

Workshop 12-3-2025 § 12-10-2025

To: Town Council

From: Diana Davis, Vice Mayor Pro Tem

Correction to the proposed Organizational Chart.

First, the highest authority in Florida makes it clear that it is the residents, our voters and taxpayers, who belong at the top of our organizational chart.

Article I, Section 1 of the Florida Constitution begins with a simple, powerful statement:

"All political power is inherent in the people."

That is the foundation of every decision we make. The power we exercise does not originate with Council or staff — it comes from the people of Juno Beach, who have delegated authority to us through their votes.

- First Tier are "Residents of Juno Beach."
- Second Tier are "Town Council."
- Third Tier are Town Manager – Town Attorneys, then staff groups.

Motion to ask Staff to accomplish the following 6 things:

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.
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.

REVISED STATEMENT FOR COUNCIL – URGING RECONSIDERATION

Tonight, I am asking the Town Council to **reconsider the vote** to draft three ordinances that would permanently change our zoning codes by removing appearance review for single-family homes — including architectural review, harmony review, and our resident Planning and Zoning Board review.

Before we take any step toward writing ordinances, we must admit a simple truth:
We do not have agreement on the basic facts needed to make this decision.

Our *former* Town Attorney, Len Rubin and Land Use Attorney, Nancy Stroud, have said our codes are **legal**.

Our Town staff has publicly stated the opposite.

Residents cannot be asked to trust this process when even the leadership cannot agree on the underlying facts.

That is why the first step must be a **fresh review by our new Town Attorneys**, specifically on the following questions:

A. New Attorneys' Legal Analysis – Required Before Any Action

1. Are our codes legal or illegal?

Former attorneys say **yes**, staff says **no**.

We need a clear, unified answer.

2. Can Juno Beach continue architectural review under F.S. 163.3202?

That statute restricts municipal review of “building design elements” but also contains **important exceptions**. Legislative history suggests our codes are sufficient.

Do our existing codes fall within those exceptions given the authorities give for appearance review to our planning & zoning board in 34-28?

3. Is our harmony review—mass, bulk, scale, and context—legal?

It has been in our code in different forms for decades and the latest changes have been used successfully in 19 reviews with only one denial.

If staff does not feel they can make the “subjective” reviews, can we use **outside architectural experts**, with costs passed through to the applicant?

Many cities do this.

4. What are the legal implications of reverting back to the 1992-style review?

Those reviews existed when homes were smaller due to septic tanks and no sewers, and when some neighborhoods still had covenants controlling height and form.

Is it legally sound to adopt outdated standards that no longer match today's built environment?

5. Could homeowners have a claim against the Town if their property loses value because we removed architectural and appearance review?

If dropping these protections causes a proven decrease in value, **who can sue, and on what grounds?**

6. Only when these questions are answered can we have a true “meeting of the minds.”

Right now, we are moving forward on **false premises** —

- that harmony review “takes away property rights,” even though Attorney Rubin repeatedly said this is not true;
- that our appearance codes are “illegal,” despite two municipal attorneys and one land-use attorney saying otherwise;
- and that our 300-foot context review is impermissible, though no clear legal explanation has been provided.

The Town’s newsletter, the Mayor’s comments, the petition circulated by maximum-square-footage advocates, and even the Town website have all presented information that is disputed or inaccurate.

This has divided our community.

A new, independent legal review is not optional — we **owe clarity to our residents.**

B. Land Use Planning Analysis Before Any Ordinance Drafting

If, and only if, the legal review is completed and shows the Council should proceed:

We must then bring in a **professional land-use planning firm** to help draft any ordinance language.

These decisions are **forever decisions.**

A qualified planner will ensure that amendments:

- Comply with our Comprehensive Plan
- Follow planning best practices
- Avoid unintended impacts across zoning districts
- Use clear, defensible standards

- Preserve the character of Juno Beach
- Reduce—not increase—legal vulnerability

No planner has been engaged, and yet we are on the path to drafting ordinances.

This is backwards.

C. Timing and Practical Impact Questions That Must Be Answered

Before any ordinance drafting begins, we need clear answers:

1. How large will new structures actually become if appearance review is eliminated?

Residents deserve to know the consequences of “no mitigation” for these supersized structures in our neighborhoods.

