



**Village of North Palm Beach
Planning Commission
AGENDA**

**Tuesday, September 12, 2023 at 6:30 pm
Village Hall Council Chambers**

1) Roll Call

Donald Solodar, Chair
Cory Cross, Vice-Chair
Thomas Hogarth, Member
Jonathan Haigh, Member
Kathryn DeWitt, Member
Scott Hicks, Member
Nathan Kennedy, Member
Village Staff, Attorney, and Councilmember

2) Deletions, Additions or Modifications to the Agenda

3) Public Comment for Non-Agenda Items

4) Approval of Minutes

a. [August 1, 2023 Minutes](#)

5) Declaration of Ex-parte Communications

6) Quasi-judicial Matters / Public Hearing

Village Attorney to swear in all persons speaking

a. Site Plan and Appearance Review

i. [525 U.S. Highway 1 \(PA BBQ\) – Outdoor Seating](#)

Application by the lessee, PA BBQ, for Site Plan and Appearance approval to create an outdoor seating area at 525 U.S. Highway 1

b. Zoning Code Amendment Recommendation

i. [Creation of the Planning and Zoning Adjustment Board](#)

Request by Village Staff to amend the Zoning Code to combine the Planning Commission and Board of Adjustment Board together and renaming the Planning Commission as the Planning and Zoning Adjustment Board as well as implementing a new Administrative Variance process.

ii. [Repeal of Senate Bill 250 massing provisions](#)

Request by Village Staff to amend the Zoning Code to repeal the single family massing provisions adopted by the Village Council in 2022 to be in compliance with Senate Bill 250

- 7) Attorney Presentation**
 - a. Planning Commission responsibilities and legal requirements**
- 8) Commission Member Comments**
- 9) Staff Updates**
 - a. 2024 Meeting Schedule**
- 10) Adjournment**

All members of the public are invited to appear at the public hearing, which may be continued from time to time, and be heard with respect to this matter.

If a person decides to appeal any decision made with respect to any matter considered at the subject meeting, he or she will need to ensure that a verbatim record of the proceedings is made, which shall include the testimony and evidence upon which the appeal is to be based (F.S. 286.0105). In accordance with the Americans with Disabilities Act, any person who may require special accommodation to participate in this meeting should contact the Village Clerk's Office at 841-3355 at least 72 hours prior to the meeting date.

This agenda represents the tentative agenda for the scheduled meeting of the Planning Commission. Due to the nature of governmental duties and responsibilities, the Planning Commission reserves the right to make additions to, or deletions from, the items contained in this agenda.



Subject/Agenda Item:

ZTA-2023-001 Ordinance for PZAB Zoning Text Amendment

Consideration of Approval: A request from Village Staff to create a new Board called the Planning & Zoning Adjustment Board which will serve as the Planning Commission and Board of Appeals and to create an Administrative Variance process.

Recommendation to APPROVE

Recommendation to DENY

Quasi-Judicial

Legislative

Public Hearing

Originating Department: Planning & Zoning Project Manager _____ Caryn Gardner-Young, AICP	Reviewed By: Community Development Director _____ Caryn Gardner-Young, AICP
Village Council Action: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____	Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: Paper: Sun Sentinel Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance:

Attachments: <ul style="list-style-type: none">• PZAB Ordinance	
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I. Executive Summary

Village of North Palm Beach (Village) Staff is proposing changes to Chapter 21 of the Village Code by amending Article II “Planning Commission” to create a new Planning & Zoning Adjustment Board, changes to Chapter 21 and 45 by amending Article III, Article IV and Sections 45-50 and 45-52 by deleting or amending language to provide for procedures for non-administrative and administrative variances and replacing all Village Code references to the Planning Commission with the Planning & Zoning Adjustment Board.

II. Proposed Code Provision Modifications:

Please see attached Ordinance

III. Staff Analysis:

Background:

The Village’s Code of Ordinances created a Planning Commission which powers included:

- (1) Perform any duties which lawfully may be assigned to it by the village council.
- (2) Perform any other duties which may be assigned to it under this Code.
- (3) The planning commission of the village is hereby designated as the governmental entity to act as the "local planning agency" in accordance with chapter 163, Florida Statutes.
- (4) The planning commission shall serve as the village's board of adjustment to consider variances and administrative appeals.
- (5) The planning commission has additional duties that include site plan and appearance review (see sections [6-30](#) through [6-60](#)); the responsibility to make recommendations on special exceptions (see [section 45-16.2](#)); and the authority to approve waivers on land in the C-MU and C-NB zoning districts only (see [section 45-51](#)).

The Village’s Code of Ordinances also created a Board of Adjustment, whose duties are to hear and decide appeals when it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any land development regulation and to authorize variances from the terms of the Code of Ordinances.

On March 19, 2019 the Village Council, through Ordinance 2019-01 approved a zoning text amendment which required the Planning Commission to assume the duties of the Board of Adjustment. However, the Ordinance never eliminated the Board of Adjustment. It has been four years since this change was made and the Planning Commission has successfully assumed all the duties and responsibilities of the Board of Adjustment.

Village Staff is proposing to formally eliminate the Board of Adjustment and fully incorporate its duties in the newly created Planning & Zoning Adjustment Board. The proposed amendment will continue the process to streamline development issues for both residents and developers. Combining the boards together provides more efficiency which will only improve with the elimination of the Board of Adjustment. Additionally, providing a more appropriate name to the new board will avoid any confusion regarding the development process within the Village. There are no proposed changes to the functions, duties or responsibilities of the Planning Commission.

As for the variance process, Village Staff is proposing several changes which are summarized as follows:

1. Format – the proposed amendments will move all relevant provisions to one location so the applicant does not have to look at several code provisions to find out what is needed for a variance;
2. Process – the proposed amendments will streamline the development process and provide a clear application process so the applicant knows what to include with the application to avoid multiple submittals;
3. Burden of Proof – the proposed amendments will add a burden of proof so the applicant knows he/she/they have to show their request meets the variance requirements;
4. Expiration – the proposed amendments will add an expiration of the variance within one (1) year if a building permit has not been issued or if the permit expires to prevent a variance from lingering;
5. Administrative variance – the proposed amendments will add an administrative variance approval by the Community Development Director for certain conditions which still need to meet criteria for variance approval, thereby reducing the red tape and making development quicker and less costly for applicants with minor variance requests.
6. Administrative Appeals – the proposed amendments will streamline the appeal process by including what is required for the application, defining what powers the new Board has, delineating the burden of proof needed and requiring that appeals be filed within 15 days from the administrative decision or order.

Analysis:

Consistency with the Comprehensive Plan

Future Land Use Element

Objective 6 states that the Village shall encourage infill development and redevelopment along the Northlake Blvd and U.S. Highway No. 1 corridor. By streamlining processes, developers may be more willing to consider redevelopment within the Village's municipal boundaries.

Housing Element

Policy 3.9 states that the Village shall maintain land development regulations and permit review processes related thereto for the purpose of eliminating excessive requirements and supplementing existing requirements in order to increase private sector participation in meeting

defined housing needs. By streamlining processes, developers may be more willing to consider redevelopment within the Village’s municipal boundaries.

Consistency with the Code of Ordinances

The Department of Community Development Planning Division is responsible for updating the Village’s land development regulations and to assist village administration with development or redevelopment planning concepts. The proposed text amendments are to promote the economic health of the village and ensure the Department’s operations are efficient and effective and to streamline the zoning relief procedures in a manner that would offer the public a continued opportunity to engage with the Village. Thus, the proposed text amendments and their effects are consistent with the overall Code of Ordinances, insofar as no proposed amendment directly conflicts with or otherwise hinders the implementation or enforcement of other standards currently embedded in the Code of Ordinances that are not subject to this amendment. The proposed amendments further the goals of the Village Council.

IV. Staff Recommendation:

Adoption of Ordinance

PLANNING COMMISSION ACTION–September 12, 2023

VILLAGE COUNCIL ACTION– September 28, 2023

VILLAGE COUNCIL ACTION– October 12, 2023

1
2
3 **ORDINANCE NO. 2023-__**

4 AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH
5 PALM BEACH, FLORIDA, AMENDING CHAPTER 21, "PLANNING AND
6 DEVELOPMENT," OF THE VILLAGE CODE OF ORDINANCES BY
7 AMENDING ARTICLE II, "PLANNING COMMISSION," TO CREATE A
8 PLANNING & ZONING ADJUSTMENT BOARD AND REPEALING ARTICLE
9 III, "BOARD OF ADJUSTMENT," IN ITS ENTIRETY; AMENDING ARTICLE VI,
10 "REZONING, VARIANCES AND WAIVERS," OF CHAPTER 45 (APPENDIX C),
11 "ZONING," OF THE VILLAGE CODE OF ORDINANCES BY AMENDING
12 SECTION 45-50, "VARIANCES," TO PROVIDE PROCEDURES FOR NON-
13 ADMINISTRATIVE AND ADMINISTRATIVE VARIANCES AND ADOPTING A
14 NEW SECTION 45-52, "ADMINISTRATIVE APPEALS;" REPLACING ALL
15 VILLAGE CODE REFERENCES TO THE PLANNING COMMISSION WITH THE
16 PLANNING & ZONING ADJUSTMENT BOARD; PROVIDING FOR
17 CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR
18 CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER
19 PURPOSES.

20 WHEREAS, the Village Council wishes to revise Chapter 21, "Planning and Development," and
21 Chapter 45 (Appendix C), "Zoning," of the Village Code of Ordinances to: create a Planning &
22 Zoning Adjustment Board; transfer the criteria and procedures for variances and administrative
23 appeals from Chapter 21 to Chapter 45; and create a process for the consideration and approval of
24 administrative variances; and

25
26 WHEREAS, on September 12, 2023, the Planning Commission, sitting as the Local Planning Agency,
27 conducted a public hearing to review this Ordinance and provided a recommendation to the Village
28 Council; and

29
30 WHEREAS, having considered the recommendation of the Planning Commission and conducted all
31 required advertised public hearings, the Village Council determines that the adoption of this
32 Ordinance is in the interests of the health, safety, and welfare of the residents of the Village of North
33 Palm Beach.

