

PLANNING AND ZONING BOARD
Reorganization Meeting
April 26, 2023
6:30pm
247 Edwards Lane / Palm Beach Shores, FL 33404

Chairman Jerald Cohn
Vice Chairman Tim Blash

Member Kevin Banks
Member Tony Lembo
Member Steve Smith
Alternate Member Weston Gracida
Alternate Member (Vacant)

Town Attorney Mitty Barnard
Josh Nichols, Zoning Official
Rob Rennebaum, Engineer
Town Clerk Jude M. Goudreau

PUBLIC PARTICIPATION MAY OCCUR REMOTELY

Meeting link:

<https://townofpalmbeachshores.my.webex.com/townofpalmbeachshores.my/j.php?MTID=m8c67f62e3aa8658bad6a92fede1a1ca4>

Meeting number: 2630 814 9577

Password: 0426

Join by phone +1-408-418-9388 United States Toll

Access code: 2630 814 9577

1. **CALL TO ORDER:**
 - a. Pledge of Allegiance
 - b. Roll Call
2. **APPROVAL OF MEETING AGENDA:** (Additions, substitutions, deletions)
3. **INSTALLATION:**
 - a. Swearing in of Planning & Zoning Board Members
 - b. Election of Chairman
 - c. Election of Vice Chairman
 - d. Selection of DRC Member
 - e. Selection of Landscape Approval Member
4. **ANNUAL LEGAL UPDATE BY TOWN ATTORNEY:**
5. **PUBLIC COMMENT:**
6. **ADJOURNMENT:**

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the Planning & Zoning Board with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings, and for such purpose may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. The meeting/hearing will be continued from day to day, time to time, place to place, as may be found necessary during the aforesaid meeting.

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), THIS DOCUMENT CAN BE MADE AVAILABLE IN AN ALTERNATE FORMAT (LARGE PRINT) UPON REQUEST AND SPECIAL ACCOMODATIONS CAN BE PROVIDED UPON REQUEST WITH THREE (3) DAYS ADVANCE NOTICE. FOR HEARING ASSISTANCE: If any person wishes to use a hearing device, please contact the Town Clerk.

PLANNING AND ZONING BOARD
Regular Meeting
April 26, 2023
Immediately Following the Reorganization Meeting
247 Edwards Lane / Palm Beach Shores, FL 33404

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Vice Chairman Tim Blasch

Member Kevin Banks
Member Tony Lembo
Member Steve Smith
Alternate Member Weston Gracida
Alternate Member Open Seat

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Access code: 2630 814 9577

1. CALL TO ORDER:

- a. Pledge of Allegiance
- b. Roll Call

2. APPROVAL OF MEETING AGENDA: (Additions, substitutions, deletions)

3. CONSENT AGENDA:

- a. Approve the February 22, 2023 Planning & Zoning Board Meeting Minutes
- b. Approve the March 22, 2023 Planning & Zoning Board Meeting Minutes

4. ACTION ITEMS:

- a. **SPR23-01/AAR23-01:** Elena Macchitto, Owner of 226 Bamboo Road, requests Site Plan Review and Architectural & Aesthetic Approval to install a pool and paver pool deck on the property.
- b. **SPR23-05/AAR23-05:** Sharon Kubu, Owner of 331 Blossom Lane, requests Site Plan Review and Architectural & Aesthetic Approval to install a 12' by 16' patio cover in the rear of the home on an existing slab.
- c. **SPR23-06/AAR23-06:** 300 Linda Lane LLC, Owner of 300 Linda Lane, requests Site Plan Review and Architectural & Aesthetic Approval to allow for the installation of an emergency generator on the east side of the onsite structure.
- d. **VAR23-02:** 300 Linda Lane LLC, Owner of 300 Linda Lane, requests Variance Approval for a variance from Pf. 12.8(a) & (b) to allow for installation of an emergency generator forward of the mid-point of the principle structure where Town Code requires the generator to be located between the mid-point of the principle structure and rear lot line and a to allow a reduced setback of two (2) feet where Town Code requires five (5) feet.
- e. **SPR23-07/AAR23-07:** Norman Lewis, Owner of 327 Bravado Lane, requests Site Plan Review and Architectural & Aesthetic Approval to demolish the existing home and construct a new 2,269 square foot single-story residence with pool, pool deck and associated landscaping on the property.

