consensus of the Commission was to support the minimum and maximum lot sizes, with the removal of the Sea streets and the lake front lots from the R-B District.

Mr. Suder said a .3 FAR (floor area ratio) had been proposed, which meant 30% of the lot could be under roof. He explained what counted as under roof area. Two-story buildings recommendation was .25 FAR.

Mr. Kleid thought the allowance for variances should be removed in the proposed changes since it would be virtually impossible to demonstrate a hardship under the legal definition of a variance.

Mr. Tatooles clarified whether the 2500 square feet for a two-story structure would be 2500 square feet on each of the floors or if the allowance was 1250 square feet on each floor. Mr. Suder said the latter. Mr. Tatooles then asked how much smaller of a house would be allowed, compared to the current code. The response was approximately half the size. Mr. Tatooles expressed concern with reducing the allowable size structures, asking if this was taking away the property owner's right that existed under the pre-updated code.

Ms. Streitfeld stated an unreasonable burden of a vested right did not necessarily apply to zoning. The Town Council had the ability to regulate size, massing, and setbacks for buildings. This did not mean a property owner would be precluded from filing suit. However, the right to regulate building size and massing the way zoning regulations did, was the right of local government. The ability to use the parcel was not being dramatically reduced. Reducing the allowable size did not inordinately burden the property under the Bert J. Harris Act.

Ms. Coniglio asked what the current CCR would be that was allowed on a 10,000 square foot lot. Mr. Bergman said it depended on the location, but approximately 40-45 percent. She asked how that would translate to FAR. Mr. Bergman was unsure but stated staff had looked at the as-built environment.

Ms. Coniglio expressed her observation that the two-story house was a box with no articulation. She said the one-story structure had some style. She thought the community had expressed concerns, and it was important to determine how the accessory structures would be calculated into the square footage.

Ms. Coniglio asked if Mr. Suder had information on what was to be included in the FAR. Mr. Suder said he did not have the information; however, it would be necessary for the FAR to be defined. He asked for a copy of the list of accessory features. He also suggested that a lower FAR calculation could be a starting point with allowance for increases.

Mr. Garrison said it was more important to determine what was included in the FAR calculations.

Mr. Suder felt the direction from PZC would be to have the FAR further defined. Mr. Suder also felt more accessory structures should be excluded if the commission desired to set a lower FAR. If the commission desired to go higher, then more accessory structures should be included.

Mr. Suder explained current code and proposed changes relative to Principal Building Standards.

Mr. Sanchez wanted to see courtyard type homes promoted but expressed concern that a 25-foot rear setback would negate having a courtyard home. He asked why that requirement would be desirable. Mr. Suder said the idea was to incentivize a courtyard in the front of the building and to reduce the front building wall against the street. He did understand Mr. Sanchez's point and stated setback adjustments could be made to allow for a courtyard in the front or a courtyard in the rear of the property.

Mr. Garrison asked how the height of the buildings was measured. This was going to be important in determining the height of each structure. Mr. Suder said typically it would be the average natural grade near the foundation, but many people had been filling in their lots, which raised the question whether it should be measured from the new grade, from the average natural grade, the natural grade, or the street. Mr. Garrison believed it should be established from the FEMA elevation.

Mr. Bergman said the staff recommendation was to measure from the FEMA elevation for those properties in the special flood hazard area. There were also DEP measurements for ocean front properties and X-flood zones where there was no FEMA elevation. Staff needed to work on this and move away from having to work with nine (9) definitions.

Mr. Sanchez said the Town needed to be more lenient as to the perception of the front of the building. Those who chose to have a front entry that was lower than the FEMA elevation should be allowed to do so, and the interpretation should be broader. Mr. Bergman said it came down to the terminology and labeling of space.

Ms. Coniglio was concerned about changing the side yard setback from 12.5' to 20 feet.

Mr. Gilbane said he agreed with Ms. Coniglio and felt what might be missing was the Town's desire to have more interesting architectural buildings that may be landmarked in the future.

Ms. Coniglio said consideration could be given to specific architectural elements for defined areas that would be helpful in creating the pleasant charm the Town works so hard to maintain.

Ms. Hofmeister-Drew added that when speaking to what was currently included in the CCR, certain structures were not necessarily livable. This would impact the articulation of buildings. She believed if the town was going to use FAR, measurements should start from the basic elements, such as under air or not under air.

Mr. Sanchez said there should be less concern with the setback and more concern with the architecture.

Ms. Coniglio agreed, except for concern with older homes being demolished and then the same house, massed, being rebuilt in a two-story box. The consideration should be to allow new parameters while respecting the existing parameters and allowing architects to create the articulation without counting the elements, such as a balcony, that may not impact the neighboring properties.

Mr. Gilbane said a lot of fear had been raised from the community regarding a reduction in setbacks. Another fear was the location of equipment such as HVAC, pool pumps, and generators. Setbacks could be incentivized based upon not being able to loom over someone or not being able to pollute the neighbor's noise enjoyment in their yard. It was important to discuss and address the fears being expressed by citizens.

Mr. Suder had heard some commissioners indicating that property owners needed to be told what the town wanted, while others are open to the concept of using incentives. He asked what the Commission's pleasure would be regarding an overall approach.

Mr. Garrison advised the Planning and Zoning Commission should set the standard, and subsequently decide if incentives should be added.

A consensus of the Commission was for this item of discussion to be placed on hold until definitions were established for building heights.

Mr. Suder said accessory building structures would be a matter of scaling the accessory to the principal structure.

Ms. Coniglio asked Mr. Bergman to bring back percentages of the various sized lots within the north end to the next meeting.

VII. **PRESENTATION ON PROPOSED AMENDMENT TO THE COMMERCIAL ZONING DISTRICTS RELATED TO BUSINESS TAX RECEIPTS (BTR) AND NON-CONFORMING PERMITTED USES**

This item was deferred to the December meeting at the approval of the agenda, Item IV.

VIII. **COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR**

Mr. Bergman stated the next meeting was scheduled on Tuesday, December 20, 2022. He suggested moving the meeting earlier in December. He offered December 1st, December 5th, and December 6th as possible dates.

A consensus of the Commission was to move the December meeting to Monday, December 5, 2022.

IX. **ADJOURNMENT**

**Motion made by Mr. Spaziani and seconded by Mr. Sanchez adjourn the meeting at 11:29 a.m.
Motion carried unanimously, 7-0.**

Respectfully Submitted,

Gail Coniglio, Chair
Town of Palm Beach
Planning & Zoning Commission

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