34
35 NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF
36 NORTH PALM BEACH, FLORIDA as follows:

37
38 Section 1. The foregoing recitals are ratified as true and correct and are incorporated herein.

39
40 Section 2. The Village Council hereby amends Article II, "Planning Commission," of Chapter
41 21, "Planning and Development," of the Village Code of Ordinances to read as follows (additional
42 language is underlined and deleted language is ~~stricken through~~):

43
44 **ARTICLE II. PLANNING & ZONING ADJUSTMENT BOARD ~~COMMISSION~~**

45
46 **Sec. 21-11. Composition; conduct generally.**

- 1 (a) *Created.* A planning & zoning adjustment board ~~commission~~ for the village
2 is hereby created.
3
- 4 (b) *Membership; terms.* The planning & zoning adjustment board ~~commission~~
5 shall consist of seven (7) members. The village council shall appoint
6 members on an annual basis during April of each year to take effect the
7 following May 1 of each year for staggered terms of two (2) years as
8 determined by the village council. The planning & zoning adjustment board
9 ~~commission~~ shall consist of one (1) land use planner or architect, one (1)
10 architect, one (1) civil engineer, one (1) person engaged in business within
11 the corporate limits of the village, and three (3) members who need not be
12 engaged in any particular business or profession.
13
- 14 (c) *Meetings.* The planning & zoning adjustment board ~~commission~~ shall meet
15 at least once each month on a date to be determined by the ~~planning~~
16 ~~commission~~ board.
17
- 18 (d) *Powers, duties.* The planning & zoning adjustment board ~~commission~~ shall
19 have the following powers and duties:
20
- 21 (1) Perform any duties which lawfully may be assigned to it by the village
22 council.
23
- 24 (2) Perform any other duties which may be assigned to it under this Code.
25
- 26 (3) The planning & zoning adjustment board ~~commission~~ of the village
27 is hereby designated as the governmental entity to act as the "local
28 planning agency" in accordance with chapter 163, Florida Statutes.
29
- 30 (4) The planning & zoning adjustment board ~~commission~~ shall ~~serve as~~
31 ~~the village's board of adjustment to consider~~ have the authority to
32 grant variances in accordance with section 45-50 and consider and
33 adjudicate administrative appeals in accordance with section 45-52.
34
- 35 (5) The planning & zoning adjustment board ~~commission~~ has additional
36 duties that include site plan and appearance review (see sections 6-
37 30 through 6-60); the responsibility to make recommendations on
38 special exceptions (see section 45-16.2); and the authority to approve
39 waivers on land in the C-MU and C-NB zoning districts only
40 (see section 45-51).
41

42 **Sec. 21-12. Changes to zoning ordinances.**
43

- 44 (a) The village council may amend or supplement the regulations and districts
45 established by this Code after receiving the recommendation of the planning
46 & zoning adjustment board ~~commission~~. Proposed changes may be suggested
47 by the village council or the village manager. Changes to zoning district
48 boundaries may be requested in accordance with section 45-49.
49

- 1 (b) The planning & zoning adjustment board eommission, regardless of the
2 source of the proposed change, shall hold a public hearing or hearings
3 thereon, with due public notice, but shall in any case, if any change is to be
4 considered by the planning & zoning adjustment board eommission, submit
5 in writing its recommendations on the proposed change to the village council
6 for official action. The village council shall hold a public hearing thereon,
7 with due public notice, if any change is to be considered and shall then act
8 on the proposed change. If the recommendation of the planning & zoning
9 adjustment board eommission is adverse to the proposed change, such change
10 shall not become effective except by an affirmative vote of a majority of the
11 entire membership of the village council, after due public notice.
12

13 Section 3. The Village Council hereby deletes Article III, “Board of Adjustment,” of Chapter 21,
14 “Planning and Development,” of the Village Code of Ordinances in its entirety (deleted language is
15 ~~stricken through~~):
16

17 ~~ARTICLE III. BOARD OF ADJUSTMENT~~

18 ~~Sec. 21-21. Composition; conduct generally.~~

- 19 (a) ~~Created.~~ A board of adjustment for the village is hereby created.
20
21 (b) ~~Membership.~~ The members of the planning commission shall serve as the
22 board of adjustment.
23
24 (c) ~~Powers, duties.~~ The board of adjustment shall have the following powers and
25 duties:
26
27 (1) ~~Appeals.~~ To hear and decide appeals when it is alleged that there is
28 error in any order, requirement, decision or determination made by an
29 administrative official in the enforcement of any land development
30 regulation.
31
32 (2) ~~Variances:~~
33
34 a. ~~To authorize such variances from the terms of this code as will~~
35 ~~not be contrary to the public interest when, owing to special~~
36 ~~conditions, a literal enforcement of the provisions of the~~
37 ~~ordinance would result in unnecessary and undue hardship. In~~
38 ~~order to authorize any variance, the board of adjustment must~~
39 ~~find:~~
40
41 1. ~~That special conditions and circumstances exist which~~
42 ~~are peculiar to the land, structure or building involved~~
43 ~~and which are not applicable to other lands, structures~~
44 ~~or buildings in the same zoning district;~~
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46 2. ~~That the special conditions and circumstances do not~~
47 ~~result from the actions of the applicant;~~
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~~3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district;~~

~~4. That literal interpretation of the provisions of the subject ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant;~~

~~5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;~~

~~6. That the grant of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.~~

~~b. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this code.~~

~~e. The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both.~~

~~d. Under no circumstances, except as permitted above, shall the board of adjustment grant a variance to permit a use not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.~~

~~e. The concurring vote of a majority of all members of the board shall be necessary to grant a variance pursuant to this section.~~

~~(d) Review of administrative orders. In exercising its powers, the board of adjustment may, upon appeal and in conformity with provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by an administrative official in the~~

1 enforcement of any zoning ordinance or regulation adopted pursuant to this
2 part, and may make any necessary order, requirement, decision or
3 determination, and to that end shall have all the powers of the officer from
4 whom the appeal is taken. The concurring vote of a majority of all the members
5 of the board shall be necessary to reverse any order, requirement, decision or
6 determination of any such administrative official or to decide in favor of the
7 applicant on any matter upon which the board is required to pass under any
8 such ordinance.
9

10 (e) — ~~Appeals to board from decision of administrative official.~~ Appeals to the board
11 of adjustment may be taken by any person aggrieved or by any officer, board
12 or bureau of the governing body affected by any decision of an administrative
13 official under any zoning ordinance enacted pursuant to this part. Such appeal
14 shall be taken within thirty (30) days after rendition of the order, requirement,
15 decision or determination appealed from by filing with the officer from whom
16 the appeal is taken and with the board of adjustment a notice of appeal
17 specifying the grounds thereof. The appeal shall be in the form prescribed by
18 the rules of the board. The administrative official from whom the appeal is
19 taken shall, upon notification of the filing of the appeal, forthwith transmit to
20 the board of adjustment all the documents, plans, papers or other materials
21 constituting the record upon which the action appealed from was taken.
22

23 (f) — ~~Stay of work and proceedings on appeal.~~ An appeal to the board of adjustment
24 stays all work on the premises and all proceedings in furtherance of the action
25 appealed from, unless the official from whom the appeal was taken shall certify
26 to the board of adjustment that, by reason of facts stated in the certificate, a
27 stay would cause imminent peril to life or property. In such case, proceedings
28 or work shall not be stayed except by a restraining order which may be granted
29 by the board of adjustment or by a court of record on application, on notice to
30 the officer from whom the appeal is taken and on due cause shown.
31

32 (g) — ~~Hearing of appeals.~~ The board of adjustment shall fix a reasonable time for the
33 hearing of the appeal and decide the same within a reasonable time. Public
34 notice of all hearings shall be provided as required by section 21-3 of this
35 Code. Upon the hearing, any party may appear in person, by agent or by
36 attorney. Appellants may be required to assume such reasonable costs in
37 connection with appeals as may be determined by the governing body through
38 action in setting of fees to be charged for appeals.
39

40 (h) — ~~Judicial review of decisions of board.~~ Any person or persons, jointly or
41 severally, aggrieved by any decision of the board of adjustment, or any officer,
42 department, board, commission or bureau of the governing body, may apply to
43 the circuit court in the judicial circuit where the board of adjustment is located
44 for judicial relief within thirty (30) days after rendition of the decision by the
45 board of adjustment. Such an appeal shall not be a hearing de novo, but shall
46 be limited to appellate review of the record created before the board of
47 adjustment.
48

1 Section 4. The Village Council hereby amends Article VI, “Rezoning; Variances; Waivers,” of
2 Chapter 45 (Appendix C), “Zoning,” of the Village Code of Ordinances to read as follows (additional
3 language is underlined and deleted language is ~~stricken through~~):
4

5 ARTICLE VI. REZONINGS; VARIANCES; WAIVERS; ADMINISTRATIVE APPEALS
6

7 * * *

8 **Sec. 45-50. Variances.**
9

10 (1) Generally. All applications for variances to regulations or restrictions
11 established by this ~~ordinance chapter or otherwise permitted by this code~~ shall
12 be initiated by application to the village. The application may be made by any
13 property owner or tenant or by a governmental office, department, board or
14 bureau and filed with the community development department of the village.
15 Any such application, except by a governmental agency, must be accompanied
16 by the filing fee established in the master fee schedule adopted annually as part
17 of the village budget.
18

19 ~~(2) All applications concerning variances shall be upon forms to be supplied by~~
20 ~~the community development department.~~
21

22 ~~(3) Criteria for decisions on variance applications are provided in section 21-21 of~~
23 ~~the village code.~~
24

25 ~~(4) Public notice of all hearings shall be provided as required by section 21-3 of~~
26 ~~the village Code.~~
27

