

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 13, 2020

To: Mayor and Town Council

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



Cc: Kirk Blouin, Town Manager

Re: Request for Clarification on Staff Policy Regarding Notice to an Affected Group of Property Owners When a Future Historic District is Placed Under Consideration

Date: September 23, 2020

STAFF RECOMMENDATION

Staff recommends that the Town Council review the matter of a staff policy which directs staff to send notices to the group of affected property owners whenever a new Historic District is proposed and placed under consideration; and direct staff to prepare such a policy and to implement the policy.

GENERAL INFORMATION

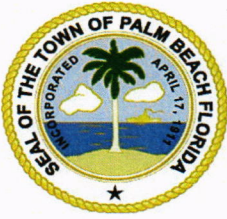
The matter of a courtesy notice that is mailed to property owners prior to their properties being **PLACED UNDER CONSIDERATION** was discussed at length late last year. Copies of October 24, 2019 ORS Committee backup are attached. The ORS Committee reviewed the Historic Preservation code requirements from nine (9) other communities. Partial ORS backup material is attached. Partial Minutes from the December 10, 2019 Town Council Meeting are also attached.

In summary, after a lengthy ORS discussion and similar Town Council discussion, staff recalls that the Town Council was not in favor of any ordinance to change the current requirements of Chapter 54, Historic Preservation. The Town Council was not in favor of a courtesy notice to property owners when their **INDIVIDUAL** properties are placed under consideration for Landmarking, but there was some interest in a staff policy which would provide notice to the group of property owners that would be included in a new Historic District, if any such district is created in the future. There was no formal action on this item.

This matter was raised again by the Landmarks Preservation Commission in August while discussing a property on Root Trail. They asked staff for a recommendation on sending courtesy notices to **ALL** property owners, including both owners in a future Historic District that would be placed under consideration and owners with properties that would be placed under consideration for future Landmarking. It was during this discussion and review that we realize there was no clear direction to staff to develop a staff / administrative policy for the

notice to owners. Again, the matter was determined by the Town Council late last year to NOT send courtesy notices to property owners when their properties are placed under consideration for individual Landmarked status.

Staff is simply looking for direction to proceed and develop a policy to provide the courtesy notices to the group of owners that would be placed under consideration for a future Historic District. With this direction, staff will return to the Landmarks Preservation Commission and update them on the policy and direction provided by the Town Council regarding the courtesy notices.



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING

AGENDA

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

Thursday, October 24, 2019
2:30 p.m.

- I. CALL TO ORDER AND ROLL CALL
 - Julie Araskog, Committee Chair
 - Lew Crampton, Committee Member
- II. PLEDGE OF ALLEGIANCE
- III. APPROVAL OF AGENDA
- IV. COMMUNICATIONS FROM CITIZENS
- V. REGULAR AGENDA
 - A. Old Business
 - 1. None
 - B. New Business
 - 1. Review of Notice to Property Owners Prior to LPC Placing a Property Under Consideration for Landmarks Designation
Wayne Bergman, Assistant Director of Planning, Zoning & Building
 - 2. Review of Special Events Ordinance to Establish Town Council Approval Criteria for Walks, Runs and Other Types of Races
Kathleen Dominguez, Town Clerk

VI. ANY OTHER MATTERS

VII. ADJOURNMENT

PLEASE TAKE NOTE:

The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Technology (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Disabled persons who need an accommodation in order to participate in the 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 two (2) working days before this meeting.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: October 24, 2019

To: Ordinances, Rules and Standards Committee

From: John Lindgren, Planning Manager

Via: Josh Martin, Director of Planning, Zoning & Building

Re: Notice to Property Owners Prior to LPC Placing a Property Under Consideration for Landmarks Designation

Date: October 14, 2019

STAFF RECOMMENDATION

Staff recommends the Ordinances, Rules and Standards (ORS) Committee review the attached proposed ordinance change requiring notice be given to property owners prior to their property being placed under consideration for landmark designation by the Landmarks Preservation Commission (LPC).

