

Provided by Vice Mayor Pro Tem
Davis

To: Town Council, Town Manager, and Finance Director

From: Diana Davis, Vice Mayor Pro Tem

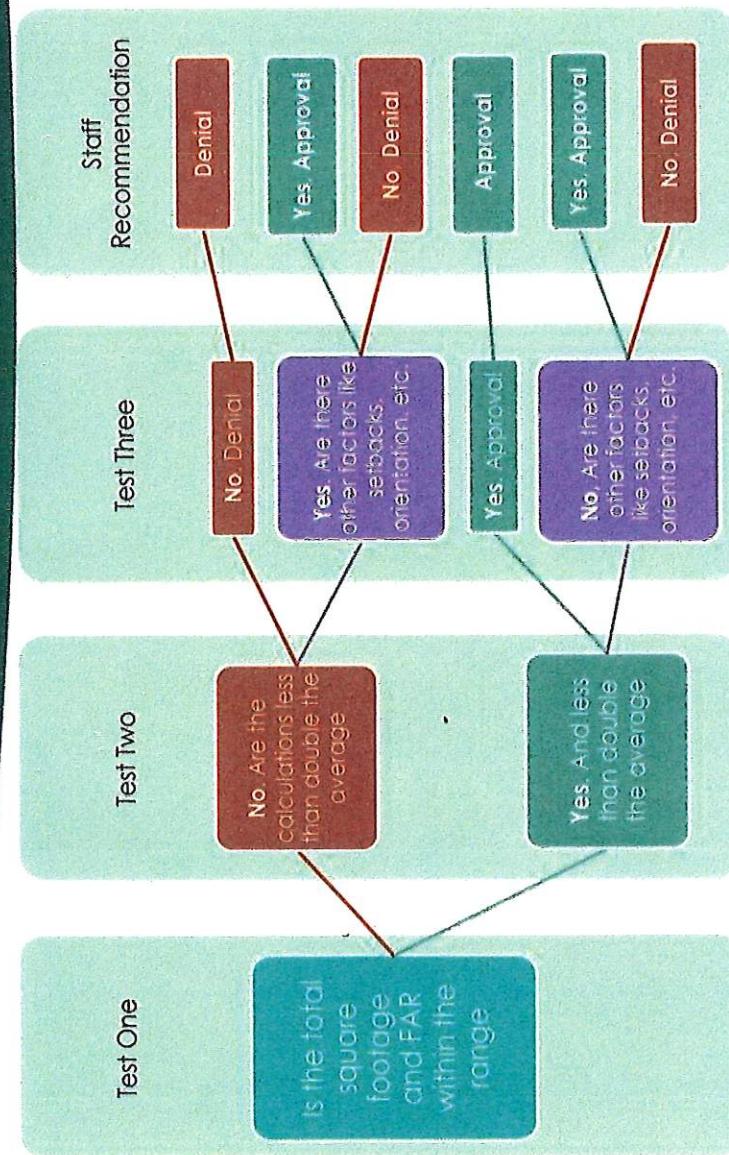
Date 9-8-2025

RE: Budget Items to be Brought back as Agenda items for recorded vote by Council

1. 12000 Payroll page 20. Salaries \$960,438 + Benefits \$285,895
2. 32000 Prof Fees accounting and auditing \$366,750
3. 63800 Capital Items to be brought back for individual votes
 - a. Kagan Park Playground
 - b. S. Littoral Shelf
 - c. JB0 Renovation 210,00
4. 12000 Payroll Comprehensive planning Salaries \$526,960 + Benefits \$190,293
5. 31300 Consultants and IT Fees Comprehensive Planning \$298,000
6. 31400 Charette \$1,000
7. 31600 Building Official Services \$600,000
8. 31600 Subtotal professional fees \$929,000
9. 62700 Building Improvements \$84,000; building improvement \$7,000
10. 12000 Payroll Law Enforcements \$2,144,204 Salaries + Benefits 1,157,641
11. 41500 Dispatch Services \$166,950
12. 62700 Building Improvement \$16,000
13. Public Works 34200 Contract Services Building \$39,300
14. 34800 Solid Waste Assessment \$151,000
15. Communications position
16. 63800 Public Works \$33,2200
17. 23100 Health Insurance \$242,000
18. 4500 Insurance \$325,000 – is this the appropriate risk calculation?
19. EOC \$100,000 for assessment, for spending of 2.4 million on building (restricted funds)

