



# TOWN OF PALM BEACH

## Planning & Zoning Commission

### MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING HELD ON TUESDAY, SEPTEMBER 3, 2024

#### I. CALL TO ORDER AND ROLL CALL

Chair Coniglio called the meeting to order at 9:30 a.m.

Gail Coniglio, Chair	PRESENT
Eric Christu, Vice Chair	PRESENT
Marilyn N. Beuttenmuller	PRESENT
Richard M. Kleid	PRESENT
Jorge Sanchez	PRESENT
Michael Vincent John Spaziani	PRESENT
John J. Tatooles	PRESENT
William J. Gilbane, Alternate	PRESENT
Nicki McDonald, Alternate	PRESENT
Dragana Connaughton, Alternate	PRESENT

#### II. PLEDGE OF ALLEGIANCE

Deputy Town Clerk Gayle-Gordon gave the invocation, and Chair Coniglio led the Pledge of Allegiance.

#### III. APPROVAL OF THE MINUTES

##### A. Minutes of the Planning and Zoning Commission Meeting of August 6, 2024

A motion was made by Vice Chair Christu and seconded by Member Tatooles to approve the minutes of August 6, 2024, as amended. On roll call, the motion carried unanimously, 7-0.

#### IV. APPROVAL OF AGENDA

A motion was made by Member Kleid and seconded by Member Spaziani to approve the agenda as presented. On roll call, the motion carried unanimously, 7-0.

V. COMMENTS FROM THE PLANNING AND ZONING COMMISSIONERS

Member Kleid reported that the Citizens Association had received approximately 70% response from the condominium communities located between Sloane's Curve and the southern end of town. He mentioned that statistics were currently being compiled and anticipated that the information would be distributed to the Zoning consultant, Planning and Zoning, and the Commission very soon.

Chair Coniglio stated that she would recuse herself when the Zoning in Progress is discussed since she owns a building where there is a restaurant.

VI. COMMENTS FROM THE PLANNING AND ZONING BUILDING DIRECTOR

There were no comments heard at this time.

VII. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT, PLEASE

There were no comments heard at this time.

VIII. OLD BUSINESS

A. Code Review Update

Sean Suder, Lead Principal / Founder, ZoneCo.

Mr. Suder from ZoneCo provided a verbal status on the full draft of the zoning code update, which includes all sections of the Town Zoning Code. He mentioned that the draft should be submitted to the Planning staff by the end of the month, giving them time to review and provide comments. The Planning and Zoning Commission is expected to receive the document before the Thanksgiving holiday.

Member Sanchez asked if a copy of the draft could be sent to PZC members at the same time it is sent to the PZB staff.

Mr. Suder stated that a new draft of the zoning code would be submitted to staff, and portions of the draft in strikethrough format. He noted that while some sections would be easy to read, others would include substantive changes. He assured the PZC that ZoneCo would make every effort to provide them with a comparison between the existing code and the proposed changes.

Chair Coniglio asked Mr. Suder if he had any verbal contributions regarding the code since it was her understanding that information would be provided to begin the review. Mr. Suder said that he and the staff had already reviewed the residential districts with the PZC and had sent the commercial districts to the staff for review. He added that having all sections

compiled would make the code easier for everyone to review.

Chair Coniglio inquired about the timeline for review. Mr. Suder responded that the timeline could be discussed further but that staff needed to review the document and provide their comments. He suggested that the code could be reviewed in sections and estimated that it would take most of the upcoming season to complete the review.

Member Gilbane reminded Mr. Suder of the importance of having a schedule available for the PZC and citizens. He asked that it be added to the October agenda. Mr. Suder agreed and said he would collaborate with staff to develop the schedule.

Chair Coniglio confirmed that the PZC should receive the report for their December meeting in November. Mr. Suder agreed that it seemed realistic to get the report to the PZC members in November.

Member Connaughton noted that the PZC had asked for the same information staff would be receiving. She emphasized the importance of knowing what changes had been made and expressed that the sooner the report could be provided, the better to give the commissioners adequate time for review.

