



Meeting Name: Planning and Zoning Board Meeting

Meeting Date: January 5, 2026

Prepared By: Zackery Good, Town Attorney

Item Title: ORDINANCE NO. 797

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA AMENDING DIVISION 1, “GENERALLY,” OF ARTICLE II, “ADMINISTRATION AND ENFORCEMENT,” OF CHAPTER 34, “ZONING,” OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 34-28, “PLANNING AND ZONING BOARD DUTIES,” TO REMOVE REVIEW OF PLATS AND REMOVE REVIEW OF SINGLE FAMILY SITE PLANS AND APPEARANCE (INCLUDING ARCHITECTURAL) FROM THE PLANNING AND ZONING BOARD TO ADMINISTRATIVE STAFF; PROVIDING FOR ADOPTION OF RECITALS; CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

REQUESTED ACTION:

Hold a public hearing and consider a recommendation to the Town Council of approval or denial of Ordinance No. 797, amending Section 34-28, Town Code of Ordinances to:

1. Remove plat and replat review from the duties of the Planning and Zoning Board; and
2. Remove review of single-family and two-family site plans and appearance, including architectural review, from the Planning and Zoning Board and assign such review to administrative Staff.

BACKGROUND AND LEGAL ANALYSIS:

At its May 28, 2025 meeting, the Town Council directed Staff to revise the Zoning Code to continue enforcement of harmony review for single-family dwellings while complying with state-law preemptions related to the regulation of building design elements. That direction included:

- Removing architectural review of single-family and two-family dwellings from the appearance review criteria;
- Creating a Zoning in Progress to allow time for comprehensive Code revisions;
- Removing appearance review for single-family dwellings;

- Returning review authority for single-family dwellings from the Planning and Zoning Board (acting as the Appearance Review Board) to administrative staff;
- Revising harmony comparison language; and
- Exploring additional base-zoning tools to promote harmony.

Subsequently and shortly thereafter, on June 26, 2025, the Governor of Florida signed Senate Bill 180 into law. Because Palm Beach County is included in a federal disaster declaration, the Town of Juno Beach is restricted until October 1, 2027, from adopting land development regulations or review procedures that are more restrictive or burdensome.

As a result, certain Council-directed zoning changes—such as increased setbacks, second-story floor area limitations, and expanded open-space requirements—are now legally constrained by Florida Statutes that preempt local government and could expose the Town to litigation risk as a result of the actions of Senate Bill 180.

However, Senate Bill 180 does not prohibit actions that are considered less restrictive, including:

- Removal of architectural and appearance review for single-family dwellings; and
- Assignment of such review to administrative staff.

The Town of Juno Beach has prior existing appearance review regulations in its Code of Ordinances.

The Town's existing appearance review regulations for single-family dwellings were adopted prior to August 1, 2024, dating as far back as 1984 according to historical Town records, and therefore are not invalidated by Senate Bill 180. Under current Code provisions, single-family dwellings are subject to Planning and Zoning Board review pursuant to Section 34-116, which includes harmony-based criteria.

To ensure consistency and transparency in applying these criteria, Staff developed internal analytical tools to evaluate bulk, mass, scale, and proportion. These tools are not codified but were implemented to reduce subjectivity and mitigate legal risk.

Prior legal counsel for the Town of Juno Beach provided the Town Council with a legal memorandum addressing potential challenges associated with the Town's harmony and appearance criteria. Key considerations included:

1. Whether Harmony and Appearance Review are Void for Vagueness

No. An ordinance is unconstitutionally vague only if it fails to provide a person of ordinary intelligence fair notice of what is prohibited or lacks definite standards applicable to similarly situated persons. *See Jones v. Williams Pawn & Gun, Inc.*, 800 So. 2d 267, 270 (Fla. 4th DCA 2001), *rev. denied*, 821 So. 2d 305 (Fla. 2002).

