

**Resident Survey – Preserve Value w/ Architectural Review
and Harmony (size of structures) review for single family new
structures**

- Q4 – (244) 97% - The best way to protect property values and preserve the character of Juno Beach is to adopt and maintain carefully crafted land development codes that give the P&Z staff & board the tools to evaluate the size of structures in context. This helps preserve a sense of place, maintain a park-like setting, and protect the Town's character and quality of life for current residents. [252 responses for this Q.]
- Q5 – (237) 93% - New development should be subject to architectural standards that ensure consistent quality and aesthetic appeal, contributing positively to the overall value of the community. [252]
- Q3 – (230) 90% - Maintain our existing “harmony” code provisions, which evaluate bulk, mass, scale and proportion of the new proposed structure compared to buildings within 300 feet of the same zoning district. [255]

Survey

Vice Mayor Pro Tem Diana Davis, Survey sent to residents on her Newsletter email list. Responses received April- May 2025. **Keep our Land Development Codes for Architectural Review and Size of New Structures? or allow new construction project developers to determine design and size of new structures?**

- 1. To what extent do you believe limitations on the size of newly constructed buildings are important for preserving Juno Beach's unique character, coastal charm, and the quality of life for current residents? [please check all that apply] 256 responses total for this question.**

243 -Size limitations are important for new buildings in Commercial Zoned Areas (95%)

245 -Size limitations are important for new buildings in Multifamily Zoned Areas (96%)

238 -Size limitations are important for new buildings in Residential Zoned Areas (93%)

3 -No size limitations are necessary in any of the above areas; developers should determine what to build based on their vision for the community (1%)

- 2.What is your position regarding the current "harmony" code provision that regulates the size of new structures in relation to surrounding buildings? This provision compares bulk, mass, scale and proportion within a 300-foot context. [please check all that apply] 256 responses total for this question**

209 - Do not repeal the "harmony" size code. I support maintaining regulations that guide incremental growth rather than allowing developers full discretion over structure size. (82%)

194 - Do not repeal the "harmony" size code, and require the Planning and Zoning Staff to provide clear guidance on its application. This ensures consistent implementation and review. (76%)

194 - Do not repeal the "harmony" size code. The Town has already invested in professional land use planning. Let's allow the three contracted consultants - working on the Community Vision/Master Plan, Strategic Work Plan (including growth management), and potential code improvements - to

provide their expert recommendations before making permanent changes.
(76%)

9 - Repeal the "harmony" size code immediately. Developers should not be required to adjust their building plans to conform to the character of the surrounding area. (4%)

**3. What tools should the Planning and Zoning Staff and Board use during the "appearance and site plan" review process to evaluate the size of proposed structures in relation to surrounding buildings?
[please check all that apply] total responses 255**

230 - Maintain the existing "harmony" code provisions, which evaluate bulk, mass, scale and proportion of the proposed structure compared to buildings within 300 feet in the same zoning district. 90%

175 - Use Floor Area Ratio (FAR) to regulated building volume based on lot size, including vertical dimensions. 69%

182 - Implement 3-D GIS Scene View technology to visually compare proposed structures to neighboring buildings in a contextual, spatial model. 71%

7 - None of the above. I do not support any size restrictions for new buildings and believe developers should determine the scale of their projects. 3%

4. In single-family residential areas, what approach do you believe best protects property values and preserves the character of Juno Beach? 252 responses

244 - Adopt and maintain carefully crafted land development codes that give the Planning and Zoning Staff and Board the tools to evaluate the size of structures in context. This helps preserve a sense of place, maintain a park-like setting, and protect the Town's character and quality of life for current residents. (97%)

8 Eliminate land development codes related to structure size. Developers should have full discretion to determine what is appropriate to build in the community without comparison to existing structures. (3%)

5. During the site plan review process for new residential buildings, do you believe it is important to include code provisions that protect the property rights of existing residents? [please check all that apply]
256 total responses

237 - Yes, new development should be subject to architectural standards that ensure consistent quality and aesthetic appeal, contributing positively to the overall value of the community. (93%)

239 - Yes, adequate setbacks should be required for excavations near property lines, and soil stabilization should be mandated prior to excavations to protect neighboring properties. (93%)

226 - Yes, visual screening such as berms, walls, fences, or vegetation should be required to minimize the impact of larger neighboring structures on existing homes. (88%)

232 - Yes, limitations should be placed on the amount of fill permitted on new construction sites to prevent significant elevation differences that may negatively affect adjacent properties. (91%)

3 - No, protecting the property rights on existing residents imposes an unreasonable burden; developers should have full discretion over their building projects. (1%)

Resident Keep our Architectural codes
and Harmony codes 5/28/2025 10am

Laura Niedernhofer
Scott & Debbie Shaw
Mary Ann Atkinson
Judy Mathot
Susant E. Gaughan
Aldo Rovere
Pasha W.
Mary Skoning
Cyndie Wolf
Robert Fides
Bill Enross
Karen & Len Kolstad
Meg Deering
John Shogren
Cathie Murphy
Tedda King
Collen Mosier - Harmony codes only
Diane Papadokos
Don Shapiro
John Motzer
Jennifer Pierce
Bruce Smith
Kay McCarthy
Andrw Wilson
Carol Julich
Paul Harrington
Robert Reimers
Karen White
Charles Hapcock
Jack Bolnick
Linda Eicher
Terry Phillips
Camille Waser
Alan Loewenstern
Mary Skoning
Randy Gold
Ruth Green
Donna Fletcher
Edward Simpson
Beverly Gibel
Lori Sullivan

EXISTING CODES FOR ARCHITECTURAL REVIEW AND HARMONY

Appearance review criteria.

34-116(3) b. 1. Architectural Review – workshop voted for removal for Single Family Homes (note that a Town Council meeting vote is required)

Is of an architectural style representative of or reflecting the vernacular of Old Florida style which is indigenous to the town, and which is commonly known and identified by its late Victorian (Key West Cracker), Spanish revival (Mediterranean), Modern (early to mid-20th century), or combination thereof style of architecture. Summarized briefly, common features of the vernacular of Old Florida style that identify the Victorian (Key West Cracker), and Spanish revival (Mediterranean) architectural style include wood or concrete block with stucco siding; simple pitched roofs; tile, metal, or asphalt roofs; ornate details such as but not limited to exposed soffits, individualized vent and louver shapes, reliefs, and detailed window and door treatments; lush landscaping with private yards; and use of porches, balconies and patios. Common features of the vernacular of Old Florida Style that identify the Modern (early to mid-20th century) architectural style include clean geometric lines, often at right angles; an emphasis on function; materials such as glass, steel, iron, and concrete; and the use of natural light through large and expansive windows;

34-116(3) b. 2. Harmony Criteria – workshop voted to keep the language and make it more quantitative for ease of understanding.

Is of a design and proportion which enhances and is in harmony with the area. The concept of harmony shall not imply that buildings must look alike or be of the same style. Harmony can be achieved through the proper consideration of setback, scale, mass, bulk, proportion, overall height, orientation, site planning, landscaping, materials, and architectural components including but not limited to porches, roof types, fenestration, entrances, and stylistic expression. For the purpose of this section, the comparison of harmony between buildings shall consider the preponderance of buildings or structures within 300 feet from the proposed site of the same zoning district; 3. Elevator and stairwell shaft

Memorandum

From the Town of Juno Beach Planning & Zoning Department

To: Town Council; Planning and Zoning Board and Joseph Lo Bello, Town Manager

From: Frank Davila, Director of Planning & Zoning

Date: December 18, 2020

Subject: Juno Beach Architectural Style of Old Florida

Background

At the November Planning and Zoning Board meeting, the Board discussed the Town's architectural styles and its "Old Florida" theme. The Board discussed how the Town currently defines the term "Old Florida" (see below). At the November Town Council meeting, Council directed staff to provide Council and the Board with a description of what the term "Old Florida" may refer to.

Section 34-116(3)(b)(1) of the Town's Code of Ordinance provides the Town's Appearance Review Criteria, please see below:

Is of an architectural style representative of or reflecting the vernacular of Old Florida style which is indigenous to the town and which is commonly known and identified by its late Victorian (Key West Cracker), Spanish revival (Mediterranean), Modern (early to mid-20th century), or combination thereof style of architecture. Summarized briefly, common features of the vernacular of Old Florida style that identify the Victorian (Key West Cracker), and Spanish revival (Mediterranean) architectural style include wood or concrete block with stucco siding; simple pitched roofs; tile, metal, or asphalt roofs; ornate details such as but not limited to exposed soffits, individualized vent and louver shapes, reliefs, and detailed window and door treatments; lush landscaping with private yards; and use of porches, balconies and patios. Common features of the vernacular of Old Florida Style that identify the Modern (early to mid-20th century) architectural style include clean geometric lines, often at right angles; an emphasis on function; materials such as glass, steel, iron, and concrete; and the use of natural light though large and expansive windows.

