



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

WEDNESDAY, OCTOBER 10, 2012

9:30 AM

For information regarding procedures for monitoring or participating in Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
David A. Rosow, President
Robert N. Wildrick, President Pro Tem
William J. Diamond
Richard M. Kleid
Michael J. Pucillo

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

Post Office Box 2029 * 360 South County Road * Palm Beach, Florida 33480
Telephone (561) 838-5410 * Facsimile (561) 838-5411 * townmanager@townofpalmbeach.com

VI. APPROVAL OF AGENDA

VII. DEVELOPMENT REVIEWS

A. Appeals

- | | | |
|----|---|--------|
| 1. | Appeal of ARCOM Decision, 229 Ridgeview Road Per letter dated August 20, 2012, from Paul Rampell. | Page 7 |
|----|---|--------|

B. Time Extensions & Waivers

- | | | |
|----|---|---------|
| 1. | Request for Waiver of Section 42-199, Hours of Construction Work, at 125 Worth Avenue Per Letter Dated September 21, 2012, from Maura A. Ziska. | Page 42 |
| 2. | Request for Waiver of Section 42-199, Hours of Construction Work, at 150 Worth Avenue Per Letter Dated September 7, 2012, from The Goodman Company. | Page 51 |
| 3. | Request for Waiver of Section 42-199, Hours of Construction Work, at 256 Worth Avenue Per Letter Dated October 3, 2012, from Maura A. Ziska. | Page 62 |
| 4. | Request for Waiver of Section 42-199, Hours of Construction Work, at 353 Worth Avenue Per Letter Dated September 21, 2012, from Maura A. Ziska. | Page 71 |

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- | | | |
|----|--|---------|
| a. | <u>MODIFIED SPECIAL EXCEPTION #8-2012 WITH SITE PLAN REVIEW AND VARIANCE</u> The application of Temple Emanu-El of Palm Beach, Inc.; relative to property commonly known as 190 No. County Road; 224, 226, 234 Seminole Avenue; described as Lengthy legal description on file; located in the C-TS/R-C Zoning District. The applicant (Temple Emanu-El of Palm Beach) recently obtained ownership of 23,200 square feet of garden/vacant land adjacent to the west of the existing synagogue. The Temple is requesting approval to use the adjacent vacant property as an accessory use to the Temple for religious services and other Temple related activities such as blessing of the animals, sukkot and any other uses that are incidental to a house of worship. The proposed garden activity area will have a fence along the rear/south | Page 80 |
|----|--|---------|

side of the property, an 800 square foot pergola, a pathway around the perimeter of the garden, and a few benches. A house of worship is a special exception use in the R-C Zoning District and expanding the use of the Temple into the garden area requires special exception approval with site plan review. A Special Exception is also requested to allow 308 additional permanent seats to the Temple Sanctuary. The total number of permanent seats existing today is 553. A special exception request is required for expanding the seating in the sanctuary from 245 seats to 553 seats. A variance is requested to provide zero (0) additional on site parking spaces in lieu of the additional 77 parking spaces that would have been required for the 308 additional seats that were installed.

[Attorney: Maura A. Ziska]

Deferred from the July 15, 2012, and August 15, 2012, Town Council Meetings.

(1) Declaration of Use Agreement.

[John Page, Director of Planning, Zoning, and Building]

TIME CERTAIN: 2:15 PM

b. **SPECIAL EXCEPTION #20-2012 WITH VARIANCE**

The application of Harvey E. Oyer, III, Attorney for Del Friscos Restaurant Group; relative to property commonly known as **340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306 & 308**; described as Lengthy legal description on file; located in the C-PC Zoning District. The applicant requests a Special Exception for a 260 seat, 8,399 square foot restaurant use in the C-PC district to be located in combined tenant spaces on the northeast side of the Royal Poinciana Plaza, as permitted by Section 134-1259 (a)(5). The proposal also includes the elimination of 2,589 square feet of existing second floor office space, the addition of a bar, a wine room, and two private dining rooms. The proposed hours of operation are: lunch and dinner (from 11am to 11pm) Monday through Wednesday, lunch and dinner (from 11am to midnight) Thursday through Saturday, and dinner only (5pm to 11pm) on Sunday. A special exception is requested for changes in use for more than 2,000 square feet in C-PC district, permitted by Section 134-1261, for a Town-Serving restaurant. A variance is also requested to eliminate the requirement to provide 72 off-street parking spaces to accommodate the 260 seat restaurant.

Page 128

[Attorney: Harvey E. Oyer, III]
Deferred from the August 15, 2012, Town Council Meeting.
TIME CERTAIN: NO EARLIER THAN 3:00 PM

- c. **VARIANCE # 26-2012** The application of 2310 Investors LLC; relative to property commonly known as **2310 South Ocean Blvd.**; described as lengthy legal description on file; located in the R-C Zoning District. The applicant is proposing a dock which a portion runs adjacent to the seawall the length of the property and is 8 feet deep. The other portion of the proposed dock would be 48 feet long with a platform and boat lift. The variances being requested are as follows: to allow a zero (0) north riparian side yard setback in lieu of the 25 foot minimum required; to allow a zero (0) south riparian side yard setback in lieu of the 25 foot minimum required; to allow the length of the dock to be 48 feet deep and west of the US Pierhead line and the Town's Bulkhead line in lieu of the 6 foot maximum allowed for a marginal dock. [Attorney: Maura A. Ziska]
Deferred from the August 15, 2012, Town Council Meeting.

2. New Business

- a. **VARIANCE #29-2012** The application of CSC Brazilian LP.; relative to property commonly known as **301 Australian Avenue**; described as lengthy legal description on file; located in the R-C Zoning District. The applicant is requesting a variance to keep 1050 square feet of artificial turf in the center of the north courtyard, which results in a landscaped open space of 23.3% in lieu of the 24.5% existing and the 35% minimum required in the R-C Zoning District. [Attorney: Maura A. Ziska]
[Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will cause negative architectural impact to the subject property. Carried 6-1]
- b. **SITE PLAN REVIEW #10-2012 WITH VARIANCE**
The application of NDL Palm Beach Property LLC; relative to property commonly known as **191 Bradley Place**; described as Lot 19, Block 4, OCEAN PARK H.W. ROBBINS ADDITION TO PALM BEACH, FLORIDA, according to the plat thereof, as recorded in Plat Book 6, Page 78, Public Records of Palm Beach County, Florida; located in the C-TS Zoning District. The applicant requests a site plan review and variance to raise the building height

in the restaurant north dining room from 12.1 feet to 14 feet and the overall height of the building from 12.1 feet to 19.83 feet by replacing the flat roof with a pitched roof. A variance is requested to raise the height and overall height of the building with an existing 1.5 foot rear setback in lieu of the 10 foot minimum required.

[Attorney: Maura A. Ziska]

[ARCOM Recommendation: Implementation of the variance will not cause negative architectural impact to the subject property. Carried 6-1.]

D. Other

- | | | |
|----|---|----------|
| 1. | Review of the Proposed Declaration of Use Agreement for the Palm House, 160 Royal Palm Way, Site Plan Review No. 6-2012 with Special Exceptions and Variance. | Page 237 |
| 2. | Request for Reconsideration of Town Council Decision, 95 North County Road (per letter dated July 25, 2012, from Hunter Johnson, Woolems, Inc.).
<i>Deferred from the August 15, 2012, Town Council Meeting.</i> | Page 248 |

VIII. ANY OTHER MATTERS

IX. ADJOURNMENT

PLEASE TAKE NOTE:

- No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and selecting "Your Government" and then selecting "Audio (Live and Archived)." If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she 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.
- Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS: Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

COMMUNICATIONS FROM CITIZENS: Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation.

OTHER AGENDA ITEMS: Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

Town Council Meetings are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Appeals

Agenda Title

Appeal of ARCOM Decision, 229 Ridgeview Drive Per Letter Dated August 20, 2012, from Paul Rampell.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated September 26, 2012 from John Page
- 229 Ridgeview Site Plan
- ARCOM Minutes Excerpts July 25 and August 22, 2012
- Letter dated August 20, 2012 from Paul Rampell
- ARCOM Transcription Dated July 25, 2012

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 10, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Planning, Zoning & Building Director

Re: ARCOM Appeal from Mr. and Mrs. Paul Rampell:
229 Ridgeview Drive / Generator Placement

Date: September 26, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council consider and rule upon the appeal of Paul and Rita Rampell (237 Ridgeview Drive), objecting to ARCOM's decision of August 22, 2012, approving placement of a side yard generator at a site being newly redeveloped at 229 Ridgeview Drive.

GENERAL INFORMATION

Property owners Dr. Maurice and Deborah Belkin own a vacant property at 229 Ridgeview Drive. Architect Roger Janssen appeared for the owners at both the July and August ARCOM meetings. Although the appeal on hand is specific to the generator only, the entire project consisted of a new two-story residence with pool, landscape, hardscape and site lighting. The lot is fairly standard in size (100' frontage x 115' in depth). The application was heard at ARCOM in both July and August. Mr. Rampell attended both meetings, and voiced his objection to placement of the generator on the west side of the newly proposed home. Mr. Rampell's property immediately abuts to the west.

ARCOM approved architectural plans in July, but deferred the issue of landscaping/generator location (emphasizing protection of the adjacent property) to August. Persons testifying in August included Roger Janssen (architect for the owners), Chuck Yannette (landscape architect for the owners), Paul Rampell (neighbor), David Thomas (neighbor), and Vincent Castillo (electrical contractor for Mr. Rampell).

Minutes from the August 22nd ARCOM meeting read as follows:

“Mr. Janssen presented revised plans to address comments made at the last meeting relative to the generator and landscaping. Mr. Janssen presented several location options for the generator, and Mr. Yannette presented additional landscape screening between the two properties. Paul Rampell, 237 Ridgeview Drive, objected to the proposed placement of the generator in any of the proposed locations. The Rampells request that the

generator be placed in the rear northwest corner of the subject property, a location which is not acceptable to the applicant. Neighbors, David and Connie Thomas, supported the generator placement requested by the Rampells. Vincent Castillo testified to the feasibility and cost of moving the generator to the rear of the property. It was noted that the proposed generator is a 30 kw* generator encased in a soundproof enclosure. After lengthy discussion, the commission asked Mr. Rampell for his preference, i.e., the generator in the southwest corner (front) of the property or at the northwest corner of the building, at the blank wall at the family room. Mr. Rampell left the placement to the discretion of the commission.

Motion by Mr. Zukov to move the generator further to the south as close to the garden wall as you can practically make it. Motion seconded by Mrs. Vanneck. It was noted that the landscaping is to be 15 feet tall on the property line (west). Motion carried unanimously.”

*Although the minutes refer to a 30 kw generator, the approved plans authorize a 48 kw generator.

SPECIAL CONSIDERATIONS

As approved by ARCOM, the generator:

- Is to measure 48 kw in size and encased in a soundproof enclosure.
- Is situated behind a 6’ garden wall on the west side of the new home. The 6’ high garden wall was extended in length 8.67 linear feet in a northerly direction (a change from the July to the August meetings), further protecting the adjacent westerly home from noise.
- Is situated approximately 9’ from the west property line.
- Is to be separated from the adjacent (Rampell) property by a 15’ high hedge in addition to the 6’ high wall.

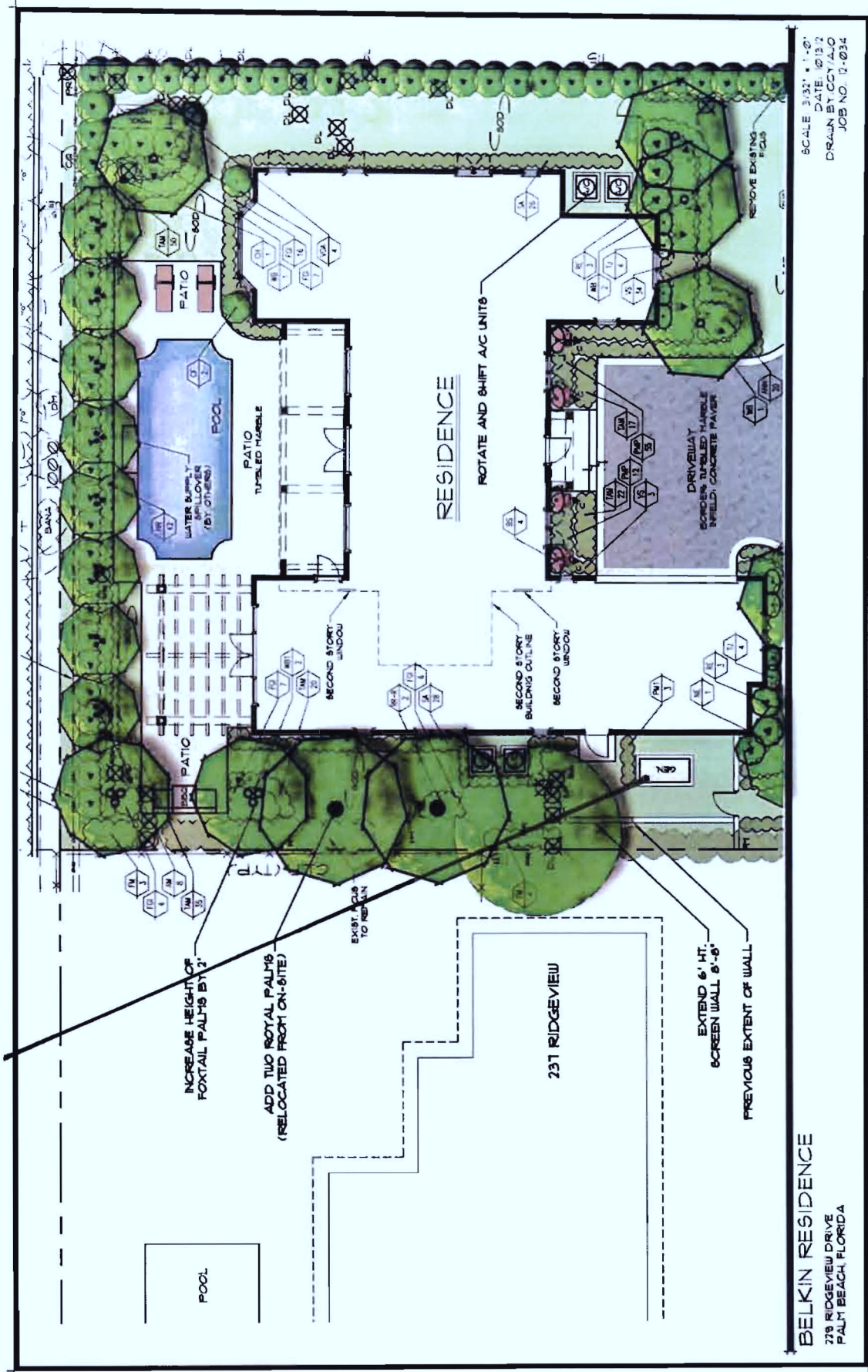
Mr. Rampell submitted the following materials to the Planning, Zoning and Building Department in conjunction with his appeal:

- Letter of August 20, 2012 outlining objections (attached).
- Various photographs of the street showing vegetation and home locations (attached).
- Map illustrating location of a generator situated at “nearby 226 Ridgeview” (attached).
- Electrical opinion from Castillo Electric regarding the expense of relocating the generator to the northwest and northeast corners of the site (attached).
- Excerpts from the Palm Beach Code of Ordinances relative to architectural review and generators (attached).
- Voice-to-text transcription excerpt of audio recorded ARCOM meeting on July 25, 2012 (attached). It should be noted that significant, subsequent discussion about the generator occurred at the ARCOM meeting of August 22, 2012; no transcription from that meeting was submitted.

Attachments

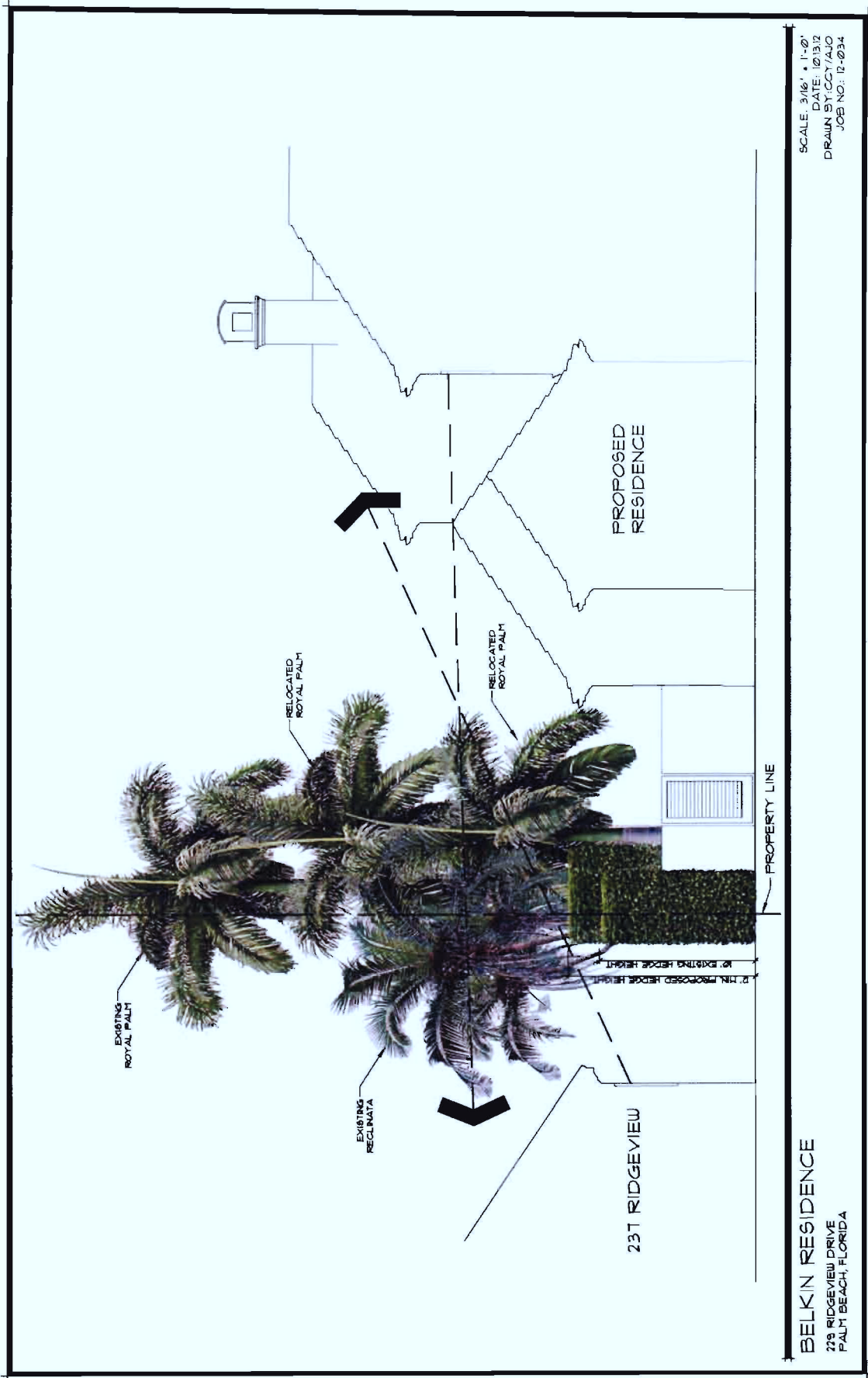
cc: ARCOM Commissioners
Roger Janssen
Paul and Rita Rampell

GENERATOR



229 RIDGEVIEW DRIVE

WEST BUFFER PLAN



229 RIDGEVIEW DRIVE WEST BUFFER SECTION

July 25, 2012
ARCOM Minutes

B - 058 - 2012 New Residence

Address: 229 Ridgeview Drive

Applicant: Dr. and Mrs. Maurice & Deborah Belkin

Architect: Dailey Janssen Architects, Roger Janssen

Project Description: Proposed CBS construction of new two-story residence with 3,992 air-conditioned square feet with pool, landscape, hardscape and site lighting. Roof: Dark grey flat cement tile roof; Building Color: Off White; Trim Color: White

Call for disclosure of ex parte communication: Disclosure by Mr. Sammons

ARCHITECTURAL PRESENTATION BY: Roger Janssen, Dailey Janssen Architects
LANDSCAPE PRESENTATION BY: Chuck Yanette, Parker-Yanette Design Group

OTHERS WHO TESTIFIED: Paul Rampell, next door neighbor

Mr. Janssen provided the presentation for this two-story home with one-story library and garage wings and a side loaded garage according to the submitted plans and as described above. Mr. Yanette proceeded with the landscape/hardscape portion of the presentation. The landscape design is intended to be simple and clean. Driveway pavers will be done in grey concrete pavers with a tumbled marble border.

Under commission comments, there was some concern regarding eave, sill, and lintel details, the mitered stone, the segmented limestone, lack of mullions in fenestration, front facade proportions and rear balustrade appears heavy. The landscape architect was asked to keep another Royal Palm on site, other than as shown on the plans.

Paul Rampell, 237 Ridgeview Drive, outlined his concerns regarding privacy, loss of light, and the proposed generator. He requested that ARCOM require a 6 ft. retaining wall at the boundary line, a 15 ft. hedge, and the elimination of second story windows or the requirement of opaque glass to protect their privacy.

**MOTION BY MR. KARAKUL TO ACCEPT AS PRESENTED.
NO SECOND.**

It was noted that the mini-sets did not match the presentation.

**MOTION BY MR. HOMES FOR APPROVAL OF THE HOUSE SUBJECT TO CHANGES
TO THE LIMESTONE , ALONG WITH A DEFERRAL OF THE LANDSCAPE TO THE
AUGUST MEETING, EMPHASIZING PROTECTION OF THE ADJACENT PROPERTY.
MOTION SECONDED BY MR. KARAKUL.
MOTION CARRIED 6-1, WITH MR. SAMMONS OPPOSED.**

Mr. Vila announced that there would be a lunch break until 2:00 p.m., but prior to the lunch recess, Mr. Sammons recused himself as he is the architect for the project, B-059-2012, 670 Island Drive. Mr. Ives will vote in his stead.

B - 059 - 2012 Demolition and New Residence

Address: 670 Island Drive

Applicant: Mr. and Mrs. Paul Shiverick

Architect: Richard F. Sammons, Fairfax and Sammons Architects

Project Description: Demolition of existing residence and construction of a new two-story house, proposed landscape and hardscape designs. Roof: Green clay barrel tile; Building color: Cream; Trim: Stone; Shutters: Messel Green

*Please note that this project represents a Voting Conflict for Mr. Sammons
Let the record show that Messrs. Gruss and Ives were voting members for this project.*

Call for disclosure of ex parte communication: Disclosures by several members

August 22, 2012
ARCOM Minutes

B - 058 -2012 New Residence

Address: 229 Ridgeview Drive

Applicant: Dr. and Mrs. Maurice & Deborah Belkin

Architect: Dailey Janssen Architects, Roger Janssen

Project Description: Proposed CBS construction of new two-story residence with 3,992 air-conditioned square feet with pool, landscape, hardscape and site lighting. Roof: Dark grey flat cement tile roof; Building Color: Off White; Trim Color: White

At the July meeting, there was a motion for approval of the house subject to changes to the limestone, along with a deferral of the landscape to the August meeting, emphasizing protection of the adjacent property.

Call for disclosure of ex parte communication: Disclosures by several members

ARCHITECTURAL PRESENTATION BY: Roger Janssen, Dailey Janssen Architects

LANDSCAPE PRESENTATION BY: Chuck Yannette, Parker-Yannette Design Group

OTHERS WHO TESTIFIED: Paul Rampell, Neighbor, David Thomas, Neighbor, Vincent Castillo, Electrical Contractor

Mr. Janssen presented revised plans to address comments made at the last meeting relative to the generator and landscaping. Mr. Janssen presented several location options for the generator, and Mr. Yannette presented additional landscape screening between the two properties. Paul Rampell, 237 Ridgeview Drive, objected to the proposed placement of the generator in any of the proposed locations. The Rampells request that the generator be placed in the rear northwest corner of the subject property, a location which is not acceptable to the applicant. Neighbors, David and Connie Thomas, supported the generator placement requested by the Rampells. Vincent Castillo testified to the feasibility and cost of moving the generator to the rear of the property. It was noted that the proposed generator is a 30kw generator encased in a soundproof enclosure. After lengthy discussion, the commission asked Mr. Rampell for his preference, i.e., the generator in the southwest corner (front) of the property or at the northwest corner of the building, at the blank wall at the family room. Mr. Rampell left the placement to the discretion of the commission.

MOTION BY MR. ZUKOV TO MOVE THE GENERATOR FURTHER TO THE SOUTH AS CLOSE TO THE GARDEN WALL AS YOU CAN PRACTICALLY MAKE IT.

MOTION SECONDED BY MRS. VANNECK.

IT WAS NOTED THAT THE LANDSCAPING IS TO BE 15 FEET TALL ON THE PROPERTY LINE (WEST).

MOTION CARRIED UNANIMOUSLY.

PAUL RAMPPELL

Attorney

400 Royal Palm Way, Suite 410
Palm Beach, FL 33480
phone (561) 833-1116
fax (561) 659-0105

E-mail
paul@rampell-law.com

August 20, 2012

By Hand Delivery

Mr. John Page
Director of Planning, Zoning and Building
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Re: 229 Ridgeview Drive
B-058-2012 Landscape/Generator

Dear Mr. Page:

I write on behalf of my wife, Rita, my son, Palmer, and myself. We reside at 237 Ridgeview Drive, Palm Beach, in a ranch-style home which I purchased in 1982.

We hereby object to the landscape plan submitted by our neighbors, Maurice Belkin and Deborah Belkin, for their adjacent property at 229 Ridgeview Drive.

1. Vegetation.

The new mansion they are constructing is humongous and should be sight-screened like most residences in our neighborhood. Section 18-205 of the Town of Palm Beach's Code of Ordinances specifically states that new buildings should have "**Design elements that protect the privacy of neighboring property.**"

We specifically object to the proposed "10' or 12' Hedge Height" along their western border which separates their property from ours. Much vegetation separating residences in our neighborhood is taller, i.e., 15 feet, and this should serve as a community standard that is followed by everyone building tall new homes, including the Belkins. An aerial view of Ridgeview Drive (Attachment 1) shows a grid of vegetative barriers separating homes up and down the street and a sample of street views (Attachment 2) shows some hedges exceeding 25 feet.

We respectfully request that the Architectural Review Commission make, as a condition of the approval of Mr. and Mrs. Belkin's landscaping plan, the explicit requirement that a continuous 15 foot vegetative barrier be maintained along their western boundary. This sight screening will protect the privacy of both the Belkin and Rampell families. In ARCOM's hearing on December 19, 2008, a condition for a minimum 15 foot hedge was made part of the approval of landscaping at 245 Ridgeview Drive and this constitutes a clear precedent for setting a condition for approving the Belkin application.

2. Generator

Mr. and Mrs. Belkin choose to place a generator immediately outside our bedroom windows. Please see Attachment 3, a depiction of this offensive placement, over numerous alternatives.

The generator could be placed in the northwest or northeast corners of the Belkin property, an optimal move farthest away from the Belkin home and all other homes. Roger Janssen, their architect, located a generator in a rear corner for the neighboring residence just across the street at 226 Ridgeview Drive, proving that it can be done. Please see Attachment 4, Mr. Janssen's plans for this immediate neighbor.

Moving a generator away from a house does not cause any loss of efficiency, contrary to a misconception at the July hearing. According to Vincent Castillo, our expert, "efficiency and voltage remains the same at each location." Moreover, the placement of a generator in a rear corner involves small expense. Please see Attachment 5.

In a power outage, we will open our bedroom windows and Mr. and Mrs. Belkin will crank up their generator. In addition to the noise, they will cause an exhaust that is hazardous to our health. The Town's Code is clear at Section 134-1729 about this condition for the approval of any generator: **"the generator's exhaust is, as much as practically feasible, vented upwards or directed away from neighboring properties."** A move of the proposed generator to a rear corner is "as much as practically feasible" and should be a condition of ARCOM approval. ARCOM can and should use its authority to prevent this nuisance.

In an email dated August 16, 2012, Mr. Janssen contemplates the relocation of the generator to the east side yard, but observes that the eastern neighbor will object. He thereby admits that the generator can be moved, but also acknowledges that both side yards are objectionable.

Mr. John Page
August 20, 2012
Page Three

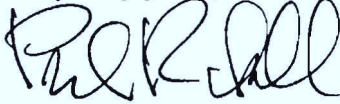
Thus, the far back yard is the optimal place. The rear 2.5 feet of the Belkin property already is an easement for utilities, more specifically, power. An electric box is presently located at the back. The proposed generator is for power, like a private utility. This generator belongs at the back.

3. Conclusion

Mr. and Mrs. Belkin may feel inconvenienced by these conditions, but it is nothing compared to the nuisance we will suffer for years from a towering house and a close-by generator. For the next year or more, during construction, we will live amidst hammering, jack-hammering, buzz-sawing, drilling, slamming, cursing, shouting, pile driving and pounding; tractors, machines, cement trucks, and delivery vehicles; dust, dirt, awful odors, and garbage at the Belkin property. We should not be further burdened with the indefinite nuisances that they readily can avoid at miniscule expense.

Thank you for your consideration of our viewpoint.

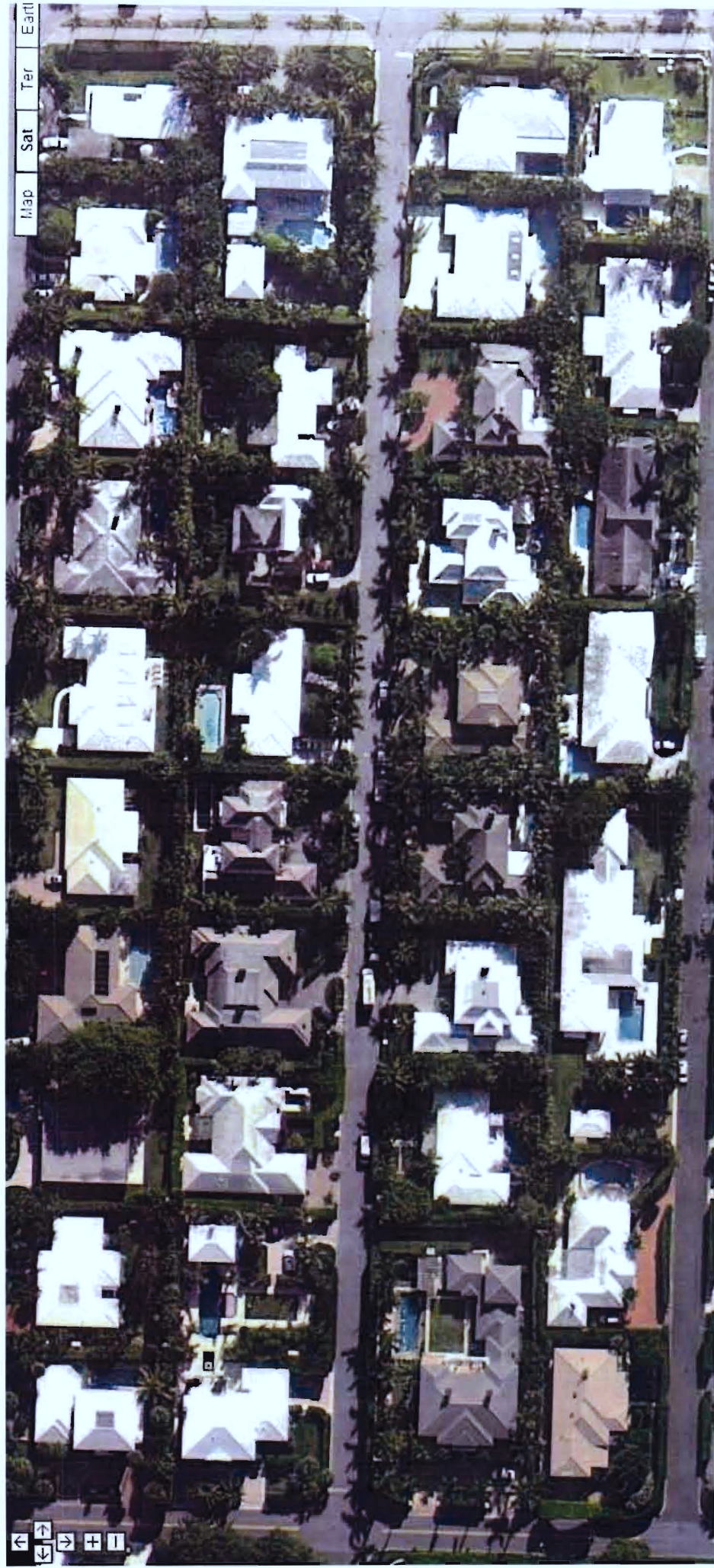
Very truly yours,

A handwritten signature in black ink, appearing to read 'Paul Rampell', with a stylized, cursive script.

Paul Rampell

Cc: Mr. Robert J. Vila
Mr. Nikita Zukov
Mr. Kenn Karakul
Ms. Ann L. Vanneck
Mr. Henry Holmes III
Mr. Richard Sammons
Mr. Peter I. C. Knowles II
Mr. Martin D. Gruss
Mr. Alexander C. Ives
Dr. Martin Phillips
Mr. John Lindgren
Mr. and Mrs. David J. Thomas III

Attachment 1



Ridgeview Vegetative Barriers Between Homes

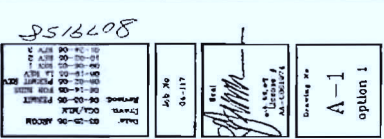


Attachment 2
Ridgeview Hedges: Very Tall and Dense
Ridgeview and 725 N. Lake Way

Attachment 3



Belkin Generator:
Worst Possible Placement



REVIEWED

Castillo Electric, LLC

Proposal submitted by: Vincent Castillo Date of submission: 08.08.12

142 Alcazar St
Royal Palm Beach, FL 33411
(561) 242 6077

Proposal submitted to: Stacy A. Linton

Job information: 229 Ridgeview Drive
Palm Beach, FL 33480

Scope of work:

Relocate generator from original position on site plan to location 1 at northwest corner of location 2 at northeast corner.

Location 1 approximately \$2,000.00
Location 2 approximately \$5,000.00

NOTE: Efficiency and voltage remains the same at each location. ARCOM must approve location.

Castillo Electric proposes to furnish the aforementioned material and/or labor in accordance with the above conditions for approximate sum of **Location 1: Two Thousand Dollars (\$2,000.00); Location 2: Five Thousand Dollars (\$5,000.00).**

Proposed price shall remain in effect for a period of two months from the date of acceptance. Any work required under this proposal after this date is not covered within the scope of this proposal.

Payment Schedule: 50% Deposit / 25% due upon rough / 25% due upon final.

Payments to be made as listed above. Payments not received by invoice due date shall be considered past due. Past due accounts will be charged an interest charge at the rate of 1.5% per month until the balance is paid in full. No release of lien shall be signed unless all payments are paid in full.

Castillo Electric Signed By: Vincent Castillo Date: 8/8/12

This is your authorization to complete the work as outlined above according to conditions on the front and reverse sides of this proposal.

Acceptance Signed By: _____ Date: _____
Print name:

When both parties sign this proposal, this instrument constitutes a legal and binding contract between the parties.

This proposal may be withdrawn if not accepted within fifteen (15) days from date of submission.

Attachment 5
Electrician Opinion:
Efficient and Inexpensive Rear Yard Location

ARTICLE III. ARCHITECTURAL REVIEW

Sec. 18-205. Criteria for building permit.

.....

e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.

f. Diversity of design that is complimentary with size and massing of adjacent properties.

g. Design features that will avoid the appearance of mass through improper proportions.

h. Design elements that protect the privacy of neighboring property.

CODE OF ORDINANCES
Town of
Palm Beach, Florida

Subdivision II. - Accessory Buildings and Other Structures

...

Sec. 134-1729. - Generators and swimming pool equipment.

...

e. The generator's exhaust is, as much as practically feasible, vented upwards or directed away from neighboring properties.

VOICE-TO-TEXT TRANSCRIPTION
EXCERPT OF AUDIO RECORDED ARCOM MEETING
RE: 229 Ridgeview Drive
July 25, 2012

(The following except pertaining to the
above residence was had:)

MR. CHAIRMAN: The next item on the agenda
is 229 Ridgeview Drive. I'm sorry, B-058, new
residence 229 Ridgeview Drive, applicant Dr. and
Mrs. Maurice and Deborah Belkin. Architect is
Dailey Janssen, architect Roger Janssen. Project
description: proposed new two-story residence with
3,992 air-conditioned square feet with pool,
landscape, hardscape and site lighting. The roof
is dark gray flat cement tiles. The building color
is off white. The trim color is white. Ex
parte communications?

MR. SAMMONS: Yes.

MR. JANSSEN: For the record, Roger Janssen
with Dailey Janssen Architects representing for Dr.
Belkin for a new residence on the adjacent property
at 229 Ridgeview. The survey is before you. That
red line is the adjacent. It is off of Ridgeview
on the south side. I'm going to just go ahead and
scroll through the neighborhood. I think you're
familiar with. There are one-story and two-story
older homes already on existing lots.

Site plans to the right has a two-story

1 center, one-story library and garage wings, a side
2 loaded garage. The main living space is on the
3 ground level. Second floor is comprised of
4 bedroom suites. At the entry, the materials are
5 off-white stucco, a slate gray flat cement tile
6 roof, single light with the center one-story
7 portions with a simulated nine foot heads, eight
8 foot heads on the second floor. Again, center
9 entrance doors are mahogany with satellites.

10 To the right is the library wing. To the
11 left is the garage wing. The rear elevation is
12 again two-story central living section, bedrooms on
13 the second floor, balcony, a (inaudible) off the
14 family room and a bay window off the master
15 bedroom. This is the left side and these are the
16 side elevations, two-story sections. Garage door
17 beyond is a six louvered panels to be painted
18 white.

19 The entry portocove is all limestone,
20 Indiana limestone for the modified door, open
21 railing with balcony doors above it. The windows
22 will have an inset limestone surround as a brick
23 mold and limestone sealant apron and a cool gray
24 color to be concord with the roof color. I'll let
25 Mr. Yanette speak to the landscape and take any

1 questions afterward.

2 MR. YANETTE: Good afternoon, Chuck Yanette
3 with Parker-Yanette Design Group. And I think
4 these are site photos. The first one shows the
5 entire site looking back from the road. It shows
6 the west property line. We have an existing large
7 royal palm remaining in place with a cluster of
8 other smaller palms and trees underneath it.
9 There's also a (inaudible) that's mixed in with
10 that. There's other material to be removed.

11 In the back in the back corner, you have
12 another royal palm and sable palm as well as some
13 small shrubs scattered across the back and other
14 small royal trees and melaleuca in the corner.
15 Those will be removed. And on the east side,
16 Eureka palms which also will be removed as well as
17 the existing hedge. And the ficus hedge on the
18 sides.

