



TOWN OF PALM BEACH

Minutes of the Local Planning Agency Meeting Held on July 12, 2023

I. CALL TO ORDER AND ROLL CALL

The Local Planning Agency Meeting was called to order on July 12, 2023, at 9:31 a.m. On roll call, all elected officials were found to be present. Council Member Crampton participated by Zoom.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE

John Eubanks, an attorney representing homeowners on the 100 block of Brazilian Avenue, discussed an issue concerning a right-turn-only restriction that his clients have on Brazilian Avenue. Mr. Eubanks stated he discussed the issue with the Chief of Police, who then involved Public Works. He said he had sat at the intersection with the Chief of Police to observe traffic and discussed ways to resolve the issue.

Council Member Cooney acknowledged that the left turn felt very unsafe. He felt it was prudent to delete that left turn. He also indicated that he would not want the staff to spend time looking into an overhead traffic signal or any other type of resolution that would be a visual interruption.

Council President Zeidman said the right turn only change was made for the safety of those who live in and come into the town and should not be reversed for the convenience of nearby residents. The Police Chief made decisions based on the principles of public safety.

Council Member Araskog indicated she understood the situation. She was not opposed to researching a solution but did not favor adding a traffic signal to calm traffic in that

location.

Mayor Moore thought that when it is in season, that area was a difficult intersection because of the traffic volume. She thought the Chief could handle the situation.

IV. ORDINANCES

A. **First Reading**

1. Amendment to the Special Exception Clause in the Commercial Districts Related to Business Tax Receipts (BTRs) and Non-Conforming Permitted Uses

Ordinance No. 009-2023: An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, so as to Amend the Fees Delineated for each Business, Profession or Occupation; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing for an Effective Date.

Wayne Bergman, Director of Planning, Zoning and Building, provided some history of the Business Tax Receipts process and explained the proposed amendments to the Code as listed in the proposed ordinance.

Council Member Cooney expressed some concerns about the change but thought it was reasonable and innocuous. However, he was hesitant to release any protective control.

Council Member Araskog agreed with Council Member Cooney. She thought the 8,000 square feet referenced in the ordinance was too much. She agreed that the item could be moved to a different section of the Code; however, she was not convinced this was the appropriate time to make the change.

Mayor Moore restated that the Planning and Zoning Commission (PZC) reviewed the change and made a recommendation. She also thought that by not allowing the change, it could delay retailers, increase their expenses, and increase the time it takes to get onto an agenda when they were trying to make a change.

Council Member Crampton agreed with the Mayor. He thought this would allow for efficiency and take some of the burden off the Town Council.

Council President Pro Tem Lindsay recognized Members Cooney and Araskog's concerns. However, she leaned more toward increasing the efficiency of the process. She thought there were more positive arguments for making the change.

Council President Zeidman had her concerns but stated she supported the change. She thought the PZC thoroughly reviewed the item and made their recommendations to the Town Council. She also thought the staff would

be very protective of the Town. She asked Director Bergman how staff would address Council Members Araskog and Cooney's concerns.

Director Bergman said staff would watch the process as the ordinances became effective. The goal was to remove the taxation code from the zoning code. He said staff had been working on this for several months to find the balance for taking the taxation piece out of the zoning code. He thought the concern raised by Council Members Araskog and Cooney was based more on square footage requirements than on removing the Business Tax Receipt requirement.

Assistant Director of Planning, Zoning and Building James Murphy interjected that staff had studied this item at the request of the Town Council. He said the square footage could be easily scaled back or removed altogether at the pleasure of the Town Council.

Council Member Cooney thanked Messrs. Bergman and Murphy. However, he further explained his concerns, which had to do with providing approval by right.

Council Member Araskog outlined her concerns, which had to do with the Council's lack of discretion and review of new retail spaces.

Council President Pro Tem Lindsay was uncomfortable with the 8,000-square-foot limit and leaned toward Council Member Cooney's viewpoint.

Council Member Crampton thought the debate was where the discretion lay with the decision. He wondered if the staff would have the ability to send an item to the Town Council if they were uncomfortable making the decision. Director Bergman confirmed that staff could send an item to the Town Council if they felt uncomfortable with the request. Council Member Crampton stated that if that were the case, he would be okay with the change.

Council President Zeidman thought the proposed ordinance needed more work, particularly regarding the 8,000-square-foot number.

Council President Zeidman called for public comment. Council Member Araskog wondered if the PZC members should be allowed to speak if there were a chance they would discuss the issue again.

Attorney Joanne O'Conner advised that if members of PZC were present and speaking as residents, their input would be appropriate.

Gail Coniglio, 1139 N. Ocean Blvd., stated that the PZC discussed the issue at the request of the Town Council. She stated that she would hesitate to take the issue back to the PZC without direction.