Discussion

To better understand the Old Florida architectural style that the Town identifies, staff is providing a description for each of the three styles of Architecture mentioned above. In addition, Staff would like to emphasize that a combination of the architectural styles and features are permitted.

Late Victorian (Key West Cracker)

"Florida cracker" Architecture is a style of vernacular Architecture characterized by a wood-frame house. The term "Florida cracker" refers to colonial-era English pioneer settlers and their descendants. During the 19th century, there was no air conditioning, and the new immigrants to the Sunshine State had to depend on nature to get some relief from the heat. Houses of this style are characterized by **metal roofs, raised floors, and straight central hallways** from the front to the back of the home (sometimes called "dog trot" or "shotgun"). They built their homes **surrounded by wide verandas or porches**, often **wrapping around the entire home**, to provide shade for their windows and walls. Some houses had a clerestory that would improve the ventilation in the interior.



Color Palette



Spanish Revival (Mediterranean)

Mediterranean Revival is a design style introduced in the United States in the waning 19th century variously incorporating references from Spanish Renaissance, Spanish Colonial, Beaux-Arts, Italian Renaissance, Arabic Andalusian architecture, and Venetian Gothic

architecture. Peaking in popularity during the 1920s and 1930s, the movement drew heavily on the style of palaces and *seaside villas* and applied them to the rapidly expanding coastal resorts of California and *Florida*.

Structures are typically based on a *rectangular floor plan*, and feature *massive, symmetrical primary façades, stuccoed walls, red tiled roofs, windows in the shape of arches or circles, one or two stories, and wood or wrought iron balconies with window grilles*. Keystones were occasionally incorporated, ornamentation may be simple or dramatic; and lush gardens often appeared.



Color Palette



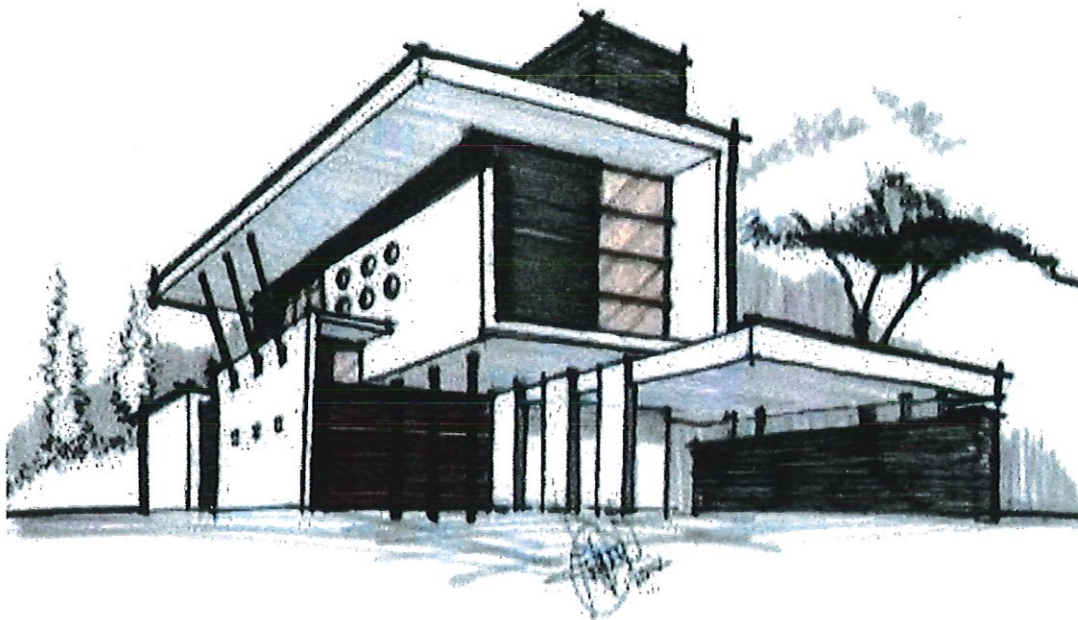
Modern (Early to mid-20th century)

Mid-Century Modern refers to a prolific period in the mid-20th century, from the late 1940s to the early 1970s that spawned everything from major works of Architecture to dinnerware.

Modernism in Southeast Florida came into its own in the 1940s. Similar to California, Florida's climate made a connection between inside and outside spaces not only possible but desirable, even more so since smaller houses could be made to feel much more spacious than they actually were by expanding their living areas outdoors.

Modernism sought liberation from historic, rigorously imposed styles, it becomes easy to see why all forms of Modern residential design have *clean lines, flat planes, large glass windows, clutter-free open and flexible spaces, the reduction of building elements to a specific function without ornamentation, the quest for elegant simplicity, and a connection between inside and outside spaces.*

During the mid-1940's, South Florida Architects took cues from International Style Modernism, but then injected it with a tropical style. The preeminent choice of architectural style during this period was Art Deco. Art Deco ornamentation was concentrated at the *parapet, and the shapes of windows, scored lines and curving wing walls* emphasized in the building's geometry.



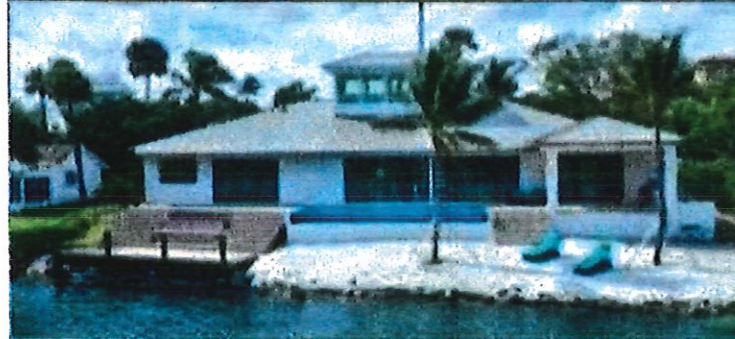
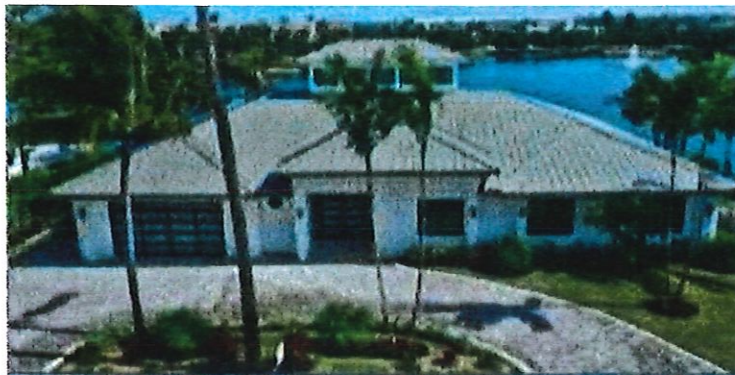
Color Palette



As previously mentioned, the Town's Architectural Style is Old Florida which is commonly known and identified by its late Victorian (Key West Cracker), Spanish revival (Mediterranean), Modern (early to mid-20th century), or *combination* thereof style of Architecture.

Therefore, staff has explained and provided samples of each architectural style within the Town throughout this memorandum. Recent projects have used innovative Architecture

and incorporated combinations of the three styles as follows:



140 Ocean Drive - Modern with a touch of Key West Cracker



1617 East Hemingway Way - Modern and Mediterranean

Recommendation

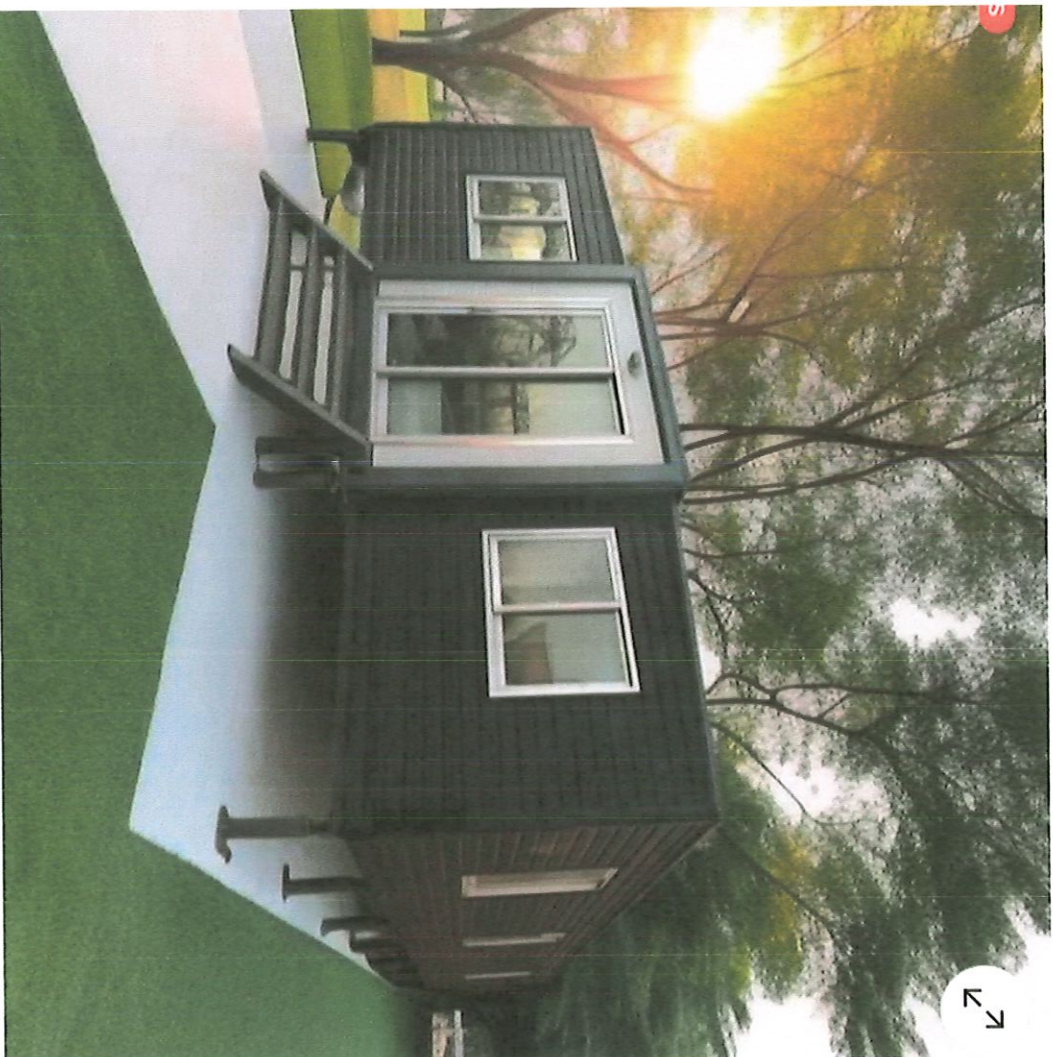
Staff recommends for the Board and Council to use the above information as an educational tool for future use.

No Architectural Review In Juno Beach & No Harmony

- No way to deny lot line to lot line vertical rectangles that maximize square footage.
- No way to deny more affordable do-it-yourself kit homes.
- No way to pass code requirements to implement the findings from our Master Plan TCRPC
- No review over materials, roof lines, balconies, window placement, or porches.
- What are the consequences to the character of our charming seaside community?
- The oversized homes could be inferior materials & designs – spec home vacation rentals more intensive use of our residential locations.

Modern more horizontal – container storage homes

- Stack three of these and add a tower for a roof top view to reach your 45' height max
- Perhaps you join together several to reach setback to setback lot coverage



Quonset Hut Home Designs – DYI kit homes

- More organic shaped style
- Do not lend themselves to stacking, perhaps a top layer of modular kit homes

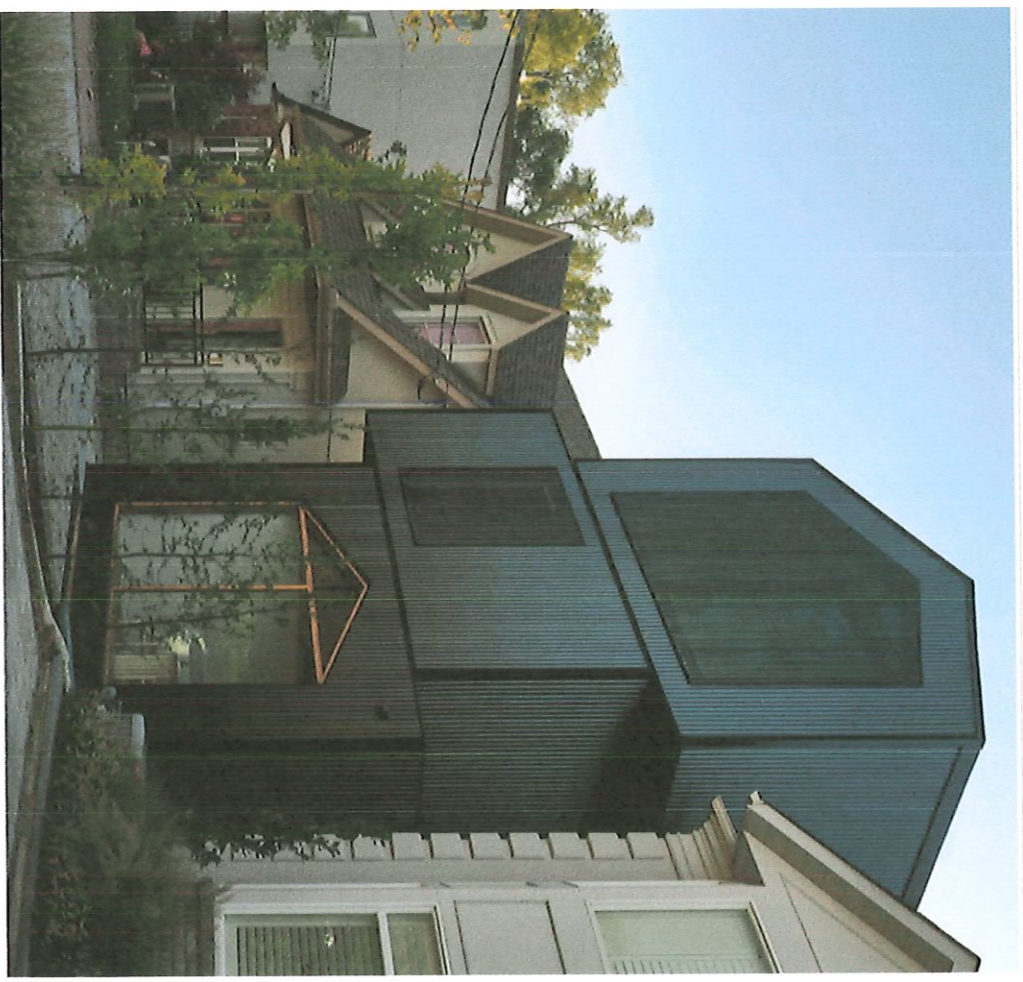


Black Vertical Rectangle Stacked – Aluminum metal exterior

The maximum lot square footage is achieved by a rectangle box that is built set back to set back.

This residence if it were maximizing its square footage in Juno Beach would be flat walls and not the relief or articulation shown here.

Its roof would be flat and a rectangle tower to 45 feet in height would be on top to maximize square footage



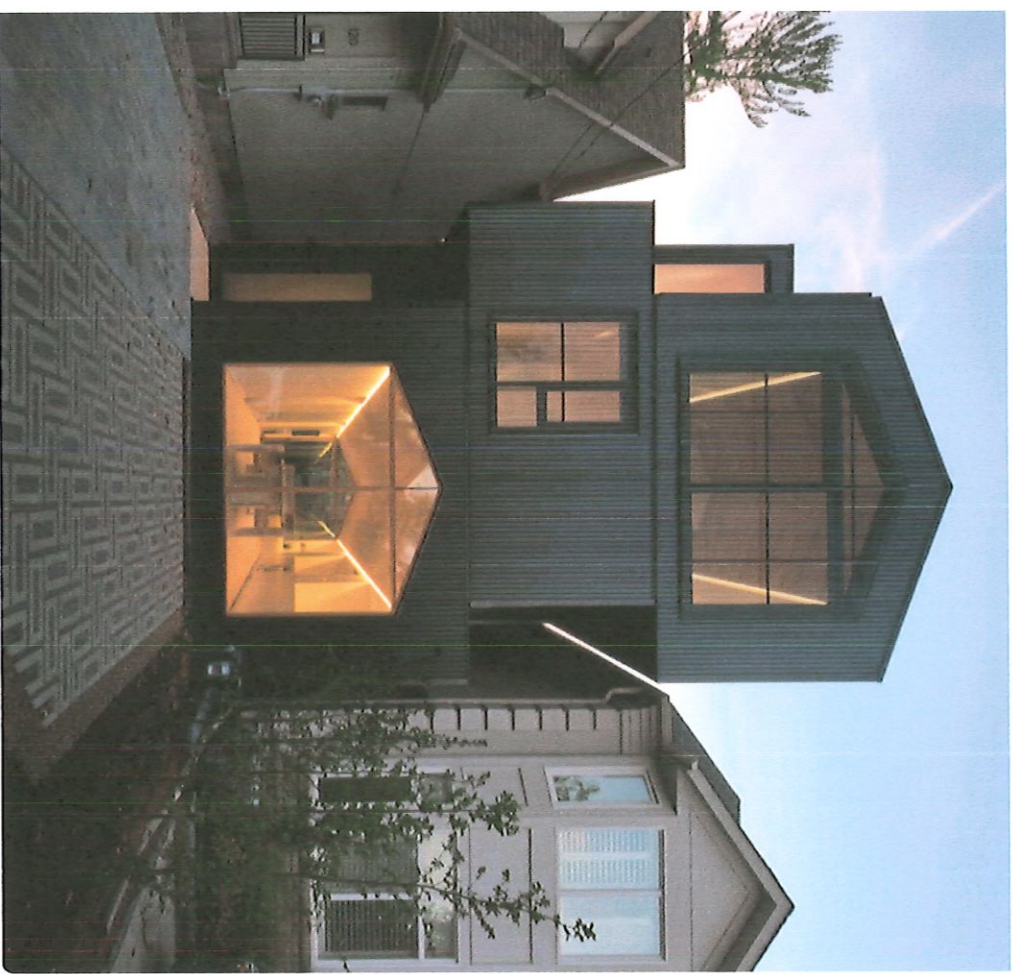
**Black metal
rectangle**

Max Sq Ft.

