

PLANNING AND ZONING BOARD

THURSDAY, NOVEMBER 15, 2018

@ 6:00 P.M.



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785

www.indian-rocks-beach.com

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727/595-2517

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AGENDA PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY

City Commission Chamber
1507 Bay Palm Boulevard
Indian Rocks Beach, FL 33785

Thursday, November 15, 2018
6:00 p.m.

1. **ROLL CALL.**
2. **ELECTION OF:**
 - A. **CHAIR.**
 - B. **VICE CHAIR.**
3. **APPROVAL OF MINUTES OF: October 23, 2018.**
4. **ORDINANCE NO. 2019-01.** Providing for amendments to the Code of Ordinances by amending Chapter 110, Zoning; Article I - In General, Section 110-1 "Definitions" to define "paid parking lots;" amending Article III - District Designation and Regulations, Division I - Generally, Section 110-131 "Establishment of Zoning Districts," Subsection 6 "Business Zoning District-B" to provide for paid parking lots as a permitted use in the Business District Triangle Overlay Zone; amending Article III - District Designation and Regulations, Division 1. - Generally, Section 110-135 "Business District Triangle Overlay Zone" to allow the operation of paid parking lots.
5. **ORDINANCE NO. 2019-02.** Amending § 106-44 and § 106-45 of the Land Development Code concerning removal of dead or diseased trees; providing for enforcement; making related findings.
6. **ADJOURNMENT.**

APPEAL: If a person decides to appeal any decision made with respect to any matter discussed at such meeting or hearing, will need a record of the proceedings and for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, per s. 286.0105, F.S. Verbatim transcripts are not furnished by the City of Indian Rocks Beach and should one be desired, arrangements should be made in advance by the interested party (i.e. court reporter).

In accordance with the Americans with Disability Act and s. 286.26, F.S., any person with a disability requiring reasonable accommodation in order to participate in this meeting should contact the City Clerk's office with your request telephone 727/595-2517 or doreilly@irbcity.com no later than five (5) business days prior to the proceeding for assistance.

POSTED: November 8, 2018

AGENDA ITEM NO. 1

Roll Call

AGENDA ITEM NO. 2

ELECTION OF:

A. CHAIR

B. VICE CHAIR

AGENDA ITEM NO. 3

Approval of Minutes

**MINUTES
CITY OF INDIAN ROCKS BEACH
PLANNING AND ZONING BOARD AND
LOCAL PLANNING AGENCY**

The Regular Meeting of the Indian Rocks Beach Planning and Zoning Board and the Local Planning Agency was held on **TUESDAY, OCTOBER 23, 2018**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Chair Rick McFall called the meeting to order at 6:00 p.m.

1. ROLL CALL:

Present: Chair Rick McFall
Board Member Richard Antepenko
Board Member Robert Clark
Board Member Joe McCall
Board Member Peter S. Sawchyn
Planning Consultant Hetty C. Harmon, AICP
City Attorney Randy D. Mora

Absent: Vice Chair Patti Muneio
Board Member Jude Bond

(The recording device malfunctioned.)

Chair McFall welcomed new Member Sawchyn to the Board and let Member Sawchyn give a brief background on himself. Member Sawchyn stated he has been living full-time in Indian Rocks Beach for over 2½ years.

(To provide continuity for research, items are listed in agenda order although not necessarily discussed in that order.)

2. APPROVAL OF MINUTES OF: February 15, 2018.

MOTION MADE BY MEMBER CLARK, SECONDED BY MEMBER MC CALL, TO APPROVE THE FEBRUARY 15, 2018 MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.

3. ORDINANCE NO. 2018-11/PUD CASE NO. 2018-01. An ordinance of the City Commission of the City of Indian Rocks Beach, Florida, to re-zone and re-classify lands owned by Hawksbill Moon, LLC, at 2100 Gulf Boulevard, in the city of Indian Rocks Beach, Pinellas County, Florida, legally described as Lot 7, less the North 50 feet and all of Lot 6, Block 58, Re- Revised Map of Indian Rocks Beach

from its present zoning classification of Commercial Tourist (CT) to a Planned Unit Development; providing for approval of a corresponding Planned Unit Development Agreement; and providing for an effective date.

[Staffing Report Begins]

SUBJECT: ORDINANCE NO. 2018-11/PUD CASE NO. 2018-01: Request for a rezoning and Planned Unit Development (PUD) approval of a four unit multi-family residential development on property legally described as Lot 7, less the North 50 feet and all of Lot 6, Block 58, Re-Revised Map of Indian Beach located at 2100 Gulf Boulevard, Indian Rocks Beach, Florida. Property ID # 01-30-14-42030-048-0060.

OWNER: Hawksbill Moon, LLC
PROPERTY: 2100 Gulf Boulevard
ZONING: CT- Commercial Tourist

Direction	Existing Use	Zoning Category
North	Residential	CT
East	Residential	
South	Residential	CT
West	West	CT

BACKGROUND: Rob Ginski, of Hawksbill Moon, LLC has requested a Planned Unit Development for their property.