28 (2) Variance application process.
29

30 a. Upon receipt of an application for a variance, the community
31 development director or his/her designee shall determine whether
32 the variance may be considered and processed as an administrative
33 variance pursuant to subsection (7) below, and shall schedule
34 the variance for review and processing accordingly. Variances shall be
35 processed and noticed pursuant to section 23-3.
36

37 b. Application requirements. Variance requests shall contain information
38 sufficient in detail to reasonably apprise the community development
39 director or his/her designee, and the planning & zoning adjustment
40 board of the nature and substance of the proposed variance.
41 Variance requests shall be filed by written application to the
42 community development department. Each application shall be
43 accompanied by the applicable fee and shall contain the following
44 information or as otherwise required on the community development
45 department application submittal checklist:
46

47 1. A legal description of the subject property with a sealed land
48 survey prepared by a registered land surveyor.
49

- 1 2. A detailed description of the requested variance and a
2 justification statement detailing how the variance meets each of
3 the criteria set forth in subsection (3)b below.
- 4
- 5 3. Dimensioned plans showing the improvements that are the
6 subject of the variance request.
- 7
- 8 4. The person filing the application must be the property owner or
9 an agent of the property owner. Proof of ownership must be
10 provided. If the applicant is other than the owner of record, a
11 power of attorney from the owner of record to the applicant
12 shall accompany the application affirming that the owner has
13 granted full authority to the applicant to apply for the relief
14 requested in the application. If the applicant representing the
15 property owner is an attorney licensed to practice in this state,
16 no power of attorney shall be required; however, the attorney
17 shall sign the application and indicate his or her representative
18 capacity.
- 19
- 20 5. Copy of a list of property owners within three hundred (300)
21 feet of the subject property from the Palm Beach County
22 Property Appraiser's Office.
- 23
- 24 6. No objection letters from all surrounding property owners
25 within three hundred (300) feet of the subject property if an
26 administrative variance is sought or stamped and addressed
27 envelopes for all surrounding property owners within three
28 hundred (300) feet of the subject property if a non-
29 administrative variance is sought.
- 30

31 (3) Variance standards, guidelines, and review criteria.

- 32
- 33 a. Burden of proof. The burden of demonstrating that the request meets
34 the variance review criteria shall be on the applicant.
- 35
- 36 b. Review criteria. A variance is subject to the following criteria unless
37 otherwise specified in this chapter, and shall not be granted unless and
38 until the planning & zoning adjustment board determines that:
 - 39
 - 40 1. That special conditions and circumstances exist which are
41 peculiar to the land, structure or building involved and which
42 are not applicable to other lands, structures or buildings in the
43 same zoning district;
 - 44
 - 45 2. That the special conditions and circumstances do not result
46 from the actions of the applicant;
 - 47
 - 48 3. That granting the variance requested will not confer on the
49 applicant any special privilege that is denied by the ordinance

1 to other lands, buildings or structures in the same zoning
2 district;

3
4 4. That literal interpretation of the provisions of the subject
5 ordinance would deprive the applicant of rights commonly
6 enjoyed by other properties in the same zoning district under
7 the terms of the ordinance and would work unnecessary and
8 undue hardship on the applicant;

9
10 5. That the variance granted is the minimum variance that will
11 make possible the reasonable use of the land, building or
12 structure;

13
14 6. That the grant of the variance will be in harmony with the
15 general intent and purpose of the ordinance and that such
16 variance will not be injurious to the area involved or otherwise
17 detrimental to the public welfare.

18
19 c. Conditions and safeguards. In granting a variance, the planning &
20 zoning adjustment board may prescribe appropriate conditions and
21 safeguards as are, in the board's opinion, necessary to protect the public
22 interest. Violations of such conditions and safeguards, when made a
23 part of the terms under which the variance is granted, shall be deemed
24 a violation of this chapter.

25
26 d. Use variances not authorized. Under no circumstances, except as
27 authorized above, shall the planning & zoning adjustment board grant
28 a variance to allow a use not permitted in the applicable zoning district
29 involved or any use expressly or by implication prohibited in the zoning
30 district by the terms of the code. No nonconforming use of neighboring
31 lands, structures or buildings in the same zoning district and no
32 permitted use of lands, structures or buildings in other zoning districts
33 shall be considered grounds for the authorization of a variance.

34
35 (4) Expiration of variance.

36
37 a. Unless otherwise set forth in the written order, the variance shall expire
38 one (1) year from the date of the planning & zoning adjustment board's
39 order granting the variance if a building permit, where required by law,
40 has not been issued in accordance with the plans and conditions upon
41 which the variance was granted; and

42
43 b. The variance shall expire if a building permit issued in accordance with
44 the plans and conditions upon which the variance was granted expires
45 and is not renewed pursuant to the applicable provisions regarding
46 renewal of building permits.

47
48 (5) Decision and written order. A concurring vote of four (4) of the planning &
49 zoning adjustment board members shall be necessary to grant a variance. The

1 planning & zoning adjustment board's decision on a variance application shall
2 be set forth in a written order. An order granting a variance shall contain all
3 appropriate conditions and safeguards as determined by the board. The order
4 shall be forwarded to the village clerk and shall be sent to the applicant and/or
5 the applicant's agent and shall become part of the public records.

6
7 (6) *Judicial review.* Any person or persons, jointly or severally, aggrieved by any
8 decision of the planning & zoning adjustment board may seek judicial review
9 in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida within
10 thirty (30) days after rendition of the decision by the planning & zoning
11 adjustment board. Such an appeal shall not be a hearing de novo, but shall be
12 limited to appellate review of the record created before the planning& zoning
13 adjustment board.

14
15 (7) *Administrative variances.*

16
17 a. *Generally.* Administrative variances may be approved by the
18 community development director or his/her designee pursuant to this
19 subsection. An administrative variance may be considered only for:

20
21 1. An adjustment of no more than ten percent (10%) of a setback
22 required by the underlying zoning district regulations;

23
24 2. Reduction in the off-street parking requirements by no more
25 than twenty percent (20%);

26
27 3. Reduction in the buffer yard width requirements by no more
28 than ten percent (10%);

29
30 4. Reduction in the total area of landscaping required for off-street
31 parking and loading by no more than ten percent (10%);

32
33 5. Reduction in the loading/unloading space dimensional
34 requirements or the addition of a loading/unloading space;

35
36 6. Acknowledgement of an existing setback encroachment at least
37 five (5) years old, provided a building permit was issued by the
38 village (if no permit was issued, the property owner shall be
39 required to seek a non-administrative variance);

40
41 7. An adjustment of no more than ten percent (10%) of the lot
42 coverage for a principal and/or accessory structure as required
43 by the underlying district regulations;

44
45 8. A reduction of the spacing between structures on the same lot;
46 provided, however, in no event shall such spacing be less than
47 five (5) feet; and
48

1 9. An adjustment to screening and types of materials due to
2 unavailability of approved materials.

3
4 b. Conditions of approval. The community development director may
5 impose such conditions in a development order granting an
6 administrative variance as are necessary to accomplish the goals,
7 objectives and policies of the comprehensive plan and this section,
8 including, but not limited to, limitations on size, bulk, location,
9 requirements for landscaping, buffering, lighting, and provision of
10 adequate ingress and egress.

11
12 c. Criteria for granting administrative variances. The community
13 development director or his/her designee shall not grant a variance
14 unless each of the following criteria is met:

15
16 1. That special conditions and circumstances exist which are
17 peculiar to the land, structure or building involved and which
18 are not applicable to other lands, structures or buildings in the
19 same zoning district;

20
21 2. That the special conditions and circumstances do not result
22 from the actions of the applicant;

23
24 3. That granting the variance requested will not confer on the
25 applicant any special privilege that is denied by the ordinance
26 to other lands, buildings or structures in the same zoning
27 district;

28
29 4. That literal interpretation of the provisions of the subject
30 ordinance would deprive the applicant of rights commonly
31 enjoyed by other properties in the same zoning district under
32 the terms of the ordinance and would work unnecessary and
33 undue hardship on the applicant;

34
35 5. That the variance granted is the minimum variance that will
36 make possible the reasonable use of the land, building or
37 structure;

38
39 6. That the grant of the variance will be in harmony with the
40 general intent and purpose of the ordinance and that such
41 variance will not be injurious to the area involved or otherwise
42 detrimental to the public welfare.

43
44 d. Procedure.

45
46 1. Determination of consistency with criteria. The community
47 development director or his/her designee shall evaluate the
48 application and determine whether the application satisfies the
49 criteria for the grant of an administrative variance. If the

1 director finds that the application does not meet the criteria, the
2 applicant shall proceed with a non-administrative
3 variance application pursuant to this section.
4

5 2. Notice of intent to approve. The community development
6 director or his/her designee shall set forth his or her findings
7 and conclusions on the application in a "notice of intent to
8 approve" and provide such notice to the applicant in writing. A
9 "notice of intent to approve" shall include any conditions
10 necessary for the mitigation of any external impacts of the
11 administrative variance or to accomplish the goals, objectives
12 and policies of the comprehensive plan and this chapter,
13 including, but not limited to, limitations on size, bulk, location,
14 requirements for lighting and provision of adequate ingress and
15 egress. At any time prior to the issuance of a final order, the
16 community development director or his/her designee shall have
17 the authority to refer the decision to the planning & zoning
18 adjustment board for consideration of a non-administrative
19 variance.
20

21 3. Issuance of final order. If the applicant agrees with conditions
22 set forth in the notice of intent, the community development
23 director or his/her designee shall issue a written order granting
24 the administrative variance subject to all required conditions. If
25 the applicant disagrees with the conditions, the variance shall
26 be referred to the planning & zoning adjustment board for
27 consideration of a non-administrative variance.
28

29 4. Expiration of administrative variances. An
30 administrative variance shall automatically expire under the
31 following conditions:
32

33 (a) Unless otherwise determined by the director,
34 the variance shall expire one (1) year from the date of
35 the written determination by the community
36 development director or his/her designee granting the
37 administrative variance if a building permit, where
38 required by law, has not been issued in accordance with
39 the plans and conditions upon which the
40 administrative variance was granted; and
41

42 (b) The administrative variance shall expire if a building
43 permit issued in accordance with the plans and
44 conditions upon which the administrative variance was
45 granted expires and is not renewed pursuant to the
46 applicable provisions regarding renewal of building
47 permits.
48

49 * * *

1
2 **Sec. 45-52. Administrative appeals.**
3

4 (1) Review by the planning & zoning adjustment board. The planning & zoning
5 adjustment board shall review and decide appeals from any person who has
6 been adversely affected by a decision or order of an administrative official in
7 the interpretation or application of the zoning code. The planning & zoning
8 adjustment board may modify, reverse or affirm the administrative official's
9 decision or order interpreting or applying the provisions of the zoning code.