Mr. Suder noted that the expectation should not be to receive a 100% complete document. He explained that there would still be a significant amount of discussion and revisions before the zoning code is finalized.

## IX. NEW BUSINESS

### A. Discussion Regarding Zoning In Progress as Related to Resolution No. 069-2024

Chair Coniglio passed the gavel to Vice Chair Christu, and she left the dais.

Mr. Bergman stated that a Zoning in Progress (ZIP) was declared by Resolution No. 069-2024, adopted by the Town Council. This ZIP applies to all commercial zoning districts in the Town, in which restaurants, bars, nightclubs, lounges, and for-profit private clubs are permitted. It is expected to conclude by December 10, 2024, although the Town Council may extend it. The Town Council also included a waiver in the Zoning in Progress Resolution for applications moving forward that were not already in the queue.

Mr. Bergman referenced two memorandums dated July 12, 2021, written by the former Town Attorney, John C. Randolph. In the memorandum, Mr. Randolph discussed the Town's basis for limiting the number of restaurants in a zoning district, or alternatively, establishing a distance requirement between restaurants (i.e., to alleviate traffic and intensity concerns). He said it appeared to bear a reasonable relationship to the public health, safety, morals, and general welfare of the Town. Therefore, the Town could likely establish an ordinance restricting the number of restaurants within a particular zoning

category, or alternatively create a distance requirement between restaurants and bars.

Mr. Bergman discussed the recommendation from Mr. Randolph regarding regulating restrictions or zoning changes. He also talked about the purpose of the Zoning in Progress.

Mr. Bergman discussed the letter from Sean Suder, ZoneCo, dated August 27, 2024. He reviewed threshold questions that needed to be addressed. If those questions were answered in the affirmative and there was a desire to proceed with legislation to manage restaurant capacity, the following potential solutions could be considered and discussed: 1) capping and licensing restaurant seats, 2) re-calibrating off-street parking requirements, and 3) limiting the conversation of other uses to restaurants. Mr. Suder's memorandum detailed information for each of these possible solutions.

Mr. Bergman said that to answer the threshold questions provided by Mr. Suder, the Corradino Group was engaged to submit a scope of work proposal dated August 1, 2024. Their revised scope of services, part of their work under the code review, includes quantifying the total daily a.m. and p.m. peak trips generated by the existing food and beverage establishments in town, assessing parking, and dividing the 60 food and beverage establishments into districts to determine traffic and parking loading in each district. A technical memorandum with their findings and recommendations would be prepared and submitted to the PZC and Town Council.

Eric Czerniejewski, from The Corradino Group, provided a summary status of the Zoning in Progress Food and Beverage Traffic and Parking Evaluation. He explained that the goal of the study was to identify the causes of traffic congestion and explore potential mitigation strategies.

Mr. Czerniejewski stated that the existing food and beverage establishments had been divided into five geographic districts within the Town to assess the traffic and parking impact on adjacent roadways. He discussed each district, including the number of establishments, seating capacity, and daily and peak hour trips.

Member Sanchez asked whether Lake Worth Public Beach should be considered in the calculations. Mr. Czerniejewski noted that, while the area is outside the Town, the PZC could request to include additional areas in the evaluation if they choose.

Member McDonald expressed concern that the numbers provided for restaurant seats could be misleading, as she interprets restaurant seats to mean those available to the public. She pointed out that not all of the seats included in the count were open to the public, noting that while 692 seats are on South Ocean Blvd., 2,500 seats are located in private clubs. She emphasized that these private clubs provide parking for their patrons, and she did not believe parking was being intensified for the seats in private clubs. She also mentioned The Breakers and their customers. Member McDonald suggested that areas with existing parking or those not serving the public should be noted separately in the calculations.

Member Gilbane also noted some of the private clubs are not-for-profit, and do not hold

private events. He thought this should be contrasted with for-profit clubs that do host private events. He suggested an audit to ensure the evaluation numbers are actual.

Ms. Hofmeister-Drew noted that private clubs must serve a certain percentage of town residents. She asked if that specific percentage should be determined and clarified in the update. There was a brief discussion about categorizing the private clubs.