The purpose and intent of the Planned Unit Development District is as follows:

Sec. 110-643. Planned Unit Development (PUD)

- (1) Purpose and Intent of the PUD Zoning District:
 - (a) It is the purpose of this district to provide a method for landowners or developers to submit unique proposals which may not be provided for or allowed in the other zoning districts otherwise established by this Code. The PUD zoning district allows a mix of residential and nonresidential uses and/or unique design features which might otherwise not be allowed in one of the other listed districts, but that otherwise conform to the City of Indian Rocks Beach Comprehensive Plan.
 - (b) The PUD provisions are intended to promote flexibility of design and integration of uses and structures, while at the same time retaining in the City Commissioners the absolute authority to establish limitations and regulations thereon for the benefit of the public health, welfare and safety. By encouraging flexibility while retaining control by the City

Commission, the PUD is designed to accomplish one or more of the following:

- 1) Permit innovative residential, nonresidential, and mixed-use developments provide for an integration of housing types and accommodation of changing lifestyles within neighborhoods; and provide for design that encourages internal and external convenient and comfortable travel by foot, bicycle, and transit through such strategies as various street widths compatible with the type of development project proposed, modest setbacks, front porches, connected streets, multiple connections to nearby land uses, and mixed uses.
- 2) Provide flexibility to meet changing needs, technologies, economics and consumer preferences.
- 3) Preserve to the greatest extent possible, and utilize in a harmonious fashion, existing and outstanding landscape features and scenic vistas.
- 4) Lower development and building costs by permitting smaller networks of utilities, and the use of more economical development patterns and shared facilities.
- 5) Achieve overall coordinated building and facility relationships and infill development, and eliminate the negative impacts of unplanned and piecemeal development.
- 6) Enhance the combination and coordination of architectural styles, building forms and building relationships within the development.
- 7) Promote the use of traditional, quality-of-life design features, such as pedestrian scale, parking located to the side or rear of buildings, connected streets, terminated vistas, front porches, recessed garages, alleys, aligned building facades that face the street, and formal landscaping along streets and sidewalks.
- 8) Provide an efficient public process for considering complex developments where the proposed development is of such size, scale, complexity, and/or unique design that it would be inconvenient and inefficient to process such a proposal outside the PUD process.

After analyzing the proposed request, the staff finds the proposed Planned Unit Development consistent with the City's Comprehensive Plan, Land Development Code and the overall character of the surrounding area, the proposed site plan design meets the flexibility to accommodate changing needs, technologies,

economics, and consumer preferences, and accommodation of changing lifestyles.

Sec. 110-644. Justification and Minimum Requirements for Rezoning to Planned Unit Development.

- (1) An applicant for a PUD rezoning must present evidence in the PUD Narrative that the rezoning to PUD is justified by one or more of the following:
 - (a) The proposed development is unique. Although it does not fit within an existing zoning district, it is consistent with the city's comprehensive plan. The proposed development is of such size, scale, complexity, and/or unique design that it would be inconvenient and inefficient to process such a proposal outside the PUD process.
 - (b) The nature of the proposed use at a specific site requires specialized design characteristics to preserve and protect neighborhood character, environmental concerns and other concerns unique to the immediate area, consistent with comprehensive plan policies.

Due to the site restraints, the building has minimal access off of 21st Avenue and had to be creative to access the front units of the project without having access off of Gulf Boulevard.

- (1) The applicant for the PUD rezoning must further present evidence in the aforementioned PUD Narrative that the rezoning to PUD meets the following standards:
 - (a) The density and/or intensity, character and type of development proposed in the development plan is consistent with the Comprehensive Plan, future land use map and the concurrency management system, and the development plan meets one or more of the objectives set forth in section 110-643 above.
The project is located in the CT district and would allow for up to five units, only four are being proposed.
 - (b) An evaluation of the external compatibility of a PUD should be based on the following factors: (1) adjacent existing and proposed uses, (2) design of the development to avoid undue noise, odor, traffic or other nuisances and other nuisances and dangers to abutting property owners; (3) traffic circulation to ensure the transportation system and streets are of sufficient width and capacity to serve the demands created by the development; and (4) density and/or intensity including type and size of structures

and/or units and height shall be considered to address compatibility.

The proposed project would be consistent with adjacent uses, would avoid nuisances and dangers to adjacent properties, access would be off of 21st Street and Beach Trail and avoids direct access to Gulf Boulevard the density and height of the proposed project would be compatible with adjacent uses.

- (c) Usable open spaces, and recreation areas provided within a PUD must provide appropriate recreational opportunities, protect sensitive environmental areas, conserve areas of unique beauty or historical significance, enhance neighborhood design, and encourage compatible and cooperative relationships between adjoining land uses.

There are no recreation areas in this proposed Planned Unit Development.

- (d) Every dwelling unit or other use permitted in the PUD shall have access to a public street either directly or by way of a private road, pedestrian way, court or other area which is either dedicated to public use or is a common area guaranteeing access. Permitted uses are not required to front on a dedicated public road, but at a minimum, private roads and other access ways shall be required to be constructed so as to ensure that they are safe and maintainable. To that end, all public roads within any PUD shall be constructed in accordance with the latest applicable FDOT specifications. The City further recommends that private roads be built to the latest applicable FDOT specifications. Connection to existing or planned adjacent streets is required, where applicable and feasible to minimize adverse traffic impacts.

