PLANNING AND ZONING COMMISSION
MEETING MINUTES
TUESDAY, AUGUST 17, 2021 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, Secretary to the Planning & Zoning Commission at (561) 227-6408.

I. CALL TO ORDER AND ROLL CALL

Chair Ainslie called the meeting to order at 9:29 a.m. All members participated via Zoom Webinar due to the COVID-19 pandemic.

Michael Ainslie, Chair	PRESENT
Richard Kleid, Vice Chair	PRESENT (joined at 10:00 a.m.)
Rick Pollock, Member	PRESENT
Michael Spaziani, Member	PRESENT
Eric Christu, Member	PRESENT
Marilyn Beuttenmuller, Member	PRESENT
Jorge Sanchez, Member	PRESENT
William Gilbane, Alternate Member	PRESENT
Nicki McDonald, Alternate Member	PRESENT
John Tatooles, Alternate Member	PRESENT

Please note: Mr. Gilbane voted in the absence of Mr. Kleid until he joined the meeting at 10 a.m.

Staff Members present were:
Wayne Bergman, Director of Planning, Zoning and Building
James Murphy, Assistant Director of Planning, Zoning and Building
Paul Castro, Zoning Manager
Sarah C. Pardue, Historic Preservation Planner
Brad Falco, Planner 1
Kelly Churney, Secretary to the Planning and Zoning Commission

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. APPROVAL OF THE AGENDA

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

IV. **APPROVAL OF JUNE 15, 2021 PLANNING AND ZONING COMMISSION MINUTES**
Motion made by Mr. Spaziani and seconded by Mr. Christu to approve the June 15, 2021 meeting minutes as amended. Motion carried unanimously, 7-0.

V. **COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE**
There were no comments heard at this time.

VI. **PROPOSED INCENTIVES FOR LANDMARK BUILDINGS AND STRUCTURES**
Mr. Castro explained the draft ordinance sent for review was a starting point to provide some landmark incentives. Mr. Castro provided a history on the inception of the zoning waivers from 2007. He indicated only one waiver had been approved since that time. Town Council had asked staff to review the waiver process and come up with incentives for landmark homes that would be more meaningful, and provide a faster process to get some relief for landmark homes. Mr. Castro commented zoning relief in the draft ordinance was based on conditions for minimum side and rear yard setbacks, minimum landscape open space, and maximum lot coverage. The previous waiver process would be eliminated and replaced with the new waiver which would be approved by the Landmarks Preservation Commission. These items could be increased or decreased. The point was to provide incentives and encouragement for property owners who had buildings worthy of being landmarked.

Mr. Tatooles inquired about inconsistent language in sections 234 and 235, specifically "required to be granted." Mr. Castro stated he would change this to "may be granted." Another possible change was discussed in section 234. Mr. Tatooles asked about notice to neighbors. Mr. Castro advised it was consistent with the existing notice provisions. Mr. Castro clarified the side yard setback relief only applied to one-story additions. Lot coverage applied to one or two stories additions that were interior and further away from a neighbor.

Ms. McDonald inquired how this proposed ordinance would apply to ARCOM. Mr. Castro stated this ordinance would not apply to the Architectural Review Commission. Ms. McDonald noticed there were links listed on the website for the Landmarks Commission, and suggested a video link for people considering renovating or buying a landmark house. Mr. Castro deferred to Director Bergman on that issue.

Mr. Ainslie asked about the language of landmarks and older homes. Mr. Castro stated staff had removed language for older homes and this would focus only on landmarked homes.

Ms. Beuttenmuller commented there was a difference between a landmark and a landmarked home. Discussion ensued. Ms. Beuttenmuller asked for the word landmark to be changed to landmarked except when used for the Landmarks Preservation Commission, and that term should be capitalized. Also, Town Council was inconsistently capitalized. Mr. Castro explained that within the code the commission names and town council were not capitalized. Mr. Castro agreed to other grammar changes, and to change language regarding appeals to Ms. Beuttenmuller's suggestions. Mr. Castro did not believe it was necessary to state who could appeal, but that was up to the board.