~ -concrete
~ -electric

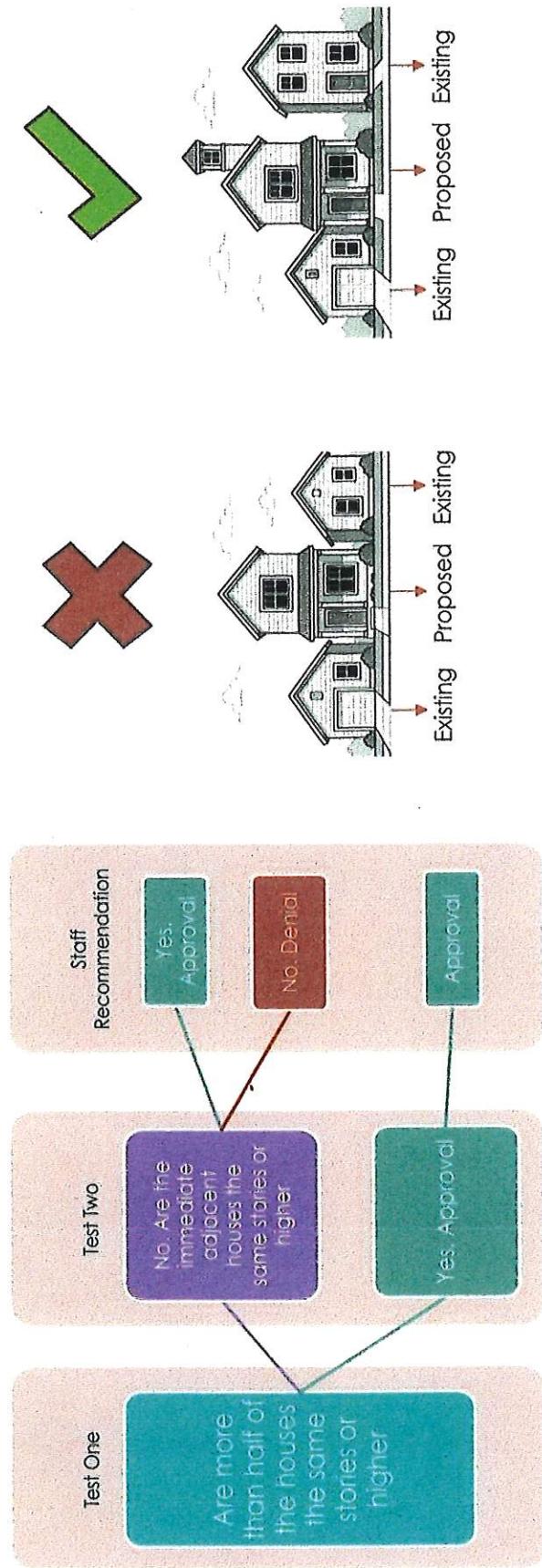
Harmony – Staff Tests for Bulk and Mass



- Staff conducts test(s) for Bulk and Mass since the 300-foot study area was adopted

Harmony – Staff Tests for Scale

- Tests for Scale



Harmony Example - 451 Neptune Rd.

Comparative Analysis and Methodology

Address	Lot Total Square Feet	Tower Feature	Lot Size to Total Square Feet Ratio (FAR)	Total Square Feet	Square Feet Under Air	Story
390 Neptune	5,662.8	No	0.36	2,079	1,470	1
391 Neptune	5,662.8	No	0.49	2,804	1,798	2
49 Neptune	6,969.6	No	0.31	2,177	1,671	2
490 Neptune	5,662.8	Ycs	0.32	1,820	1,573	1
481 Neptune	5,662.8	No	0.33	1,879	1,392	1
480 Neptune	5,662.8	No	0.33	1,920	1,424	1
471 Neptune	5,662.8	No	0.34	1,945	1,553	1
460 Neptune	5,662.8	No	0.36	3,185	2,364	2
451 Neptune	5,662.8	Yes	0.70	3,961	3,234	2
450 Neptune	5,662.8	No	0.28	1,606	1,254	1
441 Neptune	5,662.8	No	0.29	1,650	1,316	1
430 Neptune	5,662.8	No	0.38	2,174	1,265	1
421 Neptune	5,662.8	No	0.30	1,704	1,210	1
420 Neptune	5,662.8	No	0.35	1,970	1,646	1
411 Neptune	5,662.8	No	0.46	2,589	1,956	2
400 Neptune	5,662.8	No	0.34	1,919	1,176	1
531 Ocean Drive	6,098.0	No	0.27	1,648	1,553	1
Average	N/A	N/A	0.36	2,067	1,539	N/A

Subject Property

Properties removed from comparison due to different Zoning District

Study Area Map and Methodology



Subject Property

Properties removed from comparison due to different Zoning District

Single Family Homes Appearance Review 34-116(3)(b)(2)

Bulk & Mass Tests using Comparative analysis

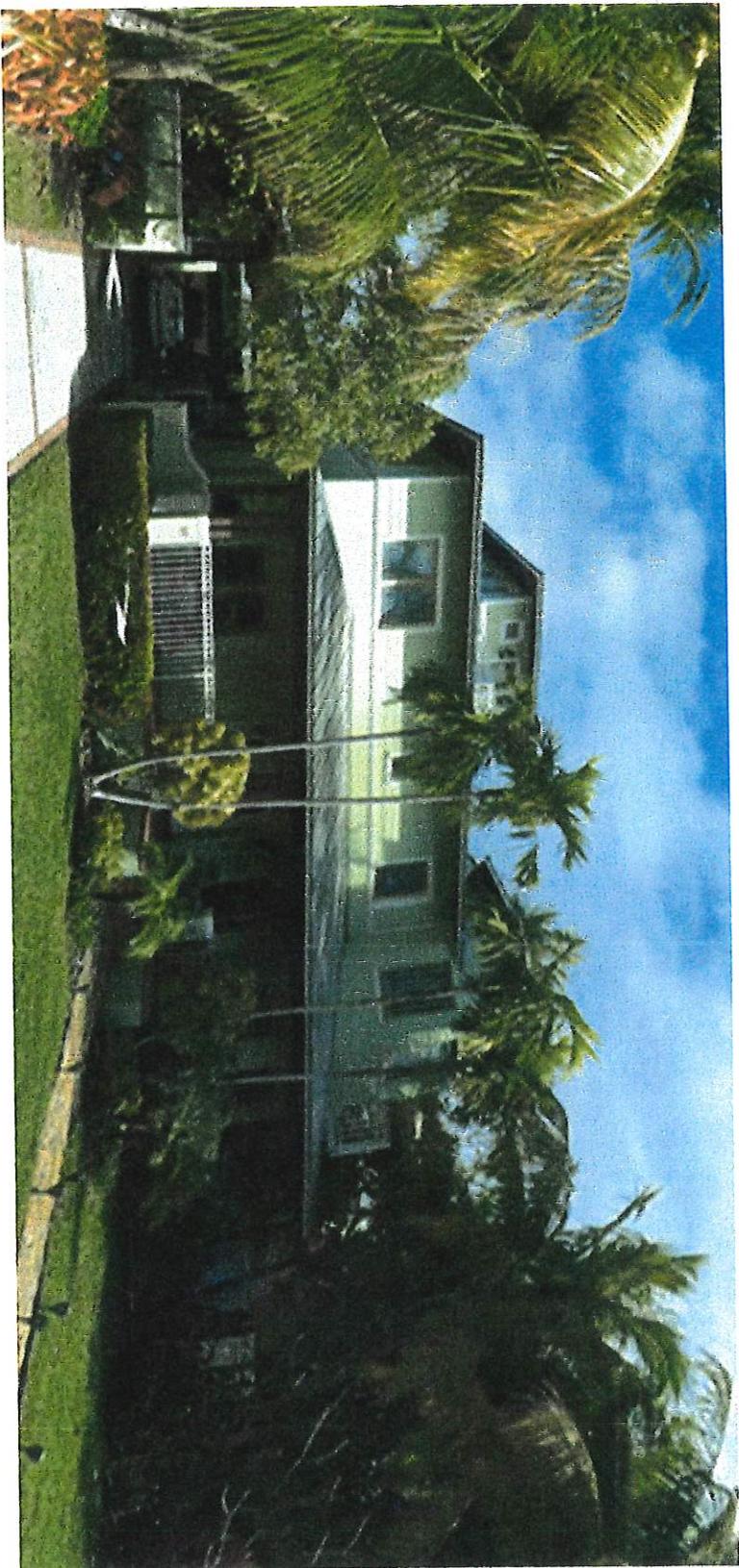
1. Is Sq Ft & FAR within Study Area Range (Y or No - go to 2)
2. Are calculations less than double the average? (Y approved, No go to 3)
3. Are calculations within 10% of the largest structure? (Y - go to 4, No denial)
4. Are other mitigating factors present to compensate (setbacks, orientation, site planning, architectural features, landscaping) [purple boxes – more subjective criteria. see, workshop guidance 5-2-25]

