

TOWN OF PALM BEACH

Planning, Zoning & Building Department

PLANNING AND ZONING COMMISSION AGENDA

TOWN COUNCIL CHAMBERS

SECOND FLOOR

360 SOUTH COUNTY ROAD, PALM BEACH
TUESDAY, NOVEMBER 19, 2019 AT 9:30 A.M.

I. CALL TO ORDER AND ROLL CALL

Martin Klein, Chair
Michael Ainslie, Vice Chair
Carol LeCates, Member
Rick Pollock, Member
Michael Spaziani, Member
Richard Kleid, Member
Richard Sammons, Member
Eric Christu, Alternate Member
Ronald Berk, Alternate Member
Marilyn Beuttenmuller, Alternate Member

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. APPROVAL OF THE AGENDA

IV. APPROVAL OF MAY 21, 2019 PLANNING AND ZONING COMMISSION MINUTES

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE

VI. Consideration of an application by The Breakers Palm Beach, Inc., requesting a zoning text amendment to Chapter 134, Zoning, to allow hotels, golf courses and other commercial uses customarily accessory to a principal use as a permitted use in the PUD-A zoning district and to allow site plan modifications in that district that do not exceed 2,500 square feet by administrative approval

VII. COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR

VIII. ADJOURNMENT

Note 1: If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which records include the testimony and evidence upon which the appeal is to be based.

Note 2: Disabled persons who need an accommodation in order to participate in this Commission Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least five (5) working days before this meeting.



**PLANNING AND ZONING COMMISSION
MEETING MINUTES
TUESDAY, MAY 21, 2019 9:30 a.m.**

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Kelly Churney, Secretary to the Planning & Zoning Commission at (561) 227-6408.

I. CALL TO ORDER AND ROLL CALL

Chair Klein called the meeting to order at 9:28 a.m.

Martin I. Klein, Chair	PRESENT
Michael Ainslie, Vice Chair	PRESENT
Kenneth Walker, Member	PRESENT
Carol LeCates, Member	PRESENT
Rick Pollock, Member	PRESENT
Michael Spaziani, Member	PRESENT
Richard Kleid, Member	PRESENT
Eric Christu, Alternate Member	PRESENT
Ronald Berk, Alternate Member	ABSENT (excused)
Marilyn Beuttenmuller, Alternate Member	PRESENT

Staff Members present were:

Josh Martin, Director of Planning, Zoning and Building

Wayne Bergman, Assistant Director of Planning, Zoning and Building

Paul Castro, Zoning Manager

Kelly Churney, Secretary to the Planning and Zoning Commission

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Churney led the Commission with the Invocation and the Pledge of Allegiance.

III. APPROVAL OF THE AGENDA

Motion made by Mr. Spaziani and seconded by Mr. Pollock to approve the agenda as presented. Motion carried unanimously.

IV. APPROVAL OF APRIL 16, 2019 PLANNING AND ZONING COMMISSION MINUTES

Mr. Kleid stated he provided the clerk with a few minor changes to the April 16, 2019 minutes. Ms. LeCates requested that more explanation be added to the April 16 minutes for the requested change in the motion regarding the Beach Area Zoning District. Ms. Churney stated she would make the requested changes.

Motion made by Mr. Ainslie and seconded by Mr. Kleid to approve the minutes as amended. Motion carried unanimously.

V. **COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE**

Simon Taylor, 234 Oleander Ave., offered concerns for the following items: extending more authority to staff and town administrators, upcoming changes that could be construed as pro-development, changes that are moving too fast, the appropriateness of New Urbanism and formed based codes for the Town of Palm Beach.

Mr. Klein discussed the upcoming issues on the agenda. He updated the Commission on a decision that took place at the Town Council level regarding docking stations and dockless bicycles. Mr. Klein then turned the meeting over to Mr. Martin.

Mr. Martin requested to move the last item, h, to the front of the agenda so that the Commission could hear the presentation regarding process improvement and the path forward in code reform before listening to any other agenda items.

Please note: The next item was moved forward in the agenda at the request of Mr. Martin.

VI. h. **Proposed schedule and path moving forward for process improvement and code reform.**

Mr. Martin made a presentation regarding an overall zoning code reform and process improvement for the Town of Palm Beach. He then outlined a path to move forward.