The proposed development has direct access off of 21st Avenue and Beach Trail.

- (e) Sufficient off-street parking for bicycles, automobiles and other vehicles must be provided. Parking areas must be constructed in accordance with the standards outlined in the Land Development Regulations in the City's Code, and any deviations must be specifically identified and approved by the city commission to ensure that they are safe and maintainable and that they allow for sufficient privacy for adjoining uses. The design of a PUD should, whenever feasible, incorporate appropriate pedestrian and bicycle access ways so as to provide for a variety of mobility opportunities. Connection to all sidewalks, greenways, trails, bikeways, and transit stops along the perimeter of the PUD is required. Where existing perimeter sidewalks do not exist, sidewalks shall be provided by the development unless otherwise approved within the PUD Ordinance.

This proposed development has deviated from the Land Development Regulations in Section 110-371-General standards for parking facilities (1) The parking plan must be so arranged that each vehicle may be placed and removed from the property without the necessity of moving any other vehicle to complete the maneuver.

The project consists of 3 bedroom units, which requires 3 spaces, all three spaces are proposed in the garage but other vehicles would have to be moved to allow the rear space to be accessible.

- (f) Utilities and essential public services, including but not limited to, sanitary sewer, potable water, fire abatement services or appurtenances, solid waste, and other services must be available and have capacity to serve the development.

The proposed development has access to all services; garbage collection will be along Beach Trail.

Sec. 110-646. Application requirements for preliminary review by City staff.

The City staff reviewed the preliminary application including the location map, description and conceptual plan and found it to be in compliance with the requirements of Section 110-646.

Sec. 110-647. Application requirements for rezoning to PUD.

The City staff reviewed the application documents and site plan drawings, survey, stormwater report, and architectural renderings and found them to be consistent with the requirements in Section 110-647 (a) and (b).

STAFF RECOMMENDATION: That ORDINANCE NO. 2018-11/PUD CASE NO. 2018-01, Request for a rezoning and Planned Unit Development be approved of a four unit multi-family residential development on property legally described as Lot 7, less the north 50 feet and all of Lot 6, Block 58, Re-Revised Map of Indian Beach located at 2100 Gulf Boulevard, Indian Rocks Beach, Florida, be approved by the appropriate elected and appointed bodies of the City of Indian Rocks Beach, Florida.

[Staffing Report Ends]

City Attorney Mora read Ordinance No. 2018-11 by title only.

City Attorney Mora advised the Board that they are reviewing the ordinance in the capacity of the Planning and Zoning Board for a Planned Unit Development (PUD) based on the recently passed PUD Ordinance.

Planning Consultant Harmon provided a PowerPoint presentation depicting photographs of the location of the property, the proposed site plan, preliminary plat landscape plan, and building elevations.

Planning Consultant Harmon stated the applicant is proposing to build a 4-unit multi-family dwelling unit with private garages.

Planning Consultant Harmon explained that Pinellas County would not allow the property owner to have access off of Gulf Boulevard since they have access off of 21st Street and Beach Trail. The applicant worked with the City to exchange the present access to the property for the proposed access. The applicant will have to relocate the mailbox, and newspaper box and the island at the corner of 21st Street and Gulf Boulevard would be reduced slightly to provided for access to the front of the site.

Planning Consultant Harmon stated the building height would be 35 feet even though they are allowed to go up to 46 feet, and there will be 4 units even though they are permitted up to 5 units.

Planning Consultant Harmon explained that the Land Development Code requires 3 spaces for a 3 bedroom unit and that the parking cannot be behind another car. The applicant is proposing to provide parking for the 3 cars in the garage and cars will have to be moved in order for the 3rd car to exit. This is a deviation from the Land Development Code.

Planning Consultant Harmon pointed out that the landscape plan shows new landscaping along 21st Street in the right-of-way. This landscaping is not required except around the parking areas; however, staff worked with the applicant to ensure that the existing landscaping was replaced and enhanced. The applicant will maintain this landscaping as stated in the PUD agreement.

Planning Consultant Harmon discussed the preliminary plat as it would allow for a townhome versus condominium-type of ownership, which the applicant preferred due to the cost and complexity of a condominium. There will be a homeowner's association (HOA) and covenants and restrictions filed with the plat.

Planning Consultant Harmon reviewed the criteria in the staff report as it relates to consistency with the intent of the PUD zoning district, justification of the rezoning to PUD, the rezoning met the standards, reviewed the preliminary application for compliance with the requirements, and reviewed the requirements for consistency with the rezoning to PUD.

Staff recommended approval of the rezoning to the PUD district.

Rob Ginsky, Hawksbill Moon , LLC/owner 2100 Gulf Boulevard, discussed his project and working through the issues with access. He stated that the garages

are actually over 30 feet in length and could park 4 cars, but the Land Development Code requires a length of 19 feet, and he stated that most sedans were about 15 feet. He will be building a block structure with building heights of 35 feet.