Scale Tests for Height/Stories

1. Are more than half the structures in the 300' study area the same stories or higher? (Y approval, No – go to 2)
2. Are the immediately adjacent structures the same stories or higher (Y approval, No go to 3)
3. Is the scale within allowable limits of 34-268 (Y – go to 4, No denial)
4. Are other mitigating factors present to compensate (orientation, architectural features, step-backs, 2nd floor limits on area) [purple boxes more subjective criteria. see, workshop guidance 5-2-25]

What is the visual mass of single family homes with base zoning only, if we get rid of our existing codes for architecture & harmony reviews of size in context (bulk, mass, scale and proportion)

461 Olympus Drive designed by architects Rick Gonzalez & William Waters over 5,000 SQ FT and Floor area ratio of .50



Use of architectural tools: roof slope, balconies, porches and landscaping to minimize mass

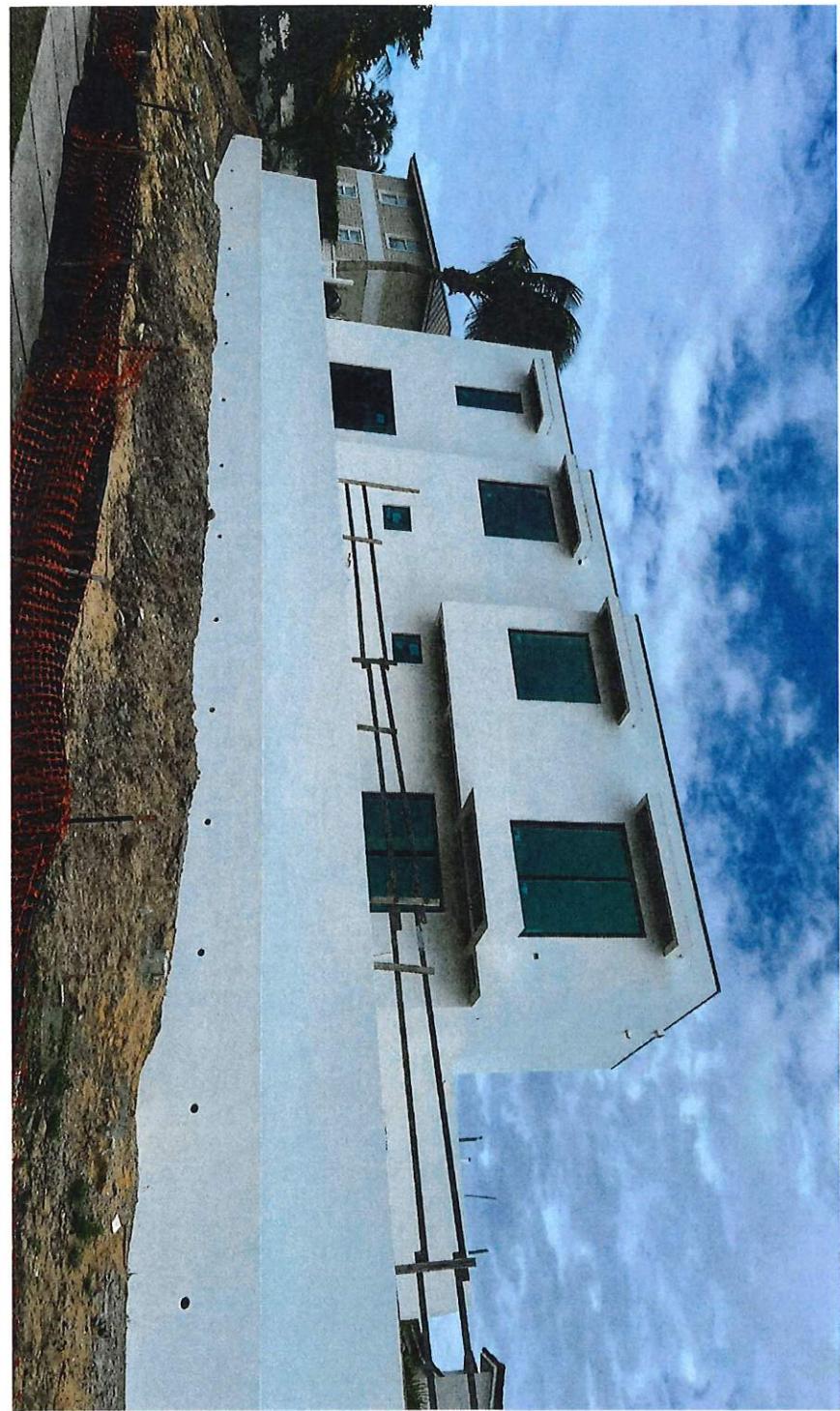
34-268, Base Zoning without the mitigation provided by appearance reviews for architecture and harmony or size in context (bulk, mass, scale and proportion