The Commissioners expressed favorable comments about the presentation. Mr. Martin addressed all the questions from the Commissioners.

Simon Taylor, 234 Oleander Ave., expressed excitement about the proposed direction and stated his intention was to clear up any perceived divisiveness between the misperceived business driven agenda and the residents of the Town.

Mr. Martin suggested that the Planning and Zoning Commission use their June meeting to begin the workshop sessions for process improvement and code reform. Many Commissioners agreed with Mr. Martin.

Mr. Klein urged staff to advertise the workshop in June in the hopes for a higher attendance. Mr. Martin suggested altering the meeting time of some of the future workshop meetings.

Mr. Klein called for public comment at this time.

Julie Araskog, 1490 Via Manana, expressed a concern for the lack of parking during the workshops. Ms. Araskog inquired if the residents would be able to attend the workshop. Mr. Martin responded.

A discussion ensued about using alternate meeting locations for the workshops.

Please note: A short break was taken 11:14 a.m. The meeting resumed at 11:25 a.m.

a. **Reconsideration of proposed modification to the Angle of Vision definition to provide an illustration of the angle requirement.**

Mr. Castro presented and reviewed the new illustrations to be included in the Code to demonstrate the angle of vision requirement. Mr. Castro thanked Harold Smith at Smith and Moore Architects for providing the illustrations.

Mr. Klein called for public comment at this time. There were no comments from the public at this time.

Ms. LeCates was in favor of two of the illustrations (100' wide lot and 120' wide lot in the R-B zoning district) but questioned the third (lot in R-A zoning district), as to whether it demonstrated the angle of vision. Mr. Castro agreed and stated that he could remove the questionable illustration.

Mr. Castro discussed the intent of the illustrations.

Motion made by Mr. Kleid and seconded by Mr. Pollock to approve the new modification to the angle of vision definition, with the inclusion of the new illustrations.

Ms. LeCates questioned the angle of vision illustration for the R-A zoning district. Mr. Castro suggested to eliminate the illustration and to limit the illustrations to the remaining two. A discussion ensued about the angle of vision for a lot in the R-A zoning district.

Motion amended by Mr. Kleid to approve the new modification to the angle of vision definition, with the inclusion of two new illustrations (100' and 120' wide lot in the R-B zoning district).

A discussion ensued about the setbacks shown on the illustrations and the method in which the angle of vision is calculated.

Julie Araskog, 1490 Via Manana, asked a question about the proposed illustration. Mr. Castro responded.

Mr. Pollock seconded the amended motion. The motion carried unanimously.

Please note: The next item was moved forward in the agenda at the request of Mr. Klein.

f. Proposed modifications to the regulations for generator equipment.

Mr. Martin introduced the item and asked Mr. Bergman to review the item for the Commission.

Mr. Bergman discussed the possibility of simplifying the regulations for generators in the Code. Mr. Bergman presented the Code revisions to the Commissioners.

Messrs. Bergman and Martin discussed the issues related with the older Code provisions.

Mr. Castro explained the origin of the existing Code and then outline the main changes in the proposed text.

Mr. Spaziani inquired about the screening requirement for generators. Mr. Bergman responded.

Mr. Bergman added that the new Code would address the FEMA requirements.

Mr. Spaziani asked if there were any requirements for the position of a carbon monoxide detector in relation to a generator. Mr. Bergman responded.

Mr. Kleid asked about the wall height requirement. Mr. Bergman responded.

A discussion ensued about the possible wall height and screening of generators.

Mr. Martin stated that the Commissioners could review the proposed Code changes over the next month and would be able to discuss these items at the next meeting. Mr. Klein asked if there would be enough time to make the changes prior to the hurricane season.

Mr. Klein inquired about the proposed change relating to the generator sizes. Mr. Castro responded.

Mr. Klein stated that the Commission would study the item before the June meeting so that they would be prepared for discussion.

Ms. Beuttenmuller inquired about the change in the testing time for generators. Mr. Bergman responded. Mr. Spaziani expressed concern for the proposed testing on Saturdays.

Please note: The next item was moved forward in the agenda at the request of Mr. Klein.

g. Discussion on proposed zoning text amendment which would limit front loaded garages based on lot size.

Mr. Martin informed the Commission of some recent concerns raised about front-loaded garages. Mr. Martin showed the Commission a few illustrations of front-loaded garages, which demonstrated both the garage, and the residence, as the principal structure.