19 So basically what will remain is the royal
20 palm with (inaudible) mixed in with it and then the
21 ficus hedge on the left side. The landscape plan
22 is fairly simple. We're using foxtail palms to
23 accentuate the royal palms which is a state tree.
24 We picked up on that theme which is being developed
25 up and down Ridgeview. The (inaudible) is fairly

1 simple layers. We do have bougainvillea vines on
2 the wall here at the entrance to enhance the entry
3 area.

4 Then confederate jasmine in a criss-cross
5 pattern on the front wall throughout the front.
6 We are using (inaudible) as the buffer scrub
7 across the front and down the east side and also
8 across the back. Those will be installed at six
9 foot height, again, to provide a buffer. In the
10 rear, simple foxtail palms that are back there
11 flanking the barbecue area. Across the back is the
12 triple alamedas and another foxtail also in the
13 corner. All of this is a fairly simple theme. The
14 shrubbery below is fairly simply layered to
15 emphasize.

16 The hardscape, the driveway is going to be a
17 gray concrete paver with a tumbled marble border
18 and then the rear patio is also that. There is
19 also the elevations. These are the front
20 elevations at the house and then the view from out
21 at the street showing the royal palms.

22 MS. VANNECK: I have one comment on this.
23 (Inaudible).

24 MR. YANETTE: There are DOA six foot. Those
25 are the ones that are around the perimeter. And we

1 also have to suspend some, which is a foundation.

2 MS. VANNECK: Are the property owners
3 cognizant aware of the smell?

4 MR. YANETTE: We had it away from any
5 openings. So basically, they are at areas at the
6 back side. So it's not areas that are right by the
7 front door or right by a window that they expect to
8 have open. We have had that discussion, yes.

9 BOARD MEMBER: Mr. Janssen, maybe I'm not
10 reading correctly here, but on the rear end of the
11 out there, I guess the master bedroom and then the
12 family room, are there (inaudible)?

13 MR. JANSSEN: Let me check.

14 BOARD MEMBER: I think it's the trick of my
15 eye.

16 MR. JANSSEN: Yeah, they are eight inches in
17 difference, correct. The family room we had is
18 eight inches wider.

19 BOARD MEMBER: I mean, (inaudible).

20 MR. JANSSEN: Well, the (inaudible) is
21 slightly narrower (inaudible). So the gable here
22 and further down, this is right in between.

23 BOARD MEMBER: Just a couple of suggestions
24 starting with the eave and the same detail on the
25 two-story section and the one-story section, sills

1 and lintels are normally modelific. They're not
2 cut into joints. Obviously, the lintel can't join
3 and the sills let water below. They are usually
4 modelific. Stone is Traditionally never mitered at
5 the corners, obviously. And short of that, maybe
6 lowering the column size. I really don't
7 understand how this open roof works structurally.
8 It must have some kind of a bent frame inside of it?

9 MR. JANSSEN: Well, the goal was not to have
10 it too low. We're trying to get as much light in
11 here as possible so we have some shade. It could
12 be lower.

13 BOARD MEMBER: (Inaudible.)

14 MR. JANSSEN: Well, these are the rafters
15 and then the column sides. And then just beyond
16 where you're seeing is the gable end of the wall
17 where it engages. So according to dimensions, the
18 columns are slightly less than the corners of the
19 family room.

20 BOARD MEMBER: (Inaudible).

21 BOARD MEMBER: Excuse me. If I could add my
22 two bits. The business with having nice limestone
23 trimming everything out, but then segmenting it
24 like this is I think as you pointed out, it's
25 really -- it wouldn't happen like that. It would

1 be deep. And I don't know if these are like paste
2 on or if they're actual dimension pieces of
3 limestone.

4 But I also have a problem with the
5 fenestration. The placement, the windows to me
6 would look better if they were mullion. Maybe even
7 if they were three or four panes, horizontal
8 mullion lines. And I have a little trouble with
9 the propositions of this grand entrance, how it
10 relates to what's above it. It looks like very
11 simple doors with minor trim.

12 Otherwise, I think the house is pleasing.
13 And the neighboring houses are probably going to go
14 at some point, too. It seems like the nature of
15 the street is changing and you're getting more and
16 more of these two-story houses.

17 MR. CHAIRMAN: Mr. Rampell, you have
18 something?

19 MR. RAMPELL: Sure, whenever the public is
20 invited to speak.

21 MR. CHAIRMAN: Please do so.

22 MR. RAMPELL: Thank you. My name is Paul
23 Rampell. I am a Florida native. I was chairman of
24 the Town of Palm Beach Code Enforcement Board. And
25 I have lived next door at 237 Ridgeview Drive since

1 1982, so about 30 years. I speak on behalf of my
2 wife, Rita, who's here and our son who lives with
3 us part of the year. He's a POC candidate for Yale
4 and I mention that every chance I get.

5 We are fathomed by this project because we
6 live next door and (inaudible). While there are
7 many new homes on this street that are
8 two-stories, there are three relatively new homes
9 that are one-story. We accept that the
10 applicants have the right to build this large
11 two-story house. And while it's very aesthetic, we
12 foresee the obvious, it will totally block the
13 sunlight which pours into our bedrooms and has for
14 the past three decades.

15 We're not here to try to stop it. We do
16 seek your help with respect to two issues. The
17 first is privacy and the second is the generator
18 that is proposed as part of this plan. As you
19 know, one criteria for evaluating projects is
20 Section 18-205, which is displayed Section H,
21 design elements that protects the privacy of
22 neighboring properties. We ask you to help us
23 protect our privacy.

24 Our privacy can be protected relatively
25 easily by a six-foot retaining wall at the boundary

1 line, a 15-foot hedge, the elimination of
2 second-story windows or the requirements of opaque
3 glass. These conditions combined as conditions
4 have been passed by prior ARCOM commissions for
5 preserving the privacy of neighbors. In fact, we
6 were here before several years ago when ARCOM was
7 approving another house on the other side of us.
8 And I believe Commissioners Vila and Karakul were
9 on that commission when these types of conditions
10 were part of the approval of our western neighbors'
11 application.

12 The plans show a generator on the west side
13 which would be immediately outside our bedroom
14 windows. When these turn on, (inaudible). Our
15 pool equipment is located in the rear corner of our
16 property and this generator could be similarly
17 located in the rear corner. So I would
18 respectfully request that you require
19 specifications to the proposed location not given
20 in the plans. And there are no details about the
21 kilowatts and nothing about its enclosure whether
22 three walls enclosing it or something else to
23 comply with the noise ordinance. We are concerned
24 about the application of Section 134-17. Thank you
25 very much.

1 MR. CHAIRMAN: Thank you, Mr. Rampell. Are
2 there any other comments from the commissioners or
3 from any other citizens?

4 BOARD MEMBER: Where exactly is the proposed
5 generator?

6 MR. JANSSEN: It's adjacent to the garage on
7 the west side.

8 BOARD MEMBER: And is it being installed
9 in the code required enclosure?

10 MR. JANSSEN: According to code.

11 BOARD MEMBER: Is there another spot because
12 it does seem right under the window there?

13 MR. JANSSEN: I suppose, yeah, from operable
14 windows. It has to be away from opening windows.
15 There are operable windows in the family room that
16 would sort of preclude that location. That's
17 mainly why we put it here. It's the same on this
18 side, too, the operable window is part of the
19 requirements, the exhaust to the openings. I can
20 certainly look and see.

21 BOARD MEMBER: What about on the east side
22 if you move the air conditioning units?

23 BOARD MEMBER: Could you go all the way to
24 the corner of the property?

25 MR. JANSSEN: You have that neighbor over

1 there. (Inaudible). I can look and see what our
2 options are. It's just right now I don't know if I
3 could commit to that and meet all code
4 requirements. I can definitely look into it and
5 see if there's an option.

6 BOARD MEMBER: In terms of the privacy
7 issues that the abutter raises, you have an
8 existing ficus hedge that's to remain and that's on
9 the east side of the property. What height is
10 that?

11 MR. JANSSEN: I don't recall exactly, but
12 it's at least eight feet right now, I believe.
13 And on the west property line, the idea is to
14 remove the existing ficus hedge. It remains on the
15 west side except for a couple spots where there's
16 already gaps for where we anticipate from cleaning
17 out other material that there will be gaps. So in
18 those spots is eight foot ficus. And the intent is
19 to get that taller. We actually recently trimmed
20 it back kind of to fill back in, but I prefer to
21 have it similar height as our neighbors to the west
22 of us.

23 BOARD MEMBER: Have you done site studies in
24 terms of the visibility from the second-story
25 windows of the house into the abutter's backyard?

1 To follow up, have you looked into the side of the
2 slope of the roof there with the one straight roof
3 falls and the smaller higher one and the shower
4 window. Okay. I thought they had removed it.

5 MR. JANSSEN: We did, yes, so there's none
6 in there now. We actually have a retaining wall
7 that will be along the back edge of that easement
8 inside of the line.

9 BOARD MEMBER: I know you got revised plans
10 coming out of the easement and then (inaudible).
11 I know that was one of my comments to them and they
12 came back with revised plans and I reviewed them
13 the other day and they were out of the easement
14 (inaudible). Definitely out of the easement.

15 MR. JANSSEN: You can't see here on the
16 graphic. It's hard to see, but this is the dash
17 line. Just inside there is an easement line. So
18 we moved all of this so that it's out of the
19 easement. We slid it all in.

20 BOARD MEMBER: (Inaudible).

21 MR. JANSSEN: Actually, I think we found
22 homes for those. We left one in place. The other
23 one is right back on the power line. So no matter
24 what, we needed to move that. And we did want to
25 do floor mat very heavy, really nice and full

1 across. We are working on finding homes for the
2 other two that we have on site down the side there.
3 We could certainly slide one down on this side
4 assuming that we're not going to move generator
5 back over there or something, but we have the
6 space, correct. We could slide that right into
7 that area. That was part of the comments we got a
8 few days ago from staff so the generator did
9 shift. One of the reasons as well of the main
10 service generator location was the efficiency of
11 the generator proximity next to it, et cetera.
12 Again, we can look at moving it. It only runs once
13 a week for 15 to 20 minutes, so I don't see how it
14 causes a nuisance.

15 BOARD MEMBER: Well, only when there's a
16 power outage.

17 MS. VANNECK: Then on the back, I just find
18 it really, really happy on the second story.

19 MR. JANSSEN: The open metal railing is up
20 here above the columns.

21 MS. VANNECK: (Inaudible).

22 MR. JANSSEN: The tiers are on top of the
23 tiers below with the open metal railing between.

24 MR. KARAKUL: All right. I'll make a motion
25 to accept as presented. Are you going to be able

1 to correct the stone surround?

2 MR. JANSSEN: Again, the limestone, I'm
3 pretty sure that we can get it in full pieces.

4 MR. KARAKUL: I applaud you for doing the
5 front entrance in the limestone. I think that's
6 very handsome.

7 MR. RAMPPELL: May I make comments, please?
8 Sorry to interrupt you. One is that there was a
9 hedge that divided our properties, probably about
10 15 to 18 feet in which (inaudible). And also there
11 are -- there has been the placement of equipment at
12 the rear property if you look at the rear property
13 from other instances then furthest away from
14 everyone. I don't understand how the operating
15 windows play into this, but then moving the
16 generator close to our windows would be relevant
17 here as well. (Inaudible). You could move the A/C
18 units down and put the generator back up in that
19 corner behind the garage.

20 MR. JANSSEN: (Inaudible) open living space.

21 MR. RAMPPELL: Well, I'm saying can't you put
22 it up here by the garage and move those air
23 conditioning units back over here, you know, by the
24 laundry and you know, the pantry and move that
25 generator back, the one that's on the screen? I do

1 feel that the landscape should be improved on the
2 sides with trying to maintain those very high
3 hedges and rebuild those and as many palm trees and
4 other type variations so that the house
5 (inaudible).

6 MR. CHAIRMAN: I need a motion.

7 MR. HOMES: (Inaudible).

8 MR. KARAKUL: I second it.

9 MR. CHAIRMAN: Okay. We have a motion
10 that's been seconded. All in favor? Any opposed?

11 MR. SAMMONS: Opposed.

12 MR. CHAIRMAN: Okay. All right. So the
13 house is approved with that change and the
14 landscape is good. We're going to take a 30-minute
15 break for lunch.

16 MR. RAMPELL: Was there anything about the
17 generator?

18 THE SPEAKER: Well, that's why we're
19 deferring. We'll restudy and try to find a better
20 location for it.

21 MR. RAMPELL: Thank you.

22 THE SPEAKER: That's part of the landscape
23 hardscape coming back, correct?

24 THE SPEAKER: The landscape, hardscape is
25 coming back, yes.

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Time Extensions

Agenda Title

Request for Waiver of Section 42-199, Hours of Construction Work, at 125 Worth Avenue Per Letter Dated September 21, 2012, from Maura Ziska.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated September 28, 2012 from John Page
- Letter Dated September 21, 2012 from Maura Ziska
- Letter Dated September 28, 2012 from Maura Ziska

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 10, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Director, Planning, Zoning & Building Department

Re: Waiver of Town Code Section 42-199, work in the C-WA Zoning District
125 Worth Avenue

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council approves an extension of the hours for construction work until December 1, 2012, for 125 Worth Avenue, within the C-WA Zoning District. Construction work on Worth Avenue is restricted from November through April. Approval should be conditioned as follows:

- Work hours are from 8:00 am to 5:00 pm with quiet work only.
- No work allowed on Saturdays, Sundays or Town of Palm Beach legal holidays.
- Approval of the Worth Avenue Association.
- Provision of a construction schedule to the satisfaction of the Building Official.
- All windows shall be screened per Town Ordinance 22-58.
- All deliveries will be made between the hours of 8:00 AM and 10:00 AM.
- No construction related parking will be allowed on Worth Avenue.
- No workers shall congregate or loiter on Worth Avenue.
- Exterior work on Worth Avenue will take place only from 8:00 AM to 10:00 AM; a right of way permit is required for use of the sidewalk.
- Tenants must apply for a business tax receipt before any permit will be issued.
- Any verified complaints from neighbors may revoke extended work hours.
- Submission of an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 200 foot radius of the subject property have been notified of this request prior to 10 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.
- No work shall be allowed on November 27, 2012 due to the Worth Avenue Christmas Tree lighting event.

GENERAL INFORMATION

The space in question was formerly two retail spaces. The new retail tenant, wishes to complete renovations in order to be open for the season. Work consists of complete interior fitting of the space, including wall and ceiling framing, drywall installation, mechanical, electrical, plumbing, painting inside and outside, and installation of a new entry door at the Worth Avenue storefront. Permits for the work were issued on July 11, 2012.

Attachments

JP/jlt

cc: Jeff Taylor, Building Official
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Raychel Houston, Code Enforcement Unit

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA HAND DELIVERY:

September 21, 2012

Jeff Taylor
Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Re: **Ferretti Group of America, LLC/125 Worth Ave. Ste. 107 and 110/Requesting a Waiver of Section 42-199**

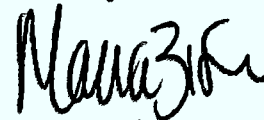
Dear Jeff:

Enclosed please find the following items for submittal regarding the above mentioned request:

1. Letter requesting the Waiver;
2. Consent letter from the Worth Avenue Merchant's Association (will be delivered by Tuesday, September 25, 2012);
3. Notarized Affidavit; and
4. Construction Hours

If you have any questions concerning the above, please call.

Sincerely,



Maura Ziska

MAZ/jch
Enclosures
Cc: John Page
00015691

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

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222 Lakeview Avenue, Suite 1500
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Telephone: (561) 802-8960

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September 21, 2012

Jeff Taylor, Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

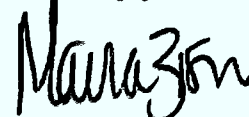
**RE: Waiver of Section 42-199/ Ferretti Group of America, LLC/125 Worth Ave.
Ste.107 and 110**

Dear Mr. Taylor:

I represent the Ferretti Group of America and on their behalf would like to appear before the October 10, 2012 Town Council meeting to request a waiver from Section 42-199 of the Town of Palm Beach Code to extend construction work on Worth Avenue from November 1, 2012 to December 1, 2012. All work will be interior and the work largely consists of interior framing, rough plumbing, mechanical, and electrical, drywall hanging and finishing, trim carpentry etc. The work during season will not include weekends or holidays and all workers and deliveries will access the site via Peruvian or Cocoanut Row. The workers will park at the Everglades Club.

Please call me if you have any questions with the foregoing. Thank you.

Sincerely yours,



Maura A. Ziska

MAZ/jch
00015693



WORTH AVENUE ASSOCIATION

P A L M B E A C H

September 25, 2012

OFFICERS:

Gregg Beletsky,
President

Sherry Frankel,*
Vice President

George Lydon,
2nd Vice President

Nancy Mizelle,
Treasurer

Marley Herring,
Secretary

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ADMINISTRATOR:

Robin Miller

* Past President

Maura Ziska

Kochman and Ziska, PLC

222 Lakeview Avenue

Suite 1500

West Palm Beach, FL 33401

**RE: The Ferretti Group Yachts
125 Worth Avenue**

Dear Maura:

On behalf of the Worth Avenue Association, Inc. Board of Directors, this letter will serve to notify the Town of Palm Beach that the Worth Avenue Association does not object to the build-out of the interior improvements at 125 Worth Avenue. We have been advised that no part of the construction will take place on the exterior of the space beyond November 1st, except for the installation of the signage for the tenant and installation of the entrance doors, which will be completed no later than November 10th.

It should be stipulated however, that construction personnel, construction vehicles and all subcontractors of the construction company will be strictly prohibited from parking on Worth Avenue at any time during the construction process in favor of customer parking. Our approval will be withdrawn without this stipulation and the Town must also agree to enforce this stipulation. Further, there can be absolutely no accommodation for construction whatsoever taking place on the day of the Christmas Tree lighting event, November 27, 2012.

Should you require any additional information, please contact us.

Yours truly,

WORTH AVENUE ASSOCIATION, INC.

By: 

Gregg Beletsky, President

C: Robert Klecinsky via email

P.O. Box 2126, Palm Beach, FL 33480
256 Worth Avenue, Suite 312, Palm Beach, FL 33480
www.worth-avenue.com • info@worth-avenue.com • 561-659-6909 • Fax 561-659-9898

NOTICE AFFIDAVIT

STATE OF FLORIDA
COUNTY OF PALM BEACH

**BEFORE ME THIS DAY PERSONALLY APPEARED Maura Ziska
WHO BEING DULY SWORN, DISPOSES AND SAYS THAT:**

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in the request for Waiver of Section 42-199.
2. All properties within two hundred (200) feet of the real property as described in the Request for Waiver of Section 42-199 have been notified using Property Appraiser labels.
3. A copy of the Notification Letter is attached.

Sworn to and subscribed before me this 21th day of September, 2012.

By Maura Ziska who is personally known to me or who has produced

 as identification and who did (did not) take an oath.

John Dale
(Signature of Notary)

Navaz Zor
(Applicant's Signature)

J. Hudak
(Printed Name of Notary)

Maura Ziska
(Printed Name of Applicant)



[illegible]

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel**

*Also admitted in New York

*Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

September 28, 2012

To Whom It May Concern:

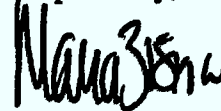
A waiver of Town Ordinance 42-199, is being requested by Ferretti Group of America, LLC located at 125 Worth Avenue, Palm Beach, Florida to extend the length of time for construction work on Worth Avenue. This waiver is requested from November 1, 2012 until December 1, 2012.

This matter will be presented to the Palm Beach Town Council at the regularly scheduled meeting on October 10, 2012. Any concerns regarding this matter should be expressed at this meeting.

This notice is required to be postmarked no later than 10 days prior to the regularly scheduled meeting.

Please contact me if you have any questions regarding the foregoing.

Respectfully,



Maura Ziska

MAZ/jch
00015694

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Time Extensions

Agenda Title

Request for Waiver of Section 42-199, Hours of Construction Work, at 150 Worth Avenue Per Letter Dated September 7, 2012, from The Goodman Company.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated September 28, 2012 from John Page
- Letter Dated September 7, 2012 from The Goodman Company
- Letter Dated September 13, 2012 from Lawrence A. Silvestri
- Letter Dated September 13, 2012 from Gregg Beletsky
- Letter Dated September 17, 2012 from Bob Saffran
- Letter Dated September 27, 2012 from Bob Saffran
- 150 Worth Avenue Site Plan

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 10, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Director, Planning, Zoning & Building

Re: Waiver of Town Code Section 42-199, work in the C-WA Zoning District
150 Worth Avenue, Suite 216

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council approves an extension of the hours for construction work for 150, Suite 216, Worth Avenue, within the C-WA Zoning District, until December 1, 2012, with the following conditions:

- Work hours are from 8:00 am to 5:00 pm with quiet work only.
- No work allowed on Saturdays, Sundays or Town of Palm Beach legal holidays.
- Approval of the Worth Avenue Association.
- Provision of a construction schedule to the satisfaction of the Building Official.
- All windows shall be screened per Town Ordinance 22-58.
- All deliveries will be made between the hours of 8:00 AM and 10:00 AM.
- No construction related parking will be allowed on Worth Avenue.
- No workers shall congregate or loiter on Worth Avenue.
- Exterior work on Worth Avenue will take place only from 8:00 AM to 10:00 AM; a right of way permit is required for use of the sidewalk.
- Tenants must apply for a business tax receipt before any permit will be issued.
- Any verified complaints from neighbors may revoke extended work hours.
- Submission of an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 200 foot radius of the subject property have been notified of this request prior to 10 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.
- No work shall be allowed on November 27, 2012 due to the Worth Avenue Christmas Tree lighting event.

GENERAL INFORMATION

The Town received a letter from Lawrence A. Silvestri, General Counsel for the Goodman Company, requesting an extension of working time until December 1, 2012. This retail space is located on the second floor of the Esplanade Building. The owner would like this extra time to complete renovations to the interior of the store. The Esplanade has an underground parking area and an off street entrance which allows all materials and workers to access the site and deliver materials to the site without using Worth Avenue.

Attachments

JP/jlt

cc: Jeff Taylor, Building Official
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Raychel Houston, Code Enforcement Unit

September 7, 2012

To whom it may concern:

A waiver of Town Ordinance 42-199, Hours of Construction, is being requested by The Goodman Company and their tenant, 120% Lino for the proposed work in Suite 216 on the second floor at 150 Worth Avenue. The applicants would like to be able to work until December 1, 2012. The work will consist of internal tenant improvements. Construction vehicles will be parked in, and deliveries will take place in the 150 Worth Avenue garage, not on the public streets. The following additional work hours are requested:

- All work will be done during the Town's regular construction hours for Worth Avenue of 8:00 am to 8:00 pm until December 1, 2012 with Saturday construction hours of 8:00 am to 6:00 pm.**
- No construction work will be done on Thanksgiving, the day after Thanksgiving, or on any other legal holiday recognized as such by the Town.**

These work hours will allow the applicants to complete the work in time for the 2012/2013 Season.

This matter will be presented to the Palm Beach Town Council at the regularly scheduled Development Review meeting on October 10, 2012. Any concerns regarding this matter should be expressed at this meeting.

This notice is required to be postmarked no later than 10 days prior to the regularly scheduled meeting.

Please feel free to call Bob Saffran at The Goodman Company at 804-4019 if you have any questions about this request.

THE GOODMAN COMPANY

Phillips Point, East Tower

777 South Flagler Drive • Suite 1101 • West Palm Beach, FL 33401 • (561) 833-3777 • Fax (561) 832-8466

September 13, 2012

RECEIVED

SEP 17 2012

TOWN OF PALM BEACH
PZB DEPT

VIA HAND DELIVERY

Mr. Jeff Taylor
Building Official
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Re: Construction Work within 150 Worth Avenue after November 1st
(Code Section 42-199)

Dear Mr. Taylor:

The purpose of this letter is to request permission by The Goodman Company for one of its tenants, 120% Lino to be allowed to perform construction work on the second floor at the location of the former Frances Brewster Store (Suite 216) after November 1 during the Season. A description of that work and timeframes are attached. The work will consist of internal tenant improvements. The Tenant, 120% Lino, will be adding and changing light fixtures and installing flooring, which is the only work requiring a permit which will take place after November 1.

As you know, it has been the Town's policy for at least the past 20 years to allow such work in 150 Worth Avenue (f/k/a The Esplanade) and in the 125 Worth Avenue Building because of the interior location of such work and the ability to have construction vehicles and deliveries occur within the parking garages of those buildings and not on the street. During that entire time we are not aware of any complaints which have arisen from such work.

The Goodman Company and 120% Lino propose the following conditions regarding such work in the Season:

- Construction vehicles will be parked in and operated from within the 150 Worth Avenue garage, not on the public streets.
- Construction deliveries will take place in the garage and not on the public streets.
- All work will be done during the Town's regular construction hours for Worth Avenue of 8:00 am to 8:00 pm until December 1, 2012 with Saturday construction hours of 8:00 am to 6:00 pm.

THE GOODMAN COMPANY

Phillips Point, East Tower

777 South Flagler Drive • Suite 1101 • West Palm Beach, FL 33401 • (561) 833-3777 • Fax (561) 832-8466

- No construction work will be done on Thanksgiving, the day after Thanksgiving, or on any other legal holiday recognized as such by the Town.

The Tenant, 120% Lino, will complete its work by December 1, 2012. The work cannot be completed sooner because the Tenant uses custom-fabricated furnishings and fixtures which will not be arriving until November 20, 2012. Approval of this request will allow 120% Lino to be open for the upcoming 2012/2013 season.

As required, we have attached a letter of support from the Worth Avenue Association.

Please place this item on the October 10, 2012 Town Council agenda for a decision. If the Town Council approves this request, the construction work will be completed by December 1, 2012.

Sincerely yours,



Lawrence A. Silvestri
General Counsel

cc: John Page, Planning, Building, & Zoning Director
Peter Elwell, Town Manager
Robert Saffran



OFFICERS:

Gregg Beletsky,
President

Sherry Frankel,*
Vice President

George Lydon,
2nd Vice President

Nancy Mizelle,
Treasurer

Marley Herring,
Secretary

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Nelly Rhoda

Stefan Richter*

Jeffrey Sabean

Bob Saffran

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Eliza Tizabgar

ADMINISTRATOR:

Robin Miller

* Past President

WORTH AVENUE ASSOCIATION

P A L M B E A C H

September 13, 2012

RECEIVED

SEP 17 2012

TOWN OF PALM BEACH
PZB DEPT

Goodman Company
Bob Saffran
777 Flagler Drive
West Palm Beach, FL 33401

RE: 120% Lino

Dear Bob:

On behalf of the Worth Avenue Association, Inc. Board of Directors, this letter will serve to notify the Town of Palm Beach that the Worth Avenue Association does not object to the build-out of the improvements being constructed by 120% Lino, located at 150 Worth Avenue, Suite 216. We have reviewed the plans submitted and determine that no part of the construction will take place on the exterior of the space, except possibly for signage.

It should be agreed however, that construction personnel parking and construction vendor parking will be strictly prohibited on Worth Avenue at any time during the construction process in favor of customer parking.

Should you require any additional information, please contact us.

Yours truly,

THE WORTH AVENUE ASSOCIATION, INC.

By: *Gregg Beletsky*
Gregg Beletsky, President

P.O. Box 2126, Palm Beach, FL 33480
256 Worth Avenue, Suite 312, Palm Beach, FL 33480
www.worth-avenue.com • info@worth-avenue.com • 561-659-6909 • Fax 561-659-9898

September 17, 2012

RECEIVED

SEP 17 2012

TOWN OF PALM BEACH
PZB DEPT

VIA HAND DELIVERY

Mr. Jeff Taylor
Building Official
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Re: Construction Schedule for 120% Lino- Space 216 at 150 Worth

Dear Jeff:

The construction schedule is listed below:

Finish carpentry millwork etc.	11/1/12 - 11/6/12
Final flooring	11/5/12 - 11/12/12
Final Painting and touch up	11/12/12 - 11/19/12
Final inspections	11/19/12 - 11/21/12
Tenant Merchandise	11/26/12 - 11/29/12
Tenant Opening	11/30/12

Sincerely yours,

THE GOODMAN COMPANY



Bob Saffran
Senior Vice President

THE GOODMAN COMPANY

Phillips Point, East Tower

777 South Flagler Drive • Suite 1101 • West Palm Beach, FL 33401 • (561) 833-3777 • Fax (561) 832-8466

RECEIVED

SEP 27 2012

TOWN OF PALM BEACH
PBZ DEPT

September 27, 2012

VIA HAND DELIVERY

Mr. Jeff Taylor
Building Official
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Re: Notarized Affidavit re Mailing of Construction Hours Waiver Notice

Dear Jeff:

As required, attached is the signed Notice Affidavit along with the required documentation. This is regarding the above Notice mailing on behalf of 120% Lino.

Sincerely yours,

THE GOODMAN COMPANY



Bob Saffran
Senior Vice President

THE GOODMAN COMPANY

Phillips Point, East Tower

777 South Flagler Drive • Suite 1101 • West Palm Beach, FL 33401 • (561) 833-3777 • Fax (561) 832-8466

NOTICE AFFIDAVIT

STATE OF FLORIDA
COUNTY OF PALM BEACH, TOWN OF PALM BEACH

**BEFORE ME THIS DAY PERSONALLY APPEARED LAWRENCE A. SILVESTRI WHO
BEING DULY SWORN, DEPOSES AND SAYS THAT:**

1. He, as Vice President of Goodman Properties, Inc., the manager of Esplanade GP LLC, the general partner of Worth Avenue Associates LP, the owner of the real property located at 150 Worth Avenue, Palm Beach, Florida 33480, is the owner's authorized agent.
2. The accompanying Property Owners List is, to the best of his knowledge, a complete and accurate list of all property owners' mailing addresses and property control numbers dated no more than 90 days prior to the Town Council hearing at which the subject Waiver request will be heard, and as recorded in the latest official tax rolls for the subject property and all other property within two hundred (200) feet of the real property, or all property within two hundred (200) feet of all contiguous property owned wholly or in part by the owner of the real property, if applicable; and
3. A copy of the Hours of Construction Work Waiver Notice (copy attached) is included in each envelope which has been mailed, using the labels provided by the Property Appraiser.

FURTHER AFFIANT SAYETH NOT.

The foregoing instrument was acknowledged before me this 24th day of September, 2012, by

Lawrence A. Silvestri, who is personally known to me or who has produced
(Name of person acknowledging)

_____ as identification and who did (did not) take an oath.
(type of identification)

Susan Moore
(Signature of Person Taking
Acknowledgment)

Susan Moore
(Printed Name of Acknowledger)

Notary Public, State of Florida
(Title or Rank)

EE131147
(Serial Number, if any)

(NOTARY SEAL)

SUSAN MOORE
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE131147
Expires 10/14/2015

Lawrence R. Schest
Applicant's (or Applicant's Attorney's)
Signature

Lawrence A. Silvestri
Applicant's (or Applicant's Attorney's)
Printed Name

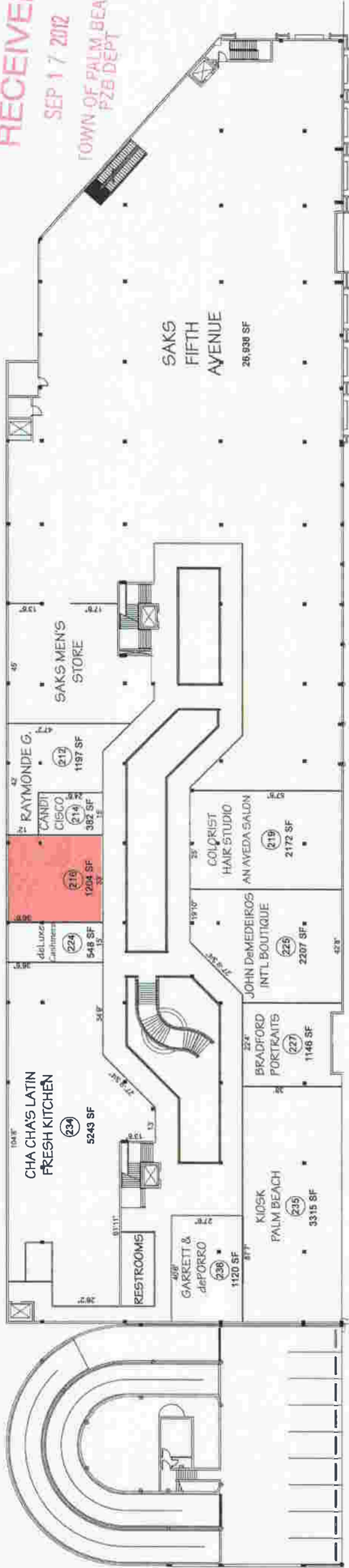
777 S. Flagler Drive, Suite 1101-E
Street Address

West Palm Beach, FL 33401
City, State, Zip Code

561-833-3777 ext. 4017
Telephone Number

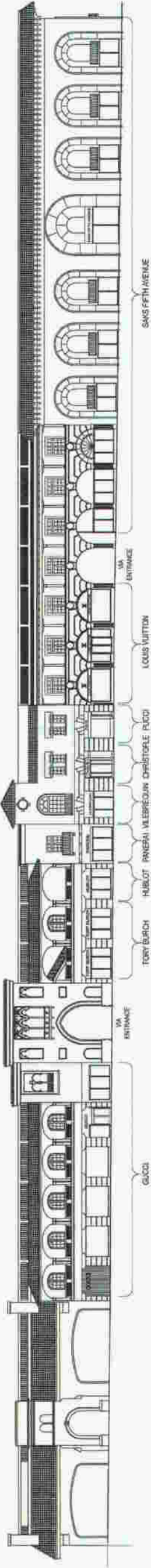
RECEIVED
SEP 17 2012
TOWN OF PALM BEACH
PZB DEPT

Space 216



SECOND FLOOR PLAN

1" = 20'



150 WORTH

WORTH AVENUE



LEASING PLAN		SECOND LEVEL	
		DATE	07-26-12
		CHANGED BY	THW
		CHECKED BY	
		SCALE	1" = 20'
		DRAWING NO.	PLP-001
		SECOND LEVEL	

150 WORTH	
THE GOODMAN COMPANY DEVELOPERS 777 N. FLAMINGO AVE. SUITE 100, WEST PALM BEACH, FL 33411-4502	

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Time Extensions

Agenda Title

Request for Waiver of Section 42-199, Hours of Construction Work, at 256 Worth Avenue Per Letter Dated October 3, 2012, from Maura A. Ziska.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum Dated October 3, 2012 from John Page
- Letter Dated October 3, 2012 from Maura Ziska

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 10, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Director, Planning, Zoning & Building Department

Re: Waiver of Town Code Section 42-199, work in the C-WA Zoning District
256 Worth Avenue

Date: October 3, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council approves an extension of the hours for construction work until November 16, 2012, for 256 Worth Avenue, within the C-WA Zoning District. Construction work on Worth Avenue is restricted from November through April. Approval should be conditioned as follows:

- Work hours are from 8:00 am to 5:00 pm with quiet work only.
- No work allowed on Saturdays, Sundays or Town of Palm Beach legal holidays.
- Approval of the Worth Avenue Association.
- Provision of a construction schedule to the satisfaction of the Building Official.
- All windows shall be screened per Town Ordinance 22-58.
- All deliveries will be made between the hours of 8:00 AM and 10:00 AM.
- No construction related parking will be allowed on Worth Avenue.
- No workers shall congregate or loiter on Worth Avenue.
- Exterior work on Worth Avenue will take place only from 8:00 AM to 10:00 AM; a right of way permit is required for use of the sidewalk.
- Any verified complaints from neighbors may revoke extended work hours.
- Submission of an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 200 foot radius of the subject property have been notified of this request by mail prior to 5 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.
- No work shall be allowed on November 27, 2012 due to the Worth Avenue Christmas Tree lighting event.

GENERAL INFORMATION

The space in question was formerly the Gucci retail store. The vacant space is being divided into three first floor retail merchants. Island Company, the future tenant wishes to complete renovations in order for the newly expanded space to be fully complete and open for the season. First floor work consists of interior fitting of the space, including wall and ceiling framing, drywall installation, mechanical, electrical, plumbing, and installation of new windows at the Worth Avenue storefront. Second floor construction consists of relocating interior partitions, and includes framing, drywall, mechanical, and minor electrical work. Permits for both the first and second floor work were issued on September 18, 2012.

Attachments

JP/jlt

cc: Jeff Taylor, Building Official
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Raychel Houston, Code Enforcement Unit

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel •

*Also admitted in New York

• Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

October 3, 2012

Jeff Taylor
Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Re: Island Company and Burt Handelsman 256 Worth Avenue 1st and 2nd floor
Requesting a Waiver of Section 42-199

Dear Jeff:

Enclosed please find the following items for submittal regarding the above mentioned request:

1. Letter requesting the Waiver;
2. Consent letter from the Worth Avenue Merchant's Association;
3. Notarized Affidavit; and
4. Construction Hours

If you have any questions concerning the above, please call.

Sincerely,



Maura Ziska

/maz

Enclosures

cc: John Page

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel*•

*Also admitted in New York

• Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

October 3, 2012

Jeff Taylor, Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Waiver of Section 42-199/Island Company 256 Worth Ave 1st and 2nd floor

Dear Mr. Taylor:

I represent Burt Handelsman and their tenant Island Company and on their behalf would like to appear before the October 10, 2012 Town Council meeting to request a waiver from Section 42-199 of the Town of Palm Beach Code to extend construction work on Worth Avenue from November 1, 2012 to November 16, 2012. The work will be mostly interior and the work largely consists of drywall, interior painting, floor installation, wood trim, plumbing and punch list items. There will be new windows installed on the storefront.

Please call me if you have any questions with the foregoing. Thank you.

Sincerely yours,



Maura A. Ziska

/maz

cc: Burt Handelsman
Greg Batten



WORTH AVENUE ASSOCIATION

P A L M B E A C H

October 3, 2012

OFFICERS:

Gregg Beletsky,
President

Sherry Frankel,*
Vice President

George Lydon,
2nd Vice President

Nancy Mizelle,
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Stefan Richter*

Jeffrey Sebean

Bob Saffran

Ashley Scouller

Faith Spencer

Eliza Tizabgar

ADMINISTRATOR:

Robin Miller

* Past President

Maura Ziska
Kochman and Ziska, PLC
222 Lakeview Avenue
Suite 1500
West Palm Beach, FL 33401

RE: The Island Company
256 Worth Avenue

Dear Maura:

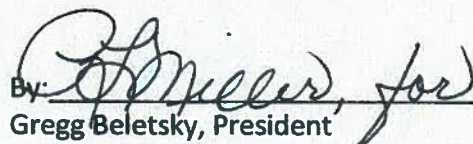
On behalf of the Worth Avenue Association, Inc. Board of Directors, this letter will serve to notify the Town of Palm Beach that the Worth Avenue Association does not object to the build-out of the interior improvements at 256 Worth Avenue. We have been advised that no part of the construction will take place on the exterior of the space beyond November 1st, except for the installation of the signage for the tenant and installation of the entrance doors, which will be completed no later than November 16th.