Mr. Sanchez commented in the R-B District, most of the houses that were landmarked were small, such as on the Sea streets. He questioned the eligibility of some of the small homes that exceeded the setbacks. Mr. Castro responded that was open for discussion. He suggested to consider landscaped open space, which now was 3% of existing, and could be changed to 2% or 1%. He felt many of the homes were non-conforming to the landscaped open space, and could benefit from some relief from the existing open space and not to the code. He confirmed a neighbor could always appeal to the Landmarks Commission. Mr. Sanchez thought most of the landmarked homes in the R-B District would not qualify, and it would be more flexible to leave it open for the Landmarks Commission's decision rather than a percentage. He felt the percentage would be good for all zoning districts except the R-B district.

Mr. Bergman advised the word landmark was defined in the code, and Mr. Castro had been correct using that word throughout except adding an "s" at the end for the Landmarks Preservation Commission.

Mr. Spaziani commented that with undergrounding, the rear easements would no longer be needed. He asked how this would affect the ordinance. Mr. Castro responded there would be no effect. The easements would be abandoned in the future.

Mr. Castro stated he needed more direction on Mr. Sanchez's recommendation.

Mr. Ainslie agreed with Mr. Sanchez's recommendation on the R-B Zoning District and thought staff should research and provide analysis on the percentages and which would provide some incentives. Mr. Sanchez agreed.

Mr. Tatooles asked about objective and subjective criteria. Chair Ainslie responded they were looking for objective rules, not subjective. Mr. Castro commented he believed he only needed to look at the sea streets, which was the oldest part of town, and could come back with better language.

Mr. Castro stated he was going to look at only one-story additions. He added that if the additions were too close to the property line, then a consent from the neighbors would be required.

Mr. Pollock commented he lived on the Sea streets and incentives were fine. However, today's discussion had been about structures that would be followed. He felt the Sea streets should have a separate code section if they were to be treated differently. Mr. Castro commented he could make a separate section, but the recommendation for setbacks was 5 feet from the property line. He agreed with Mr. Sanchez that the open space could be looked at, and he thought the setbacks as drafted were fine. He proposed bringing back language leaving the percentage at three, but from the existing, not what the code was. He advised drainage requirements as they related to the addition on the house, and thresholds relating to renovation would still have to be met.

Mr. Christu felt the first order of business was to do the analysis of whether they were spending time discussing something that was going to be unapplicable to all or most of these properties, which could be figured out pretty quickly. Mr. Castro responded on the Sea streets, mostly impacted were the accessory buildings. The provision relating to the minimum five-foot setback, if taken away, that would provide more flexibility to the accessory buildings. Mr. Christu was worried about unintended consequences; even if the neighbors did not object with the proposed, the code wouldn't allow it. Mr. Castro responded the intent was not to build an addition onto an accessory building or a house closer than five feet, or right on the property line. Mr. Christu thought the alternative to not creating incentives would be people would build bigger houses. He was not sure this would create an incentive because it might not apply to many properties. Mr. Castro stated it would apply to most properties in the town.

Chair Ainslie requested staff come back in the next month or two with something that looked at the Sea streets, and whether more incentives could be added, with something the Landmarks Commission could use as good criteria for rules.

VII. **DISCUSSION ON RETAIL STUDY**

Mr. Bergman reported Town Council had requested the commission's input regarding completion of the retail study. He discussed the concerns of retail in the Town. The Town Council supported a retail study. Staff had worked quickly to obtain an RFP for a retail study. In February 2021 an award was made to Yard and Company to conduct the retail study with the caveat that the study would begin in the fall of 2021. Since that time, code reform had been discussed, and Town Council had directed to move forward with code reform, so an RFP was being developed to hire a planning firm as a code reform consultant. It was apparent many of the tasks of Yard and Company would overlap those of the code reform consultant. Staff had reviewed different options: (1) change nothing and let Yard and Company move forward and do the RFP for code reform (2) scale back the retail study since retail seemed to have increased, (3) pull the retail study from Yard and Company and award the tasks to the code reform company, or (4) cancel the retail study, as it may no longer be needed. Staff recommended keeping both studies, possibly reducing some overlap in tasks He asked for input from the commissioners on the retail study, and advised he would take their comments to Town Council in September.