Mr. Martin asked the Commission if they would like staff to begin preparing a zoning text amendment for this item or if they would like to include this in the overall zoning code reform.

Mr. Klein called for public comment at this time.

Julie Araskog, 1490 Via Manana, suggested the Commission visit her street to see a garage that is principal to the structure and left open 24/7.

Mr. Martin stated that if staff made changes now, those changes may need to be modified during the zoning code reform process.

Mr. Kleid suggested that the Commission should wait on making any changes to this item.

Ms. LeCates asked for clarification regarding which front-loaded garages were an issue with residents. Mr. Martin responded.

Mr. Martin stated that staff would monitor the issue and would return with the item if it becomes a larger issue.

Mr. Martin recommended deferring the rest of the items b, c, d and e until the zoning code reform is completed.

Mr. Klein called for public comment at this time.

Simon Taylor, 234 Oleander Ave., spoke in favor of Mr. Martin's suggestion to defer the rest of the items.

A discussion ensued about the possible deferral.

Motion made by Ms. LeCates and seconded by Mr. Kleid to defer the discussion of items b, c, d and e. Motion carried unanimously.

- b. Reconsideration of proposed modification to the special exception regulations which determine when a special exception use is required to obtain Town Council review.
Deferred by Motion
- c. Reconsideration of proposed modification to the setback requirements for multi-family uses in the R-C, R-D(1) and R-D(2) multi-family zoning districts.
Deferred by Motion
- d. Reconsideration of proposed amendments to the administrative notice requirements for Zoning Waivers.
Deferred by Motion
- e. Reconsideration of proposed modifications to the step setback requirements for buildings in excess of fifteen feet in height in the C-TS, C-WA, C-OPI and C-B commercial zoning districts.
Deferred by Motion

VII. **CONSIDERATION OF PLANNING AND ZONING COMMISSION SUMMER SCHEDULE**
Mr. Martin recommended holding a meeting in June and July while taking a break in August. He suggested that the meetings would resume in September. The Commission agreed with this suggestion.

VIII. **COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR**
None.

IX. **ADJOURNMENT**
The meeting adjourned at 12:20 p.m. without the benefit of a motion.

Respectfully Submitted,

Martin Klein, Chair
Town of Palm Beach
Planning & Zoning Commission

kmc

TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on:
November 19, 2019

To: Planning and Zoning Commission

From: Paul Castro, Zoning Manager

Re: Consideration of Application from The Breakers Palm Beach, Inc., requesting a Zoning Text Amendment to allow as a Permitted Use in the PUD-A Zoning District, Hotels, Golf Courses and Other Customary Accessory Uses to a Principal Hotel Use. In addition, a Request to Allow Administrative Site Plan Modifications for Permitted or Accessory Uses Not Exceeding 2,500 Square Feet.

Date: November 8, 2019

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission recommend that the Local Planning Agency and Town Council approve the proposed text amendment by The Breakers Palm Beach, Inc., to amend Section 134-266 to allow hotels, golf courses and other customary accessory uses to a principal hotel use as a permitted use in the PUD-A Zoning District. In addition, Staff recommends approval of the applicant's request to allow administrative site plan modifications for permitted or accessory uses that do not exceed 2,500 square feet.

BACKGROUND

The applicant, The Breakers Palm Beach, Inc., has submitted a proposed zoning text amendment to Chapter 134, Zoning, in the Town Code of Ordinances (See attached application). The proposed zoning text amendment for Section 134-622, Permitted Land Uses in the PUD-A Zoning District (The Breakers Planned Unit Development), will allow hotels, golf courses and other uses which are customarily accessory to a principal hotel use as a permitted use (See attached zoning application and analysis). In addition, the applicant is requesting to allow administrative site plan modifications for permitted or accessory uses that do not exceed 2,500 square feet, provided that such modifications are determined not to create adverse impacts on surrounding properties or Town facilities.