It should be stipulated however, that construction personnel, construction vehicles and all subcontractors of the construction company will be strictly prohibited from parking on Worth Avenue at any time during the construction process in favor of customer parking. Our approval will be withdrawn without this stipulation and the Town must also agree to enforce this stipulation. Further, there can be absolutely no accommodation for construction whatsoever taking place on the day of the Christmas Tree lighting event, November 27, 2012.

Should you require any additional information, please contact us.

Yours truly,

WORTH AVENUE ASSOCIATION, INC.

By: 
Gregg Beletsky, President

NOTICE AFFIDAVIT

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

**BEFORE ME THIS DAY PERSONALLY APPEARED Maura Ziska
WHO BEING DULY SWORN, DISPOSES AND SAYS THAT:**

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in the request for Waiver of Section 42-199.
2. All properties within two hundred (200) feet of the real property as described in the Request for Waiver of Section 42-199 have been notified using Property Appraiser labels.
3. A copy of the Notification Letter is attached.

Sworn to and subscribed before me this 3rd day of October, 2012.

By Maura Ziska who is personally known to me or who has produced

_____ as identification and who did (did not) take an oath.

Marvin S. Rosen

(Signature of Notary)



(Printed Name of Notary)

Maura Ziska

(Applicant's Signature)

Maura Ziska

(Printed Name of Applicant)

Maura Ziska

From: Greg Batten [greg@battenco.com]
Sent: Wednesday, October 03, 2012 9:46 AM
To: Maura Ziska
Cc: Greg Batten
Subject: 256 worth avenue ---Island company

Project schedule : 256 Worth AvenueIsland Company

ITEM	DATE
Framing	continue Thru 10-13
Rough mech/elec	10-05 thru 10-20
Inspections	10-22
Sheathing	10-22 thru 10-25
Drywall	10-23 thru 10-30
Paint	10-31 thru 11-07
False beams	11-07 thru 11-14
Tile	11-01 thru 11-07
Wood Flooring	11-02 thru 11-12
Install storefront frames	11-12 thru 11-14
Install glass	11-15
Trim Mech/elec/Plumb	11-12 thru 11-16
Inspections trades	11-16
Final inspection	11-16



Greg Batten
 President
 1400 Clare Avenue
 West Palm Beach, FL 33401
 P: 561.820.0027 ext. 102
 F: 561.820.1510
 C: 561.662.0309
 greg@battenco.com

Maura Ziska

From: Greg Batten [greg@battenco.com]
Sent: Wednesday, October 03, 2012 10:05 AM
To: Maura Ziska
Cc: Greg Batten
Subject: 256 worth Avenue-----Second Floor
 Project schedule.....256 worth avenue.... Second floor

ITEM	DATE
Continue framing	Thru 10-12
Rough mech/ elec /plumb	10-10 thru 10-19
Inspections	10-22
Drywall	10-22 thru 10-30
Wood trim	10-30 thru 11-01
Painting	10-30 thru 11-03
Wood floor and tile	11-04 thru 11-10
Trim Mech/elec/plumb	11-12 thru 11-16
Inspections Mech/elec/ plumb	11-16
Final inspection	11-16



Greg Batten
 President
 1400 Clare Avenue
 West Palm Beach, FL 33401
 P: 561.820.0027 ext. 102
 F: 561.820.1510
 C: 561.662.0309
 greg@battenco.com

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Time Extensions

Agenda Title

Request for Waiver of Section 42-199, Hours of Construction Work, at 353 Worth Avenue Per Letter Dated September 21, 2012, from Maura A. Ziska.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum Dated September 28, 2012 from John Page
- Letter Dated September 21, 2012 from Maura Ziska
- Letter Dated October 1, 2012 from Mimi G. Duncan

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 10, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Director, Planning, Zoning & Building Department

Re: Waiver of Town Code Section 42-199, work in the C-WA Zoning District
353 Worth Avenue

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council approves an extension of the hours for construction work until December 1, 2012, for 353 Worth Avenue, within the C-WA Zoning District. Construction work on Worth Avenue is restricted from November through April. Approval should be conditioned as follows:

- Work hours are from 8:00 am to 5:00 pm with quiet work only.
- No work allowed on Saturdays, Sundays or Town of Palm Beach legal holidays.
- Approval of the Worth Avenue Association.
- Provision of a construction schedule to the satisfaction of the Building Official.
- All windows shall be screened per Town Ordinance 22-58.
- All deliveries will be made between the hours of 8:00 AM and 10:00 AM.
- No construction related parking will be allowed on Worth Avenue.
- No workers shall congregate or loiter on Worth Avenue.
- Exterior work on Worth Avenue will take place only from 8:00 AM to 10:00 AM; a right of way permit is required for use of the sidewalk.
- Tenants must apply for a business tax receipt before any permit will be issued.
- Any verified complaints from neighbors may revoke extended work hours.
- Submission of an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 200 foot radius of the subject property have been notified of this request prior to 10 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.
- No work shall be allowed on November 27, 2012 due to the Worth Avenue Christmas Tree lighting event.

GENERAL INFORMATION

The space in question was formerly two retail spaces. The tenant, who has received Council approval to expand the office, wishes to complete renovations in order for the newly expanded space to be fully complete and open for the season. Work consists of removal of separation between the spaces, interior fitting of the space, including wall and ceiling framing, drywall installation, mechanical, electrical, plumbing, painting inside and outside, and installation of a new entry door at the Worth Avenue storefront. Permit for the work was issued on September 7, 2012.

Attachment

JP/jlt

cc: Jeff Taylor, Building Official
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Raychel Houston, Code Enforcement Unit

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel •

*Also admitted in New York

• Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA HAND DELIVERY

September 21, 2012

Jeff Taylor
Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Re: **Brown Harris Stevens Waiver of Section 42-199**

Dear Jeff:

Enclosed please find the following items for submittal regarding the above mentioned request:

1. Letter requesting the Waiver;
2. Consent letter from the Worth Avenue Merchant's Association;
3. Notarized Affidavit; and
4. Construction Hours

If you have any questions concerning the above, please call.

Sincerely,



Maura Ziska

/maz

Enclosures

Cc: John Page

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel**

*Also admitted in New York

*Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

September 21, 2012

Jeff Taylor, Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Waiver of Section 42-199/Brown Harris Stevens 351 Worth Ave., Palm Beach

Dear Mr. Taylor:

I represent Brown Harris Stevens and on their behalf would like to appear before the October 10, 2012 Town Council meeting to request a waiver from Section 42-199 of the Town of Palm Beach Code to extend construction work on Worth Avenue from November 1, 2012 to December 1, 2012. All work will be interior and the work largely consists of interior painting, floor installation, punch list items and furniture delivery and set up. The work during season will not include weekends or holidays and all workers and deliveries will access the site via Peruvian or Coconut Row. The workers will park at the Everglades Club.

Please call me if you have any questions with the foregoing. Thank you.

Sincerely yours,



Maura A. Ziska

/maz

cc: Ava Van Der



WORTH AVENUE ASSOCIATION

P A L M B E A C H

September 17, 2012

OFFICERS:

Gregg Beletsky,
President

Sherry Frankel,*
Vice President

George Lydon,
2nd Vice President

Nancy Mizelle,
Treasurer

Marley Herring,
Secretary

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Tod Krik

Gustav Krarup

Stacy Lee

John Maus*

Beth Pine

Nelly Rhoda

Stefan Richter*

Jeffrey Sabean

Bob Saffran

Ashley Scouller

Faith Spencer

Eliza Tizabgar

ADMINISTRATOR:

Robin Miller

* Past President

Ava Van de Water
Brown, Harris Stevens of Palm Beach
340 Royal Poinciana Way
Suite 329
Palm Beach, FL 33480

RE: Brown, Harris Stevens interior buildout
353 Worth Avenue

Dear Ava:

On behalf of the Worth Avenue Association, Inc. Board of Directors, this letter will serve to notify the Town of Palm Beach that the Worth Avenue Association does not object to the build-out of the interior improvements at 353 Worth Avenue. We have been advised that no part of the construction will take place on the exterior of the space, except possibly for signage at any time. We understand that construction will continue past the Town's permitted ordinance date, but will be completed no later than 11/30/12.

It should be stipulated however, that construction personnel, construction vehicles and all subcontractors of the construction company will be strictly prohibited from parking on Worth Avenue at any time during the construction process in favor of customer parking. Our approval will be withdrawn without this stipulation and the Town must also agree to enforce this stipulation. Further, there can be absolutely no accommodation for construction whatsoever taking place on the day of the Christmas Tree lighting event, November 27, 2012.

Should you require any additional information, please contact us.

Yours truly,

WORTH AVENUE ASSOCIATION, INC.

By: 
Gregg Beletsky, President

NOTICE AFFIDAVIT

STATE OF FLORIDA
COUNTY OF PALM BEACH

**BEFORE ME THIS DAY PERSONALLY APPEARED Maura Ziska
WHO BEING DULY SWORN, DISPOSES AND SAYS THAT:**

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in the request for Waiver of Section 42-199.
2. All properties within two hundred (200) feet of the real property as described in the Request for Waiver of Section 42-199 have been notified using Property Appraiser labels.
3. A copy of the Notification Letter is attached.

Sworn to and subscribed before me this 5th day of September, 2012.

By Maura Ziska who is personally known to me or who has produced

 as identification and who did (did not) take an oath.

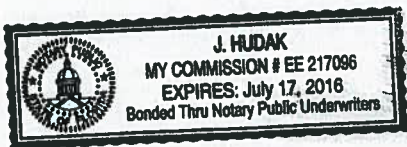

(Signature of Notary)

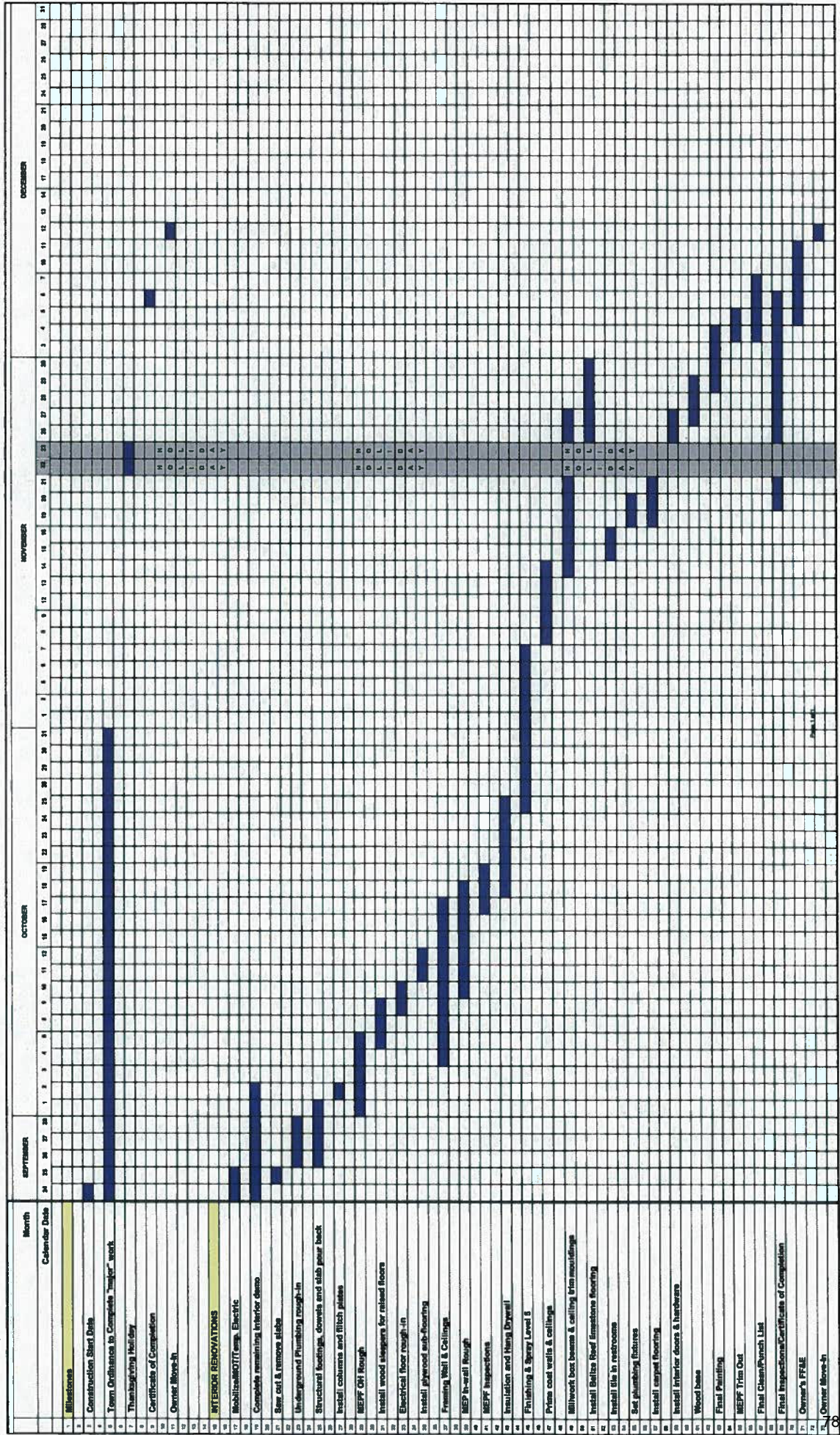
Mama Z

(Applicant's Signature)

J. Hudak
(Printed Name of Notary)

Maura Ziska
(Printed Name of Applicant)





OCT 02 2012

Town Manager's Office

Mrs. J. Russell Duncan
9 Via Parigi
Palm Beach, Florida 33480

October 1, 2012

Mr. Peter Elwell, Manager
Town of Palm Beach
P. O. Box 2029
Palm Beach, Florida 33480

Dear Mr. Elwell:

In reference to the waiver of Town Ordinance 42-199 being requested by Brown Harris Stevens, 353 Worth Avenue, Palm Beach, Florida, I object to the extension of time for construction work from November 1, 2012 to December 1, 2012.

My home, 9 Via Parigi, backs up to this construction and it has already been a noisy summer. November is when I will have family and guests staying and I do not wish to subject them to the noise that would be associated with this further construction time.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mimi G. Duncan". The signature is fluid and cursive, with the first name "Mimi" and last name "Duncan" clearly distinguishable.

Mimi G. Duncan

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Old Business - < 15 Minutes

Agenda Title

MODIFIED SPECIAL EXCEPTION #8-2012 WITH SITE PLAN REVIEW AND VARIANCE

The application of Temple Emanu-El of Palm Beach, Inc.; relative to property commonly known as **190 No. County Road; 224, 226, 234 Seminole Avenue**; described as Lengthy legal description on file; located in the C-TS/R-C Zoning District. The applicant (Temple Emanu-El of Palm Beach) recently obtained ownership of 23,200 square feet of garden/vacant land adjacent to the west of the existing synagogue. The Temple is requesting approval to use the adjacent vacant property as an accessory use to the Temple for religious services and other Temple related activities such as blessing of the animals, sukkot and any other uses that are incidental to a house of worship. The proposed garden activity area will have a fence along the rear/south side of the property, a 800 square foot pergola, a pathway around the perimeter of the garden, and a few benches. A house of worship is a special exception use in the R-C Zoning District and expanding the use of the Temple into the garden area requires special exception approval with site plan review. A Special Exception is also requested to allow 308 additional permanent seats to the Temple Sanctuary. The total number of permanent seats existing today is 553. A special exception request is required for expanding the seating in the sanctuary from 245 seats to 553 seats. A variance is requested to provide zero (0) additional on site parking spaces in lieu of the additional 77 parking spaces that would have been required for the 308 additional seats that were installed. [Attorney: Maura A. Ziska]

Deferred from the July 15, 2012, and August 15, 2012, Town Council Meetings.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated October 3, 2012 from John C. Randolph, Town Attorney
- Declaration of Use Agreement
- E-mail Dated August 28, 2012, from Allen S. Wyett
- E-mail Dated September 11, 2012, from Leslie Shaw
- E-mail Dated September 20, 2012, from Joanne Warshaver
- E-mail Dated September 18, 2012, from Bob Sheff
- Letter Dated September 30, 2012, from Sara Goodwin
- E-mail Dated October 3, 2012, from Joanne Warshaver
- E-mail Dated October 4, 2012, from Joanne Warshaver
- E-mail Dated October 4, 2012, from Joanne Warshaver
- Letter Dated October 4, 2012, from Robert D. Harvey

- Letter Dated October 4, 2012, from Sophia Burnichon
- Letter Dated October 4, 2012, from Terry Alfuth

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 10, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Modified Special Exception #8-2012 With Site Plan Review and Variance
Temple Emanu-El

Date: October 3, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council give consideration to the application of Temple Emanu-El of Palm Beach, Inc. for a special exception and site plan review to use land adjacent to the existing Synagogue as an accessory use for the Synagogue. More specifically, staff requests that the Council give consideration to a Declaration of Use Agreement confirming conditions of use, if the application is approved.

GENERAL INFORMATION

At the August 14, 2012 Town Council meeting, the matter relating to the special exception for the use of the Garden adjacent to the Temple Emanu-El Synagogue was deferred to afford an opportunity for consideration to be given to the conditions which might be included within a Declaration of Use Agreement in the event the Town Council were to approve a special exception and site plan review for the use of the Garden.

Subsequent to that meeting, Councilmember Kleid, along with John Page and myself, met with representatives of the neighbors on Seminole Avenue to discuss their concerns relating to the use of the Garden. Their concerns were many and related to their ability to enjoy the quiet, peace and repose of their residential neighborhood. Concerns were expressed relating to the number of events, traffic, parking, the number of persons in attendance at events, the hours of events, noise generation, night lighting and various other matters. A subsequent meeting was held with representatives of the Temple, at which meeting the concerns of the neighbors were related and at which the representatives stated their concerns relating to their ability to use their property in the manner consistent with the use of the Synagogue. A draft Declaration of Use Agreement was used as a basis for discussion at that meeting, which agreement had initially been drafted by staff based on concerns stated by neighbors and which draft had been amended by representatives of the Temple and returned to staff for consideration. All aspects of the draft Declaration of Use Agreement were discussed which ultimately resulted, after several drafts had been circulated, in the draft Declaration of Use

Agreement attached hereto. We believe this Agreement meets with the approval of the representatives from the Temple. We are confident that the representatives of the neighbors on Seminole Avenue will state their concerns in regard to various aspects of this Agreement.

In giving consideration to the application for special exception and the site plan review and the conditions which might be incorporated in a Declaration of Use Agreement, in the event of approval, the Council must consider the criteria set forth in Sections 134-299 and 134-329 of the Town's Code of Ordinances which are referenced in your backup relating to such matters. In the event of approval of the special exception and site plan review for this accessory use to the Synagogue, Paul Castro advises it is understood by the applicant that a Unity of Title for the Synagogue property and the Garden property must be prepared and recorded.

We hope this information is helpful to the Mayor and Town Council in giving consideration to this matter.

ATTACHMENTS

Draft Declaration of Use Agreement

p:\docs\13156\00008\doc\1ei2809.doc

DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this _____ day of _____, 2012 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, with offices at 360 South County Road, Palm Beach, Florida 33480 (hereinafter called the "Town"); and TEMPLE EMANU-EL OF PALM BEACH, INCORPORATED, a Florida not for profit corporation, with offices at 190 North County Road, Palm Beach, Florida 33480 (hereinafter called the "Owner")

WITNESSETH:

WHEREAS, Owner owns a parcel of land located East of and adjacent to the Land (hereinafter referred to as the "Adjacent Land") and operates a synagogue (hereinafter referred to as the "Synagogue") that Owner built in 1974 on the Adjacent Land pursuant to a special exception use granted by the Town;

WHEREAS, Owner has recently acquired title to certain parcels of unimproved property located within the municipal limits of the Town and described on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to collectively as the "Land");

WHEREAS, the Land is zoned R-C, Medium Density Residential District and C-TS, Commercial Town-serving,

WHEREAS, Owner has filed an application for approval of Special Exception #8-2012, with Site Plan Review, in order to allow for the use of and improvements on the Land as described in said application;

WHEREAS, the Town Council approved on October 10, 2012, Special Exception #8-2012 with Site Plan Review for accessory Synagogue uses on the Land, subject to the conditions set forth herein and the approval of this Agreement, and on the basis of the Owner's application, the testimony given on behalf of the Owner, and the specific finding of the Town Council that (a) the approval of the Special Exception with Site Plan Review, in compliance with said conditions, will not adversely affect the public interest and (b) the applicable provisions of the Town Code governing the granting of the Special Exception with Site Plan have been met;

WHEREAS, the conditions set forth in Article IV hereof have been created in order to implement the Special Exception in a manner that will allow the Owner to enjoy the use of the Land for the purposes described in Article III hereof, while regulating the extent of such use in order to mitigate any adverse impacts that might otherwise occur which would adversely affect the public interest and

WHEREAS, the approval of the Special Exception with Site Plan Review is also conditioned upon the representations made herein being true and accurate.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed as follows:

ARTICLE I RECITALS

The recitals set forth above are true and correct and are incorporated herein and made a part hereof.

ARTICLE II REPRESENTATION OF OWNERSHIP

Owner has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance of this Agreement by Owner is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party, except for such approvals and consents that have already been unconditionally obtained. The execution of this Agreement does not violate any restriction, court order or agreement to which Owner or the Land is presently subject.

ARTICLE III PERMITTED USES

During the term of this Agreement, the Land shall be kept by Owner as a garden (hereinafter referred to as the "Garden") and Owner shall be entitled to use the Garden only for any and all purposes that are ancillary to and associated with the Synagogue, including religious, cultural, educational, charitable, social and recreational uses, subject only to the applicable provisions of the Town Code governing the use of the Land, and by the specific restrictions expressly set forth in this Agreement. Recreational uses, as defined herein, shall not include organized team sports but may include activities by children associated with the Synagogue such as frisbee toss, three legged foot races and the like.

ARTICLE IV CONDITIONS

1. For purposes of this Agreement, an "Event" means and shall have occurred when more than thirty (30) people simultaneously attend an activity in the Garden that has been scheduled or sanctioned and announced by the Synagogue as taking place in the Garden.

2. The conditions being created and imposed by this Agreement are as follows:

(a) The Owner shall comply at all times with the applicable provisions of the Town's noise ordinance contained in the Town Code of Ordinances, as amended from time to time (hereinafter called the "Town Code").

(b) The Owner shall not construct and utilize any permanent barbecue or other permanent cooking pit within the Garden. Neither shall there be any outdoor cooking in the Garden except for two (2) afternoon picnics per year.

(c) The Owner shall comply at all times with the applicable provisions of the lighting regulations of the Town attached hereto as Exhibit "B".

(d) The Owner shall install and maintain along the Northern, Western and Southern boundaries of the Garden a continuous plant hedging of sufficient density to effectively screen the Garden from the neighboring properties surrounding or within direct view of the Garden. All such plant hedging shall, at planting, be of a height not less than six (6) feet and shall be maintained at said height. Such planting shall be horizontally contiguous, except for such openings for pedestrian and/or maintenance vehicles as are approved by the Town and planted in such a way as to prevent viewing the Garden from the right-of-way or adjoining properties. The property shall be landscaped as described in Exhibit "C" attached. Access to the Garden shall be as indicated on the attached Exhibit.

(e) Attendance at any Event held in the Garden shall be limited to 300 people.

(f) Subject to the limitation set forth in Section 2(e) hereof, attendance at Concurrent Events shall not exceed a total of four hundred seventy-five (475) persons, provided that Owner shall have arranged for off-street parking sufficient to accommodate the additional parking needs generated by persons attending such Concurrent Events. As used herein, the term "Concurrent Events" means more than one (1) Event occurring at the same time, where such Event is taking place in the Garden and the other Event(s) is/are taking place in the Synagogue building. Temple shall hire one off duty police officer to

monitor traffic and keep order at all Events in the Garden at which more than one hundred twenty-five (125) people are in attendance.

(g) No Events shall be permitted to begin before 9:00 a.m. or to extend past 10:00 p.m. The 10:00 p.m. deadline shall be applicable to religious services connected with ceremonies conducted within the Synagogue with a maximum 150 people to be allowed at such Event. All other Events, other than the religious Events described hereinabove, shall be concluded by 8:00 p.m.

(h) Events in the Garden will be held on not more than twenty-six (26) days during any twelve (12) month period plus the number of days included in the observance of Sukkot. There shall be no more than four (4) events per month (Sukkot excepted).

(i) The Garden will not be used for secular or commercial activities.

(j) Provided the Owner complies with the applicable requirements of the Town Code for permits to erect a tent in the Garden, the Town shall issue such permits, upon the condition that the Owner shall require the tent vendor to remove each such tent expeditiously following the Event for which it is used, but in no event more than forty-eight (48) hours following such Event.

(k) Owner shall return to the Town Council to address matters relating to compliance and impacts of the use of the Garden one (1) year from the Effective Date of this Agreement.

(l) No amplification devices such as amplifiers or microphones or megaphones shall be used in the Garden.

ARTICLE V VOLUNTARY AGREEMENT

Owner and Town agree to be bound by the terms and conditions in this Agreement.

ARTICLE VI REMEDIES FOR VIOLATION

Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this Agreement, the Town shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered in the Town's Code of Ordinances and (c) injunction, specific performance, and any and all other legal and equitable relief available. In addition, in the

event the Town's Code Enforcement Board finds (a) two violations of the same condition set forth in Article IV or (b) a violation of four different conditions set forth in Article IV within a calendar year, the Town Council may give consideration to the revocation of the special exception granted pursuant to the terms of this Agreement subject, however, to a due process hearing held by the Town Council with respect to the alleged violations.

Additionally, in the event of any breach, default or non performance of this Agreement, or any of its covenants, agreements, terms or conditions, the prevailing party in any litigation arising out of such breach, default or non-performance shall be entitled to recover its costs, expenses and reasonable attorneys' fees from the non-prevailing party. In the event of any dispute over which party shall be the prevailing party, the Court shall make such determination, which shall be binding upon both parties and non-appealable.

ARTICLE VII ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties as to its subject matter and it may not be amended, except by a written agreement executed by both parties.

ARTICLE VIII EFFECTIVE DATE

The Effective Date of this Agreement shall be the day upon which this Agreement is executed by the last party to sign this Agreement. This Agreement and the special exception with site plan review granted herein shall remain in effect until such time as (a) the building on the Adjacent Land is no longer operated as a House of Worship, (b) title to the Adjacent Land is transferred without transferring title to the Land, (c) title to the Land is transferred without transferring title to the Adjacent Land or (d) title to a portion of the Land that does not abut the Adjacent Land, or that does not abut a portion that abuts the Adjacent Land, is transferred; provided that in such latter event, the un-transferred remainder of the Land shall remain subject to this Agreement.

ARTICLE IX PROVISIONS TO RUN WITH LAND/RECORDING

This Agreement shall run with the Land and shall be binding upon the Owner and their respective heirs, legal representatives, successors and assigns. This Agreement shall be recorded by the Owner in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Agreement shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

Notwithstanding anything contained in this Agreement to the contrary, this Agreement encumbers and affects only the Land described on Exhibit "A" attached hereto, and nothing contained in this Agreement shall be construed to encumber, restrict or otherwise affect the use of the Adjacent Land in any way.

ARTICLE XII
MISCELLANEOUS

Wherever the word "laws" appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities.

Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this reference made a part hereof.

In the event of the invalidity of any provision of this Agreement, same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof.

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above.

Signed, sealed and delivered
In the presence of:

TOWN OF PALM BEACH

By: _____
Gail Coniglio, Mayor

By: _____
David Rosow, President
Town Council

By: _____
Peter B. Elwell
Town Manager

TEMPLE EMANU-EL OF PALM
BEACH, INCORPORATED

By: _____
Anthony Lampert
President

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2012, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2012, by David Rosow, the President of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2012, by Peter B. Ewell, Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2012, by Anthony Lampert, President of Temple Emanu-El of Palm Beach, Incorporated, a Florida not-for-profit corporation, on behalf of said corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

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EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

Lots 1 through 10, Block 4, OCEAN PARK H.W. ROBBINS ADDITION, according to the Plat thereof recorded in Plat Book 6, Page 68, public records of Palm Beach County, Florida, and Lots 16 through 18, Roots Subdivision in the Town of Palm Beach, according to the Plat thereof on file in the Office of the Clerk of the Court in and for Palm Beach County, Florida, in Plat Book 1, Page 22, and Lots 25 – 27, DAISY E. ERB'S ADDITION TO THE TOWN OF PALM BEACH, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 9, Page 75.

EXHIBIT "B"

Town of Palm Beach Exterior Lighting Requirements

1. Cut sheets depicting lighting details, and a site/plot plan showing lighting locations must be submitted.
2. No light bulb or source of illumination shall be visible while standing at or outside of the property line. Wall sconces or column top fixtures are excluded. The light bulbs in eave fixtures must be shielded so that the lamp is not visible from off the property line. Decorative wall sconces that are visible from the street are allowed but shall be lamped with bulbs not exceeding 15 watts per bulb, and not more than 4 bulbs per fixture.
3. No high-pressure or low-pressure sodium light bulbs can be used for landscape lighting.
4. Any bulbs or sources of illumination in fixtures mounted in trees or above eye level on structures shall not be visible off the property. All down lighting shall not exceed 2 ft. candles on residential property and 8 ft. candles on commercial properties as measured at ground level directly below the source of illumination. Down lighting scheme must be approved by Town Staff through ARCOM or LPC Administrative Approval. The maximum wattage per acre for down lighting schemes shall not exceed 3,750 watts; however, shall not be counted as contributing to the total landscape (vertical illumination quantity) lighting system. The use of baffling, shielding techniques, internal hex louvers and screening should reduce the total output to 3,000 watts. Baffling, shielding, internal hex louvers and screening is encouraged.
5. Maximum cumulative wattage of light fixtures using mercury vapor and/or fluorescent light bulbs supplied at 120 volts, 24 volts and 12 volts, per acre is 5,000 watts.
6. Maximum cumulative wattage of light fixtures using mercury vapor and/or florescent light bulbs supplied at 120 volts, 220 volts, 208 volts, and 277 volts, per acre is 5,000 watts. The use of baffling, shielding techniques, internal hex louvers and screening is encouraged.
7. Maximum cumulative wattage of light fixtures using metal halide light bulbs supplied at 120 volts, 220 volts, 208 volts and 277 volts, per acre is 2,000.
8. Maximum number of landscape lighting fixtures per acre is 150 regardless of wattage.
9. Illumination on the elevation of a residence or commercial building is discouraged unless architectural features and anchor points are the purpose of illumination. Visible security flood lighting is prohibited unless approved directly by ARCOM.
10. No more than one half foot-candle of light may be reflected off of the property. No light shall be unshielded where the lighting element is visible in any fashion, i.e. wall packs and any approved security fixtures. Any light that egresses its property of installation must be shielded and directed to reduce light trespass to the satisfaction of ARCOM, Project Coordinator or assigned staff.
11. Red, yellow, blue, and green incandescent light bulbs that are visible from the street or public right-of-way are prohibited except during Town approved holiday intervals.
12. Mixture of Kelvin ratings by lamp types is discouraged where the difference is more than 25%, i.e. 5,500 Kelvin and 4,100 Kelvin is permissible. Exceptions may be allowed in circumstances such as where incandescent lamps are used to illuminate sculpture or fountains.
13. Light fixtures mounted on the ground, unless decorative types, path lights, etc., are to be hidden in landscape material, and not visible from outside the property line.

I verify that the proposed design meets all conditions listed above.

Property Address _____

Name - please print

Signature

Date

Phone

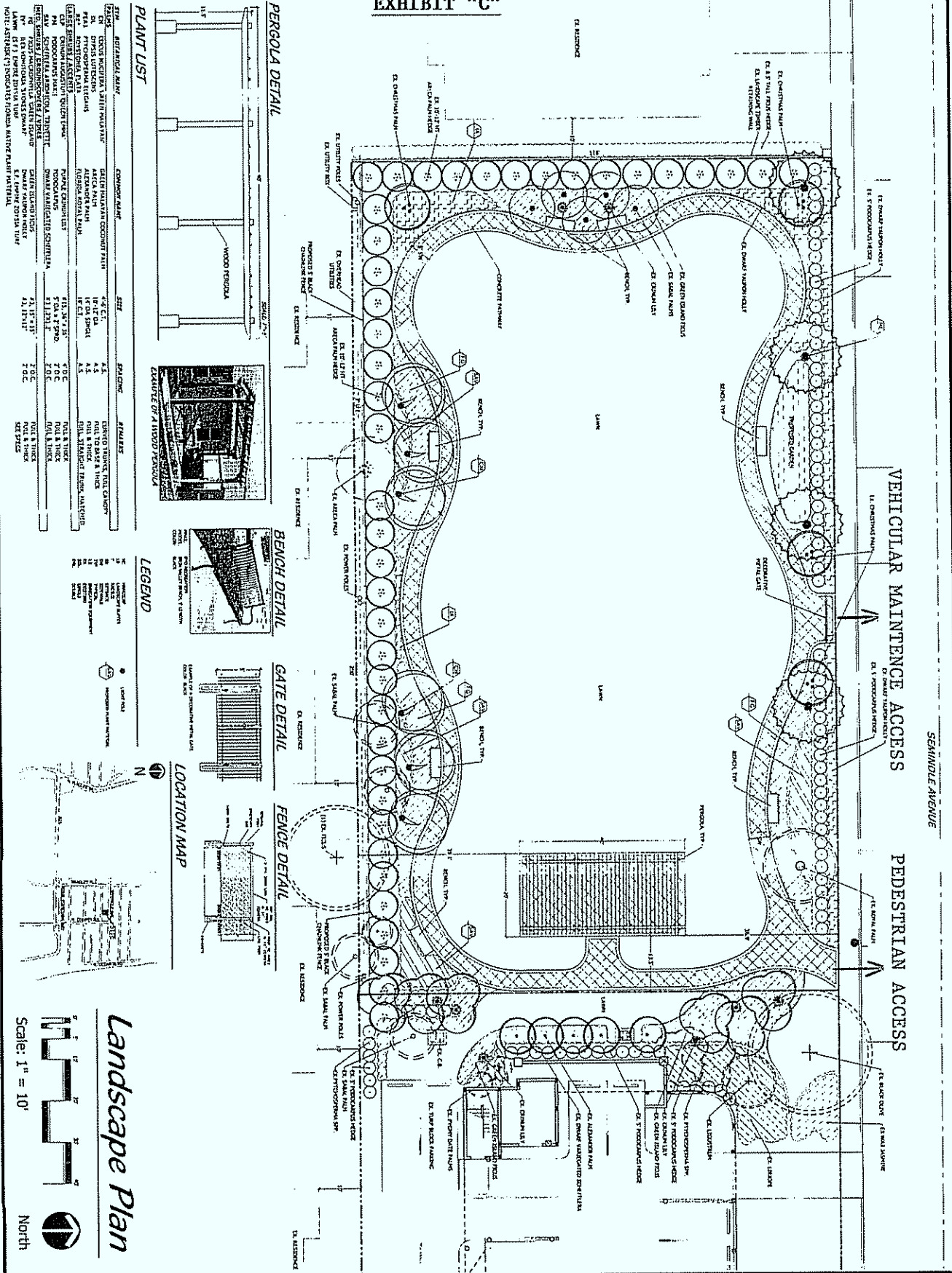
Seal of Design
Professional
(if applicable)

Signature & Stamp of Notary (if Design Professional is not used)

My Commission Expires: _____

form revised 2-19-09

EXHIBIT "C"



AUG 28 2012

Town Manager's Office

AUGUST 28 2012

TO MAYOR CONIGLIO AND MEMBERS OF THE TOWN COUNCIL

RE: TEMPLE EMANU-EL

THERE WAS A FORMAL HEARING BEFORE THE TOWN COUNCIL ON THE NEED OF THE TEMPLE TO EXPAND THEIR SEATING CAPACITY.

THIS TOOK PLACE SEVERAL YEARS AFTER I BEGAN MY 12 YEAR SERVICE TO THE TOWN AS A MEMBER OF THE COUNCIL.

THE TEMPLE EXPLAINED THEIR NEED TO ACCOMMODATE THEIR GROWING MEMBERSHIP.

THEY EXPLAINED THAT THIS COULD BE DONE INTERALLY.

I REMEMBER A FAVORABLE APPROVAL WITH THE USUAL CONCERNS FOR CONSTRUCTION RULES.

IT WOULD NOT BE FAIR TO NOW TELL THEM THAT THEY HAVE TO CUT BACK THEIR SEATING CAPACITY.

BECAUSE THE BUILDING DEPARMENT CAN NOT LOCATE A MISSING FILE.

ALL HOUSES OF WORSHIP IN OUR TOWN HAVE A PARKING PROBLEM ON THEIR MOST OBSERVANT DAYS OF WORSHIP.

GOVERNMENT SHOULD NOT INTERFER WITH CHURCH AND CHURCH SHOULD NOT INTERFER WITH GOVERNMENT.

TRUST YOU HAD A GOOD SUMMER

ALLEN S WYETT

P.S

I AM NOT A MEMBER OF TEMPLE EMANU-EL



To:
Cc:
Bcc:
Subject: Temple Special Exception 8-2012

From: Leslie Shaw [mailto:leslie@trtravel.net]
Sent: Tuesday, September 11, 2012 2:50 PM
To: Peter Elwell (pelwell@townofpalmbeach.com)
Subject: Temple Special Exception 8-2012

To the Mayor and Town Council.

I would like to express my thoughts on the new application by Temple Emanu-el as well as the issue of seating that currently exists in the main sanctuary.

As a signatory to the Modification to Special Exception #20-92 I feel that it is appropriate that I comment.

When the original Special Exception was granted, I was not on the council but was at the time the Modification was presented. Reading the excerpts of the August 4, 1994 meeting minutes, it does not indicate the entire Special Exception was reviewed, only the request to add 1900 sq.ft to the building in exchange for converting 4,000 sq ft of residential use to green space. The minutes gave no reason to believe that all other aspects of the original proposal should have been in question or that there was anything that would later be in question. Statements made in the meeting of August 9, 1994 regarding parking indicate that without regard to indicating the number of seats, that the Temple agreed to comply with all parking regulations. How have they complied with this? If it was an oversight in 1992, does that exclude it being addressed now? We learn from the past and I hope in the future that all modifications to a Special Exception have a complete review of what was proposed and approved to be sure that the intended and actual use are the same.