GENERAL INFORMATION

The Landmarks Preservation Commission recently placed the "Sea" Streets under consideration as a historic district, which the Town Council ultimately overturned and removed the area from consideration as a historic district without prejudice. During this process, even though all notification requirements within the landmarks code were followed, concern was raised that the property owners were not notified prior to their properties being put under consideration as part of a historic district. At their September 11, 2019 meeting, Town Council directed staff to look at possible code changes that would require notice to property owners prior to their property being placed under consideration for landmark designation, and to take these code revisions to the ORS Committee for their review.

Staff has proposed revisions to Sec. 54-164 of the Town's code of ordinances that address the landmark designation process so that notice is required prior to placing a property under consideration for landmark designation; this requirement is also applicable for the historic districts designation process.

Attachment – Chapter 54-164 Code Revisions

cc: Wayne Bergman, Asst. Director of Planning, Zoning & Building
John C. Randolph, Town Attorney

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

- (a) The following procedure shall be adhered to by the commission in designating any building, building site or district that is worthy of preservation:
- (1) The commission shall consider for landmark designation any property proposed by the owner of record or by a member of the commission.
- (2) Prior to any property being placed under consideration for landmark designation at a Landmarks Preservation Commission meeting, the owner of record shall be notified via certified mail at least 30 days prior to the meeting date. The same notification will also be required for all property owners of record within an area prior to placing the area under consideration as a historic district. Only those properties where the owner or owners of record request that their property be put under consideration for landmark designation will be exempted from this requirement.
- (2)(3) After a property has been placed under consideration for landmark designation, notice of a proposed designation shall be sent by certified mail to the owner of record of property proposed for designation as a landmark or landmark site and to each owner of record of property in a district proposed for designation as an historic district, describing the property proposed and announcing a public hearing by the commission to consider such a designation to be held not less than 30 days after the mailing of such notice.
- (3)(4) The commission shall also cause notice of each such proposed designation to be posted at least 30 days prior to the public hearing on the bulletin board in the lobby of the town hall, and in addition the commission shall cause such notice to be published in a newspaper having general circulation in the town.
- (4)(5) The commission may retain or solicit expert testimony regarding the historic and architectural importance of the buildings and districts under consideration for designation.
- (5)(6) The commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark, landmark site or historic district.
- (6)(7) The commission shall afford the owner of each affected property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of such property.
- (7)(8) The owner of each affected property shall be afforded a right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the commission.
- (8)(9) Any interested party may present testimony or documentary evidence regarding the designation of a proposed landmark, landmark site or historic district at the public hearing and may submit to the commission documentary evidence within three days after the hearing.

~~(9)~~(10) Within not more than 30 days after a public hearing, the commission shall render a final decision regarding the proposed designation and give written notice of its decision to each owner of property affected by the designation, setting forth the reasons for the decision.

~~(10)~~(11) The commission shall maintain a record of testimony and documentary evidence submitted to it for consideration of the designation of a proposed or previously designated landmark, landmark site or historic district.

~~(11)~~(12) In accordance with section 54-163(1), the town council shall, within 90 days of the commission's final decision, hold a public hearing to consider ratification of the determination of the commission prior to the designation of a property as a landmark or landmark site or of a district as an historic district becoming effective. Absent ratification by the town council, the commission's determination shall be ineffective.

~~(12)~~(13) Within 30 days of the date on which the town council ratifies the commission's designation of a landmark, landmark site or historic district, the commission shall cause to be filed in the office of the county recorder of deeds a certificate of notification that such property is designated a landmark or landmark site or is located within a district designated an historic district; and the certificate of notification shall be maintained on the public record until such time as such designation may be withdrawn by the commission and the town council.

(b) Designation and undesignation hearings before the commission shall be held only during the months of November, December, January, February, March and April.

