



TOWN OF PALM BEACH

Minutes of the Planning and Zoning Commission Meeting Held on June 2, 2026

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 9:30 AM in the Town Council Chambers.

Members Present: Gail Coniglio, William Gilbane, Marilyn Beuttenmuller, Jorge Sanchez, Barbara Chapman, Carol LeCates, Martin Klein, Matthew Ailey, Victoria Donaldson

Member Absent: Anne Fairfax

Staff Present: Wayne Bergman, Jennifer Hofmeister, Friederike Mittner, Pat Gayle-Gordon, and Attorney Peter Henne

PLEDGE OF ALLEGIANCE

Deputy Town Clerk Gayle-Gordon delivered the Invocation, and Chair Coniglio led the Pledge of Allegiance.

MINUTES

1. Minutes of the May 5, 2026, Planning and Zoning Commission Meeting

Mr. Sanchez stated that he had revisions to the Minutes regarding his comments on page 3. He was requested to provide the written revisions to the Deputy Clerk for inclusion in the Minutes.

A motion was made by Mr. Klein and seconded by Mr. Gilbane to approve the minutes of the May 5, 2026, meeting as amended. The motion was carried unanimously, 7-0.

APPROVAL OF AGENDA

A motion was made by Mr. Klein and seconded by Ms. Chapman to approve the agenda as presented. The motion was carried unanimously, 7-0.

COMMENTS

2. OFFICIALS

Ms. LeCates brought up the language in the Minutes regarding a prior discussion about the distinction between intensity of use and floor area ratio. She said the language in the Comprehensive Plan referred to "patterns of intensity of use." She thought that the minutes may not have clearly captured the conversation. She noted that Attorney O'Connor had commented that the language referred to "changes in patterns." Ms. Hofmeister responded that the language is included in the data analysis. Mr. Gilbane explained that the intent was to adopt stronger language in the Comprehensive Plan so that, when drafting the Land Development Code, there would be clear criteria addressing intensity of use rather than only patterns of use. He noted that, at the time, developers often argued they could build to the maximum allowable intensity but proposed a lesser intensity, creating the impression of a compromise. However, he pointed out that if a property currently has little or no intensity of use, even a reduced proposal may still represent a significant increase. Mr. Gilbane also emphasized that the Comprehensive Plan supports encouraging lower-intensity development and that this principle should guide future code provisions.

Chair Coniglio suggested that this discussion be placed on next month's agenda.

3. STAFF

Director Bergman reported that staff had held 3 productive meetings with a South End citizens' advocacy group regarding the code reform process for the R-D(1) and R-D(2) districts. The discussions focused on redevelopment incentives, including potential adjustments to lot coverage, setbacks, reduced density, and options for covered or enclosed parking. The group also expressed interest in a unified streetscape plan to create consistency in landscaping while preserving architectural flexibility for individual properties. Staff will continue refining these concepts over the summer, share draft proposals with the Town Council and the advocacy group, and plan to reconvene in the fall before formally presenting the proposed code changes for consideration.

Director Bergman updated the Commission on the Comprehensive Plan ordinance. Although approved on first reading and transmitted to the state, the Department of Commerce flagged the amendment as inconsistent with Senate Bill 180 due to the conversion from Palm Beach acres to standard acres and the rounding of density fractions. The amendment must be resubmitted with unrounded density values. The comments from the South Florida Water Management District have been addressed, and the ordinance will return for a new first reading.

Mr. Bergman concluded that although the delay is unfortunate, the required corrections are straightforward, and the process will move forward over the summer.

4. PUBLIC - 3 MINUTE LIMIT

There were no public comments.

GENERAL BUSINESS

5. Discussion of R-B Zoning District Review

Friederike Mittner, Historic and Preservation Manager, outlined ongoing work on the Town's core zoning elements, including the RB district in the North End. Using prior studies dating back to 1986, staff will focus on three RB sub-areas—Oceanside, Lakeside, and Inland—and evaluate one-story incentives, second-floor limits, and CCR replacement. A reorganized RB code section (no substantive changes) and variance data were distributed; 202 variances have been granted since 2010 across 1,231 parcels. Staff requested confirmation to proceed with the three-area approach and asked Commissioners to review the materials and provide feedback by August 7, 2026. Maps will be provided, and the draft code language will be returned to the commission for consideration in the fall.