Chair McFall opened the meeting up for public comment. Seeing and/or hearing no one wishing to speak, the public comment session was closed.

Chair McFall asked if he would be creating 4 lots. Planning Consultant Harmon replied that it would still be one parcel number, but the owners would own the property under their unit and around each unit. Similar to The Cove plat, (601 Gulf Boulevard).

Chair McFall stated he was glad they were using block instead of frame after what happened in Mexico Beach during Hurricane Michael.

Member Clark questioned if the parking situation could have been handled under a variance request.

City Attorney Mora stated that it could be, but this PUD is also about the ownership of the units as townhomes, which would not be allowed under the present zoning district.

Member McCall asked the applicant why he did not go up another floor.

Mr. Ginsky stated it was initially due to the cost and decided to put the extras in the units.

MOTION MADE BY MEMBER CLARK, SECONDED BY MEMBER ANTEPENKO, TO RECOMMEND TO THE CITY COMMISSION APPROVAL TO RE-ZONE AND RE-CLASSIFY LANDS OWNED BY HAWKSBILL MOON, LLC, AT 2100 GULF BOULEVARD, IN THE CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA, LEGALLY DESCRIBED AS LOT 7, LESS THE NORTH 50 FEET AND ALL OF LOT 6, BLOCK 58, RE-REVISED MAP OF INDIAN ROCKS BEACH FROM ITS PRESENT ZONING CLASSIFICATION OF COMMERCIAL TOURIST (CT) TO A PLANNED UNIT DEVELOPMENT; PROVIDING FOR APPROVAL OF A CORRESPONDING PLANNED UNIT DEVELOPMENT AGREEMENT.

ROLL CALL VOTE:	ANTEPENKO	AYE
	CLARK	AYE
	MC CALL	AYE
	SAWCHYN	AYE
	MC FALL	AYE

MOTION CARRIED UNANIMOUSLY.

4. DISCUSS/CONSIDER the pros and cons of amending the IRB Land Code to allow paid commercial parking lots in any commercial district in Indian Rocks Beach.

Planning Consultant Harmon stated she researched various communities for regulations about paid commercial parking lots. A paid commercial parking lot was not listed as an allowed use independent of a commercial or residential use in most cities. However, the cities of St. Pete Beach and Pinellas Park allowed a paid parking lot as a conditional use. In the City of Dunedin, the parking was run by the Community Redevelopment Agency.

Planning Consultant Harmon stated she wanted to bring to the Board's attention that the Land Development Code has landscaping requirements for parking lots.

Todd Plumlee stated he has been approached to use his lot on 1st Street, next to his business, located at 417 1st Street, as a paid commercial parking lot. This lot has been used for parking over the years for employees of the adjacent restaurants and tourists. The company that has approached him is a large company that operates lots across the country. The advantage of having a company run the lot is that they would make sure it is cleaned up every day and will cover some of the liability insurance. The company said they would come in and paint the parking areas on the crushed shell and could provide 11 spaces.

The Board discussed the pros and cons of the idea.

Member McFall stated he would only like to allow the paid parking lots in the Business District Triangle. He mentioned that John's Pass has a paid commercial parking lot where diners are reimbursed their parking fees.

Member McCall inquired as to how many public parking spots are available in the Business District Triangle. Planning Consultant Harmon stated that there are 50 spaces in the Holiday Inn parking lot and additional parking spaces are now available at the Keegan Clair Park.

Member Antepencko requested more of a study on the subject as to potential number of sites that could be used as a parking lot in the future.

Member Sawchyn felt that Mr. Plumlee's site would be a good test site for a parking lot.

City Attorney Mora stated that the City cannot do a test site that the City has to change the Land Development Code.

Member Clark agreed that it should only be allowed in the Business District Triangle.

The general consensus was to allow the paid commercial parking lot in the Business District Triangle district only with Member Antepencko dissenting.

5. ADJOURNMENT.

MOTION MADE BY MEMBER MC CALL, SECONDED BY MEMBER SAWCHYN, TO ADJOURN THE MEETING AT 7:17 P.M. UNANIMOUS APPROVAL.

Date Approved

Frederick "Rick" McFall

HH/dor

AGENDA ITEM NO. 4

ORDINANCE NO. 2019-01

**OPERATION OF PAID PARKING
LOTS WITHIN THE BUSINESS
DISTRICT TRIANGLE OVERLAY
ZONE**

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2019-01**

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES BY AMENDING CHAPTER 110, ZONING; ARTICLE I - IN GENERAL, SECTION 110-1 "DEFINITIONS" TO DEFINE "PAID PARKING LOTS;" AMENDING ARTICLE III - DISTRICT DESIGNATION AND REGULATIONS, DIVISION I - GENERALLY, SECTION 110-131 "ESTABLISHMENT OF ZONING DISTRICTS," SUBSECTION 6 "BUSINESS ZONING DISTRICT-B" TO PROVIDE FOR PAID PARKING LOTS AS A PERMITTED USE IN THE BUSINESS DISTRICT TRIANGLE OVERLAY ZONE; AMENDING ARTICLE III - DISTRICT DESIGNATION AND REGULATIONS, DIVISION 1. - GENERALLY, SECTION 110-135 "BUSINESS DISTRICT TRIANGLE OVERLAY ZONE" TO ALLOW THE OPERATION OF PAID PARKING LOTS; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR RENUMBERING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on _____, 2018, the Local Planning Agency held a public hearing and found the proposed amendments consistent with the Comprehensive Plan.