(c) Designation of a landmark, landmark site or a historic district may be withdrawn by following the same procedure as listed above.

(Code 1982, § 16-43)

LANDMARK ORDINANCE EXAMPLES

Town of Jupiter Island - Sec. 1.03. - Landmark designation procedures.

The town commission shall designate landmarks and remove landmark designations according to the following procedures:

A. Potential landmarks shall be identified for consideration by either:

1. Application by the owner of record, or
2. Other means of identification.

B. If a potential landmark is identified by means other than application by the owner of record, notice of a proposed designation shall be sent by certified mail to the owner of record announcing that a public hearing by the town commission to consider such designation on a specific date that is not less than 30 days after the mailing of such notice.

C. The administrative official post notice of each such proposed designation within the Town Hall or other conspicuous place within the town designated for public notices at least 30 days prior to the public hearing.

D. At public hearing, the town commission shall afford the owner of each affected property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of such property.

E. Within not more than 30 days after a public hearing, the town commission shall render a final decision regarding the proposed designation, and give written notice of its decision to each owner of property affected by the designation, which includes the reasons for the decision.

F. Within 30 days of the date on which the town commission designates a landmark, the administrative official shall file a certificate of notification that such property is designated as a landmark in the Public Records of Martin County. The certificate of notification shall also be maintained on the public record of the town until such time as such designation may be withdrawn.

City of Lake Worth Beach – Sec. 23.5-4. - Historic preservation.

Potential landmark designation.

A. *In general.* The HRPB or the city commission may by a majority vote of its members and without notice to the owner, designate as a "potential landmark" any building, structure or site which is identified in the survey as value being "potentially eligible" for listing in the National Register based on the criteria for designation outlined in subsection b. If such interim designation is made, the HRPB shall within no more than forty-five (45) days complete an application and schedule a public hearing. If the owner of the potential landmark objects in writing to designation, the HRPB shall complete its review of the application within ninety (90) days of its initial designation of potential landmark status. Once a formal application for designation has been filed, the matter shall be reviewed as provided in subsection e). Designation of a potential landmark is to be considered an extraordinary action and its use shall be limited to situations where the HRPB has reason to believe that an imminent threat exists to the maintenance or survival of buildings or structures identified in the survey to be "potentially eligible" for listing in the National Register.

B. Effect of pending applications for designation. When an application for designation is made and notice is mailed to affected parties, no action with respect to the exterior appearance of such site or district shall commence unless approved in accordance with the procedures provided in subsection e). In order to protect the city's general welfare, avoid an irreparable loss and prevent circumvention of the protections of this article, such requirement shall remain in effect until final disposition of the recommended action. The applicant may apply to the HRPB for review of a proposed action prior to final action by the city commission. The HRPB shall review the application using the criteria established herein, including unreasonable economic hardship. Permits may be issued upon HRPB approval of designation. Should the HRPB deny the applicant's request, the applicant may appeal to the city commission as provided in subsection o) below. If the city commission declines to designate the landmark or historic district, all permitting requirements set forth herein shall no longer apply to any proposed action.

City of Boca Raton – Sec. 28-235. - Establishment of historic sites and districts.