With regard to this new Special Exception, #8-2012, I am not certain that this process is progressing in a logical order. From my review of the documents, the Special Exception was approved, pending a signed Declaration of Use Agreement (DOU). Also a traffic proposal seems to have been approved, but nothing indicates that the suggestions are being followed. Rosh Hashanah which commences at sundown on September 16 would require that revised parking signage be in place and notification to the neighbors provided. Has this taken place?

Having sat through many hours of the Phipps Estate and Mar-a-Largo hearings, I recall that nothing was approved until after the DOU was approved so not to give the impression that 'it was a done deal.' With these applications, whose properties are in and abut residential neighborhoods there were concerns of how they would impact the neighbors. Until that was resolved, nothing was agreed to.

While the County Road portion of the building is in a commercial neighborhood, the current sanctuary and any expansion to the west is in a residential zoned area that was fully built. I believe that the DOU needs to be more sensitive to this and do not believe that the restrictions are sufficient to protect the neighbors. I do not claim to be a religious scholar and do not believe that any proposed use is of a ritual nature that needs to or should be conducted outdoors or with any reference to time of day. Therefore any use of the land will be for a social nature, not a religious one.

My comments on the proposed DOU presented by the Temple.

Article IV – Conditions:

Section 1 The Temple has a medication garden now and I would question if its use is going to change. Does this garden not meet the needs of the uses noted in the section? What is proposed for this garden if the new Garden is to be approved? (see below my use proposal)

Section 2

(c) Lighting – I believe that luminance limits of the town code are set much lower than would be needed for any evening activity. Generally all lighting is for landscape and to mark a foot path. By having use of the Garden use until 10PM may be in contradiction to the code.

(f) Parking – the referenced letter does not give any relief, but sets a traffic flow. Converting the existing Oleander garden to parking accessed only from the existing parking area would provide a number of spaces that would greatly help the neighbors during weekly worship. The problem for the major holidays is one that may never be solved. In reality, valet only adds to the problem. At the other houses of worship in town, self parking has been the practice and maybe should be considered here too. The other Jewish congregations in Palm Beach do not have valet parking.

(g) The hours of operation will adversely impact the neighborhood. If an event is to begin at 9:00AM, I am sure that there would be trucks and personal arriving much earlier to set-up, disrupting the peace and quite of this residential neighborhood. If 9:00AM is to be a use limit, then that should include preparation and setup. As to the 10PM time, with no event lighting I do not see they can function at that hour. However if they are able to see, then there is the issue of cleanup that could last a few hours and often much noisier than the event itself. Remember this is a residential neighborhood and there is no buffer to contain any noise. The permitted access hours for an event should be from 10:00 AM weekdays, 11:00 AM weekends until 1/2 hour after dusk. I would include in the DOU that no amplified sound equipment be used, including a keyboard or microphone. Verbiage to this extend has been used in other zoning districts to limit impact on residential neighbors. To permit a use were the only control is by reading sound level see if the event is in compliance is both an imposition on the neighbors and will stretch the work load of code enforcement.

(h) Number of events – I do not believe any other Special Exception has been granted to allow this intensity of use in Palm Beach. The underlying use of the property is a religious one and since it opened its doors the temple has serviced the community's religious needs. Temple related celebrations are not numerous so the request to have 52 events can only be to create a commercial catering/party business.

(i) The rental of the facilities for non religious events – Ceremonial or life cycle as noted are commercial revenue producing events. While such rental is noted to be in conjunction with the use of other portions of the building, there is no assurance that the Garden would not be the primary use and commercial attraction drawing more people and cars to this residential neighborhood. To compound the intensity, renting to non-members further asserts the commercial nature of the use and should not be

permitted at any time.

Article VIII – Most Favored Comparable Treatment – The Garden is in a residential area and its use is not a ritual necessity. Nothing of a religious nature that is performed there can not be performed on or in the current property of the temple and therefore ask that any reference to House of Worship be removed.

Documents presented by the Temple indicate that their membership is down. I do not believe that they can claim this is a result of not having the correct facilities to meet the needs of their membership. The only permitted use of this donated land should only be for the quite and peaceful use of the members and as with other houses of worship on the island, welcome others to come, relax and meditate during daylight hours.

For the record, my wife and I were a members of the Temple for many years and our daughter attended religious school. During that time and to the present we attend services, Bar and Bat-Mitzvahs and Memorials; none of which were limited by the lack of outdoor space.

Respectfully,

Leslie A. Shaw
318 Seaspray Avenue
Palm Beach, FL



To:
Cc: John Page/PalmBeach, Debby Morakis/PalmBeach, pcastro@townofpalmbeach.com,
Bcc: mtc,
Subject: Temple Emanu-El of Palm Beach Valet Parking

TO: MTC

From: Joanne Warshaver <joanne0901@me.com>
To: "melanie@tepb.org" <melanie@tepb.org>
Cc: "pelwell@townofpalmbeach.com" <pelwell@townofpalmbeach.com>, "council@townofpalmbeach.com" <council@townofpalmbeach.com>
Date: 09/20/2012 11:07 PM
Subject: Re: Temple Emanu-El of Palm Beach Valet Parking

I am very surprised to be receiving an email from you now, since I had been removed months ago from your email list for weekly bulletins. Please re-remove my name from all emails immediately and send all communications via US mail to 223 Seminole Ave. as required by town council. My understanding is that you were required to notify me 2 weeks in advance of any valet parking which means you are in violation of the Town Council's order. In my opinion, you should not be having valet parking september 25 and 26 because of your failure to give proper notification to the neighborhood and your leadership was well aware of this requirement. Since valet parking was handled so poorly during rosh hashonah I am very concerned about what will be happening on September 25 and September 26 if there is valet parking again. The street was blocked with 3 lanes of cars and it was near impossible for residents to maneuver out of their driveways or to get home which is not too much to ask.

In the future, as a house of worship, I certainly hope you will do a better job and be more respectful and considerate of your neighbors than you have been up until now. I think you should eliminate valet parking as it causes major disturbances in the neighborhood and as far as I have observed, other houses of worship do not have valet parking other than on an extremely rare occasion.

Sincerely,

Joanne Warshaver Pinciss

Sent from my iPad

On Sep 20, 2012, at 8:45 PM, Temple Emanu-El of Palm Beach <melanie@tepb.org> wrote:

Having trouble viewing this email? [Click here](#)

September 20, 2012

To: Our Neighbors

From: Temple Emanu-El of Palm Beach

This is to inform you that we will be having Valet Service on Tuesday Evening, September 25, 2012, Wednesday Morning and Wednesday Evening September 26, 2012 for our Yom Kippur Holiday.

Add any trademarks here

[Forward this email](#)

This email was sent to joannejoanne@bellsouth.net by melanie@tepb.org |
[Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).
Temple Emanu-El of Palm Beach | 190 N. County Road | Palm Beach | FL | 33480



To:
Cc:
Bcc: mtc,
Subject: View from my driveway on Seminole Ave.

From: Bob Sheff <BSheff@UMich.edu>
To: "pelwell@townofpalmbeach.com" <pelwell@townofpalmbeach.com>, "council@townofpalmbeach.com" <council@townofpalmbeach.com>, Dorothy Kelleher <doro32@gmail.com>, Joanne <joannejoanne@bellsouth.net>, jpage@townofpalmbeach.com, Sophia Harvey Burnichon <sophia.burnichon@gmail.com>, Brenda Hubbell Schwerin <trubbell@comcast.net>
Date: 09/18/2012 04:16 PM
Subject: View from my driveway on Seminole Ave.
Sent by: bsheff2@gmail.com

Dear Madam, and Sirs:

Imagine my surprise, when I noticed that there were Valet Parkers at Temple Emanu EL, Sunday night. I had heard that the Town of Palm Beach required them to notify neighbors two weeks before events with extra parking and attendance requirements. The TV-News programs had remarked that this is the Jewish New Year, but I assumed they didn't expect many people to arrive, since they didn't notify us.

Things got even more exciting when a Police officer closed off the west-bound lane on Seminole Monday morning (we were supposed to get a notice on this too!), and cars started to pile up. At least there were our residents' spots on our north side of the road, but I'm sure, with notice, my neighbor would not have scheduled a furniture delivery because the large truck parked backwards on the north side, certainly added to the confusion. The driver obviously could not enter Seminole from N.County and had to drive east from Bradley Pl, and park on the "wrong" side of the street. She might have been able to cancel or postpone the pool maintenance man, who normally makes his rounds on Monday, too. Personally, I might not have started a major tree and foliage trimming last weekend, and had to keep it stacked up beside my drive way, instead of putting it out on the street, as I normally do on Monday, for Wednesday pickup.

As the drop-off subsided, I walked over to where the Valets were storing their cars, and was amazed at the number of cars! How could they ever think that the 34 spots under the temple, and on-street parking could hold that many? And, how could the Town of Palm Beach ever allow a 550 seat auditorium on a Residential street? Whats going to happen if they get their way; to Expand into the residential lots west of the Temple??

This unconscionable travesty has gone on too long. All Palm Beach residents should be against this expansion, because it could easily happen on your street, just as has happened on Seminole and is happening in the down-town area across from the Town Hall. Chabad is limited to 40 seats today, but what will happen in the "dark" of next summer, or the summer after, as happened to Seminole Ave in October 1971, December 1979, April 1986, August 1992, August 1993, and August 1994, where a commercially non-conforming building has been systematically expanded into our neighborhood's residential lots making it seem to be commercial, without the perks for the rest of us.

Later yesterday, unfortunately, a Temple participant must have had a heart-attack, because two big PB Fire-Rescue-trucks came with sirens and blocked the middle of the street, since there was no place near the curb that was not taken by Valets or members cars, adding to public

danger.

I put the trimmings out today, there seems to be Valets but not much traffic, yet. I am also working on assembling my pictures that document everything I said above, along with times, about the traffic and congestion. Fortunately there wasn't much noise, considering the number of people coming and going, until the Fire-Rescue Trucks came.

Regards, Bob

--

Robert Sheff

BSheff@UMich.edu

Independent Consultant

Computers, Antique Clocks, and SportsCars

Everything should be as simple as possible, but not simpler-A.Einstein

TOWN OF PALM BEACH

OCT 03 2012

Town Manager's Office

Dr. & Mrs. Alan R. Goodwin
245 Osceola Way
Palm Beach, FL. 33480

September 30, 2012

Mayor Coniglio and Members of the Town Council
360 South County Road
Palm Beach, FL. 33480

Dear Mayor Coniglio and Council Members:

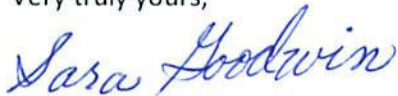
My husband and I have been residents and part of this community for 21 years and we are also members of Temple Emanu-El of Palm Beach. As residents we pay taxes, vote, take an interest and pride in the beauty and diversity of this city. This is our home. It has also been the home of our Temple for close to fifty years and the center of worship for many members in our community. As property owners and active congregants in our Temple Emanu-El, we are committed to maintaining the beauty of our city and living in harmony with our neighbors.

We urge you to agree to the "Special Exemption" use of the Dan and Ewa Abraham Garden requested by our synagogue so that it can utilize this newly acquired outdoor land for traditional Jewish services and activities. The Temple has always been, and will continue to be, compliant with all relevant Town ordinances and respectful of its neighbor's privacy.

We want to be good neighbors; we will be good neighbors. However, we believe the Temple should be able to use its property in the same manner that every other religious institution users theirs, unencumbered by artificial and arbitrary restrictions.

My husband and I thank you for your favorable consideration in this matter.

Very truly yours,



Sara Goodwin



Fw: Valet parking

Cheryl Kleen

to:

pelwell

10/04/2012 08:37 AM

Cc:

John Page, pcastro, Debby Morakis, Susan Owens, jrandolph, pgayle-gordon

Hide Details

From: Cheryl Kleen/PalmBeach Sort List...

To: pelwell@townofpalmbeach.com

Cc: John Page/PalmBeach@PalmBeach, pcastro@townofpalmbeach.com, Debby Morakis/PalmBeach@PalmBeach, Susan Owens/PalmBeach@PalmBeach, jrandolph@jones-foster.com, pgayle-gordon@townofpalmbeach.com

----- Forwarded by Cheryl Kleen/PalmBeach on 10/04/2012 08:19 AM -----

From: Joanne Pinciss <joannejoanne@bellsouth.net>
To: "rhouston@townofpalmbeach.com" <rhouston@townofpalmbeach.com>,
Cc: Sophia Harvey Burnichon <sophia@harveycapital.com>
Date: 10/03/2012 07:07 PM
Subject: Valet parking

I checked the minutes regarding Temple Emanuel-el's valet parking back to 1992 and along with any use of valet parking is a commitment for drop off, and pick up inside the garage. If the town relies on this 8/11 /92 permission to grant valet parking, then I would hope they would also require the valets to follow the same agreement. And if you look at only the final motion it is for valet parking ONLY on high holy days (p 14). This is the only time valet parking should be permitted if they can find legal places to park. There have been parking issues for many years.

Thanks

Joanne Warshaver

Sent from my iPad

To M&TC

----- Forwarded by Cheryl Kleen/PalmBeach on 10/04/2012 11:34 AM -----

From: Joanne Pinciss <joannejoanne@bellsouth.net>
To: pelwell@townofpalmbeach.com, council@townofpalmbeach.com,
Cc: Sophia Burnichon <sophia.burnichon@gmail.com>
Date: 10/04/2012 11:05 AM
Subject: Imagine this - The Chutzpah of Temple Emanuel and the Daniel Abraham Activity Garden

Imagine this - The Chutzpah of Temple Emanuel and the Daniel Abraham Activity Garden

You have violated the rules for a special exception. You now go to Town Council and ask for a revision to your 19 year old exception because you have been caught with 305 more seats than the authorized 245. You only have parking for the 245. You have also advertised in this paper that you have an additional 275 seats for a total of 825.

So what do you do? You ask for more. You ask for a parking variance even though there is ample evidence that the seats were installed knowing they were not permitted because you didn't have parking and who would know. Your atty Paul Rampell goes to council with your plans for additions in 1992 and 1994 and states you are not expanding the 245 seats and don't need more parking. Your architectural drawings show 245 seats. You receive a stamped certificate of occupancy and for some reason you go to the building dept with drawings that do not have seats. Wonder why? Is it possible someone thought you wouldn't get caught and you probably would not have, if you didn't get greedy and ask for more expansion into the residential neighborhood. So the neighbors did what they were told to do. They researched and found you were in violation and were told by town staff that violations could prevent more special exceptions being authorized. That is what we are asking for now -follow the law town council and reject any more special exceptions since there is insufficient parking and we are entitled to quiet enjoyment of our homes. The hardship regarding parking was self-induced and therefore not a valid reason for granting of a variance.

Now on top of all your violations of the rule of law here in P alm Beach, you are requesting

The Daniel and Eva Abraham Activity Garden in the middle of a generally quiet residential neighborhood. And not just a passive park garden as you called it for ARCOM but an entertainment center outdoors for unlimited use for groups of 30 and 52 events for up to 300 people between 9:00 am and 10:00 pm. Why so many people when you name just a few events. Rumor has it you intend to have a wedding mill to amortize the expense of your expanded kitchen/ballroom/social hall. Your declaration of use says you won't rent the garden but it does not say you won't charge for the synagogue/social hall and throw in the garden. It sounds like this is more appropriate for Okeechobee Blvd. than Seminole Avenue and certainly more convenient for your president Tony Lampert of North Palm Beach as well as for the 2/3 of the board that lives off of the island. Is it right for a non-profit to compete with commercial enterprises in a residential neighborhood? Where will the cars park? According to the valet permit, they will be parking between Sunset ave and Dunbar Rd, along county Rd and Bradlee, 52 more times than currently and without permission at St Edwards.

Is this what the neighborhood wants? And on top of it all you violated the May 2012 order of the Town Council to notify the neighbors regarding valet parking. Valet parking has to go!!

Joanne Warshaver

223 Semonole Ave

From: Joanne Pinciss <joannejoanne@bellsouth.net>
To: pelwell@townofpalmbeach.com, council@townofpalmbeach.com,
Cc: Sophia Burnichon <sophia.burnichon@gmail.com>
Date: 10/04/2012 11:09 AM
Subject: Dear Mayor Coniglio, Town Council

Dear Mayor Coniglio, Town Council

Having just received a new Declaration of Use for Temple Emanu-el on October 3, previous one received on October 1, with a hearing on October 10, I am requesting a postponement to allow the neighbors sufficient time to assess the Declaration of Use.

I am writing to put on the record some of my objections as well as my complete and utter disappointment and astonishment in the Declaration of Use as received on October 1st. It seems that no attention was paid to the residents who took the time to attend the meeting with Mr. Kleid and Mr Randolph as well as Council meetings when we were not allowed to speak and express our opinions. It seems to me that it was totally a negotiation between the synagogue's attorneys and the town's attorney. I believe residents should have been represented by counsel as well, had we known then that the mayor and council would later tell us we needed legal representation. I do not think residents should need legal representation. We have codes and laws that need to be followed for special exceptions as well as valet parking, noise and extra burdens on town services etc etc.

In addition, residents have not been properly notified as the synagogue has misrepresented their intentions by stating in their ARCOM application that they were seeking a "passive park garden" . This followed a notice to neighbors misrepresenting that they were doing quiet interior construction despite the details of which included major roof work and air conditioning which is ongoing.

First of all, the Declaration completely ignores the fact that Temple Emanuel is still in violation of the 1992-1994 special exception, and it is my understanding no new special exceptions can be addressed before the violation is corrected so I do not understand how the ACTIVITY GARDEN is being addressed first and I have seen no references to the parking/seating violation created by the synagogue's blatant disregard for the rules despite being represented by counsel who stood before the council not once but twice and assured the council that there would be no additional seats and they would stay in compliance with all codes. Please remember we found this violation at the suggestion of town staff who informed us that violations could lead to rescission of special exceptions. Is this one just too big- all the more reason to make some kind of seating compromise in conjunction with any grant for exponential expansion with a garden.

I object to a parking variance being given based on the fact that the synagogue created their own hardship which means they can not base their request on hardship. This is a violation of the code. Even the RLUIPA law requires that code be followed.

Second, if they had asked for 100 events, would 50 have been the compromise? 26 events plus 8 for Sukkot plus unlimited non-events for up to 30 people is way too many and how are we to know which are planned and which are not. When do 30 people congregate and it is not an event? What exactly constitutes a planned event - if they decide to have Sunday, Monday or Thursday services, do these count if

31 people show up outside. Are the neighbors supposed to count or do we call the police to count the people every time we think there is an excess of people. The police could definitely be overburdened which is a reason to deny a special exception. Who is in charge?

I think it is very interesting that despite insisting at the May council meeting on being allowed use of the ACTIVITY GARDEN for a Labor Day event and a Sukkot dinner, they held neither and I was told by someone at the synagogue that they did not have it there lest it give the neighbors an opportunity to complain about the noise and now a ridiculous number of events will be approved without even a test of how much noise will be generated. Why not have a trial period or a test event? My neighbor also confirmed what I was told as he had a conversation with Ms Houston who told him the same thing - they didn't want to annoy the neighbors - obviously before the hearing as they have enough violations already.

At that same May meeting Major Howe's parking plan was proposed and passed by the Council and that was before the town knew about the synagogue's seating/parking violation and yet the synagogue violated Major Howe's new order as well. They did not give 2 week notice to the neighbors and it needs to be by us mail as they do not have every neighbor's email and I do not believe email is proper notification. What is the penalty?they have already violated the Council's order at least 3 times.

I asked that a fence be installed around the garden so that the synagogue takes responsibility for who is there as well as a hedge that would be high enough to hide the pergola that is being requested. Neither are addressed in the declaration. A 6 foot hedge gives no privacy and certainly the existing one is useless. I see no consideration for the safety of the residents with bringing in large numbers of people in to an outdoor space with lack of any control. For example everyone should have to enter thru the synagogue proper so,that it is known who is there. I expressed these concerns to Mr Kleid and they have been totally ignored.

Valet parking should be eliminated as no other house of worship uses valet parking and Temple Emanu-El is always demanding that they be treated like other houses of worship. Besides, they have been in violation of valet rules for years for not having submitted a letter granting permission for use in a private lot as required by code on an annual basis. In addition, the Declaration does not have any reference to parking,excluding any reference to the recent Major Howe proposal. Neighbors have complained since at least 1992 and now expansion is being proposed which will exacerbate the problems.

Valet attendants create a constant disturbance for the residents and self-parking would eliminate large numbers of people congregating at once waiting for their cars and making a lot of noise. Valets also scream up and down the street. It did not go well on either Rosh Hashanah or Yom Kippur (September 16-18 and September 25-26) just in the last couple of weeks. I for one had trouble leaving and returning to my home to say nothing of reports I received regarding emergency vehicles. In addition, I looked at the map as required for a valet permit that was submitted to the town and they intend to park from Sunset to Dunbar rd. and those residents have not been notified that their streets could be clogged 32 more times over what currently,exists. And what about expansion to Royal Poinciana and additional cars there - it is all one neighborhood.

Many questions have not been answered and terms defined. What exactly is the

difference between Article III that allows "religious , cultural, educational social, and recreational uses...." and Article 4 section (i) that says "the garden will not be used for secular or commercial purposes". This seems to be a conflict to me as I do not see any religious value in frisbee playing or 3 legged races and the like. What exactly are the definitions?

Are alcoholic beverages allowed - I know they are not allowed in municipal parks and the synagogue seems to want to be treated like a municipal park. What about porta potties, and all the things that haven't even been addressed yet. Bad enough that dirty rags hung on the post there for 4 days before being removed by whom I do not know. I was watching to see how many days it would take and the rags may have just blown away. What about signs - that seems very inappropriate in a residential neighborhood.

These are only a few of my concerns and I reserve the right to add to this list as I learn more. I believe the Council is being hasty if it passes this declaration of use without a test, without a parking study and without proper notification to the neighborhood when everyone is here during the season. The synagogue had agreed to do this at the neighborhood meetings held at the synagogue last spring at which the Mayor and Mr Rosow were in attendance and yet once again they violated their own agreement.

Please postpone this hearing as we only received the new declaration of use on October 3 and there are too many unknowns and undefined terms.

Sincerely,

Joanne Warshaver
223 Seminole Ave

**Robert D. Harvey
160 Dunbar Road
Palm Beach, FL 33480**

October 4, 2012

Re: Temple Emanu-el Synagogue Expansion

Dear Mayor and Town Council Members;

I'm writing this letter in response to the proposed Declaration of Use for this synagogue expansion.

First: It is important to explain that this expansion is into the zoned R-C Residential District. As background the Temple in 1992 already doubled its footprint into the residential portion of Seminole Avenue. Now in 2012, the Temple has acquired four additional lots once again doubling their expansion to approximately 1/3 of the south side of the street into the residential neighborhood.

Second: The proposed declaration of use will allow up to 28 functions plus Sukkot (8 days) for a total of 36 events of up to 300 people. This increased activity occurs in addition to the services which the synagogue has on Friday nights, Saturday mornings and other groups during the week. An increase number of events of this magnitude will totally overwhelm the character of the neighborhood. A more reasonable limitation should be discussed at the next meeting.

Third: The recommended density along the Northern street side should be enhance to include a 4' wall 3' from sidewalk with hedges in front and 10'-14'- ficus trees planted behind the wall to shield noise and activities from the residences.

I believe these changes to the declaration of uses would help maintain the residential character of the neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Harvey", with a long, sweeping flourish extending upwards and to the right.

Robert D. Harvey

From: Sophia Harvey Burnichon <sophia@harveycapital.com>
To: "PEIwell@townofpalmbeach.com" <PEIwell@townofpalmbeach.com>,
Cc: "council@townofpalmbeach.com" <council@townofpalmbeach.com>,
"mayor@townofpalmbeach.com" <mayor@townofpalmbeach.com>
Date: 10/04/2012 12:47 PM
Subject: Deny Variance Application 8-2012

Dear Town Council & Mayor,

Please see my analysis of the applications and reason to deny all of SE 8-2012. Included are letters from the past to show there have been problems since before the expansion in 1995.

Thank you,

Sophia

HARVEY CAPITAL MANAGEMENT, INC.
Executive Vice President
400 Royal Palm Way Suite 400
Palm Beach, FL 33480
Tel: 561-804-9181
Fax: 561-804-9107
sophia@harveycapital.com

Sophia Harvey Burnichon
231 Seminole Avenue
Palm Beach, FL 33480

October 4, 2012

Via E-mail

Honorable Gail Coniglio, Mayor, and Town Council
Town Council of Town of Palm Beach
360 South County Road
Palm Beach, Florida 33408

Re: Concern regarding Modification of SE #8-2012 Application for Temple Emanuel

Dear Mayor and Town Council:

I am surprised that the town keeps focusing on the Garden when there is a modification to the application which includes a variance request. I am submitting my rebuttal to the application which is a "dog ate my homework" excuse. I would like to see the town resolve the variance issue before granting the Temple Emanuel more. The hardship was created on their own as I outlined with the discrepancy in the site history. The parking is a HUGE issue and without resolving the variance the temple is asking for more events causing our street to become overburdened. The issues are one in the same and the temple submitted it into ONE application. I suggest you DENY the variance based on the following analysis included with this letter and DENY the special application based on my letter submitted to the town July 5th, 2012.

Thank you,



Sophia Harvey Burnichon

EXHIBIT C - REQUEST FOR VARIANCE CRITERIA FOR AUTHORIZING A VARIANCE

The Town Council must find the application in conformance with a number of criteria. Please address each of the criteria completely in order to provide the Council with sufficient information to make a determination on your application.

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

Temple Attorney Response: The special conditions and circumstances that exist relative to the subject property are that the existing building and number of parking spaces on site in relation to the number of permanent seats in the sanctuary are nonconforming to today's code when applying the 1 per 4 criteria. The seats were contemplated in the 1992 approval of an 11,000 square foot addition to the Temple. The seats have existed since the 1994 expansion, however, the parking was not addressed during the prior approvals and has never been a problem.

Residence Response:

The temple in 1992 was still not conforming to the old code which was 1 per 7 criteria. The history from the town council meeting in 1992, shows that there was a problem with the parking before and for these reasons recommended valet parking to the temple on high holy holidays. The temple went insofar as to get a letter from St. Edward church to show that they allow parking on their lots behind greens during (which has 100+ parking spots) during the high holidays due to the parking problems. There were letters from neighbors during this time and also letters from the temple to urge the congregants to not park on Oleander Avenue. Fast forward to 1995 the temple doubles seating and the parking is still a problem in 2012. Please pull a police report and there are consistent complaints about the parking. Also, why did Major Howe have to present a report to the Town Council regarding parking if there is not a parking problem? Most recently Seminole Avenue parking was changed to permit only on the North side of the street. Ask the town the percent increase of permits issued this year compared to 2 years ago.

2. Indicate how the special conditions and circumstances do not result from the actions of the applicant.

Temple Attorney Response: The Temple was not the cause of the special conditions of the property as there is currently no one on the Board or working for the Temple that can find any records of the additional seats being approved although the Town of Palm Beach did issue a permit for the expansion and certificate of occupancy for the new sanctuary in the 1990s.

Resident Response: The Temple is 100% the cause of that there are 350 seats that were not approved. The town has the last record on file which is for approval for 8 classrooms and NO additional seats as stated in the town council meeting. Mr. Radkay wrote a letter stating he sold them the land for 8 classrooms. The site plan and discussions stat no expansion in seating. The traffic study is based on 8 classrooms. The town has records going back to 1979 they would have a copy. The reason is that the temple expanded the seating without the approval from the town because they knew they could never comply with the parking requirement then and now.

3. Demonstrate that the granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

Attorney Response: The granting of the variance will not confer on the applicant a special privilege as the other houses of worship in the Town of Palm Beach do not have ample parking and the Town has allowed the members of each religious institution to park in the street during services. This common courtesy will also be afforded the Temple, thus not making parking an issue during services or other religious events.

Resident Response: The variance of the Temple is being requested October 2012. Any new application must follow the current code. The New Chabad of Northern Palm beach passed in council this past June had to comply with the rules of the town of limiting the seating of 40 congregants since they only have 10 parking spots. By granting the variance this will set a negative precedent. The approval of this variance will send a message to any future houses of worship to IGNORE the code.

4. Demonstrate how literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

Attorney Response: The hardship, which runs with the land, is that the zoning code has changed since the Temple was expanded in 1994 wherein making the parking regulations more stringent. If the prior code were to be applied at a 1 parking space per 7 permanent seats, the variance request would be reduced by half. As there is no additional on-site parking available, there is ample street parking in the area and parking in neighboring parking lots. Furthermore, the Temple will be afforded the common courtesy of being able to use the right-of-way for parking during services, thus making an abundance of parking available.

Resident Response: The hardship was brought on by the applicant. The Temple causes their own hardship by placing in the seating without getting approval from the town. The literal interpretation will allow new houses of worship to ignore the 1 per 4 code. The New Chabad of Northern Palm beach passed in council this past June had to comply with the rules of the town of limiting the seating of 40 congregants since they only have 10 parking spots. By granting the variance this will set a negative precedent. The approval of this variance will send a message to any future houses of worship to IGNORE the code.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Attorney Response: The variance requested is the minimum necessary to make reasonable use of the land. The Sanctuary seats have existed since the 1990s without the need for additional parking as evidenced by the lack of complaints over the past 18 years.

Resident Response: Please provide a police CAD report back to the 1990's to show us there have been no complaints.

6. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Attorney Response: Allowing the variance to not provide additional parking for a religious institution is a reasonable request and in harmony with the Town's practice when considering that the Town allows parking in the right of way during services for other houses of worship in Town.

Resident Response: The variance is not in harmony with the most recent house of worship approval. The New Chabad of Northern Palm beach passed in council this past June had to comply with the rules of the town of limiting the seating of 40 congregants since they only have 10 parking spots. By granting the variance this will set a negative precedent. The approval of this variance will send a message to any future houses of worship to IGNORE the code. This past high holy holiday Seminole Avenue was inundated with cars due to the 10 valet parkers unable to service the demand. Section 118-6 of the code states that it is unlawful to generate traffic greater than normal in a residential neighborhood. Since they do not have the parking the rest of the right of way streets become completely blocked all the way down to Dunbar Road.

Sec. 118-6. - Generation of traffic greater than normal in residential districts. 

It is hereby declared to be unlawful for any person to conduct, permit or carry on any assembly or function that would generate pedestrian or vehicular traffic greater than that normal to the district where such use is carried on or located, or that will be offensive or objectionable because of noise, glare, vibration, odor or other disturbance; however, this section shall not apply to purely social functions, and likewise shall not apply to lawful assemblies or functions, charitable or otherwise, occurring not more often than three days out of each calendar year, which shall be construed to mean three separate days or three days consecutively.

Sophia & Emmanuel Burnichon
231 Seminole Avenue
Palm Beach, FL 33480
Tel: 561-833-2678

July 5, 2012

Town of Palm Beach Council Members
360 South County Road
Palm Beach, FL 33480

RE: Deny Zoning Application for Special Exception# 8-2012 request for Activity Garden

Dear Town of PB Council Members & Mayor Coniglio:

When I received the application from the temple for special exception I read the site history which did not seem to fall in line with an article I read in the shiny sheet on January 30th, 2012. I have enclosed my research as how I came up with the discrepancies that I went to the town to clarify on June 12, 2012. Since the last item of site history on the temple's application stops in 1994 and the paper states a campaign which expanded the sanctuary to 550 worshippers and expansion rooms to accommodate an additional 275 more people. I found it strange that this expansion was not included in the site plan history. Furthermore, I looked at the town council meeting notes from 1994 which stated that there was no additional request for seats. The town approved a modification of 20-92 for site plan A1b in 1994 which in the legend states seats 245 and parking provided 39. According to the town, prior zoning required for every 7 seats 1 parking space. If this discrepancy is proven by the town, I now understand why parking is a huge problem for the temple and our streets during season. In light of this claim, I request that the town come forth with the truth of the site plan history before approving another special exception. I also would request that the town requires a new traffic study during season as the one on file produced by Keshavarz & Associates, Inc. was based on the flow of traffic for 8 classrooms not 550+ worshippers.

Sincerely,



Sophia Harvey Burnichon

Spec. Excep.
20-92

21. Special Exception No. 20-92 Modification - Temple Emanuel of Palm Beach, 220 and 222 Seminole Avenue; to allow an additional 1,903 square feet beyond original approval and to allow internal reconfiguration of rooms. R-C District - Paul Rampell, attorney, addressed the Council and explained Temple Emanuel received a Special Exception 20-92 approval on August 11, 1992 which enabled the Temple to construct a 4,000 square foot addition. He requested the approval of this Special Exception that will add 1,903 square feet to that addition. Mr. Rampell stated the prior approval to build this addition will expire in two or three days and a \$1,000,000 pledge depends on receiving the approval to build this addition.

Mr. Rampell stated that the Temple analyzed the design of this addition and decided it would be better to move the present sanctuary which runs north and south along Country Road to a portion of the existing building and the approved addition which runs east and west along Seminole Avenue.

4526

MINUTES OF THE TOWN COUNCIL MEETING HELD ON AUGUST 9, 1994

He added to achieve this goal, the elongation of the approved addition is necessary; however, no internal approvals are changed in that the number of class rooms and seats remain the same. He continued the new configuration will compel the Temple to comply with all applicable building codes including parking spaces, lot coverage and set backs, although the size of the Temple will be slightly increased. He added to meet the lot coverage limitations, the Temple acquired a 4 bedroom apartment complex at 211 Oleander, contiguous to the Temple's land. Mr. Rampell stated the excessive density on Oleander will be reduced as well as the traffic from the 5 to 6 people who lived at that address, and the Temple's open space will be increased once that building is demolished.

Mr. Rampell explained three site plans - A1, A1-A and A1-B - and plan A1 is the preferred site plan by the Temple.

Mr. Lawrence pointed out the Temple grew in three stages; 11,600 square feet were added, but although the Temple was functional, it did not make an ecclesiastical statement. Mr. Lawrence stated a problem arose when the staff advised R-C and C-TS cannot be mixed but the Temple had to comply in each zone. He continued, to allow for this the sanctuary was reduced by 924 square feet; however, the 4,095 square feet of property on Oleander was added with 2,416 square feet of that being added to the allowable Temple site.

Mr. Moore summarized the comments by stating the original Temple was built in the C-TS zoning district which had different requirements than R-C which is residential and when the first addition was put on the Temple, it was built in R-C and complied with the zoning rules for that district. He continued the decision by the Town at that time was that each portion of the building would comply in the zoning district in which it is located, and therefore when the next addition was presented it complied to the R-C district. In an effort to have a surplus of property, the Temple now has a piece of property directly to the west under contract. He concluded this presentation is for a 1,900 square foot modification to the approved addition last presented by Mr. Koehler with enough land to support that request. He added the staff has no objections since it meets all Town regulations with the acquisition of this property.

Mr. Moore said he did not recommend changing the Town's previous position of requiring each section to conform in each zoning district.

Mr. Lawrence stated changes have been made in the second floor since Mr. Koehler presented his design; also the sanctuary now makes a statement.

Motion made by Mrs. Royal to approve Special Exception 20-92. Seconded by Mr. Shaw. On roll call, the motion carried unanimously.



TOWN OF PALM BEACH

Planning, Zoning & Building Department

August 16, 1994

Paul Rampell, Esquire
125 Worth Avenue
Palm Beach, Florida 33480

Subject: Modification to Special Exception #20-92
Temple Emanu-el, Building Addition, 190 N. County Rd.

Dear Mr. Rampell:

The Town Council at the regularly scheduled meeting of August 9, 1994 approved the subject Special Exception application in which approval was requested to modify the previously approved 4,059 square foot building addition by allowing an increase in that addition of approximately 1,900 square feet, bringing the total approved square footage to approximately 6,000 square feet, as shown on drawing Alb, prepared by The Lawrence Group Architects, submitted with and a part of the Application.

The approval was granted with the understanding that the Temple will be acquiring the 4,095 square foot parcel on Oleander Avenue, thereby giving the Temple sufficient land to support the proposed addition.

This Town Council action constitutes zoning approval only and does not relieve the owner and/or applicant from obtaining additional Town approvals as may be required such as Architectural Commission approval and necessary construction permits. This matter will be placed on the Architectural Commission's agenda for consideration upon receipt of completed plans.

The work authorized under this Special Exception must be commenced or implemented within one year from the date of Town Council approval or said approval will expire.