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to recommend the removal of the Business Tax Receipt language from Chapter 134 of the Code and send the reminder of the changes to the Planning and Zoning Commission for further review. Motion carried 3-2, with Council Member Crampton

and Council President Zeidman dissenting.

2. Amendment to the Requirements for Special Exception on Non-Conforming Lots within the Single-Family Districts

Ordinance No. 010-2023: An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article IV, Nonconformities, Division 4. - Land; Section 134-446. Development and Redevelopment of Nonconforming Residential Lots; Article VI, District Regulations, Division 2. - RAA Large Estate Residential District, Section 134-793. Lot, Yard, and Area Requirements; Division 3. -R-A Estate Residential District, Section 134-843. Lot, Yard, and Area Requirements; and Division 4. - R-B Low-Density Residential District, Section 134-893. Lot, Yard, and Area Requirements Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Wayne Bergman, Director of Planning, Zoning and Building, explained the amendments to the Code listed in the proposed ordinance. He stated that the proposed code language would remove the special exception requirement for non-platted, single-family lots that did not meet the lot frontage, lot dimension, or size requirements.

Assistant Director of Planning, Zoning and Building James Murphy stated that the code amendment would remove the applicant's ability to create polygons of developable lots. The lot would have to be a historically platted lot, containing the exact metes and bounds as platted initially, and must have an existing home on it that would be redeveloped.

Council Member Cooney supported the proposed change and thought the language made sense.

Council Member Araskog thought there were changes that the Council could request that could make a difference to neighboring owners. She recommended placing some of these projects on the consent agenda. Council Member Cooney responded and discussed the reasons he did not share Council Member Araskog's concerns.

Council President Pro Tem Lindsay stated she would support this amendment. She said the town ordinances were very strong and had been proven in court. Many complaints were in the far north end, where several nonconforming lots had tiny houses on them. She said these types of issues would come up; however, she believed that the Architectural Review Commission (ARCOM) did a good job reviewing the applications.

Council Member Crampton agreed with Council Member Cooney and Council President Pro Tem Lindsay's assessment.

Council President Zeidman stated that while she voted against this item twice, she supported it today as she better understood the issue.

Council Member Araskog asked staff if the ordinance would govern all lots,

regardless of size. She would prefer it govern only the small lots.

Assistant Director Murphy stated that the ordinance was intended for lots in the R-B district, with a minimum frontage of 100 feet and an area of 10,000 feet. He further indicated that historically, plats were split into 75-foot-wide lots and developed with homes. He said new structures must conform with the lot coverage and setback requirements; however, they also must be reviewed because of the lot size.

Mayor Moore thought staff had provided a clear expectation, and she felt more comfortable with the proposed change.

Council President Zeidman called for public comment.

Anita Seltzer, 44 Coconut Row, stated she had many questions about the proposed changes. She outlined several questions.

Council Member Araskog stated that when there were issues on lots, the Town Council could deal with those issues. She wondered about the reasons that the special exception was instituted.

Motion made by Council Member Cooney and seconded by Council Member Crampton to recommend to the Town Council the approval of Ordinance Number 10-2023. Motion carried 4-1, with Council Member Araskog dissenting.

3. Amendment to the Definition of Building Height, Point of Measurement

Ordinance No. 011-2023: An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article I, in General; Section 134-2, Definitions and Rules of Construction, Related to Building Height Point of Measurement; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Wayne Bergman, Director of Planning, Zoning and Building, explained the amendments related to building height in the Code listed in the proposed ordinance.

Council Member Araskog asked if the proposed ordinance would be more restrictive or less restrictive. Director Bergman stated it was no more or less restrictive.

Council Member Cooney asked about FEMA map changes. Mr. Bergman stated that the ordinance would not need to be modified as FEMA maps changed. However, he stated there could be a possible change in the future to the amount of allowable freeboard.

Council Member Crampton thought the change was technical and the staff had done their homework.

Motion made by Council Member Crampton and seconded by Council

Member Araskog to recommend Ordinance Number 011-2023 to the Town Council for approval.

Council President Zeidman called for public comment.

Jorge Sanchez, 239 Southland Road, asked about the difference in roof height measurements between two different styles of homes. Mr. Bergman responded that part of the change would be based on the height of a structure at completion.

Council Member Araskog asked Mr. Bergman if the building measurement process would remain the same. Mr. Bergman affirmed and added that there would have to be further discussion about whether the height of the building measurement modification was necessary.

Motion carried unanimously, 5-0.

V. ANY OTHER MATTERS

There were no other topics discussed.

VI. ADJOURNMENT

The meeting adjourned at 10:48 a.m. without the benefit of a motion.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk

Date