



TOWN OF PALM BEACH

Town Manager's Office

REPORT OF THE ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING HELD ON NOVEMBER 17, 2022

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules and Standards Committee meeting of November 17, 2022 was called to order at 9:30 a.m. by Chair Araskog. On roll call, all committee members were found to be present.

II. PLEDGE OF ALLEGIANCE

Chair Araskog led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Member Cooney and seconded by Chair Araskog to approve the agenda. On roll call, the Motion passed unanimously.

IV. COMMUNICATIONS FROM CITIZENS

There were none.

V. REGULAR AGENDA

A. Old Business

1. Native Landscaping Regulations – Further Review by ORS Committee
Wayne Bergman, Director of Planning, Zoning and Building

Chair Araskog gave an update regarding the length of time between the last meeting earlier this year and today's meeting which was due to changes in staffing as a result of Deputy Town Manager Boodheshwar leaving the Town and the cancellation of the October meeting due to the Preservation Foundation not being informed of the meeting.

Wayne Bergman, Director of Planning, Zoning and Building gave a historical update regarding changes to Chapter 66, Natural Resource Protection. He stated that in November 2021 Ordinance No. 024-2021 was adopted to: raise the percentage of required native plantings from 25% to 35%; calculate percentages on the actual number of plants [categories created]; reference the Institute for Regional Conservation (IRC), Natives for your Neighborhood, as the sole list of native plants; and use the listing of invasive plants from the Florida Invasive Plant Species

Guide (FLIP). Director Bergman stated that since the adoption of the Ordinance there have been questions about the native landscape requirements. He stated that the new regulations mandate 35% of natives for the categories of trees, palms, shrubs and vines/groundcover and that there is the possibility of removing palms as a category. He pointed out that coconut palms are not native to the area. He reported that landscape designers expressed that the 35% minimum requirement seems excessive. He discussed the advantages of shade trees: they enhance the streetscape, provide shade for buildings and yard areas, and help to diminish the heat effect from hardscape.

Member Cooney inquired from Director Bergman how the changes were affecting the department regarding administering the program. Director Bergman stated that they have contracted a Landscape Architect to review the landscape plans for natives.

Amanda Skier, President and CEO, Preservation Foundation of Palm Beach stated that when they advocated for using the Institute for Regional Conservation (IRC) list it was not their intent to limit it to the 33480 zip code, but that they actually offered to fund a special Palm Beach list. The Preservation Foundation is advocating for using the IRC list for the entire state of Florida, not just the 33480 zip code.

Amanda Skier read a letter from Raymond Jungles introducing George Gann, [Founder, President and Chairman of the Board of the Institute for Regional Conservation] and the work that he does. George Gann then spoke regarding native plants in the state of Florida. He stated that he has over 45 years of experience with native plants, gardening, and restoration. He gave a presentation about the benefits of native plants, native plant lists in Florida, advantages of Natives for the Neighborhood, and recommended that the Town continue using the IRC list for native plants.

Chair Araskog inquired of Mr. Gann as to what a compromise might be to expand the list as the landscape architects have requested who have been upset but to also follow the Council's intent on trying to help the environment in trying to set an example and for our ecological system.

Mr. Gann suggested the Town go back as Amanda Skier recommended to make a list that is specific to our Town that would build off of the 33480 list. He explained that on all native lists there are 700-800 species and that is just too much. He stated that having so many options is difficult because those using them just do not know where to start or have the time to research them all. For those reasons he believes that there is a problem with making the list too big and the knowledge base to use it is overwhelming even for him despite his tons of experience. He stated that only 20 to 30 species outside of the 33480 zip code need to be added. He gave some examples from the South that could be added and that the professionals had discussed that they use here. His recommendation is to identify what those are and create a special list for the Town.

From a regulatory administration perspective, he explained that there is no South Florida list, but you could use the FISS list which is another list, but he would need to think about it. He reiterated that having a Town_specific list is best.

Araskog asked how far Preservation had gotten on the list. Amanda Skier said they would be happy to continue working on it. Araskog asked how long it would take to complete a list and to get input from the professional community. Amanda Skier stated that she did send an email out earlier in the year to the landscape architecture community inviting them to provide a list of plants and did receive one answer from Steve West.

Amanda Skier's recommendation on the best way to start is to invite everyone from the landscape architecture community to submit the natives that they use regularly that are not currently addressed in the current list, but could not identify the amount of time needed as it would depend on the level of participation.