James Murphy, Assistant Director, stated for the record that during his five-and-a-half-year tenure, he undertook an audit of variances, focusing specifically on applications since 2018. His analysis showed an average of approximately 200 variances annually, with denials being rare outliers. He noted that the most common variance requests involve building envelopes, setbacks, lot coverage, open space, and accessory structure setbacks. Mr. Murphy observed that recurring requests, particularly those for side setbacks, averaged around 40 per year, suggesting potential issues with the current zoning code requirements. He stated that staff intends to examine these patterns further, particularly in light of Senate Bill 180, and may explore more contextual zoning setback standards used in other communities. He added that the consistent approval of certain variances indicates the need to reevaluate the criteria and supports the concept of implementing waivers.

Ms. Mittner commented about contextual setbacks in historical districts. She explained that when an applicant requested a front or side setback variance, they were required to document the setbacks of at least two neighboring properties on either side using building plans or aerial imagery. This approach ensured the proposed setback remained consistent with the surrounding context, recognizing that setbacks could vary and contribute to the streetscape's unique rhythm. Staff noted that if a contextual setback could not be established due to anomalies or special conditions, such as corner lots, the standard minimum setback requirement could still apply. This method was described as an effective way to preserve the historic character and continuity of a streetscape.

Mr. Klein wondered if staff had reviewed the composition of the RB District as part of the code reform process. He referenced concerns raised by former Town Council President Maggie Zeidman. He asked whether the district's composition would remain unchanged, with current discussions now focused instead on variances and related regulatory adjustments. Ms. Mittner responded that the staff's goal is to clearly delineate the Oceanside, the Lakeside, and the inland areas because they have different characteristics.

Mr. Sanchez shared his concerns and noted that another column in the code was needed to address the Sea Streets. He also commented that historical setbacks should be taken into consideration.

Attorney Peter Henn of Jones Foster added that Mr. Murphy reviewed approximately 10 years of history during his time here. This issue was studied in detail approximately 25 years ago, and

the reports on the amount of variances from that time are consistent with the current data. Chair Coniglio asked if this would be done holistically as part of the code reform. Ms. Mittner said staff wanted to bring RB back to the Commission in early fall, while other core elements are being studied to be presented separately. Ms. Hofmeister added that Ms. Mittner had highlighted the core elements being reviewed as part of the code reform. She said during the summer months. Those elements will be studied, and during the fall, it is the hope of the staff to have information to bring back to the Planning and Zoning Commission, as has been done with the comprehensive plan.

Public Comments

Anne Pepper, 333 Seaspray Avenue, emphasized that while maintaining neighborhood context is an important goal, it cannot be evaluated solely by setbacks. FEMA-driven elevation requirements and the resulting increase in building height and massing—particularly along the Sea streets—are significantly altering neighborhood character. She further noted that larger, taller structures are replacing older homes built at a human scale with smaller setbacks. She urged that all factors affecting scale and appearance be considered together to preserve the historic context of these neighborhoods.

UNFINISHED BUSINESS

6. Discussion of Commercial Districts Pertaining to Uses and Introduction of Criteria for Granting Conditional Uses (FKA Special Exception Uses)

Jennifer Hofmeister, Planner III, gave a presentation continuing the discussion on commercial district regulations, including the transition from special exception criteria to conditional use criteria. A revised table of permitted, accessory, conditional, and prohibited uses was presented, incorporating prior feedback and minor edits. Definitions for town-serving office, retail, and personal service uses were reviewed for the record. Staff also outlined proposed updates to bulk regulations and introduced the working draft of conditional use approval criteria. The Commission discussed how accessory uses are defined and clarified that expansion of a use to an upper floor would constitute an expansion rather than an accessory use. Ms. Hofmeister stated the definition of town-serving used at last month's Planning and Zoning Commission meeting.