- (1) Historic districts and sites shall be established by ordinance by the city council.
- (2) Before the establishment of a historic site or district, the historic preservation board shall conduct studies and research and make a report on the historic significance of the exteriors of buildings, structures, features, sites, objects and surroundings in the city. The historic preservation board report shall contain recommendations concerning the buildings and areas to be included as proposed historic sites or districts. The board shall furnish written notice by mail to all persons or entities who own property being considered for establishment as a historic site or district at least 14 days prior to the meeting at which the board will consider the designation.
- (3) Copies of the report shall be transmitted for review and recommendation to the planning and zoning board, which shall hold a public hearing thereon after 14 days' written notice by mail to the owners of the properties proposed to be established as historic sites or districts.
- (4) After the public hearing, the planning and zoning board shall submit a final report with its recommendations and those of the historic preservation board to the city council.
- (5) The city council may, upon receipt of the final report, introduce an appropriate ordinance establishing 1 or more historic sites or districts. The city council may adopt the ordinance with or without amendments following a public hearing after 14 days' written notice of the time and place of the hearing has been furnished the owners of the properties proposed to be established as historic sites or districts.
- (6) Upon adoption of the ordinance, the owners of properties designated as historic sites or districts shall be given written notification of such designation by the city clerk. One copy of the ordinance shall be filed in the official records of the county, and 1 copy shall be filed in the office of the chief code administrator.
- (7) The ordinance shall also provide for a suitable sign or marker on or near the property indicating that the property has been designated as a historic site or district, and the sign or marker may include a brief explanation of the property's historical significance.

City of Miami – Sec. 23-4. - Designation of historic resources, historic districts, multiple property designations, and archaeological sites and zones.

Procedures for designation. Properties which meet the criteria set forth in section 23-4 may be designated as historic resources, historic districts, multiple property designations, and archaeological sites and zones according to the following procedures:

(1) *Proposals and preliminary evaluation.* Proposals for designation may be made to the board by any one of its members, the mayor, the city manager, resolution of the planning, zoning and appeals board, resolution of the city commission, the property owner, resolution of the county historic preservation board, resolution of any organization that has been a registered non-profit corporation in the state for at least five years with a recognized interest in historic preservation, or the preservation officer. In those instances when a historic district or multiple property designation is being considered, the preservation office shall conduct outreach involving all relevant home owner associations and neighborhood associations, ultimately ascertaining their level of support by way of resolution or vote. Said level of support shall be taken into consideration by staff and members of the HEPB when evaluating any proposed historic district or multiple property designation. The board shall conduct a preliminary evaluation of the data provided in the proposal for conformance with criteria set forth in subsection (a); and shall, if appropriate, direct the planning department to prepare a designation report. The board may require the party initiating such proposal to provide any necessary documentation, and to pay any applicable fees.

a. *Notification.* At least ten days prior to the meeting at which the board will consider the preliminary evaluation, the owner of property or his designated agent or attorney, on file with the city, which is the subject of said proposal for designation shall be notified by certified mail of the board's intent to consider the preliminary evaluation of the property. Should the applicant be a person other than the property owner or designated agent or attorney on file with the city, the applicant shall be notified and the owner of record of the subject property shall be notified. For historic districts or multiple property designations where there are more than 50 properties to be considered, for designation, the owners shall be notified by first class mail and by the published notice. The notice sent by certified mail of the board's intent to consider the preliminary evaluation of the property, when sent to the property owners of involuntarily designated residentially zoned properties in a T3-O designated transect zone that are not the applicants, will state the right to appeal the board's final decision regarding designation to the city commission, and will include in the notification a statement of the fee waiver provision contained in subsection (c)(7) herein.

Landmark Designation Process

Notice Requirements For Other Jurisdictions

Town of Jupiter Island – first notice to a property owner is done after property is put under consideration, and at least 30 days prior to considering the property for landmark designation.

City of Lake Worth Beach – first notice to a property owner is done after interim designation is made.

City of Boca Raton – first notice is sent to property owners at least 14 days prior to considering a property for landmark designation (no notice is required for the initial study done to put a property under consideration).

City of Miami – first notice is done by certified mail at least 10 days prior to conducting preliminary evaluation of a property to place it under consideration; however, from the date of the notice, no building permit for any new construction, alteration, relocation or demolition that may affect the property proposed for designation shall be issued until completion of the designation review process. Outreach is also done with homeowners associations when considering multiple properties for historic designation; this outreach is done prior to consideration for landmarking, and feedback from this outreach is taken into consideration when evaluating a proposed historic district.