The Breakers Hotel and its golf course have been in existence for over 100 years. When the Planned Unit Development was intensely negotiated and approved between the Town and the Flagler System, Inc. (Breakers Palm Beach, Inc.), between 1970 and 1974, the Planned Unit Development (PUD-A), including the hotel, golf course and other customarily accessory uses were permitted uses in the PUD. That is because all of the permitted uses in the C-A Zoning District

were also the commercial permitted uses in the PUD. However, in 1980 (Ordinance No. 4-80), the large C-A Commercial District was divided into smaller commercial zoning districts. The C-TS, C-WA, C-OPI and C-PC Commercial Zoning Districts were created and new permitted and special exception uses were created for each district. When that was done, hotels and their customary accessory uses were relegated only to the C-OPI and C-B zoning districts as a special exception use. That change, knowingly or not, changed The Breakers Hotel, golf course and accessory uses from a permitted use to a special exception use.

The intent of a PUD is to provide a planning process that allows flexibility for both the Town and property owner to negotiate development terms and conditions for large parcels of land. Beginning in 1970 and continuing through the entire PUD approval process, the Flagler System, Inc., and the Town negotiated the development for the residential and commercial phases that are planned around The Breakers Hotel, golf course and other hotel facilities. The emphasis at that time was mostly on the planned new residential development and not on the existing hotel and its accessory uses (golf course, tennis facility and beach club). Based on staff's research, it does not appear that the large-scale Zoning Code changes in 1980 were originally intended to change The Breakers Hotel and its accessory uses into a special exception use. As such, that change has required any modifications to the Breakers Hotel property, no matter how minor, to obtain Council approval of a special exception application. This change is nonsensical and unreasonable.

Staff believes that the historical Breakers Hotel and its related amenities should be a permitted use. The PUD was negotiated based on those terms and internal changes and small external changes to the Hotel, golf course, tennis facility and beach facilities should be allowed by right. Staff also believes that minor site plan modifications not exceeding 2,500 square feet should be allowed to be administratively approved if they are determined by staff to not negatively impact properties surrounding the PUD. Therefore, staff recommends approval of the proposed Zoning Text Amendments as proposed by the applicant.

cc: Mayor and Town Council
Kirk Blouin, Town Manager
Jay Boodheshwar, Deputy Town Manager
Josh Martin, Director of Planning, Zoning and Building
Wayne Bergman, Assistant Director of Planning, Zoning and Building
John Lindgren, Planning Manager
James Crowley, Esq.
zf



REQUEST FOR ZONING ORDINANCE MODIFICATION

Note: All requested must be singular in nature and subject to review and possible correction by the Zoning Administrator.

1. Date: September 27, 2019

All requests for Zoning district change or ordinance modification must be undersigned by the property owner or resident in the space provided below:

2. Name and Palm Beach address of property owner or resident:
The Breakers Palm Beach Inc., 1 South County Road, Palm Beach, FL 33480

3. Address of affected property (if different):
Same

4. Telephone Number (s) and mailing address where applicant can be contacted if questions should arise:
(561) 650-0652, James M. Crowley, Esq., Gunster, 777 South Flagler Drive, Suite 500 East, West Palm Beach, FL 33401

5. Is this is a request for change of zoning district?

YES _____ If yes, please answer questions numbered 7 through 11.
NO X

6. Is this a request for a change of Ordinance language or new regulation?
YES X If yes, please answer questions numbered 12 through 14.

7. Legal description of property to be rezoned:
N/A

8. Date of purchase of affected property: N/A

9. Zoning classification of all adjacent properties:
N/A

10. Include a survey of area proposed for rezoning, show dimensions of affected area, structures on property, adjacent streets, with north arrow and property lines.
N/A

11. State briefly the reasons for the proposed change of zoning district:
N/A

The following questions are related to proposed changes of ordinance language or new regulation.

12. Town Ordinance, Section, paragraph, etc. numbers of proposed change:

Section 134-622

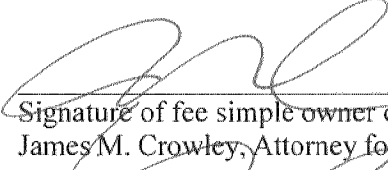
13. State language which is proposed for change, strike over proposed deletions and underline proposed additions to text:

See attached

Attach additional sheets if necessary. Separate forms must be submitted for each individual text item.

