

# TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council meeting on:  
July 14, 2021

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To: Town Council

From: Wayne Bergman, Planning, Zoning and Building Director

Re: Consideration of Proposed Zoning Text Amendments for Outdoor Café Seating, and Landing Docks and Piers in Chapter 62, MARINE STRUCTURES, and Chapter 134, ZONING, in the Code of Ordinances  
**Ordinance Nos. 16-2021 and 17-2021**

Date: June 21, 2021

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## **STAFF RECOMMENDATION**

Staff recommends the Local Planning Agency and Town Council consider the Planning and Zoning Commission Record and Report related to proposed outdoor café seating, and landing docks and piers. In addition, staff recommends that the Local Planning Agency recommend, and the Town Council approve, attached Ordinance Nos. 16-2021 and 17-2021 on first reading.

## **RECORD AND REPORT OF THE PLANNING AND ZONING COMMISSION**

The Planning and Zoning Commission, at its March 16, 2021, April 20, 2021 and May 21, 2021 meetings, considered staff proposed zoning text amendments in Chapter 134, Zoning, related to outdoor café seating (EXHIBIT A) and landing docks and piers in Chapter 134, ZONING, and Chapter 62, MARINE STRUCTURES (EXHIBIT B).

At the May 21, 2021 meeting, the Planning and Zoning Commission by a 7-0 vote, made a recommendation to the Town Council to approve the proposed zoning text amendments, as modified by the Commission, to create new zoning regulations for outdoor café seating, as identified in EXHIBIT A (attached). The Commission made consistency changes throughout the proposal text amendments, changing outdoor seating terms to be consistent with “outdoor café seating.” In addition, the Commission added a condition to both sidewalk and private property outdoor café seating that requires the applicant keep the seating area clean, neat and in an orderly appearance at all times and clear of any trash or refuse.

At the May 21, 2021 meeting, the Planning and Zoning Commission by a 7-0 vote, made a recommendation, to the Town Council to approve the proposed zoning text and other code text changes, as modified by the Commission to change the existing regulations for the construction of landing docks and piers, as identified in EXHIBIT B (attached). The Commission change did make one change is staff’s recommendation that staff supports. The Commission changed the maximum

width of a landing dock or pier that within six feet from the mean high water line from 25% to 30% of the lot width. Although discussed at great length, the Commission did not recommend any changes related to the use of sod on a dock. The Florida Department of Regulation and Army Corps. of Engineers is the authority for oversight on that issue.

## **BACKGROUND**

### **OUTDOOR CAFÉ SEATING**

The Town Council, at its February 10, 2021 meeting, discussed the Town's outdoor seating regulations and the temporary Covid seating that is currently being allowed. That temporary outdoor seating has been embraced by the restaurant owners and so far has been well received by the community. As such, the Town has seen the requests for outdoor seating grow over the last year and does not see that trend changing once we get past the pandemic. As such, staff expects to see more requests for permanent outdoor seating for restaurants in the future. Staff requested, and the Council agreed, to allow staff to work with the Planning and Zoning Commission to re-evaluate the existing regulations and recommend modifications that might allow for a more controlled outdoor seating concept with more definitive conditions. The intent of code changes is to allow more restaurant outdoor seating so long as it fits into the surrounding residential areas and the businesses continue to be good neighbors.

The Planning and Zoning Commission discussed this topic at its March 16, 2021 meeting. Staff also received further input from the Town Council at its April 14, 2021 meeting. Based on those discussions, staff drafted proposed Code changes that the Commission considered at its May 21, 2021 meeting and made the recommendation as identified in the above Planning and Zoning Commission Record and Report in this memorandum.

The staff and Commission recommendations are incorporated in add/delete format in the attached Ordinance No. 16-2021. The proposed Ordinance eliminates the existing outdoor seating regulations, including administrative approval of outdoor seating, and replaces those regulation with new outdoor café seating provisions that conditionally allow the seating by Town Council special exception approval. The proposed outdoor café seating would be allowed on sidewalks, and private vias and courtyards in the R-D(2) residential and the C-TS, C-WA, C-B, C-OPI and C-PC Commercial zoning districts provided all special exception criteria and outdoor café seating conditions are met. The conditions include, but are not limited to, the type of outdoor furniture; pedestrian walkway clearances; lighting and outdoor music; and the requirement for insurance and indemnification if the seating is within the public rights-of-way. The proposed Ordinance also includes creating an outdoor café seating permitting process with an annual permit review and fee. As directed by the Council at its June 9, 2021 meeting, staff eliminated the defined hours of operation; separation requirements between outdoor café seating and residential uses; and buffering and screening from the Ordinance. Council determined that as part of the special exception approval process, and on a case by case basis, specific conditions related to hours and residential neighbor protection could be approved as part of the zoning application. Staff also added a provision in the proposed Ordinance to allow a limited amount of seating (8 seats) over the inside capacity for smaller take-out food establishments.

The only other item in the ordinance that may need further discussion is related to the condition that allows for outdoor background music. It was unclear to staff whether this should also be approved similar to the hours of operation on a case by case basis.

## **LANDING DOCKS AND PIERS**

The Town Council, at its March 3, 2021 meeting, considered a zoning application for site plan review and variances in which a dock was being proposed that went from setback line to setback line on the property. The proposed dock, which met the Code requirements, extended the property owner's backyard over the water. Since the dock met Code, staff or Council could not modify the proposed dock. Staff advised the Town Council at that time that this type of development trend over the Lake will continue, and possibly increase, unless changes are made to provide more control over piers and docks. This loophole in the Code has provided an opportunity that more and more developers and property owners are taking advantage of. Staff recommended, and the Town Council agreed, to allow staff to work with the Planning and Zoning Commission on a solution to this problem.

On March 16, 2021 and May 21, 2021, the Planning and Zoning Commission considered proposed zoning and code text amendments that are intended to control overdevelopment of landing docks and piers. Staff looked at the existing regulations and development trends in the town to identify possible changes that might need to be made to control the development or redevelopment of piers and docks on a property. Staff proposed changes to the existing pier and landing dock regulations are in Chapter 134, Zoning, and Chapter 62, Marine Structures. The staff recommended changes, as modified by the Commission, and incorporated in add/delete format in the attached Ordinance No. 16-2021 and 17-2021. The intent of these proposed changes continue to allow a property owner to have a pier or dock for mooring of water vessels, and a marginal pier or dock along the bulkhead for lounging, but to further limit its construction so that structure does not extend across the entire back of the lot. The Ordinance limits it's width of a landing dock or pier within six feet of the mean high water line of a property to a maximum of 30% of the lot width and limits the dock width past six feet to a maximum of 10 feet.

If you have any questions please contact me at your convenience at 227-6406.

## **TOWN ATTORNEY REVIEW**

Ordinance Nos. 16-2021 and 17-2021 have been approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Kirk Blouin, Town Manager  
Jay Boodheshwar, Deputy Town Manager  
John C. Randolph, Town Attorney  
Planning and Zoning Commission  
Paul Castro, Zoning Manager  
Craig Hauschild, Civil Engineer