

# TOWN OF PALM BEACH

Information for Town Council Meeting on: August 12, 2020

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To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Acting Director of Planning, Zoning & Building

Re: Code Changes to Create “Historic Conservation Districts” That Contain  
“Historically Significant Buildings” – Ordinances 02-2020, 03-2020; and  
Resolution 51-2020

Date: July 29, 2020

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## **STAFF RECOMMENDATION**

Staff requests that the Town Council review Ordinance No. 02-2020 (amendments to Chapter 18, Building & Building Regulations), Ordinance 03-2020 (amendment to Chapter 50, Floods), and Resolution 51-2020 (adopt the Conservation Districts). Staff further recommends that the Town Council adopt the two ordinances on Second Readings and adopt the resolution.

## **GENERAL INFORMATION**

As you know, in Palm Beach there are two categories of buildings – those that are Landmarked and those that are not. Our Historical Preservation Code, Chapter 54, identifies and details regulations for Landmarked buildings only. Older homes (not Landmarked) do not qualify for the same FEMA and building code protections of a Landmarked building – because they are not identified or recognized in this Town. In November of 2019, PZB staff proposed the creation of a new category of building, called “Historic Buildings”; these buildings would not rise to the status and tax-abatement level of a Landmarked building, but could be provided the code exemptions found in the FEMA and Florida Building Codes to preserve them. Imagine a “Landmark Junior” or “Landmark Lite” type of building.

One of the reasons for many of the older homes being demolished in Palm Beach comes from the fact that once the proposed cost of a renovation exceeds 50% of the value of the building, that building must be elevated to meet the FEMA base flood elevation for that location. This is called a “substantial improvement” and is a very big deal with older homes. This issue alone causes many owners to decide to demolish the old home and build new. Why? – because raising / elevating these old buildings (many built with concrete and masonry block or tile) can be very difficult and expensive. Many of these buildings structurally cannot be raised to a higher elevation. It is simply easier and less expensive to demolish the building and build a new building that complies with FEMA.

The goal was to create this new category of Historic Building, basically a Landmark Lite or Contributing-type building, and assign the FEMA and building code exemptions for these buildings. The direct result is that we may see more older homes preserved – and an indirect result could be that building lots are not automatically raised several feet to accommodate the new construction (another serious problem that affects stormwater runoff with neighbors and which is adversely changing the look and character of Palm Beach). When a building addition to these historic homes is proposed, a flood variance may be requested if the addition is in keeping with the historic character / architecture of the older building.

Staff does not intend for this possible program to directly compete with the existing Landmarks program, but we understand and acknowledge that many owners will never ask to have their home Landmarked and do not want to be Landmarked, or included within a Historic District, against their will. This new category of building may provide the mechanism to encourage property owners to keep their older buildings, and add complimentary building additions at elevations lower than FEMA normally requires (achieved with a flood variance).

## **BACKGROUND**

This matter was discussed at the December 11, 2019 Town Council meeting. The Mayor and Town Council members requested that the new Historic Building program be separate from the current Landmark program. Staff followed this direction, and two draft ordinances were prepared in an effort to provide another means of preserving buildings in Palm Beach while not affecting the Town's Historical Preservation Code, Chapter 54. First Readings of these ordinances occurred on January 15, 2020. Around that same time, someone contacted the State Historic Preservation Officer regarding the new program, who contacted the State Floodplain Manager, who then contacted me for details of the proposed program. Following a few days of discussions with State staff, Town staff transmitted the ordinances and details to the two State agencies for their review.

After an initial review by the State agencies, changes in the program and enabling ordinances were requested by the State agencies. We ended up with a slightly different program than what was originally proposed back in December and January. The requested changes were all intended to align the new program with similar programs in other Florida communities (North Beach, Tampa, Sarasota and Fendandina Beach).

The State's reluctance to initially authorize this program was due to the fact that it was set up outside of the existing Landmarks ordinance and program, and their concern that the new program may compete with the Landmarks program. As you know, staff was directed by Town Council and by Skip Randolph to set this up outside of the Landmarks ordinance, which we did.

The new program will begin with the establishment of a number of Town "historic conservation districts", which are areas that encompass a number of homes that are significant in some way and at least 50 years old. If these older homes and commercial buildings meet one of the four established criteria in the new code, they are designated "historically significant buildings" under the new definition, and thereby qualify for the substantial improvement exemption found in the

FEMA and Florida Building Codes. This means that if designated a historically significant building, the building does not need to be elevated to meet the minimum FEMA floor elevation once a renovation project of any value takes place. In addition, owners of these historically significant buildings are entitled to request floodplain variances from the Town Council for additions and limited reconstruction of the original building.

I would like to acknowledge and thank many residents and staff for their help in preparing this program. Of special note are Carol LeCates, Steven Greenwald and Jay Serzan, who reviewed this concept from the start and have helped provide suggestions to address some unintended consequences and potential issues. They were willing to discuss the matter and assisted in the drafting of the initial and subsequent ordinances. Thanks also goes to Mayor Gail Coniglio, who was superb in staying engaged with the State agencies as they completed their reviews. She routinely spoke with staff at the SHPO offices to keep the process moving forward. And to Amanda Skier and her team at the Preservation Foundation of Palm Beach, who were very helpful in preparing the final draft of the program and Ordinance 02-2020.

### **CURRENT REQUEST**

Ordinance 02-2020 creates within Chapter 18, Buildings and Building Regulations, the historic conservation district program and defines historically significant buildings and the benefits of the program. This is the ordinance that enables the new program. Ordinance 03-2020 recognizes this new program under the Chapter 50, Floods [Flood Prevention]. Both ordinances are ready for adoption on Second Readings.

With the adoption of the two ordinances, the next step is to adopt Resolution 51-2020. This resolution adopts the eleven initial conservation districts within the Town. Also, ESI, the Town's historic site survey vendor, is finalizing their report and creating the 2,000 plus historic structure forms for the buildings that they surveyed. The data contained on these forms will be used to define historically significant buildings going forward.

Attachments: Ordinance 02-2020 – Amending Chapter 18, Buildings & Building Regulations  
Ordinance 03-2020 – Amending Chapter 50, Floods  
Resolution 51-2020 – Approving the Historic Conservation Districts  
Copies of the 2017 FBC, Existing Building Code, Chapter 12, Historic Buildings, pages 55 & 56  
FEMA – 42 U.S.C., Subchapter B, Part 60, Section 60.6 – Variances and Exceptions  
Email string between Jason Aldridge, SHPO; Steve Martin, State Floodplain Manager; and Town staff  
Proposed flowchart for the processing of construction projects to Historically Significant Buildings

WRB