

Memorandum

From the Town of Juno Beach Planning & Zoning Department

To: Joseph Lo Bello, Town Manager; Planning and Zoning Board
From: Ruben Cruz, Director of Planning & Zoning *RL*
Date: May 15, 2015
Subject: Frenchman's Creek Beach Club Zoning Code Text Amendment Petition

Background

The Planning and Zoning Department received a Petition for Zoning Code Text Amendment from Frenchman's Creek, Inc. petitioning to include a "Community Association Owned Beach Club" as a special exception use within the Residential Multi-Family Moderate Density (RM-2) Zoning District. The Town Code does not currently allow a Beach Club as a permitted, special exception or accessory use within the RM-2 District; therefore, the existing Frenchman's Creek Beach Club is a non-conforming use.

History

One of the Board members requested a brief history of the approval of the existing Beach Club. Beach Clubs were included as a special exception use when the Town adopted its Zoning Code in 1978. Frenchman's Creek originally submitted its application for a Beach Club in 1986. The Planning and Zoning Board recommended approval, and the Town Council approved the special exception on August 19, 1986, subject to various conditions. Based on the Town Council's approval, Frenchman's Creek purchased the property.

The Town subsequently discovered that there had been a defect in the notice and informed Frenchman's Creek that it would need to re-present its application. In December 1986, notwithstanding opposition from numerous residents, the Planning and Zoning Board again recommended approval of the special exception, subject to additional conditions. However, in January 1987, the Town Council denied Frenchman's Creek's special exception application. In February, 1987, the Town Council adopted, on first reading, an ordinance removing "private beach, swimming, golf, tennis, yacht, and/or social clubs" as a special exception use in all zoning districts. That same month, Frenchman's Creek filed suit against the Town seeking approval of the special exception application as well as compensatory and punitive damages and attorney's fees. In March 1987, the Council adopted the ordinance prohibiting private clubs on second and final reading.

In October 1987, the Town Council, in full settlement of the lawsuit, approved the special exception application subject to the conditions originally recommended by the Planning and Zoning Board in August 1986. A list of those conditions is attached.

Discussion

The uses permitted by right in the RM-2 Zoning District are single-family detached dwellings, two-family dwellings, multiple-family dwellings, clustered single-family dwellings (townhouses), group homes, community residential homes and public safety facilities such as fire and/or police stations. The current list of special exception uses includes residential planned unit developments, public and private utility structures, public or private academic schools, houses of worship and satellite dish antennas.

In its application, Frenchman's Creek represents that it is filing the Petition for Zoning Code Amendment because the "current status as non-conforming use creates uncertainty as to continued operation of facility for the community residents use in the event of necessary *renovation* or *casualty*".

Section 34-1355 governs land with non-conforming uses and provides in relevant part as follows:

- (5) *Increase, extensions, or enlargement of use.* A nonconforming use shall not be increased, extended, or enlarged in a way that increases its nonconformity or occupies a greater area of land than was occupied on the adoption date of the ordinance from which this chapter is derived or in any manner which increases its noncompliance with the use regulations of this chapter. An expansion of any impervious ground surface of any building or structure shall be deemed to be an increase, extension, or enlargement as specified herein.
- (6) *Repairs and maintenance.* Routine repairs and maintenance of buildings and structures which house or contain nonconforming uses necessary to maintain health and safety may be permitted.
- (7) *Additions and expansions of facilities.* Additions to or expansions of facilities within or which house a nonconforming use shall not be permitted.
- (8) *Replacement or restoration of use—Generally.* In the event that any existing nonconforming use is located in a building or structure which is damaged by any means other than fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of 50 percent or more of the total cost to reconstruct the structure to the latest building codes, as determined by an appraiser acceptable to the town, it shall not be replaced, restored, or reconstructed except in conformance with the provisions of this chapter. If the damage is to an extent less than 50 percent it may be replaced or restored as described in subsection (9) of this section.
- (9) *Same—Exceptions.* In the event that any existing nonconforming residential use, other than those located within the coastal high hazard

area, is located in a building or structure which is damaged by fire, flood, wind, explosion, act of God, or act of a public enemy, it shall be allowed to be replaced, restored or reconstructed to the density or intensity of use and building site area characteristics that existed prior to destruction. Actual construction to replace, restore, or reconstruct the use shall commence within two years from the date of destruction, or the nonconforming status of the use shall lapse, and said use shall revert to normal nonconforming status regulation and requirements of this chapter. One extension to the two-year period of continuing nonconforming density or intensity of use status, said extension not to exceed one year, may be requested prior to the expiration of the two-year period. Such request for extension shall be heard and decided by the board of adjustment.

Recommendation

Staff recommends that the Planning and Zoning Board review the proposed Zoning Code Text Amendment Petition and provide a recommendation to the Town Council.

CONDITIONS FOR BEACH CLUB SPECIAL EXCEPTION
GRANTED TO FRENCHMAN'S CREEK
ON AUGUST 19, 1986

1. Habitable space shall not exceed 4,200 square feet.
2. Landscaping must include extensive buffering of parking area for adjacent properties to the north and south. A landscape strip a minimum of 15 feet in width and separating the parking area from the north and south adjacent properties must contain either a wall/berm/vegetation barrier or an extensive landscape screen.
3. The trash/garbage dumpster must be screened from view from above as well as from ground level.
4. Beach Club employees must park their vehicles at the Frenchman's Creek Country Club and be shuttled to the beach club by a Frenchman's Creek passenger van.
5. The Beach Club facilities must be closed and unoccupied except for security personnel from 12 midnight to 7 A.M.
6. Parking facilities for the Beach Club shall include a minimum of 50 spaces, at least 15 of which must be located beneath the primary structure.
7. Parking shall be by valet service only. When the parking facility reaches 50% capacity, a Beach Club passenger van must be used to transport additional patrons to and from the Beach Club. A capacity of 150 persons plus the number of persons legally permitted in the pool, or 250 persons, whichever is less, at any one time shall not be exceeded. A maximum capacity of 150 persons shall not be exceeded during the period from one half hour after sunset until 12 midnight.
8. Must keep beach clean in front of club property.
9. Beach Club Bylaws must include all special exception conditions, as adopted.

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