

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 9, 2019

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

Via: Jay Boodheshwar, Deputy Town Manager

From: Josh Martin, Director of Planning, Zoning and Building

Re: Proposed Modifications to Chapter 66 of the Town Code of Ordinances
Ordinance 21-2018

Date: March 20, 2019

STAFF RECOMMENDATION

Staff recommends that Town Council approve the second reading of Ordinance No. 21-2018, amending Chapter 66 – Natural Resource Protection, of the Town Code of Ordinances, as recommended by the Ordinances, Standards and Rules Committee.

GENERAL INFORMATION

At the November 13, 2018 Town Council meeting, the ORS Committee recommended the following amendments to Town Council for consideration:

- The first amendment at Article II, relates to the incorporation of revised definitions related to Natural Resource Protection in general;
- The second amendment at Section 66-212 proposes revisions to the existing Purpose and Intent section of the article thus providing relationship to the revised standards of the article;
- The third amendment at Section 66-285 (currently a revised section in the ordinance) proposes general design requirements and specifically speaks to the minimum native vegetation requirement (subsection (3));
- The fourth amendment at Article IV, subsection (5) relates to mulching and is aimed at environmental protection; and
- The final amendment which is deemed necessary and important, especially because of the continued invasion of white fly in the Town and elsewhere, is at Section 66-311 and includes a new subsection (d) which provides that the planting of ficus benjamina shall be prohibited, except in instances where it is being planted to fill in hedge material.

The Town Council did not take action on the aforementioned amendments and asked Staff to review the proposed amendments once more and provide a revised, recommended list of amendment to the ORS committee during its December 2018 meeting.

At the December 5, 2018 meeting of the ORS, Staff prepared a revised set of amendments to Chapter 66 as follows:

- The first amendment at Article II, related to the incorporation of revised definitions related to Natural Resource Protection in general that pertain to the other amendments in the attached document;
- The second amendment at Section 66-212 proposed revisions to the existing Purpose and Intent section of the article thus providing relationship to the revised standards of the article;
- The third amendment at Section 66-285 (currently a revised section in the ordinance) proposed general design requirements and specifically speaks to the minimum native vegetation requirement (subsection (3)) of 25% as a result of Town Council direction during its November 13, 2018 meeting. This amendment also included the prohibition of hat racking of trees following Staff review of the subject matter. Staff has reviewed how other local municipalities handle the hat racking of trees and recommends that the practice of hat racking be prohibited. This practice is harmful to the tree and is aesthetically unpleasing. The practice also leaves the tree more vulnerable to storms due to its decrease in overall health;
- The fourth amendment at Article IV, subsection (5) related to mulching and was aimed at environmental protection. This amendment specifically prohibited the use of Cypress mulch and dyed mulches; and
- The final amendment, which was deemed necessary and important, especially because of the continued invasion of white fly in the Town and elsewhere, was at Section 66-311 and included a new subsection (d), which prohibits the planting of ficus benjamina.

Moreover, Staff conducted a review of the topic of shade trees and has researched how other upscale south Florida municipalities address shade trees in their development code. For the communities that do require shade trees, the intent is to bolster a community's tree canopy and to limit the number of palm trees per property. Staff believes that the Town has a very healthy canopy condition, well in excess of the requirements of the studied municipalities, and that the limiting of a property's palm trees is not in the interest of the community. As a result, Staff recommends against any regulations concerning shade trees be included in the amendments to Chapter 66.

At its December 5, 2018 meeting, the ORS voted to recommend only the amendment related to ficus benjamina to Town Council for consideration. Additionally, the ORS requested input from The Garden Club of Palm Beach, Palm Beach Civic Association Town Beautification Committee, and local Landscape Architects (landscape design professionals) to review during the February 7, 2019 meeting. On Friday, January 11, 2019, Staff circulated the proposed amendments to The Garden Club of Palm Beach, Palm Beach Civic Association Town Beautification Committee, and local Landscape Architects (landscape design professionals) and received input from each of the aforementioned groups as well as The Preservation Foundation of Palm Beach (input attached for your review). An annotated version of the Ordinance that was circulated for review is included

for your review, which contains all of the comments received correlated to the pertaining section of the ordinance. Finally, Staff prepared a revised version of ordinance that reflects these recommendations from The Garden Club of Palm Beach, Palm Beach Civic Association Town Beautification Committee, and local Landscape Architects (landscape design professionals), and The Preservation Foundation of Palm Beach and is included for your review.

At its February 7, 2019 meeting, the ORS voted to recommend the attached, proposed ordinance (Ordinance No. 21-2018) that incorporates input from The Garden Club of Palm Beach, Palm Beach Civic Association Town Beautification Committee, and local Landscape Architects (landscape design professionals), and The Preservation Foundation of Palm Beach, which includes amendments as follows:

- The first amendment at Article II, relates to the incorporation of revised definitions related to Natural Resource Protection in general that pertain to the other amendments in the attached document;
- The second amendment at Section 66-212 proposes revisions to the existing Purpose and Intent section of the article thus providing relationship to the revised standards of the article;
- The third amendment at Section 66-285 (currently a revised section in the ordinance) proposes general design requirements and specifically speaks to the minimum native vegetation requirement (subsection (3)) of 25%. This amendment also includes the prohibition of hatracking of trees, while allowing for the pollarding of trees;
- The fourth amendment at Article IV, subsection (5) relates to mulching and environmental protection. This amendment specifically prohibits the use of Cypress mulch, pine mulch, and dyed mulches; and
- The final amendment, which was deemed necessary and important, especially because of the continued invasion of white fly in the Town and elsewhere, resides at Section 66-311 and includes a new subsection (d), which prohibits the planting of ficus benjamina. Moreover, this section encourages the planting of appropriate native vegetation in a hedge or hedgerow.

Subsequent to the February 7, 2019 ORS meeting, Staff received input from Jorge Sanchez via email dated February 15, 2019, requesting further clarification on the native vegetation requirement so that the native planting requirement may also include cultivars of native species. Mr. Sanchez' email is attached for your review.

At its March 19th meeting, Town Council voted to approve Ordinance 21-2018 as presented with the following amendments:

- Add the definition of pollarding to the ordinance; and
- Insert the word "new" to the 25% native vegetation requirement so that the standard shall apply to all "new" required landscaping.

The attached, proposed Ordinance 21-2018 includes the aforementioned amendments.

Attachments

cc: John C. Randolph, Town Attorney