2. Will neighboring homeowners have legal claims if the Town removes the standards that once protected their property values?

3. How will the Town meet its Comprehensive Plan requirement to preserve community character—a mandatory obligation under state law?

Right now, none of these questions have been answered.

D. Audit & Disclosure Requirement

If the Council chooses to proceed without resolving these issues, the Town Attorney must provide a written statement quantifying the financial and legal exposure.

This must be placed in the Town’s **annual audit** so residents understand the risks created by Council action.

Final Request

Given the disagreement on basic facts, the conflicting interpretations by staff and Town Attorneys, and the lack of legal or planning analysis, it is premature and unwise to begin drafting ordinances that permanently strip away appearance review for our single-family neighborhoods.

I respectfully request that the Council reconsider the motion and pause ordinance drafting until our new attorneys complete a full, independent review.

Our residents deserve decisions based on accurate information, not confusion, contradictions, or outdated assumptions.



AGENDA ITEM

Meeting Name: Master Development Plan Forum Work Session

Meeting Date: December 11, 2025

Prepared By: Town Staff

Item Title: Master Development Plan Forum Work Session Guideline & Questions for Discussion

INTRODUCTION:

This work session will begin with a general introduction by staff and consultant Dana Little, followed by a structured, table-based group discussion. Participants will be randomly assigned to a table upon arrival, with a Council member serving as a facilitator for each. Each table will designate its timekeeper, scribe, and spokesperson.

All tables will discuss each question provided, and Town Council facilitators will listen and encourage respectful discussion, asking probing questions to clarify statements or explore topics in further detail.

Staff and Dana Little will serve as floaters, checking in with tables and providing clarification and technical support while observing discussions and offering support or information when requested or they otherwise determine it may be helpful.

QUESTIONS FOR DISCUSSION:

1) Preferred Uses (20 minutes)

Our current Commercial General zoning allows a variety of commercial uses (*see Attachment #4*). If redevelopment were to occur, which uses are most important to retain or add? If a preferred use is not listed, please feel free to suggest it.

As a follow-up, do you presently have access to most of your daily living needs within reasonable distance, and are there any you wish were right here in Juno Beach rather than elsewhere?

How should we support local business retention, and would you support redevelopment negotiations that provide concessions in exchange for local business retention strategies?

2) Commercial General Character (35 minutes)

A) Scale and Height

As of right, meaning that we presently have no legal means to deny an application presenting such a permit request, current zoning allows up to four stories (60 feet) and 18 units per acre. Under what circumstances, if any, is that level of height and unit density acceptable to you and if not, what is?

As a follow-up, what would you exchange, if anything, to make height and density more acceptable to you?

B) Architectural Design

Thinking about Caretta, the Pulte Homes project, and the look and feel of our existing strip-oriented commercial development with large surface parking lots, what types of buildings and associated “vibe” would you like to see if a Commercial General parcel were to be redeveloped?

As a follow-up, how important is the “Old Florida” architectural style to you in reference to future commercial redevelopment?

C) Considering different types of potential Commercial General redevelopment (*see Attachment #2*), which do you feel is most contextually appropriate for Juno Beach?

As a follow-up, if we simply leave our regulations as they are, do you believe that no redevelopment will occur?

3) Infrastructure and Environment (20 minutes)

Thinking about what it’s like to drive or walk along the streets next to our commercial properties, what changes or public/private improvements would you like to see in the future? We would like to hear about table consensus for the top three to five potential improvements, though it is OK to also express support for others

- Wider sidewalks to accommodate more users with fewer conflicts
- Stores with windows and entryways right along sidewalks (traditional Mainstreet look)
- Outdoor cafés along public sidewalk
- Public benches with shade
- Small public gathering/plaza area(s)
- Passive greenspace, whether public or private
- Parking not visible from public view
- Public art
- Enhanced public landscaping, including native plants and shade trees
- Other: _____

4) Trade-offs (20 minutes)

If the current zoning regulations don’t allow your vision of success to be achieved, which strategies would you support to help make your vision possible? (Circle or highlight your top three (3) choices.)

