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By castro at 2:36 pm, Sep 27, 2019



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

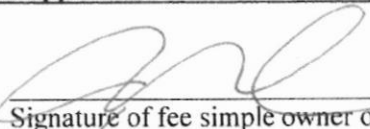
13. State language which is proposed for change, strike over proposed deletions and underline proposed additions to text:

See attached

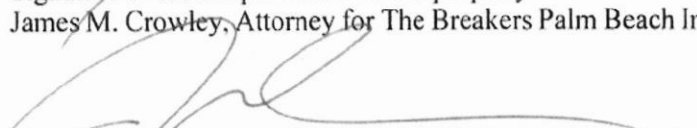
Attach additional sheets if necessary. Separate forms must be submitted for each individual text item.

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)

Palm Beach, Florida Code of Ordinances

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.