



August 21, 2017

Dear Membership,

At a Special Meeting of the Board of Governors held on Friday, August 18th, the Board voted unanimously to seek a judicial determination of its status as a special exception use in the RM-2 Zoning District of the Town of Juno Beach. The Beach Club is zoned within a Residential Multiple Family Moderate Density neighborhood. A special exception is a permission or approval granted a land owner to use land in a district for a purpose other than that generally permitted outright in that district (beach club in a residential neighborhood).

Our zoning status has become a significant issue over the past few years, and resolving it correctly is extremely important. Classification as a special exception use gives us the right to rebuild, subject to Town Codes and approval of the Town Council, in the event of a catastrophic loss or if the coastal construction line, as determined by the Army Corp of Engineers, is changed. Were the Beach Club to be classified as a non-conforming use, we would not be able to rebuild in these circumstances.

History of the Zoning Issue:

Special exception status was sought and obtained by our developer Haft-Gaines after contentious hearings before the Juno Beach Town Council in 1986 and 1987. Initially, it was approved. Haft-Gaines, in reliance on the approval, purchased the Beach Club property. Because the hearing had not been properly advertised, the petition was reheard and denied. Haft-Gaines sued the Town, seeking damages and an order reinstating the approval. The Court, in 1987, ordered the Town to reinstate the special exception approval. In the interim, however, while the litigation was pending, the Town adopted an ordinance prohibiting beach clubs. When the judicial order was entered, this ordinance was not mentioned. Subsequently, a special meeting of the Town Council was held to discuss whether the Town should appeal the judicial order. At that meeting, which was a public hearing of the Town Council, Haft-Gaines' attorney offered to dismiss Haft-Gaines', still pending claims for damages against the Town if the Town did not appeal. The Town's attorneys advised the Town to accept Haft-Gaines' offer, as it was their opinion that the Town would not prevail on appeal. The Town Council voted to accept Haft-Gaines' offer and not appeal. There was no discussion at that special meeting relative to the ordinance prohibiting beach clubs. The special exception status ordered by the court was accepted.

Thereafter, Haft-Gaines conveyed the land to the Frenchman's Creek Yacht, Beach and Country Club, Inc., n/k/a Frenchman's Creek, Inc. The Beach Club was built. Renovations were made in 1997 and again in 2002. These renovations were approved and permits were authorized by the Town. Some additional improvements to the laundry and storage room

areas at the garage level were made; improvements we believe were authorized verbally, but constructed without permits. These improvements became an issue a few years ago and we received a Notice of Violation by the Town relative to the laundry and storage room area. An unsuccessful effort to resolve the issue was made in 2015. It was met with significant local opposition and received a recommendation of denial from the Town of Juno Beach Planning & Zoning Board.

Current Situation:

Unjustified claims were made against the Beach Club relative to real estate taxes. In this regard, it is important to note the history of this issue. Initially, the Town received real estate taxes for the Beach Club property. The taxes were distributed to the Town by the County, which collects the taxes. In 2002, the Beach Club, along with the Country Club, was consolidated as a common element into the Frenchman's Creek Property Owners' Association. Because of an anomaly in Florida law that does not recognize the fact that a community association may own property in two different local government jurisdictions, the real estate taxes on the Beach Club began being distributed to the City of Palm Beach Gardens, instead of the Town of Juno Beach. This situation went unnoticed by the Town of Juno Beach for nine years. As a result of legislative action and various discussions with both municipalities and the County Property Appraiser the taxes for the Beach Club still go to the City of Palm Beach Gardens, but we pay the exact same amount to Juno Beach through a Services Agreement that is intended to ensure that the Town remains whole, for the services it provides to the Beach Club. However, a small but strong vocal faction of Town residents continues to insist that we are refusing to pay our fair share of taxes, which in their opinion should be exponentially higher. This group has been spreading malicious rumors to residents of the Town to incite the residents into action in opposition to the Beach Club in general. As a result, they have filled the Town Hall Chambers in opposition to petitions we have filed to resolve all pending issues.

Efforts to meet with the leaders of this resident group initially looked promising. However, as we have proceeded into public hearings with the support of the Town Staff, they have filled the Chambers in an effort to intimidate the Town Planning & Zoning Board and the Town Council. At issue are (1) our efforts to have the Town formally recognize our special exception status with an amendment to their zoning code that assures the Town that we are the only beach club permitted in the Town and (2) the permitted habitable square footage of our facility. The original Beach Club was limited to 4200 square feet of habitable space. Approvals granted by the Town in 1997 and 2002 allowed that number to increase over 50% in that we were permitted to enclose and air condition outdoor seating areas without expanding the building footprint. "Habitable" space is defined by the Town as "air conditioned" space. Because the laundry room is air conditioned, it is also considered habitable space.

The residents are adamant in insisting that the Town determine the Beach Club to be a non-conforming use and require us to reduce our habitable square footage to the original 4200 sq. ft. If this residents group gets their way, the net result will be (1) a significant reduction in our air conditioned square footage, (2) the elimination of air conditioning in the laundry room area, reducing that area to sweat shop status and requiring more daily deliveries, and (3) the limitation of our ability to rebuild in the event of fire or other natural disaster such as a hurricane, tornado or sea level rise.

Judicial Determination:

We have been hopeful that cooler minds could prevail, but that does not appear possible. Notwithstanding the fact that the Town Planning & Zoning Commission stood up to this angry mob and recommended approval of our petitions, we are not comfortable that the Town Council will. Our lawyers have recommended that rather than risk a denial by the Town Council or an effort to impose a more restrictive determination of non-conforming status on us, we seek a judicial determination from the Palm Beach County Circuit Court that the order entered in 1987 still is valid. After listening to a detailed review of the entire matter by our lawyers and our consultant, your Board of Governors voted unanimously to seek this course of action.

Town Meeting:

On Thursday, August 24th at 4:00 PM in the Main Dining Room, a Town Meeting will be held to answer residents' questions. Our attorney will be present to address the legal issues involved. The Town Meeting will also be video taped for viewing on the community's website as well as a copy of the legal complaint filed against the Town of Juno Beach. If you are not able to attend the Town Meeting, please submit your questions by replying to this mass email notice.

Sincerely,

FRENCHMAN'S CREEK, INC.



William Gersten
President