Minimum Lot Size RS1 – RS5	Base Zoning 35% lot coverage
RS 1: 10,000 Sq Ft	.723
RS 2: 8,000 Sq Ft	.728
RS 3: 6,500 Sq Ft	.735
RS 4: 6,000 Sq Ft	.738
RS 5: 5,500 Sq Ft	.741

571 Ocean Drive FAR without including basement $6,148/10,018 = .61$
Floor Area Ratio (Leslie Thomas presentation out of harmony)



**Base Zoning only without Appearance Review Criteria results in .72 FAR to .74
FAR - larger structures than the Italian Villa on Mars Way measures .61 FAR**



420 S. Lyra Circle 5,400 square feet lot size 10,019 = .54 Floor Area Ratio – still too small under base zoning only without appearance review which allows .72-.74

With 35% lot coverage and minimum lot sizes, Floor Area Ratio ranges from .72 to .74 under base zoning. The FAR of .73, which is what is shown with the property 450 Old Towne Lane (PUD)



*Provided by Vice Mayor Pro Tem
Davis*

To: Town Council, Town Manager, Town Clerk, Town Attorney

From: Diana Davis, Vice Mayor Pro Tem

RE: Correction to Official Town Publication of Council Goals for appearance review 34-116(3)(b)2.

Date: 9/8/2025

Latest Council Goals 2024-2025 Update Report. Page 3 Status 6/6/25, states a mischaracterization of the May 2nd workshop, omits a key vote on May 28th to retain ordinance 780, and then in the status updates fails to correct that the May 28th vote to follow the “maximum square footage” of 34-268, was repealed by Council vote on July 28th based on Len Rubin’s July 21st memo that the proposed 34-268 site are regulation with the modifications proposed are not workable with SB 180; and there was a return to the appearance review of 34-116(3)(b)2 (with the harmony criteria of ordinance 780).

Page 3, Status 6/6/25 states: “At the May 2nd workshop and May 28th Town Council meeting staff received direction from Council to move forward with code text amendments to emphasize harmony within the building site area regulations [34-268] for zoning districts with single-family detached dwelling as permitted uses.”

- May 2nd workshop direction was to keep our harmony review, 34-116(3)(b)2. (adopted in ordinance 780) See minutes. The direction was not for going with 34-268 only, I believe only the Mayor voted for this option that was proposed in the last slide of the presentation. It was the minority viewpoint and did not carry the meeting. See workshop minutes May 2
- May 28th Town Council meeting. A motion to repeal ordinance 780, [appearance review for harmony 34-116(3)(b)2], **failed to pass** which means a majority of Council 3-2, again stated the need to keep our appearance review criteria of 34-116(3)(b)2. See minutes May 28.
- May 28th Town Council meeting – vote to explore examining amendments to codes for the adoption of 2nd floor setbacks, 75% size of upper floors, etc.. and only using the maximum square footage of 34-268, passed, however this solution was not workable as it would require have required a Governor veto to the already passed Florida Legislature of SB 180. While this was one of many bullets that were put into the May 28th memo, when asked what was meant by emphasize “harmony” in 34-268, there was not a satisfactory answer,



JOINT WORKSHOP - APPEARANCE REVIEW CRITERIA FOR SINGLE-FAMILY HOMES MINUTES

May 02, 2025 at 1:00 PM

Council Chambers – 340 Ocean Drive and YouTube

PRESENT: PEGGY WHEELER, MAYOR
JOHN CALLAGHAN, VICE MAYOR
DIANA DAVIS, VICE MAYOR PRO TEM
MARIANNE HOSTA, COUNCILMEMBER
DD HALPERN, COUNCILMEMBER
MICHAEL STERN, PLANNING & ZONING BOARD CHAIR (*Via Zoom*)
JIM FERGUSON, PLANNING & ZONING BOARD VICE CHAIR
JIM EHRET, BOARDMEMBER
JONATHAN BUTLER, BOARDMEMBER
BRIAN COLE, BOARDMEMBER
CAROL RUDOLPH, ALTERNATE BOARDMEMBER

ALSO PRESENT: ROBERT A. COLE, TOWN MANAGER
LEONARD RUBIN, TOWN ATTORNEY
FRANK DAVILA, DIRECTOR OF PLANNING & ZONING
STEPHEN MAYER, PRINCIPAL PLANNER
FABINNE AZEMAR, PLANNING TECHNICIAN
CAITLIN COPELAND-RODRIGUEZ, TOWN CLERK

AUDIENCE: 45 (3 via Zoom) (*See attached sign-in sheet*)

CALL TO ORDER – 1:00PM

COMMENTS FROM THE PUBLIC (*This section relates to the item under discussion. See attached Comment Cards.*)

Public Comments Opened at 1:02pm.

Public Comments Closed at 1:42pm.

DISCUSSION ITEMS (*See attached staff presentation.*)

1. Appearance Review Criteria Work Session

Boardmember Ehret provided his comments via a letter (*see attached*); and Vice Mayor Pro Tem Davis provided three (3) separate presentations (*see attached*).

*5-2-25 **

Vice Mayor Callaghan, Vice Mayor Pro Tem Davis, and Councilmember Halpern gave consensus to allow Vice Mayor Pro Tem Davis to present her information.

Planning & Zoning Boardmembers Ferguson and Butler were in support of repealing the code for Harmony. Boardmembers Ehret, Cole, and Alternate Boardmember Rudolph were opposed to repealing the code for Harmony.

Vice Mayor Callaghan, Vice Mayor Pro Tem Davis, and Councilmember Halpern gave consensus to not repeal the code for Harmony.

Mayor Wheeler, Vice Mayor Callaghan, and Councilmember Hosta gave consensus to continue not to perform architectural review for single-family homes and amend the Code accordingly.