10
11 (2) Filing. Administrative appeals shall be filed by written application using the
12 form provided by the community development department. All applications
13 shall be accompanied by the processing fee established by the village council
14 and all supporting evidence pertaining to the appeal. All appeals shall be filed
15 with the community development department within fifteen (15) days of the
16 administrative decision, act, interpretation, or order to which the appeal is
17 directed.

18
19 (3) Processing.

20
21 a. All applications for administrative appeals shall be scheduled for a
22 hearing before the planning & zoning adjustment board on the next
23 available agenda.

24
25 b. The applicant or the applicant's agent or attorney shall present the
26 appeal at a public hearing before the planning & zoning adjustment
27 board. The burden of demonstrating an error in such decision or order
28 shall be on the applicant.

29
30 c. The administrative official whose decision or order is being challenged
31 shall present evidence, through testimony, documents or otherwise,
32 supporting in the initial decision or order.

33
34 d. The concurring vote of four (4) of the seven (7) board members shall
35 be necessary to reverse any order, requirement, or decision of an
36 administrative official.

37
38 e. Upon a decision, the planning & zoning adjustment board shall issue a
39 written order. The order shall be forwarded to the village clerk and
40 shall be sent to the applicant and/or the applicant's agent and shall
41 become part of the public records

42
43 (4) Judicial review. Any person or persons, jointly or severally, aggrieved by any
44 decision of the planning & zoning adjustment board may seek judicial review
45 in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida within
46 thirty (30) days after rendition of the decision by the planning & zoning
47 adjustment board. Such an appeal shall not be a hearing de novo, but shall be
48 limited to appellate review of the record created before the planning & zoning
49 adjustment board.

1
2 (5) Stay of work and proceedings on appeal. An appeal to the planning & zoning
3 adjustment board stays all work on the premises and all proceedings in
4 furtherance of the action appealed from, unless the official from whom the
5 appeal was taken shall certify to the planning & zoning adjustment board that,
6 by reason of facts stated in the certificate, a stay would cause imminent peril
7 to life or property. In such case, proceedings or work shall not be stayed except
8 by a restraining order which may be granted by the planning & zoning
9 adjustment board or by a court of record on application, on notice to the officer
10 from whom the appeal is taken and on due cause shown.

11
12 Section 5. All other references to the Planning Commission in the Village Code of Ordinances,
13 to the extent not specifically addressed in this Ordinances, shall be changed to the Planning & Zoning
14 Adjustment Board.

15
16 Section 6. The provisions of this Ordinance shall become and be made a part of the Code of the
17 Village of North Palm Beach, Florida.

18
19 Section 7. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for
20 any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such
21 holding shall not affect the remainder of this Ordinance.

22
23 Section 8. All ordinances or parts of ordinances and resolutions or parts of resolutions in conflict
24 herewith are hereby repealed to the extent of such conflict.

25
26 Section 9. This Ordinance shall take effect immediately upon adoption.

27
28 PLACED ON FIRST READING THIS ____ DAY OF _____, 2023.

29
30 PLACED ON SECOND, FINAL READING AND PASSED THIS ____ DAY OF _____,
31 2023.

32
33
34 (Village Seal)

MAYOR

35
36
37 ATTEST:

38
39 _____
40 VILLAGE CLERK
41
42

1 APPROVED AS TO FORM AND
2 LEGAL SUFFICIENCY:

3

4

5

VILLAGE ATTORNEY

VILLAGE OF NORTH PALM BEACH
VILLAGE ATTORNEY'S OFFICE

TO: Members of the Planning Commission

FROM: Leonard G. Rubin, Village Attorney

CC: Caryn Gardner-Young, Community Development Director

DATE: September 12, 2023

SUBJECT: **Ordinance Amending the R-1 Zoning Regulations to Repeal Portions of Ordinance No. 2022-18 (Massing of Two-Story Single-Family Dwellings) due to State Preemption and Providing a Guidance Statement**

Background:

Through the adoption of Ordinance No. 2022-18 on October 27, 2022, the Village Council implemented the recommendations of the Ad Hoc Committee (and this Commission) and adopted new regulations to the address the volume and massing two-story single-family dwellings. These regulations are summarized as follows:

- Increasing the second-story front yard setback to 30 feet;
- Increasing the second-story rear yard setback to 25 feet;
- Increasing the second-story side yard setback to 15 feet;
- Requiring building wall articulation on all walls with an unbroken plane in excess of 15 feet in height and 30 feet in length in the form of a wall perpendicular to the property line at a minimum distance of 2 feet and extending parallel to the property line a minimum of 10 feet; and
- Limiting the floor area of the second-story to 75% of the floor area of the first story.

Through the enactment of Section 14 of Chapter 2023-304, Florida Statutes (Senate Bill 250), the Florida Legislature prohibited the Village from proposing more restrictive or burdensome amendments to its land development regulations retroactive to September 28, 2022. That legislation declared any such amendments *void ab initio* (of no force and effect as of the date of adoption).

Discussion:

Staff brought the impact of Senate Bill 250 to the attention of the Village Council. The Council discussed the issue and recognized the preemption of the provisions listed above. However, in conjunction with the repeal of the preempted provisions, the Village Council directed Staff to include a guidance statement encouraging property owners to use the former regulations as guidelines when constructing or substantially altering two-story single-family dwellings. The Village Council further indicated that it wished to readopt the regulations upon expiration of the preemption provision of Senate Bill 250 on October 1, 2024.

Recommendation:

Village Staff requests that the Planning Commission review the proposed Ordinance amending Village's Zoning Code to repeal the provisions relating to the massing of two-story single-family dwellings preempted by Senate Bill 250 and including a guidance statement and provide a recommendation to the Village Council.



**VILLAGE OF NORTH PALM BEACH
PLANNING COMMISSION
REGULAR MEETING MINUTES
TUESDAY AUGUST 1, 2023**

Members Present: Donald Solodar, Chair
Cory Cross, Vice Chair
Thomas Hogarth
Jonathan Haigh
Kathryn DeWitt
Scott Hicks
Nathan Kennedy

Village Staff: Len Rubin, Village Attorney
Caryn Gardner-Young, Community Development Director
Charles Huff, Village Manager
Susan Bickel, Councilmember

I. CALL TO ORDER

Chairman Solodar called the meeting to order at 6:31 PM.

A. ROLL CALL

Jonathan Haigh joined the meeting at 6:39 PM at which time all members of the Planning Commission were present.

II. DELETIONS, ADDITIONS, OR MODIFICATIONS TO THE AGENDA

There were no modifications to the agenda.

II. PUBLIC COMMENT FOR NON-AGENDA ITEMS

There were no public comments.

III. APPROVAL OF MINUTES

Chairman Solodar stated that a correction needed to be made to the July 11, 2023 minutes to reflect that the 1200/1208 Marine Way petition was presented by the vendor's representative, not the applicant's representative.

The July 11, 2023 minutes were approved as amended - Motion to approve minutes by Kathryn DeWitt, seconded by Thomas Hogarth. Motion passed unanimously 6-0.

IV. DECLARATION OF EX PARTE COMMUNICATIONS

There were no Ex Parte Communications declared by the Board.

V. QUASI-JUDICIAL MATTERS / PUBLIC HEARING

Attorney Len Rubin swore in all persons speaking.

A. SITE PLAN AND APPEARANCE REVIEW

1. 109 Paradise Harbour Blvd (Schooner Bay) – Exterior Building Modifications

The property owner submitted an application to change the exterior color schemes for the buildings. The applicant’s representative, Paul Damigos, 144 Anchorage Drive South, presented his request for the color change.

Caryn Gardner-Young presented information on the project and recommendations. Village staff confirmed that the request is consistent with the Village’s Appearance Plan and meets the Village’s code requirements.

There were no public comments.

Motion: Nathan Kennedy moved to approve the application according to the staff report conditions of approval. Seconded by Scott Hicks. Motion passed unanimously (6-0).

2. 129 Lehane Terrace, 132 Wettaw Lane, and 118 Castlewood Drive (Castlewood Town Villas) – Exterior Building Modifications

The property owner submitted an application to change the exterior color schemes for the buildings. The applicant’s representative, Melinda Dzenuns, 129 Lehane Terrace, Unit 132, presented her request for the color change.

Caryn Gardner-Young presented information on the project and recommendations. Village staff confirmed that the request is consistent with the Village’s Appearance Plan and meets the Village’s code requirements.

There were no public comments.

Motion: Thomas Hogarth moved to approve the application according to the staff report conditions of approval. Seconded by Cory Cross. Motion passed unanimously (7-0).

VI. ATTORNEY PRESENTATION

Attorney Len Rubin stated that he will provide a PowerPoint presentation on Commission duties and responsibilities at the September meeting.

VI. COMMISSION MEMBER COMMENTS

Thomas Hogarth noted that Bellagio Dental still has their temporary grand opening signage posted. Caryn Gardner-Young stated that she will research and provide a report at the September meeting.

VII. STAFF UPDATES

- Caryn Gardner-Young stated that La Bamba restaurant plans to submit an application for modifications to exterior paint color and sign change.
- Due to the Labor Day holiday, Village staff recommended moving the September 5 meeting to September 12. The reschedule date was confirmed by the Planning Commission.
- Due to Election Day, Village staff recommended moving the November 7 meeting to November 14. The reschedule date was confirmed by the Planning Commission.