Chair Coniglio asked whether an accessory use would include a scenario in which a property owner has a retail store on the ground floor within the 3,000- or 4,000-square-foot threshold and later seeks to expand operations to a second floor without increasing the building footprint. Ms. Hofmeister said it would be an expansion if the same retail use were to go upstairs. Mr. Bergman responded that what Ms. Coniglio described would not be an accessory use. Accessory uses are customarily incidental to the primary use of the property being described. He explained accessory uses, linked to a principal use. Ms. Hofmeister explained the logic behind considering uses incidental to a primary use. Mr. Murphy further explained the difference between a primary use and an accessory use as incidental to the primary use. Ms. Hofmeister added that businesses are monitored through the Business Tax Receipt process. Chair Coniglio reiterated her point of view that there is an intensity of use. She felt that the explanation was unclear.

Mr. Klein asked whether staff was attempting to codify the 50% town-serving requirement and, if so, how that aligned with recent discussions and actions by the Town Council. He noted that

at least one Council member had publicly expressed support for increasing the requirement to 75%, referenced an item on the June Development Agenda involving a 50% Declaration of Use, and pointed out that Town Council had recently approved a 75% Declaration of Use for a project across the street. Artie questioned how these differing standards were being reconciled and whether the Town intended to move forward with a 50% or 75% threshold. Ms. Hofmeister said that was something worth discussing, but not at present, noting that she was not addressing percentages at this time.

Ms. Hofmeister stated that recent increases in the town-serving percentage have applied primarily to private clubs, while retail establishments have not been part of those discussions. She explained that the existing 50% town-serving requirement tied to special exception criteria would remain unchanged. However, she noted that staff would later discuss proposed revisions to reduce the current list of criteria from 14 to 8, with the intent of strengthening the town-serving requirement and clarifying how it would be applied moving forward.

Ms. LeCates expressed concern that increasing the town-serving percentage may not effectively reduce off-island traffic or congestion as intended. She explained that if private clubs serve more town residents, those residents may simply vacate seats at public restaurants, which would then likely be filled by visitors from off island. As a result, she questioned whether increasing the town-serving requirement would meaningfully address parking or traffic concerns, noting that overall demand for dining and access during the season would likely remain unchanged.

Ms. Donaldson asked about stores being separated. Ms. Hofmeister explained that when an applicant proposes interior renovations that do not exceed the established thresholds of 3,000 square feet in the commercial districts or 4,000 square feet in the Worth Avenue District, the work would still require a building permit and business tax receipt. As part of that process, staff reviews compliance with parking requirements, and if the property does not meet those standards, the applicant must seek Town Council approval for a parking variance.

Chair Coniglio still felt like the town would be opening the door for corporate commercial entities. She did not understand why the town would want to be larger than 3,000–4,000 square feet. She felt that allowing a larger establishment than that was not what the town was trying to accomplish.

Attorney Henne noted that until Senate Bill 180 is amended, modified, or repealed, it would not be advisable for the Town to reduce or limit existing development rights beyond the current 3,000- or 4,000-square-foot thresholds, as doing so could be considered more restrictive or burdensome under the law. He stated the goal is to tie everything together holistically. Chair Coniglio acknowledged that SB 180 has tied the hands of local municipalities but asked if either the retail entity or the property owner could be allowed to increase by using the next-door neighbor's bay to 6,000 square feet by right. Mr. Henne said not by right, it would be a conditional use, and staff and the commission would have to ensure the conditions mitigate whatever impacts they would be bringing. He further stated that if traffic is a concern, additional traffic standards could be developed in another section of the code to address traffic uniformly. Any other concerns should be addressed in supplemental requirements. The goal is not to say no to a larger building; it is to ensure it is compatible and mitigates its impacts on the community.

Mr. Gilbane emphasized that evaluating proposed changes in isolation misses their broader community impact. He said residents want neighborhood-serving businesses—such as local dry cleaners, markets, and establishments that know and primarily cater to residents—rather than businesses that attract outside traffic for errands or dining. He noted that the Town's Comprehensive Plan and Code already support protecting local-serving businesses but argued the current definition of "town-serving" is too broad. He stated that narrowing and refining that definition to focus more on residents is necessary before the Town can meaningfully address the larger issue.

Mr. Henns stated that there is established case law that limits local governments' ability to stop interstate commerce. He noted this must be addressed carefully. Mr. Gilbane acknowledged that the Town's code could limit a national retailer's ability to convert an existing local business into a formula retail operation. He noted that any buyer would still have to comply with local regulations, which may require the business to operate in a more unique, non-formulaic way.

