



# TOWN OF PALM BEACH

## Planning & Zoning Commission

### MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING HELD ON TUESDAY, AUGUST 6, 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 (arrived at 9:33 a.m.)
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 AGENDA**

**A motion was made by Member Kleid and seconded by Member Christu to approve the agenda. On roll call, the motion passed unanimously.**

#### **IV. COMMENTS FROM THE PLANNING AND ZONING COMMISSIONERS**

Chair Coniglio thanked Member Kleid for his service to the Commission. Member Kleid informed the Commission that the Citizens' Association of Palm Beach and Sean Suder had created a survey, which was distributed to all the buildings south of Sloane's Curve, requesting input on what residents would like to see happen in that area. The survey was due on August 15, 2024. He stated that most residents had responded and that the results would be shared with the Departments, Commission, and Town Council. Chair Coniglio expressed her gratitude for the survey and hoped there would be opportunities to expand it townwide.

*Clerk's Note: Mr. Sanchez arrived at 9:33 a.m.*

#### **V. COMMENTS FROM THE PLANNING, ZONING AND BUILDING DIRECTOR**

There were none.

#### **VI. APPROVAL OF THE MINUTES**

##### **A. Minutes of the Planning and Zoning Commission Meeting of June 4, 2024**

**A motion was made by Member Kleid and seconded by Member Spaziani to approve the Minutes of the June 4, 2024, Planning and Zoning Commission Meeting. On roll call, the motion passed unanimously.**

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

There were none.

#### **VIII. NEW BUSINESS**

##### **A. Review of Four Arts Property Amendments & Zoning Map**

Ordinance No. 020-2024 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida; Amending the Adopted 2017 Town of Palm Beach's Comprehensive Plan Pursuant to Chapter 163, Florida Statutes; Amending the Future Land Use Map of the Comprehensive Plan by Changing the Future Land Use Designation for Parcels of Land More Particularly Described in Exhibit C, from "Public", "Recreation" and "Single Family", Respectively to "Private Group Use"; Providing for Inclusion into the Comprehensive Plan; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Jennifer Hofmeister-Drew, Planner III, explained the item. She stated that this was the next step in the process for The Four Arts. She mentioned that they had previously appeared before the Planning and Zoning Commission to modify the private group use and to establish a new Cultural Institution Zoning District. This step included the map amendments and the rezoning of the entire property.

*Clerk's Note: Members Christu and Sanchez recused themselves and left the dais.*

Attorney Harvey Oyer, representing the Society of the Four Arts, presented the request.

Mr. Bergman noted there had been no public comments. He said this would be the next logical step in the process.

Member Tatooles requested clarification regarding the map. Member Beutenmuller pointed out a few scrivener's errors. Ms. Hoffmeister-Drew responded to the questions and comments about the maps and labeling. Attorney Oyer said he would work with the staff to make the necessary changes.

**A motion was made by Member Kleid and seconded by Member Tatooles to approve Ordinance No. 020-2024. On roll call, the motion passed unanimously 7-0, with alternates Gilbane and McDonald voting due to the recusal of Members Christu and Sanchez.**

Ordinance No. 021-2024 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Amended Official Zoning Map of the Town of Palm Beach Updated July 26, 2022; Rezoning Parcels of Land More Particularly Described in Exhibit B, From "R-B Low-Density Residential "District, to "CI Cultural Institution District"; Providing for Inclusion on the Zoning Map; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

**A motion was made by Member Kleid and seconded by Member Spaziani to approve Ordinance No. 021-2024. On roll call, the motion passed unanimously 7-0, with alternates Gilbane and McDonald voting due to the recusal of Members Christu and Sanchez.**

Attorney Oyer thanked the Commission and, specifically, Member Kleid for his years of service.

**B. Review of Resolution No. 073-2024, Modifying the Tennis Centre to have Two Padel Courts**

Resolution No. 073-2024 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Resolution No. 3-00, The Breakers Planned Unit Development (PUD-A), to Authorize the Renovation and Reconstruction of the Breakers Tennis Center to Add Two Padel Courts.

John Lindgren, Gunster Law Firm, representing the Breakers Hotel, presented this item.

There were no staff comments.