Member McDonald suggested that the type of use should be considered, as establishments might only serve breakfast, lunch, or dinner, with significantly different operating hours. She emphasized that these variations in open times should be factored into the evaluation.

Mr. Czerniejewski concluded his presentation, stating that the evaluation would include all impacts, summarized by district, based on the number of seats and the impact from food and beverage locations. He provided a summary of results from the Traffic and Parking Study and said the plan was to have additional counts taken on local roads. He reviewed the next steps in the process.

Mr. Bergman made some additional staff comments. He referenced correspondence received from Gail Coniglio and thought the question raised about an audit was a valid request. He also noted that Mr. Suder and The Corradino Group were asked if areas of town had already met a saturation point with food and beverage establishments.

Mr. Suder discussed constants and variables, noting the key variable to consider was public restaurants. He mentioned that research using cell phone data provided valuable insights into pedestrian traffic, revealing that Palm Beach tourism has experienced a strong recovery since the pandemic. He acknowledged that the Town is now more crowded than before, based on data supporting that traffic has surpassed pre-pandemic levels. Mr. Suder highlighted that a question for the Town to consider would be how to address these externalities, which would require developing a regulatory approach to manage the number of public restaurant seats, given certain constraints like public parking and roadway capacity.

Vice Chair Christu asked how the cause and effect were to be determined regarding food and beverage analysis. Mr. Czerniejewski explained how trip generation data would be used, and for more localized conditions, trip counts would be done for specific restaurants. He also talked about valet parking and that this information will have to be considered.

Member Tatoes thought determining the origin of the trips using the clubs and restaurants was important data to collect to see what was in-Town generated vs. out-of-town generated.

Member Spaziani pointed out that the Town is fully built out. He inquired whether, in light of the town's built-out status and the ongoing review of the comprehensive plan, it would be possible to consider this issue from the perspective of total square footage. He suggested encouraging smaller square footage for establishments in the future as a

potential approach.

Member McDonald agreed with Mr. Spaziani's overall concept but would not be in favor of a blanket ordinance. She said that any type of restaurant, bar, nightclub, or lounge is a special exception and has to be approved by the Town Council. She thought that looking at each request was prudent in that every element of data could be considered.

Member Sanchez wondered whether lunch or dinner generated the most traffic. Mr. Czerniejewski responded that the evening hours generated more traffic. Member Sanchez suggested that the Town Council should not grant any more liquor licenses to restaurants. Member Tatooles stated that the Town does not grant liquor licenses.

Member Tatooles said the overall measurement should be how the overall character and quality of the Town would be impacted.

Member Kleid cautioned members that during the daytime businesses and offices are also open and generate traffic.

Member Gilbane emphasized that the closure of Southern Blvd. is a reality, and the town should take a proactive approach. He encouraged staff to consider measuring the closure's impacts, noting that this data would aid in forecasting and be valuable for the Town Council. He highlighted that the level of service data would be another important tool for the Town Council to use in their decision-making process.

Member Connaughton cautioned that the restaurants also bring in people to the other businesses for shopping, etc. but she would not like the Town to be a destination.

Vice Chair Christu stated that comments from residents were that the hours between 3:30-5:30 PM were the worst in terms of traffic in Town which he attributed to the trade/service workers leaving Town. He also stated that data was needed to have the ability to make decisions.

In response to Member Tatooles, Director Bergman stated that Mr. Suder will be making a recommendation at the November meeting.

Member Kleid thought a police presence for traffic control would make a tremendous difference.

Member Sanchez suggested that an analysis be conducted regarding the traffic generated during the 3:30 – 5:30 PM hours which is mostly caused by the service workers and suggested that the summer work hours be revisited. Member Connaughton agreed with Member Sanchez and further asked if undergrounding work on major streets could be done at night instead of during the day. She also proposed expanding the working hours for gardeners, with the condition that they use electric equipment to reduce noise levels.