WHEREAS, Section 13.1 of the City's Charter empowers the City Commission to regulate and restrict, among other things, the location and use of buildings, structures, and land and water for trade, industry, residence or other purposes in the City; and

WHEREAS, the City Commission for the City of Indian Rocks Beach finds the amendments set forth in this ordinance to be in the interest of promoting the health, safety and general welfare of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, THAT:

SECTION 1. Chapter 110, Zoning; Article I, In General; Section 110-1 "Definitions," of The Code of Ordinances, City of Indian Rocks Beach, Florida is hereby amended to read as follows:

Sec. 110-1. Definitions.

Paid parking lot: is for the general public to pay for use of parking vehicles and is designed to be consistent with the criteria in Division 8- Off -street parking and loading facilities, Section 110-371 General standards for parking facilities and Chapter 106 Vegetation in the Land Development Code.

SECTION 2. Chapter 110, Zoning; Article III, District Designation and Regulations, Division I – Generally, Section 110-131-Establishment of zoning Districts, Subsection 6 “Business Zoning District—B,” of The Code of Ordinances, City of Indian Rocks Beach, Florida is hereby amended to read as follows:

Sec. 110-131. Establishment of zoning districts.

(6) *Business zoning district—B.*

- a. *Definition; purpose and intent.* The purpose of this district is to provide for retail shopping areas. The B, business district correlates with the CG, commercial general category of the countywide plan. Any use which is not specifically identified as a permitted use, accessory use or special exception use is a prohibited use. Temporary lodging use of dwellings is permitted.
- b. *Permitted uses.* The permitted uses in the B, business district are as follows:

- 1. Retail and personal services.
- 2. Business and financial service uses.
- 3. Offices.
- 4. Service stations.
- 5. Restaurants.
- 6. Public land and buildings.
- 7. Dwelling, single-family on the floors above commercial.
- 8. Dwelling, two-family on the floors above commercial.
- 9. Dwelling, multifamily on the floors above commercial.
- 10. Hotels, motels and motor lodges.
- 11. Bed and breakfast establishments in accordance with section 110-592.
- 12. Mixed use of commercial and residential.
- 13. Temporary lodging use.
- 14. Craft/micro brewery, winery or distillery

15. Paid parking lots shall be a permitted use solely in the Business District triangle overlay zone.

- c. *Accessory uses.* The accessory uses in the B, business district are as follows:
 - 1. Parking lots.
 - 2. Essential services.
 - 3. Publicly-owned parks or recreation areas.
 - 4. Certain portions of outdoor dining establishments allowing dogs.
 - 5. Home occupations.

- d. *Special exception uses.* First-floor residential use.

- e. *Minimum building site area requirements.*
 - 1. The minimum building site area requirements in the B, business district is 5,808 square feet.
 - 2. The number of businesses on a lot shall be regulated by sections 110-371 through 110-377 and chapter 86. Where a platted lot exists as of February 1, 1983, having an area of less than 5,808 square feet, that actual area shall be considered the minimum lot size requirement for that lot.
 - 3. Density: The maximum density is 18 units per acre for permanent dwelling units and 15 units per acre for temporary lodging.
 - 4. Minimum unit size: 200 square feet of area exclusive of garage, carport, or open space.
 - 5. Residential equivalent use shall not exceed three beds per dwelling unit with 18 dwelling units per acre.

- f. *Setback requirements.* The following minimum setbacks shall apply in the B, business district:
 - 1. Front yard setback in B zoning is 25 feet measured from the property line.
 - i. All lots with a front, side or rear yard on Gulf Boulevard shall have a minimum of 25 feet from Gulf Boulevard as measured from the property line, unless elsewhere provided.
 - 2. Rear yard:
 - i. Lots with an alley on the rear shall be setback 15 feet.
 - ii. Lots with no alley on the rear shall be setback 15 feet.

- iii. Minimum rear setback on a north/south street 20 feet.
- 3. Side yard:
 - i. Total side setback of 20 feet with a minimum of ten [feet] per side.
 - ii. If the property is a corner lot (fronts on two bisecting streets), the side setback shall be a minimum of 15 feet on the street and a minimum of ten feet on the other side.
- g. *Maximum building height.* For buildings constructed on pilings, the maximum height of pilings is ten feet. The maximum height of a building above pilings is 25 feet.
- h. *Maximum floor area ratio.* Maximum floor area ratio in the B business district for non-residential use is 0.55.
- I. *Impervious surface ratio (ISR).* Maximum impervious surface ratio (ISR) in the B business district for non-residential use is 0.70.
- j. *Construction on substandard lots.* A single-family home may be constructed on a lot of record existing on May 11, 1981, as a permitted use in accordance with section 110-211. 0

SECTION 3. Chapter 110, Zoning; Article III, District Designation and Regulations, Division I – Generally, Section 110-135- “Business District Triangle Overlay Zone,” of The Code of Ordinances, City of Indian Rocks Beach, Florida is hereby amended to read as follows:

Sec. 110-135. Business district triangle overlay zone.