VIII. ADJOURNMENT

With there being no further business to come before the Commission, the meeting adjourned at 6:52 PM.

Minutes typed by Barbara Bruckner

1 **Sec. 45-27. R-1 single-family dwelling district.**
2

3 A. *Uses permitted.* Within any R-1 single-family dwelling district no
4 building, structure, land or water shall be used except for one (1) or
5 more of the following uses:
6

- 7 1. Single-family dwellings with accessory buildings customarily
8 incident thereto, subject to each of the requirements set forth in
9 this section and throughout this chapter.
- 10 2. Public schools.
- 11 3. Parks and recreation facilities owned or leased by or operated
12 under the supervision of the Village of North Palm Beach.
- 13 4. Detached fence storage areas.
- 14 5. Satellite dish antenna.
- 15 6. Community residential homes. Community residential homes
16 of six (6) or fewer residents which otherwise meet the definition
17 of a community residential home, provided that such homes
18 shall not be located within a radius of one thousand (1,000) feet
19 of another existing such home with six (6) or fewer residents.
- 20 7. Family day care home.
- 21 8. Lamp post.
- 22 9. Decorative post structure.

23 B. *Building height regulations.* All single-family dwellings shall be
24 limited to two (2) stories and thirty feet (30') in height. For the purposes
25 of this subsection, height shall be measured from the average elevation
26 of the existing grade prior to land alteration for properties outside of
27 special flood hazard areas and from the required design flood elevation
28 for properties within special flood hazard areas. Height shall be
29 measured to the highest point of the following:
30

- 31 1. the coping of a flat roof and the deck lines on a mansard roof;
- 32 2. the average height level between the eaves and roof ridges or
33 peak for gable, hip or gambrel roofs; or
- 34 3. the average height between high and low points for a shed roof.

35 Decorative architectural elements, chimneys, mechanical equipment,
36 non-habitable cupolas, elevator shafts or similar appurtenances shall be
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48

1 excluded from the foregoing height restrictions. Rooftops shall not be
2 used for pools, decks, or other spaces to congregate.

3
4 C. *Building site area regulations.* The minimum lot or building site area
5 for each single-family dwelling shall be seven thousand five hundred
6 (7,500) square feet and have a width of not less than seventy-five (75)
7 feet, measured at the building line.

8
9 D. *Yard space regulations.*

10
11 1. *Front yard.* There shall be a front yard of not less than twenty-
12 five (25) feet ~~for the first story and thirty (30) feet for the second~~
13 ~~story~~ measured from the street line to the front building line.

14
15 2. *Rear yard.* There shall be a rear yard of not less than twenty
16 (20) feet ~~for the first story and twenty five (25) feet for the~~
17 ~~second story~~ measured from the rear building line to the rear lot
18 line.

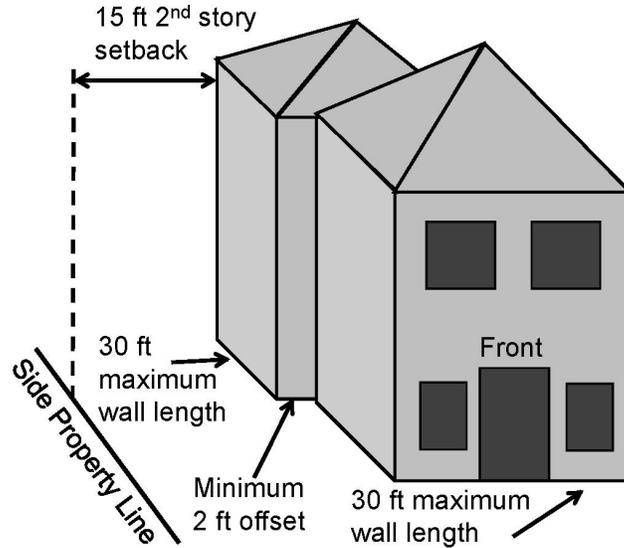
19
20 3. *Side yards.* There shall be a side yard on each side of the side
21 building line of not less than ten (10) feet ~~for the first story and~~
22 ~~fifteen (15) feet for the second story.~~ In the case of corner lots,
23 no building and no addition to any building shall be erected or
24 placed nearer than twenty (20) feet to the side street line of any
25 such lot.

26
27 (a) For a distance of one block on streets intersecting U.S.
28 #1, measured from the right-of-way line of said U.S. #1,
29 side yards of at least twenty-five (25) feet in depth shall
30 be provided.

31
32 4. ~~*Applicability of second story setback.* The second story setback~~
33 ~~shall apply only to the roofed portion of the second story of a~~
34 ~~two-story, single family dwelling and shall not apply to non-~~
35 ~~roofed second story patios or balconies. The second story~~
36 ~~setback for the rear yard shall not apply if any portion of the~~
37 ~~rear lot line abuts a waterway.~~

38
39 E. ~~*Building wall articulation.* Building wall articulation shall be provided~~
40 ~~on all walls with an unbroken plane in excess of fifteen (15) feet in~~
41 ~~height and thirty (30) feet in length. Window and door openings shall~~
42 ~~not be considered a plane break. The articulation shall be in the form~~
43 ~~of a wall perpendicular to the property line at a minimum distance of~~
44 ~~two (2) feet and extending parallel to the property line a minimum of~~
45 ~~ten (10) feet. The articulation must extend evenly over the entire height~~
46 ~~of the building wall (See Figure 1 below).~~

Figure 1 Building Wall Articulation



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F. ~~*Second story floor area.* The floor area of the second story of a single-family dwelling shall not exceed seventy five percent (75%) of the floor area of the first story. For the purpose of this subsection, floor area shall include all areas lying within the building perimeter established by the interior side of the exterior walls of the building, including garages, covered patios, and other open air exterior areas that are under roof. The floor area for the second story shall include areas open to below.~~

E. *Guidance on volume and massing of single-family dwellings.* Due to the legislature’s enactment of Chapter 2023-304, Laws of Florida (Senate Bill No. 250), the village was required to repeal recently adopted regulations relating to the volume and massing of single-family dwellings. However, to preserve the character of the village’s existing single-family neighborhoods, the village encourages the use of the following guidelines when constructing or substantially altering single-family dwellings:

1. Second-story setbacks should be five (5) feet greater than the required first-story setbacks. These enhanced setbacks should apply to the roofed portion of the second story of a two-story, single-family dwelling.
2. Building wall articulation should be provided on all walls with an unbroken plan in excess of fifteen (15) feet in height and thirty (30) feet in length. The articulation should be in the form of a wall perpendicular to the property line at a minimum distance of two (2) feet, extending parallel to the property line a minimum of ten (10) feet, and should extend evenly over the entire height of the building wall (see Figure 1 above).

1
2 3. The second-story of a single-family dwelling should not exceed
3 seventy-five percent (75%) of the floor area of the first story.
4 Floor area includes all areas lying within the building perimeter
5 established by the interior side of the exterior walls of the
6 building, including garages, covered patios and open-air
7 exterior areas under roof. The floor area of the second story
8 should include areas open to below.
9

10 The village council intends to readopt these regulations as of October
11 1, 2024.
12

13 G F. *Off street parking regulations.* At least one parking space measuring at
14 least nine (9) feet by eighteen (18) feet (one hundred sixty-two (162)
15 square feet) shall be provided. All parking spaces shall consist of a
16 durable surfaced area as approved by the community development
17 director, and may be enclosed in the dwelling, in an accessory building
18 or in an unenclosed area or a driveway. All vehicles parking on a lot
19 must be parked on a durable surface.
20

21 H G. *Accessory structures.* One detached automobile garage and one open-
22 air pavilion may be constructed on any lot within the R-1 single-family
23 dwelling district provided that all requirements of this chapter are met.
24 Open air pavilions shall be subject to the following additional
25 conditions and restrictions:
26

27 1. *Permitting.*
28

29 (a) All open-air pavilions must be permitted in accordance
30 with all Florida Building Code and Village Code
31 requirements.
32

33 (b) Open-air pavilions meeting the definition of a
34 traditional chickee hut are exempt from the Florida
35 Building Code but shall be subject to consistency
36 review by the village. Consistency shall be
37 demonstrated through the issuance of a zoning permit
38 and shall require the submittal of the following
39 information:
40

41 (1) A survey that includes scaled dimensions of the
42 proposed structure, including setbacks;
43

44 (2) Proof that the builder of the chickee hut is a
45 member of either the Miccosukee Tribe of
46 Indians of Florida or the Seminole Tribe of
47 Florida (such proof consisting of a copy of the
48 tribal member's identification card); and
49

1 (3) Drawings of the proposed structure depicting, at
2 a minimum, the overall design, dimensions, roof
3 materials, and height.
4

5 2. *Dimensions.* Open-air pavilions shall not exceed two hundred
6 (200) square feet in floor area. The floor area shall be measured
7 from outside the support posts, provided that the roof overhang
8 does not exceed three (3) feet from the support posts. If the roof
9 overhang exceeds three (3) feet, the floor area shall consist of
10 the entire roofed area. For structures supported by a single-pole,
11 i.e., umbrella shape, the floor area shall be measured from the
12 drip line of the roof material.
13

14 3. *Height.* Open-air pavilions shall not exceed twelve (12) feet in
15 height or the height of the principal building located on the lot,
16 whichever is more restrictive. For sloped roofs, the height shall
17 be measured at the mean roof height.
18

19 4. *Location and Setbacks.*
20

21 (a) No open-air pavilion may be erected within ten (10) feet
22 of the side property line. This side setback shall be
23 increased to twenty (20) feet for corner lots.
24

25 (b) No open-air pavilion may be erected within seven and
26 one-half (7½) feet of the rear property line.
27

28 (c) No open-air pavilion or any portion thereof may be
29 erected between the front line of the principal building
30 and the front property lot line, within a utility or
31 drainage easement, or within a required landscape
32 buffer.
33

34 5. *Use restrictions.*
35

36 (a) An open-air pavilion shall be used only for private
37 recreational activities as an accessory use to the
38 principal residential use and shall not be used for
39 habitation, for a tool room, storage room or workshop,
40 or for any commercial purpose whatsoever.
41

42 (b) Open-air pavilions shall not be used for storage of items
43 of personal property, including, but not limited to, the
44 following:
45

46 (1) Operable or inoperable vehicles, boats, boat
47 trailers, utility trailers or similar items of
48 personal property;

- (2) Building materials, lawn equipment, tools or similar items; and
- (3) Ice boxes, refrigerators and other types of food storage facilities with the exception of under-counter units.
- (c) No gas, charcoal or propane grills, stoves or other types of cooking devices may be stored or utilized within a traditional chickee hut.