- A) Use taxpayer dollars to buy commercial properties and vacant land that go up for sale.
- B) Modify zoning regulations to make it easier to redevelop commercial properties.
- C) Authorize interest-based negotiations with property owners and developers, noting that outcomes are not well-defined from a regulatory perspective.
- D) Increase zoning regulations to slow development, noting risk for litigation and delay of code changes due to Senate Bill 180.
- E) Offer taxpayer-funded incentives directly to businesses to open and/or stay in town.
- F) Encourage businesses to tax themselves in order to support local retention strategies.
- G) Do nothing. Maintain current zoning regulations and let the chips fall where they may.
- H) Other: _____

5) Economic Vitality (30 minutes):

- A) How important is it for Juno Beach to have a strong, vibrant local economy — with small businesses that thrive and provide resources to you as a resident — even if that brings a bit more activity and traffic?
- B) How do you feel about zoning code changes that shift from business uses toward more residential development?
- C) Currently, about 27% of Juno Beach is residential and 9% is commercial, and the town is sometimes described as a ‘bedroom community.’ What is your opinion on continuing this pattern of development?

6) Future Generations (20 minutes)

- A) Looking ahead, what types of uses or amenities—such as retail, restaurants, schools, or mixed-use spaces—should Juno Beach encourage through zoning or redevelopment to support future residents, including children and grandchildren
- B) To what extent do you agree or disagree that Juno Beach should maintain its current mix of businesses and housing versus making changes to attract housing and amenities that support young families and children?

Additional comments or questions may be raised at the conclusion of each presentation. Please be mindful of time to ensure that all participants have the opportunity to ask questions and share their perspectives.

ATTACHMENTS:

1. Project area map
2. Architectural Styles Examples
3. Potential Attributes, e.g., green space, pedestrian-oriented sidewalks complemented by small-scale, locally owned retail establishments fronting the street, shade, public art, park-like plazas, parking not visible from street, bicycle lanes, multi-modal paths, etc.
4. Copies of code section for Commercial General (CG) zoning district (permitted uses, preferred uses, special exception uses, building site area regulations)

MEMORANDUM

To: Mayor Wheeler, Vice Mayor Callaghan, Councilmember Hosta, Councilmember Halpern, Councilmember Davis

From: Vice Mayor Pro Tem Diana Davis

Date: December 10, 2025

Subject: Litigation Risk Assessment for Drafting New Zoning Ordinances Under Florida Senate Bill 180 (SB 180)

I. Purpose of This Memo

This memorandum outlines the **significant litigation risks** associated with drafting or adopting new zoning ordinances at this time, specifically in light of **Florida Senate Bill 180**, which substantially expands standing, increases exposure to attorney-fee claims, and creates an environment where **frivolous or opportunistic litigation cannot be prevented**.

The goal is to inform Council deliberations and ensure any action taken tonight is consistent with our fiduciary responsibilities to residents.

II. Overview of SB 180 and Its Expanded Litigation Exposure

SB 180 (2023) fundamentally changed Florida's zoning litigation landscape by:

- **Eliminating traditional standing requirements.**
A person or entity **does not need to be an affected party**, adjoining owner, or property-owner within the municipality to file suit.
- **Permitting lawsuits by unrelated outside entities.**
This opens the door to lawsuits filed by parties with **no connection to Juno Beach**, similar to past "cottage industry" litigation—such as the well-known wave of lawsuits from individuals who sued hundreds of municipalities over ADA website compliance.
- **Mandating prevailing-party attorney fees.**
If the challenger prevails **in whole or in part**, the Town must pay **their attorney fees in addition to our own defense costs**.
- **Removing most municipal immunities.**
These suits are **not covered by standard municipal insurance**, including the Town of Juno Beach's liability policies; the Town pays entirely out-of-pocket.

This statutory environment makes even a **meritless lawsuit** costly to defend and difficult to dismiss early.

III. Practical Implications: You Cannot Prevent Frivolous or Opportunistic Lawsuits

Under SB 180:

- Anyone, anywhere in Florida, can sue a municipality for adopting or enforcing zoning regulations.
- The plaintiff does **not** need to show injury, property impact, or any nexus to Juno Beach.
- The Town cannot screen or preempt filing through procedural defenses that were available before SB 180.
- Plaintiffs can be advocacy groups, political organizations, or individuals with **no stake in Juno Beach's built environment**.