No cut outs

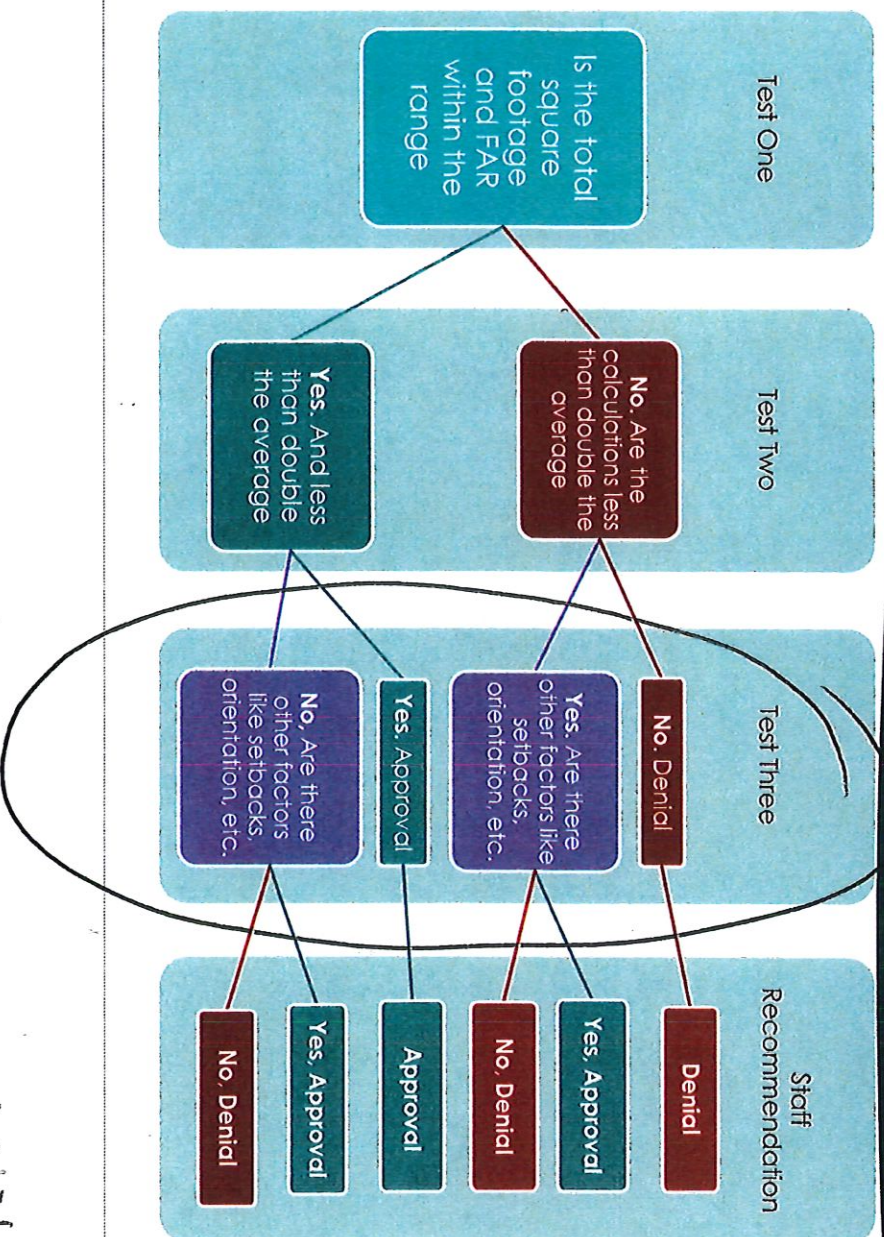
No roof peak

Flat walls



Harmony – Staff Tests for Bulk and Mass

7



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

Building Design

slope of

roof, porches, balconies,

orientation of

walls, losing your ability to mitigate larger

projects

Town Attorney Len G. Rubin memorandum dated April 21, 2025, allowing permissive authority for the Town to retain its architectural review codes.

Summary of memo: The litigation financial exposure risk is very small for the reversal of a board's appearance review decision by the court. The appeal of a board decision on architectural review presents the financial risk of having to defend the board decision in court and that's it. Even if the statutory provision on "design materials" is referenced in the law suit, there are no penalties or damages for reversal of a board decision by the court; no payment of the prevailing party attorney fees or costs; and no cause of action under Bert Harris for the architectural review portion of an appearance review decision.

EXCERPTS FROM LEN G. RUBIN TOWN ATTORNEY MEMORANDUM DATED APRIL 21, 2025 memorandum provided in workshop package where paragraphs referenced below are on page 20.

Option B – Reactivate regulation of architectural styles for detached single-family dwellings.

"... Reactivating the Town's regulation of building design elements or architectural styles for detached single family homes in the same manner that the Town conducted such review prior to July 1, 2023." [effective date of Section 162.3205(5)(a), Florida Statutes regarding regulation of "building design materials] (cite to paragraph 1, page 6 of 7)

"The potential risk associated with this approach is that applicants who are denied appearance review based on architectural style could raise the provisions of Section 162.3205(5)(a), Florida Statutes, as a basis for the reversal of the Boards decision and the Town would be required to defend such as action." (citation to paragraph 2, page 6 of 7)

... "while there are various statutes for recovery of attorney fees [prevalent party attorney fees],... would not apply to an appeal of the denial of a development order for application for appearance review. ... no cause of action would generally exist under the Bert J. Harris Private Property Rights Protection Act for enforcing mandated architectural styles. Section 70.001(12), Fla.Stat. (2024) (citation to paragraph 2, page 6 of 7)

MEMORANDUM

TO: Mayor Peggy Wheeler
Vice Mayor John Callaghan
Members of the Town Council

FROM: Leonard G. Rubin, Town Attorney *(LR)*

RE: Regulation of Architectural Styles for Single-Family Detached Dwellings

DATE: April 21, 2025

CC: Robert Cole, Town Manager
Frank Davila, Planning and Zoning Director
Caitlin Copeland-Rodriguez, Town Clerk

BACKGROUND:

For well over thirty years, the Town has regulated the architectural style of all buildings and structures erected within the Town as part of its site plan and appearance review procedures. Buildings were required to be of an architectural style representative of or reflecting the "Old Florida" style of architecture indigenous to the Town and commonly known and identified as late Victorian (Key West Cracker), Spanish revival (Mediterranean), or a combination thereof. In 2014, the list of architectural styles was expanded to include Modern (early to mid-20th century). All new commercial developments, mixed-use developments, and residential dwellings of two or more units were required to undergo site plan and appearance review, including architectural review. These applications were first considered by the Planning and Zoning Board and presented to the Town Council for final action with the Board's recommendation. However, single-family detached dwellings were subject to site plan and appearance review, including architectural review, only by the Town's Planning and Zoning Department.

During its 2021 session, the Florida Legislature amended Section 163.3202, Florida Statutes, to limit the ability of local governments to regulate "building design elements" for single-family and two-family dwelling units. The term building design elements refers only to the exterior appearance and layout of the structures, not the size or massing, and is defined by statute as follows:

[T]he external building color; the type or style of exterior cladding material; the style of material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; the number and type of rooms; and the interior layout of rooms. **The term does not include the height, bulk, orientation, or location of a dwelling on a zoning lot; or**

the use of buffering or screening to minimize potential adverse physical or visual impacts or to protect the privacy of neighbors.

§163.3202(5)(b)1, Fla. Stat. (2024) (emphasis added). Section 163.3202(5)(a), Florida Statutes, did provide certain exceptions to this limitation on municipal regulation of single-family and two-family dwellings, including, but not limited to, dwellings located in planned unit developments or master planned communities or dwellings located within a jurisdiction of a local government that has a design review board or architectural review board.