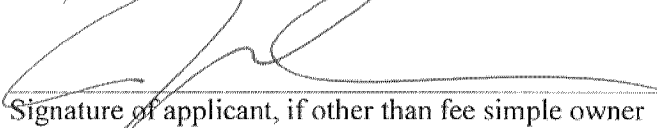
14. State briefly the reasons for proposed change to Ordinance language:

To allow resort hotel as a permitted use in the PUD-A district, which will allow the hotel to obtain staff approval for low-impact physical improvements without applying for special exception and site plan approval.



Signature of fee simple owner of the property

James M. Crowley, Attorney for The Breakers Palm Beach Inc.



Signature of applicant, if other than fee simple owner

James M. Crowley, Attorney for The Breakers Palm Beach Inc.

The Town staff will assist, within reason, any applicant with the preparation of this form. An original and twenty-five (25) copies must be filed in the Planning, Zoning & Building Department. A separate application must be submitted for each separate proposed zoning code amendment and each of same must also be accompanied with an application fee of \$4,000. Please be advised that all additional costs for professional consultation and legal notice of the application will be the responsibility of the applicant.

Rev.: 7/09/04-lsc
Rec: 07/01/2008-dm
Rev: 9/21/17

forms\ZoningOrdModForm.wpd)

Sec. 134-622. - Permitted land uses in PUD-A district.

The following uses shall be permitted in planned unit developments in the PUD-A district:

- (1) Any use permitted in the R-D(1) moderate density residential district and R-D(2) high density residential district; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (2) Any use permitted in the C-TS, C-WA, C-OPI or C-PC commercial district; provided, however, that commercial development within the planned unit development shall, in no case, occupy more than 20 percent of the gross area of the planned unit development. For the purpose of calculating gross density, as set forth in section 134-620, the land use measurements indicated in the table in section 134-656_ shall be equivalent to a dwelling unit as defined.
- (3) Hotels.
- (4) Golf courses and other uses which are customarily accessory to a principal hotel use.
- (5) Site plan modifications for permitted or accessory uses which do not exceed 2,500 square feet may be approved administratively without Town Council review if the Director determines that such modifications will not create adverse impacts on surrounding properties or Town facilities.

Town of Palm Beach Zoning Code Text Amendment

The Breakers PUD was originally approved by the Town Council in 1971 through the adoption of Resolution 6-71. At the time the PUD was approved, the primary use of the property as a resort hotel had been in existence for more than 70 years. The creation of the PUD enabled The Breakers and the Town to thoughtfully plan the future residential and accessory hotel development at the property, to preserve open space, and to mitigate impacts of future development through a master planning process that has benefitted the Breakers and the Town since 1971.

Despite this thoughtful planning and the many subsequent modifications to the Breakers PUD, the Town Code has never explicitly authorized the hotel as a permitted use in the PUD-A zoning district which governs the property. Instead, Section 134-622 provides that any use permitted in the R-D(1), R-D(2), C-TS, C-WA, C-OPI or C-PC districts “shall be permitted in planned unit developments in the PUD-A district.” While these zoning districts enable the Breakers to conduct dozens of uses as of right, none of them authorizes “hotel” or “resort hotel” as a permitted use. Similarly, customary accessory uses to the hotel, such as the golf course, are not specifically identified in Sec. 134-622.

Practically speaking, the omission of “hotel” and accessory uses from the permitted uses in the PUD-A zoning district renders the hotel a Special Exception use, which requires The Breakers to apply for Special Exception and Site Plan Approval for almost every capital improvement project at the property - even those seeking to undertake minor improvements that have no impact on any surrounding properties or residents. For a property of this size, the additional regulatory step creates an incredible burden and requires perfect foresight of future maintenance issues and guest service needs.

After consultation with Town staff, we are requesting that minor site plan modifications, defined as changes which do not exceed 2,500 square feet, can be approved administratively if the Director of Planning, Zoning and Building finds that such modifications will not create adverse impacts.

The amendment of Section 134-622 will not require a modification of the Breakers PUD, and will not affect the vested development rights at the property, the long term lease of the Pine Walk transfer station, or the requirement to maintain the golf course as open space for as long as the property is zoned PUD-A. All previously negotiated conditions of PUD approval will remain in effect. The only change resulting from this request will be the speed and efficiency with which The Breakers can respond to the challenges of maintaining such a large and iconic property.

With these considerations in mind, we respectfully request the addition of hotel and accessory uses to the text of Section 134-622 in order to formally codify the use of the property as it has existed for more than a century.