

## RESOLUTION NO. 51-2018

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, DECLARING ZONING IN PROGRESS RELATING TO THE ZONING ITEM UNDER STUDY BY THE TOWN AS ENUMERATED IN EXHIBIT "A" ATTACHED HERETO; REQUIRING THAT ZONING APPLICATIONS WHICH INTENSIFY THE USE OF A PROPERTY, OR CREATE A TALLER OR LARGER BUILDING THAN THE ZONING CODE ALLOWS HAVE A LEGAL NOTICE REQUIREMENT OF 1,000 FEET IN LIEU OF THE 300 FOOT EXISTING LEGAL NOTICE REQUIREMENT DURING THE PERIOD THAT ZONING IS IN PROGRESS FOR ANY ZONING APPLICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Policy 2.4 in the Future Land Use Element of the Comprehensive Plan states that to prevent critical and dangerous overuse of its streets, parking resources, public services and facilities and damage to its historic character, and to overall property values of the community, the Town will take all technical and administrative measures legally available, to minimize change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism overflow; and

WHEREAS, Policy 7.2 in the Future Land Use Element states the Town shall prohibit replacement or expansion of uses found to be incompatible or inconsistent with the range and location of land uses identified in the Town Future Land Use Map and Official Zoning Map; and

WHEREAS, to ensure public input on the more intense use of property in the Town, the Town Council has requested that Staff amend Chapter 134, Zoning, to increase the notice requirement to 1,000 feet for zoning applications which intensify the use of property; and

WHEREAS, the Town Council has also directed Staff to amend Chapter 134, Zoning to delineate what is considered an “intensification of use;” and

WHEREAS, there is also no specific legal notice requirements for PUD or PUD amendments in the Code and Staff is recommending adding language similar to other zoning applications; and

WHEREAS, the Town staff, the Town's Planning and Zoning Commission and ultimately the Town Council are studying a zoning proposal as identified in Exhibit "A" attached hereto; and

WHEREAS, Zoning in Progress is necessary during the period of the zoning study to avoid actions which are potentially in conflict with or in contravention of the intent of this zoning proposal, and to allow the modification of Code provisions relating to increased legal notice requirements for more intensive use of property in the Town of Palm Beach.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. The Town Council hereby declares Zoning in Progress commencing immediately for all items enumerated on Exhibit "A" attached to this Resolution, which Exhibit shall be made a part of and incorporated within this Resolution.

Section 2. During the period of Zoning in Progress, the Planning, Zoning and Building Department is directed to only process zoning applications which are not in conflict with the zoning proposal under study.

Section 3. Zoning in Progress shall remain in effect until the completion of the study of the zoning item enumerated in Exhibit "A" and Town Council adoption of zoning amendments, if any, or until August 31, 2018, whichever occurs first.

Section 4. This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the  
Town of Palm Beach assembled this 11th day of April, 2018.

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Gail L. Coniglio, Mayor

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Daniel H. Moore, Town Council President

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Margaret A. Zeidman, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Lewis S.W. Crampton, Town Council Member

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Kathleen Dominguez, Town Clerk

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Bobby Lindsay, Town Council Member

## EXHIBIT A

### Sec. 134-172. - Hearing procedure.

(a) Applications for special exceptions or variances shall be accompanied by proper exhibits, which shall be timely filed and shall include plans, documents and other materials to adequately depict and support the request. At a minimum, all applications for a variance shall include a plot plan identifying the following information: Location of structure(s), lot size, setbacks, percent of lot coverage, percent landscaped open space (front yard and total lot), and finished topographical elevations. In addition, if historic/specimen trees are located on the subject property, a signed and sealed survey with all pertinent information including the location of historic/specimen trees is required and a detailed written explanation of how said trees shall be protected by barricading shall accompany said application. Upon receipt of the application for a special exception or variance, the procedures in this section shall be undertaken.

(b) The director of planning, zoning and building or designee shall examine all applications requesting rezoning, special exception uses, dimensional variances or other matters requiring a public hearing to determine if they meet the requirements of this chapter, and that the action or approval requested is properly allowable by the town council under this chapter and if so shall prepare a report setting forth his recommendations. If the director or designee determines the application fails to meet the provisions of this chapter, he may schedule a pre-application conference and request modifications as may be required to bring the application within the provisions of this chapter.

(c) After completion of subsection (b), a copy of such application shall be mailed to the owners of the property and the property immediately adjacent thereto and across the street therefrom and to all property owners within 300 feet from any part of the subject property at the address shown on the county property appraiser's tax records, together with a notice from the director or designee advising the date, time and location of the hearing on such application before the town council. If a variance is being requested that exceeds the maximum density allowed in the zoning district based on the maximum density allowed by the future land use designation on the property, the notification distance shall increase to 1,000 feet. If a special exception application is being requested for a service station, restaurant, lounge/bar, nightclub, private social, swimming, tennis or yacht club, or any other use deemed by the Director of Planning, Zoning and Building to be an intensification of use on a property, the notification distance shall increase to 1,000 feet. For the purpose of this section of the Code, intensification of use shall include, but not be limited to, increased tenant square footage, increased seating, increased off-street parking demand, shared parking, increased hours of operation or any other characteristic of use the Planning, Zoning and Building Director determines to be a more intensive use than existed on the subject property.