As set forth above, prior to 2021, single-family detached dwellings were not considered by either the Planning and Zoning Board or the Town Council and were subject solely to site plan and appearance review and approval by the Planning and Zoning Department. To comply with the statutory amendment and to facilitate the Town's continued regulation of architectural styles for single-family detached dwellings, on October 27, 2021, the Town Council adopted Ordinance No. 745, amending the Town's Zoning Code to designate the Planning and Zoning Board as the Town's appearance review board for single-family detached dwellings. The Board was granted final decision-making authority on site plan and appearance review¹, specifically including architectural review, of detached single-family dwellings not located within an approved planned unit development, thereby invoking the statutory exception outlined above.

However, during its 2023 session, the Florida Legislature amended Section 163.3202 to only allow local governments to continue to regulate building design elements for single-family detached dwellings if the local government had a design review board or architectural review board created before January 1, 2020. As set forth above, the Town did not delegate appearance and architectural review of single-family dwellings to the Planning and Zoning Board until October 27, 2021. Consequently, effective July 1, 2023 (the effective date of the statutory change), the Town ceased regulating building design elements for single-family detached dwellings.

Recently, Councilmember Davis questioned whether the Town could continue to regulate building design elements because the Planning and Zoning Board has historically conducted appearance review, albeit on an advisory basis, of commercial developments, mixed use developments, and residential structures of two or more units. Councilmember Davis presented a letter from Nancy Stroud, a local land use attorney, opining that because the Planning and Zoning Board's duties included appearance review as of January 1, 2020 and because the terms "design review board" and "architectural review board" are not specifically defined by statute, the Town could continue apply its land development regulations relating to building design elements (or architectural styles) to single-family and two-family dwellings.

¹ Through the adoption of Ordinance No. 753 on September 28, 2022, the Town Council removed the site plan review component for single-family detached homes from the Planning and Zoning Board's purview and returned that function to the Planning and Zoning Department, thereby limiting the Board's authority solely to appearance review (including architectural review) only.

QUESTION PRESENTED:

Given the Planning and Zoning Board's historical appearance review duties as a recommending body for commercial developments, multi-family developments, and residential dwellings of two or more units, did the Town have an architectural review board or design review board in place prior to January 1, 2020 to enable the Town to continue to regulate building design elements (or architectural styles) for detached single-family dwellings and two-family dwellings not included within a planned unit development pursuant to Section 163.3203(5)(a), Florida Statutes?

SHORT ANSWER:

Neither the plain language of Section 163.3203(5)(a)7, Florida Statutes, nor the legislative history for the 2023 amendment gives any definitive indication of the Town's ability to continue to regulate architectural styles for detached single-family dwellings and two-family dwellings. Consequently, the Town Council may wish to seek an advisory opinion from the Attorney General. However, because Attorney General opinions are advisory and not legally binding, the Town must proceed to evaluate its options and determine the appropriate course of action based on the potential risks and benefits of each approach, taking into account the best interests of the Town and its residents.

ANALYSIS:

As set forth above, the Planning and Zoning Board has historically, and most certainly prior to January 1, 2020, acted as a recommending body for site plan and appearance review for commercial developments, mixed-use developments, and residential dwellings of two or more units. As set forth in Section 34-116(3)(b) of the Town Code, architectural style is a component of appearance review. The central question is whether given this appearance review function, the Town's Planning and Zoning Board satisfies the statutory requirement of an "architectural review board" or "design review board."

As pointed out in Ms. Stroud's letter, Section 163.3202(5)(a), Florida Statutes, does not define the terms "architectural review board" or "design review board." When attempting to discern the application of a statute, the first rule of statutory construction or interpretation is to give the statute its plain and ordinary meaning. *Weber v. Dobbins*, 616 So. 2d 956 (Fla. 1993). However, when a word or term is not defined and the statutory language is unclear or ambiguous, courts apply rules of statutory construction and explore legislative history to determine legislative intent. *Nicarry v. Eslinger*, 990 So. 2d 661 (Fla. 5th DCA 2008). See also *Longval v. State*, 914 So. 2d 1098 (Fla. 4th DCA 2005) (to discern legislative intent, courts must apply a "common-sense approach" which requires consideration of, among other things, legislative history). A statute is ambiguous when its language is subject to more than one reasonable interpretation and may permit more than one outcome. *Hess v. Walton*, 898 So. 2d 1046 (Fla. 2d DCA 2005).

Initially, it appeared that the Legislature's 2023 amendment to Section 163.3202(5)(a), Florida Statutes, preempted the Town's ability to review building design elements for detached single-family dwellings because prior to October 27, 2021, architectural review

was conducted solely by the Planning and Zoning Department and not by a board with design review or architectural review functions. However, upon closer examination, the statute does explicitly state that the Town was required to have a design review board or architectural review board actively reviewing such applications prior to January 1, 2020. The statute only requires that the "dwelling be located within a jurisdiction of a local government that has a design review board or an architectural review board created before January 1, 2020." §163.3202(5)(a)7, Fla. Stat. (2024). As fully set forth above, the Planning and Zoning Board has historically conducted appearance review and architectural review of development applications as a recommending body and was in place long before January 1, 2020. Because the statutory language is subject to more than one interpretation, the next step in the analysis would be to explore the legislative history of the 2023 revision to Section 163.3202(5)(a), Florida Statutes.

While the legislative history, like the statute itself, does not provide any specific definitions, the Florida Legislature's April 27, 2023 Bill Analysis and Fiscal Impact Statement for the 2023 revision to Section 163.3202(5)(a), Florida Statutes, does, in a footnote, give two examples of the types of local government architectural review boards or design review boards to which it was referring, namely, the Village of Wellington Architectural Review Board and the City of St. Petersburg Development Review Committee, which also functions as the City's Design Review Board. However, a deeper analysis of the roles of these two example boards or committees yields no additional clarity.

The stated duties of the Village of Wellington Architectural Review Board ("ARB") are to: (1) adopt by resolution various schedules of approved materials, designs, and charts of approved colors; (2) hear and decide appeals of administrative decisions of the planning, zoning and building department pertaining to approved materials, designs, and charts of approved colors; (3) hear and approve alternatives to the development and design criteria established by ordinance or resolution; and (4) review and approve plans for multifamily and non-residential development. Appointments to the Architectural Review Board are "based on experience or interest in the businesses and professions involved in building and development." The powers and duties of the Wellington ARB include adopting schedules of approved materials, designs, and colors and go far beyond mere recommendations regarding appearance review. The Wellington ARB conducts traditional architectural or design review in the same manner as many other local government boards that review the architectural elements of single-family homes, such as the Town of Bay Harbor Islands Design Review Board, the City of Miami Beach Design Review Board, and the City of Naples Design Review Board. Each of these municipalities has extensive design and/or architectural guidelines in place that are administered by a board whose members have specific expertise relating to architecture, engineering, and/or land use.

The City of St. Petersburg, on the other hand, has a Development Review Commission ("DRC") with duties very similar to a traditional planning board like the Town's Planning and Zoning Board. In appointing members to the DRC, Section 18.80.020.2(B) of the City Code requires that, where possible, the City Council should include members "qualified and experienced in the fields of architecture, planning, landscape architecture,

engineering, construction, and land use law and real estate." While the City has developed very detailed architectural guidelines for its traditional neighborhoods, the architectural review of single-family homes is conducted by members of City Staff, with the St. Petersburg DRC's role generally limited to reviewing architectural details and materials when a property owner is seeking a variance. In fact, a representative of the City Attorney's Office confirmed that the City of St. Petersburg specifically added design review to the Commission's duties after the 2021 amendment to Section 162.3202(5)(a), Florida Statutes, to ensure continued regulation of building design elements or architectural styles for detached single-family homes. The City's approach to the 2021 legislation was very similar to Town's approach; however, the City continued to regulate architecture after 2023 amendment, relying on the fact that the Development Review Commission was in existence prior to January 1, 2020.

Because the legislative history provides two divergent examples of the types of boards that would fall within the exception allowing local governments to continue to regulate building design elements, it provides no additional clarification of the Legislature's intent.

Neither the plain language of the statute nor the legislative history provides clear direction as to whether the Town can continue to conduct architectural review of detached single-family homes. While the Town will not have a definitive answer until a court of competent jurisdiction rules on this issue or the Florida Legislature further clarifies the statutory language, the Town could, as interim step, request an advisory opinion from the Florida Attorney General. Attorney General Opinions serve to provide legal advice on questions of statutory interpretation. Attorney General opinions are advisory only and not law; however, they are persuasive and could provide additional guidance to the Town.

Irrespective of whether the Town Council seeks an Attorney General Opinion, the Town Council's decision as to whether to continue to regulate architecture for single-family detached homes² ultimately hinges upon the Town Council's risk tolerance and an evaluation of the potential benefits and consequences of each approach.

Option A – No regulation of architectural styles for detached single-family dwellings.