Sincerely,

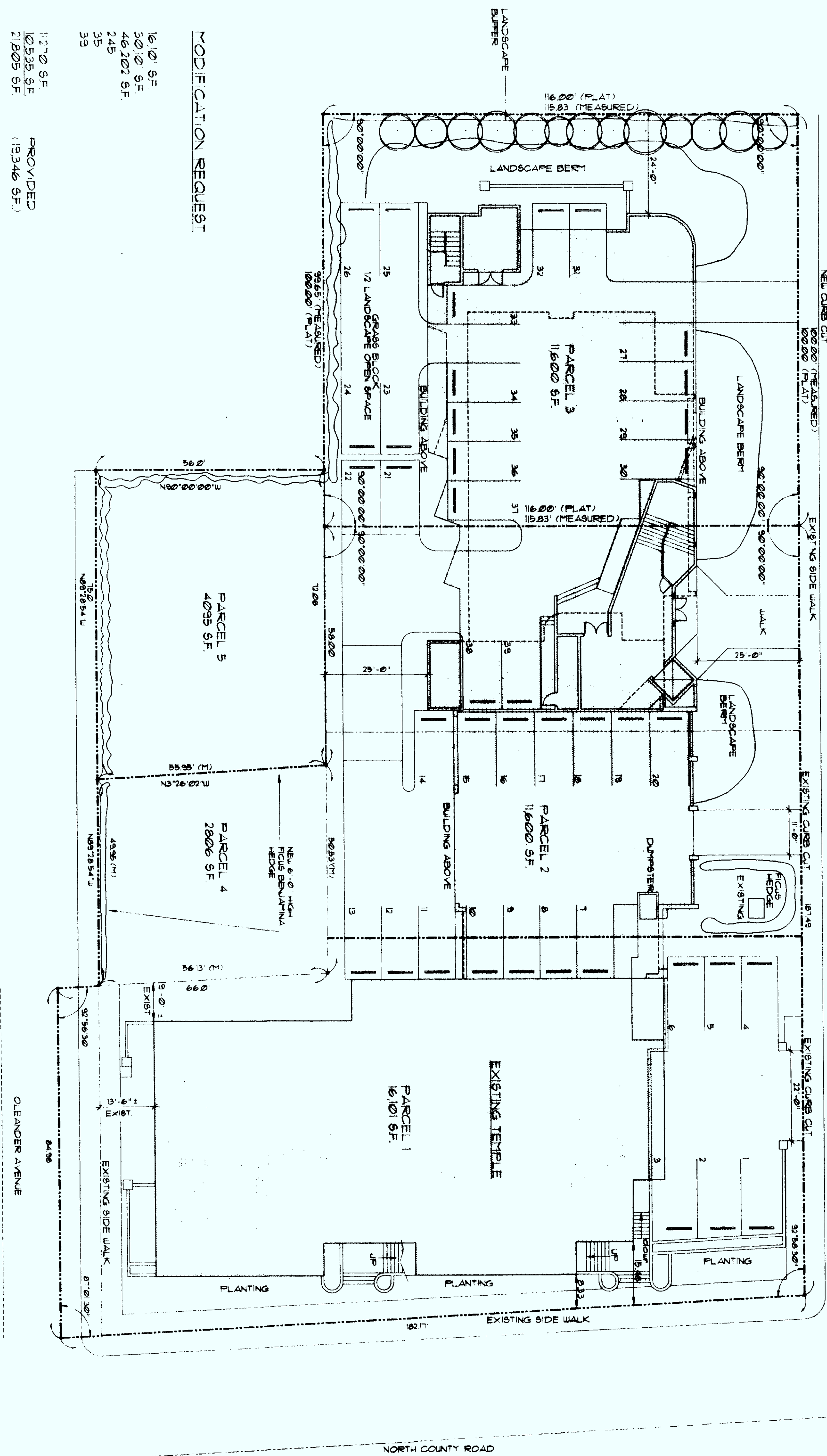

David C. Zimmerman
Assistant Building Official
DCZ/wz

cc: Robert J. Doney, Town Manager
Robert L. Moore, Director of Planning, Zoning & Bldg.
Grace T. Peters, Town Clerk
Harry P. Ackerman, Chief Building Inspector
pf

BUILDING SITE DATA		
(0000) INDICATES AMOUNT PROVIDED		
ITEM	APPROVED	SPECIAL EXCEPTION
SITE AREA		
CT6	16,101 SF	16,101 SF
RC	23,200 SF	30,100 SF
TOTAL	39,301 SF	46,202 SF
NO SEATS		
PARKING REQUIRED	245	245
PARKING PROVIDED	35	35
ALLOWABLE COVERAGE		
CT6	11,270 SF	11,270 SF
RC	8,120 SF	10,535 SF
TOTAL	19,390 SF	21,805 SF
LANDSCAPE OPEN SPACE REQUIRED		
CT6	25% 4,025 SF	4,025 SF
RC	35% 8,120 SF	10,535 SF
TOTAL	12,145 SF	14,560 SF
FRONT YARD		
CT6	0 - - (8'-6")	PROVIDED
RC	25' (25')	25' (25')
CT6	0 (N.A.)	0 (N.A.)
RC	10' (48')	10' (22'-0")
CT6	10' (N.A.)	10' (N.A.)
RC	15' (25')	15' (25')
CT6	2/25 (2/25)	2/25 (2/25)
RC	2/25 (2/25)	2/25 (2/25)

MODIFICATION REQUEST		
SITE AREA		
CT6	16,101 SF	16,101 SF
RC	30,100 SF	30,100 SF
TOTAL	46,202 SF	46,202 SF
NO SEATS		
PARKING REQUIRED	245	245
PARKING PROVIDED	35	35
ALLOWABLE COVERAGE		
CT6	11,270 SF	11,270 SF
RC	10,535 SF	10,535 SF
TOTAL	21,805 SF	21,805 SF
LANDSCAPE OPEN SPACE REQUIRED		
CT6	4,025 SF	4,025 SF
RC	10,535 SF	10,535 SF
TOTAL	14,560 SF	14,560 SF
FRONT YARD		
CT6	0 - - (8'-6")	PROVIDED
RC	25' (25')	25' (25')
CT6	0 (N.A.)	0 (N.A.)
RC	10' (22'-0")	10' (22'-0")
CT6	10' (N.A.)	10' (N.A.)
RC	15' (25')	15' (25')
CT6	2/25 (2/25)	2/25 (2/25)
RC	2/25 (2/25)	2/25 (2/25)

* OR 10' SIDE WALK
 † STORM WATER TO BE RETAINED ON
 SITE BY LAND SCULPTURE OR EXFILTRATION



Site plan A1b 8/2/1994 from

Lawrence Group

(Approved and Modification Request)

BUILDING SITE DATA

(00.00) INDICATES AMOUNT PROVIDED

APPROVED
SPECIAL EXCEPTION

MODIFICATION REQUEST

SITE AREA

CTS	16,100 SF.	16,100 SF.
RC	23,200 SF.	30,100 SF.
TOTAL	39,300 SF.	46,202 SF.
NO SEATS	245	245
PARKING REQUIRED	35	35
PARKING PROVIDED	38	39

ALLOWABLE COVERAGE

CTS	10%	11,270 SF.	11,270 SF.
RC	35%	8,120 SF.	10,535 SF.
TOTAL		19,390 SF.	21,805 SF.
			PROVIDED (19,346 SF.)

LANDSCAPE OPEN SPACE REQUIRED

CTS	25%	4,025 SF.	4,025 SF.
RC	35%	8,120 SF.	10,535 SF.
TOTAL		12,145 SF.	14,560 SF.
			PROVIDED (17,313 SF.)

FRONT YARD

CTS	0' - 0'	(8' - 6')	0' - 0'	(8' - 6')
RC	25'	(25')	25'	(25')

SIDE YARD

CTS	0'	(NA)	0'	(NA)
RC	10'	(48')	10'	22' - 0'

REAR YARD

CTS	10'	(NA)	10'	(NA)
RC	15'	(25')	15'	(25')

HEIGHT

CTS	2/25	(2/25)	2/25	(2/25)
RC	2/25	(2/25)	2/25	(2/25)

* OR 10' SIDE WALK
1" STORM WATER TO BE
SITE BY LAND SCULPTURE

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Updated: 6:36 p.m. Monday, Jan. 30, 2012 | Posted: 6:34 p.m. Monday, Jan. 30, 2012

A brief history of Temple Emanu-El

Related

Jan. 24, 1963: Temple Emanu-El of Palm Beach chartered as the first synagogue organized in the town.

Initial incorporators were Jack Ersoff, Benjamin Lehr, Harry Lempel, Leonard Moser, Joseph Schwartz and Martin Slifka. The Articles of Incorporation also lists 43 charter members of the congregation.

1963: First services held at Bethesda-by-the-Sea. First High Holiday services held at the Poinciana Playhouse. A Sisterhood (now named Women's League) was established.

1964: Temple moved to a storefront in April at 266 Sunrise Ave., where it created a prayer hall with 60 seats.

1970: The temple membership continued to grow and a larger, permanent home was needed. A campaign raised \$500,000.

1972: The present location at 190 N. County Road was acquired. On April 2, ground was broken for a new building.

1973: A Men's Club was established.

1974: Construction of the original building was completed and formally dedicated on March 24 with a sanctuary that seated 300 worshippers. Over the subsequent years, five temple families (Birger, Frost, Joffe, Resnick and Robinson) established separate endowments for the temple's Scholar-in-Residence programs featuring world-renowned authors, speakers and scholars for special weekends held each year during the winter season.

1986: Hazzan David Feuer installed as cantor and "Shaliach Tzibbur."

1993: An \$8,000,000 "21st Century Campaign" was completed to remodel and enlarge the temple's building on its existing site. During construction, temple services were conducted in the Community Hall of St. Edwards Church.

1995: The temple's building was formally rededicated in September with a sanctuary that seats 550 worshippers and expansion rooms to accommodate an additional 275 worshippers.

2006: Michael Resnick installed as rabbi.

2012: Campaign 50 officially launched at the annual concert in February to pave the way to the 50th anniversary celebration.

Source: Temple Emanu-El



KESHAVARZ & ASSOCIATES, INC. CONSULTING ENGINEERS - SURVEYORS

MAZIAR KESHAVARZ, P.E.
RONALD E. BUCINA, P.E.
ALLEN T. GREEN, JR., P.E.
JOHN A. MOHANDESI, P.E.
DONALD L. TODD, P.L.S.

CIVIL	TRAFFIC
SANITARY	ELECTRICAL
GEOTECHNICAL	CAD/D
FOUNDATION	PLANNING
HIGHWAY	SURVEYING

TRAFFIC GENERATION STATEMENT

FOR

"TEMPLE EMANU-EL"

PALM BEACH COUNTY, FLORIDA

PROJECT NO. 92299

JULY 7, 1992

JULY 7, 1992

I. INTRODUCTION

- 1.1 This project proposes the expansion of the existing Temple Emanu-El at the southwest corner of Seminole Avenue and North County Road in the Town of Palm Beach (see location map). Previously, the temple underwent an expansion in 1987/1988 which included the construction of a fellowship hall, storage and other amenities. The currently proposed expansion is construction of additional storage space, classrooms for religious education and a gift shop.
- 1.2 The expansion site is located immediately west of the existing Temple and currently consists of a building with ten rental apartments. The apartments will be demolished prior to the proposed construction.
- 1.3 This report is based upon the site plan prepared by Theodore E. Davis, AIA, job no. 92-009, dated 7/6/92.

II. TRAFFIC GENERATION

- 2.1 The traffic generated from the existing building is considered to be traffic that is currently accounted for in present and future traffic counts; therefore, only the additional traffic generated from the expansion will be accounted for. Furthermore, ITE's Trip Generation does not supply sufficient information concerning rates for church/synagogue and religious education; therefore, rates will be generated based on assumptions.
- 2.2 The gift shop will not be considered to generate additional traffic as it will be visited during Sabbath and High Holy Days observations. While the classrooms will also be utilized during these same times, they will not be expected to generate additional traffic because the children will accompany parents during services.
- 2.3 The classrooms will also be utilized an equivalent of 40 weeks per year on Tuesdays and Sundays for religious instruction. There will be 8 classrooms and 70 children total. It is assumed that children will be driven to the synagogue, dropped off and picked up after classes, also it is assumed that an average of 2 children will be in each vehicle.
- 2.4 Trips generated by expansion:
Children: $70 \text{ children} / 2 \text{ child/vehicle} \times 2 \text{ trips/vehicle} = 70 \text{ trips}$
Instructors: $8 \text{ instructors} \times 1 \text{ trips/instructors} = 8 \text{ trips}$
Gross generated trips = 78 trips
- 2.5 Because the expansion site is currently occupied as an apartment building, the expansion of the synagogue will remove those trips from the adjacent roadways. The accepted generation rate for apartments is 7 trips/day per apartment; thus, this project will remove 70 trips/day from the adjacent roadway. Therefore, the net generated trips will be 8 trips/day.

III. TRIP DISTRIBUTION

Because of the geography and distribution of residential and commercial areas of Palm Beach, the following distributions are assumed.

JULY 7, 1992

- 3.1 Before the expansion, 90% of the trips generated went to the south while 10% of the trips went north.
- 3.2 After the expansion, 60% of the gross trips will go to the residential areas to the north evenly distributed upon the arterials of Bradley Place and N. County Road. The remaining 40% of the gross trips will go to residential and commercial areas to the south with 70% of these trips utilizing N. County Road.
- 3.3 After reviewing the traffic counts from Palm Beach County Engineering and the Town of Palm Beach, it is noted that the thoroughfares to the south, North County Road and Royal Poinciana Way, and the local arterials are all currently below Level of Service D capacity. Based on the net trips generated from this project (8 trips), these roadways will not be significantly impacted. Furthermore, it can be observed from the assumptions made above that this project will take trips off the two thoroughfares mentioned above.

IV. PARKING AND ACCESS

As stated above, the classrooms will be utilized during Sabbath and High Holy Days observances; however, they will not be expected to generate additional trips or parking requirements during these occasions. Also, it was stated that when the classrooms are being utilized outside the times of religious observances that the children will be dropped off and picked up. Because the existing on-site parking will not be fully occupied during these times, instructors and parents dropping children off will use these spaces. The current expansion adds another 3 on-site parking spaces. Access to the site during these times will be off Seminole Avenue via an existing ingress driveway and a relocated egress driveway.

Therefore, this expansion will not require additional on-site or off-site parking and will not cause additional congestion on Seminole Avenue or the adjacent roadways.

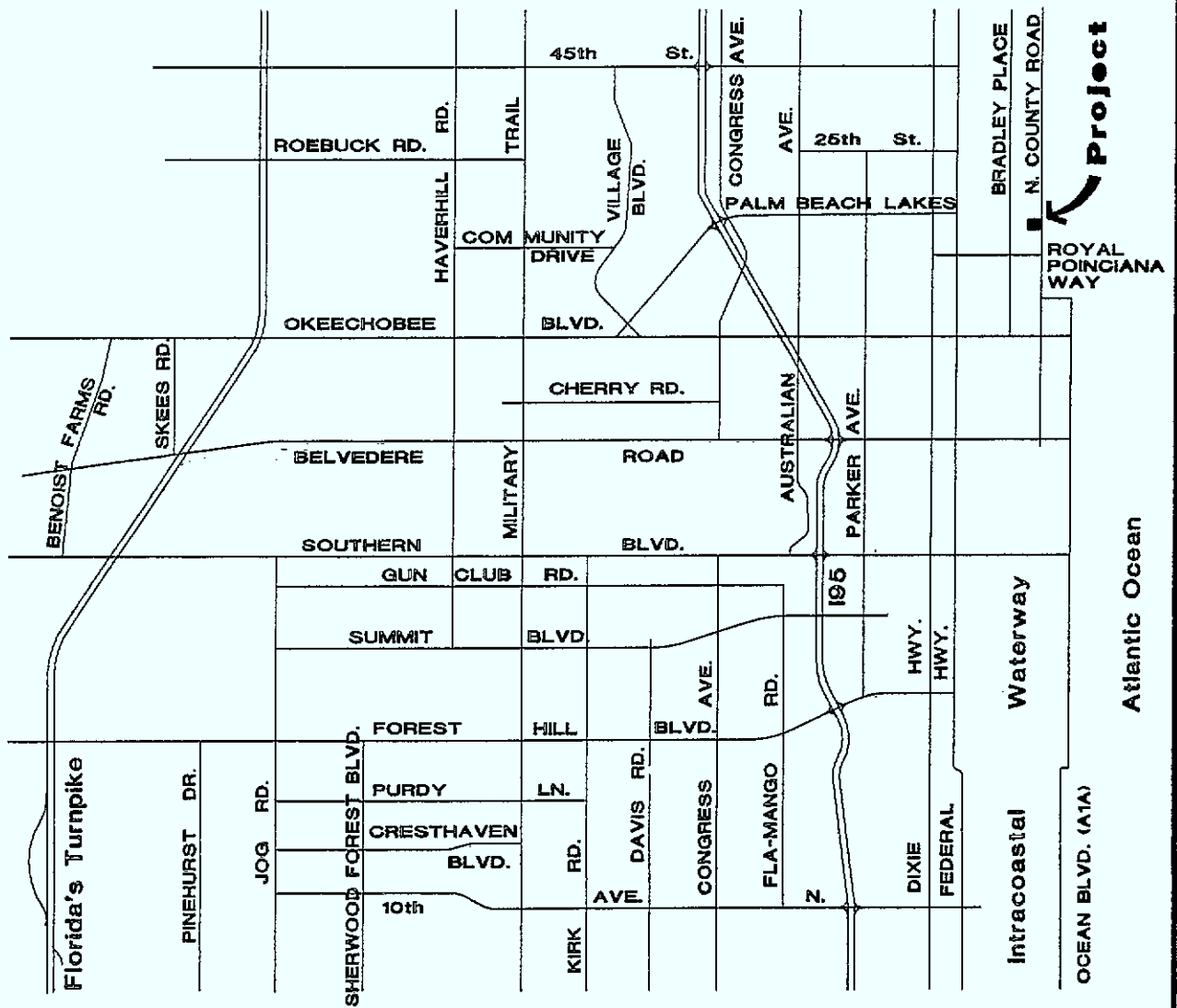
V. CONCLUSION

As seen in the analysis above, this project has an insignificant impact on the adjacent roadways and thoroughfares.

Respectfully,
Keshavarz & Associates, Inc.

Maziar Keshavarz, P.E.
President

MK/RAM/jlh



PROJECT LOCATION

Figure 1



4425 BEACON CIRCLE SUITE 201
WEST PALM BEACH, FLORIDA 33407

407-844-8600

KESHAVARZ & ASSOCIATES, INC.
CONSULTING ENGINEERS - SURVEYORS

**TEMPLE
EMANU-EL**

NORTH COUNTY ROAD
Palm Beach, Florida 33484

Frank W. Cathey
219 Oleander Avenue
Palm Beach, Florida 33480

ARCHITECTURAL COMMISSION
Post Office Box 2029
360 South County Road
Palm Beach, Florida 33480

RECEIVED

AUG 05 1992

TOWN OF PALM BEACH
BUILDING & ZONING

August 4, 1992

Dear Sirs:

Reference application for special exception #20-92.

I own two properties immediately West of the Temple Emanu-el. During the season months, there exists a definite parking problem during the time of the Temple services even though they are using Valet parking. During the services, the cars are often parked on Oleander Avenue, blocking the driveways.

It is my opinion that more parking spaces should be provided than is required by the current guidelines. Originally we approved the exception for a small Synagogue. The Synagogue has grown to a degree that it now dominates the area during the winter meeting times.

I feel that at this time I must protest the request for special exception and variance.

Very truly yours,


Frank W. Cathey

FWC/nwl
cc: file

ST. EDWARD'S CHURCH

PALM BEACH, FLORIDA 33480

July 7, 1992

Rabbi Leonid Feldman
Temple Emmanu-el
190 North County Road
Palm Beach, Florida 33480

Dear Rabbi Feldman,

With this letter, we are giving the Congregation of Temple Emmanu-el permission to use our parking facilities on the High Jewish Holydays.

Sincerely



Fr. Francis Lechiara
Pastor



October 4, 2012

Honorable Gail Coniglio, Mayor
Town Council of Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Re: Modified Special Exception #8-2012 w/Site Plan Review and Variance

Dear Mayor and Town Council:

We are the owners of and have a full time residence at 237 Oleander Avenue. This property is located adjacent to the South West corner of the property "Temple Emanu-El of Palm Beach, Inc." listed in the Zoning Application.

We received a copy of the zoning application on August 24, 2012 and have just recently been made aware that our comments are required to be sent in today in regard to the hearing on Wednesday October 10th.

After thorough review of the zoning application we conclude that the approval of this would create a nuisance and disrupt our right as full time residence of Palm Beach, to enjoy our patio, which directly abuts the property, especially on weekends. See Florida East Coast Properties, Inc. v. Metropolitan Dade County, 572 F.2d 1108, 1112 (Fla. 5th Cir. 1978) ("Florida law defines a nuisance as anything which annoys or disturbs one in the free use, possession or enjoyment of his property, or which renders its ordinary use of occupation physically uncomfortable."). We strongly recommend against such approval.

Our neighborhood is quiet and peaceful. Allowing 300 to 400 persons of a religious institution to congregate and hold events 52 times a year (Town staff recommended 24) directly behind our patio will definitely restrict our right to enjoy our property and will create a public nuisance as the proposed use would generate excessive noise and traffic. Roughly half or 200 of this religious institution do not reside in our town and possibly this temple has gotten too large for our community.

In various sections of the variance request there is mention of portable cooking grills, services such as blessing of animals, sukkot, with an 800 square foot pergola, a pathway around the perimeter with benches and barbeque. This doesn't read like a local, small town, religious institution but rather a congregation too large for a small neighborhood.

We respectfully request the denial of proposed exceptions, site review, and variance.

Sincerely,

TERRY J. & BONNIE L. ALFUTH
237 OLEANDER AVENUE • PALM BEACH, FLORIDA • 33480

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Old Business - < 15 Minutes

Agenda Title

SPECIAL EXCEPTION #20-2012 WITH VARIANCE The application of Harvey E. Oyer, III, Attorney for Del Friscos Restaurant Group; relative to property commonly known as **340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306 & 308**; described as Lengthy legal description on file; located in the C-PC Zoning District. The applicant requests a Special Exception for a 260 seat, 8,399 square foot restaurant use in the C-PC district to be located in combined tenant spaces on the northeast side of the Royal Poinciana Plaza, as permitted by Section 134-1259 (a)(5). The proposal also includes the elimination of 2,589 square feet of existing second floor office space, the addition of a bar, a wine room, and two private dining rooms. The proposed hours of operation are: lunch and dinner (from 11am to 11pm) Monday through Wednesday, lunch and dinner (from 11am to midnight) Thursday through Saturday, and dinner only (5pm to 11pm) on Sunday. A special exception is requested for changes in use for more than 2,000 square feet in C-PC district, permitted by Section 134-1261, for a Town-Serving restaurant. A variance is also requested to eliminate the requirement to provide 72 off-street parking spaces to accommodate the 260 seat restaurant. [Attorney: Harvey E. Oyer, III]

Deferred from the August 15, 2012, Town Council Meeting.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated August 20, 2012, from Gene Rayfield
- Letter dated August 24, 2012, from Harvey E. Oyer, III
- Letter dated September 4, 2012, from John R. Eubanks
- Email dated September 10, 2012, from Susan and Bruce Watts
- Email dated September 24, 2012, from Paulette Koch
- Email dated September 24, 2012, from Gary Lickle
- Email dated September 25, 2012, from Matti Anttila
- Email dated September 25, 2012, from Dana Koch
- Email dated September 25, 2012, from DJ Fairbanks
- Email dated September 25, 2012, from Linda Glazer
- Email dated September 25, 2012, from Joel Kasewitz
- Email dated September 25, 2012, from Kevin T. Lamb
- Email dated September 26, 2012, from Cristina B. Condon
- Email dated September 26, 2012, from Alex Griswold

- Email dated September 26, 2012, from Joel Kasewitz
- Email dated September 27, 2012, from Harvey & Mary Ann Kinzelberg
- Email dated September 27, 2012, from Bertram T. Martin III
- Email dated September 27, 2012, from Jay N. Nisberg
- Email dated September 27, 2012, from Paolo Weston
- Email dated September 28, 2012, from George A. Abouzeid
- Letter dated September 28, 2012, from Bill Bone
- Email dated September 28, 2012, from Bob Paltrow
- Email dated September 28, 2012, from Lise and Henri Wechsler
- Email dated September 28, 2012, from Harold Peerenboom
- Email dated September 30, 2012, from John and Monika Preston
- Letter Dated October 1, 2012 from Peter D. Cummings
- Email dated October 2, 2012, from Frank S. Coniglio
- Email dated October 2, 2012, from Alan and Renee Gozlan
- E-mail Dated October 2, 2012, from Ervin S. Duggan
- E-mail Dated October 2, 2012, from Ann Vanneck
- E-mail Dated October 2, 2012, from Liza Pulitzer Calhoun
- E-mail Dated October 2, 2012, from Andreas Kotsifos
- E-mail Dated October 2, 2012, from Henry P. McIntosh, IV
- E-mail Dated October 2, 2012, from Payson Coleman
- Letter Dated October 3, 2012, from 264 The Grill
- E-mail Dated October 3, 2012, from Michael Spaziani
- E-mail Dated October 3, 2012, from Heather Farmakis, Ph.D.
- E-mail Dated October 3, 2012, from Jerry O'Connor
- Letter Received on October 3, 2012, from Clinton R. Wyckoff, III
- Letter Dated October 3, 2012, from J. Barry Donahue
- Letter Dated October 3, 2012, from Stuart & Joan Schapiro
- Letter Dated October 3, 2012, from Michael Schwartzman
- Letter Dated October 3, 2012, from Doris Hastings
- Letter Dated October 3, 2012, from Zen & Babs Yonkovig
- Letter Dated October 3, 2012, from Dale & Helen Finfrock
- Letter Dated October 3, 2012, from John R. Eubanks, Jr.
- Letter Dated October 3, 2012, from John W. Little, III
- Letter Dated October 3, 2012, from Christopher J. Lazarra
- Email dated October 3, 2012, from James Serzan
- Email dated October 3, 2012, from Carl Stibolt
- Email dated October 3, 2012, from John Rau
- E-mail Dated October 3, 2012, from Alice Pannill
- Letter Dated October 4, 2012, from Marian S. Barnett
- Letter Dated October 4, 2012, from Jared McClure
- E-mail Dated October 4, 2012, from Tim Moran

- Letter Dated October 4, 2012, from Leslie Gales & Keith Ray
- Letter Dated October 4, 2012, from Linda & Anthony Marino
- Letter Dated October 4, 2012, from John R. Eubanks
- Letter Dated October 4, 2012, from The Leverrier Family
- Letter Dated October 4, 2012, from John S. Palmer
- Letter Dated October 4, 2012, from Adam Munder
- E-mail Dated October 4, 2012, from Rich Goren
- Email dated October 4, 2012, from Mr. and Mrs. John Volk
- Letter Dated October 4, 2012, from Robert Sheff
- E-mail Dated October 4, 2012, from Richard Rosenbloom and others
- Resident Form Letters
 - Judy Wells Hoffman
 - Jane Lindsay Scott
 - Shelby Vyckoff
 - Eleanor Shaw
 - Lucida Jacobs
 - Joel Scott
 - Lindley Hoffman
 - Louise Stephaich

Gene Rayfield

TOWN OF PALM BEACH

AUG 23 2012

Town Manager's Office

August 20, 2012

The Honorable Gail Coniglio
City of Palm Beach Mayor
360 S. County Road
Palm Beach, FL 33480

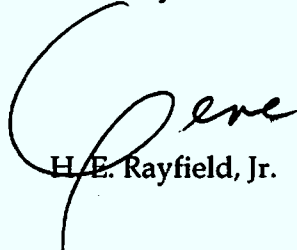
Dear Mayor Coniglio,

Just a short note on behalf of my wife, Gayle, and I in support of the Council approving the permits for Del Friscos to own and operate a restaurant located in Royal Poinciana Plaza.

We are year-round residents of Palm Beach and we believe that the citizens and the market should decide the success or failure of a restaurant and that it's not government's responsibility to make this determination by allocating slots and/or the number of restaurant seats that can be allowed in the community. In the unfortunate event that the restaurant does not appeal to patrons and they choose not to support it, or the restaurant has other problems, the outcome will be decided by the market; either the restaurant will go out of business or bankruptcy will take care of it such that it will be removed and replaced by another that can possibly please the people.

Thanks for your attention and for your service to the community.

Cordially,

A handwritten signature in black ink, appearing to read "Gene", with a large, sweeping loop on the left side.

H. E. Rayfield, Jr.



Founded 1910

HARVEY E. OYER, III
PARTNER
(561) 650-8517 Direct Telephone
(561) 822-5522 Direct Facsimile

E-MAIL ADDRESS:
hoyer@shutts.com

August 24, 2012

Via Email and Regular Mail

John R. Eubanks, Jr., Esq.
Breton, Lynch, Eubanks & Suarez-Murias, P.A.
1209 N. Olive Avenue
West Palm Beach, FL 33401

Re: Del Frisco's Grille

Dear John:

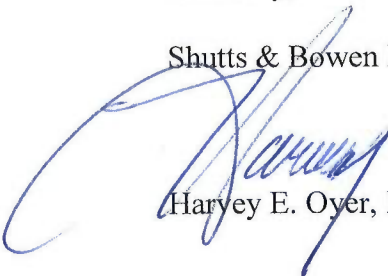
Del Frisco's would like to host an informational session with the Palm Beach Towers unit owners. This will allow Del Frisco's to formally present the plans for their restaurant and obtain feedback and concerns directly from the unit owners. Such a session should improve communication, assist Del Frisco's in providing a better restaurant to the community, and provide an open forum for addressing any issues.

Del Frisco's will host the meeting, at its expense, either at Palm Beach Towers or any other location that is convenient to all concerned. Please suggest locations and dates that would be convenient to you and your client.

As always, should you have any questions or wish to discuss this further, please call on me.

Sincerely,

Shutts & Bowen LLP



Harvey E. Oyer, III

HEO/js

cc: Mayor
Town Council
Peter Elwell
Skip Randolph, Esq.
John Page
Paul Castro

The Law Offices of
BRETON, LYNCH, EUBANKS & SUAREZ-MURIAS, P.A.

Peter L. Breton
Francis X. J. Lynch
John R. Eubanks, Jr.
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September 4, 2012

Via E-mail and Regular U.S. Mail

Harvey E. Oyer, III., Esq.
Shutts & Bowen LLP
1100 City Place Tower
525 Okeechobee Boulevard
West Palm Beach, Florida 33401

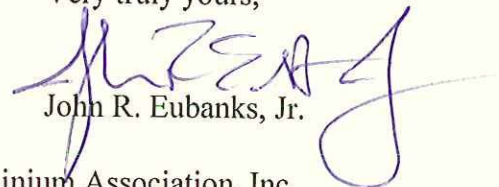
Re: Del Frisco's Grille

Dear Harvey:

I am in receipt of your letter dated August 24, 2012 in which your client, Del Frisco's Grille, has offered to host "an informational session with the Palm Beach Towers unit owners" which will allow Del Frisco's to "formally present the plans for their restaurant" and "provide an open forum for addressing any issues" to assist "Del Frisco's in providing a better restaurant to the community." Upon receipt, your correspondence was forwarded to the Board of Directors for comment.

It is the opinion of the Board that to the extent that Del Frisco's Grille desires to provide "a better restaurant for the community" it should invite and include the entire "community" to any such "informational session" rather than just targeting the Palm Beach Towers. While the Towers is the closest residential building to the Royal Poinciana Plaza, the Towers is but one voice in a "community" of people with serious concerns regarding Del Frisco's Application. In the meantime, the major "issues" and "concerns" of the Towers were clearly set forth within that correspondence from our office to the Town Council members dated August 9, 2012.

Very truly yours,


John R. Eubanks, Jr.

cc: Board of Directors, Palm Beach Towers Condominium Association, Inc.
John Grosskopf, General Manager, Palm Beach Towers
Mayor and Town Council Members
Paul Castro
Peter Elwell
John "Skip" Randolph, Esq.
John Page

From: SUSAN WATTS <sbwatts@yahoo.com>
To: gconiglio@townofpalmbeach.com, wdiamond@townofpalmbeach.com, rkleid@townofpalmbeach.com, mpucillo@townofpalmbeach.com, drosow@townofpalmbeach.com, rwildrick@townofpalmbeach.com, PEIwell@townofpalmbeach.com, CDelp@TownofPalmBeach.com
Cc: SUSAN WATTS <sbwatts@yahoo.com>
Date: 09/10/2012 03:32 PM
Subject: Del Frisco Application

The Honorable Gail Coniglio, Mayor, and
Town Council Members
Town of Palm Beach, Florida
360 South County Road
Palm Beach, FL 33480

September 10, 2012

Dear Mayor and Town Council Members,

We are writing to express our concern and dismay about the request from Del Frisco's Restaurant Group for a Zoning Special Exception with Variance to lease space in Royal Poinciana Plaza in order to construct an 8400 square foot restaurant, Del Frisco's Grille. With all due respect, we are stunned that the Town of Palm Beach would EVER consider such a request.

Not only is this one of the "chain"-type enterprises which we had thought the Town wanted to prevent locating here, but it escapes us how a facility of this size will be fully occupied with Town residents. Isn't one of the tests of new endeavors such as this that it be "town serving?" In addition, is it realistic to suppose this huge place will be one that is attractive to Town residents, or will even be of interest to them? Doubtful.

We hope you will carefully consider the Del Frisco Application and the potential downsides should it be constructed: the inappropriate nature of a massive chain eatery in our small, charming town; the negative impact on local businesses; and the encouragement of late-night drinking, noise and traffic, all of which will put a strain on our Town resources. How is this a good thing for Palm Beach?

Thank you for considering these concerns.

Sincerely,

Susan and Bruce Watts
455 Worth Avenue
Palm Beach, Florida

From: "Koch, Paulette" <Paulette.Koch@corcoran.com>
To: <council@townofpalmbeach.com>
Date: 09/24/2012 06:31 PM
Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family and it is encouraging that a restaurant of this stature is excited about making a commitment to our Town. Hopefully, their ultimate presence will inspire other businesses to make similar commitments and keep our Town vibrant!

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

Paulette Koch

From: "Gary Lickle" <gary@gdlickle.com>
To: <council@townofpalmbeach.com>
Date: 09/24/2012 08:36 PM
Subject: I support the application for Del Frisco's

Hello my friends and Town leaders

As now a 32 year plus resident of the Town I have watched and participated in the maturation of our Town. When I first arrived , all traffic lights went to blinking orange in the Summer along with most all of our restaurants. We basically mothballed the Town and pretty much closed up for the Summer Season. Most residents left town and there was little business. Although many of our residents and at times even me, would love to return to those days, our Town has matured and is a full time year round municipality serving its citizens and a dramatic influx of visitors during the season. Why? Because it's a wonderful place to live and visit. Along with that comes, hopefully , well managed growth and change. It's time for the Plaza issues to get behind us and for it to change and since we can always use another great restaurant , I support the application. I frequent Del Friscos when out of town and it is nothing but a first class restaurant.

Regards Gary Lickle 400 S Ocean Blvd.

From: "Matti Anttila" <matti@abbpartnersllc.com>
To: <council@townofpalmbeach.com>
Date: 09/25/2012 12:55 PM
Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

Matti Anttila
230 Osceola Way
Palm Beach, FL 33480

From: "Koch, Dana" <Dana.Koch@corcoran.com>
To: <council@townofpalmbeach.com>
Date: 09/25/2012 02:26 PM
Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

Dana Koch
249 Bahama Lane
Palm Beach, FL 33480

Dana Koch
Corcoran Group Palm Beach
340 Royal Poinciana Way, Suite 302
Palm Beach, FL 33480
d: 561.227.4439 • f: 561.227.4473 • m: 561.379.7718

From: dj fairbanks <djfthird@me.com>
To: council@townofpalmbeach.com
Date: 09/25/2012 10:53 AM
Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

DJ Fairbanks
138 Chilean Ave
Palm Beach, FL 33480

From: Linda Glazer <lindaglazer@mac.com>
To: council@townofpalmbeach.com
Date: 09/25/2012 09:10 PM
Subject: Del Frisco's Grille

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

Linda Glazer
1482 S Ocean Blvd
Palm Beach, FL 33480

From: Joel Kassewitz <jkassewitz@gmail.com>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>
Date: 09/25/2012 09:56 AM
Subject: Support of Del Frisco's Grille

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application. It is an outstanding restaurant and the town needs a new dining option of their caliber. We are fortunate that they are considering coming here.

I have been a resident here since 2004 and I'm very concerned about the direction of this town. Businesses are closing and the town seems to be in decay. We need a revitalization and the Royal Poinciana Plaza location is a good place to start.
Sincerely,

Joel Kassewitz
854 S County Road PB 33480

From: "Kevin T. Lamb" <kevin@ktlamb.com>
To: council@townofpalmbeach.com
Date: 09/25/2012 09:12 AM
Subject: Support of Del Frisco's Application

Dear Town Council: i am writing this letter in support of the above mentioned application. I am familiar with the Del Frisco's restaurant from it's Boston waterfront location and believe it to be a superior operation that would bring renewed vitality to the Plaza at a time when the Town is struggling to keep or attract viable businesses. As a resident of the North End I am particularly excited by the fact that a tenant such as this desires to locate in the Plaza as I am very supportive of any reasonable plans to improve the viability of the Royal Poinciana corridor. As a parent with a young family I also welcome the opportunity for another good dining option close to home. For all of the foregoing reasons I urge you to support the Del Frisco's application.

Sincerely,

Kevin T. Lamb
264 Tradewind Drive
Palm Beach, FL.

From: "Condon, Cristina" <Cristina.Condon@Sothebyshomes.com>
To: <council@townofpalmbeach.com>
Date: 09/26/2012 11:44 AM
Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Cristina B. Condon
Senior Sales Associate
561.301.2211 cell
561.273.6106 direct
561.273.4006 fax
cristina.condon@sothebyshomes.com

Sotheby's
INTERNATIONAL REALTY
340 Royal Poinciana Way, Suite 337
Palm Beach, FL 33480

September 26, 2012

Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'AG' or 'Alex Griswold'.

Alex Griswold

260 Park Ave.
Palm Beach, FL.
33480

From: "Kassewitz, Joel" <joel.kassewitz@credit-suisse.com>
To: <council@townofpalmbeach.com>
Date: 09/26/2012 04:19 PM
Subject: Del Frisco's Grille Support

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

Joel Kassewitz
854 South County Road
Palm Beach 33480

From: Harvey Kinzelberg <hkinzelberg@sequelcapital.com>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>,
Cc: "stan@shoesforcrews.com" <stan@shoesforcrews.com>
Date: 09/27/2012 05:04 PM
Subject: Del Frisco's Grille Support Letter

Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family. We absolutely see a need for several more upscale restaurants in town.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

**Sincerely,
Harvey Kinzelberg & Mary Ann**

**260 N. Ocean Blvd.
Palm Beach, FL 33480**

From: Bertram Martin <bertmartin@gmail.com>
To: council@townofpalmbeach.com
Date: 09/27/2012 09:25 AM
Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. I have had great experiences at the Winter Park, FL Del Frisco's restaurant and believe that they would be a great addition to the Palm Beach Economy and restaurant. This project will provide a renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. The corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration!

Sincerely,
Bertram T Martin III

Address:
305 Mediterranean Rd.
Palm Beach, FL 33480

From: Jay Nisberg <jaynisberg@snet.net>
To: council@townofpalmbeach.com,
Date: 09/27/2012 09:40 PM
Subject: Support of Del Frisco Grille's application
Sent by: bkhudso@gmail.com

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

Jay N. Nisberg
201 Indian Road
Palm Beach, FL

From: paolo weston <paoloweston@gmail.com>
To: council@townofpalmbeach.com,
Date: 09/27/2012 05:14 PM
Subject: support for the addition of Del Frisco Grille

Dear Town Council,

As a resident of the Town of Palm Beach, my family and I are greatly in favor of the addition of Del Frisco Grille to the Royal Poinciana. Over the years I have watched small businesses, one after another fail in the Palm Beach market. I believe the reason for this is because very few small businesses are insulated enough to withstand the desolate off season. Adding a large Restaurant with significant financial backing behind them can only be seen as an incredibly positive addition to the Town and the majority of the surrounding small businesses that will feed off the "overflow".

The opposition is saying that Palm Beach doesn't want a "chain" restaurant. Last I checked Palm Beach Grille was owned by Houston's a large chain with no significant ties to Palm Beach. If Del Frisco's is willing to take a chance on a large space that has been sitting vacant for over 3 years, I say give them every opportunity to succeed. If it is something that is not meant to be then we as Palm Beachers can make our own decision not to frequent the restaurant and it will close and sit vacant for another 3 years, but at least it will have created some sort of revenue for the Town in the interim.

I hope we can approve this restaurant and welcome them with open arms to our community. Thank you for your time.

--

Paolo Weston
205 Jamaica Lane
Palm Beach, Fl. 33480
[561.676.4100](tel:561.676.4100)

From: George Abouzeid <george@gabouzeid.com>
To: council@townofpalmbeach.com,
Date: 09/28/2012 11:53 AM
Subject: Support ofx Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town I welcome the presence of another good dining opportunity for my family and friends.