**B. Discussion Regarding Parking/Traffic Circulation Management and**

## Mitigation Strategies

Ms. Hofmeister-Drew introduced the item. She then provided suggested strategies for addressing traffic and parking and reviewed the recommendations.

The first recommendation was to implement staggered arrival and departure times for all trades persons. Town of Palm Beach service providers arrive at 7:30 a.m.

Chair Coniglio mentioned that the worst traffic occurs in the morning when trades persons arrive and, in the afternoon, when they leave town. She asked whether the Commission should discuss this issue further to make a recommendation to the Town Council. Director Bergman noted that while the recommendation could be considered, much thought had already gone into the current schedule for trade workers by the Ordinances, Rules and Standards Committee.

Member McDonald expressed support for Chair Coniglio's idea but inquired about how landscape companies would be monitored. Chair Coniglio noted that there is a code requirement for all trade vehicles to have signs. She suggested possibly designating specific sides of the street for work on certain days, mentioning that Everglades Island already regulates its landscape companies in this manner.

Member Connaughton noted that most land debris is collected on Tuesdays. She suggested alternating days. Member Beuttenmuller thought the construction vehicles were more of a problem than the landscape vehicles since the traffic problem arose after the recent real estate boom. Landscapers were not a problem before that.

Member Gilbane suggested differentiating between construction and landscaping activities. He recommended adding a specific point for construction, noting that the town should consider other construction projects on the same street. His concern was whether construction parking might render roadways impassable. He pointed out that in other cities, the volume of construction vehicles is managed through the permitting process.

Ms. Hofmeister-Drew said Council Member Araskog had suggested revisiting a truck study conducted in 2021, and she said she could bring the recommendations from that study to the next meeting.

The recommendations regarding employees were satisfactory to the PZC members.

Chair Coniglio mentioned the increase in parking fees, and Ms. Hofmeister-Drew noted that the parking program had already gone live. She added that, to her understanding, the fees would be reviewed by the Town Council after one year and adjusted if necessary. She also stated that there will be a detailed plan relating to valet and where they will be able to park the cars.

Member Connaughton noted that some residents had raised concerns that the parking fee increase was negatively impacting small businesses. She expressed a desire to ensure that this was not the case. Ms. Hoffmeister-Drew explained that the

parking issues will be handled on a Town-wide basis.

The Commission discussed tightening town-serving requirements.

Member Beuttenmuller questioned how to enforce town-serving requirements. She also thought a review needed to be made as to what the percentage of the business would be considered town-serving.

Member Gilbane believed that enforcement was a challenge, particularly with the town-serving aspect of the code, which he felt would be difficult to enforce if implemented today. However, he emphasized that this part of the code should be preserved.

Ms. Hofmeister-Drew pointed out that the comprehensive plan does not include a percentage or square footage requirement. She noted two definitions for “town person” and “town resident.” She suggested that language could be incorporated into a policy to regulate the percentages for town-serving establishments, with square footage requirements determined by zoning district.

Member McDonald inquired how the “town-serving” status for new stores coming into the Town would be monitored. She asked what steps these businesses would need to take to comply and raised concerns about how their mail-order business would be factored in. She also questioned whether a strict percentage should be applied and how the monitoring process would be managed.

The Commission decided to move forward with town-serving requirement but understood that more discussion would be needed.

Chair Coniglio said the bicycle strategy is important. She noted that when Wells Road becomes a local road, the bicycle club race participants should have to turn around. Member Spaziani agreed with Chair Coniglio and stated that they were very aggressive and angry. They were too many of them and would like the Police to regulate them as they were a danger to drivers. Member Beuttenmuller spoke regarding single riders who also presented a danger to drivers.

The Commission was interested in obtaining a legal opinion about regulating bicycles on town roadways.

The Commission discussed the restaurant operations and agreed to the recommendations.

The Commission discussed redefining town-serving and Private Group Uses. There was no objection to the recommendations.

Member Tatoes stated that he had re-thought his position on membership limitations, as the actual limitation is the number of seats and parking spaces available as they serve as an actual cap on the number of patrons that should be in an establishment at any time.