The first approach is to take a more conservative, restrictive interpretation of the statute and continue along the current path of not regulating building design elements or architectural styles of single-family detached dwellings. While this approach prevents the Town from requiring specific architectural styles for single-family detached dwellings, the Town can continue to address neighborhood compatibility issues through the application of other components of the appearance review process, such as harmony, or through the adoption of additional regulatory criteria, such as maximum floor area ratios. As explained above, Section 163.3202(5)(b)1, Florida Statutes, does not address size or massing and specifically excludes "bulk" from the definition of building design elements.

Additionally, the Town Council delegated final authority for appearance review of single-family detached homes to the Planning and Zoning Board for the sole purpose of allowing

² Whatever course of action the Town Council takes for single-family detached dwellings would also apply to two-family dwellings.

continued architectural review for these types of dwellings in response to the statutory amendment. However, the Board is not comprised of persons with specific qualifications or experience in the fields of architecture, design, engineering, or land planning, and some of the Boardmembers have expressed reluctance in applying appearance review criteria, some of which are inherently subjective in nature, to pending appearance review applications. If the Town is no longer regulating architectural review for single-family detached dwellings, the Town Council could delegate the appearance review function back to the members of the Planning and Zoning Staff, who do have the requisite expertise in the fields of architecture and land planning. Under this approach, if an applicant disagreed with Town Staff's application of the architectural styles or appearance review criteria, including harmony, that decision could be appealed to the Town Council sitting as the Zoning Board of Adjustment and Appeals, thereby vesting the Town Council with final decision-making authority over certain applications.

Option B – Reactivate regulation of architectural styles for detached single-family dwellings.

The second approach is to follow the lead of the City of St. Petersburg and take a more liberal interpretation of the statute, thereby reactivating the Town's regulation of building design elements or architectural styles for detached single-family homes in the same manner as the Town conducted such review prior to July 1, 2023. This option would expand the Planning and Zoning Board's review to include all aspects of appearance review, including harmony and architectural styles. The Board would continue to have final decision-making authority, and any person seeking to challenge the Board's determination would be required to file a Petition for Writ of Certiorari in the circuit court, without any potential for Town Council involvement in the process.

The potential risk associated with this approach is that applicants who are denied appearance review based on architectural style could raise the provisions of Section 162.3202(5)(a), Florida Statutes, as a basis for reversal of the Board's decision and the Town would be required to defend such an action. While there are various statutory provisions that allow for the recovery of attorney's fees for violations of a statutory preemption, these provisions are only generally applicable to challenges to ordinances and would not apply to an appeal of the denial of a development order application for appearance review. Furthermore, because the Town adopted the architectural review requirement prior to May 11, 1995, no cause of action would generally exist under the Bert J. Harris Private Property Rights Protection Act for enforcing mandated architectural styles. §70.001(12), Fla. Stat. (2024).

The Town Council could also consider returning both appearance review and architectural review of detached single-family dwellings to Planning and Zoning Staff. However, because a review board or architectural committee would not be performing this function, this approach would be more difficult to defend in the event of a challenge to the Town's authority to regulate building design elements (or architectural styles) based on Section 163.3202(5)(a), Florida Statutes.

CONCLUSION:

As fully discussed above, applying the rules of statutory construction does not lead to any definitive conclusion regarding the Town's ability to regulate architectural styles for detached single-family (and two-family) dwellings. Neither the plain language of the statute nor the legislative history gives any clear indication as to whether the Planning and Zoning Board's historical duties as an appearance review board satisfies the statutory criteria for the continued regulation of building design elements or architectural styles for detached single-family dwellings as set forth in Section 163.5202(5)(a), Florida Statutes. The Town Council could request an advisory opinion from the Attorney General seeking additional guidance regarding the statutory interpretation. However, even if the Attorney General issues such an opinion, it is advisory only. Consequently, it is ultimately up to the Town Council to assess the importance of architectural review of single-family (and two-family) dwellings and determine the appropriate course of action based on the potential risks and benefits of each approach.

Appearance Review for Single Family Homes

Excerpts from Thomas presentation January 2025 Town Council Meeting
who was the Advocate for the 700 Ocean nearly 15,000 square foot
mansion

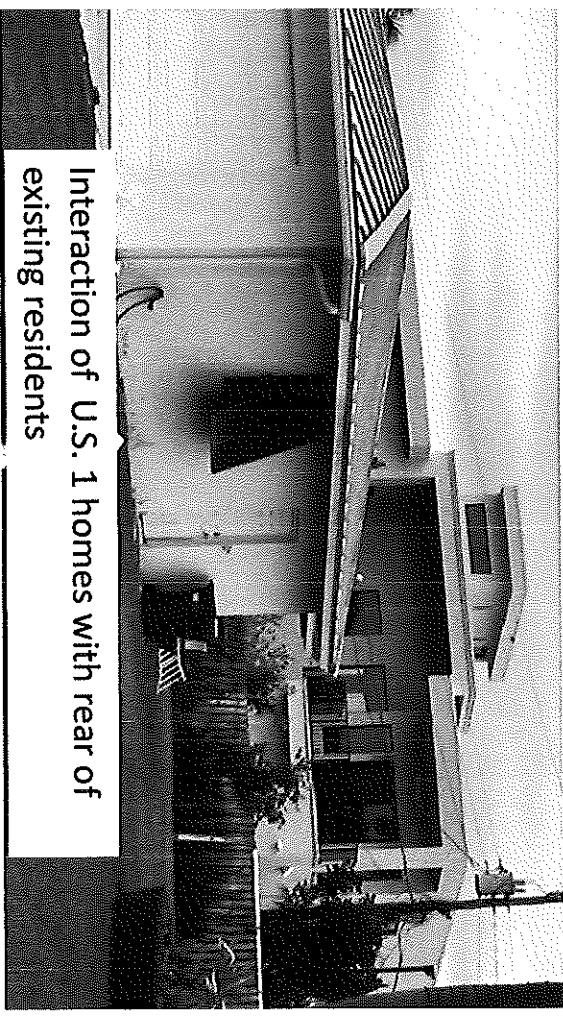
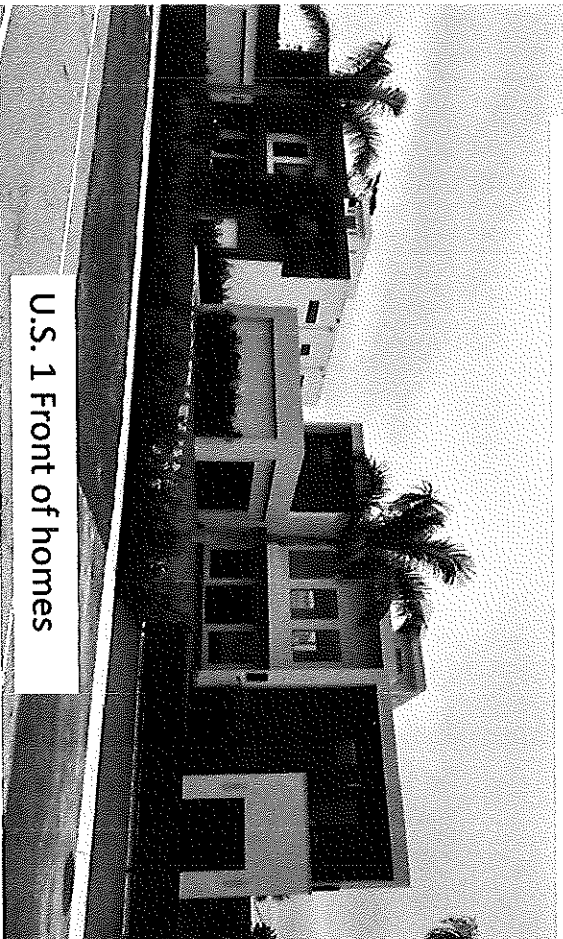
Presentation created by Diana Davis for the workshop on appearance
review 5/2/2025 with updated survey results through 5/21/2025

Resident Survey – Preserve Value w/ Architectural Review and Harmony (size of structures) review for single family new structures

- Q4 – (244) 97% - The best way to protect property values and preserve the character of Juno Beach is to adopt and maintain carefully crafted land development codes that give the P&Z staff & board the tools to evaluate the size of structures in context. This helps preserve a sense of place, maintain a park-like setting, and protect the Town's character and quality of life for current residents. [252 responses for this Q.]
- Q5 – (237) 93% - New development should be subject to architectural standards that ensure consistent quality and aesthetic appeal, contributing positively to the overall value of the community. [252]
- Q3 – (230) 90% - Maintain our existing “harmony” code provisions, which evaluate bulk, mass, scale and proportion of the new proposed structure compared to buildings within 300 feet of the same zoning district. [255]