This is the same dynamic previously seen in the *ADA website litigation wave*, in which one or two individuals sued hundreds of municipalities.

SB 180 recreates this environment—this time targeting land development regulations.

IV. Risk to the Town if We Proceed With Master Plan or Single Family Home Appearance Review Code Changes Now

1. Mandatory Repeal of Adopted Codes

If any portion of the new ordinances is successfully challenged, the court may order repeal of the adopted regulations. Because the Master Plan and the Appearance Review for Single Family Homes proposals before Council involves adopting new ordinance to change our zoning codes, this exposes multiple sections of our code to invalidation.

2. Spillover Risk to Other Zoning Districts

If litigation invokes SB 180 and challenges the validity, enforceability, or procedural compliance of the Town's zoning framework, this could endanger:

- Architectural review standards
- Harmony review criteria

- Appearance review provisions
- Definitions and tables that apply across zoning districts

Even if the litigation begins in one district (e.g., single-family), the **entire chapter** becomes vulnerable once it is opened.

3. Financial Exposure: Attorney Fees and Uninsured Losses

Because these suits are **not covered by the Town's insurance**, Juno Beach would pay:

- All of our attorneys' fees to defend the case
- Potentially **the plaintiff's attorney fees** if we do not prevail completely
- Staff time, consultant costs, and delays in processing applications

For a small municipality, even one such action could exceed tens or hundreds of thousands of dollars.

4. Increased Uncertainty for Residents and Developers

Paradoxically, the effort to "clarify" or revise certain standards may lead to:

- Greater regulatory uncertainty due to the threat of code sections being stricken
- Confusion among applicants, builders, and residents
- Delayed projects during litigation
- Risk of inconsistent application of remaining code provisions

This is especially concerning because the proposal affects code sections on appearance review that cover all zoning districts and proposals in the Master Plan would change our commercial zoning districts. Our codes that have been in place since prior to August 2024 could be swept up and declared invalid with the proposed changes.

V. Timing Concerns: Active Lawsuit Against the State and Forthcoming Legislative Session

Two major factors suggest that **waiting** is the prudent and fiscally responsible choice:

1. Ongoing Constitutional Challenge to SB 180

A lawsuit has already been filed challenging SB 180 as unconstitutional state overreach into local zoning powers.

Until the courts rule, municipalities statewide face uncertainty.

2. Legislative Session Begins in January

Multiple legislators have signaled interest in introducing corrective legislation to fix or narrow SB 180.

Possible outcomes include:

- Reinstating traditional standing
- Removing mandatory attorney fees
- Clarifying the scope of permissible challenges
- Limiting suits to affected parties

Waiting 60–90 days could dramatically reduce the Town's exposure.

VI. Key Policy Question: Will Drafting New Ordinances Now Expose the Entire Zoning Chapter?

Yes.

Drafting any new zoning ordinance invites scrutiny of:

- The new language
- The procedural process
- The underlying zoning framework

If challenged, a court may review the entirety of the zoning chapter, which may lead to:

- Invalidation of related sections
- Repeal of vital protective standards
- Collateral impacts on commercial, multifamily, and single-family districts

This risk is **substantial** and **cannot be quantified** at this time.

VII. Conclusion and Recommendation

Given the expansion of standing, the prevalence of opportunistic litigation, the uninsured exposure to attorney-fee awards, and the active statewide uncertainty surrounding SB 180, **proceeding now with new zoning ordinances presents extreme litigation risk.**

The potential financial exposure to the Town is unknown and potentially very large. The potential regulatory damage—including invalidation of code sections unrelated to the proposal—is equally uncertain.

Recommendation:

The Town Council should **delay any zoning-code amendments** until:

1. The constitutional challenge to SB 180 is resolved; or
2. The 2026 Legislative Session clarifies or amends SB 180.

At minimum, if Council proceeds despite the risks, this action should be reflected in the Town's **annual audit disclosure** as a significant known legal exposure created by Council action.