(a) *Purpose.* The purpose of the business district triangle overlay zone is to impose special development regulations. It is the intent of the city to foster new development and redevelopment in this area, making it a pleasant area for businesses and civic functions. The underlying land uses for each underlying zone classification shall remain undisturbed by the creation of an overlay zone except as specifically noted in this section. The overlay zone imposes additional or different development standards than those that would otherwise apply.

(b) *Boundaries.* The business district triangle overlay zone is an area within the city limits bounded on the east by the Intracoastal Waterway, by Gulf

Boulevard on the west and by Walsingham Road (SR 688) on the north and ending at the intersection of Gulf Boulevard and Bay Drive on the south.

(c) *Conflict with underlying zoning regulations.* The regulations of this overlay zone shall supersede all conflicting regulations of the underlying zoning for properties located in the overlay zone. This provision does not eliminate current applicable zoning requirements.

(d) *Nonconforming structures.* When a lawful structure exists on the effective date of the ordinance from which this section is derived or the effective date of an amendment to this section which could not be built under the terms of this article by reason of restrictions on the area, lot, coverage, height, yards, setbacks or other characteristics of the structure or its location on the lot, such structures may be allowed to continue to exist so long as they remain otherwise lawful, subject to the following provisions:

- (1) Any and all enlargement, extension, reconstruction or structural alteration greater than 25 percent of the assessed value of the structure, as determined by the county property appraiser's office or independent appraisal, or \$15,000.00 in site improvements, shall require the property owners to place on file an approved, updated site plan and landscaping plan.
- (2) For purposes of this subsection, site improvements shall mean any change to improved or unimproved real estate, including, but not limited to, paving, excavating, landscaping or decking. Habitable structures are specifically excluded from this definition.

(e) *Use regulations and development standards.*

- (1) *Setbacks.* There shall be a ten-foot minimum front yard setback from the property line. No structures or temporary fixtures/devices shall be located within any setback. Structures, within the overlay zone, shall be defined as signs, fences, stormwater retention areas, parking lots, parking bumpers, patios, seating, newspaper racks, decks above ground or on the ground, etc. The only exception is a one-foot by two-foot entrance/exit sign, no higher than 3½ feet, with sufficient sight distance from the driveway along the road. There shall be a limit of one driveway entrance and one sidewalk entrance per lot. The city may review individual sites for additional driveway or sidewalk entrances. The front is considered facing the road. Corner lot front designation must be approved by the city. A

ten-foot minimum setback is required on other property boundaries abutting a right-of-way. The remaining boundary setbacks shall be five feet minimum with a city-reviewed and approved landscaping plan, which shall meet the overlay zone requirements regarding in-ground landscaping and irrigation.

- (2) *Structures on right-of-way or sidewalk.* No structures or temporary fixtures/devices as defined in subsection (e)(1) of this section shall be permitted in any right-of-way or sidewalk without prior approval of the city administration.
- (3) *Fences.* Fences located in the business district triangle overlay zone shall comply with article IV, division 5 of this chapter and the following provisions:
 - a. *Prohibited fences.* In addition to those fences prohibited in section 110-289, chainlink fences shall be prohibited in the business district triangle overlay zone.
 - b. *Allowable fences.* Fences shall be a minimum of 50 percent open and compatible with the architectural design of the main building, as determined by the city manager or designee, except that dumpsters and fences enclosing loading/storage areas shall be a solid wall or fence approved by the city manager or designee.
 - c. *Height.* Dumpster enclosures and fences enclosing storage/loading areas shall not exceed six feet in height. Any other fence located in the business district triangle overlay zone shall not exceed three feet in height.
 - d. *Setback.* Dumpster enclosures and fences enclosing storage/loading areas shall be located behind the front building line. All other fences shall be located not less than three feet from a front lot line or side lot line adjacent to a public right-of-way.
 - e. *Landscaping.* Any fence located in a front yard or side yard adjacent to a public right-of-way shall be landscaped in accordance with a landscaping plan in compliance with subsection (e)(8) of this section and shall incorporate the following requirements: All areas between the public right-of-

way and the fence shall be landscaped with ground cover or other ornamental vegetation, additional landscaping shall be planted along not less than 50 percent of the lineal distance of the fence, and all landscaping shall be chosen from the city's approved landscape palette from the Indian Rocks Beach Business Triangle Development Guide.