I urge your approval of Del Frisco's application.

Thank you for your consideration.

Sincerely,

George A. Abouzeid
1072 North Ocean Blvd.
Palm Beach, F. 33480

BILL BONE
322 PENDLETON LANE
PALM BEACH, FL 33480

September 28, 2012

VIA EMAIL

council@townofpalmbeach.com

Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bill Bone", written over a horizontal line.

BILL BONE
WDB/ws

From: Bob Paltrow <rup1313@gmail.com>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>,
Date: 09/28/2012 10:28 AM
Subject: Del Frisco

Gentlemen, I reside at 1250 N. Ocean Blvd. I regularly eat at their restaurants in New York and Fort Worth. Excellent food and service. This would be a welcome addition to our restaurant choices on the island.

I encourage you to support this application.

Sincerely, Robert Paltrow

From: Lise Wechsler <lisewechsler@gmail.com>
To: council@townofpalmbeach.com,
Date: 09/28/2012 12:17 PM
Subject: Del Frisco Grill

Dear Town Council,

Great news ! We have just heard that Del Frisco Grill has applied to open a restaurant in the Poinciana Plaza. Maybe this very sad corner of Palm Beach will see some life again. Del Frisco is a wonderful restaurant and, as Palm Beach residents, we are looking forward to another great dining destination, on the island.

We hope you will approved their application.

Thank you for your consideration of this matter,

Sincerely,

Lise and Henri Wechsler
2100 So. Ocean Blvd., PB

From: Harold Perry <perry@mandrake.ca>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>,
Date: 09/28/2012 05:02 PM
Subject: Del Frisco's Grille Application - October 10, 2012

Dear Town Council,

As an owner at the Residence's at Sloan's Curve in Palm Beach, I am writing to support the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. I feel that a restaurant of Del Frisco's caliber would be an asset to our Town and welcome another high quality dining opportunity.

Since the corner has been vacant for a number of years I also believe this outstanding restaurant will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving our community.

I urge your approval of the Del Frisco's application and thank you for your consideration.

Sincerely,

Harold Peerenboom

8 Sloan's Curve Drive,

Palm Beach, Florida 33480

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,

John and Monika Preston
25 Middle Rd , P B.

PETER D. CUMMINGS

TOWN OF PALM BEACH

OCT 03 2012

Town Manager's Office

October 1, 2012

Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Dear Members of the Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. I have visited other Del Frisco locations and believe that the residents of Palm Beach will be delighted to have such a high quality alternative added to the menu of restaurants in town. It is also important for current and prospective Town residents to see new investment being made in a Town where new investment has been lacking for some time.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,



Peter D. Cummings
Chairman
Ram Realty Services

From: "Frank S. Coniglio" <smokeyjoek@aol.com>
To: COUNCIL@TOWNOFPALMBEACH.COM,
Date: 10/02/2012 06:43 AM
Subject: Del Frisco's Application

Dear Council Members,

I called each of you regarding Del Frisco's application over a month ago and would like to know if I need to meet with each and everyone of you again to discuss how detrimental this Chain Restaurant will be to every Mom and Pop Restaurant in Town. Let me once again make my point that we DO NOT need another 275 seats in Town, we the Palm Beach Restaurateurs in Town are having a hard enough time filling the seats we have and this pass summer was one of the worst in the the 30 years I have operated. If Del Frisco's wants a presence in Town, please let them buy or lease an existing restaurant site, as my fellow restaurateurs and I have done over and over again. I know that there are other problems for approval of this application, such as parking variances, meeting hardship requirements and proving Town Serving. Adam Munder and Harvey Oyer are friends of all of us in Town and I understand they need to lease space in their center. But what is wrong with the Celebrity Room or other vacant restaurants in Town? I would have no problem with filling existing restaurant space, but a new 275 seats is ridiculous! I heard that when the Del Frisco principals saw the success of the Palm Beach Grille, they decided they wanted some of that action. Success Breeds Competition but Excessive Competition Always Breeds Ruinous Competition!

Respectfully,
Frank S, Coniglio

Frank S. Coniglio
smokeyjoek@aol.com

From: Alan Gozlan <alan.gozlan@richlinegroup.com>
To: council@townofpalmbeach.com,
Date: 10/02/2012 09:34 AM
Subject:

Subject: Support of Del Frisco's Grille Application

Dear Town Council,

I am in favor of the Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years. We should all feel fortunate that a restaurant of Del Frisco's caliber desires to open a restaurant in our community.

As a resident of the Town, I welcome the presence of another good dining opportunity for my family. We have lived in Palm Beach now for more than 25 years and are thrilled that we are seeing such wonderful new opportunities for our family in all areas dining included. Palm Beach has always been world class and truly deserves new additions like Del Frisco's Grille to enlighten and enliven our dining experiences.

I urge your approval of the Del Frisco's application.

Thank you for your consideration.

Sincerely,
Alan and Renee Gozlan
360 South Ocean Blvd. 2A
Palm Beach , Florida 33480

Regards
Alan
Alan Gozlan
Executive Vice President
Richline Group Canada LTD.
A Bershire Hathaway Company
(416)240-8898 Ext.3324
(416)902-8904 cell
(416)240-8905 fax
alan.gozlan@richlinegroup.com



Fw: Del Frisco's Grill Application
Anne Boyles to: pgayle-gordon

10/03/2012 10:01 AM

From: Cheryl Kleen/PalmBeach
To: Peter B Elwell/PalmBeach@PalmBeach
Cc: John Page/PalmBeach@PalmBeach, Anne Boyles/PalmBeach@PalmBeach, Susan Owens/PalmBeach@PalmBeach, jrandolph@jones-foster.com, Paul Castro/PalmBeach@PalmBeach, Debby Morakis/PalmBeach@PalmBeach
Date: 10/02/2012 04:50 PM
Subject: Fw: Del Frisco's Grill Application

To M&TC

----- Forwarded by Cheryl Kleen/PalmBeach on 10/02/2012 04:49 PM -----

From: "Ervin S. Duggan" <eduggan4a@yahoo.com>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>,
Date: 10/02/2012 03:51 PM
Subject: Del Frisco's Grill Application

Ladies and gentlemen: I favor the addition of this new restaurant to the Royal Poinciana Plaza and to the list of restaurant choices for the people of Palm Beach. It will add vitality to the Royal Poinciana Plaza, which now suffers too many vacancies. and it will bring competition and greater vibrancy to Palm Beach's business community. Most sincerely, Ervin S. Duggan

Sent from my iPad



Fw: del Frisco Grille

Anne Boyles to: pgayle-gordon

10/03/2012 10:01 AM

From: Cheryl Kleen/PalmBeach
To: Peter B Elwell/PalmBeach@PalmBeach
Cc: John Page/PalmBeach@PalmBeach, Anne Boyles/PalmBeach@PalmBeach, Susan Owens/PalmBeach@PalmBeach, jrandolph@jones-foster.com, Paul Castro/PalmBeach@PalmBeach, Debby Morakis/PalmBeach@PalmBeach
Date: 10/02/2012 04:51 PM
Subject: Fw: del Frisco Grille

To M&TC

----- Forwarded by Cheryl Kleen/PalmBeach on 10/02/2012 04:50 PM -----

From: Ann Vanneck <avanneck@mac.com>
To: council@townofpalmbeach.com,
Date: 10/02/2012 04:13 PM
Subject: del Frisco Grille

Dear Mayor and Members of the Town Council:

I would like to express my opposition to a 250 seat restaurant in the Town of Palm Beach. I would suggest that if they require a restaurant of that size, that they look at City Place. Palm Beach has always supported smaller venues. We do not have the population of South Beach, nor do we like to frequent large food mills. You can look at The Breakers, who has not only town residents but also hotel guests as clients. Their restaurants are more intimate in style and concentrate on quality rather than quantity. Also, don't you feel that we have enough vacant restaurant locations, that we do not have to create another future vacant location? Let's not even entertain the parking and traffic nightmares that we will be enduring as the Flagler Bridge is replaced.

Respectfully,

Ann Vanneck
217 West Indies Drive
Palm Beach



Fw: town council meeting - del frico's proposal

Anne Boyles to: pgayle-gordon

10/03/2012 10:01 AM

From: Cheryl Kleen/PalmBeach
To: Peter B Elwell/PalmBeach@PalmBeach
Cc: John Page/PalmBeach@PalmBeach, Anne Boyles/PalmBeach@PalmBeach, Susan Owens/PalmBeach@PalmBeach, jrandolph@jones-foster.com, Paul Castro/PalmBeach@PalmBeach, Debby Morakis/PalmBeach@PalmBeach
Date: 10/02/2012 04:52 PM
Subject: Fw: town council meeting - del frico's proposal

To M&TC

----- Forwarded by Cheryl Kleen/PalmBeach on 10/02/2012 04:51 PM -----

From: Liza Pulitzer <ldpulitzer@gmail.com>
To: council@townofpalmbeach.com,
Date: 10/02/2012 04:35 PM
Subject: town council meeting - del frico's proposal

dear town council,
i am 100% opposed to Del Frisco's restaurant going into the royal poinciana plaza. we are a small town with with a small town atmosphere and the thought of putting in a restaurant that can hold 300 people , 7 nights a weeks, makes me want to cry !! i can't believe anyone in commerce on this island would ever like to see this happen, much less our residents.. let's just keep this one simple. say no...

liza pulitzer calhoun



Fw: Del'frisco grill

John Page, Paul Castro, Debby Morakis, Anne
Gail Coniglio to: Boyles, Patricia Gayle-Gordon, Susan Owens,
jrandolph

10/03/2012 09:11 AM

Sent by: **Cheryl Kleen**

----- Forwarded by Cheryl Kleen/PalmBeach on 10/03/2012 09:02 AM -----

From: andreas kotsifos <akotsifos@yahoo.com>
To: Pelwell@townofpalmbeach.com, gconiglio@townofpalmbeach.com, rkleid@townofpalmbeach.com,
drosow@townofpalmbeach.com, mpucillo@townofpalmbeach.com,
rwildrick@townofpalmbeach.com, wdiamond@townofpalmbeach.com,
Date: 10/02/2012 08:21 PM
Subject: Del'frisco grill

I would like to express my objections against the idea of the new monster restaurant that is planning to open at the RPplaza. As a resident and businessman for the last 12 years on the Island I find it ironic, to say the least, that it is even being considered since the Town's ideology is all about "town serving" and 'preserving" the image and the surroundings of our residence. You know as everybody else knows that the Island cannot carry a restaurant of this caliber and that will have fatal effects on the other already existing restaurants around. Plus it is illegal from many points of view ie: it is part of a national established chain etc. I experienced the "pain" myself for the last four years before I had to give up on my last restaurant and I want to be confident that YOU our elected officials will put our best interest first while making a decision next week.

sincerely
Andreas Kotsifos
191 bradley place
ap. #1
palm beach



Pw: Del Frisco's application

Cheryl Kleen to: Peter B Elwell

Cc: John Page, Anne Boyles, Patricia Gayle-Gordon, Susan Owens,
jrandolph, Paul Castro, Debby Morakis

10/03/2012 08:11 AM

To M&TC

----- Forwarded by Cheryl Kleen/PalmBeach on 10/03/2012 08:10 AM -----

From: MSN Mail <ripmcintosh@msn.com>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>,
Date: 10/02/2012 09:02 PM
Subject: Del Frisco's application

I feel Del Frisco's planned venture in Palm Beach is totally inappropriate,
and urge the Council to deny it.

Best regards,

Rip

Henry P McIntosh, IV
ripmcintosh@msn.com

Sent from my iPad



Pw: Del Frisco Application

Cheryl Kleen to: Peter B Elwell

10/03/2012 08:13 AM

Cc: John Page, Anne Boyles, Patricia Gayle-Gordon, Susan Owens,
jrandolph, Paul Castro, Debby Morakis

----- Forwarded by Cheryl Kleen/PalmBeach on 10/03/2012 08:12 AM -----

From: "Coleman, C. Payson" <payson.coleman@pillsburylaw.com>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>,
Cc: "Kim Coleman" <kimcolemandesigns@yahoo.com>
Date: 10/02/2012 10:49 PM
Subject: Del Frisco Application

David:

Kim and I think the Town Council should reject this application. We don't need a huge chain restaurant catering to people from off the island. It's bound to fail as a business proposition anyway.

Sincerely,

Kim and Payson Coleman
309 Via Linda

Payson Coleman
212 858-1436 (Office)
516 713-8777 (Mobile)

----- In compliance with IRS and other applicable tax practice standards, any advice in this message (including attachments) is not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties or for the purpose of promoting, marketing or recommending to another party any tax-related matters. Additionally, the contents of this message, together with any attachments, are intended only for the use of the individual or entity to which they are addressed and may contain information that is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please notify the original sender or the Pillsbury Winthrop Shaw Pittman Help Desk at Tel: 800-477-0770, Option 1, immediately by telephone or by return E-mail and delete this message, along with any attachments, from your computer. Thank you.

=====

264 The Grill

264 South County Road
Palm Beach Fl.33480
561-833-6444
Pb264thegrill@aol.com

October 3, 2012

To: Council<Council@TownofPalmbeach.com>

Dear Council Members,

We are the owners of 264 The Grill Restaurant. We have worked in this town for more than 70 years collectively. It has come to our attention that you are considering the approval of a conglomerate chain restaurant that will ultimately drain more local business that we greatly depend on.

The charm of Palm Beach is the small town feeling and the uniqueness of the individual shops, offices and restaurants.

We feel chain restaurants should stay on the main land where the population is large enough to support them. The town should focus on filling the empty spaces that now exist with all different types of small business to keep the towns appeal.

There is no others town in our great country like Palm Beach.

Please lets keep our American Dream as long as possible.

Thank you

Avery and Patti



Fw: Del Frisco

Cheryl Kleen to: Peter B Elwell

10/03/2012 08:54 AM

Cc: John Page, Paul Castro, Debby Morakis, Anne Boyles, Patricia Gayle-Gordon, Susan Owens, jrandolph

----- Forwarded by Cheryl Kleen/PalmBeach on 10/03/2012 08:54 AM -----

From: "Michael Vincent John Spaziani, P.A." <spazian@aol.com>
To: council@townofpalmbeach.com,
Date: 10/03/2012 08:33 AM
Subject: Del Frisco

Top of the morning Council:

You will have the application for Del Frisco's before you this month. I am totally against this application for the following reasons:

- 1) This application is a breach of the Declaration of Use Agreement.
- 2) We have to save our local Town serving restaurants such as Nick and Johnnies, Cucina and Testa's (to name a few) who will suffer from the additional competition. These businesses have suffered enough due to the down turn of the economy.

Please vote "NO" for this application.

Thank you so much for your hard work and dedication to the town and our citizens.

All the best
Michael

Michael Vincent John Spaziani, BS, MABA, AMD
Commercial and Residential Real Estate Appraiser
State Certified General Real Estate Appraiser RZ1167
State Licensed Real Estate Broker
PALM BEACH'S FOREMOST REAL ESTATE APPRAISER
michaelvincentjohnspazianipa.appraiserxsites.com

From: Heather Farmakis <drfarmakis@gmail.com>
To: "gconiglio@townofpalmbeach.com" <gconiglio@townofpalmbeach.com>, "drosow@townofpalmbeach.com" <drosow@townofpalmbeach.com>, "rwildrick@townofpalmbeach.com" <rwildrick@townofpalmbeach.com>, "pelwell@townofpalmbeach.com" <pelwell@townofpalmbeach.com>, "rkleid@townofpalmbeach.com" <rkleid@townofpalmbeach.com>, "mpucilo@townofpalmbeach.com" <mpucilo@townofpalmbeach.com>, "wdiamond@townofpalmbeach.com" <wdiamond@townofpalmbeach.com>,
Date: 10/03/2012 08:39 AM
Subject: Concerns in Re: Del Frisco's Restaurant Group

Dear Town of Palm Beach Council Members,

As a younger resident (35) of this lovely town of Palm Beach, I recently became aware of the intentions of the Del Frisco's Restaurant Group. It is with great concern that I write this letter in an effort to urge you to consider the dramatic affects the proposed establishment has on this town.

The Del Frisco's Restaurant Group is seeking to build an overwhelmingly large 8400 sq. ft. restaurant, which will adversely impact the charm of the Royal Poinciana Plaza and ultimately the town itself. The size of the bar and potential bar scene are not conducive to the town we live in. How can this bar be considered "Town Serving" with its massive size? In order to be "Town Serving" requires a minimum of 51% of an establishment's clientele come from Palm Beach. The entire town of Palm Beach only has 10,000 residents at best. Clearly, they intend to draw business in from outside of the Island to make ends meet with its 260 seats they need to keep filled.

Where does the line get drawn? What's next a Cheesecake Factory?

The restaurant will change how Palm Beach is as we know it, which is the entire reason why people choose to live here. The warehouse sized restaurant does not align with the town's best interests for its residents and taints its prestige.

What about the security and safety of the residents of the town? With a significant bar scene and large amount of people, is our police force prepared to handle the DUI's, bar fights, theft, etc.?

The shortage of parking creates a 72 space deficit. The exit of this additional traffic onto Coconut Row may create potential problems.

The Council needs to revisit the Vision for the Town of Palm Beach when considering the Del Frisco's Restaurant Group at the Royal Poinciana Plaza. The intentions of this establishment are clear. They want to have the prestige of a Palm Beach restaurant locale, but do not want to consider the atmosphere of the town itself with this large overbearing restaurant.

--

Heather Farmakis, Ph.D.
Phone: 561-452-8266
Email: DrFarmakis@gmail.com

To M&TC

----- Forwarded by Cheryl Kleen/PalmBeach on 10/03/2012 10:11 AM -----

From: jerry o'connor <gjocon@yahoo.com>
To: COUNCIL@TOWNOFPALMBEACH.COM,
Cc: gjocon@yahoo.com
Date: 10/03/2012 09:37 AM
Subject: Del Frisco

Dear Council members,

I am writing this email in opposition to the application of Del Frisco's Restaurant.

I have lived in the town of Palm Beach for 26 plus years, and have always enjoyed the "small town" feel . A large part of that "small town" feel is that the very people that own the local businesses are indeed contributing citizens of Palm Beach. Their ability to exist and thrive is in large part dependent on the patronage of the local citizens. It is in some sense a hand in glove situation- their ability to do business here is dependent on us, and our ability to enjoy the local quality of their services is dependent on their continued viability. It has always been a major concern of the Town Council to protect that unique small town feel.

Restaurants such as Del Frisco add nothing to the local charm, and their menu is replicated in large part through many existing restaurants already in Palm Beach.

In short they bring nothing new to the table, other than potential traffic jams, a plastic sort of ambiance, and the need for significant off island patronage in order to exist.

That is hardly a selling point!

Sincerely,

jerry oconnor
230 plantation rd.
Palm Beach Fl.

CLINTON R. WYCKOFF III
315 PENDLETON LANE
PALM BEACH, FLORIDA 33480

TOWN OF PALM BEACH

OCT 03 2012

Town Manager's Office

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

1. It is completely out of scale for our town.
2. It is not town-serving.
3. It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35 of which there are less than 3% on the island.
4. It cannot meet the parking requirements. Its study for the parking and number of trips as previously presented by them is totally untrue. How can a restaurant that seats over 300 people, needs to fill those seats 6-7 days a week-requiring a market pool of 100,000, not mean increased trips on our roads?

Please deny the application and its many variances for such an oversized restaurant and bar which does not reflect what we want in Palm Beach. Do not open the possibility of more and more chains applying for larger and larger spaces that granting this application would encourage. Do not drive out our locally owned and operated restaurants.

Thank you,

Clinton R. Wyckoff III

From: **james donahue** <barry.donahue1@gmail.com>

Date: Wed, Oct 3, 2012 at 10:55 AM

Subject: Del Frisco's application for various variances

To: drosow@townofpalmbeach.com

Cc: rwildrick@townofpalmbeach.com, gconiglio@townofplambeach.com, rkleid@townofpalmbeach.com, mpucillo@townofpalmbeach.com, pelwell@townofpalmbeach.com, wdiamond@townofpalmbeach.com

Dear David,

As a long time Palm Beach restaurant I am very concerned about the proposed restaurant for Royal Poinciana Plaza. I currently own two apartments in the Palm Beach Towers along with my home on Seaspray Avenue.

My understanding is that the lowest end restaurant/bar that Del Fresco operates is what is planned for this space. The town must examine this application very carefully. This will not be, as proposed and as operated by this chain, a quiet dining experience. The scale and configuration of their proposal suggests an intensity of use to be profitable far in excess of a restaurant could generate. It will in all probability rely on a huge bar business populated by a demographic which is virtually nonexistent in Palm Beach. This could hardly be regarded as "Town Serving", a touchstone consideration for the granting of variances such as those being sought. RP Way already has numerous venues to cater to those who wish this type of food, drink and music. In all probability if such a "bar intensive" establishment were to be permitted, the traffic generated would inevitably be generated from off-island. The parking nightmare from any exaggerated bar scene is also of great concern. And as a resident/driver, I am not thrilled at the idea of sharing the road with the possibility of a horde of off-island, potentially over served kids that are the hallmark of this sort of establishment. The Council only has to listen to the words of the CEO of DelFresco's describing his bars, of the classification applying, as packed "four deep".

My opinion would be much different if Del Fresco's high end steak house was being proposed. This sounds like Clematis Street East!

Please look very hard at the implications of allowing this type of chain restaurant into an area already heavily populated with similar establishment (albeit less onerous) and so close to quiet residential neighbors.

Thanks and all the best,

J. Barry Donahue

From: "Stuart Schapiro" <stuart@schapnyc.com>
To: gconiglio@townofpalmbeach.com
Date: 10/03/2012 11:56 AM
Subject: Del Frisco's

Gail,

I hope all is well.

Joan and I wanted to express to you that we are 100% against Del Frisco coming to Palm Beach.

Please feel free to contact us at any time

best,

Stuart & Joan Schapiro
44 Cocoanut Row
Palm Beach, FL 33480
(561) 655-1027

Stuart Schapiro
(914) 420-9852
Stuart@schapnyc.com

From: Michael Schwartzman <todocs@aol.com>
To: gconiglio@townofpalmbeach.com
Date: 10/03/2012 12:59 PM
Subject: You should not permit the application of Del Frisco"s to procede.

I have read the material submitted by Del Frisco's. I have lived on Palm Beach for about ten years. I completely disagree with their suitability for the island. They will completely alter the atmosphere we have always enjoyed. I shudder to think that we would have to suffer their existence. I hope that you can see through their application. Please encourage them to join in by other noisy, crowded restaurant/bars on the mainland. That is where they would do well. Our peace should be preserved. I count on you to represent me and keep our area as it has been for many years. Thx. Michael Schwartzman Palm Beach Towers.

From: Doris Hastings <dorislhastings@yahoo.com>
To: "gconiglio@townofpalmbeach.com" <gconiglio@townofpalmbeach.com>
Date: 10/03/2012 04:10 PM
Subject: Please Deny !!

As a long time resident of the Palm Beach Towers I am definitely against the building of the Del Frisco's Restaurant with its 56 seat bar. The influx of outside guests and traffic day and night would not be a welcome addition to our neighborhood, nor would it be town serving.

Thank you,
Doris Hastings

From: Zenbabyon@aol.com
To: gconiglio@townofpalmbeach.com
Date: 10/03/2012 04:24 PM
Subject: DEL FRISCO'S GRILLE

Please vote to stop this too large restaurant from opening in the PLAZA-----too much traffic from WPB-----thank you-----Zen & Babs Yonkovig

To M&TC

----- Forwarded by Cheryl Kleen/PalmBeach on 10/04/2012 08:14 AM -----

From: daleotc@aol.com
To: council@townofpalmbeach.com,
Date: 10/03/2012 04:46 PM
Subject: Fwd: DelFrisco Restaurant

-----Original Message-----

From: daleotc <daleotc@aol.com>
To: counsel <counsel@townofpalmbeach.com>
Sent: Wed, Oct 3, 2012 4:31 pm
Subject: DelFrisco Restaurant

Dear Town Counsel Members, We would like to express our opposition to the zoning application for DelFrisco Restaurant. We as residents & property owners in Palm Beach do not oppose a new restaurant in general, However we are against this application due to size and scope of the restaurant. This is simply too large of a facility for our town & would be detrimental to other competing businesses.

Very Truly yours
Dale B.& Helen H Finfrock

BRETON, LYNCH, EUBANKS & SUAREZ-MURIAS, P.A.

Peter L. Breton
Francis X. J. Lynch
John R. Eubanks, Jr.
Marta M. Suarez-Murias
Robert J. Sniffen - Of Counsel

www.blesmlaw.com
Sender's Direct Line: (561) 721-4002
E-Mail: jeubanks@blesmlaw.com

1209 North Olive Avenue
West Palm Beach, FL 33401-3515
Phone: (561) 721-4000
Facsimile: (561) 721-4001

October 3, 2012

Via E-mail and Hand Delivery

Honorable Gail Coniglio, Mayor, and
Town Council of Town of Palm Beach
360 South County Road
Palm Beach, Florida 33408

Re: Del Frisco's Claim it is "Not a Bar" Does Not Pass "Duck Test"

Dear Mayor and Town Council:

While the Palm Towers Condominium ("Towers") has been asked many questions and received many comments regarding the Zoning Application submitted on behalf of Del Frisco's Restaurant Group, perhaps the most priceless comment received to date is that the assertion that Del Frisco's Grille is "not a bar" does not pass the "duck test."

It Looks Like a Duck

A review of the Application demonstrates that it "looks like a bar" in that the proposed drawings show glitzy finishes and a bar area which is some 35-40% of the total open seating area¹ rather than the 7% of space touted by Del Frisco's. Likewise, with 56 seats (including high tops), the proposed number of bar area seats is more than Cucina (16), Nick & Johnnies (24) and the Palm Beach Grill (12) combined. Finally, even the Del Frisco's Grille logo prominently displays the bar heritage of Del Frisco's Grille with the motto "Meat Up." "Drink Up."²

It Quacks Like A Duck

In the meantime, blogs and articles have been "quacking" about the bar-centered atmosphere of Del Frisco's Grille. On the evening of August 15, 2012 the Palm Beach Daily News blog "The Dish" noted that the Del Frisco's Grille concept "emphasizes a more casual, bar-centric atmosphere over the standard steakhouse experience," in that the "bar is a big draw, with shots on tap and creatively named cocktails like the Honey Badger and the Kilt Lifter" and that "the energetic bar is

¹ See, that correspondence dated August 13, 2012 to Skip Randolph which includes a diagram (attached hereto as Exhibit "A") demonstrating that the bar area of Del Frisco's both in size and number of seats dwarfs other area bars.

² A clear copy of the Del Frisco's Logo is attached hereto as Exhibit "B."

Honorable Gail Coniglio, Mayor, and
Town Council of Town of Palm Beach
October 3, 2012
Page 2

a destination in itself.”³ Not to be outdone, the CEO of Del Frisco’s, Mark Mednansky, in an article in the Nation’s Restaurant News dated September 3, 2012 boasted that “It’s three to four people deep every night around our bars.”⁴

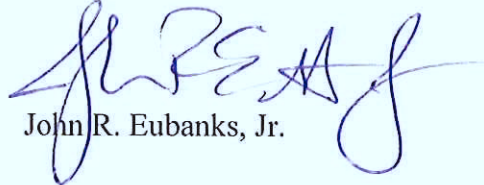
It Swims Like a Duck

Finally, if only to prove Mr. Mednansky’s point, the average Del Frisco’s Grille is in fact “swimming” in people three to four people deep at the bar. A picture of an average night at Del Frisco’s Grille in Washington D.C. standing three to four deep at the bar is attached hereto as Exhibit “E.”

It is a Duck

So if it looks like a duck, quacks like a duck and swims like a duck - it is a duck. In this case, if it looks like a bar, is touted as a bar, and is swimming with people like a bar - it is a bar.

Very truly yours,

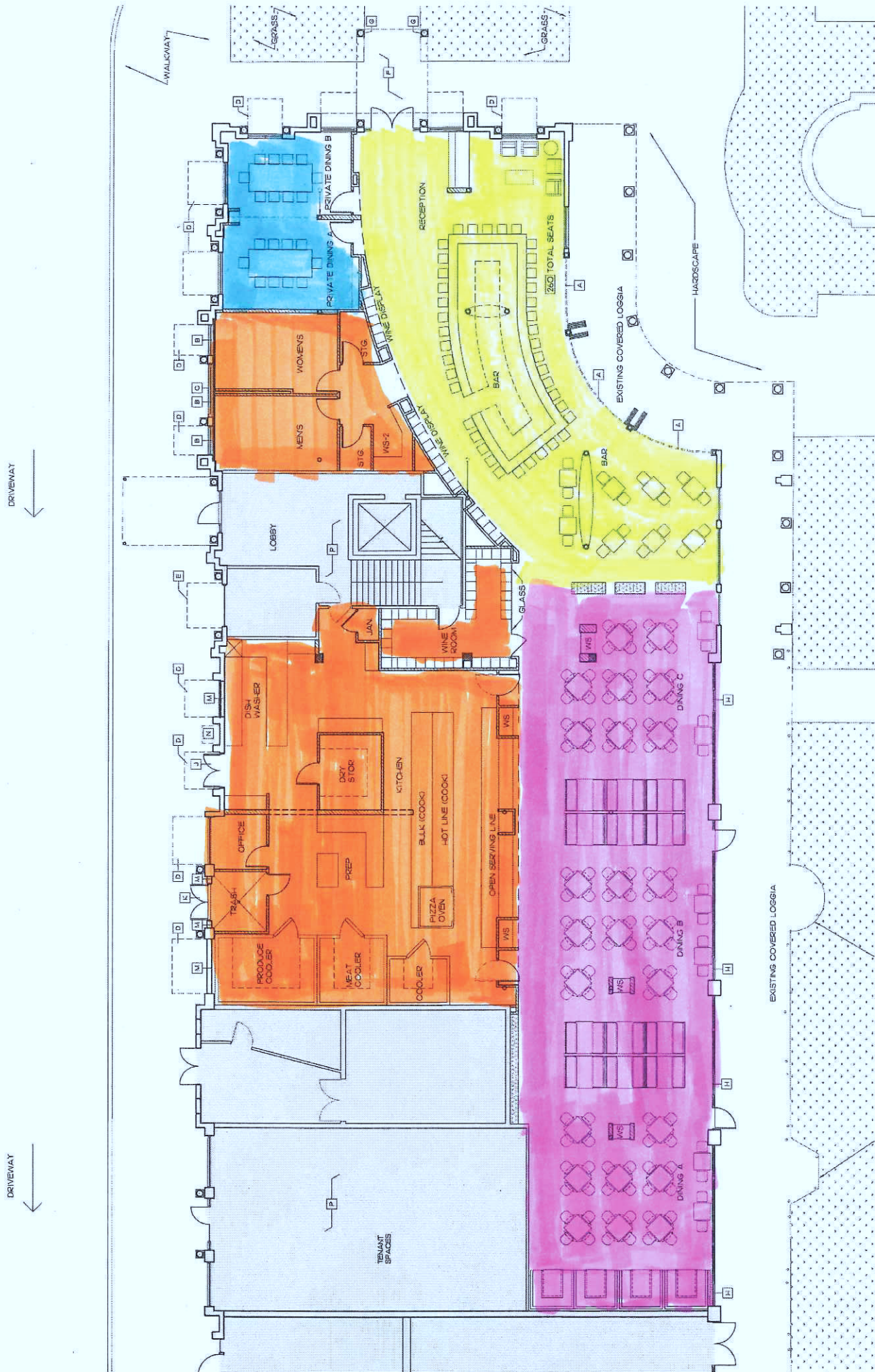


John R. Eubanks, Jr.

cc: John Page, Director of Planning, Zoning and Building
Peter Elwell, Town Manager
Paul Castro, Zoning Administrator
John C. “Skip” Randolph, Esq.
Town Clerk, Town of Palm Beach
John Grosskopf, General Manager Palm Beach Towers
Henry Goldsmith, President of Board of Palm Beach Towers Condominium

³ A copy of “The Dish” blog for the evening of August 15, 2012 is attached as Exhibit “C” and can also be found at <http://blogs.palmbeachpost.com/thedish/2012/08/15/del-friscos-grille-at-a-glance/>

⁴ A copy of the Article within the September 3, 2012 Nation’s Restaurant News is attached hereto as Exhibit “D.”







« This Sat.: Master Somm Virginia Philip and Chef Clay Conley Dish Up Tasty, Instructive Event
Downtown West Palm Beach French Bistro, Pistache, is Zorba-Bound »

Del Frisco's Grille At a Glance

by M.M. Cloutier

As has been reported, a 260-seat, 8,000-plus-square-foot Del Frisco's Grille chain-restaurant location could open in 2013 in Palm Beach's Royal Poinciana Plaza, but first, related matters before the Town Council must be resolved.

So who owns Del Frisco's Grille, a burgeoning casual-dining chain with four locations in the country and a fifth due to open soon in Atlanta?

Southland, Tex.-based Del Frisco's Restaurant Group, which also owns and operates two longer-established chain concepts: upscale Del Frisco's Double Eagle Steakhouse, with 9 locations around the country, and Sullivan's Steakhouse, which has 19 locations in the country.

Del Frisco's Restaurant Group went public last month and the IPO positions the company for growth, particularly with its Del Frisco's Grille concept. As Del Frisco's CEO Mark Mednansky told Nation's Restaurant News just after his company's July 27 IPO, "... We really want to get this Grille concept up to par with the other brands on sales."

Earlier this summer, Nation's Restaurant News named Del Frisco's Grille one of the publication's "2012 Hot Concepts" winners, noting that while the Grille is a sister brand to Del Frisco's Double Eagle Steakhouse, "The concept emphasizes a more casual, bar-centric atmosphere over the standard steakhouse experience... Though focused on classic steakhouse fare, Del Frisco's Grille also sprinkles in lighter menu options, including wood-fired flatbreads and ahi tuna appetizers. The restaurants also have developed distinctive beverage programs that feature handmade cocktails and expansive wine lists. The bar is a big draw, with shots on tap and creatively named cocktails like the Honey Badger and the Kilt Lifter, as well as 'liquid desserts.'"

Del Frisco's Restaurant Group's website (www.dfrg.com) characterizes the Grille concept as "Taking the classic bar and grill to new heights. Our menu is a tempting mix of prime steaks, fresh seafood and twists on American comfort cuisine. The energetic bar, a destination in itself, creates a buzz throughout the restaurant and sets the stage and tone for an amazing dining experience. We proudly take our roots in the tradition of Del Frisco's Double Eagle Steakhouse, providing guests with a familiar, yet exciting atmosphere, fresh, approachable fare and genuine hospitality."

The menus at the Manhattan, Dallas, Phoenix and Washington D.C. locations of Del Frisco's Grille have numerous items in common—including Prime steak, salads, seafood entrees, flatbreads, sandwiches and such appetizers as ahi tuna tacos and cheese steak eggrolls—although there are distinctive items at each location.

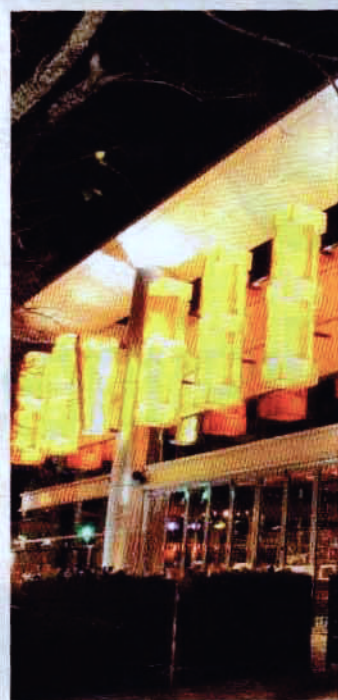
Menu pricing varies somewhat by location, according to menus on Del Frisco Grille's website (www.delfriscosgrille.com). At the Dallas location, for instance, appetizers are \$7-\$13. At the Manhattan location, appetizers are \$9-\$19.

BY STEVE COOMES

Five years ago, Mark Mednansky, chief executive of Del Frisco's Restaurant Group Inc., which includes 19 higher-end Sullivan's Steakhouse units and nine Del Frisco's Double Eagle Steak House units, wondered aloud to his team, "When our regulars aren't here eating with us, where are they?"

Mednansky knew few people would be able to eat at DFRG's 28 premium steakhouses nightly, but his hunch was his customers were not homebodies who only visited his places.

"We figured they were at Brio [Tuscan Grille] or P.F. Chang's



[China Bistro], exciting venues that cost less than our concepts but still were polished and upscale," he said.

The brands owned by DFRG, a Southlake, Texas-based company that recently began trading on Nasdaq, were known chiefly for their premium beef and fine wines, assets that Mednansky and his team wanted to maintain in a scaled-down concept that was more affordable and casual.

"Not everyone wants to make a special occasion of going out to dinner, especially a business traveler who wants a good meal, but wants to relax," he said. "We wanted to create a place where, if that guy wants it, he can have that good steak, but also a place where he can have a great burger or flatbread if he wants only that, and

pair either with a fine Bordeaux."

Five years that Mednansky said "seemed like endless menu tasting" and working with designers and architects yielded Del Frisco's Grille in 2011. Now a four-unit concept with a trim yet varied menu and an equally lean but still eyebrow-raising wine list, each Grille has a 7,500-square-foot floor plan that includes seats for about 260 and ample standing room around the bar.

"Our customers like to socialize in a bar that's a fun and very beautiful setting," Mednansky said, adding that about 38 percent of total revenue is generated through beverage transactions. "It's three- to four-people deep every night around our bars."

In making the food less formal,

Intro
it e

Nestlé
PROFESSIONAL
Beverages

*Ketchum Global



sual concept played a big hand in diversifying the menu."

The average check is \$53, which compares with about \$110 at a traditional Del Frisco's. Even with a build-out cost of about \$3.25 million and placement in high-demand locations, Mednansky said he expects Del Frisco's Grille to deliver a return on investment in as little as two to three years.

Overlooking Manhattan's Rockefeller Center, the first Grille opened in August 2011 and tallied \$5.5 million in sales from October of that year to March 2012. Its second location, in Dallas, rang up \$1.9 million in sales in the first quarter of 2012.

The concept's positioning of

CONCEPT:

Del Frisco's Grille

OWNER: Del Frisco's Restaurant Group Inc.

HEADQUARTERS:

Southlake, Texas

MARKET SEGMENT:

upscale casual

NO. OF UNITS: 4

STATES WHERE

LOCATED: Arizona; Wash-

ington, D.C.; New York; Texas

SYSTEMWIDE SALES:

estimated \$16 million-\$24 million

AVERAGE UNIT

VOLUME: \$4 million-\$6 million

AVERAGE CHECK: \$53

YEAR FOUNDED: 2011

TARGET MARKETS:

Boston; Dallas-Fort Worth;

Houston; Nashville, Tenn.;

Palm Beach, Fla.