5. PUBLIC COMMENT:

6. DISCUSSION ITEMS:

7. ADJOURNMENT:

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PLANNING AND ZONING BOARD

REGULAR MEETING

MINUTES

February 22, 2023

CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Chairman Jerald Cohn. The meeting was held in the Commission Chambers of Town Hall located at 247 Edwards Lane, Palm Beach Shores, FL 33404.

Town Clerk Jude Goudreau called the roll, and those present were Chairman Jerald Cohn, Vice Chairman Tim Blash, Members Tony Lembo, Kevin Banks, and Steve Smith. Also present were the Town Attorney Mitty Barnard, Zoning Official Josh Nichols, and Engineer Rob Rennebaum.

APPROVAL OF MEETING AGENDA: (Additions, substitutions, deletions)

MOTION: Member Tony Lembo made a motion to approve the meeting agenda as amended to include a discussion of setting time frames on construction projects.

SECOND AND VOTE: Vice Chairman Tim Blash seconded the motion, which passed unanimously by those present.

CONSENT AGENDA:

Approval of the December 21, 2022 Planning & Zoning Board Meeting Minutes.

Approval of the January 25, 2023 Planning & Zoning Board Meeting Minutes.

Approval of the January 25, 2023 LPA Board Meeting Minutes

Approval of the January 25, 2023 Oversight Meeting Minutes.

MOTION: Member Kevin Banks made a motion to approve the consent agenda.

SECOND AND VOTE: Member Steve Smith seconded the motion, which passed unanimously by those present.

ACTION ITEMS:

- a. VAR23-01: Buccaneer Condominium Assoc., Owner of 142 Lake Drive, requests Variances from 1) Pf. 7.13 to allow for a roof pitch of 2/12 over units 1/2, 18/19 and three entryways where Town Code requires a minimum pitch of 4/12 and 2) Pf. 4.6 to allow for a grade elevation of 3.30 feet NAVD and a finished floor elevation of 3.58 feet NAVD for the Dockmaster's Office Addition where Town Code requires 4.96 feet and 7.0 feet NAVD, respectively.

Josh Miron and Chris Hamilton, Counsel for the applicant were present and sworn in by Attorney Mitty Barnard. There were no ex parte communications between the board and applicant.

Josh Miron gave a presentation of the Variance request and answered the Boards questions.

Motion: Member Kevin Banks made a motion to deny VAR23-01 based on the Applicant's failure to meet all standards as set forth at Pf. 15.3 of the Town Zoning Ordinance, specifically standard/criteria #3 at Pf. 15.3(c).

Second and vote: Vice Chairman Tim Blash seconded the motion, which passed unanimously by those present.

PUBLIC COMMENT: None

DISCUSSION ITEMS:

- a. Discussion of Code revision regarding artificial turf (*by Chairman Cohn*).

The Board discussed potential code revision to address artificial turf and directed staff to begin preparing an ordinance.

- b. Discussion: Imposing time limits on building permit projects.
The Board discussed project completion timelines and past practice at the Planning & Zoning meetings to have an update on the status of development projects in Town.

ADJOURNMENT:

MOTION, SECOND AND VOTE: Member Kevin Banks moved to adjourn the meeting with Vice Chairman Tim Blash seconding the motion, which passed unanimously. The meeting was adjourned at 7:38 p.m.

APPROVED this ____ day of _____, 2023.

ATTEST:

Jude Marie Goudreau, Town Clerk

Jerald Cohn, Chairman

(Seal)



Amity R. Barnard, Esq.
*Florida Bar Board Certified Attorney in
City, County and Local Government Law
LEED Green Associate*
Email: mitty@davislawteam.com

MEMORANDUM

TO: Planning and Zoning Board
FROM: Assistant Town Attorney Barnard
CC: Town Clerk Goudreau
DATE: April 26, 2023

RE: 2023 Legal Update

In conjunction with the annual Legal Update to be given at the April 26, 2023 Reorganization Meeting, I am providing you with the following information which is directly applicable to your service on the Town's Planning and Zoning Board ("P&Z Board"), including:

1. Composition and appointment of the P&Z Board;
2. Duties of the P&Z Board;
3. Decision-making processes of P&Z Board;
4. Other laws and rules governing the P&Z Board; and
5. Additional information.