City of Tarpon Springs – first notice is done at least 15 days prior to hearing to consider the property for historic designation, which is scheduled after receiving a petition for designation from the preservation board, the board of commissioners, the owner or the P&Z Department.

Hillsborough County – no notice is required for the initial informal review, because historically for almost every property, the property owner has requested that the property be put through the landmarking review process. For the rare occasions when a property is to go through the initial informal review for landmarking without being requested by the property owner, staff will reach out to the property owner and let them know about the meeting. If the historic board makes a determination to pursue the landmarking process, then notice is sent to the affected property owner.

Miami-Dade County – no notice is done to initiate the designation process (i.e. put a property under consideration for landmarking), because the meeting for this is not a public meeting; therefore no notice is required. However, in practice, staff often notifies the property owner ahead of time in order to provide a transparent process.

City of Oakland Park – first notice to a property owner is done after the property is put under consideration, and at least 30 days prior to being considered for landmarking.

City of West Palm Beach – first notice to a property owner is done after the property is put under consideration through the submittal of an application for historic designation (by historic preservation board, city commission, staff or property owner); notice is done at least 30 days prior to consideration, and is sent to the affected property owner and the property owners within 400 feet of the subject site.



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, DECEMBER 10, 2019

I. CALL TO ORDER AND ROLL CALL

The regular Town Council meeting was called to order on Tuesday, December 10, 2019, at 9:30 a.m. in the Town Council Chambers. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Dominguez gave the invocation. Council President Moore led the Pledge of Allegiance.

Town Manager Kirk Blouin advised the meeting was being filmed to provide more access to members of the community.

III. MODIFICATIONS TO THE AGENDA

There were no modifications made to the agenda.

IV. APPROVAL OF AGENDA

A. Lunch Recess from 12:30 to 1:30 P.M.

B. Time certain events for today were announced: for 11 a.m. for Woods Hole Group, breaking for lunch at 12:30; and 2 p.m. for discussion of the Undergrounding Report.

Motion was made by Council Member Lindsay and was seconded by Council Member Council Member Araskog, to approve the agenda. On roll call, the motion passed unanimously.

Motion was made by Council Member Crampton, and was seconded by Council Member Lindsay, to approve the allocation of the remaining \$2.5M sales tax revenue for the undergrounding program. On roll call, the motion passed unanimously.

Public Comment:

Robert Davidow, 2100 South Ocean Boulevard, recommended stopping the undergrounding project.

Alan Wyett, resident, commented the original \$90M figure was incorrect and he suggested to stop worrying about it and pay for it.

2. Discussion Regarding Landmark Notification Procedures

Assistant Director of Planning Zoning and Building, Wayne Bergman provided a brief background of the subject.

Council Member Araskog commented on prior discussions about giving notice, and stated she agreed with the advice given by Town Attorney Randolph to keep the process procedural.

Mayor Coniglio confirmed with Town Attorney Randolph that the current landmarking process of giving notice when a landmarked property was referred to Town Council had existed since 1979. She was concerned whether any change would affect the landmarks program, and the cost of notification. She was in favor of the proposed historic homes process so it would become more voluntary, but the landmarking process should not stop. She proposed the historic homes program as a second path.

Council Member Lindsay agreed with the Mayor, and wanted to go through education before making any changes.

Mayor Coniglio commented ORS had come out with a change to the landmarks ordinance and she was saying today she would not do that.

Council Member Araskog offered a correction to the Mayor's comment, stating ORS did not come out with a change to the ordinance because of Town Counsel's advice. The Town Attorney clarified his advice was to change to allow notice but not change the ordinance, thereby keeping it procedural. Council Member Araskog stated that was what she was recommending—to do it procedurally which would not trigger Bert Harris, would not change the landmarks ordinance, and the Town Attorney felt procedurally this was okay.

Town Attorney commented there was a distinction between notification to individual properties that they wished to be designated and to a historic district. He recommended against any notice for an individual property.

Council President Pro Tem Zeidman asked if there was interest in historic districts.