6. *Maintenance.* Open-air pavilions shall be maintained in good repair and in sound structural condition. Painted or stained surfaces shall be free of peeling paint, mold and mildew and void of any evidence of deterioration.

7. *Design.*

- (a) Open-air pavilions, with the exception of traditional chickee huts, pergolas and other structures with only partial or slatted roofs, shall incorporate the same types of building materials and be consistent with the architectural theme or style of the main or principal building.
- (b) At the request of a property owner, the community development director may approve the use of different building materials or alternate architectural themes or styles when such materials, themes or styles are complementary to the main or principal building.
- (c) Should the community development director deny the request for different building materials or alternate architectural themes or styles, a property owner may appeal this decision to the planning commission by submitting a written request for a hearing to the community development director within thirty (30) calendar days of the date of the determination. The appeal shall be placed on the next available agenda and the decision of the planning commission shall be final, subject only to judicial review by writ of certiorari.

‡ H. *Mechanical equipment.* All non-roof-mounted mechanical equipment shall be located behind the front building face of the principal structure in either the side yard or the rear yard. Such equipment shall be located adjacent to the principal structure whenever practicable, provided, however, that all mechanical equipment shall be located at least five (5) feet from the side property line and at least seven and one-half feet (7½) from the rear property line.

1
2 ¶ I. *Minimum landscaped area.*
3

- 4 1. All single-family dwellings shall have a minimum landscaped
5 area of thirty percent (30%).
6
7 2. All single-family dwellings (both one and two story) shall
8 provide a minimum landscaped area of fifty percent (50%) in
9 the required twenty-five-foot (25') front yard setback.
10 Properties with frontage along urban collector roads
11 (Lighthouse Drive and Prosperity Farms Road) shall provide a
12 minimum landscaped area of forty percent (40%) in the
13 required twenty-five-foot (25') front yard setback. Properties
14 having an irregular lot shape, meaning a lot which is not close
15 to rectangular or square and in which the width of the property
16 at the front property line is less than required by the underlying
17 zoning district, shall provide a minimum landscaped area of
18 twenty-five percent (25%) in the required twenty-five-foot
19 (25') front yard setback.
20
21 3. A property owner who meets the overall minimum landscaped
22 area requirement set forth in subsection (1) above and who does
23 not meet the minimum landscaped area requirement in the
24 twenty-five-foot (25') front yard setback set forth in subsection
25 (2) above may request a waiver of up to five percent (5%) of
26 the minimum required area by filing a request with the
27 Community Development Department. The request shall be
28 forwarded to the Planning Commission for final action. A
29 property owner seeking such a waiver shall be required to
30 demonstrate to the Planning Commission that he or she has
31 made a reasonable attempt to comply with the required
32 minimum landscaped area within the front yard setback and has
33 mitigated any deficiency through the installation of enhanced
34 landscaping materials, the use of permeable hardscape
35 materials or some other acceptable means.
36

37 For the purposes of this subsection, the term minimum landscaped area
38 shall mean a pervious landscaped area unencumbered by structures,
39 buildings, paved parking lots, sidewalks, sports courts, pools, decks, or
40 any impervious surface. Landscape material shall include, but not be
41 limited to, grass, ground covers, bushes, shrubs, hedges or similar
42 plantings, or decorative rock or bark. No landscape material shall be
43 used for parking. However, pervious surfaces used for the parking of
44 recreational equipment in side and rear yards shall be included in the
45 calculation of the minimum landscaped area.
46

47 With respect to building permits for renovations of existing single-
48 family dwellings, the minimum landscaped area standards shall apply

1 only to the extent that the proposed scope of work impacts the
2 applicable standard.

3
4 † J. *Maximum driveway width in swale.* The total width of driveways from
5 the edge of the public roadway to the abutting privately-owned property
6 shall not exceed a total of thirty-two feet (32') in width at the property
7 line, excluding flares. For lots with ninety (90) or more feet of public
8 roadway frontage, the total width of driveways from the edge of the
9 public roadway to the abutting privately-owned private shall not exceed
10 a total of forty feet (40') in width at the property line, excluding flares.
11 Each side of a flared driveway shall be no more than three feet (3')
12 wider than the rest of the driveway.
13

14 Section 3. The provisions of this Ordinance shall become and be made a part of the Code of the
15 Village of North Palm Beach, Florida.

16
17 Section 4. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for
18 any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such
19 holding shall not affect the remainder of this Ordinance.
20

21 Section 5. All ordinances or parts of ordinances and resolutions or parts of resolutions in conflict
22 herewith are hereby repealed to the extent of such conflict.
23

24 Section 6. This Ordinance shall take effect immediately upon adoption.
25

26 PLACED ON FIRST READING THIS ____ DAY OF _____, 2023.
27

28 PLACED ON SECOND, FINAL READING AND PASSED THIS ____ DAY OF _____,
29 2023.
30

31
32 (Village Seal)

MAYOR

33
34
35 ATTEST:

36
37 _____
38 VILLAGE CLERK
39

40 APPROVED AS TO FORM AND
41 LEGAL SUFFICIENCY:

42
43 _____
44 VILLAGE ATTORNEY

Planning & Zoning Adjustment Board

2024 Meeting Schedule

(1st Tuesday of every month at 6:30pm)

January 2 (week of PBCSD winter break)

February 6

March 5

April 2

May 7

June 4

July 2 (week of July 4th)

August 6

September 3 (Sept. 2 is Labor Day)

October 1

November 5 (Election Day)

December 3



VILLAGE OF NORTH PALM BEACH, FLORIDA

ORDER GRANTING SITE PLAN AND APPEARANCE APPROVAL

Applicant: PA BBQ. (lessee)

Property Location: 525 U.S. Highway 1 ("Property")

Legal Description: NORTH PALM BEACH VILLAGE OF REPL BLK 8
LTS 12 & 13 BLK 8

Request: Approval for addition of an outdoor seating area

THIS MATTER came before the Planning Commission for hearing on September 12, 2023. After considering the testimony and other evidence presented by the Applicant and Village Staff, the Planning Commission hereby makes the following findings of fact:

1. Applicant's request meets the requirements for Site Plan and Appearance approval as set forth in Article II of Chapter 6 of the Village Code of Ordinances and Appendix A ("Appearance Plan").

Based on the foregoing findings of fact, it is ORDERED by the Planning Commission that the Applicants' request for Site Plan and Appearance approval is hereby **APPROVED** subject to the following conditions:

- A. The most stringent requirements of Exhibit "A" Community Development Department Report and Recommendation dated September 12, 2023, and strict compliance with the Exhibits listed below, which are attached hereto and made part hereof as Exhibit "B".
 - a. Set of 3 pictures showing the outdoor seating area
 - b. Equipment Plan dated February 5, 2019
 - c. Site Plan dated November 2, 1998
 - d. Set of 2 pictures showing the furniture and divider designs
- B. The planters in the outdoor seating area shall be no less than two (2) feet in height. (Planning and Zoning)
- C. The outdoor seating area shall meet all building regulations governing general and handicapped accessibility. (Planning and Building)
- D. The outdoor seating area shall be restricted to tables and chairs only and the required screening materials. Such items shall be compatible in color and style with

the exterior of the building and shall not contain or have affixed to it any sign, lettering or advertising of any kind. (Planning and Zoning)

- E. The outdoor seating area shall meet all health code and other applicable code requirements for restaurants. (Planning and Zoning)
- F. The outdoor seating area shall be maintained in a secure manner, whenever the food services establishment is closed to the public. (Planning and Zoning)
- G. All sales and service of food and beverages in the outdoor seating area are prohibited between the hours of 10:30pm and 7:00am Sunday through Thursday and between the hours of 11:00pm and 7:00am Friday and Saturday. (Planning and Zoning)
- H. The outdoor seating area shall be in compliance with the Village's noise regulations. (Planning and Zoning)
- I. A building permit will be required to address the additional restroom requirements based upon the additional 24 seats. (Planning and Zoning)
- J. The site plan shall be revised as necessary to reflect all conditions of approval and re-submitted prior to the issuance of building permits. (Planning and Zoning)
- K. Non-compliance with any of the conditions of approval will result in withholding of the issuance of building permits or a Certificate of Completion. (Planning and Building)
- L. All advertisements and legal addresses on insurance policies and business correspondence shall clearly state that the project is located within the "Village of North Palm Beach". (Planning and Zoning)

DONE AND ORDERED this _____ day of _____, 2023.

VILLAGE OF NORTH PALM BEACH

By: _____
Donald Solodar, Chair

ATTEST:

Caryn Gardner-Young, Community Development Director

Copies to:
Dean Lavellee, petitioner agent
Leonard G. Rubin, Village Attorney



Subject/Agenda Item:

SP-2023-1060 525 US Highway 1 (PA BBQ)

Consideration of Approval: A request from Dean Lavellee, agent for the property owner, R.I.S. Properties, Inc. and owner of PA BBQ, for Site Plan and Appearance approval to add an outside seating area at 525 US Highway 1.