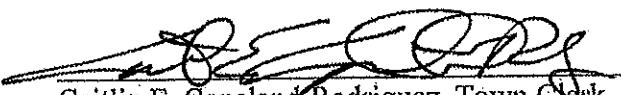
Council gave unanimous consensus for staff to proceed with the status quo for appearance review; direct staff to return with additional options that incorporate tools such as FAR, increased setbacks, and other mechanisms that could help clarify the code; and have staff conduct a comprehensive analysis of the proposed language submitted by Vice Mayor Callaghan providing criteria for the assessment of Harmony (see attached) and provide a recommendation to the Town Council.

Council gave unanimous consensus to postpone the Traffic Mitigation Workshop.

ADJOURNMENT

Mayor Wheeler adjourned the Workshop at 5:10pm.


Peggy Wheeler, Mayor


Caitlin E. Copeland-Rodriguez, Town Clerk



TOWN COUNCIL REGULAR MEETING MINUTES

May 28, 2025 at 5:00 PM

Council Chambers – 340 Ocean Drive and YouTube

PRESENT: PEGGY WHEELER, MAYOR
JOHN CALLAGHAN, VICE MAYOR
DIANA DAVIS, VICE MAYOR PRO TEM
MARIANNE HOSTA, COUNCILMEMBER
DD HALPERN, COUNCILMEMBER

ALSO PRESENT: ROBERT A. COLE, TOWN MANAGER
FRANK DAVILA, INTERIM TOWN MANAGER
STEPHEN MAYER, PRINCIPAL PLANNER
ANDREA DOBBINS, PROJECT COORDINATOR/RISK MANAGER
LEONARD RUBIN, TOWN ATTORNEY
CAITLIN E. COPELAND-RODRIGUEZ, TOWN CLERK

AUDIENCE: 36

CALL TO ORDER – 5:00PM

PLEDGE ALLEGIANCE TO THE FLAG

ADDITIONS, DELETIONS, SUBSTITUTIONS TO THE AGENDA

Mayor Wheeler, Vice Mayor Callaghan, Vice Mayor Pro Tem Davis, and Councilmember Halpern gave consensus to move consent agenda items #11 and #12 to the end of the agenda.

PRESENTATIONS

1. Ceremonial Swearing In – Officer Ethan Curreri
2. Palm Beach County Fire Rescue Annual Report Presentation
3. Employee of the Year – 2024

MOTION: Halpern/Hosta made a motion to recognize Frank Davila and Tim Hannon as Employees of the year for 2024; and approve \$2,650 from contingency to support the 2024 Employee of the Year recognitions.

ACTION: The motion passed unanimously.

COMMENTS FROM THE TOWN MANAGER, THE TOWN ATTORNEY, AND STAFF

Mayor Wheeler, Vice Mayor Callaghan, Vice Mayor Pro Tem Davis, and Councilmember Halpern gave consensus to have an Executive Session on June 25, 2025 at 3:30pm.

COMMENTS FROM THE PUBLIC

All Non-Agenda items are limited to three (3) minutes. Anyone wishing to speak is asked to complete a comment card with their name and address prior to the start of the meeting as well as state their name and address for the record when called upon to speak (prior to addressing the Town Council). Town Council will not discuss these items at this time.

Public Comments Opened at 5:19pm.

Public Comments Closed at 5:27pm.

CONSENT AGENDA

4. Town Council Meeting Minutes for April 23, 2025
5. Minutes for Appearance Review Criteria for Single-Family Homes Workshop - May 2, 2025
6. Police Foundation Donation Request -- Blue Voice
7. Asset Disposals
8. Year to Date (YTD) Financial Statements
9. Special Event Request – 2025 Loggerhead Triathlon
10. Special Event Request - Aloha Surf Camp
11. Pelican Lake Aquatic Weed and Algae Control
12. June Beach Ecology Group Native Plant Donation

MOTION: Davis/Callaghan made a motion to approve the consent agenda as amended.

ACTION: The motion passed unanimously.

COUNCIL ACTION/DISCUSSION ITEMS (A Public Comment Period was provided for each item below.)

13. Discussion - Appearance Review Criteria for Single-Family Homes (See attached staff presentation.)

Council gave unanimous consensus to include the emails recently received by the Town Council in reference to "Harmony" and "Codes" as part of the record.

Vice Mayor Pro Tem Davis provided handouts to the Council (see attached).

MOTION: Davis/Halpern made a motion to keep architectural review for single family homes as described in chapter 34-116(b3-1).

Davis/Halpern withdrew the motion.

5-28-25
Mayor Wheeler recessed the meeting at 7:38pm.
Mayor Wheeler reconvened the meeting at 7:47pm.

MOTION: Hosta made a motion to repeal Ordinance No. 780.

Mayor Wheeler passed the gavel and seconded the motion.

ACTION: The motion failed 2-3 with Vice Mayor Callaghan, Vice Mayor Pro Tem Davis, and Councilmember Halpern opposed.

*NO
repeal
of 780*
Mayor Wheeler recessed the meeting at 9:02pm.
Mayor Wheeler reconvened the meeting at 9:08pm.

MOTION: Callaghan/Halpern made a motion to adopt the proposed Council direction as outlined in staff's memorandum and including a, b, c, and d:

- *Amend the code to remove the architectural review of single-family and two-family homes from the Appearance Review criteria as directed at the May 2nd, 2025, workshop.*
- *Create a Zoning in Progress (ZIP) to provide staff with ample time to update the code as necessary, this will prevent applications for substantially improved and new single-family homes from going through the current Appearance Review and Building Permit process.*
- *Amend the code to remove Appearance Review from single-family homes. Please note that the Appearance Review will still apply to other projects (two-family and above). For single-family homes, with the addition of the proposed tools (a-d), harmony would be further emphasized within base zoning.*
- *Amend the code to revert the review and the approval/denial of single-family dwellings from the Planning and Zoning Board to staff. Please note that only staff review and approval would be required.*
- *Amend the code to remove the comparison of harmony language that reads "consider the preponderance of buildings or structures within 300 feet from the proposed site of the same zoning district" and replace it with "comparison of the buildings or structures within the same contiguous zoning district".*