Council Member Araskog responded that would be covered under code reform but did not want to limit historic districts.

Council President Moore commented today's discussion was on landmark notification procedures and the Town Attorney was advising not to make a change to the ordinance itself, but to make a procedural change and ORS was agreeing with that. Council Member Araskog commented only for district, not individual. Council Member Crampton felt notification for both was better.

Public Comment

Mr. Rene Silvin, Australian Avenue, remarked that for landmarking, homeowners were currently notified twice - when their home was going to be considered, and again when the date the designation report was going to be presented. Town Attorney Randolph corrected him, stating homeowners were not noticed before being placed under consideration; they were noticed after being placed under consideration. He explained any commissioner on Landmarks could at any meeting, without the landowner being in the audience, say I would like to place this property under consideration, they then voted to place it under consideration, then a notice was sent to the property owner. Then when the report was presented the landowner had the opportunity to address the report, present any evidence, and have cross-examination. Mr. Silvin recalled only two occasions since he had been on the Landmarks Preservation Commission where a homeowner objected to the Commission moving forward on the designation. In both instances Town Council had overruled the Landmarks Preservation Commission. He asked if the Council had concerns about notice before the Historic Districting came up, which he believed the answer was no, so he recommended to leave it alone. He felt Council Member Araskog's actions were clear and he agreed with the Mayor.

Simon Taylor, 234 Oleander Avenue, commented he had been impressed at the zoning code reform sessions by the creativity, expertise and flexibility in addressing people's concerns about historic houses, and it appeared a lot of expertise could be brought in. He suggested prioritizing the residential part of zoning code reform. He felt what was driving a lot of the anxiety and urgency of zoning code reform was the tear down and bulk up process, and he suggested looking at ways of preserving historic feel of certain houses using a lot of creativity and expertise.

Jay Serzan, 353 Seabreeze Avenue, stated he favored leaving individual notice the way it was, and had the impression historic districts were not going to be an issue going forward unless people wanted it to happen in

their own neighborhoods, and he was fine with that, too. He felt if historic districting was going to come about that something should be done about notices, and doing it procedurally was fine, but if historic districting was off the table that was also fine.

No action was taken.

3. Proposed Changes to Special Event Ordinance

Town Clerk Dominguez had researched and found a code from a town in Texas that she felt addressed many of the Town's concerns. She had presented a proposed code using that information to the ORS Committee. They had provided feedback, which she had incorporated by adding new definitions; and remarked that the new text was underlined and the text that was stricken through was what the ORS Committee had taken out.

Council Member Araskog commented because the run/walk definition included walking, running and/or racing, everywhere walking or racing was mentioned should be replaced with "run/walk event as defined". She offered several text changes.

Council Member Lindsay stated that she did not agree with this item since marathons had already been discussed.

Town Clerk Dominguez pointed out the code had been changed to reflect that all Town races had to come before Town Council, and at the July 9 Town Council meeting, Council had directed staff to work with the ORS Committee to modify the code so Council would have criteria to use in considering whether or not to approve a race.

Town Manager Blouin noted the code today required that anything new other than the things that were grandfathered come back to Council, deferring to the Town Attorney. Town Attorney Randolph advised he had understood this would not be brought up as an ordinance, but just to come back to Council for input. Staff was directed to prepare an ordinance with the changes and suggestions provided by Council Member Araskog and present it for first reading at the January 14, 2020, Town Council Meeting.

Consensus of Council was to bring back the Proposed Changes to Special Event Ordinance for first reading in January, 2020.

4. Public Parking Program for Town-owned Peruvian Parking Lot and 100 Block of Sunrise Avenue

Deputy Town Manager Boodheshwar noted that last month's discussion of purchasing four parking kiosks had not been approved. Also, Council had asked for a proposal of how the Peruvian parking lot could be regulated for public parking. Current paid parking on Peruvian Avenue was enforced