Araskog asked if it would be possible to use the South Florida IRC list until this list is developed. Amanda Skier suggested opening up the statewide list for now until the list is developed. Mr. Gann had no opposition to that recommendation.

Mr. Gann explained Natives for your Neighborhood is intended to encourage people, but not to be a regulatory tool. He recommended using the broader list with a focus on educating and encouraging people to use the 33480 list to the extent that they can. In his opinion that is actually a better way forward and it is best to give people a lot of latitude while still having boundaries. He recommended workshops for education purposes and stated that people who are using the Natives for Your Neighborhoods and the zip code lists are reporting back that they consider things they have never considered before and if you can do that freely and voluntarily and you can be excited about that then it is a much better result than too stringent a regulation that forces people to take action that they do not want to take. Mr. Gann stated that if the ordinance could be broadened and have as part of the process internally somehow or in collaboration with the community the creation of a mechanism to encourage people to use 33480, that is the best of both worlds and avoids the pitfalls of going to another list or other alternatives.

Mr. Cooney asked on a broader and philosophical basis that shifted the dynamic to encourage natives is a positive thing for our community to be aware of, but the balance we have to strike to advance these causes, while not changing the feel of our community where the residents live and love. How do we balance this in the long-term advancing the goals while still maintaining our manicured look?

Mr. Gann agreed. He believes we need to provide people with the tools that they are comfortable with like giving a list of what to replace say ficus hedges with natives, but not clusia. He also discussed different natives that can be manicured and expressed his recommendation that we come up with a broader list that incorporates the information from all the professionals. He stated that we should remember at 35%, there is still 65% to work with that is non-native. He does agree that there are few native palms and moving the palms in with the trees or shrubs is worth talking about because of the limited palette.

Mr. Sanchez stated that we need to respect and acknowledge the cultural heritage of the more manicured gardens.

A discussion ensued on all the education in the community and how people are changing and focusing on the environment and natives.

There also was a question about natives and the chemicals. Mr. Gann explained that some natives struggle and when they are stressed, they will be attacked by pests. The key is finding a way to not stress the plants out. You can have a native and put it in the wrong place and it will get attacked. Sometimes when things look bad, they are not ecologically bad but are aesthetically bad. He stated that the list needs to be filtered to what is appropriate.

He supported stakeholder engagement and all sources of knowledge- including local knowledge of the community- to be brought together through a process like Amanda is talking about so the problems others are facing will go away if we want to have thoughtful answers and get real solutions.

Exotics were discussed in regard to the best list. Mr. Gann recommends the list that the state of Florida uses for its exotic management is Florida Invasive Species Council. It was pointed out that FLIP ended up in our ordinance, but it was a scrivener's error.

Jorge Sanchez, Palm Beach resident, spoke in support of Florida native plants. Mr. Sanchez stated that he is anti-pesticide, but that sometimes pesticides must be used. He stated that white fly attacks natives and he believes in spot spraying. He stated he is all for natives in the right habitat and of his history with natives.

Mr. Sanchez spoke of the importance of the history of Palm Beach and its landscape history. He stated that Palm Beach is spoken of in the world as the envy of gardens. He stated that two things make gardens magnificent: first, private citizens historically have been able to do whatever they want and second, they have the funds to do it. He stated that he cannot think of another community where that duo is available. He spoke of his work in hoping to stop Ficus Benjamina and he is now totally against stopping its use. He stated that he is against all regulations put in place three years ago and wants to go back to the Palm Beach he grew up in. He stated that historically what we have tried to preserve is the ability of Palm Beachers to create some of the finest gardens in any community. He believes our laws are so severe that they have gone from being free until three years ago to being absolutely governed by the Town of Palm Beach. He spoke of natives needing maintenance too. He stated he spoke to all the landscape architects and believes 25% is too much, but suggested that if we are going to placate that tiny little group of fanatics then make it 25% with no categories and with Florida Natives and Florida Friendly.

In response to a question from Member Cooney, Mr. Sanchez discussed the challenges with using the 33480 list and needing more choices. He spoke of his issue with the requirement in each of the categories.

Chair Araskog recommended that the landscape architects and Preservation meet

to come up with solutions together and find a compromise. She recommended that Wayne explain the issues we had when we were just using a percentage and not categories. She also discussed the Keys and other areas that have 70%.and much more than we do.

Mr. Bergman discussed the issues before the new ordinance that designers would propose only one type of material to be used in their project and the other problem was that design professionals are all over the world and were using whatever native list they could find and staff had a hard time determining what was native.