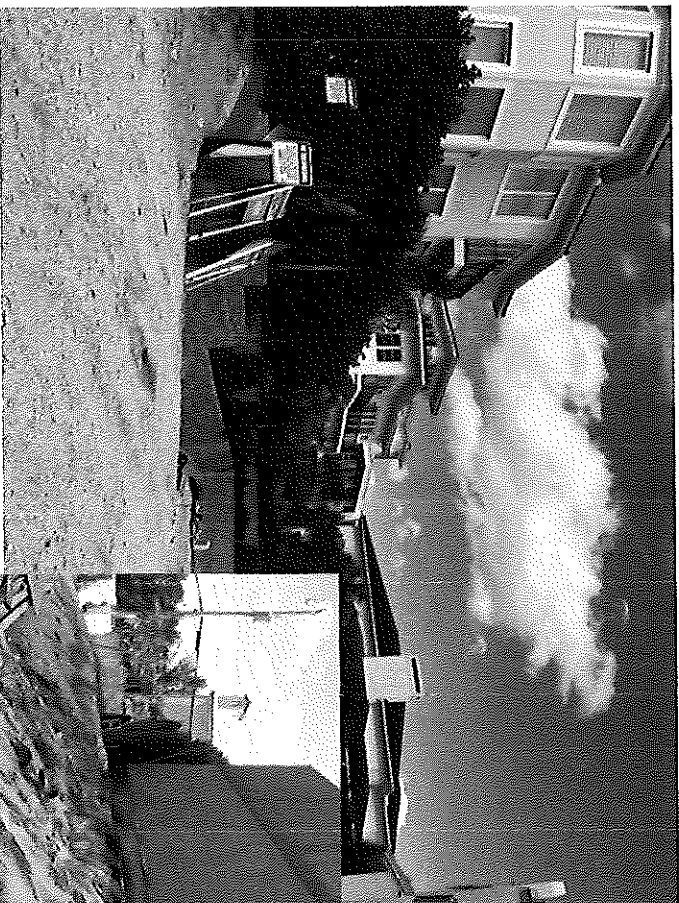
Next six slides review some potential issues based on our current codes building site area regulations without the review of “size in context code provisions” (a/k/a harmony review)

Three Large Residential Structures on U.S. 1 *approved before “size in context” codes in place



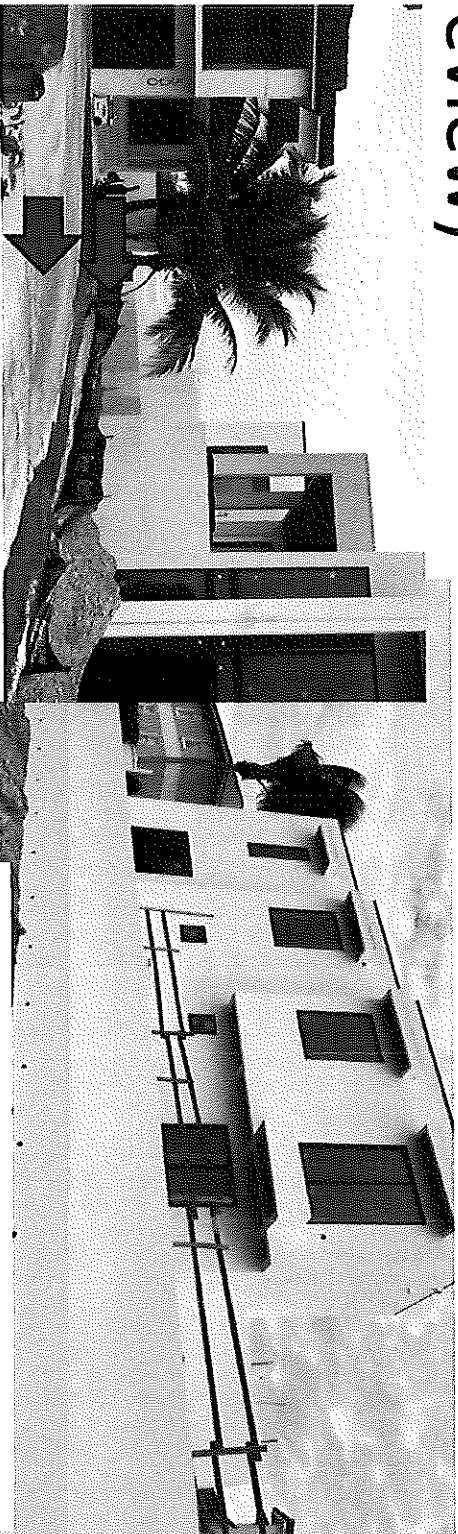
What tools are needed by Staff to better review project impacts on existing residents? Consider 3-D GIS Scene View to calculate scale in relation to surrounding structures & Floor Area Ratio. How can existing residents' property rights be protected? consider setback with scale in relation to other structures, consider retaining walls & screening requirements.

Venus Drive duplex – approved before size in context codes in place



Topographical Features – benchmarking for requirements to stabilize soils of neighboring properties prior to excavation & any limits on excavations?

Lyra white rectangle structure * approved before size in context codes in place (w/out architectural review)



Series of Walls: total of 15 feet in height in the side yard (11 ft wall with 4' railing) without meeting setback requirements for the structure

Topographical Features: Unlimited amounts of fill to raise a side yard deck and pool for access by a second floor

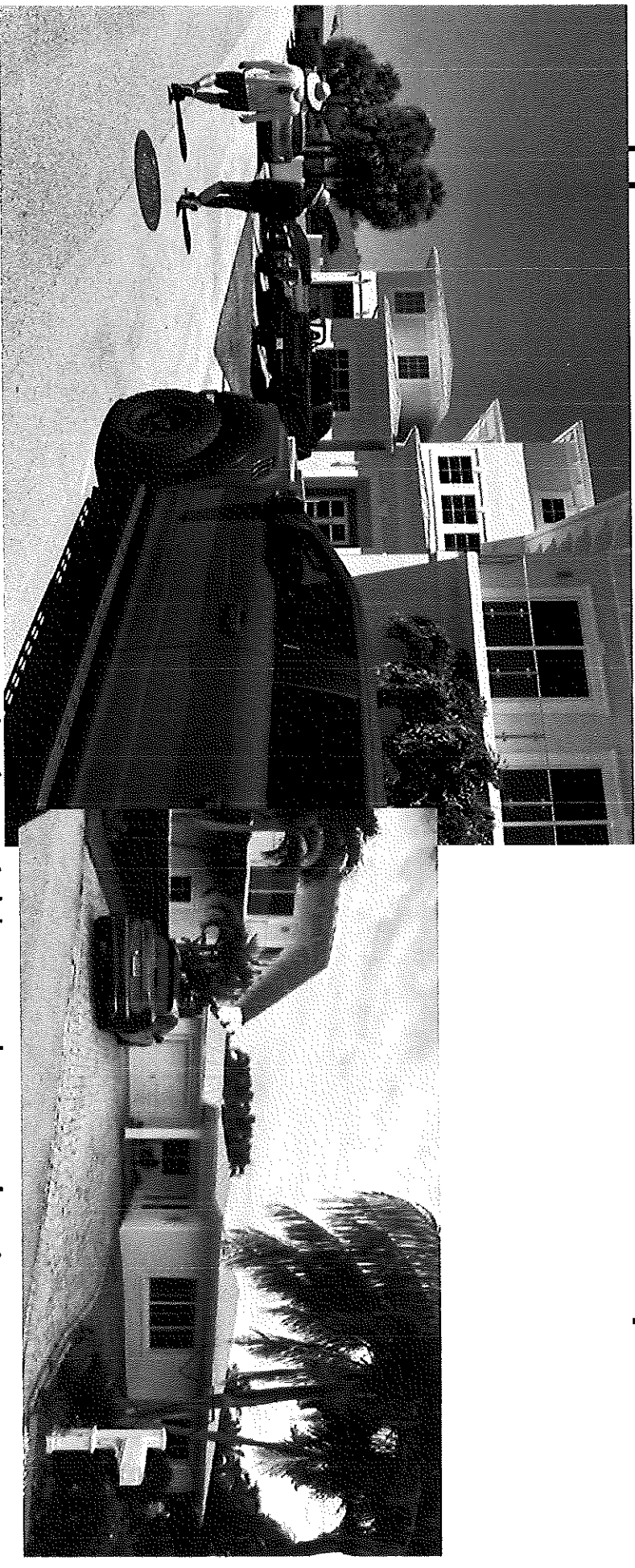
Unlimited Series of Walls not required to meet setback for structure. How much fill can be brought on site? How was its height calculated?