Member McDonald spoke regarding the lighting. She noted the previous discussion about the lighting and wanted to ensure it was appropriate based on that discussion. Mr. Lindgren responded to her queries. He said the lighting poles previously approved were different from what would be used for the Padel courts. He said the lighting would be specifically directed to the court surfaces.

Member Spaziani requested additional details on the shade structures where the old courts were located. Mr. Lindgren showed where the shade structures would be located. He said the last thing that would be installed would be the landscaping, which would be greatly enhanced. He also noted that the buffers had been enhanced, and the idea was that once the landscaping was installed, the shade structures would not be visible. Member Spaziani asked Mr. Lindgren to describe the hardship causing variance requests. Mr. Lindgren responded.

Mr. Sanchez did not think the landscaping would grow large enough to camouflage the shade structures. He thought that ARCOM might need to take a closer look. Mr. Lindgren said if the structures were visible, it would be addressed.

Mr. Tatoes wanted to understand parking accommodations for the additional Padel courts. Mr. Lindgren said the tennis center was intended for hotel guests.

**A motion was made by Member Christu and seconded by Member Spaziani to recommend the adoption to the Town Council of Resolution No. 073-2024 based upon the submission meeting findings pursuant to Sections 134-227 through 134-233 as they relate to special**

**exception uses. On roll call, the motion passed unanimously.**

## **IX. OLD BUSINESS**

### **A. Review of Draft 2024 Comprehensive Plan**

- Submittal of the Complete Draft of the 2024 Comprehensive Plan Change from Town Person to Town Resident
- Changes to the Transportation Element per the TOPB Traffic & Parking Study

Ms. Jennifer Hofmeister-Drew, Planner III, presented the changes to the entire draft of the 2024 Comprehensive Plan. She summarized what had been done with each element.

Chair Coniglio asked if there was a description of Town Serving. Ms. Hofmeister-Drew responded. Chair Coniglio inquired whether there was a definition for regional retail. She wanted to ensure that town serving was managed properly, as this would protect small businesses. She also asked for the definition of a public facility. Ms. Hofmeister-Drew explained that public facilities and services was a general term widely recognized in the planning and engineering fields. She mentioned that it referred to public services and facilities operated and managed to serve residents. She noted that an interesting point had been raised concerning the protection of the Town's character and suggested addressing it through the definition of commercial or commercial/retail establishments.

Mr. Gilbane clarified that certain retail establishments might come into Palm Beach and pay proportionately high rents just to have a Palm Beach address. These businesses would be considered a regional attraction. He suggested that the Town needed to find a way to address these regional draw retail establishments that were not desirable in Palm Beach. He noted that the problem with larger businesses was that they drove up rents, making it difficult for small business owners to afford them.

Joanne O'Connor, Town Attorney, advised that the dormant commerce clause in the United States Constitution prohibits municipalities from discriminating against out-of-state businesses. She discussed recent case law from the 11th Circuit Court of Appeals over the last fifteen years involving municipalities in the Florida Keys that had attempted to avoid certain businesses by targeting the square footage required by those entities. The court held that such practices were unconstitutional. She also cautioned using the term "variance" on Page 7, as there is no concept of granting a variance from a Comprehensive Plan provision. She suggested that it could be addressed through a zoning code ordinance and recommended using the term "waiver" instead of a traditional variance. Ms. Hofmeister-Drew stated that the

variance language would only be in the Code of Ordinances.

Chair Coniglio asked if “variance” could be used in the Comprehensive Plan. Ms. Hofmeister-Drew said that variances are Code language, not policy. Chair Coniglio asked if “2,000 square feet” could be included in the Comprehensive Plan, and Ms. O’Connor said yes.

Mr. Tatoes wondered whether measurement standards would be developed to monitor compliance. He suggested a policy be written that would include tools for annual monitoring of businesses' compliance with the Town-Serving requirements should be developed. Ms. Hofmeister-Drew responded that enforcement mechanisms would be developed in conjunction with ZoneCo during the Zoning Code update to address the implementation and compliance monitoring of policy changes and new policies. The Town would have one year to address these items. There was some concern about the reality of this type of compliance monitoring.