- Amend the code to implement additional regulations (see options a through d below) to the Building Site Area Regulations (base zoning) for each zoning district with the "Single-family detached dwellings" use to promote harmony through base zoning:
 - Step-Back / Setbacks for 2nd stories – a similar regulation is currently referred to in the Saturn Lane Historic Zoning District which requires "All floors above the first floor level shall be set back an additional five feet from the first floor front yard setback", another example is the Commercial General Zoning District which requires "For all buildings higher than two stories, all stories above the first two stories shall be set back a minimum of five feet from the first story building facade and shall include an architecturally compatible roof treatment or element along such building line break". The proposed language would require a second story and above to provide an additional 5-foot minimum setback for all yards.
 - 2nd Story Floor Area Limit (FAL) – The Village of North Palm Beach adopted a second story floor area regulation for their residential zoning district which reads: "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 purposes 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." Staff would propose adopting the same language.
 - Increase Minimum Landscape Open Space Percentage – the Town's minimum Landscape Open Space Percentage for single-family dwelling uses range between 20-25%. The increase in the percentage would require for the balance of the lot coverage to not be used for non-permeable surfaces, such as driveways, concrete pads, pool decks, artificial turf, etc... The Town's consultant Chen Moore & Associates (CMA) is currently reviewing the Town's Landscape Requirements in its entirety, where regulations for single-family homes such as minimum landscape open space, and the addition of trees, hedges and/or other landscape materials may be recommended.
 - Design Review – At the workshop, the implementation of a design/pattern book was discussed. The Town cannot enforce the architecture of single-family homes not located in a PUD but may provide a pattern/design book which highlights the Town's desired architectural styles reflecting the vernacular of Old Florida as identified in Code Section 34-116 (3)(b)(1) that would serve as a recommendation guide for single-family projects. The pattern book would be helpful as the Town can still enforce Architectural Styles for projects other than single-family and two-family dwellings.

ACTION: The motion passed 3-2 with Mayor Wheeler and Vice Mayor Pro Tem Davis opposed.

14. Engineering Analysis Report for the Pelican Lake Gazebo

Mayor Wheeler, Vice Mayor Callaghan, and Councilmember Halpern gave consensus to move this item to the next meeting.

15. (Originally Item #11) Pelican Lake Aquatic Weed and Algae Control

MOTION: Davis/Callaghan made a motion to authorize staff to implement any combination of management techniques recommended by the Town's environmental consultant, as needed, to maintain the health and appearance of Pelican Lake without requiring prior approval from the Town Council for each treatment; have spray logs available for Town Council; and notify Council when the chemical changes.

ACTION: The motion passed unanimously.

16. (Originally Item #12) Juno Beach Ecology Group Native Plant Donation

MOTION: Halpern/Callaghan made a motion to approve the donation.

ACTION: The motion passed 4-1 with Mayor Wheeler opposed.

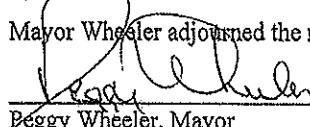
COMMENTS FROM THE COUNCIL

Mayor Wheeler, Vice Mayor Callaghan, and Councilmember Halpern gave consensus to have the Town Manager facilitate the June 2nd Workshop.

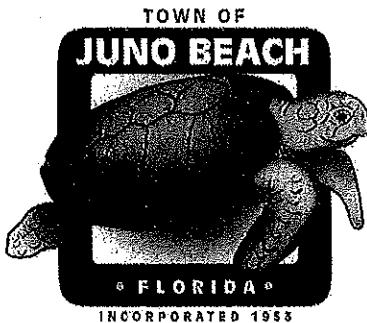
Council gave unanimous consensus to proceed with a roundtable format for the June 2nd workshop, contingent upon microphone compatibility with the proposed layout.

ADJOURNMENT

Mayor Wheeler adjourned the meeting at 9:59pm.


Peggy Wheeler, Mayor


Caitlin E. Copeland-Rodriguez, Town Clerk



TOWN COUNCIL REGULAR MEETING MINUTES

July 23, 2025 at 5:00 PM

Council Chambers – 340 Ocean Drive and YouTube

PRESENT: PEGGY WHEELER, MAYOR
JOHN CALLAGHAN, VICE MAYOR
DIANA DAVIS, VICE MAYOR PRO TEM
MARIANNE HOSTA, COUNCILMEMBER
DD HALPERN, COUNCILMEMBER (*Via Zoom*)

ALSO PRESENT: ROBERT A. COLE, TOWN MANAGER
LEONARD RUBIN, TOWN ATTORNEY
CAITLIN COPELAND-RODRIGUEZ, TOWN CLERK
FRANK DAVILA, DIRECTOR OF PLANNING & ZONING
EMILY ALVES, FINANCE/HR DIRECTOR

AUDIENCE: 17

CALL TO ORDER – 5:00pm

PLEDGE ALLEGIANCE TO THE FLAG

ADDITIONS, DELETIONS, SUBSTITUTIONS TO THE AGENDA

Council gave unanimous consensus to move Consent Agenda Items #3 and #4 to the end of the agenda; move Item #9 before Item #8; and add a discussion on the Town Attorney position during Comments from the Council; and have Comments from the Council start at 9PM.

COMMENTS FROM THE TOWN MANAGER, THE TOWN ATTORNEY, AND STAFF

Mayor Wheeler, Vice Mayor Pro Tem Davis, Councilmember Halpern, and Councilmember Hosta gave consensus Town Manager to contact the City of Palm Beach Gardens by phone and to send a formal letter expressing the Town's opposition to the proposed annexation of 12010 U.S. Highway One.

COMMENTS FROM THE PUBLIC

All Non-Agenda items are limited to three (3) minutes. Anyone wishing to speak is asked to complete a comment card with their name and address prior to the start of the meeting as well as state their name and address for the record when called upon to speak (prior to addressing the Town Council). Town Council will not discuss these items at this time.

Public Comments Opened at 5:19PM.

Public Comments Closed at 5:27PM.