METHOD OF GROWTH/

FUNDING: company owned

WEBSITE:

<http://delfriscosgrille.com>



Del Frisco's Restaurant Group chief executive Mark Mednansky, above left, said Del Frisco's Grille aims to give customers a high-quality yet affordable experience. Chef Thomas Dritsas, above right, developed trendy and shareable dishes, such as Ahi Tacos, left, for the concept.



vice president and corporate chef Thomas Dritsas aimed for shareable, trendy dishes such as Ahi Tacos, Lollipop Chicken Wings, Deviled Eggs, an assortment of flatbread pizzas and Two-Fisted Sandwiches easily split at the table. Three protein-centered entrée sal-

ads complement the mix, alongside comfort items like Veal Meatloaf, Chicken Schnitzel, and, of course, big beef and seafood items transferred from sister concepts.

Dritsas said the final lineup was the product of constant collaboration among DFRG's many chefs.

"A lot of people contributed their ideas, many of which were features that had sold successfully in our other brands," he said, referring to those restaurants' nightly specials. "Taking what we already knew from our steakhouses and putting that into a ca-

affordable luxury is correct for the times and is properly targeted toward increasingly educated diners, said Dennis Lombardi, a consultant with WD Partners in Dublin, Ohio.

"Premium casual seems to be one of the better-performing subsegments right now, partly because it provides more opportunities for frequency than high-end dining does," Lombardi said. "I think the whole variation on a theme of what's worked well for them already is very good. I give it better than equal odds of doing well." ■





October 3, 2012

VIA E-MAIL AND U.S. MAIL

John R. Eubanks, Jr.
Breton, Lynch, Eubanks & Suarez-Murias, P.A.
1209 North Olive Avenue
West Palm Beach, FL 33401

Re: Affidavit in Connection with Application of Del Frisco's Grille

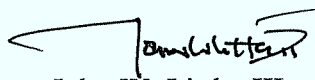
Dear John:

Shortly after the August Town Council meeting, I called to invite any thoughts or suggestions you had to improve the form of affidavit which I had previously prepared and submitted for the August meeting. You stated that you would discuss my request with the Board at an upcoming meeting and let me know what they wanted you to do in this regard.

After I did not hear back from you, I met with the Town Attorney concerning the affidavit. While both Skip and I believed that the prior affidavit was fine, we reviewed your prior correspondence and made a number of changes to the form of affidavit in an effort to address those concerns which we were able to track. Enclosed is the new affidavit which has been reviewed and approved by the Town Attorney, and which has been executed by the Sterling and Spiegel interests. Please let me know if you have any questions.

Best regards.

Sincerely,


John W. Little, III

Enclosure(s)

Cc: Mayor and Town Council Members (Via E-Mail)
John C. Randolph, Esq., Town Attorney (Via E-Mail)
John Page, Director of Planning, Zoning and Building (Via E-Mail)
Paul Castro, Zoning Administrator (Via E-Mail)
Town Clerk, Town of Palm Beach (Via E-Mail)
Harvey E. Oyer, III, Esq. (Via E-Mail)

JWL/all

This document prepare by and should be returned to:
John W. Little, III
Gunster, Yoakley & Stewart, P.A.
777 South Flagler Drive, Suite 500E
West Palm Beach, FL 33401

AFFIDAVIT

Before me, an officer duly authorized to take acknowledgments, personally appeared Sidney Spiegel, as Successor Trustee under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371 ("Spiegel"); Island Properties of Palm Beach, INC., a Florida Corporation ("Island"), and Sterling Palm Beach, LLC, a Florida Limited Liability Company ("Sterling")(collectively, the "Affiants"), and after acknowledging their authority to execute this Affidavit, did depose and state as follows:

1. Spiegel and Island are the respective fee simple owners of the two separate parcels that comprise the Royal Poinciana Plaza property ("Plaza") and lessors of the Plaza under a long term lease dated March 31, 2008, a memorandum of which is recorded in Official Records Book 22551, Page 401 of Palm Beach County, Florida (the "Lease"), and Sterling is the lessee under the Lease and the party in control of the Plaza. The two parcels that comprise the Plaza are legally described below:

See Exhibit "A" attached hereto.

2. On or about March 6, 1979 the Town of Palm Beach ("Town") and Affiants' predecessors in interest, Poinciana Properties, Limited, a Virginia Limited Partnership authorized to do business in Florida ("Partnership"), entered into an agreement concerning the Plaza as recorded in Official Records Book 3023, Page 380, of Palm Beach County, Florida ("1979 Agreement").

3. Sterling has entered into a lease agreement with Del Frisco's Grill of Palm Beach, LLC, a Delaware Limited Liability Company ("Del Frisco") with respect to certain space within the Plaza.

4. In connection with that lease, Del Frisco has filed certain applications with the Town, specifically Special Exception # 20-2012 with Variance (collectively "the Del Frisco Applications").

5. The Affiants stipulate, acknowledge and agree that the Town Council granting Special Exception # 20-2012 and any approvals, waivers or other actions taken by the Town Council on the Del Frisco Applications, shall not invalidate the 1979 Agreement and is not considered allowing "further development possibilities" as set forth in paragraph three of the 1979 Agreement.

6. This Affidavit may be recorded in the Public Records of Palm Beach County, Florida.

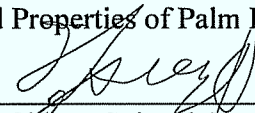
7. The Affiants are familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements made in an Affidavit of this nature. Affiants further certify that they have read the full facts of this Affidavit and completely understand its context.

FURTHER AFFIANTS SAYETH NAUGHT.



Sidney Spiegel, Trustee

Island Properties of Palm Beach, Inc.

By: 

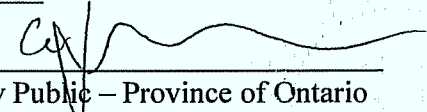
Sidney Spiegel, President

Sterling Palm Beach, LLC

By: _____
Brian Kosoy, Manager

PROVINCE OF ONTARIO
CANADA

The foregoing instrument was acknowledged before me this 1 day of October, 2012, by Sidney Spiegel, Trustee and President of Island Properties of Palm Beach, Inc. who is personally known to me or who has produced n/a identification.



Notary Public – Province of Ontario
My Commission Expires: permanent
Number: n/a

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of October, 2012, by Brian Kosoy, Manager of Sterling Palm Beach, LLC, who is personally known to me or who has produces _____ identification.

Notary Public – State of Florida
My Commission Expires: _____
Number: _____

7. The Affiants are familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements made in an Affidavit of this nature. Affiants further certify that they have read the full facts of this Affidavit and completely understand its context.

FURTHER AFFIANTS SAYETH NAUGHT.

Sidney Spiegel, Trustee

Island Properties of Palm Beach, Inc.

By: _____
Sidney Spiegel, President

Sterling Palm Beach, LLC

By: _____
Brian Kosoy, Manager

PROVINCE OF ONTARIO
CANADA

The foregoing instrument was acknowledged before me this ____ day of October, 2012, by Sidney Spiegel, Trustee and President of Island Properties of Palm Beach, Inc. who is personally known to me or who has produced _____ identification.

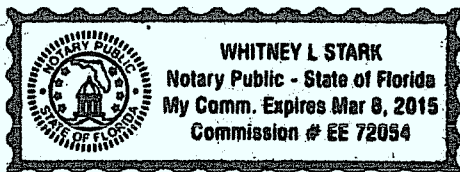
Notary Public – Province of Ontario

My Commission Expires: _____

Number: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 1st day of October, 2012, by Brian Kosoy, Manager of Sterling Palm Beach, LLC, who is personally known to me or who has produces _____ identification.



Whitney L Stark
Notary Public - State of Florida

My Commission Expires: 3.8.15

Number: EE 72054

Title No.: 300801906

LEGAL DESCRIPTION

EXHIBIT "A"

PARCEL A

A parcel of land in Section 22, Township 43 South, Range 43 East, Palm Beach County, Florida, bounded as follows:

On the North by the Southerly right of way line of Royal Poinciana Way; on the East by the Westerly right of way of Cocoanut Row; on the West by the waters of Lake Worth; and on the South by the following described line:

Commencing at the intersection of the Northerly right of way line of White Hall Way with the Westerly right of way line of Cocoanut Row, as said streets are described in Deed recorded in Deed Book 814, page 477, and subsequent pages, public records of Palm Beach County, Florida; thence Northerly along the said Westerly right of way line of Cocoanut Row, a distance of 444.76 feet to the beginning of a curve concave to the East having a radius of 329.60 feet and a central angle of 23 degrees 53' 30"; thence Northerly along the arc of said curve, a distance of 137.44 feet to the tangent to said curve; thence Northerly along said tangent, a distance of 59.62 feet to the Point of Beginning of the herein described South line; thence Westerly making an angle from Southwest to West of 66 degrees 14' 30", a distance of 227.26 feet; thence Northerly at right angles, a distance of 25 feet; thence Westerly at right angles, a distance of 293.43 feet to the beginning of a curve to the Northeast, having a radius of 65.03 feet and a central angle of 85 degrees 42' 43", a distance of 97.28 feet; thence Northwesterly a distance of 33.90 feet, more or less, to the Southeast corner of a parcel of land described in Deed Book 1011, page 226, public records of Palm Beach County, Florida, said Southeast corner is located in the arc of a curve concentric with the last herein described curve, and having a radius of 90.03 feet and a central angle of 102 degrees 55' 30" and is 4.19 feet Southerly from a point of reverse curve; thence Northerly along the arc of the just described curve, a distance of 4.19 feet to the point of reverse curvature of a curve concave to the West, having a radius of 513.29 feet and a central angle of 15 degrees 35' 22"; thence Northerly along the arc of said reverse curvature a distance of 97.62 feet to a point in a line parallel with and 461.20 feet Southerly from (measured at right angles to) the Southerly right of way line of Royal Poinciana Way, said line also being described in Deed Book 1011, page 226, public records of Palm Beach County, Florida; thence Westerly along said parallel line, a distance of 191.06 feet, more or less, to the waters of Lake Worth and the end of the herein described Southerly line.

Excepting, however, so much of a nearly rectangular area of land, together with riparian or littoral rights appurtenant or incident thereto, as is included in the foregoing described parcel of land, and which nearly rectangular area of land has a Southerly boundary of 208.44 feet, an Easterly boundary of 71.20 feet, a Northerly boundary of 190.74 feet plus 12.08 feet, on two different courses coinciding with the South line of the East approach of Flagler Memorial Bridge, and having a Westerly boundary of 71.88 feet coinciding with the West face of an existing concrete bulkhead within the waters of Lake Worth, and all as such nearly rectangular area of land and riparian and littoral rights appurtenant or incident thereto are more particularly described and were conveyed in Deed of Florida East Coast Hotel Company to Town of Palm Beach, dated September 11, 1939, and recorded in Deed Book 592, page 478, of the public records of Palm Beach County, Florida.

PARCEL B

A parcel of land in Section 22, Township 43 South, Range 43 East in the Town of Palm Beach, Palm Beach County, Florida, and more particularly described as follows:

Beginning at a point in the Westerly right of way line of Cocoanut Row as now laid out and in use at a distance of 173.9 feet South of the intersection of said West line of the right of way of Cocoanut Row and the Southerly right of way line of Royal Poinciana Way; thence Westerly parallel to the Southerly right of way line of said Poinciana Way a distance of 686.33 feet; thence Southerly at right angles to the preceding course a distance of 245.3 feet to the beginning of a curve concave to the West and having a radius of 513.29 feet and a central angle of 15 degrees 35' 22"; thence Southerly along the arc of said curve a distance of 42.04 feet to the Point of Beginning, and the Northeast corner of the parcel of land herein described; thence continue Southerly along the arc of said

ALTA Commitment -1966

curve a distance of 97.62 feet to a point of reverse curvature; thence Southerly along the arc of a curve concave to the East and having a radius of 599.29 feet, a distance of 4.06 feet to a point in the South line of the herein described parcel; thence Westerly parallel to and 561.2 feet Southerly (measured at right angles) from the Southerly right of way line of said Royal Poinciana Way, a distance of 180 feet, more or less, to the waters of Lake Worth; thence Northerly along the waters of Lake Worth to a point in a line parallel to and 100 feet Northerly (measured at right angles) from the Southerly line of the herein described parcel; thence Easterly along said parallel line a distance of 185 feet, more or less, to the Point of Beginning.

PARCEL C

A non-exclusive easement for ingress and egress for the benefit of Parcel B described above, created by and more particularly described in the instrument recorded in Deed Book 1090, page 264, Palm Beach County, Florida, public records.

ALTA Commitment -1966

To M&TC

----- Forwarded by Cheryl Kleen/PalmBeach on 10/04/2012 08:15 AM -----

From: "Lazzara, Chris" <clazzara@neptuneresearch.com>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>,
Date: 10/03/2012 06:14 PM
Subject: Del friscos

Dear council,

I would like to write this letter to be clear that I am opposed to the approval of del friscos eatery to be located in the poinciana plaza. I don't want a 200+ person restaurant opening on the island and hurt our local charm.

Christopher J. Lazzara
272 queens lane palm beach 33480

From: "Jay Serzan" <serzan@cox.net>
To: <pelwell@townofpalmbeach.com>,
Date: 10/03/2012 12:17 PM
Subject: Del Frisco's

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

1. It is completely out of scale for our town.
2. It is not town-serving.
3. There already exist empty restaurant spaces that should be filled before the creation of additional restaurant space is considered.

Please deny the application and its many variances for such an over-sized restaurant and bar which does not reflect what we want in Palm Beach.

Thank you,

James Serzan
353 Seabreeze Avenue

From: Carl Bradford Stibolt <cstibolt@earthlink.net>
To: <pelwell@townofpalmbeach.com>,
Date: 10/03/2012 12:32 PM
Subject: Del Frisco application

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

- 1) It is completely out of scale for our town.
- 2) It is not town-serving.
- 3) It is a formula restaurant chain, which does not fit in with the local character of our town.
- 4) It cannot meet the parking requirements. Its study for the parking and number of trips as previously presented by them is totally untrue. How can a restaurant that seats over 300 people, needs to fill those seats 6-7 days a week-requiring a market pool of 100,000, not mean increased trips on our roads?

Please deny the application and its many variances for such an over-sized restaurant and bar which does not reflect what we want in Palm Beach. Do not open the possibility of more and more chains applying for larger and larger spaces that granting this application would encourage. Do not drive out our locally owned and operated restaurants.

Thank you,

Carl Stibolt
455 Australian Ave.
Palm Beach, FL 33480

From: John Rau <jrau22@gmail.com>
To: pelwell@townofpalmbeach.com,
Date: 10/03/2012 12:29 PM
Subject: Del Frisco Application

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

It is completely out of scale for our town.

It is not town-serving.

It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35 of which there are less than 3% on the island.

It cannot meet the parking requirements. Its study for the parking and number of trips as previously presented by them is not accurate. How can a restaurant that seats over 300 people, needs to fill those seats 6-7 days a week-requiring a market pool of 100,000, not mean increased trips on our roads?

Please deny the application and its many variances for such an over-sized restaurant and bar which does not reflect what we want in Palm Beach. Do not open the possibility of more and more chains applying for larger and larger spaces that granting this application would encourage. Do not drive our locally owned and operated restaurants out of business.

Thank you,

John and Joanne Rau
44 Cocoanut Row

From: Alice Pannill <kitpannill@me.com>
To: pelwell@townofpalmbeach.com,
Date: 10/03/2012 12:36 PM
Subject: Restaurant

To whom it may concern: Alice Z. Pannill residing at 4 South Lake Trail opposes the Del Frisco Restaurant application.

From: mimib5888@comcast.net
To: COUNCIL@TOWNOFPALMBEACH.COM,
Date: 10/04/2012 10:08 AM
Subject: Del Frisco

Dear Council members,

I am writing this email in opposition to the application of Del Frisco's Restaurant.

I have lived in the Town of Palm Beach since the mid 70s. I have always enjoyed the "small town" feel . A large part of that "small town" feel is that the very people that own the local businesses are indeed contributing citizens of Palm Beach. National restaurant chains such as Del Frisco add nothing to the local charm, and their menu is replicated in large part through many existing restaurants already in Palm Beach. In short they bring nothing new to the table, other than potential traffic jams, a plastic sort of ambiance, and the need for significant off island patronage in order to exist.

Please vote against allowing Del Frisco to locate a restaurant in Palm Beach.

Sincerely,

Marian S. Barnett
575 North Lake Way
Palm Beach, FL 33480



Fw: Opposing Del Frisco

Cheryl Kleen to: Peter B Elwell

10/04/2012 09:20 AM

Cc: John Page, Paul Castro, Debby Morakis, Susan Owens, Patricia Gayle-Gordon, jrandolph

— Forwarded by Cheryl Kleen/PalmBeach on 10/04/2012 09:19 AM —

From: jared mcclure <jared.plantfinders@gmail.com>
To: council@townofpalmbeach.com,
Date: 10/04/2012 09:10 AM
Subject: Opposing Del Frisco

Dear Town Council Members,

I moved from Pennsylvania to Palm Beach two years because I was smitten by the preservation of this beautiful small town. Not only is it esthetically stunning, this amazing town has a sense of community that has been long-lost throughout our country. I grew up in central Pennsylvania and have seen Corporate America take over every "mom and pop" shop to be replaced with a Cheesecake Factory, Urban Outfitters, or Barnes and Noble. Going out to eat at those types of establishments is an uninspired experience with scripted service, franchised decor, and a robotic feel. In Palm Beach, there is such charm in the restaurants my wife and I dine at. The owners are not just from the island but actually *work* at the businesses and are involved in the community. It is extremely concerning to learn that Del Frisco's, a corporate franchise restaurant, is under consideration as an addition to our lovely town. Del Frisco, with its oversized seating plan in a proposed space of a historic and beloved playhouse, is so far from the Palm Beach I cherish. It reminds me of CityPlace in West Palm Beach as well as the majority of the urban sprawl in America. If we approve this, our town will open the door to more corporate businesses that will unfortunately lead to the destruction of our meticulously preserved town and community.

Thank you for your time.

Jared McClure
874 S. County Rd
Palm Beach, FL
33480

--

Jared McClure

Owner

Plant Finders and Keepers

Specializing in Landscape & Interiorscape Design

Maintenance, Sales & Leasing

Dade, Broward & Palm Beach Counties

Office: (561) 210-7545

Cell: (561) 386-9882

email: jared.plantfinders@gmail.com



Please consider the environment before printing this e-mail

From: Tim Moran <tmoranpb@yahoo.com>
To: council@townofpalmbeach.com,
Date: 10/04/2012 11:26 AM
Subject: Opposing Opinion

Council Members,

My wife and I certainly support the success of the Royal Ponciana Plaza as it is a prime shopping plaza in our town. With regard to the proposal for the new resteraunt my family and I have frequented Del Frisco's in New York over the years.

The question is do we bring a chain to the the island as well as do we need it to be this size?

From: "Leslie S. Gales" <lsgales@midlandgroup.org>
To: "'council@townofpalmbeach.com'" <council@townofpalmbeach.com>,
Cc: 'Keith Ray' <keith@realvest.ca>
Date: 10/04/2012 11:30 AM
Subject: Support Del Frisco Application

Dear Palm Beach Town Council,

Subject: Support of the Palm Beach Del Frisco Grille Application

We are in favor of the Palm Beach Del Frisco's Grille zoning application to open a restaurant in the Royal Poinciana Plaza. Their restaurant is outstanding and will bring renewed economic vitality to the Plaza at a time when many businesses are closing and leaving Town. This corner of the Plaza has been vacant for years and would definitely be a great location for such a restaurant as Del Frisco Grille. We should all feel fortunate that an establishment of this stature wants to open a restaurant in our community.

As residents of the Town, we welcome yet another great dining opportunity for our family.

We urge your approval of the Palm Beach Del Frisco Grille's application.

Thank you for your consideration.

Sincerely,

Leslie Gales and Keith Ray
130 Sunrise Avenue, PH8
Palm Beach, Florida
33480

From: Lnd1066@aol.com
To: gconiglio@townofpalmbeach.com,
Date: 10/04/2012 11:43 AM
Subject: Del Frisco Grille application

Dear Mayor and Town Council

I am a long term resident and voter in Palm Beach. My husband and I feel that this type of restaurant/bar is not suitable for Palm Beach.

An establishment like this should be in City Place or the Gardens, but not in Palm Beach.

I would request that you deny the application of Del Frisco's Grille.

Thank you,
Linda and Anthony Marino

The Law Offices of
BRETON, LYNCH, EUBANKS & SUAREZ-MURIAS, P.A.

Peter L. Breton
Francis X. J. Lynch
John R. Eubanks, Jr.
Marta M. Suarez-Murias
Robert J. Sniffen - Of Counsel

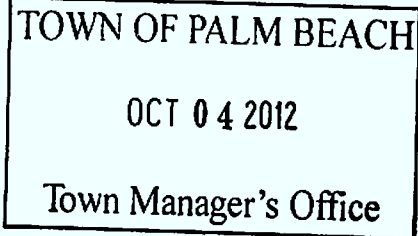
www.blesmlaw.com
Sender's Direct Line: (561) 721-4002
E-Mail: jeubanks@blesmlaw.com

1209 North Olive Avenue
West Palm Beach, FL 33401-3515
Phone: (561) 721-4000
Facsimile: (561) 721-4001

October 4, 2012

Via E-mail and Hand Delivery

Honorable Gail Coniglio, Mayor, and
Town Council of Town of Palm Beach
360 South County Road
Palm Beach, Florida 33408



Re: Insufficient Parking and Lack of Hardship

Dear Mayor and Town Council:

In the event that time to fully address and rebut the numerous issues raised by Del Frisco's Restaurant Group ("Del Frisco's") in its presentation in support of Zoning Application (Special Exception #20-2012 with Variance)(the "Application") is potentially limited on October 10, 2012, due to the number of concerned Town residents desiring to speak on the issue, the Palm Beach Towers Condominium ("Towers") would merely bring to attention to the Council several of the major "oversights" within Del Frisco's Application and presentation.

In doing so, while the 1979 Agreement is obviously of great concern to the Towers, far too often, residents of the Towers are questioned, "why do you care about what goes on next door at the Plaza, if the Applicant is willing to execute an Affidavit which states that the 1979 Agreement is still in place"? Setting aside the fact that the initial "Affidavit" supplied by Del Frisco's was legally insufficient¹, the Towers Unit Owners have just as much a right as every other Town resident and taxpayer to examine the Application and test it against the provisions of the Town Code. Stated differently, the Unit Owners of the Towers should not be seen as having given up their right to address issues (such as whether the Application is "Town Serving" or meets the requirements for a parking variance) apart from the 1979 Agreement merely because they live in the Towers.

I. Insufficient Parking

Del Frisco's argues, within its Application and its presentation, that "post taking ... there will be 729 spaces available in the entire plaza" and that if you looked at parking based upon a "shared parking formula ... you will note that there is existing capacity to support the Del Frisco's restaurant

¹ The deficiencies of the initial "Affidavit" attached to the Application are set forth in that correspondence dated August 13, 2012, a copy of which is attached hereto as Exhibit "A."

at all hours of the day and night.”² To support its position, Del Frisco’s relies upon the DKS Associates Parking Study attached to its Application. The problem with such an argument is that:

- A. The presentation is based upon a shared parking analysis based upon a “time value adjustment” when shared parking is not permitted in the C-PC district under 134-2182(a) of the Town Code which provides, “although there is no entitlement to shared parking, arrangements for shared parking may be allowed in the CT-S, C-WA and C-OPI commercial zoning districts.”
- B. The DKS report is based upon the assumption that there are 729 parking spaces available at the Plaza. There are not. A field count demonstrates there are only 656 spaces in the Plaza³, which equates to 73 fewer spaces than alleged. Therefore the charts and tables submitted by Del Frisco’s are inaccurate and skewed to show excess parking in various areas when such spaces do not exist.
- C. As set forth in the chart attached as Exhibit “C,” the prior DKS Parking Study of July 24, 2008⁴ demonstrates that there is a need for 1,196 spaces for the entire Plaza, including 346 for the Supper Club and Theater, and 850 for the remainder of the Plaza. As a result, even if the required spaces for the Supper Club and Theater could be ignored, which they cannot, there would be a need for 850 spaces, of which only 656 exist, leaving a 194 space present parking deficit to which Del Frisco’s application seeks to add another 72 space deficit for a total deficit for the Plaza of 266.
- D. The Parking Study was based on only two days of study, May 10, 2012 and May 11, 2012, a time when residents have largely left the Island for the summer.
- E. The Parking Study applies a factor of 1.16 to adjust for “seasonal changes” when it is common knowledge, and even Sterling’s website identifies, that the Town grows from approximately 10,000 full time residents to close to 30,000 residents during season.

² The mere reliance by Del Frisco’s on a shared parking analysis is disingenuous considering Del Frisco’s admits that “shared parking is allowed in every commercial district in your town except this one.” In other words Del Frisco’s knows that shared parking is not permitted in the C-PC Zoning yet nevertheless presents a shared parking analysis in support of its Application.

³ While no provision is made in the Town Code for dividing the parking at the Plaza into “zones” the chart attached hereto as Exhibit “B” shows the 656 spaces present along with the deficiencies in each purported “zone” used by Del Frisco’s.

⁴ A copy of the prior DKS Report is attached as Exhibit “G” to the Towers’ August 9, 2012 correspondence.

- F. A 72 parking space variance means that the Applicant does not have parking for 216 of the 260 seats sought within the Application, even disregarding recent quotes by the CEO of Del Frisco's that it is "three to four people deep every night around our bars" which would require even more parking.

As such, contrary to Del Frisco's claims, there is not "existing capacity to support Del Frisco's restaurant."

II. Lack of Hardship

There is also no legal "hardship" to support a parking space variance for any number of spaces, much less the requested 72 spaces. Even the Town Staff has recognized within its comments that "There is no hardship for the huge parking variance being requested."⁵

Within its Application and presentation, Del Frisco's has argued that the hardship which supports its request for a huge 72 space parking variance is that: a) under the 1979 Agreement there is a restriction against any new building, so it cannot merely build a structured parking garage or underground parking; and b) it is in the C-PC Zoning, and as such it cannot participate in shared parking. Neither such issue, however, rises to the level of a sufficient "hardship" under either the Town's Code or the applicable case law, given that:

- A. Any "hardship" is self-imposed in that it is created by the Applicant's desire to to tear out office space to create restaurant space which has a much higher intensity of use and parking requirement. As such, on its face, the Application is in violation of the required findings for the granting of a variance contained in Section 134-0201 of the Code which require that the special circumstances cited as a hardship "do not result from the actions of the applicant."
- B. Similarly, the Applicant knew of the restrictions contained within the 1979 Agreement and the C-PC Zoning yet chose to apply to create a much more intensive use within the Plaza which would require a variance. As such, once again, any "hardship" was self imposed and the "result of the actions of the applicant."
- C. The circumstances of being subject to the provisions of the 1979 Agreement and the C-PC Zoning Code are not "peculiar to the land, structure or building" sought to be used by Del Frisco's, but instead are applicable to all the other land within the same C-PC zoning district. As such, the Application cannot meet the

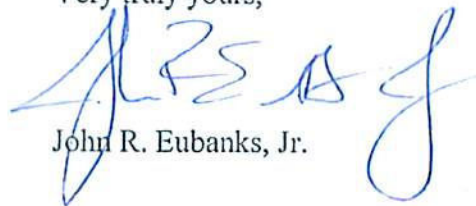
⁵ The Town Staff also suggested that it "is concerned that approval of the parking variance would allow for further development opportunity which would negate the 1979 Agreement." A copy of the Staff Report is attached hereto as Exhibit "D."

conditions of Section 134-0201 (1) of the Town Code.

- D. The "hardship" cited does not render the property impossible to use, but rather it may continued to be used as retail or office space.
- E. The argument raised (especially as to claims of difficulty in renting the space) is dangerously close to, if not in direct violation of, the provision of the 1979 Agreement that the Plaza owner "will not allege economic hardship as a basis to abrogate any of the terms of this agreement."

As a result, there is no legal "hardship" to support the parking variance sought within the Application.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J. Eubanks, Jr.", with a stylized flourish at the end.

John R. Eubanks, Jr.

cc: John Page, Director of Planning, Zoning and Building
Peter Elwell, Town Manager
Paul Castro, Zoning Administrator
John C. "Skip" Randolph, Esq.
Town Clerk, Town of Palm Beach
John Grosskopf, General Manager Palm Beach Towers
Henry Goldsmith, President of Board of Palm Beach Towers Condominium

EXHIBIT "A"

The Law Offices of
BRETON, LYNCH, EUBANKS & SUAREZ-MURIAS, P.A.

Petor L. Breton
Francis X. J. Lynch
John R. Eubanks, Jr.
Marta M. Suarez-Murias
Robert J. Sniffen - Of Counsel
Ronald Witkowski - Of Counsel

www.blesmlaw.com
Sender's Direct Line: (561) 721-4002
E-Mail: joubanks@blesmlaw.com

1209 North Olive Avenue
West Palm Beach, FL 33401-3515
Phone: (561) 721-4000
Facsimile: (561) 721-4001

August 13, 2012

Via E-Mail and U.S. Mail
John C. "Skip" Randolph, Esq.
Jones, Foster, Johnston & Stubbs, P.A.
505 S. Flagler Drive
West Palm Beach, FL 33405

Re: "Affidavit of Sterling of Palm Beach LLC" and Representation of Bar Space

Dear Skip:

I read with interest the correspondence by Brian Kosoy, Adam Munder and Lee Munder in Sunday's Shiny Sheet regarding the Del Frisco's Application, especially those comments in particular concerning the representations that: a) Sterling Palm Beach LLC ("Sterling") has already executed an "Affidavit" ensuring the continued viability of the 1979 Agreement; and b) the representation that Del Frisco's Grille is not a bar because its bar space is only 7% of the total floor space of the proposed restaurant. Both of these assertions do not stand up under scrutiny.

I have obtained a copy of the proposed "Affidavit of Sterling Palm Beach", a copy of which is attached hereto. As you will see, on its face the "Affidavit" is wholly insufficient to protect the 1979 Agreement and in fact almost seems to have purposefully been drawn in such a manner as to create a false sense of security while at the same time being legally insufficient to protect the 1979 Agreement. As you know, the 1979 Agreement (and its Amendments) constitute the terms and conditions of the granting of a variance between the Town and the owner(s) of the Plaza. As such, it was executed by both the Town and the owners(s) of the Plaza in a format sufficient to be recorded in the public records, as the restrictions of the 1979 Agreement run with the land.

By contrast, the "Affidavit" proposed by Sterling, is insufficient in that, among other issues, it: a) is not executed by the owner of the property; b) is overly vague in its language; c) does not contain the legal description of the Property affected; d) does not identify and is not limited to only the specific issues contained within the Application; e) is not in a format which can be filed in the public records; and f) does not contain a sufficient oath of its signor(s). As such, the proposed "Affidavit" would appear wholly insufficient to protect the terms of the 1979 Agreement, especially in light of the massive change from office to restaurant space being sought by the Applicant along with the resulting 72 parking space variance required by that request, for which there still has been no showing of sufficient legal hardship.

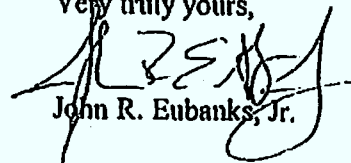
John C. "Skip" Randolph, Esq.
August 13, 2012
Page 2

In the past, the Town has required a much more detailed "Affidavit" for a parking variance of only three (3) spaces, such as attached Affidavit required as part of the granting of Variance 12-2008. Clearly, after expending in excess of \$240,000 to confirm the validity of the 1979 Agreement, at a minimum, the Town should require more than the "Affidavit" proposed by Sterling to ensure that the 1979 Agreement remains in full force and effect.

Outside of the issue of the "Affidavit," I also found very perplexing argument that Del Frisco's is not a bar because "its bar area comprises less than 7% of its total space." Such a representation appears misleading at best. In order to come to a figure of 7%, it would appear that the Applicant would necessarily need to be comparing the exact physical space of the bar vs. the entire 8,399 sq.ft. floor space sought in the Application. However, much of the total area is "back of the house" space which does not even contain seating.

As demonstrated by the attached floor plan taken from the Application, if one takes out the kitchen, bathrooms and wine room in which there are no seats (in orange) as well as the "private dining" areas for special occasions (in blue), the bar area including the high tops (in yellow) represents approximately 40% of the total seating space (i.e. pink + yellow). Further more, with 56 bar area seats (including high tops) contained within the Application, just the sheer number of bar seats requested is larger than Cucina (16 seats), Nick & Johnnies (24), the and the Palm Beach Grill (12 seats) combined. As a result, the proposed bar area (regardless of percentages) would be the largest bar (by far) in Town in number of seats as well as square footage.

Very truly yours,



John R. Eubanks, Jr.

cc: Mayor and Town Council Members
Peter Elwell, Town Manager
John Page, Director of Planning, Zoning and Building
Paul Castro, Zoning Administrator
Town Clerk, Town of Palm Beach
John Grosskopf, General Manager Palm Beach Towers
Henry Goldsmith, President of Board of Palm Beach Towers Condominium Association, Inc.

AFFIDAVIT OF STERLING PALM BEACH, LLC

STATE OF FLORIDA

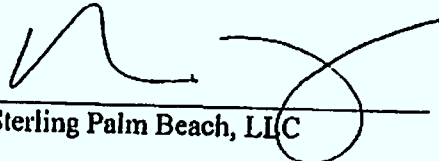
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority appeared Brian Kosoy, the Manager of Sterling Palm Beach, LLC ("Sterling"), who after first being duly sworn, and acknowledging his authority to execute this Affidavit on behalf of Sterling, did depose and state as follows:

1. On or about March 6, 1979 the Town of Palm Beach ("Town") and Poinciana Properties, Limited, a Virginia Limited Partnership authorized to do business in Florida ("Partnership") entered into an agreement ("1979 Agreement") concerning real property located in the Town of Palm Beach, Palm Beach County, Florida known as the Royal Poinciana Plaza ("the Plaza") more particularly described in Exhibit "A" attached to the 1979 Agreement.
2. On May 12, 1980 the Plaza was purchased from Partnership by Sidney Spiegel, Trustee, who entered into an amendment to the 1979 Agreement.
3. On or about March 31, 2008 Sterling entered into a long term lease with a term of up to 99 years with Sidney Spiegel, Trustee for the Plaza.
4. Sterling has entered into a lease agreement with Del Frisco's Grill of Palm Beach, LLC, a Delaware Limited Liability Company ("Del Frisco") with respect to certain space within the Plaza.
5. In connection with that lease, Del Frisco has filed certain applications with the Town, including without limitation a request for parking variance and two special exceptions (collectively "the Del Frisco Applications").

6. Sterling hereby stipulates, acknowledges and agrees that the Del Frisco Applications, and any approvals, waivers or other actions taken by the Town on the Del Frisco Applications, shall not constitute a change, revision or amendment of the current zoning ordinance so as to provide for "further development possibilities" as set forth in paragraph three of the 1979 Agreement or constitute any other form of future development opportunity or possibility under the 1979 Agreement. Sterling further stipulates, acknowledges and agrees that the Del Frisco Applications, and any approvals, waivers or other actions taken by the Town thereon, shall not alter, modify, amend or otherwise change the 1979 Agreement.

Dated this 6th day of August, 2012.


Sterling Palm Beach, LLC

By: Brian Kosoy

Title: Manager

The foregoing instrument was acknowledged before me this 6th day of August, 2012, by Brian Kosoy, who is personally known to me, and who did state the foregoing under oath.


(Print Name Whitney L Stark)

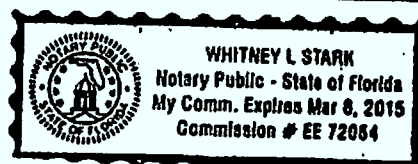
NOTARY PUBLIC

State of Florida

Commission # EE 72054

My Commission Expires: 3.8.15

WPB_ACTIVE S206132.1



Variance #12-2008

This document prepared by and should be returned to:
Maura A. Ziska, Esq.
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 950
West Palm Beach, Florida 33401

AFFIDAVIT

Before me, an officer duly authorized to take acknowledgments, personally appeared SIDNEY SPIEGEL, AS SUCCESSOR TRUSTEE under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371 ("Spiegel"); ISLAND PROPERTIES OF PALM BEACH, INC., a Florida Corporation ("Island"), and STERLING PALM BEACH, LLC, a Florida limited liability company ("SPB") (collectively, the "Affiants"), who did depose and state as follows:

1. Spiegel and Island are the respective fee simple owners of the two separate parcels that comprise the Royal Poinciana Plaza property ("Plaza") and lessors of the Plaza under that certain lease dated March 31, 2008, a memorandum of which is recorded in Official Records Book 22551, Page 401 of Palm Beach County, Florida (the "Lease"), and SPB is the lessee under the Lease and the party in control of the Plaza. The two parcels that comprise the Plaza are legally described below:

See Exhibit "A" attached hereto.

2. On September 8, 2008, the Town of Palm Beach Town Council granted Variance Number 12-2008 which would allow the relocation of one tenant and second new tenant to move into the Plaza without the need for three additional parking spaces.

3. The Affiants acknowledge that the granting of Variance Number 12-2008 does not invalidate the 1979 Agreement (as recorded in Official Records Book 3023, Page 380, of Palm Beach County, Florida) and is not considered allowing future development.

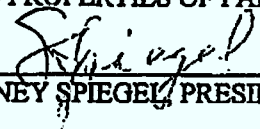
4. The Affiants are familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements made in an Affidavit of this nature. Affiants further certify that they have read the full facts of this Affidavit and completely understand its context.

FURTHER AFFIANTS SAYETH NAUGHT.



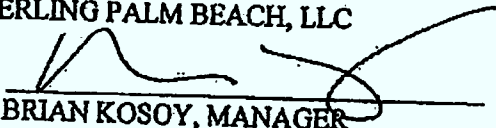
SIDNEY SPIEGEL, TRUSTEE

ISLAND PROPERTIES OF PALM BEACH, INC.

By: 

SIDNEY SPIEGEL, PRESIDENT

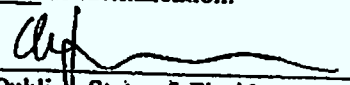
STERLING PALM BEACH, LLC

By: 

BRIAN KOSOY, MANAGER

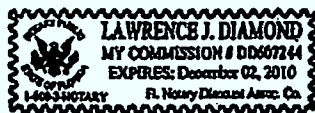
PROVINCE OF ONTARIO
STATE OF FLORIDA
COUNTY OF PALM BEACH

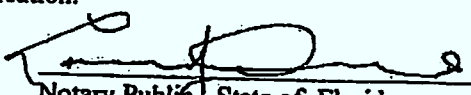
The foregoing instrument was acknowledged before me this 22 day of September, 2008, by
SIDNEY SPIEGEL, Trustee and President of Island Properties of Palm Beach, Inc. who is personally
known to me or who has produced n/a as identification.