2. Whether Harmony and Appearance Review Violates Constitutional Equal Protection

No. Equal protection challenges in the zoning context are difficult to sustain and require proof that a facially neutral ordinance was applied unequally for a discriminatory purpose. *See Burns v. Town of Palm Beach*, 343 F.Supp.3d 1258, 1272 (S.D. Fla. 2018)

3. Whether Harmony and Appearance Review Provide Unbridled Discretion

No. Courts have held that zoning regulations are not impermissibly vague merely because they involve judgment or discretion, provided the ordinance includes sufficient criteria to guide decision-making and prevent arbitrary enforcement. Relevant case law has upheld similar appearance and architectural review standards where parameters constrain discretion and provide meaningful guidance.

In summary, while the Town's current harmony criteria are inherently subjective, courts have consistently recognized that subjectivity alone does not render a zoning ordinance unconstitutional where sufficient guiding standards exist.

The Town's existing appearance review regulations stand on relatively firm legal ground under the Town's home-rule police powers to regulate the health, safety, and welfare of the community in conjunction with existing Florida case law. However, adoption of more stringent or restrictive standards at this time may conflict with Senate Bill 180.

If the Town Council elects to continue enforcing appearance review criteria, options previously discussed include:

- Establishing a formal Design or Appearance Review Board with members experienced in architecture, planning, or real estate;
- Codifying review authority in a designated board or the Town Council, consistent with historical practice dating back to the Appearance Review Board created in 1984; and
- Continuing Staff analysis guided by the plain language of the Zoning Code.

Furthermore, if the Town were to continue enforcing its appearance review criteria, it could codify a provision specifically designating the Town Council or other constituted Town Board, such as the prior Appearance Review Board from 1984 which, as a practical matter, was absorbed into the Planning and Zoning Board upon its creation through recodification, but which has not been specifically repealed and is technically an active board legally, to review these decisions.

Absent the adoption of updated regulations by the Town Council, Town Staff could continue to analyze the square footage and floor area ratio of structures within the comparison area when formulating its recommendations as to bulk, mass, and scale, but should avoid the adoption of strict formulas in applying the harmony criteria. In accordance with the case law cited above, Staff recommendations should be guided by the application of the actual words used in the Town's Zoning Code.

TOWN COUNCIL DIRECTION:

At the November 12, 2025, Town Council Meeting, the Town Council approved a six-part motion to:

1. Create an ordinance that amends the Zoning Code to return appearance review for single family detached homes to the Town Planning & Zoning Department and removes it from the responsibilities of the Planning & Zoning Board;
2. Create an ordinance that adds clarifying language to our Zoning Code stating the original intent is to be followed when judging Harmony for single family homes, which is that the Harmony requirements adopted in 1992 restricted the Appearance of a proposed home (no castles or domes), but not the size, mass, bulk, scale, or proportion of the home;
3. Publicize the existing zoning code restrictions on house sizes by the height and lot coverage limits, and minimum setbacks listed for the various zoning districts;
4. Publicize that the existing harmony definition and statements in our code regarding aesthetically pleasing buildings, etc. are informational regarding the intent of town codes, but not enforceable requirements;
5. Create an ordinance that revises the architecture requirements in our zoning code to clarify that "building design elements" are not to be used in staff decision making as to whether a proposed single family detached home is acceptable; and
6. Continue with current plans to encourage voluntary compliance with the town's preferred architectural styles such as with the Pattern Book now being produced.

The Town Attorney's Office has subsequently worked with Town Staff to draft the attached Ordinance No. 797 amending Section 34-28, Town Code of Ordinances to:

1. Remove plat and replat review from the duties of the Planning and Zoning Board; and
2. Remove review of single-family and two-family site plans and appearance, including architectural review, from the Planning and Zoning Board and assign such review to administrative Staff.

The amendments to Section 34-28, Town Code of Ordinances related to plat and replat duties are changes recommended by the Town Attorney's Office for clarity and compliance with Section 177.071, Florida Statutes, that may be undertaken via this Ordinance already updating the duties of the Planning and Zoning Board.

The amendments to Section 34-28, Town Code of Ordinances related to the reassignment of site plan and appearance review for single-family and two-family dwellings are pursuant to part one of the Town Council's November 12, 2025, motion.

RECOMMENDATION:

At this time, Staff recommends the Planning and Zoning Board hold a public hearing and consider a recommendation to the Town Council of approval or denial of Ordinance No. 797.