



**PLANNING AND ZONING COMMISSION
MEETING MINUTES
WEDNESDAY, MAY 3, 2023
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 9:28 a.m.

Gail Coniglio, Chair	PRESENT
Rick Pollock, Vice Chair	PRESENT
Richard Kleid, Member	PRESENT
Michael Spaziani, Member	PRESENT (arrived at 10:30 a.m.)
Eric Christu, Member	PRESENT
Marilyn Beuttenmuller, Member	PRESENT
Jorge Sanchez, Member	PRESENT
William Gilbane, Alternate Member	PRESENT
Nicki McDonald, Alternate Member	PRESENT
John Tatoes, Alternate Member	PRESENT

Please note: Mr. Gilbane voted in the absence of Mr. Spaziani

Staff Members present were:

Wayne Bergman, Director of Planning, Zoning and Building
James Murphy, Assistant Director of Planning, Zoning and Building
Jennifer Hofmeister-Drew, Planner III
Kelly Churney, Acting Town Clerk
Robert Garrison, Architect, and Consultant

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. APPROVAL OF THE AGENDA

Motion made by Mr. Kleid and seconded by Mr. Pollock to approve the agenda as presented. Motion carried unanimously, 7-0.

IV. **APPROVAL OF MINUTES FROM THE APRIL 27, 2023, PLANNING AND ZONING COMMISSION**

Chair Coniglio indicated that since the minutes were not available for approval, they would be approved at the next meeting.

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

No one indicated a desire to speak.

VI. **CODE REVIEW ITEMS FOR STUDY & RECOMMENDATION FROM THE TOWN COUNCIL REGARDING PROPOSED AMENDMENTS TO CHAPTER 134 – ZONING**

Prior to the discussions, Ms. Hofmeister-Drew provided an overview of the items that would be moving to the Town Council for approval and the items that would be discussed.

A. **Article VI. District Regulations. Division 8-12. Pertaining to Commercial Zoning Districts Related the Following:**

1. Mechanical Equipment

Ms. Hofmeister-Drew discussed the changes proposed for commercial mechanical equipment in Chapter 134.

Mr. Tatoes stated that he felt that generators on the roof were acceptable. He questioned if there should be a differential of setbacks for one- and two-stories for the 8-foot barrier.

Mr. Sanchez spoke in support of the decision of the setback being determined by the Architectural Review Commission (ARCOM).

Mr. Kleid thought the wording should be in the affirmative for allowing generators on the roof. Discussion ensued on potential wording. Mr. Tatoes spoke in support of including language that outlined a minimum threshold for setbacks.

Mr. Bergman spoke in support of including a minimum regulation and stated that he recommended a 15-foot setback for a one-story building and a 10-foot setback for a two-story building.

Mr. Sanchez stated that the equipment could be very well hidden with a good architect. Additionally, he wanted to include language that ensured that the equipment shall not be roofed.

Ms. Coniglio reiterated the recommended language.

Ms. Coniglio called for public comment. No one indicated a desire to speak.

Motion made by Mr. Kleid and seconded by Mr. Gilbane to recommend to the Town Council the following changes to the language pertaining to mechanical equipment:

a minimum of 15-foot setback for a one-story and 10-foot setback for a two-story or higher building; the equipment shall be screened to the maximum extent possible; change Sec. 134-1729 (J) that generators shall be permitted on the roof of the building and shall not be covered.

Mr. Sanchez inquired if there was a size limit to the equipment, to which Ms. Hofmeister-Drew replied. Discussion ensued.

Ms. Coniglio asked Mr. Garrison if he had any suggestions. Mr. Garrison stated that he felt the language proposed would be helpful to ARCOM.

Motion carried unanimously, 7-0.

B. Article I. In General. Section 134-2. - Definitions and Rules of Construction, Pertaining to the Following:

1. Minimum Flood Elevation (Freeboard)
(Associated Changes to Chapter 18 and 50 Related to Minimum Flood Elevation)

Mr. Bergman reviewed the possible changes to the Code regarding freeboard. He answered questions from Commission members. At the request of Ms. Coniglio, Mr. Garrison provided his input on the freeboard and concerns with the fill. He spoke in support of one foot of freeboard, a maximum grade difference at the property line of one foot to two feet, and as much fill as would be needed to comply with that. He also spoke in support of the drainage being 1 foot, 2 inches, and 2 feet on the side yard.

In response to a question from Mr. Sanchez, Mr. Bergman spoke regarding the grade difference between properties and addressed site walls. Discussion ensued regarding retention walls and the grade difference, as well as FEMA regulations that may impact these standards.

Mr. Christu stated that he felt that massing was a separate issue and discussed the importance of having effective drainage. Discussion ensued regarding landscape screening, site walls, and drainage.