Recommendation to APPROVE

Recommendation to DENY

Quasi-Judicial

Legislative

Public Hearing

Originating Department: Planning & Zoning Project Manager _____ Caryn Gardner-Young, AICP	Reviewed By: Community Development Director _____ Caryn Gardner-Young, AICP
Attachments: Exhibit B a. Site Plan dated November 2, 1998 b. Equipment Plan dated February 5, 2019 c. Set of three (3) pictures showing the outdoor seating area d. Set of two (2) pictures showing the furniture and divider designs	Public Notice: <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Dates: Paper: Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance:

I. Executive Summary

The applicant is proposing to add outside seating under an existing covered patio. The request is for six (6) tables with twenty-four (24) seats with decorative planters dividing the space from the parking area. According to the applicant, requests from many customers to eat outside caused him to submit the petition.

II. Site Data

Existing Use:

Restaurant

Parcel Control Numbers:

68-43-42-16-03-008-0120

Legal Description: NORTH PALM BEACH VILLAGE OF
REPL BLK 8 LTS 12 & 13 BLK 8

Parcel Size: 1.3950 acres

Existing Future Land Use Designation: Commercial

Existing Zoning District: Commercial Mixed Use (C-MU)

Table 1: Surrounding Existing Land Use, Future Land Use, Zoning District:			
Direction	Existing Land Use	Future Land Use	Zoning District
<i>North</i>	Office Building	Commercial	Commercial Mixed Use (C-MU)
<i>South</i>	Office Building	Commercial	Commercial Mixed Use (C-MU)
<i>East</i>	Village Police and Fire Station	Public Building	Public (P)
	Residential	Medium Density	Multiple Family Dwelling (R-2)
<i>West</i>	Residential	Medium Density	Multiple Family Dwelling (R-2)

III. Annexation/Zoning History

The subject parcel site is located on the west side of the US Highway 1 approximately 424 feet north of Anchorage Drive South. The subject site has a Future Land Use designation of Commercial and a Zoning designation of Commercial Mixed Use (C-MU).

IV. Applicable Code Provisions:

Section 45-36 General provisions.

V. Summary of Proposed Site Plan and Appearance Details:

The petitioner's site plan and appearance documents consists of:

- a. Site Plan dated November 2, 1998
- b. Equipment Plan dated February 5, 2019
- c. Set of three (3) pictures showing the outdoor seating area
- d. Set of two (2) pictures showing the furniture and divider designs

VI. Staff Analysis:

The petition is for Site Plan and Appearance approval to add an outside seating area at 525 US Highway 1.

Standards and Staff Findings:

1. Outdoor seating - Sec. 45-36(Q)(1):

The outdoor seating area is adjacent to that portion of the food service establishment which is inside the building. **The outdoor seating area will be located in an existing area adjacent to the restaurant which meets this requirement.**

The outdoor seating area is located on property which is either owned or leased by the adjacent food service establishment or the landlord of such food service establishment. **The outdoor seating area will be located on the property of the existing restaurant which meets this requirement.**

The outdoor seating can be accommodated without impeding the access of the general public, including persons with disabilities, to the portion of the food service establishment which is located inside the building or to any other commercial business of other use. **The outdoor seating area will be located in an existing area which will not impede access to the general public which meets this requirement.**

The outdoor seating can be accommodated without creating a need for additional parking spaces which could not be provided on the same site as the building for which the outdoor seating would be an accessory use or would create a non-conforming status for existing parking provided for such building. **The restaurant site provides sixty-four (64) parking spaces including two (2) handicapped. The addition of the outdoor seating area will increase the parking requirement to fifty-four (54) spaces which meets this requirement.**

2. Outdoor seating - Sec. 45-36(Q)(3):

The outdoor seating shall be arranged when in use, in a manner that allows a pedestrian walkway in compliance with applicable accessibility building and fire codes. **The outdoor seating area meets this requirement.**

Outdoor seating which is used for service and sale of food or beverage of any kind within the outdoor seating area, shall be physically separated and visually distinct from any immediately adjacent public passageway or walkway by means of approved fencing or screening material which is not less than two (2) feet in height, by means of one or more planter boxes and other plant containers, by means of some other approved divider, or any combination of such means, but not including tables, chairs or other seating. **The applicant is proposing planters to divide the outdoor seating area from other uses which meets this requirement.**

Outdoor seating may only contain tables, chairs, umbrellas and/or awnings and required fencing or screening materials. All such equipment shall be compatible in color and style with the exteriors of the building and shall not contain or have affixed to it any sign, lettering or advertising of any kind. **The applicant is proposing tables and chairs and screening planters only and no changes to the exterior of the building which meets this requirement.**

3. General Requirements (Parking):

Outdoor seating which increases the total number of seats available at a food service establishment shall be considered an expansion of use. Such outdoor seating shall be included in any calculation of the total number of seats provided by the food service establishment, but not limited to, parking, restroom facilities and business taxes. **There are sixty-four (64) existing parking spaces onsite. The number of existing restaurant seats is 137 which require 46 parking spaces. (137/3=45.66).**

The applicant is proposing an additional 6 tables which require 8 additional parking spaces for a total of 54 parking spaces. There is sufficient parking for the outdoor seating. Once approved, the applicant will be required to amend its BTR to account for the additional seats. A building permit will be required to address the restroom facilities. The code requires one male and one female toilet for each 75 seats.

VII. Staff Recommendation:

Approval of SP-2023-1060 with the following conditions:

1. The most stringent requirements of Exhibit “A” Community Development Department Report and Recommendation dated September 12, 2023, and strict compliance with the Exhibits listed below, which are attached hereto and made part hereof as Exhibit “B”.
 - a. Site Plan dated November 2, 1998
 - b. Equipment Plan dated February 5, 2019
 - c. Set of 3 pictures showing the outdoor seating area
 - d. Set of 2 pictures showing the furniture and divider designs
2. The planters in the outdoor seating area shall be no less than two (2) feet in height. (Planning and Zoning)
3. The outdoor seating area shall meet all building regulations governing general and handicapped accessibility. (Planning and Building)
4. The outdoor seating area shall be restricted to tables and chairs only and the required screening materials. Such items shall be compatible in color and style with the exterior of the building and shall not contain or have affixed to it any sign, lettering or advertising of any kind. (Planning and Zoning)
5. The outdoor seating area shall meet all health code and other applicable code requirements for restaurants. (Planning and Zoning)
6. The outdoor seating area shall be maintained in a secure manner, whenever the food services establishment is closed to the public. (Planning and Zoning)
7. All sales and service of food and beverages in the outdoor seating area are prohibited between the hours of 10:30pm and 7:00am Sunday through Thursday and between the hours of 11:00pm and 7:00am Friday and Saturday. (Planning and Zoning)

8. The outdoor seating area shall be in compliance with the Village's noise regulations. (Planning and Zoning)
9. A building permit will be required to address the additional restroom requirements based upon the additional 24 seats. (Planning and Zoning)
10. The site plan shall be revised as necessary to reflect all conditions of approval and re-submitted prior to the issuance of building permits. (Planning and Zoning)
11. Non-compliance with any of the conditions of approval will result in withholding of the issuance of building permits or a Certificate of Completion. (Planning and Building)
12. All advertisements and legal addresses on insurance policies and business correspondence shall clearly state that the project is located within the "Village of North Palm Beach". (Planning and Zoning)

PLANNING COMMISSION ACTION– September 12, 2023

Location Map

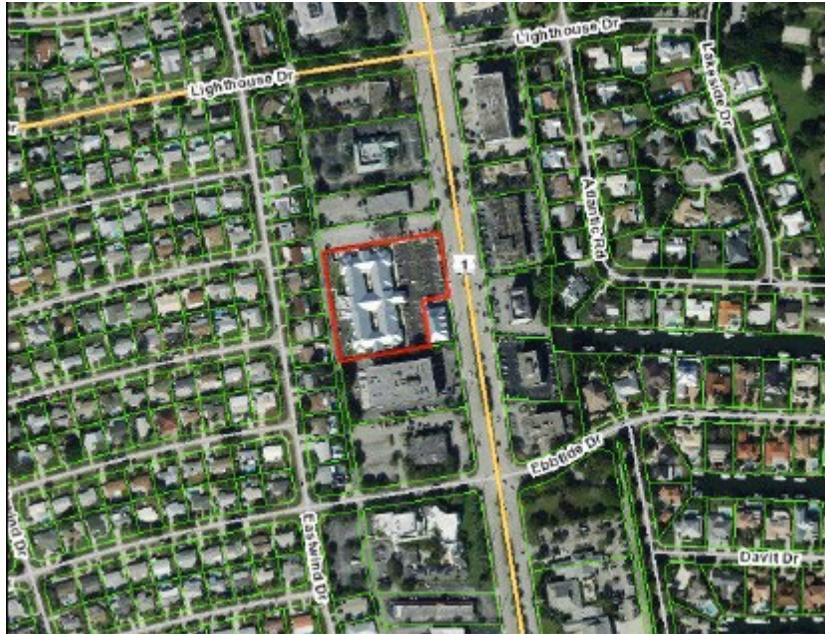
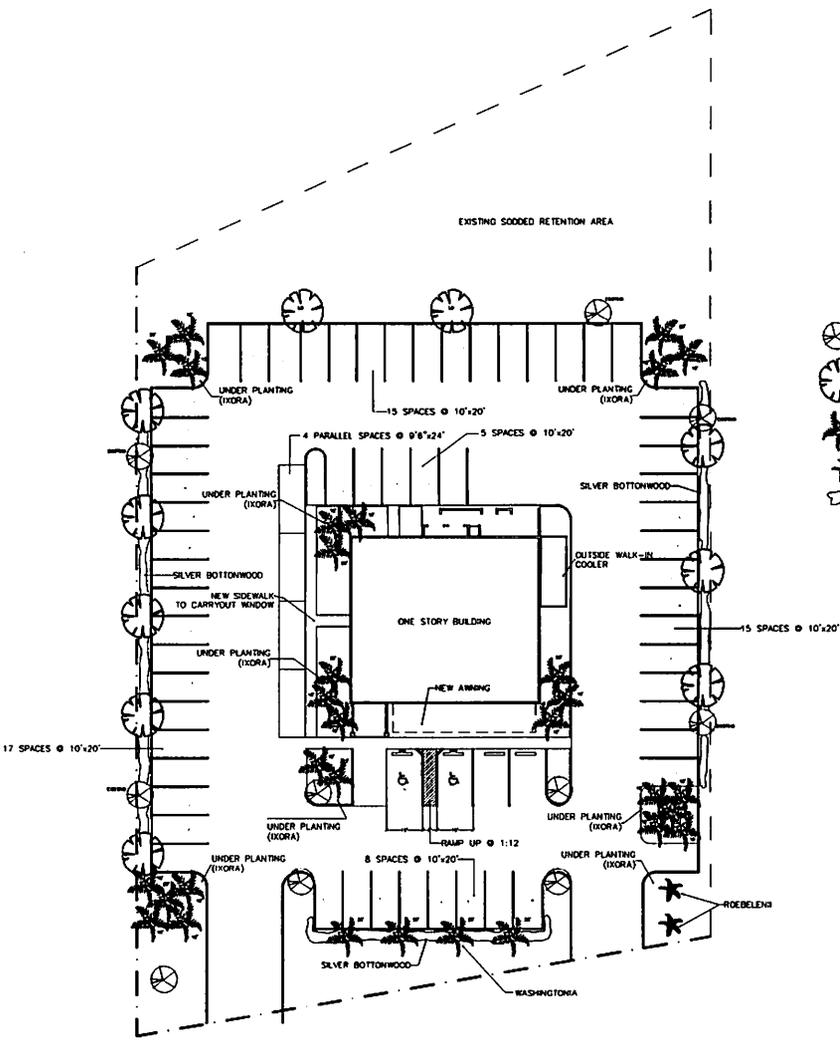