- (4) *Adult entertainment.* There shall be no adult entertainment establishments permitted in the overlay zone. For purposes of this subsection, adult entertainment shall be defined as any conduct or activity which involves an adult arcade, adult bookstore, adult video store, adult booths, adult modeling, adult photographic studio, adult theater, or adult nightclub or bar. These terms are further defined in section 110-1.
- (5) *Restaurants.* Restaurants are encouraged; however, bars, restaurants and other eating/drinking establishments with less than 51 percent of total revenues arising from food are prohibited. There shall be no packaged alcohol sales permitted.
- (6) *Utilities; streetlights and security lights.* No new utility poles or aboveground wires, except replacement poles and wires, shall be placed throughout the overlay zone district for new construction or additions to existing structures. All new utilities must be placed underground, the cost of which shall be borne by the property owner. Public and private street and security lighting poles may, upon written application, review and approval by the city, be installed. However, all wiring necessary for such lighting shall be required to be underground.
- (7) *Parking requirements.* No parking outside of designated spaces within the overlay zone is permitted. Delivery vehicles must be able to maneuver on-site or park in spaces on the street.
- (8) *Landscaping.* The property owner, with either new building construction, expansion and/or renovations, as defined in subsection (d)(1) of this section, for parking lot reconfiguration, shall be required to place in-ground landscaping and an irrigation system around the perimeter of the property as provided in the development guide. Property owners within the business district shall be required to place landscaping and irrigation as specifically outlined in the development guide or an approved equivalent.

Fences, if desired, shall be set back behind the landscaping. Sight distances shall be maintained for all driveway accesses. The city shall have a limited palette of alternative landscaping materials listed. Any alternative can be administratively approved if it meets the business district development guide requirements. Landscaping must be maintained in excellent condition at all times.

(9) *Parking credits.*

- a. Any business losing existing recognized parking due to the city reclaiming its right-of-way shall be given full credit for the same number of spaces with on-street parking.
- b. Parking requirements in the business district triangle overlay zone shall be ten percent less than what is otherwise required.

(10) *Architectural requirements.* All new construction or major renovations as outlined in subsection (d)(1) of this section within the overlay zone should conceal mechanical (HVAC) units on the roof or adjacent to the building.

(11) *Prohibited uses.* The following uses shall be prohibited in the overlay zone district:

- a. Drive-through restaurants.
- b. Service stations.
- c. Schools.
- d. Adult entertainment.
- e. Astrologers.
- f. Character reading.
- g. Clairvoyants.
- h. Divine healers.
- i. Fortunetellers.
- j. Mental healers.
- k. Palmists.
- l. Phrenologists.
- m. Pawnshops.
- n. Massage establishments as defined in section 110-1, except for those where services are provided by medical personnel or therapists who are licensed and regulated by the state and who are providing services included under the scope of a state license.

- o. Automotive sales.
- p. Tattoo parlors.

(12) *Lot consolidation.* Those individuals, firms, or corporations using multiple lots for the purpose of a site plan approval or building permit application, as outlined in subsection (d)(1) of this section, within the overlay zone, shall be required to consolidate all lots into one lot and replat the property.

(13) *Paid Parking lots.* Paid parking lots shall be a permitted use in the Business district triangle overlay zone.

(f) *Enforcement.* The city commission shall, through the city administration, enforce and administer all provisions of this section and the accompanying development guide. Any and all activities prohibited by the overlay zone regulations and development guide shall be considered a violation of this Code. The city may enforce such requirements in any manner deemed appropriate.

SECTION 4. In all other respects, the provisions of the Land Development Regulations of the City of Indian Rocks Beach, Florida, not hereby amended or modified shall remain in full force and effect.

SECTION 5. It is the intention of the Indian Rocks Beach City Commission that each provision hereof be considered separable, and that the invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance or Subpart B of the City of Indian Rocks Beach Code of Ordinances.

SECTION 6. It is the intention of the Indian Rocks Beach City Commission that such amended Ordinance be included in the Land Development Regulations of the City of Indian Rocks Beach, Florida and the publisher of the Land Development Regulations may renumber or reclassify such other provisions of the Land Development Regulations to accomplish such intention.

SECTION 7. All ordinances or parts of ordinances, in conflict herewith are hereby repealed, to the extent of such conflicts.

SECTION 8. This Ordinance shall become effective immediately upon final passage as allowed by law.

PUBLISHED this ____ day of _____, 2018 in the Tampa Bay Times newspaper.

ADOPTED ON FIRST READING on the _____ day of _____ 2018, by the City Commission of the City of Indian Rocks Beach, Florida.

PUBLISHED this __ day of _____ 2018 in the Tampa Bay Times newspaper.

ADOPTED ON SECOND AND FINAL READING on the ____ day of _____ 2019, by the City Commission of the City of Indian Rocks Beach, Florida.