1. WHAT IS THE P&Z BOARD?

- The P&Z Board is a voluntary board comprised of five (5) regular members and two (2) alternate members.
- Board members are appointed by the Town Commission at its annual organization meeting (See Charter § 3.10).
- Board members serve for 1-year terms at the pleasure of the Town Commission and may be removed at any time by the Town Commission (See Charter §§ 3.10, 3.17).
- The P&Z Board selects its own chairperson, vice-chairperson and representative to serve on the Development Review Committee ("DRC").
- The P&Z Board's representative to DRC serves as chairperson of DRC in the absence of the DRC chair, who is a member of the Town Commission (currently the Mayor).

2. WHAT DOES THE P&Z BOARD DO?

- Reviews the Town's Comprehensive Plan ("Comp Plan"), zoning code and land development regulations on a continual basis and advises the Town Commission of potential updates to serve the present and future needs of the Town (See Charter § 4.7).

- Sits as the Town’s Local Planning Agency (“LPA”) under Florida law responsible for review of the Town’s Comp Plan and amendments thereto (See Code §50-30).
- Reviews the Town’s Comp Plan annually and recommends changes and/or additions to the Town Commission (See Code §50-52).
- Makes final determinations on applications for site plan review (See Code §14-62; Charter § 4.7).
- Makes final determinations on applications for architectural and aesthetic review using specific review criteria (See Code §§14-86 and 14-87).
- Reviews all applications for sign permits and conducts architectural and aesthetic review to determine compliance with the Town Sign Ordinance (See Code §58-35).
- Performs review for the construction of docks, pilings and boat lifts (See Charter § 4.7).
- Makes recommendations to the Town Commission on variance and special exception applications (See Code §§ Pf. 15.4 and Pf. 15.5; criteria for review contained in §§ Pf. 15.3 and Pf. 15.7).

3. HOW DOES THE P&Z BOARD MAKE DECISIONS?

- **Sunshine Law: all decisions must be made in accordance with §286.011, Fla. Stat.**
 - Any meeting of two or more P&Z Board members, who discuss any item on which foreseeable action will be taken by the Board, must be conducted “in the Sunshine”.
 - “In the Sunshine” means at a publicly-noticed meeting which is open to the public and recorded via minutes.
 - Board members **shall not** discuss any matter on which foreseeable action will be taken by the P&Z Board, except at a meeting “in the Sunshine”.
 - Knowing and intentional violation of Sunshine Law carries criminal penalties.
 - NOTE - Members of a city planning and zoning commission violated the Sunshine Law when they participated in discussions at meetings of a community improvement organization which involved planning and zoning matters. *City of Bradenton Beach v. Metz* (Fla. 12th Cir. Ct. August 9, 2019).
 - Sunshine Law does not apply to Board members’ individual conversations with the Town Manager or Town Attorney.
 - One-on-one private discussions with the Town Manager or Town Attorney are permissible at any time.
 - *One-way communication* from one Board member to all others (*e.g.*, one-way email, *etc.*) does not violate the Sunshine Law, but if the one-way communication becomes a conversation or discussion (*e.g.*, someone replies to your one-way email), then the Sunshine Law is violated.
- **Quasi-Judicial Proceedings: most meetings of the Board are quasi-judicial in nature.**
 - P&Z Board review of applications for site plan review, architectural and aesthetic review, variances, and special exception uses are quasi-judicial proceedings.
 - *Quasi* means like; these meetings are judicial—or court-like proceedings and inherently more formal than other public meetings.
 - All quasi-judicial proceedings involve the application of codified criteria to an application or request.
 - Variances are requests to develop land contrary to codified Code criteria. The applicant must prove (among other criteria) that application of the Code creates a hardship that does not allow reasonable use of the land.
 - Special Exceptions are requests to use land in a manner that has been determined to be permissible so long as certain protections are in place.