Mr. Sanchez stated that Council's responsibility is to speak for the whole town and to respect Palm Beach's history and not change it.

There was a discussion Mr. Cooney directed about smaller lots with limited planting areas, the challenges of meeting all of the categories, and the issue of one size fits all regulation.

Jenny Parker, 215 Jamaica Lane, spoke regarding native plants and pesticides. She spoke of removing Ficus Benjamina and being concerned as a private citizen that she could not put Podocarpus in due to the regulations. She would like to do what she wants. There was a discussion and clarification that if Ficus Benjamina is removed, we do not require the 25% native. She stated that it is better to encourage and educate on the use of natives and pesticides, but not regulate her private property rights.

Mr. Bergman and Chair Araskog explained that only the area of landscape being changed is under the 35% [native requirement] and that the categories are not required. It was also clarified that substantial landscape changes require an ARCOM approval, which has been in effect for years.

Brian Vertesch, SMI Landscape Architecture, spoke regarding Florida native plants – categories and percentages and how the overall math works out. He feels opening the list up all Florida Natives that will go a long way to make the landscape architect community feel much better along with some of the other points Mr. Sanchez raised.

Chair Araskog recommended one more meeting but would take a motion on the list. Member Cooney stated he spoke to people in the Landscape Architect community, but they do not have the time to be here. Chair Araskog was only comfortable going forward with the list.

Member Cooney explained the reason for his dissenting vote regarding raising the percentage of required native plantings from 25% to 35%. He stated that he would be agreeable to the following: revert to the 25% required native plantings and living with it to have a trial period to see if it is the right number. He also supports expanding the IRC list to encompass the entire state of FL and removing all categories. Member Cooney stated that his experience looking at Landscape plans for years is that one size does not fit all and meeting a strict threshold in categories is easy to do in some places and hard to do in others despite his desire for

biodiversity. Chair Araskog stated she would be agreeable to reversing to 25% if all the categories remained, but for 35% if the categories were removed, but would need to require some diversity. Chair Araskog agreed with the opening up the list. She recommended having another meeting in February after Preservation and the Landscape Architects have a chance to discuss it. She also supported meeting earlier in the morning if it would bring more participation with the landscape professionals.

Member Cooney stated that not all Landscape Architects are on the same page with the percentages they support.

Member Cooney stated that his mind would not change. Chair Araskog stated she would like to hear their opinions even if it is via email on going to 35% without categories but with some diversity or 25% with categories. She would like to have one more meeting and to have Preservation Foundation in the interim meet with or email with the Landscape Architects.

Kit Pannil, 4 S. Lake Trail, spoke in opposition to the 35% native plants requirement and we should do 25 %.. She spoke of the fact that her garden would not fit these regulations and that people come from all over to see her gardens > She stated that she doesn't even know if there are any natives in her garden. Mrs. Pannil then stated that people should be able to do whatever they want.

The committee agreed to bring this matter to the Town Council meeting in January, 2023.

2. Maximum Landscape Height of Buffers and Separation Distances Between Landscape Buffers and Neighboring Buildings

Wayne Bergman, Director of Planning, Zoning and Building

Chair Araskog stated that she had a discussion with Director Bergman regarding changes to the current Ordinance. After discussion, the committee agreed to make revisions to Ordinance No. 007-2022 and return with the revised version to the next meeting.

B. New Business - None

VI. ANY OTHER MATTERS

Chair Araskog inquired about the revisions to the Noise Ordinance. Ben Alma, Parking/Code Enforcement Manager explained that the Town Code was revised to reflect the changes to the Ordinance and there was an agreement with the specific hotel in the south end of Town to no longer hold certain events. Chair Araskog suggested hearing this issue at the February meeting. She also mentioned revisiting the prohibited Ficus plants which are causing the Whitefly infestation (as directed by Council for study). Bobbie Lindsay, 212 Caribbean Road, supplied the names of the Ficus plants in question.

It was agreed that Landscape Height, Noise, and Other Ficus plants will be discussed at the next meeting:

Pat Cooper, Palm Beach Civic Association, spoke regarding the Noise Ordinance.

VII. ADJOURNMENT

Motion was made by Member Cooney and seconded by Chair Araskog to adjourn the November 17, 2022 Ordinances, Rules and Standards Committee Meeting at 12:10 PM. On roll call, the Motion passed unanimously.

APPROVED

Julie Araskog, Chair

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

Date