

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 9, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Planning, Zoning & Building Director

Re: Possible Path Forward for Code Review Efforts

Date: May 28, 2021

BACKGROUND

In early 2019, former PZB Director Josh Martin began developing a path forward to accomplish an overhaul of the Town zoning code, using the Congress for New Urbanism, (CNU) as the primary consultant. CNU developed a "Project for Code Reform Model" in 2016, and this process was described by Mr. Martin as a "way to streamline the code reform process by providing local governments with place-specific incremental coding changes that address the most problematic barriers first, build political will, and ultimately create more walkable, prosperous, and equitable places". The model was presented to the Town Commissions and to Town Council. Details of the CNU process included the steps needed to implement the project, the categories of research and review, and categories of land use regulatory research through which the process was to be delivered.

The final presentations were made to the Town Council on November 13, 2019 and to the Planning & Zoning Commission on November 18, 2019. Ultimately, the Project for Code Reform and the hiring of CNU was not approved by the Town Council. Mr. Martin left the Town's employ in early 2020.

For the time before and after Mr. Martin, "code reform" has been handled in a piece meal process, as evidenced by our list of the ten most crucial zoning problems in February of last year, and by recent actions taken by the Town Council in referring newer items to the Planning & Zoning Commission this year. As zoning code problems are identified, staff and the Planning & Zoning Commission address the matters, and if the solutions are acceptable, the Town Council adopts ordinances to provide the solutions.

Some recent work has already taken place with regards to overall code reform:

- Vulnerability Analysis and Design / Regulation for Resiliency — The Woods Hole Group completed a Coastal Flood Vulnerability Assessment in 2019, which looked at protecting public infrastructure. Woods Hole is now presenting the Town with a Level-Up Palm Beach – A Coastal resiliency Plan to protect the Town from the effects of

rising sea levels. The Town is in the process of updating the FEMA Flood Insurance Rate Maps, which will be implemented in about nine to twelve months. Staff and the Planning & Zoning Commission spent considerable time last year reviewing and preparing zoning code changes which will limit the amount of fill that can be added to properties, which has been a serious concern from both an aesthetic point and a drainage point. Public Works at this time is reviewing the stormwater retention requirement with an eye to adopting the 10-year design storm event. To date, this matter is pending a full text change review by staff and the drafting of an ordinance.

- Complete Streets, Retail Trends, and Parking Resource Management — the Town recently did an RFP and hired Yard & Co. to conduct a Retail Study, which may be completed this upcoming winter season. The Town's Parking Committee and the newly-formed Business and Administrative Committee have reviewed parking challenges throughout the Town and have proposed ordinances to make some of the parking capacity in lower level parking areas accessible to other users, while working street by street to improve parking arrangements. To date, the parking matters are under an ongoing analysis.
- Historic Preservation — the PZB department held a Historic Symposium in December of 2019, along with a public feedback session. This was a great opportunity to hear the visions and recommendations of nationally recognized historic preservation specialists. The Town, with the assistance of the State, adopted the Historically Significant Building program last year, which provides FEMA and Florida Building Code exemptions to certain homes that are at least 50 years old. Early this year the 10-Year Historic Site Survey was completed. Recently the Town Council approved the budget for the study of homes placed under consideration for possible Landmarking to be doubled, which should allow about 25 buildings to be studied in the 2022 fiscal year.

As you can see, some of the work and effort of code review and reform has already taken place or is underway at this time.

GENERAL INFORMATION AND POSSIBLE PATH FORWARD

The PZB department still recognizes the need to continue work on improving the current zoning code. It is outdated, overly complex, and unmanageable due to an extensive patchwork of "fixes" and additions made over the past several decades. It is a conventional Euclidian code developed to match many similar post- WWII codes that were created to manage growth — in suburban areas. In the case of Palm Beach, the zoning code prohibits an owner from replicating many of the existing buildings and spaces that are beloved by many residents. It "shoe-horns" diverse homes (design and mass) and diverse lot sizes into singular, overly prescriptive zoning districts. It is not easy for users to accurately or completely interpret the code as it relates to any item, as regulations for the same item can be located throughout the code.