- In a quasi-judicial proceeding, the P&Z Board must take action (vote) on an application and make a decision based on evidence provided at the hearing.
 - The applicant has the responsibility of demonstrating (“burden of proof”) by competent substantial evidence that the applicable standards have been met. For non-rezoning applications, the responsibility then shifts to those seeking to deny the application to prove by competent substantial evidence that the standards have not been met and that the request is adverse to the public interest.
 - The decision the P&Z Board reaches must be supported by competent, substantial evidence.
 - ✓ Be sure motions contain sufficient detail to substantiate the action (*e.g.*, specify exactly which criteria have not been met in denying an application).
 - Proceeding is not an opportunity for the P&Z Board to make a decision based on “what the Town wants”. It is an opportunity for the Board to consider the application and determine whether the application has satisfied the criteria of the Town Code, *i.e.*, “did the Applicant do what he/she is required to do?”
 - More information regarding the evidence and criteria considered at quasi-judicial proceedings may be provided by the Town Attorney or Staff in advance of specific applications.
- At quasi-judicial hearings, P&Z Board members should disclose any *ex parte* communications related to the application. *Ex parte* communications include: all forms of communications, investigations, site visits, and expert opinions.
 - If you fail to disclose *ex parte* communication, the communication is considered prejudicial.
 - Rule of thumb: if you question the need to disclose, it is best to do so!
 - Remember: site visits must be disclosed!
- Conditions of approval may be imposed on decisions made at quasi-judicial hearings.
 - All conditions of approval must be *reasonably related* and *proportional* to the request being made.
 - Violation of this concept can, under recent case law, expose the Town to takings claims.
- **The P&Z Board makes many decisions based on codified processes and criteria.**
 - The *site plan review* procedure is found at Code §14-62.
 - Specific land development regulations are found in the Town’s Comprehensive Zoning Ordinance (“Town Zoning Ordinance”), located in *Appendix A* of the Town Code.
 - Other projects that the P&Z Board may review are regulated by the following chapters of the Town’s Code of Ordinances: 14, 50, 58, 62, 70, 78, and 82.
 - The *Architectural and Aesthetic Review* (“AAR”) criteria are found at Code §14-87.
 - The *Variance* (“VAR”) procedure and review criteria are found at Pf. 15.3 and Pf. 15.4, Town Zoning Ordinance.
 - The *Special Exception* (“SE”) procedure and criteria are found at Pf. 15.8 and Pf. 15.7, Town Zoning Ordinance.
 - ✓ *Please review and familiarize yourself with these portions of the Town Code and Zoning Ordinance.*

4. OTHER LAWS IMPACTING THE P&Z BOARD?

- **Florida's Public Records Act (See Chapter 119, Fla. Stat.)**
 - Any document, regardless of the medium created, made, or received in connection with P&Z Board business is a public record.
 - This includes e-mails, text messages, and social media posts.
 - If a public record is created using your personal e-mail (*e.g.*, you send an email to the Town Clerk via your personal Gmail account), then you have created a public record. The Town's policy regarding public records is that you are responsible for maintaining these documents pursuant to Florida's records retention guidelines (See §119.021, Fla. Stat.).
 - Avoid text messages and avoid using social media for Town-related matters.
 - Knowing violations of this law carry criminal penalties.
- **Palm Beach County Code of Ethics.**
 - All P&Z Board members must read the Palm Beach County Code of Ethics, receive training on the requirements of the Code of Ethics, and sign an acknowledgment form within sixty (60) days of installation and once every two (2) years.
 - For more information visit: <http://www.palmbeachcountyethics.com/training.htm>.
- **Gifts — avoid them!**
 - Any gift from a vendor or lobbyist with annual aggregate value that *exceeds \$100.00* is prohibited (See §2-444 Palm Beach County Code of Ethics; §112.3148, Fla. Stat.).
 - Gifts valued at \$100.00 *or more* must be reported to the state (with a copy to the county) quarterly. Gifts from relatives are exempt from this reporting requirement (See §2-444 Palm Beach County Code of Ethics; §112.3148, Fla. Stat.).
 - Please see the Town Attorney and Town Clerk to report a gift.
- **Voting Conflicts — what to do?**
 - Any item before the P&Z Board in which the Board's action will result in a *special* personal benefit or loss or a *special* financial benefit or loss to family member, spouse, principal or business associate causes you to have a voting conflict. (See § 2-443 Palm Beach County Code of Ethics; § 112.3143, Fla. Stat.).
 - *Special* is a benefit or loss that exceeds what the generally affected population would enjoy or suffer.
 - Any P&Z Board member with a voting conflict *must* abstain from participation *and* voting. The Board member must *disclose* the nature of the conflict and must *complete a voting conflict form* that will be appended to the meeting minutes and a copy of which is provided to the Palm Beach County Commission on Ethics. (See § 2-443 Palm Beach County Code of Ethics; See also § 112.3143, Fla. Stat.).
 - Please see the Town Attorney and Town Clerk to report or discuss a voting conflict.