Ms. Coniglio asked about the 3 items to be considered. Mr. Bergman stated that the freeboard issue was the main item to be discussed. Discussion ensued on the proposed freeboard requirement. Mr. Murphy discussed how Miami Beach had regulated building height with freeboard. Mr. Sanchez suggested allowing the applicant to choose one or two feet of freeboard.

Ms. Coniglio called for public comment.

Anne Pepper, 333 Seaspray Avenue, spoke in support of revisiting the issue of two inches of drainage.

Further discussion ensued regarding what should be the proposed freeboard requirement.

Motion made by Mr. Pollock and seconded by Ms. Beuttenmuller to keep the freeboard requirement at 1 foot. Motion carried, 6-1, with Mr. Kleid dissenting.

VII. **DISCUSSION AND POSSIBLE ACTION REGARDING THE FOLLOWING ITEMS:**

- A. Review and Recommendation to Town Council on the Zoning In Progress (Zip) Resolution No. 040-2023, Relating to Restaurants, Bars, Lounges, Nightclubs and Private Clubs

Mr. Bergman discussed the zoning in progress that had been established and spoke regarding the documents that had been provided to the Commission. Mr. Bergman spoke regarding items that the Commission should consider. He requested that the Commission review the information and explained that the Parking Study needed to be completed before the item would be considered for approval.

Ms. Coniglio expressed concern that the Code was not restrictive enough regarding changing retail to restaurants. She spoke regarding the possibility of having incentives rather than violations for enforcement of Declaration of Use Agreements. Discussion ensued regarding the enforcement of Declaration of Use Agreements and issues surrounding the expansion or intensification of use of certain businesses.

Mr. Bergman stated that the changes to be made would require a special exception approval. Mr. Bergman suggested that some of the items in the Declaration of Use Agreements could be added to the code to reduce the subjectivity of enforcement. Mr. Gilbane spoke regarding the importance of addressing the intensity of use when reviewing the expansion of businesses.

It was the consensus of the Commission to revisit the issue when more data was available.

- B. Recommendation to Amend Resolution No. 3-00, The Breakers Planned Unit Development (PUD-A), Related to Site Modifications at the Tennis Center

1. Discussion
2. Draft Ordinance

Ms. Churney swore in all intending to speak on this issue.

Ex parte communications: Disclosure by Ms. Coniglio.

John Lindgren, Planner with Gunster representing The Breakers, presented the plans that showed the modifications to the tennis courts and explained the amendment to the PUD. Ms. Hofmeister-Drew discussed the process of amending the PUD. She indicated that the

plan would be seen at ARCOM in May, and the Town Council as well. Mr. Lindgren answered questions from Commission members.

Motion made by Mr. Sanchez and seconded by Mr. Pollock to approve the amendment to Resolution No. 3-00, The Breakers Planned Unit Development (PUD-A), related to site modifications at the Tennis Center as presented. Motion carried unanimously, 7-0.

C. Discussion Regarding Addition Meeting Dates Proposed by Code Review Consultants

Mr. Bergman provided background on the proposed schedule for the summer months and the possibility of Zoom meetings. He answered questions from Commission members.

Mr. Pollock expressed concern that ZoneCo would not be physically present at all the proposed meetings. Ms. Coniglio expressed concern over the additional costs associated with having the consultants present at each meeting and inquired about the requirement for a quorum to be present. In response to questions from Commission members, Mr. Randolph stated that alternates would vote if they constituted a quorum who was physically present and clarified who would vote in the situation of a Zoom meeting.

It was the consensus of the Commission to allow Zoom votes to count if there was a quorum present and that alternates may vote if they were physically present and regular members were on Zoom. Discussion ensued regarding how it would be determined which alternate(s) would vote.

Mr. Bergman requested that Commission members send a message to Ms. Fabrizi to notify her if they will be attending a meeting via Zoom. Discussion ensued regarding changes to the proposed meeting schedule.

VIII. **COMMENTS FROM THE PLANNING AND ZONING COMMISSIONERS**

Mr. Tatoes expressed concern over using new urbanism concepts in relation to the Town's Comprehensive Plan. Mr. Hofmeister-Drew stated that the Town had no intent on moving towards new urbanism concepts and clarified what had previously been presented pertaining to the Comprehensive Plan. Discussion ensued regarding the purpose of a Comprehensive Plan and what was considered during the review process.

IX. **COMMENTS FROM THE PLANNING AND ZONING BUILDING DIRECTOR**

There were no comments heard at this time.

X. **ADJOURNMENT**

Motion made by Mr. Sanchez and seconded by Mr. Spaziani to adjourn the meeting at 11:23 a.m. Motion carried without the benefit of a roll call.

Respectfully Submitted,

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

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