CONSENT AGENDA

1. Town Council Meeting Minutes - June 25, 2025
2. Resolution 2025-01 (Amending the Town's Quasi-Judicial Procedures)
3. ~~Resolution No. 2025-09 - Agreement with Seacoast Utility Authority~~
4. ~~Resolution No. 2025-10 - Rules of Procedure & Town Council Protocols~~
5. Resolution No. 2025-11 - MPSCC Fourth Amendment to Interlocal Agreement
6. Proclamation – Florida Water Professionals Month 2025
7. Year to Date (YTD) Financial Statements

MOTION: Davis/Callaghan made a motion to approve the consent agenda as amended.

ACTION: The motion passed unanimously.

COUNCIL ACTION/DISCUSSION ITEMS

9. Resolution No. 2025-08: Annual Garbage Assessment Collection (Non-Ad Valorem) FY 2025-2026

MOTION: Davis/Hosta made a motion to approve Resolution No. 2025-08, adopting the non-ad valorem assessment for garbage collection for single-family properties in the amount of \$260.52 per unit for Fiscal Year 2025-2026.

ACTION: The motion passed unanimously.

8. Impact of Senate Bill 180 on Appearance Review (Harmony) for Single-Family Dwellings

*34-26.8
base zoning
Failed*

MOTION: Wheeler/Hosta made a motion to go with option 1 and revert back to base zoning.

ACTION: The motion failed 2-3 with Vice Mayor Callaghan, Vice Mayor Pro Tem Davis, and Councilmember Halpern opposed.

Mayor Wheeler recessed the meeting at 7:26PM.

Mayor Wheeler reconvened the meeting at 7:32PM.

MOTION: Halpern/Davis made a motion to have a consultant review this scenario and come up with an alternative that is not more restrictive that allows people to build the second story or towers that they're entitled to while adding definitions to bulk, scale, and mass.

MOTION AMENDMENT: Davis made a motion to amend the motion above to continue the zoning in progress for single-family homes to allow time for code changes to be put in place; to grant planning & zoning staff final authority over appearance review 34-1163(b)2 for harmony with the language comparison of the buildings or structures within the same contiguous zoning code as suggested in the May 28, 2025, memorandum; and continue with improving our zoning codes with Chen Moore & Associates; and pursue the architectural pattern book prices; and continue working on landscape improvements.

ACTION ON AMENDMENT: Motion to amend failed for lack of a second.

ACTION: The motion failed 2-3 with Mayor Wheeler, Vice Mayor Callaghan, and Councilmember Hosta opposed.

MOTION: Callaghan/Davis made a motion to have staff come back with best options to move forward that are less restrictive and amend the current Ordinance.

MOTION AMENDMENT: Callaghan made a motion to amend the above motion to include having staff look at ways to clarify harmony review of 34-116(3)(b)(2) for RS1 – RSS zoning codes.

ACTION ON AMENDMENT: The motion failed for lack of a second.

ACTION: Vice Mayor Callaghan withdrew the motion.

*34-116(3)(b)
2:
options
Passed*

MOTION: Callaghan/Halpern made a motion to have staff come back with available options and a recommendation for a course of action at the next meeting.

ACTION: The motion passed 3-2 with Mayor Wheeler and Councilmember Hosta opposed.

Mayor Wheeler passed the gavel.

MOTION: Wheeler made a motion to rescind the zoning in progress.

ACTION: Motion fails for lack of a second.

*May 28th
proposal
failed*

MOTION: Davis made a motion to rescind the zoning in progress that anticipates moving forward with the May 28th memorandum due to Senate Bill 180.

Mayor Wheeler passed the gavel and seconded the motion.

ACTION: The motion passed 4-1 with Vice Mayor Callaghan opposed.

MOTION: Halpern made a motion to amend the language set forth in section 34-116 to state: "for the purpose of this section, the comparison of harmony between buildings shall consider the buildings and structures within the same zoning district."

ACTION: The motion failed for lack of a second.

MOTION: Callaghan/Davis made a motion to have a special meeting.

ACTION: The motion passed 4-1 with Mayor Wheeler opposed.

10. FY 2025-2026 Proposed Ad Valorem Millage Tax Rate and Public Hearing Date

MOTION: Davis/Hosta made a motion to approve the proposed millage rate of 1.8195 mills for Fiscal Year 2025-2026; and set the first public hearing date for September 8, 2025 at 5:30PM.

ACTION: Motion failed for lack of discussion.

MOTION: Callaghan/Halpern made a motion to approve the proposed millage rate of 1.98 mills for Fiscal Year 2025-2026; and set the first public hearing date for September 8, 2025 at 5:30PM.

ACTION: Motion failed 2-3 with Mayor Wheeler, Vice Mayor Pro Tem Davis, and Councilmember Hosta opposed.

MOTION: Davis/Hosta made a motion to approve the proposed millage rate of 1.8195 mills for Fiscal Year 2025-2026; and set the first public hearing date for September 8, 2025 at 5:30PM.

ACTION: The motion passed unanimously.

11. One-Cent Surtax – FY2025/2026 Projects List for Oversight Committee

MOTION: Callaghan/Hosta made a motion to approve a Fiscal Year 2025-2026 One-Cent Discretionary Surtax Projects List and submit to the Palm Beach County League of Cities Infrastructure Surtax Citizen Oversight Committee as requested.

Vice Mayor Callaghan withdrew the motion.

MOTION: Halpern/Hosta made a motion to approve a Fiscal Year 2025-2026 One-Cent Discretionary Surtax Projects List with exception to the Universe Boulevard project being added to year 2027; and submit to the Palm Beach County League of Cities Infrastructure Surtax Citizen Oversight Committee as requested.

ACTION: The motion passed 4-1 with Vice Mayor Pro Tem Davis opposed.

12. Discussion on Legal Risks

3. Resolution No. 2025-09 Agreement with Seacoast Utility Authority

4. Resolution No. 2025-10 Rules of Procedure & Town Council Protocols

COMMENTS FROM THE COUNCIL

MOTION: Davis/Halpern made a motion to have the Strategic Plan placed on as an agenda item.

ACTION: The motion passed 3-2 with Mayor Wheeler and Councilmember Hosta opposed.

Council gave unanimous consensus to add the following items to a future agenda: Discussion on Town Communications; Discussion on Record Keeping with Volunteers; Discussion on Legislation updates; and have a Special Meeting on August 7, 2025, at 3PM.