5. ADDITIONAL INFORMATION.

- Specific information will be provided to you as certain matters appear before the P&Z Board.
- If you have any questions about anything in this memorandum or otherwise, please do not hesitate to ask!

PLANNING AND ZONING BOARD
Sitting as the
Local Planning Agency
Regular Meeting
April 26, 2023
Immediately following the Planning & Zoning Board Meeting
247 Edwards Lane / Palm Beach Shores, FL 33404

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Vice Chairman Tim Blash

Member Kevin Banks
Member Tony Lembo
Member Steve Smith
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1. CALL TO ORDER:

- a. Pledge of Allegiance
- b. Roll call

2. APPROVAL OF MEETING AGENDA: (Additions, substitutions, deletions)

3. DISCUSSION:

a. **Ordinance O-2-23**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING CHAPTER 14. BUILDINGS AND BUILDING REGULATIONS., SEC. 14-63. – PROCEDURE. TO REQUIRE THE INSTALLATION OF SYNTHETIC TURF TO BE REVIEWED BY THE PLANNING & ZONING BOARD AND CHAPTER 78. VEGETATION AT SECTION V. LANDSCAPING., SEC. 78-77.1. – DESIGN GUIDELINES. TO CREATE AN ENTIRELY NEW SUBSECTION TO PROHIBIT THE INSTALLATION OF ARTIFICIAL TURF FORWARD OF THE FRONT FAÇADE OF THE PRINCIPAL BUILDING OR ANY ACCESSORY STRUCTURE OR IN ANY LOCATION WITHIN OR VISIBLE FROM ANY PUBLIC RIGHT-OF-WAY ON ANY PROPERTY IN ANY ZONING DISTRICTS WITHIN THE TOWN; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

4. PUBLIC COMMENT:

5. ADJOURNMENT:

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ORDINANCE NO. O-2-23

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING CHAPTER 14. BUILDINGS AND BUILDING REGULATIONS., SEC. 14-63. – PROCEDURE. TO REQUIRE THE INSTALLATION OF SYNTHETIC TURF TO BE REVIEWED BY THE PLANNING & ZONING BOARD AND CHAPTER 78. VEGETATION AT SECTION V. LANDSCAPING., SEC. 78-77.1. – DESIGN GUIDELINES. TO CREATE AN ENTIRELY NEW SUBSECTION TO PROHIBIT THE INSTALLATION OF ARTIFICIAL TURF FORWARD OF THE FRONT FAÇADE OF THE PRINCIPAL BUILDING OR IN ANY LOCATION WITHIN OR VISIBLE FROM ANY PUBLIC RIGHT-OF-WAY ON ANY PROPERTY IN ANY ZONING DISTRICTS WITHIN THE TOWN; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, currently the Town Code defines “landscaping” to include nonliving durable material commonly used in landscaping which can include artificial turf; and

WHEREAS, in recent months, requests to install artificial turf on properties within the Town have increased significantly; and

WHEREAS, there are multiple grades of quality for artificial turf currently on the market with varying lifespans, compaction requirements and permeability rates; and

WHEREAS, the Town Commission believe the installation of artificial turf in the front yards without the ability to adequately address and regulate drainage and material quality may become problematic for the Town; and

WHEREAS, because of the potential impacts to drainage, the Town Commission believe the installation of artificial turf requires the review of the Planning & Zoning Board prior to installation; and

WHEREAS, the installation of artificial turf in the Town’s 10-foot strip makes access to the Town’s utilities beneath the 10-foot Town strip more difficult; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores believes these amendments to the Town’s Code are in the best interest of the health, safety and welfare of the Town, its citizens, and all those doing business with the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1: Chapter 14. Buildings and Building Regulations. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Article 11. Administration., Sec. 14-62. – Procedure. to require the installation of synthetic turf to be reviewed by the Planning & Zoning Board; providing that Sec. 14-62. shall hereafter read as follows:

Sec. 14-62. - Procedure.