The applicant shall be required to mail the application to the property owners within the notification area within five days of submittal of the application to the Town. Such A list of property owners that were noticed, together with a notification map, shall be provided by the applicant ~~along with addressed and properly stamped envelopes~~ and shall be certified by the applicant as being true and accurate, and that the mail was delivered to the post office and mailed within five days of the submittal of the zoning application to the town.

(d) The director or designee shall also cause to be published in a newspaper of general circulation in Palm Beach or West Palm Beach a brief summary of such application and the date of the hearing, directed "to all to whom it may concern"; such notice to be published on two separate days not less than seven days apart, the first to be at least ten days before the meeting of the town council to consider such application. The cost of such publication shall be borne by the applicant.

(e) No application shall be heard less than ten days after the first publication of the notice and 15 days after the mailing to property owners directly affected as provided in this section, and all applications will be heard at regular meetings of the town council unless otherwise ordered by the town council in accordance with sections 134-141, 134-142, 134-201 and 134-226.

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**Sec. 134-328. - Review by director of planning, zoning and building or his/her designee; notice of hearing.**

(a) A copy of such application for site plan review shall be mailed to the owners of the property and the property immediately adjacent thereto and across the street therefrom and to all owners of all other property within 300 feet from any part of the subject property at their respective addresses as shown on the county property appraiser's tax records, together with a notice from the director of planning, zoning and building or designee advising of the date, time and location of the hearing on such application before the town council. If a site plan review is being requested which increases the square footage, or height or overall height of a building beyond the maximum allowed by Code, the notification distance shall increase to 1,000 feet. The applicant shall be required to mail the application to the property owners within the notification area within five days of submittal of the application to the Town. Such A list of property owners that were noticed, together with a notification map, shall be provided by the applicant ~~along with addressed and properly stamped envelopes~~ and shall be certified by the applicant as being true and accurate, and that the mail was delivered to the post office and mailed within five days of the submittal of the zoning application to the town.

No application shall be heard less that ten days after the first publication notice as provided in this section and 15 days after the mailing to property owners directly

affected, and all applications will be heard at regular meetings of the town council unless otherwise ordered by the town council.

(b) The director or designee shall also cause to be published in a newspaper of general circulation in Palm Beach or West Palm Beach a brief summary of such application and the date of the hearing, directed" to all to whom it may concern", such notice to be published on two separate days not less than seven days apart, the first to at least ten days before the meeting of the town council to consider such application. The cost of such publication shall be borne by the applicant.

### **Sec. 134-532. - Public hearings**

(a) Upon submission of a complete planned unit development application, the planning and zoning commission shall hear said application within 60 days of the application being deemed complete by the director of the planning, zoning and building department or designee. A public hearing on the planned unit development application shall then be held by the planning and zoning commission and town council after public notice is given in accordance with law. A copy of the PUD application shall be mailed to the owners of the property and the property immediately adjacent thereto and across the street therefrom and to all property owners within 300 feet from any part of the subject property at the address shown on the county property appraiser's tax records, together with a notice from the director or designee advising the date, time and location of the hearing on such application before the planning and zoning commission and town council. If a PUD or PUD amendment is being requested for an existing or new use which is considered an intensification of use of a property, the notification distance shall increase to 1,000 feet. For the purpose of this section of the Code, Intensification of use shall include increased residential density in an area of the property, increased tenant square footage, increased restaurant or dining room seating, increased assembly seating, increased off-street parking demand, increased hours of operation or any other characteristic of use the Planning, Zoning and Building Director determines to be a more intensive use than existed on the subject property.

The applicant shall be required to mail the application to the property owners within notification area within five days of submittal of the application to the Town. A list of property owners, together with a notification map, shall be provided by the applicant and shall be certified by the applicant as being true and accurate, and that the mail was delivered to the post office and mailed within five days of the submittal of the zoning application to the town.

No application shall be heard less that ten days after the first publication notice as provided in this section and 15 days after the mailing to property owners directly affected, and all applications will be heard at regular meetings of the town council unless otherwise ordered by the town council.

(b) A transcript of the hearing shall be caused to be made by the town council, copies of which shall be made available at cost to any party to the proceedings, and all exhibits

accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. The planning and zoning commission shall report on the proposed planned unit development not less than 15 days before the public hearing, and the report shall be available for public inspection during reasonable hours.