Ms. Hoffmeister explained that conditional uses should be evaluated based on site-specific criteria, including compatibility with surrounding uses. She said those standards should be tied to declaration of use agreements and supplementary conditions to ensure compatibility, even if finalized later in the development process. She added that if a proposed use increases traffic by more than 10%, it should require a traffic statement or full traffic study, with mitigation required if roadways are impacted.

Mr. Bergman stated there are several ways to improve the current process, including applying conditional use and variance criteria more consistently and refining them to make decisions clearer. He suggested incorporating common declaration of use conditions, such as hours of operation, directly into the zoning code so applicants know the expectations upfront. He also recommended creating alternative development standards for specific uses, with tailored criteria reviewed by the Town Council to provide clearer approval standards.

Mr. Klein stated that, in addition to the charts being provided, it would be helpful for staff to comment on any changes they feel would be appropriate. Ms. Hoffmeister explained that staff is moving forward with using tables to clearly identify permitted, conditional, and prohibited uses. She said the Town will then develop more specific supplemental criteria based on the type of use, with stricter standards for higher-impact uses like larger retail or restaurants, all subject to Town Council approval.

Chair Coniglio said the goal is to protect small, local town-serving businesses and preserve the Town's character. She expressed concern that expanding private clubs could create an unfair business model that would leave small restaurants unable to compete, potentially driving them out and opening the door for larger corporate restaurants. She also questioned whether additional private clubs should continue to be allowed in the future. Mr. Gilbane felt this warranted further discussion. He agreed with Chair Coniglio's concerns and recommended that consideration be given to the difference between for-profit and not-for-profit organizations.

There was a brief discussion noting the differences between the North End and South End, and questioning whether private clubs should be treated differently in each area. While no separate overlay district currently exists, the new code could create different standards. At present, private clubs remain permitted in both areas of the C-TS district.

Mr. Henne advised that while Senate Bill 180 limits changes now, staff can study the impacts of private clubs and, if they are found to negatively affect the community, recommend eliminating or restricting them in certain districts once the legislation is no longer a barrier. He emphasized the importance of protecting long-standing local businesses. Mr. Henne further noted that federal case law has prevented communities like Palm Beach from restricting businesses solely based on interstate commerce concerns. Therefore, any limitations must be supported by sound planning analysis rather than economic perfectionism.

A question was raised about how to regulate hotels that operate private clubs, particularly in the south end. Mr. Henne responded, and there was additional discussion about the impact of private clubs and their regulation. Ms. Hoffmeister explained that under the current parking code, private clubs are regulated based on membership, while restaurants are regulated by square footage. She noted that an upcoming draft will align the two more closely, recognizing their similar operational impacts.

Mr. Murphy made another point about the Carriage House, which was mentioned. He said it was approved as a private club under unique circumstances, including its historic restaurant use, landmark status, limited ability to expand, and a strict declaration of use designed to protect neighbors. The speaker noted that while membership increased over time, seating remained capped, but pointed out that the zoning code creates an imbalance by imposing stricter parking requirements on neighborhood restaurants than on private clubs, even when private clubs expand seating or operations. He said it is not fundamentally fair to compare an independent restaurant to a private club, from a zoning perspective.

Mr. Henne advised that the proposed eight conditional use criteria should serve as the standard framework for all conditional uses. At the same time, specific concerns related to restaurants or private clubs should be addressed through supplemental regulations. He emphasized the importance of the Planning and Zoning Commission becoming comfortable with applying those criteria consistently across the board.

Ms. Hoffmeister continued the presentation, explaining that the minimum lot area was adjusted to 2,700 square feet to align with the required lot width and depth. She noted that under the current code, those dimensions often do not match the minimum lot size, forcing applicants to seek unnecessary variances.

Ms. Hofmeister stated that conditions can also be incorporated into a development order if they are not included in a declaration of use agreement. She noted that every project has a development order, and those conditions would be listed when a building permit is obtained.

Mr. Klein asked for clarification on the burden of proof for special exceptions versus variances, noting that, unlike a variance, which requires demonstrating hardship, a special exception must be granted by the Town Council if the applicant meets all required criteria. Mr. Henne stated that if the applicant submits competent, substantial evidence that they have met conditions one through eight in the conditional use criteria, such as their consultant's report, the answer is yes.