Deputy Town Manager Boodheshwar was available for questions.

Mr. Spaziani thanked Chair Ainslie for his work on retail, and stated the situation had now changed and retail was strong, so he was not sure that study was needed. He felt code reform was a good idea.

Mr. Gilbane thought a boutique retail study was still valid and important for the future. He felt it would support the work of the code study, but their work should be coordinated so as not to pay twice for the same work.

Mr. Pollock felt a retail study should conform to the town's needs, and to hold off for now until it was decided what questions they should answer, but it might be needed in the future. He thought the Commission should decide what they wanted, and make the comprehensive plan conform to those needs, and then as a consulting aspect to go to a retail firm and ask for their thoughts.

Ms. McDonald thought it was important to proceed with the Yard and Company study, but possibly reduce its scope. Code reform would definitely go ahead, and she thought that Yard and Company's study would provide a benefit. She deferred to Director Bergman on the possibility of reducing the staff time involved in the Yard and Company study, which would also reduce the cost.

Mr. Christu felt the retail study should go ahead.

Chair Ainslie commented the Yard and Company study would be fairly quick, and code reform would be much longer. He felt the scope should be sharpened and make sure the two were meshing, and that the retail study should proceed. It could provide information for the code reform team as they continued their process.

Mr. Tatooles thought retail had changed, and wanted to defer the retail study for a few months from now until retail activity normalized.

Mr. Sanchez felt hiring Yard and Company was imperative for the code reform study. Their study had nothing to do with COVID but with the fact that people were purchasing from their computers and not big box stores. Large retail spaces could be opened, with upper floors becoming residential. This information would be needed for code reform.

Mr. Kleid thought there was a problem meshing the studies and doing both at once. He felt the retail study should wait until the pandemic was over. He felt the retail study could benefit from what came out of code reform.

Ms. Buettenmuller thought the retail study should wait another year, or at least a few months.

Chair Ainslie commented clearly there had been a resurgence in occupancy of retail spaces, but he had talked with landlords and found many of the leases were only one-year leases. Normal planning consultants were not nearly as attuned to retail as to the rest of the zoning mix. He commented some people felt there was too much retail, but Neiman Marcus had 160,000 square feet with 200 parking spaces which was completely underutilized. If the retail study was deferred, something had to be done about the scope of work for the other planning consultant to address retail or eliminate it. He felt there was a great deal of value in the Yard and Company team, including a nationally regarded consultant in the areas in which the Town needed advice. His strong feeling was to go with Director Bergman's number two option; to pare back the Yard and Company consulting study and take out some of the marketing and branding. He added there was a strong feeling in the retail community that a strategy would be very welcoming.

Director Bergman explained in order to scale back, the RFP would be reviewed and staff would determine the components to be removed and take it to Town Council.

Mr. Pollock felt retail should not be the primary concern, and the two studies would conflict.

Ms. McDonald felt they were not conflicting if Yard and Company was scaled back, and they would come in to do a refresh of what was happening currently, and looking ahead. She felt doing code reform first and then the retail study might result in having to redo work, while starting with Yard and Company looking at the big picture was really important. She commented on the possibility that the code reform consultant would require a similar number of staff hours as required by Yard and Company, and some of that could be done at the same time. She thought Yard and Company should come before code reform.

Motion made by Mr. Spaziani and seconded by Mr. Pollock, to defer the Yard and Company study and continue with code reform.

Deputy Town Manager Boodheshwar commented Town Council had approved a contract with Yard and Company in February and asked staff to defer commencement of that study until this fall. It was still a couple of months away from commencing, so it was already deferred, but could only be deferred so long. Mr. Pollock responded the Commission was giving their opinion, which Town Council could override.

Motion carried 4-3, with Messrs. Christu, Sanchez, Ainslie opposed.

VIII. COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR

Director Bergman had no further comments.

IX. ADJOURNMENT

Motion made by Mr. Kleid and seconded by Mr. Sanchez to adjourn the meeting at 10:55 a.m. Motion carried unanimously, 7-0.

Respectfully Submitted,

Michael Ainslie, Chair
Town of Palm Beach
Planning & Zoning Commission