MOTION: Halpern/Davis made a motion to revert to staff review for the approval or denial of new single-family applications.

ACTION: No action.

ADJOURNMENT

Mayor Wheeler adjourned the meeting at 10:00PM.

Peggy Wheeler, Mayor

Caitlin Copeland-Rodriguez, Town Clerk

Provided by Vice Mayor Pro
Tom
Davis

Nancy E. Stroud, P.A.

Memorandum

Question: Does the Bert J. Harris Act raise a significant litigation risk to the Village unless the Village restricts appearance review such that the size of proposed new single family residences must be allowed up to the largest single family residences in the "immediate vicinity"?

The Harris Act. The Bert J. Harris Act ("Harris Act") was enacted in 1995, and is codified at Chapter 70.001, Florida Statutes. In brief, it creates a legal remedy for landowners who challenge a local regulatory action as an "inordinate burden" on private property rights without amounting to a constitutional taking. § 70.001(1). Landowners may pursue compensation for an inordinate burden or unreasonable governmental action that causes decrease in the fair market value of their real property. Before filing suit, the landowner must initiate a claim with the local government which may lead to settlement without the necessity of court proceedings. If the case goes to court and the court finds that there was an inordinate burden, then it must impanel a jury to determine the total amount of compensation to the property owner for the loss to the fair market value caused by the inordinate burden to the property. § 70.001(6)(b).

What constitutes an "inordinate burden" is not well defined in the statute or the case law. The statutory definition provides that it is a direct restriction on the use of real property "with respect to the real property as a whole", such that the owner of real property is permanently unable to attain the reasonable, investment-backed expectations for the property. § 70.001(3)(e).

One of the few cases interpreting the phrase "reasonable, investment-backed expectation" explains "whether a landowners (sic) expectations for development are 'reasonable' and 'investment-backed' depends on the physical and regulatory aspects of the property." *Ocean Concrete, Inc. v. Indian River Cty., Bd. of Cty. Comm'rs*, 241 So. 3d 181, 189 (Fla. 4th DCA 2018).

The Harris Act specifically precludes a claim for the application of any law enacted on or before May 11, 1995. However, an amendment to the law will create an action to the extent that the amendment imposes the inordinate burden. See § 70.001(12):

No cause of action exists under this section as to the application of any law enacted on or before May 11, 1995, or as to the application of any rule, regulation, or ordinance adopted, or formally noticed for adoption, on or

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before that date. A subsequent amendment to any such law, rule, regulation, or ordinance gives rise to a cause of action under this section only to the extent that the application of the amendatory language imposes an inordinate burden apart from the law, rule, regulation, or ordinance being amended.

Town of Juno Beach Code. § 34-116 of the Town Code provides for appearance review by the Town prior to the construction and clearing of land. Paragraph b. of this section provides the criteria for appearance review, and subparagraph 2. criteria are focused on the "harmony" of the proposed construction with the area. The criteria require, among other things, a review of the proposal's "design and proportion" and whether it "enhances and is in harmony with the area," including consideration of mass, bulk, proportion and other aspects of the construction. The comparison of harmony between buildings must consider "the preponderance of buildings or structures within 300 feet from the proposed site of the same zoning district. . . ." Until adoption of Ordinance No. 753 in 2023, this subparagraph 2. provided more simply that construction must be "of a design and proportion which enhances and is in harmony with the area. . . ."

Analysis. The Harris Act does not provide hard and fast rules for what is a "reasonable" regulation or an "inordinate burden," and the cases that interpret those terms do not give much guidance either. Many commentators on the Act point out that the Act's pre-suit provisions encourage negotiation and out-of-court resolution of claims that avoid "bright line" conclusions about the meaning of the terms. Local governments are left with the general admonition to be "reasonable" in their application of regulations.

If the original "harmony" criteria was adopted before May 11, 1985, the Town may avoid a Harris Act claim altogether by applying the original code.

It is my opinion that the appearance code reference to harmony is a reasonable factor for the Town to apply, and more reasonable than a new, hard line numerical factor such as "no larger than the largest residence" in a particular area. The numerous factors set out by the code to assist in determining "harmony" allow for various aspects of architecture and site placement to be considered, not just the square footage of the residence. Additionally, the more general criteria of "harmony" is a well-established concept in architectural review and has been upheld in numerous cases as reasonable for the purpose of protecting neighborhood character and property values. Most recently in *Burns v. Town of Palm Beach*, 999 F.3d 1317 (11th Cir. 2021), the federal appellate court (citing to other similar cases throughout the country) upheld the Town of Palm Beach architectural appearance standards, which include the following:

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... (4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.

... (6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:

...

e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.

f. Diversity of design that is complimentary with size and massing of adjacent properties.

g. Design features that will avoid the appearance of mass through improper proportions...

The discretion afforded by a "harmony" factor, especially with the several more qualitative factors in the current subparagraph b.2. reasonably reflects the complexity of determining when a structure is in character with the neighborhood. It thus acts to implement the intent of appearance review, which is in part to "provide adequately for a high type and quality of improvement in said property, and thereby enhance the property values and the quality of life in the town." See § 34-115(7) of the Village Code. Limiting the review to only the size of the residence may instead open the door to a challenge that it is too restrictive to accomplish the purpose of ensuring the harmony that enhances property values.

Likewise, it is reasonable to assume that the size of the residence will not be the only factor, or even the most significant factor in determining its fair market value. Other factors such as the location of the property, the placement on the site to enhance its functionality or attractiveness, the materials used in construction, and the like may be as important as square footage to its fair market value.

Finally, note that any decrease in fair market value by the application of the criteria must be an "inordinate burden" or unreasonable in order to support a Harris Act claim. The Merriam-Webster dictionary shows the synonyms for "inordinate" to be "excessive" or "extreme" or "immoderate." This implies that some moderate decrease in fair market value is acceptable.

In conclusion, my opinion is that it is not necessary in order to avoid a Harris Act claim for the Town to ensure that approval for new residences must be at least the size of existing residences in the immediate vicinity.

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