Chair Coniglio questioned how a local business could be expected to compete with



a for-profit club. She believed this discussion item was important because for-profit clubs had become valuable in their business model.

Member Spaziani requested an update regarding the Mar-a-Lago Club and the closure of nearby streets. Attorney O'Connor responded, stating she did not have an update on the Declaration of Use. She also noted that she was not aware of any schedule indicating when the former President would be in town. Attorney O'Connor mentioned that the town provides updates on its website about road closures and openings. She had raised questions with the Police Department on behalf of local businesses and said she would follow up. The Declaration of Use is expected to be completed within the next couple of weeks.

Chair Coniglio confirmed that the Commission desired to keep Redefining Town Serving and Private Group Uses on the list.

The Commission discussed discouraging the Town as a regional destination.

Attorney O'Connor advised that this could be discussed more in the future.

Member Kleid suggested that Code Enforcement and Police presence could be added to the Traffic and Parking Strategies list. Member Tatooles agreed and questioned how these measures would function as a town-serving mechanism for reporting. He also asked whether monitoring and enforcing reporting would become a larger responsibility for Code Enforcement.

From a comprehensive perspective, Chair Coniglio thought lane strategies should be considered. She mentioned going north on Cocoanut Row or south on Bradley Place while heading west to the bridge, particularly in front of Royal Poinciana Plaza which does not have a designated left-turn lane. These seem to be problem areas. She suggested some strategies to help with the flow of traffic. Member Connaughton concurred and thought it might help for the light at Main Street and County Road to be a right turn only.

There was a brief discussion about traffic flow and signalization. Member Kleid pointed out that when traveling north on Cocoanut Row, there is no traffic signal for making a left turn at the bridge.

Member Gilbane suggested taking the recommendations that apply to the ZIP first since that is a time constraint. He thought it might be good to then provide some ideas that would be easy to implement.

Ms. Hofmeister-Drew thought the Commission should examine special exception use criteria, but she thought they were close to making recommendations for further study.

Director Bergman suggested that when this discussion is on another agenda, the Police Department and Public Works Department should be invited to attend and participate.

Member Connaughton suggested improving the traffic in the area where Publix is located.

Member McDonald also noted that Council President Pro Tem Crampton had been working with Publix. They have made provisions to patrol the parking lot and improve and update signage.

C. Director's Update on Forthcoming Matters

- Mechanical Equipment
- Ocean Vistas
- Exterior Lighting
- Existing Private Club Uses

Director Bergman reported that mechanical equipment and exterior lighting would be addressed as part of the ongoing Code review. He noted that today's discussion included existing private club uses and mentioned that while there are regulations in place for ocean vistas, enforcement is needed. Member Kleid stated that ocean vistas are not enforced. Chair Coniglio questioned whether any recommendation should be made to the Town Council regarding the ocean vistas. Member Connaughton added that there were also issues with the vista along the Lake Trail, as the new homes being constructed were adding hedges along the trail. She noted that the rules regarding the vista changes when there is a cabana. Chair Coniglio corrected her that when there is a cabana there were specific rules that had to be followed for the approval.

Member Spaziani thanked Member Kleid for his 25 years of service to the Town and suggested the Town Council declare a "Dick Kleid Day" in his honor. Member Kleid thanked the Commission and stated that it was a privilege to work with each member.

Member Sanchez stated that the Town Code regarding having an Archaeologist review certain projects has become ridiculous. He stated that in a particular case, soil was being added to an existing area and five risers were being added to an existing staircase and the client had to spend several thousand dollars to hire an Archaeologist to review the project. He would like the Town to limit the Archaeologist reviews to larger projects.

X. NEXT MEETING: Tuesday, October 1, 2024, at 9:30 a.m.

XI. ADJOURNMENT

A motion was made by Member Sanchez and seconded by Member Spaziani to adjourn the Planning and Zoning Commission meeting at 12:07 p.m. On roll call, the motion passed unanimously, 7-0.

Respectfully submitted,

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Gail Coniglio, Chair

Date\_\_\_\_\_