EXHIBIT "B"



- YELLOW TABEUBA
- LIVE OAK
- WASHINGTONIA
- ROEBELENI
- SILVER BOTTOMWOOD HEDGE

SITE PLAN
1:20

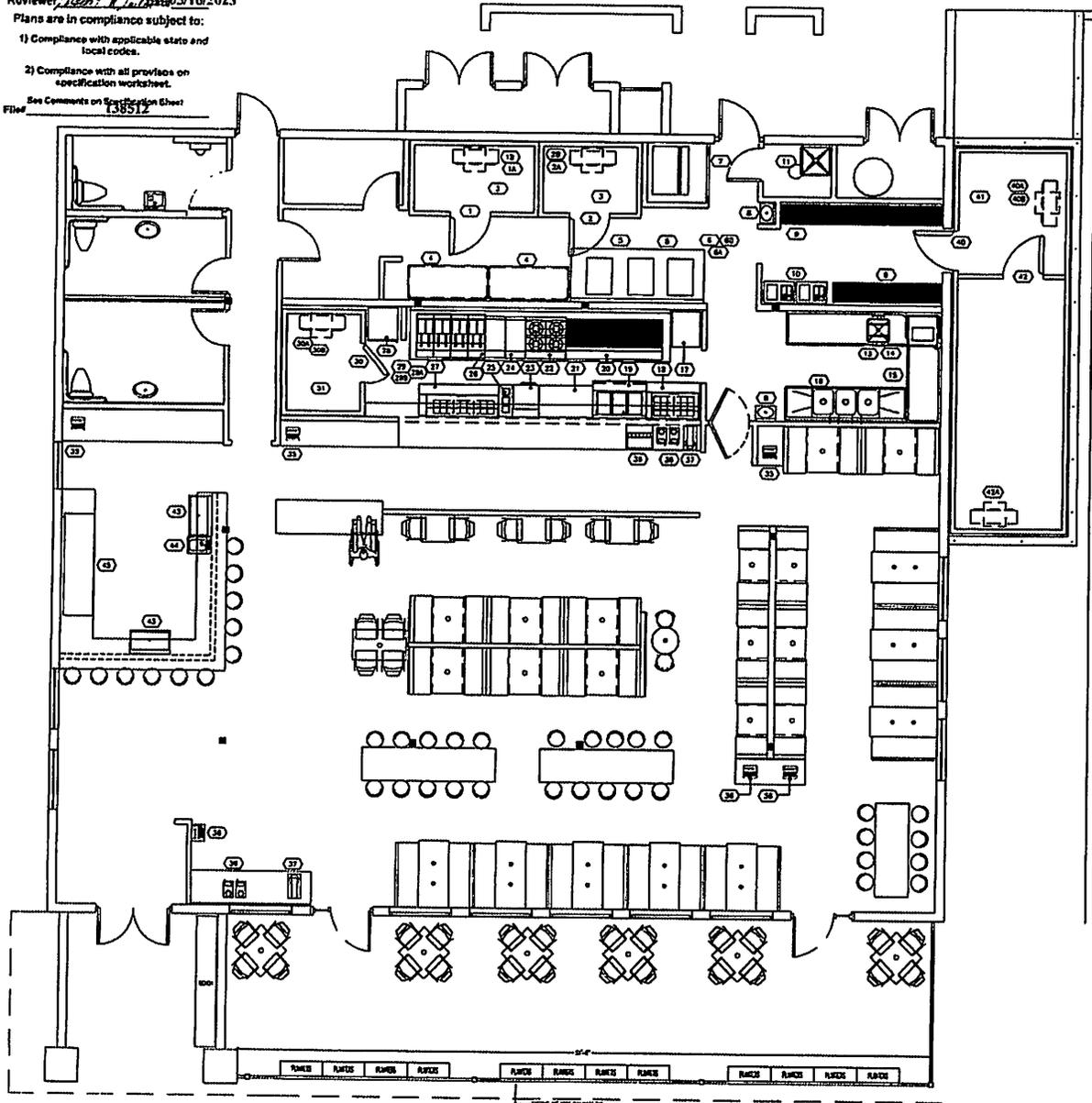
FOOD SERVICE PLAN REVIEW

Reviewed by: *[Signature]* Date: 05/16/2023

Plans are in compliance subject to:

- 1) Compliance with applicable state and local codes.
- 2) Compliance with all provisions on specification worksheet.

See Comments on Specification Sheet:
File # 158512



EQUIPMENT PLAN
1/4" = 1'-0"

EQUIPMENT SCHEDULE					
MARK	QTY.	DESCRIPTION	MARK	QTY.	DESCRIPTION
1	1	58"Wx8" EXISTING WALK-IN COOLER	24	1	BREADER PLATE
1A	1	EXISTING COOLER EVAP.	25	1	EXISTING 12" S/S SPACER
1B	1	EXISTING COOLER CONDENSER	26	1	BANK OF FRYERS w/DUMP STATION
2	1	37"x77" EXISTING WALK-IN FREEZER	27	1	EXISTING 73" SANDWICH UNIT
2A	1	EXISTING WALK-IN FREEZER EVAP.	28	1	DOOR LP-MOUNT FREEZER
2B	1	EXISTING WALK-IN FREEZER CONDENSER	29	1	EXISTING S/S HOOD
3	P.P.	EXISTING COOLER/FREEZER SHELVING	29A	1	EXISTING HOOD EXHAUST FAN
4	2	30"x77" S/S TABLE	29B	1	EXISTING SUPPLY FAN
5	3	SHOOTERS	30	1	61"Wx51" WALK-IN BEER COOLER
6	1	16" S/S HOOD	30A	1	SIXER COOLER CHAS.
6A	1	HOOD EXHAUST FAN	30B	1	SIXER COOLER CONDENSER
6B	1	SUPPLY FAN (PART OF ITEM 6)	31	P.P.	DUNAGE BENCH
7	1	EXISTING ICE MAKER	32	P.P.	BEER TAPS
8	2	WALL MOUNTED HAND SINK	33	1	80" MAG FROSTER
8	P.P.	DRY STORAGE SHELVING	34	1	SLIDING GLASS DOOR REFRIGERATOR
10	2	BAC-IN-THE-BOX	39	4	P.O.S.
11	1	EXISTING MOP SINK	38	1	SODA DISPENSER
12	1	OPEN HANDBL	37	1	ICE TEA BREWER
13	1	EXISTING SQUARE DISH TABLE	38	2	COFFEE MAKERS
14	1	EXISTING DISH WASHER	39	-	OPEN
15	1	EXISTING CLEAN DISH TABLE	40	1	100"x40" WALK-IN COOLER
16	1	EXISTING 3 COMPARTMENT SINK	40A	1	COOLER EVAP.
17	1	PROOFER	40B	1	COOLER CONDENSER
18	1	EXISTING 48" SANDWICH UNIT	41	P.P.	WALK-IN COOLER/FREEZER SHELVING
19	1	EXISTING 48" HOT FOOD TABLE	42	1	22"x48" WALK-IN FREEZER
20	1	CHAFER BROILER	42A	1	FREEZER EVAP.
21	1	EXISTING 48" S/S TABLE	42B	1	FREEZER CONDENSER
22	1	H.D. 4 BURNER RANGE	43	1	NICE BIN
23	1	EXISTING BREAD WARMER	44	1	HAND SINK
			45	1	BACK BAR COOLER



THOMAS THWAIT,
INC. # 23436
101 PARK
BLVD. # 5274
2831A EXCHANGE
WEST PALM BEACH,
FLORIDA
(561) 898-5
FAX (561) 898-5

REPAIRMENT CONSULTANT
DESIGN GROUP
(561) 898-5
FAX (561) 898-5

PARK AVE BBQ
525 NORTH U.S. HIGHWAY ONE
NORTH PALM BEACH, FLORIDA

SCALE: 1/4" = 1'-0"

REVISIONS:



DATE: 5/17/2023
DRAWN: [Signature]
SCALE: AS SHOWN
ACAPFILE: [Signature]

SHEET #
12a
OF
4









Madeira 5-Piece Black and Teak Brown
Indoor and Outdoor 4-Seat Square Table
and 4 Arm Chair Set

by **MQ**

10:46



Recently Viewed 1



Veradek Rust
Corten Span
Medium Steel