Joanne Moston Kennedy, Mayor-Commissioner

ATTEST:

Deanne B. O'Reilly, MMC, City Clerk

Approved as to form:

Randy D. Mora, City Attorney

HISTORY:
11-15-2018-LPA

AGENDA ITEM NO. 5

ORDINANCE NO. 2019-02

**AMENDMENTS TO THE
TREE CODE
SECTIONS 106-44 AND 106-45**

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2019-02**

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, AMENDING § 106-44 AND § 106-45 OF THE LAND DEVELOPMENT CODE CONCERNING REMOVAL OF DEAD OR DISEASED TREES; PROVIDING FOR ENFORCEMENT; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, in 1989, the City of Indian Rocks Beach (the City) adopted a Tree Code; and

WHEREAS, the City, by way of Ord. No. 97-16 and Ord. No. 2014-31, amended several portions of the Tree Code; and

WHEREAS, the State of Florida maintains an official list of "noxious plants" which are prohibited to be sold or planted within the State; and

WHEREAS, since the City last amended the Tree Code, the State of Florida has revised its official list of noxious plants; and

WHEREAS, the current Tree Code provides for a requirement that owners of dead or diseased trees remove them; and

WHEREAS, the current Tree Code is not clearly written as to the enforcement methodology the City may use with respect to enforcing its provisions; and

WHEREAS, the City Commission desires to ensure its Tree Code recognizes the most current list of Florida noxious plants, and is clear as to the enforcement methodology to be used in the event of a violation of the Code; and

WHEREAS, the City Commission finds that this Ordinance is in the best interests of the City's residents and property owners and furthers the public interest in protecting life, safety and property values.

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Indian Rocks Beach, Florida, that:

Section 1 Section 106-44 of Article II (Tree Code) of Chapter 106 (Vegetation) of the Indian Rocks Beach Land Development Code is hereby amended as follows:

Sec. 106-44. Noxious trees prohibited; Removal of dead or diseased trees on private property.

(a) No person shall sell or plant any tree in the City which has been designated by the State of Florida Department of Agriculture in Rule 5B-57.007, Florida Administrative Code, as may be amended from time to time, including but not limited to the following common invasive trees:

- (1) Australian pine (Casuarina spp.)
- (2) Brazilian pepper (Schinus spp.)
- (3) Chinese tallow (Sapium sebiferum)
- (4) Melaleuca (Melaleuca quinquenervia)
- (5) Chinaberry (Melia azedarach)
- (6) Carrotwood (Cupaniopsis anacardioides)
- (7) Lead tree (Leucaena leucocephala)
- (8) Catclaw mimosa (Mimosa pigra)

(b) Any person who owns land upon which a city-approved arborist determines any tree thereon to be dead or diseased shall, within 60 days of receipt of written notice by the city of such determination, cause the tree to be removed. In the event a city-approved arborist determines further that a dead or diseased tree poses an immediate threat to life or property, or that the tree harbors insects or disease which constitute an immediate threat of infestation or infection of other healthy trees in the city, t
~~The city shall have the right to cause the immediate removal of such any dead or diseased trees if the owner fails to do so within the 60 day notice period on the private property within the city when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. The City will notify in writing the owner of the such tree. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. In the event the city must remove a dead or diseased tree at its expense, the actual documented costs of the removal shall be assessed against the owner of failure to owners to comply with such provisions , the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.~~ The city manager has the authority, where the owner is acting in good faith to comply with the requirements of this subsection and where good cause is shown, to extend the 60 day deadline set forth herein.

Section 2. Section 106-45 of Article II (Tree Code) of Chapter 106 (Vegetation) of the Indian Rocks Beach Land Development Code is hereby amended as follows:

Sec. 106-45. Exceptions; enforcement.

(a) If any tree shall be determined to be in hazardous or dangerous condition as determined by the city so as to endanger health or safety and require immediate removal without delay, verbal authorization for removal may be given by the city.

(b) During the period of emergencies such as hurricane, windstorm, flood, freeze or other disasters, the requirements of this article may be waived by the city. The waiver must be for a time certain and may not be for an indefinite period.

(c) ~~Specifically exempt from the terms and provisions of this article are the following species of trees:~~

- ~~(1) Australian pine (Casuarina spp.).~~
- ~~(2) Brazilian pepper (Schinus spp.).~~
- ~~(3) Chinese tallow (Sapium sebiferum).~~
- ~~(4) Melaleuca (Melaleuca quinquenervia).~~
- ~~(5) Chinaberry (Melia azedarach).~~

~~In addition to any other remedies set forth in this article as to enforcement, violations of any section of this article shall constitute an unlawful code violation punishable as provided for in § 1-14 of the city code, enforced as provided for in chapter 2, article IV, division 2 (code enforcement) of the city code.~~

Section 3. For purposes of codification of any existing section of the Indian Rocks Beach Code herein amended, words underlined represent additions to original text, words ~~stricken~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 4. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the City Commission would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 5. The Codifier shall codify the substantive amendments to the Indian Rocks Beach City Code contained in Sections 1 and 2 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 6. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon its adoption.

PUBLISHED this ____ day of _____ in the Tampa Bay Times.

ADOPTED ON FIRST READING on the ____ day of _____, by the City Commission of the City of Indian Rocks Beach, Florida.

PUBLISHED this ____ day of _____ in the Tampa Bay Times.

ADOPTED ON SECOND AND FINAL READING on the _____ day of _____, by the City Commission of the City of Indian Rocks Beach, Florida.

Joanne Moston Kennedy, Mayor-Commissioner

Attest: _____
Deanne B. O'Reilly, MMC, City Clerk

Approved as to form:

Randy D. Mora, City Attorney

HISTORY:
11/15/2018-LPA

AGENDA ITEM NO. 6

ADJOURNMENT