A brief discussion ensued about whether small businesses could survive off-season if their businesses were limited to residents. Ms. Hofmeister-Drew noted that some policies were to deter regional destinations. Chair Coniglio asked if, since there is a formula for restaurants in the code, there should be a formula for retail as well. Attorney O’Connor advised exercising caution because the same legal considerations would apply.

Ms. Hofmeister-Drew summarized the changes made to the Transportation Element and reviewed the Goals, Objectives, and Policies.

Chair Coniglio, who supports elevating service levels, asked if the Commission members were also in favor.

Ms. McDonald referenced the executive summary and asked if one of the contributing factors should be the increased road closures and security for Mar-a-Lago. Ms. Hofmeister-Drew said yes but thought the statement should be global and not specific to one area.

Mr. Gilbane believed that the island had unique transportation issues and elements. He thought that, in the principle of equivalency and in the traffic study, there should be a focus on the community being a barrier island and that the study should consider what was best for the island specifically. He felt this was a valid reason for the Town to be cautious about relying on regional and countywide studies.

Mr. Christu asked about the traffic study, and Ms. Hofmeister-Drew stated that the recommendation was for a townwide traffic study that would cover approximately fourteen segments.

Mr. Eric Czerniejewski of the Corradino Group spoke about the fourteen segments that should be covered by the traffic study.

Public Comment

Anita Seltzer, 44 Cocoanut Row, Palm Beach, FL, asked for clarity of the language in the document and offered some examples. Ms. Hoffmeister-Drew responded.

Mr. Eric Czerniejewski, Corradino Group, responded to Ms. Seltzer's query regarding data collection.

Ms. Hofmeister-Drew reviewed the remaining elements of the Comprehensive Plan. She summarized the proposed changes.

Chair Coniglio asked if there was an opportunity to add public facilities as roadways and if there was a requirement to maintain or upgrade them since additional development options were being taken into consideration in the document. Ms. Hoffmeister-Drew stated that it was addressed with a proportionate fair share, which is statutorily required.

Mr. Tatooles asked if the Town was legally allowed to charge project impact fees. Mr. Bergman stated that to charge impact fees, a full engineering study must be conducted to identify needs, and the study must be in place to outline which projects would be included in the capital plan and funded by impact fees. Mr. Tatooles expressed interest in seeing a policy that would allow for the exploration of potentially charging impact fees for future projects. Ms. Hofmeister-Drew mentioned that she believed this was already included in the comprehensive plan, but she would verify and ensure it was properly documented.

Ms. Hofmeister-Drew explained the next steps in the process.

**A motion was made by Member Kleid and seconded by Member Spaziani to approve the draft 2024 Comprehensive Plan being moved forward to the Town Council. On roll call, the motion passed unanimously.**

Mr. Sanchez asked about incentives for property owners to maintain their properties as is, rather than making changes, to encourage the preservation of the town of Palm Beach's character. Mr. Bergman responded that there were incentives for landmarked buildings and certain sections of the zoning code that offer zoning waivers. He suggested that a policy be written to reference the ability to incentivize the maintenance of landmarked homes as they currently are.

Public Comment

K.T. Catlin, 265 Fairview Road, Palm Beach, FL, discussed many references under

land use where new districts could be considered. She believed all districts in the land use section should be reviewed for validity. She also had comments about the goals and policies under the Future Land Use Element. She spoke about the importance of maintaining the facilities to accommodate wireless telephone services.

Carla Alexander, 174 East Inlet Drive, Palm Beach, FL, commented on the transportation element. She asked if anyone had considered implementing tolls on the bridges to help with traffic control. Ms. Hofmeister-Drew responded.

B. Director's Update on Forthcoming Matters

- Status of Zoning in Progress (ZIP)
- Mechanical Equipment
- Traffic Strategies
- Ocean Vistas

Wayne Bergman, Director of Planning, Zoning and Building, gave an update on the Zoning in Progress (ZIP)

X. **NEXT MEETING DATE:** Tuesday, September 3, 2024, at 9:30 AM

XI. **ADJOURNMENT**

**A motion was made by Member Sanchez and seconded by Member Beutenmuller to adjourn the Planning and Zoning Commission meeting at 12:14 PM. On roll call, the motion passed unanimously.**

Respectfully submitted,

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Gail Coniglio, Chair

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Date