Site plans required.

(1) Site plan review and approval by the planning and zoning board is required for all new construction. In addition, site plan review and approval by the planning and zoning board shall be required for:

- a. The construction or installation of all fences, walls, gates or hedges located in front yards, which shall include, for corner lots situated along Lake Drive, Atlantic Avenue or Ocean Avenue, both the side of the property facing Lake Drive, Atlantic Avenue or Ocean Avenue, as well as the side of the property facing the applicable east-west street, in accordance with Pf. 9.2(d) of the town's zoning ordinance.
- b. Renovations of existing structures which change the footprint of the building or existing facade.
- c. The installation of new permanently installed (non-portable) emergency electrical generators, as well as modifications to existing emergency electrical generators which result in an increased net amount of impervious area on the property or decreased amount of buffering or screening around the emergency electrical generator. Relocation of an existing emergency electrical generator to a new location within the permissible yard area for emergency electrical generator placement, where there is no net increase in impervious area and no decrease in buffering and screening around the relocated emergency electrical generator is exempt from this requirement. Maintenance and replacement activities that do not result in any net increase in impervious area and do not decrease the buffering and screening around the

emergency electrical generator are likewise exempt from this requirement.

- d. The construction of new swimming pools, pool decks, and screened enclosures, and the installation of new pool equipment.
- e. The construction or installation of all slabs, concrete or otherwise, that increase the net amount of impervious area on the property.
- f. Modifications to existing swimming pools, pool decks and screened enclosures which result in a net increase to the amount of impervious area on the property or decreased amount of buffering or screening around the pool equipment. Relocation of existing pool equipment to a new location within the permissible yard area for pool equipment placement, where there is no net increase in impervious area and no decrease in buffering and screening around the relocated pool equipment is exempt from this requirement. Maintenance and replacement activities that do not result in any net increase in impervious area and do not decrease the buffering and screening around the pool equipment are likewise exempt from this requirement.
- g. Relocation of existing a/c equipment to a new location within the permissible yard area for a/c equipment placement are exempt from this requirement. Maintenance and replacement activities that do not result in any net increase in impervious area and do not decrease the buffering and screening around the a/c equipment are likewise exempt from this requirement.
- h. The installation of synthetic or artificial turf on any property within any Zoning District within the Town.

(2) For all construction requiring site plan review, the following shall be required:

- a. A completed site plan review application form; a boundary survey of the subject site prepared no more than six months from the date of the site plan review application; signed and sealed schematics depicting the location of the building on the site, set backs, grading, drainage and elevations, as well as the relationship of the site to neighboring sites;

tabular data showing compliance with all lot coverage, floor area, building height, grade and landscaping requirements.

- b. Ten sets of the above listed required documents prepared by a licensed engineer, architect and/or surveyor shall be submitted. The planning and zoning board shall first review the site plan; and, upon approval, the applicant shall submit the building plans to the town for review and approval of the building official prior to issuance of a building permit.

Section 2: Chapter 78. Vegetation. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Section V. Landscaping., Sec. 78-77.1. – Design guidelines. to create an entirely new subsection to prohibit the installation of artificial turf forward of the front building of any building or in any location visible from any public right-of-way on any property in any Zoning Districts within the Town; providing that Sec. 78-77.1. shall hereafter read as follows:

Sec. 78-77.1. - Design guidelines.