Mr. Henne noted that it is important to consider that applicants often voluntarily enter into declaration of use agreements through their attorneys as part of the special exception process,

with draft agreements typically presented during review but finalized after Town Council approval.

Ms. LeCates questioned why the proposed criteria narrowed compliance from “all elements of the Comprehensive Plan” to only “use, density, and intensity of use,” asking why the broader requirement for full compliance with the Comprehensive Plan was not retained. Mr. Henne said the reason is that it is illegal. Ms. LeCates questioned the wording of item #7 and preferred the previous version. Mr. Henne explained why item 7 was written the way it was presented. Ms. LeCates did not care for the subjectivity of the language. Ms. Hoffmeister explained that even if a new conditional use takes over an older restaurant site, it would still need to comply with the current Design Standards Manual. She said the goal is to recognize that all site plans must meet those standards while maintaining some flexibility and minimizing subjectivity in the criteria. Mr. Henne advised that what is being presented are very customary conditional use standards. Chair Coniglio agreed with Ms. LeCates.

Chair Coniglio asked if the wording could be changed to “the use is so designated, located, and operated to protect the public health, safety, welfare, and morals” without any adverse negative impacts. She felt this language encapsulated both. Mr. Henne said yes, and he felt that the staff had attempted to address such issues in items such as number five. He said everything has to be tied back to the criteria.

Ms. Hofmeister gave a high-level overview of the formula retail discussion. Mr. Henne discussed town-serving and how he felt this ordinance could meet challenges. He advised that whatever the Town Council adopts must be consistent with the law. He further noted that tying regulations to measurable traffic impacts would create a neutral and legally defensible standard. If a business, whether national or local, generates excessive traffic, the Town Council could deny it based on those impacts rather than simply objecting to a specific brand.

Clerk's Note: Mr. Gilbane left the meeting at 11:25 AM. Ms. Donaldson will be a voting member.

Public Comments

Anita Seltzer, 44 Cocoanut Row, thanked staff for their work and noted that several important issues—particularly parking requirements—still need further discussion. She expressed concern that current parking ratios allow greater use intensity than intended, citing unrealistic assumptions about car occupancy and the ongoing problem of “phantom parking.” She referenced additional materials she reviewed that were not addressed at the meeting and plans to share her concerns with staff. Ms. Seltzer also expressed broader concerns about recent Town Council decisions, stating that residents have had to challenge approvals they believe are inconsistent with zoning and the Comprehensive Plan. She cautioned that reliance on applicant-provided evidence and use agreements to justify approvals could undermine neighborhood protections and the purpose of the zoning districts.

7. Reinstate Language Adopted In Ordinance No. 006-2025 Pertaining To Public and Private Schools and Correct Sentence in R-B Low Density Residential Regarding Pedestrian Access Tunnels

Ms. Hofmeister gave an update on Ordinance No. 017-2026 regarding the need to reinstate Ordinance 006-2025 as Ordinance No. 017-2026, adding more consistent language. She

explained that the proposed ordinance reinstates the removal of public and private academic schools as special exceptions in the R-B and R-C residential zoning districts. She stated it reinstates public and private academic schools as special exceptions south of 2500 South Ocean Boulevard in R-D(1) and R-D(2) residential zoning districts. In addition, language will be added to Code Section 134-890 to clarify pedestrian access to the beach as an accessory use, provided that the applicant owns the land on both sides of the roadway, provides unity of title, and obtains prior written approval from all governmental agencies having jurisdiction.

A motion was made by Mr. Klein and seconded by Ms. LeCates to approve the language in Ordinance No. 017-2026 for adoption. The motion was carried unanimously, 7-0.

ANY OTHER BUSINESS

There was none.

MEETING SCHEDULE

8. The next meeting is scheduled for July 7, 2026

There was a discussion to schedule another meeting on September 2, 2026. Commissioners were requested to confirm their availability for the meeting before July's meeting.

ADJOURNMENT

A motion was made by Mr. Klein and seconded by Ms. LeCates to adjourn the meeting at 12:15 PM. The motion was carried unanimously, 7-0.

Respectfully Submitted,


Gail Coniglio, Chair