571 Ocean Drive 6,000 Sq.Ft. compared to 401 Mars
Way 1,000 Sq.Ft. neighboring property *approved
before size in context codes in place



Building Site Area requirements of 35% lot coverage (structure only, not impervious surfaces) for our neighborhoods and 25% landscaping (not required to be vegetation, includes rocks & walls) **are not resulting** in a park-like setting that preserves the character of the community

451 Juno Lane 6,000sq ft., neighbor is 2,000sq ft
*approved before “size in context” codes in place

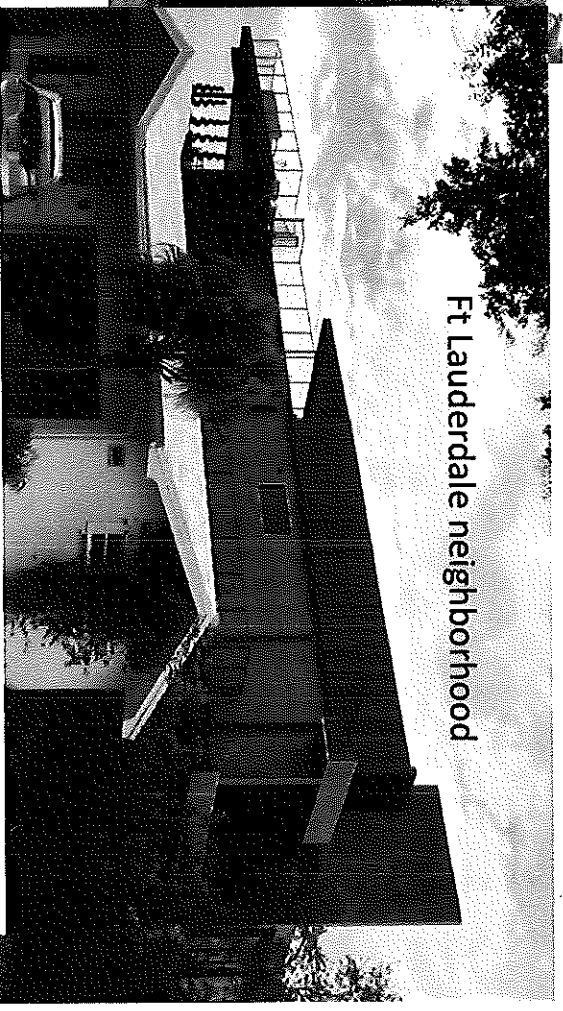
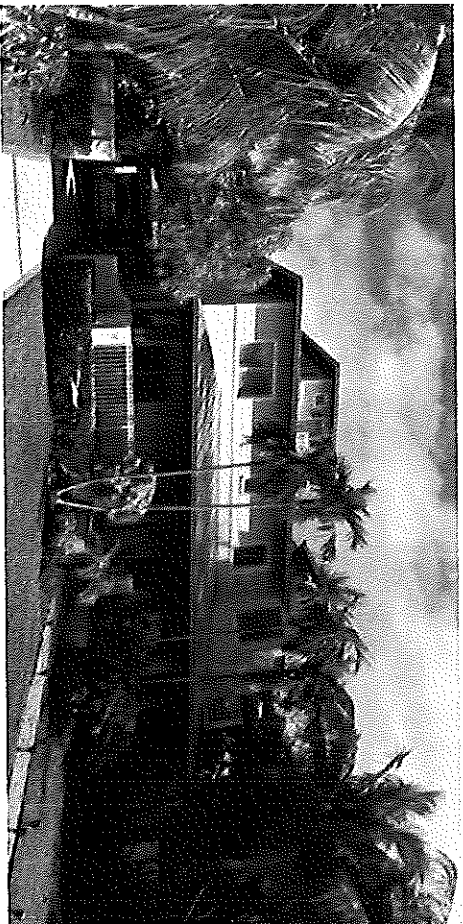


Calculation of height for the structure? The neighbor to the west is a two-story resident. Approx. .84 Floor Area Ratio (FAR) if gross sq.ft. used

401 Olympus – Leslie Thomas presentation
suggested that lot will support 19,000 square foot
residence if “size in context” comparison
are removed



Good example: 461 Olympus Drive, .5 FAR



What code improvements are needed to encourage architectural features that preserve the character of the community and that allow for incremental growth for new buildings without reducing the quality of life for existing residents or impacting existing resident's property values?

Harmony comparison of bulk, mass, scale, and proportion in context

- Regulations in effect for “Harmony” over the past two years.
- Property values continue to increase in all residential zoning codes.
- Five examples of residential properties approved over the past two years with the “size in context” type of reviews



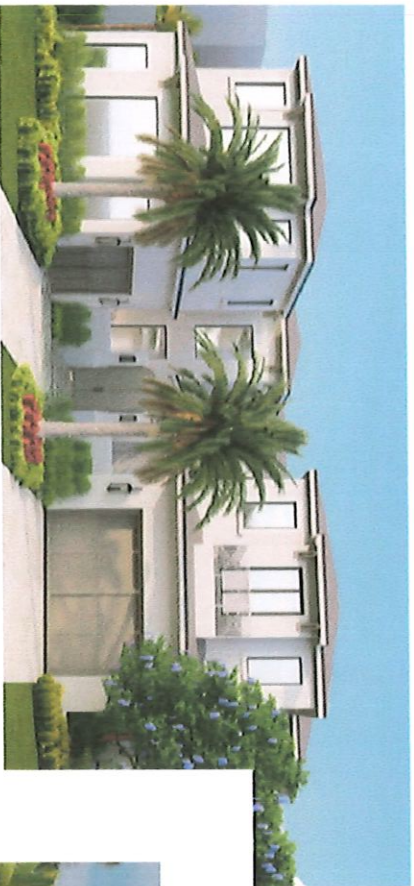
479 Ocean Ridge Way (January 17, 2024) 4,706 Sq. Ft., 3 stories with tower; it has two other homes within its same zoning district



491 North Lyra Circle (10-7-2024) 1,235 sq ft addition for 2-
stories and a tower, total home square footage 3,268 sq ft. FAR
.45



220 Ocean Drive (11-18-2024) Existing home addition over garage and expanded into back and side yard, addition 974 sq ft total home 4,764 sq. ft.



January 22, 2025; 2-stories, 14,977 square feet, approved in split vote, Staff denied, P&Z unanimous approval (7-15-2024, public opposition August 2024) PUD and double lot



April 7, 2025 – 410 Diana Lane 2 stories 30' with tower 35'; 5,421 Square Feet FAR .54, staff did not approve and Planning and Zoning Board approved

Conclusion

- Harmony codes to compare Bulk, Mass, Scale and Proportion resulted in quality projects being approved
- Last two projects divergence between Staff and Board
- Board requested guidance in application of bulk, mass, scale and proportion with more quantitative focus
- Workshop proposals for quantitative review that results in incremental growth over time for residential neighborhoods

Takings under 5th Amendment – nor shall private property be taken for public use without just compensation,

Generally, while property may be regulated to a certain extent, if regulation goes too far, it will be recognized as a “taking.”

For example, if government requires a landowner to permit a portion of their property for a public road, then the regulatory requirement is similar to eminent domain and it is a “taking” requiring compensation for the private property.

APA article on Takings- supreme court identified four clear rules

1. Landowner has been denied “all economically viable use” of the land
2. Where the regulation forced the landowner to allow someone else to enter onto the property
3. Where the regulation imposes burdens or costs on the landowner that do not bear a “reasonable relationship” to the impacts of the project on the community; and
4. Where government can equally accomplish a valid public purpose through regulation or through a requirement of dedicating property, government should use the less intrusive regulation, for example, prohibiting development in a floodplain property.

The Supreme Court has also said that where a regulation is intended merely to prevent a nuisance, it should not be considered a taking.

Inverse Condemnation is a claim made by a property owner that the effect of a government action on its property is so devastating that it is the equivalent of the exercise of eminent domain and requires just compensation as per 5th amendment.

Florida Bert “Harris Claims” Section 70.001 et seq Florida Statutes -

Bert Harris sought to limit governmental exercise of its police powers to trigger compensation for environmental regulations and land use regulations that create an “inordinate burden.” Requires 90-day notice of claim.

Requires appraisals to show inordinate burden on property. Local government can settle these claims with a development order that does not follow the requirements of its comprehensive plan. Conclusion: do not compromise generally applicable standards for “fear” of Harris Act liability, the option remains to grant a waiver in the rare instances where the application of those standards to a specific landowner causes an inordinate burden. (See, Richard Grosso, Esquire presentation 1000 Friends of Florida webinar)

THE BERT J. HARRIS ACT: THE LAW AND THE LORE

Richard Grosso, Esq.

Richard Grosso PA

Harris Act Settlements

- For example, in order to settle a valid *Harris Act claim*, a local government may issue a development order that is inconsistent with its Comprehensive Plan, which would otherwise be strictly prohibited. See §§163.3161(5), 163.3194(1) & (3), and 163.3215, Fla. Stat.
- Key takeaway is that local governments and other agencies should not compromise their generally – applicable standards for fear of *Harris Act* liability... the option always remains to grant a waiver from those standards in the relatively rare instances where the application of those standards to a specific landowner would cause an inordinate burden.