



TOWN OF HIGHLAND BEACH

AGENDA MEMORANDUM

MEETING TYPE: Town Commission Meeting

MEETING DATE August 1, 2023

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: Amendment Number Six (6) to the Florida Department of Transportation's Landscape Inclusive Memorandum of Agreement for the property located 3805 South Ocean Boulevard

SUMMARY:

On July 20, 2017, the Florida Department of Transportation (FDOT) and the Town of Highland Beach entered into a Landscape Inclusive Maintenance Memorandum of Agreement ("Agreement") for the purpose of maintaining landscape improvements on State Road A1A (South Ocean Boulevard). Since the execution of this Agreement, there have been five (5) amendments to the Agreement as follows:

AMENDMENT NUMBER	LOCATION	FDOT PERMIT NO.	DATE OF EXECUTED AMENDMENT
1	3615 S. Ocean Blvd.	2019-L-496-00005	February 5, 2020
2	Several (crosswalks)	2020-L-496-00002	February 19, 2020
3	2352 S. Ocean Blvd.	2020-L-496-00005	December 21, 2020
4	2500 S. Ocean Blvd.	2021-L-496-00004	January 21, 2022
5	4005 S. Ocean Blvd.	2022-L-496-00008	September 13, 2022

Landscaping improvements are proposed to be installed in FDOT's Right-of-Way (ROW) along State Road A1A at 3805 South Ocean Boulevard and therefore an amendment (No. 6) to the Agreement is required. While this amendment to the Agreement indicates that the Town will maintain the additional landscape improvements, Section 28-10(a) of the Town Code of Ordinances, requires the property owner to be responsible for the maintenance of all landscaping on adjacent public rights-of way as follows:

Sec. 28-10. - Maintenance standards for cultivated landscape areas.

(a) General: The owner, and/or lessee of land subject to this chapter shall be responsible for the maintenance of all landscaping located on their property and on adjacent public rights-of-way, which shall be maintained in good condition so as to present a healthy, neat and orderly landscape area which shall include, but not be limited to, weeding, mulching, fertilizing, pruning, mowing, and edging as generally set forth in this section.

At the July 13, 2023 Planning Board ("Board") meeting, the Board granted site plan approval for a new three-story, 9,397 square foot single family residence with pool/spa, and a dune walkover for the property (Development Order No. 22-0012). This site plan approval included a landscape plan for the property and the adjacent FDOT ROW. The ROW landscaping approved by the Board is consistent with the ROW landscaping plan approved by FDOT via permit number 2023-L-496-00004 (Note that FDOT conditionally approved the ROW landscaping subject to approval by the Town Commission). It is worth noting that the Applicant is proposing to remove a black olive tree located along FDOT's ROW (see sheet LP-2 of the amended Agreement) which is considered a specimen tree according to Section 20-135(b) of the Town Code. While Section 20-135(d) of the Town code requires Town Commission approval for the removal of a specimen tree, hazardous trees are exempt from such approval according to Section 20-124(f) as follows:

(f)Hazardous trees exempt. In the event that any tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and requires immediate removal without delay, written authorization may be given by the building department and the trees removed without obtaining a permit as herein required.

FDOT has designated this black olive tree as hazardous (see attached correspondence from FDOT). Additional trees are proposed to be removed in FDOT's ROW, which are not considered specimen or historic trees. Aside from specimen or historic trees, Section 20-124(a) of the Town Code exempts single-family homes from the tree removal regulations of Chapter 20, Article IV (Resource Protection Standards).

FISCAL IMPACT:

N/A

ATTACHMENTS:

Aerials

Resolution

Amendment Number six (6) to FDOT Landscape Inclusive Memorandum of Agreement.

Correspondence from FDOT regarding hazardous tree in ROW - dated April 24, 2023.

FDOT Inclusive Landscape Maintenance Memorandum of Agreement – July 20, 2017.

RECOMMENDATION:

At the discretion of the Town Commission