Realistically, while full and complete code reform may be best, the political will and/or resident support may not exist for this to happen. Historically (I am told) there has been public push back and some reluctance by the Town officials to push forward with full code reform. Reasons for the past push back include the Town official's recognition of property rights and entitlements that presently exist for many homeowners. When zoning regulations are changed, which may diminish an owner's ability develop their property with the full entitlements that

they have today, the Town could be faced with Bert Harris claims. The proposed changes need to be carefully examined to limit any possible litigation. Some code changes could be drafted to allow current regulations to be applicable until a certain date, at which time the new regulations would become effective and the old regulations “sunset”. Staff has had discussions with Skip Randolph on this issue and Skip has identified various options and limits for potential code changes. Code reform / review can be accomplished incrementally, focusing on the most pressing issues of the day, and can be done over time (several years). A possible approach would be to focus on the zoning code concerns, present today, that involve the single-family residential neighborhoods on the north end of the Island. Town officials have heard from many residents that the quality of life in the north end has become compromised by the new larger homes that are either recently built or under construction at this time. The primary concerns are the height, scale, mass, yard setbacks, fill, drainage, and second floor elements that pose privacy concerns to neighbors.

Items that could be reviewed are:

- Convert from CCR to FAR (cubic content ratio to floor area ratio). The use of CCR has always been a bit of a mystery to me (and other staff), as CCR can easily change based on story heights and overall building height. Floor Area Ratios are more common and better regulate the size of new buildings. However, any conversion from the current CCR to future FAR may be problematic, as the smallest lots today have the highest cubic content ratios. Therefore, the conversion would show higher floor area ratios for the smallest lots. But FAR appears to be a much better way of managing the maximum size of new homes.
- Yard setbacks for both the first and second floors in order to further regulate bulk and mass along the front and side setbacks. In some locations, more restrictive front, side, and rear yard setbacks could reduce the impacts of new buildings.
- Second floor mass. Second floor massing could be addressed by limiting the floor areas of second floors to a percentage (e.g. – 75%) of the first floor area. This would reduce the second floor massing and impacts of second floors near property lines and near neighboring buildings.
- Lot aggregation. The joining of two or more lots naturally allows a larger home to be built. An analysis of the streets and neighborhoods (looking at average lot size and average building size and height) could provide the context in which to provide both a minimum and a maximum lot size by zoning district. Also, any proposed FAR could be set with a decreasing FAR as the lot size increases.
- Stormwater retention. Public Works and PZB have asked Kimley Horn to review the 2” of stormwater retention currently required for new development and to propose higher levels of on-site retention, based possibly upon lot size, that can help reduce flooding and gain points on the Community Rating System (CRS Program).

- “Building height” definitions. The code presently has nine separate definitions for building height, which leads to confusion. Creating a uniform definition would be helpful.
- Landscape open space and lot coverage percentages could be reviewed.
- Review the power and responsibilities of Arcom. Staff has discussed the concept of Arcom being granted the power to approve projects with reduced floor area, lower building height, and/or increased yard setbacks if projects do not fully comply with the standards and criteria used now by Arcom in approving projects.
- Focus on generally cleaning up the code. The zoning code is very complex and can be difficult for people to understand. A big piece of amending the code would be to begin simplifying the code text, and adding illustrations and simple tables to help explain the code requirements.

CODE REVIEW & CLEAN-UP PROCESS

From 30,000 feet, the code review and clean-up work plan could look something like this:

1. Town Council commits to the process and establishes a realistic budget, by year.
2. Develop and draft a RFQ for land use / planning consultants. This would require assistance from Purchasing and from Town Council.
3. Town Council to advertise the RFP, then hire the consultant.
4. Analyze existing code and challenges / conflicts within the code.
5. Review Federal and State laws that may drive Town code changes.
6. Conduct Public Outreach — community meetings for education and public input. A series of meetings and symposiums could be scheduled to address areas of concern or matters of interest to the community. Meeting topics could include the background and purpose of land use codes, examine current spaces and building forms in Palm Beach, and good design.
7. Review the matters with the Planning & Zoning Commission, draft new code.
8. Present draft code changes to the Town Council for consideration and adoption by ordinance.

A key piece of the code reform puzzle would be the hiring of a professional consultant to assist the Town perform the reviews and help make recommendations. The consultant group may consist of a skilled land use attorneys, architects and professional planners.