- (a) Foundation plantings. Foundation plantings for all new construction are required on any side of a building that fronts on a street. Required foundation plantings should conceal the building foundation, should accentuate and beautify the front facade and should be a minimum of three feet in height at maturity.
- (b) Front yard trees. For all new development projects and new landscape plans, a minimum of three trees that comply with the requirements of article IV hereinbelow shall be required in the front yard. The minimum height of such required trees when planted shall be 75 percent of the beam height of the principal building. The minimum spread of such required trees when planted shall be 40 percent of the required tree height. In addition, three palm trees per platted lot shall be required to be planted in the ten-foot strip of town property a distance of four feet from the edge of pavement on all east-west roads in the town. Permitted palm tree species include Foxtail, Coconut, Queen, Triangle, Christmas, Date, Fishtail, Royal, Sago, or any other species specifically approved by the planning and zoning board as part of its architectural and aesthetic review.

- (c) Landscape buffering of equipment. For all new development projects, central air conditioning equipment, swimming pool equipment, emergency electrical generators, and outdoor trash containers located in accordance with the town's Zoning Ordinance and other applicable codes shall be sight screened with appropriate landscaping material.
- (d) Privacy screens, applicability. In zoning districts A and B, all new development projects located on non-waterfront properties shall be subject to the privacy screen requirements set forth in paragraph (e) below. In zoning district B, the following shall also trigger the applicability of the privacy screen requirements set forth in paragraph (e) below:
- (1) Any activity or activities upon the lot over time requiring a permit or permits from the town pertaining to improvements that cumulatively amount to expenditures of money in excess of \$50,000.00.
 - (2) Any change in use of the property.
- (e) Privacy screens, requirements. Rear and side yard privacy screens are permitted, but not required with single story principal buildings. When the principal building is a two-story building, rear and side yard privacy screens are required. Such privacy screens should generally be of sufficient height and density to screen the line of sight from second story balconies and windows into neighboring properties, however, the minimum height of trees utilized for rear yard privacy screens when planted shall be no less than 75 percent of the roof height of the principal building. As part of the architectural and aesthetic review pursuant to section 14-86, the planning and zoning board shall ensure that these requirements are met and that the privacy of properties adjacent to two-story buildings is protected. No trees shall be permitted to grow into overhead utility lines.
- (f) Artificial turf. Artificial turf shall not be installed or placed forward of the front building line of any building and shall not be visible from any public right-of-way on any property in any Zoning Districts within the town.
1. The town has conducted a photographic survey, dated the sixth day of March, 2023, of all the lots within the Town. As a result, the town has identified **eight** **(8)** lots that have, as of the survey date, artificial turf installed in the ten-foot

strip. Additionally, the town has conducted a review of recent development order approvals and has identified an additional xxx (xx) lots that have received approval to install artificial turf in the ten-foot town strip. The artificial turf located or approved for installation within the ten-foot town strip on the xxx (xx) lots identified in the survey may continue to be used, subject to the provisions of this section. However, no alteration of any such artificial turf shall be permitted, except as required by law or ordinance.

2. The artificial turf installed or approved for installation within the ten-foot town strip on the xxx (xx) lots identified and more particularly described on the survey, as kept on file with the town clerk, shall terminate and such artificial turf shall be removed and replaced with landscaping pursuant to chapter 78, vegetation, at the lot owner's expense upon the first occurrence of any of the following:

- i. Any alteration to the artificial turf located within the ten-foot town strip;
- ii. Any activity or activities upon the lot over time requiring a permit or permits from the Town pertaining to improvements that cumulatively amount to expenditures of money in excess of thirty thousand dollars (\$30,000.00);
- iii. Any change in ownership of the property; or
- iv. June 1, 2028 (sunset of these provisions).

Section 3: Each and every other section and subsection of Chapter 14. Building and Building Regulations. and Chapter 78. Vegetation. shall remain in full force and effect as previously adopted.

Section 4: All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 5: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 6: Specific authority is hereby granted to codify this Ordinance.

Section 7: This Ordinance shall take effect immediately upon passage.

FIRST READING this ____ day of April, 2023.

SECOND AND FINAL READING this ____ day of May, 2023.

TOWN OF PALM BEACH SHORES

Alan Fiers, Mayor

ATTEST:

Jude Goudreau, Town Clerk

(Seal)

Approved as to form and legal sufficiency.

Keith Davis, Town Attorney