Notary Public - State of Florida Province of Ontario
My Commission
Expires: n/a
Commission
Number: n/a

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 22 day of September, 2008, by
BRIAN KOSOY, Manager of Sterling Palm Beach, LLC who is personally known to me or who has
produced _____ as identification.




Notary Public - State of Florida
My Commission
Expires: _____
Commission
Number: _____

Title No.: 300801908

LEGAL DESCRIPTION

EXHIBIT "A"

PARCEL A

A parcel of land in Section 22, Township 43 South, Range 43 East, Palm Beach County, Florida, bounded as follows:

On the North by the Southerly right of way line of Royal Poinciana Way; on the East by the Westerly right of way of Coconut Row; on the West by the waters of Lake Worth; and on the South by the following described line:

Commencing at the intersection of the Northerly right of way line of White Hall Way with the Westerly right of way line of Coconut Row, as said streets are described in Deed Book 814, page 477, and subsequent pages, public records of Palm Beach County, Florida; thence Northerly along the said Westerly right of way line of Coconut Row, a distance of 444.78 feet to the beginning of a curve concave to the East having a radius of 329.60 feet and a central angle of 23 degrees 53' 30"; thence Northerly along the arc of said curve, a distance of 137.44 feet to the tangent to said curve; thence Northerly along said tangent, a distance of 69.62 feet to the Point of Beginning of the herein described South line; thence Westerly making an angle from Southwest to West of 68 degrees 14' 30", a distance of 227.26 feet; thence Northerly at right angles, a distance of 26 feet; thence Westerly at right angles, a distance of 293.43 feet to the beginning of a curve to the Northeast, having a radius of 65.03 feet and a central angle of 85 degrees 42' 43", a distance of 97.28 feet; thence Northwesterly a distance of 33.60 feet, more or less, to the Southeast corner of a parcel of land described in Deed Book 1011, page 228, public records of Palm Beach County, Florida, said Southeast corner is located in the arc of a curve concentric with the last herein described curve, and having a radius of 90.03 feet and a central angle of 102 degrees 56' 30" and is 4.19 feet Southerly from a point of reverse curve; thence Northerly along the arc of the just described curve, a distance of 4.19 feet to the point of reverse curvature of a curve concave to the West, having a radius of 513.29 feet and a central angle of 15 degrees 35' 22"; thence Northerly along the arc of said reverse curvature a distance of 97.62 feet to a point in a line parallel with and 451.20 feet Southerly from (measured at right angles to) the Southerly right of way line of Royal Poinciana Way, said line also being described in Deed Book 1011, page 228, public records of Palm Beach County, Florida; thence Westerly along said parallel line, a distance of 181.06 feet, more or less, to the waters of Lake Worth and the end of the herein described Southerly line.

Excepting, however, so much of a nearly rectangular area of land, together with riparian or littoral rights appurtenant or incident thereto, as is included in the foregoing described parcel of land, and which nearly rectangular area of land has a Southerly boundary of 208.44 feet, an Easterly boundary of 71.20 feet, a Northerly boundary of 190.74 feet plus 12.08 feet, on two different courses coinciding with the South line of the East approach of Flagler Memorial Bridge, and having a Westerly boundary of 71.88 feet coinciding with the West face of an existing concrete bulkhead within the waters of Lake Worth, and all as such nearly rectangular area of land and riparian and littoral rights appurtenant or incident thereto are more particularly described and were conveyed in Deed of Florida East Coast Hotel Company to Town of Palm Beach, dated September 11, 1939, and recorded in Deed Book 582, page 478, of the public records of Palm Beach County, Florida.

PARCEL B

A parcel of land in Section 22, Township 43 South, Range 43 East in the Town of Palm Beach, Palm Beach County, Florida, and more particularly described as follows:

Beginning at a point in the Westerly right of way line of Coconut Row as now laid out and in use at a distance of 173.9 feet South of the intersection of said West line of the right of way of Coconut Row and the Southerly right of way line of Royal Poinciana Way; thence Westerly parallel to the Southerly right of way line of said Poinciana Way a distance of 688.33 feet; thence Southerly at right angles to the preceding course a distance of 245.3 feet to the beginning of a curve concave to the West and having a radius of 513.29 feet and a central angle of 15 degrees 35' 22"; thence Southerly along the arc of said curve a distance of 42.04 feet to the Point of Beginning, and the Northeast corner of the parcel of land herein described; thence continue Southerly along the arc of said

ALTA Complement -1968

curve a distance of 97.62 feet to a point of reverse curvature; thence Southerly along the arc of a curve concave to the East and having a radius of 699.29 feet, a distance of 4.06 feet to a point in the South line of the herein described parcel; thence Westerly parallel to and 581.2 feet Southerly (measured at right angles) from the Southerly right of way line of said Royal Poinciana Way, a distance of 180 feet, more or less, to the waters of Lake Worth; thence Northerly along the waters of Lake Worth to a point in a line parallel to and 100 feet Northerly (measured at right angles) from the Southerly line of the herein described parcel; thence Easterly along said parallel line a distance of 185 feet, more or less, to the Point of Beginning.

PARCEL C

A non-exclusive easement for ingress and egress for the benefit of Parcel B described above, created by and more particularly described in the instrument recorded in Deed Book 1030, page 284, Palm Beach County, Florida, public records.

ALTA Commitment - 1998

WY

EXHIBIT "B"

Numerical Comparison of Parking Counts at Royal Poinciana Plaza

Area	DKS Associates Count	Field Count	Difference
A	122	121	-1
B	102	84	-18
C	87	61	-26
D	55	39	-16
E	152	143	-9
F	174	174	0
G	37	34	-3
Total	<u>729</u>	<u>656</u>	<u>(73)</u>

EXHIBIT "C"

Total Parking Required for Plaza
Per July 24, 2008 DKS Associates Memorandum

All of Plaza	1,196 spaces
Theater/Supper Club	346
Remainder of Plaza	850
Total Present	656
Deficit	194
Additional Shortage Due to Application	<u>72</u>
Total Deficit	266

EXHIBIT "D"

PLANNING, ZONING & BUILDING DEPARTMENT
DEPARTMENTAL COMMENTS MEETING

Development Review Item # Special Exception No. 20-2012

Date of Meeting: August 15, 2012

With Variance

Address: 340 Royal Poinciana Way

Please provide comments in the designated space, along with a detailed explanation.

POLICE DEPARTMENT

NO COMMENT ☒ COMMENTS _____

Name RAYCHEL HUSTON Position MANAGER Signature [Signature] Date 6/28/12

FIRE-RESCUE DEPARTMENT

NO COMMENT _____ COMMENTS X Occupant shall install a Fire Sprinkler System that complies with NFPA 13

Name Timothy S. Pompos Position Fire Marshal Signature [Signature] Date 6/28/12

PUBLIC WORKS DEPARTMENT

NO COMMENT ☒ COMMENTS _____

Name MARTIN GATHER Position _____ Signature [Signature] Date 6/29/12

COMPREHENSIVE PLAN

NO COMMENT ☒ COMMENTS _____

Name John Lindgren Position Plan. Admin. Signature [Signature] Date 6/28/12

BUILDING

NO COMMENT ☒ COMMENTS _____

Name Jeff Taylor Position Bldg. Officer Signature [Signature] Date 6-28-12

ZONING
 NO COMMENT _____ COMMENTS The restaurant appears to be a formula restaurant. Applicant has to demonstrate to the satisfaction of the Town Council.
 Name Paul Cisto Position Zoning Admin Signature [Signature] Date 6/28/12

ARCOM/LPC
 NO COMMENT _____ COMMENTS Any future exterior changes will require LPC review & approval.
 Name John Lindgren Position Planning Admin. Signature [Signature] Date 6/28/12

TOWN MANAGER
 NO COMMENT _____ COMMENTS Lunchtime parking could be problematic.
 Name T.B. Beaufort Position DTA Signature [Signature] Date 6/28/12

PLANNING, ZONING & BUILDING DEPARTMENT
 NO COMMENT _____ COMMENTS _____

 DIRECTOR, PLANNING, ZONING & BUILDING _____ DATE _____

OTHER: There is no hardship for the large parking variance being requested. Should reduce the amount of seating. If approved, conditions for hours of operation, valet, employee parking and noise should be incorporated into a Declaration of Use Agreement.

8/6/12 The Town staff is concerned that approval of the parking variance would allow for further development opportunity which would negate the 1979 Agreement

LEVERRIER INC.
D.B.A. BISTRO CHEZ JEAN-PIERRE
132 NORTH COUNTY ROAD
PALM BEACH, FL 33480

THURSDAY, OCTOBER 4, 2012

DEAR COUNCIL MEMBERS,

SINCE 1991, WHEN WE OPENED THE DOORS TO OUR RESTAURANT, WE HAVE SEEN MANY RESTAURANTS COME AND GO, LEAVING EMPTY SPACES DESIGNATED TO RESTAURANT OPERATIONS. OUR MAIN CONCERN WITH THIS NEW PROPOSAL IS ADDING A RESTAURANT OF THAT SIZE IN A SPACE THAT IS NOT DESIGNATED FOR A RESTAURANT. IN THE EVENT THAT THE AFOREMENTIONED EMPTY SPACES ARE FILLED WITH NEW RESTAURANTS, THE ADDED 260 SEATS FROM THIS NEW SPACE WOULD CREATE AN EVEN GREATER IMBALANCE BETWEEN THE AMOUNT OF SEATS AVAILABLE ON THE ISLAND AND THE AMOUNT OF NIGHTLY DINERS . THESE ARE TOUGH ECONOMIC TIMES AND WE SIMPLY DO NOT THINK THAT ADDING SEATS WHEN THE DEMAND HAS ALREADY GONE DOWN IS A FAIR DECISION FOR THOSE OF US WHO HAVE SERVED THIS GREAT CITY FOR SO MANY YEARS. WE APPRECIATE YOUR CONSIDERING OUR POSITION IN THIS MATTER.

THANK YOU,

THE LEVERRIER FAMILY
(OWNERS OF CHEZ JEAN-PIERRE)

From: Thepalmerosa@aol.com
To: council@townofpalmbeach.com,
Date: 10/04/2012 02:23 PM
Subject: Del Frisco's restaurant

Dear Town Council: What Palm Beach does not need is a chain restaurant like Del Frisco's. What makes Palm Beach so unique is the many private businesses. Unfortunately, Worth Ave is now not much different than any street with most of the stores chains. Lets keep this common denominator of most cities away from the rest of the island. I urge you to oppose this application

Sincerely,

John S. Palmer
1200 S. Flagler Blvd
W. Palm Beach, FL

33401

From: "Adam Munder" <amunder@sterlingorganization.com>
To: <council@townofpalmbeach.com>,
Date: 10/04/2012 04:14 PM
Subject: FW: Palm Beach Towers

Dear Council Members,

Please see the email correspondence below regarding the Palm Beach Towers. We haven't had any response.

Regards,
Adam

From: Adam Munder
Sent: Wednesday, October 03, 2012 6:03 PM
To: 'John E. Grosskopf (PBTOWERS@aol.com)'
Cc: 'Benjamin Gordon'
Subject: FW: Palm Beach Towers

John,

I understand that you may have spoken with Ben Gordon (and possibly viewed my email below) regarding the relationship between the Palm Beach Towers and Sterling Palm Beach. Please know that I was sincere in my note to Ben and I would like nothing more than to put the past behind us and move towards a relationship where we can operate our respective businesses in peace as good neighbors. I would like to formally ask you to reconsider your opposition to the Del Frisco's Grille application in an effort to prevent a further deterioration of our relationship and work towards a solution to our differences regarding the Plaza. I think that it would be a win-win-win for the Town, the Towers and Sterling Palm Beach if we could start on the path to repairing our relationship. Please let me know your thoughts.

Regards,
Adam

From: Adam Munder
Sent: Thursday, September 27, 2012 3:39 PM
To: 'Ben Gordon (ben@bgsa.com)'
Subject: Palm Beach Towers

Ben,

I hope you are doing well. I know that you and your family have had a close relationship to The Palm Beach Towers and I wanted to reach out to you and see if you could help me in my effort to prevent a further deterioration of the relationship between Sterling Palm Beach and the board/management of the Towers.

Specifically, as you may know, we have signed a lease with Del Frisco's Grille which (if approved) will be located at the Northeast corner of the Plaza. While I can understand that the board/management of the Towers would be concerned about any redevelopment efforts at the Plaza, I cannot understand why they continue to make it difficult for us to operate the daily business of the Plaza (like filling a space that has

been vacant for three years with a world class restaurant). It is my understanding that the main concern relating to the new restaurant is that it would negate the 1979 agreement. We have already signed an affidavit and sent it into the Town which ensures that the 1979 agreement will not be affected by anything in relation to the Del Frisco's application. We have offered that we would be willing to work with your board/attorney/management to amend the affidavit to your satisfaction to ensure that your concerns relating to the 1979 agreement are addressed...we are still willing to do so.

The location of this restaurant is at the furthest point away from the Towers meaning that the residents of the Towers will not see, hear or smell the restaurant. I truly believe that Del Frisco's Grille will be an amenity for all of the residents of the Towers. We (along with Del Frisco's) will be spending over \$3.5mm to build out a world class restaurant that will be open for lunch and dinner.

I know that we have had a rough start relating to our relationship with the Towers. I understand that there is a lack of trust among the Towers board as it relates to Sterling Palm Beach. I regret the way that we handled our communication with The Towers during the redevelopment process in 2008-2009, and for that I apologize. I believe that we are going to be neighbors for a very long time and I would like to propose that the Del Frisco's application might be a good way to start a new relationship and build up trust going forward. I would like to propose that I would be willing to meet with the management/board on a quarterly basis as a way to increase the communications between us and listen to any concerns as it relates to the Plaza.

This is a pivotal point in the relationship between the Towers and Sterling Palm Beach and I believe it would be in everyone's best interest to put the past behind us and let each other operate our respective businesses in peace. Please let me know if there is anything you can do to help. Thank you in advance for your consideration.

Regards,
Adam

Adam Munder
Vice President, Business Development
Sterling Organization
340 Royal Poinciana Way, Suite 316
Palm Beach, Florida 33480
Tel 561-835-1810 ext. 2328 Fax 561-833-4118
Mobile 561-876-4186
amunder@sterlingorganization.com
www.sterlingorganization.com



Fw: Dear Palm Beach Council, We strongly support this wonderful , first class establishment. As, neighbors, we will be eating at DelFrisco's often ourselves . Thank you & warm regards,

Cheryl Kleen to: Peter B Elwell

10/04/2012 04:53 PM

**Cc: John Page, Paul Castro, Debby Morakis, Patricia Gayle-Gordon,
Susan Owens, jrandolph**

----- Forwarded by Cheryl Kleen/PalmBeach on 10/04/2012 04:53 PM -----

**From: Rich Goren <Rich.Ceo.Owner@ShinoBayDerm.com>
To: council@townofpalmbeach.com,
Date: 10/04/2012 04:46 PM
Subject: Dear Palm Beach Council, We strongly support this wonderful, first class establishment. As, neighbors, we will be eating at DelFrisco's often ourselves. Thank you & warm regards,**

Dear Palm Beach Council,

We strongly support this wonderful, first class establishment. As, neighbors, we will be eating at DelFrisco's often ourselves.



Thank you & warm regards, IslandCosmetic_Straight_WB.pdf



Rich Goren

CEO PRESIDENT FOUNDER

Corporate Office: (561) 637.6262

Mobile: (954) 849.0662

Corporate Fax: (561) 637.6886

Las Olas Boulevard Office: (954) 765-3005

**350 East Las Olas Boulevard Suite 110 and Suite 120
Fort Lauderdale FL 33301**

Palm Beach Island Office: (561) 832-1950

**50 Cocoanut Row Suite 120 and Suite 301
Palm Beach FL 33480**

----- Forwarded by Peter B Elwell/PalmBeach on 10/04/2012 04:54 PM -----

From: Volklory@aol.com
To: PElwell@townofpalmbeach.com,
Date: 10/04/2012 04:54 PM
Subject: Please include in the record we oppose Del Frisco's application.

Dear Town Council,

We are opposed to the granting of Del Frisco's application for a massive chain restaurant in Royal Poinciana Plaza.

Clearly the lack of required parking and the need for 72 more spaces speaks for its self, along with the other variances requested within this application. It has been said many times before, the more variances an application needs, the less likely that it fits. So in a nut shell please ask yourselves, in more ways than one, does this restaurant fit the scale and charm of the already wonderful Palm Beach dining experience? The answer is clearly NO.

On the Historic note. The Plaza/Playhouse Designation Report dated January 21 2007, boast that this property fits all four Criteria for Designation. Chapter 54 of the Town's Code of Ordinance which outlined the criteria for designation of a landmark or landmark site, suggest that at least one criterion must be met to justify the designation. Sec. 54 161 the Plaza/Playhouse fit not one, but all four criteria to become a Landmark of the Town of Palm Beach. This is the only landmarked property to date in the Town that has ever fits all four criteria.

We question the future motives of the applicant. With the above in mind it seems disingenuous for the applicant to be requesting removal of a curvilinear wall of this landmarked structure for el fresco what...Nothing, because outdoor dining is not permitted in this zoning district. With that being said, is the next variances or exception to the zoning code going to be a request for outside dining?

Please consider all the evidence presented in the well researched and stated white paper entered into the record by Mr. John Eubanks, attorney for the Palm Beach Towers, and the many letters sent by citizens of the town.

Finally to borrow from the well stated NAPB letter:

Please deny the application and its many variances for such an over-sized restaurant and bar which does not reflect what we want in Palm Beach. Do not open the possibility of more and more chains applying for larger and larger spaces that granting this application would encourage. Do not drive out our locally owned and operated restaurants.

Sincerely,
Mr. and Mrs. John

From: Bob Sheff <BSheff@UMich.edu>
To: pelwell@townofpalmbeach.com,
Date: 10/04/2012 04:57 PM
Subject: RE: Del Frisco's application
Sent by: bsheff2@gmail.com

Robert Sheff
219 Seminole Ave
Palm Beach, Florida

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

1. It is completely out of scale for our town.
2. It is not town-serving.
3. It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35 of which there are less than 3% on the island.
4. It cannot meet the parking requirements. Its study for the parking and number of trips as previously presented by them is totally untrue. How can a restaurant that seats over 300 people, needs to fill those seats 6-7 days a week-requiring a market pool of 100,000, not mean increased trips on our roads?

Please deny the application and its many variances for such an over-sized restaurant and bar which does not reflect what we want in Palm Beach. Do not open the possibility of more and more chains applying for larger and larger spaces that granting this application would encourage. Do not drive out our locally owned and operated restaurants.

Thank you,
Robert Sheff

--

Robert Sheff
BSheff@UMich.edu
Independent Consultant
Computers, Antique Clocks, and SportsCars
Everything should be as simple as possible, but not simpler-A.Einstein

From: Bernis Gold <bernisgold@att.net>
To: gconiglio@townofpalmbeach.com, drosow@townofpalmbeach.com, rwildrick@townofpalmbeach.com, Pelwell@townofpalmbeach.com, rkleid@townofpalmbeach.com, mpucillo@townofpalmbeach.com, wdiamond@townofpalmbeach.com,
Cc: Lynnette Lin <lynnetteline@bellsouth.net>
Date: 10/04/2012 03:34 PM
Subject: We are opposed!

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

1. It is completely out of scale for our town.
2. It is not town-serving.
3. It is formula restaurant chain focused on creating an active bar scene for a population age between 25-35 of which there are less than 3% on the island.
4. It cannot meet the parking requirements. Its study for the parking and number of trips as previously presented by them is totally untrue. How can a restaurant that seats over 300 people, needs to fill

those seats 6-7 days a week-requiring a market pool of 100,000, not mean increased trips on our roads?

Please deny the application and its many variances for such an over-sized restaurant and bar which does not reflect what we want in Palm Beach. Do not open the possibility of more and more chains applying

for larger and larger spaces that granting this application would encourage. Do not drive out our locally owned and operated restaurants.

Thank you,

Richard Rosenbloom
Bernis Gold-Rosenbloom

Stuart Schapiro
Joan Schapiro

Irving Kudlow
Ruth Kudlow

Mr. and Mrs. John Wanaker-Leas

fax it to the Town Council : 561-838-5411.

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

1. It is completely out of scale for our town.
2. It is not town-serving.
3. It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35 of which there are less than 3% on the Island.
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would encourage. Do not drive out our locally owned and operated restaurants.

Thank you,

Judy Wells Hoffman
(Judy Wells Hoffman)

October 3, 2012

Thank you for taking the time to show your concern for our town.

Sincerely,

NAPB

TOWN OF PALM BEACH

OCT 03 2012

Town Manager's Office

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Our mailing address is:
Neighbors Association of Palm Beach, Inc.
P.O. Box 2174
Palm Beach, Florida 33480

From: "Scott, Jane" <Jane.Scott@Sothebyshomes.com>
To: <gconiglio@townofpalmbeach.com>, <pelwell@townofpalmbeach.com>
Date: 10/03/2012 12:30 PM
Subject: Fwd: Del Frisco's application

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

1. It is completely out of scale for our town.
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3. It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35, of which there are less than 3% on the island.
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Thank You,

Jane

Jane Lindsay Scott
210 Mañana Lane
Palm Beach

Shelby
~~ANTHONY R.~~ WYCKOFF III
315 PENOLETON LANE
PALM BEACH, FLORIDA 33480

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

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Thank you,

Shelby Wyckoff

fax it to the Town Council : 561-838-5411.

Dear Town Council,

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Thank you,

[your name here]

Eleanor Shaw

Thank you for taking the time to show your concern for our town.

Sincerely,

NAPB

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Palm Beach, Florida 33480

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No virus found in this message.

10/3/2012

232

002

PALM BCH TOWER

10/03/2012 20:53 FAX 8354095

fax it to the Town Council : 561-838-5411.

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

1. It is completely out of scale for our town.
2. It is not town-serving.
3. It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35 of which there are less than 3% on the island.
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Thank you,

[your name here].

Lucy M. Jacobs

Thank you for taking the time to show your concern for our town.

Sincerely,

NAPB

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No virus found in this message.

10/3/2012

233

1001

PALM BCH TOWER

10/03/2012 20:52 FAX 8354095

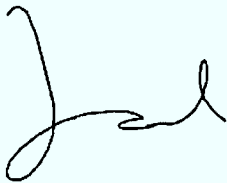
Dear Town Council,

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3. It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35, of which there are less than 3% on the island.
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Thank you,

A handwritten signature in black ink, appearing to read 'Joel', with a stylized, cursive script.

Joel Scott

210 Manana Ln

Palm Beach, FL 33480

fax it to the Town Council : 561-838-5411.

Dear Town Council,

I am opposed to the granting of Dei Frisco's application for a restaurant in Royal Poinclana Way for the following reasons:

1. It is completely out of scale for our town.
2. It is not town-serving.
3. It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35 of which there are less than 3% on the Island.
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would encourage. Do not drive out our locally owned and operated restaurants.

Thank you,

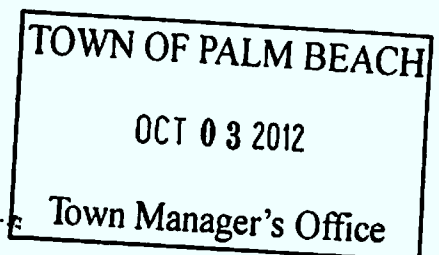
Lindley M.F. Hoffman

Lindley M.F. Hoffman 10/03/12

Thank you for taking the time to show your concern for our town.

Sincerely,

NAPB



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Neighbors Association of Palm Beach, Inc.

P.O. Box 2174

Palm Beach, Florida 33480

Miss. Elizabeth
Whetzel

mobile 917-399-5912

John Eubanks, the lawyer for the Palm Beach Towers, has written a compelling analysis of why this application must be denied. Read the attached document.

Let the Council know that you oppose this application by copying, signing your name and emailing the Council immediately at the address below.

pelwell@townofpalmbeach.com (Palm Beach Town Manager)

Or

fax it to the Town Council : 561-838-5411.

Dear Town Council,

I am opposed to the granting of Del Frisco's application for a restaurant in Royal Poinciana Way for the following reasons:

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2. It is not town-serving.
3. It is a formula restaurant chain focused on creating an active bar scene for a population age between 25-35 of which there are less than 3% on the island.
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Thank you,

Louise H. Stephaich
265 Emerald Lane
Palm Beach

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Development Review - Other

Agenda Title

Review of the Proposed Declaration of Use Agreement for the Palm House, 160 Royal Palm Way, Site Plan Review No. 6-2012 with Special Exceptions and Variance.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated September 28, 2012
- Proposed Amendment to the Declaration of Use Agreement

TOWN OF PALM BEACH

Information for Town Council Meetings on: October 10, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director, Planning, Zoning & Building Department

Re: Review of the proposed Declaration of Use Agreement for the Approval of Site Plan
Review No. 6-2012 with Special Exceptions and Variances, Palm House Hotel

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the proposed Amendment to the Declaration of Use Agreement, as modified by Staff.

GENERAL INFORMATION

On July 11, 2012, the Council conditionally approved the applicant's special exception portion of the application to allow the new owner to operate the subject condo-hotel. On August 15, 2012, the Town Council conditionally approved the site plan, remaining special exception and variance portions of the subject zoning application. Among the many conditions of approval was a condition that applicant enter into an acceptable amendment to the Declaration of Use Agreement with the Town outlining all of the new conditions of approval for the application.

Although staff made repeated requests (since time of approval in August) to the applicant's attorney for a copy of the draft Agreement, the applicant did not provide the Town with the document until September 28, 2012, which was the agenda deadline. As a result, Staff did not have the opportunity to meet with the applicant to review proposed changes prior to submitting the agenda backup.

Staff has made proposed changes to the applicant's draft Amendment to Declaration of Use Agreement in add/delete format and intends to meet with the applicant to explain the recommended changes prior to the Council meeting. The intention is to insure that the condominium hotel operation has minimum impact to neighboring property owners and the Town during the operation of the Hotel.

If you have any questions about this issue please contact Paul Castro, Zoning Administrator at 227-6406.

TOWN ATTORNEY REVIEW

The draft Amendment to the Declaration of Use Agreement was approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Thomas Bradford, Deputy Town Manager
Veronica B. Close, Asst. Director, Planning, Zoning & Building
Susan A. Owens, Town Clerk
Kirk Blouin, Director of Public Safety
zf & pf

Prepared by and return to:
Maura Ziska
Kochman & Ziska, PLC
222 Lakeview Ave., Suite 1500
West Palm Beach, FL 33401

AMENDMENT TO DECLARATION OF USE AGREEMENT
by
THE TOWN OF PALM BEACH
and
160 ROYAL PALM LLC (F/K/A ROYAL 160, LLC)

Dated _____, 2012

AMENDMENT OF DECLARATION OF USE AGREEMENT

THIS AMENDMENT TO DECLARATION OF USE AGREEMENT ("Amendment") is made and entered into this ____ day of _____, 2012 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter the "Town"); and 160 ROYAL PALM LLC, formerly known as ROYAL 160, LLC, 160 Royal Palm Way, Palm Beach, Florida 33480 hereinafter the ("Owner"), which terms "Town" and "Owner" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

W I T N E S S E T H:

WHEREAS, the Town and Owner heretofore entered into a Declaration of Use Agreement made on July 30, 2007 and recorded in Official Records Book 21987, Page 499, of the Public Records of Palm Beach County ("Agreement"); and

WHEREAS, the Town Council on July 11, 2012, approved the special exception portion of the Site Plan Review #6-2012 with Special Exceptions and Variances, which allowed the new Owner to operate the hotel subject to a condition that the south perimeter landscaping having to be completely installed by September 30, 2012;

WHEREAS, the Town Council on August 15, 2012 granted conditional approval of Site Plan Review #6-2012 with Special Exception and Variances ~~to allow modifications to the previously approved project, which amended Site Plan Review No. 2-2007 with Special Exceptions and Variances; The Town Council imposed conditions as part of the approval as set forth in this Amendment.~~

Whereas, the conditions of approval are set forth herein and the approval of this Agreement on the basis of the OWNERS application and the testimony on behalf of the OWNER;

WHEREAS, the TOWN made specific findings that the OWNER met all applicable provisions of the TOWN Code governing site plan review, special exceptions, and variance requests;

WHEREAS, in approving the amendment to the Site Plan Review with Special Exceptions and Variances, the conditions of approval reflected herein are imposed in order to regulate the use, mitigate any adverse impacts of the use, and insure that said use shall not be adverse to the public interest;

WHEREAS, all of the representations made herein are true and accurate and the approval of the amended Site Plan with Special Exception and Variances are conditioned upon the representations made herein and all of the conditions herein imposed; and,

WHEREAS, in granting the approval, the TOWN Council relied upon the oral and written representations of the property OWNER/applicant both on the record and as part of the application process.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and in consideration of other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed that the Agreement is hereby amended and modified as follows ~~it is agreed as follows:~~

ARTICLE I **RECITALS**

The recitals set forth above are true and correct and are incorporated herein and made a part hereof.

ARTICLE II **REPRESENTATION OF OWNERSHIP**

Owner has full right to enter into this amendment to the 2007 Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Amendment to the 2007 Agreement nor the consummation of the transactions contemplated hereby will violate any restriction, court order or agreement to which Owner or the Land are subject.

ARTICLE III **CONDOMINIUM HOTEL USES**

The use of the Land shall be for hotel uses and accessory uses in compliance with all of the information and exhibits not inconsistent with the terms and conditions set forth herein, set forth in the application submitted to the TOWN for Site Plan Review No. 2-2007 with Special Exception and Variances, as amended and approved by Town Council on May 7, 2007, and as amended by Site Plan Review #6-2012 with Special Exceptions and Variances, as amended and approved by the Town Council on July 11, 2012 and August 15, 2012(hereinafter referred to as the "Approval"). The TOWN's approval of the Application is subject to that provision of the TOWN Code which provides that no subsequent deviation may be made from the application as approved by the TOWN Council except upon new application to and approval by the TOWN Council. Any additional uses of the Land shall be subject to approval by the applicable governmental authority including but not limited to the TOWN Council of the TOWN, the Architectural Commission of the Town, Palm Beach County, the State of Florida, the United States Government, and/or any agencies under any of the foregoing governmental authorities.

ARTICLE IV
ADDITIONAL CONDITIONS OF APPROVAL

The following new conditions are imposed as conditions of granting approval of the Site Plan Review with Special Exceptions and Variances and are required to be met as conditions of the continued operation of the Hotel.

1. The proposed 14 foot tall parapet wall between the proposed function room and the proposed ~~service pavilion~~ employee pool service building shall have a water feature that runs the length of the wall. Said water feature shall be operational as determined by the Town Council.
2. The employee pool service building, pool bar shall be only for the use of the hotel staff and will not be used ~~as a sit-down bar to serve~~ by hotel guests to order or consume food and/or beverages. There shall be no chairs for hotel guests at the employee pool service pavilion building.
3. ~~The pool deck area shall only be allowed to have background music and light live music with the speakers directed to the north. There shall be no music on the abutting grass area. There shall be no events in the pool deck and grass area between the pool deck and Function Room. Those areas shall remain passive. The pool deck area shall be allowed only background music and light live music with the speaker system directed towards the hotel to the north. There shall be no music on the abutting grass area. The pool deck hours and hours for music shall be as identified in the Agreement.~~
4. The air conditioning equipment on the roof of the Function Room shall be screened from the neighbors by a solid parapet wall on the three exterior sides.
5. The Function Room elevator and stairwells shall ~~remain closed~~ not be accessible from 7:00 p.m. to 9:00 a.m. so as not to allow hotel guests and employees on the Function Room roof during those hours. Fire-rescue accessibility shall be provided by knox-boxes and an elevator override system.
6. ~~Additional landscaping will be added to the south perimeter to screen the neighbors in perpetuity, the specific plan to be approved by the Architectural Review Commission.~~ Additional landscape material to completely screen the back of the hotel from the neighbors shall be required and maintained on the south perimeter of the subject property in perpetuity. The landscaping of the entire property shall be approved by the Architectural Commission.
7. All construction must be completed by February 14, 2013. The function room, spa/fitness area and second floor dining room above the lobby shall have the shell (drywall, all life safety features, minimum electric and floor slab) completed by February 14, 2013. Any elements not completed by February 14, 2013, including the function room, spa/fitness area and second floor dining room shall be required to obtain new approvals and permits.

ARTICLE III V
PROVISIONS FOR NOTICE

For the issuance of any notice regarding the terms of the Agreement and this Amendment, notice shall be provided.

To the Town Manager:

The Town of Palm Beach, Town Hall
360 S. County Road
Palm Beach, FL 33480

To the Owner:

c/o Glenn F. Straub,
160 Royal Palm Way
Palm Beach, FL 33480

ARTICLE IV VI
PROVISIONS TO RUN WITH LAND/RECORDING

This Amendment shall run with the Land and shall be binding upon the ~~Academy~~ Owner and its respective legal representatives and successors and assigns. This Amendment shall be recorded by the ~~Academy~~ Owner in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Amendment shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VII
ENTIRE AGREEMENT

This Amendment, as identified herein, only represents the modifications to the Agreement, as recorded in Official Records Book 21987, Page 499, of the Public Records of Palm Beach County ~~represents the entire agreement between the parties as to the subject matter as set forth herein in this Amendment~~ and may not be amended except by written agreement executed by both parties. All other provisions and conditions in the Agreement, as recorded in Official Records Book 21987, Page 499, of the Public Records of Palm Beach County, remain in full force and effect.

ARTICLE VIII
MISCELLANEOUS

Wherever the word “laws” appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities. This Amendment may not be amended except by written instrument signed by all parties hereto. Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and

subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this reference made a part hereof. This Agreement shall be binding upon the parties hereto and upon their successors and assigns. In the event of the invalidity of any provision of this Agreement, same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

~~Except as modified by this Amendment, all the terms and conditions of the aforesaid Declaration remain in full force and effect.~~

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above.

Signed, sealed and delivered
In the presence of:

TOWN OF PALM BEACH

By: _____
Gail Coniglio

By: _____
David Rosow, President
Town Council

By: _____
Peter Elwell
Town Manager

160 ROYAL PALM LLC

By: _____
Its: Manager/Member

APPROVED AS TO LEGAL FORM AND
SUFFICIENCY:

John C. Randolph
Town Attorney

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Gail Coniglio, Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public-State of Florida
Commission Number: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by David Rosow, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public-State of Florida
Commission Number: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Peter Elwell, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public-State of Florida
Commission Number:_____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Glenn F. Straub on behalf of the company. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public-State of Florida
Commission Number:_____

TOWN OF PALM BEACH

Town Council Meeting on: October 10, 2012

Section of Agenda

Development Review - Other

Agenda Title

Request for Reconsideration of Town Council Decision, 95 North County Road (per letter dated July 25, 2012, from Hunter Johnson, Woolems, Inc.).

Deferred from the August 15, 2012, Town Council Meeting.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated September 28, 2012 from John S. Page
- Letter Dated July 25, 2012 from Hunter Johnson, Woolems, Inc.
- 95 North County Road Time Table
- 95 N County Road Certificate of Compliance
- 95 N County Road Construction Management Agreement

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 10, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Planning, Zoning & Building Director

Re: Woolems, Inc.: Request to Reconsider Fee at 95 N. County Road (Post Office)

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council review the request of Woolems, Inc. to reconsider the \$2,000 daily fee that began accruing at 95 North County Road (former Post Office) on July 1 of this year.

GENERAL INFORMATION

The Town Council approved Site Plan Review #6-2011 with Special Exceptions and Variances on May 11, 2011, which approved the renovation of the former post office converting the interior to an office with a partial second floor. On December 14, 2011, the Town Council approved a subsequent request from Mr. Jeffery Greene, allowing his business to occupy the first floor of the former Post Office prior to completion of the building restoration which was then ongoing. The owner, the owner's architect, and the owner's attorney, all present at that meeting, testified that building completion would likely occur within a few months, yet were reluctant to pinpoint a completion date that was too aggressive. Council members conceded, and all parties agreed to the end-of-June 2012 deadline. Approval was conditioned, however, upon execution of a Construction Management Agreement establishing a deadline of June 30, 2012, for all construction activities, and including a \$2,000 daily fee (from the owner to the Town) for each calendar day needed to complete the project beyond the deadline.

Woolems, Inc., contractor for the owner, intended to appeal the \$2,000 daily fee to the Town Council in August this year (see attached letter). Although the contractor believed that all interior work was complete at that time, not all Town approvals had been secured (drainage, right-of-way restoration, landscaping, etc.). The Council opted not to consider the request until such time that the project was completed in full, and the issue was deferred until October.

The attached "95 North County Road Time Table" details the project's permitting history. All permit applications were reviewed and approved in timely fashion. Although not shown on the timetable, the owner recently posted a 1-year Performance Bond with the Town (with oversight from the Public Works Department) assuring completion of all related roadway repairs. The

very last required Town inspection necessary to finalize the construction project was a landscape and site plan inspection. That inspection was completed and approved on today's date (September 28, 2012).

The Council should consider the following details while reviewing Woolems request for reconsideration of the \$2,000 daily fee:

- Per terms of the Construction Management Agreement, the fee is payable to the Town from the owner, not the contractor. The Town is not a party to the relationship between the owner and his contractor.
- Although the building proper was completed in July this year, the entire project site lingered beyond that date. Public Works issues (lateral inspection, drainage, roadway repairs) were "finalized" on September 27. The last required inspection (landscaping/site plan), which occurs after Public Works inspections, was completed on September 28, 2012. It is not readily apparent to staff why such delay occurred at the contractor's end.
- The Private Provider at the site provided the Planning, Zoning & Building Department with a "Certificate of Compliance/Occupancy" on July 20, 2012. Private Provider responsibility only includes those issues related to the Florida Building Code.
- The Council may choose to collect late fees up until September 28, or choose an alternative fee payment. Fees due through September 28 would be \$180,000 (90 days). Should the Council, however, determine that the project was essentially complete at the time the Private Provider certified Building Code compliance on July 20, the fee would be \$40,000 (20 days).

Attachments

cc: Hunter Johnson, Woolems Construction
John C. Randolph, Town Attorney

HEADQUARTERS

2900 Hillsboro Road
West Palm Beach, FL 33405
(561) 835-0401 Phone
(561) 835-0403 Fax
www.woolemsinc.com
CGC # 010222



July 25th, 2012

Mr. John Page
Town of Palm Beach Building Dept.
360 S. County Road
Palm Beach, FL 33480

Re: 95 N. County Road, PB Post Office Renovation

Dear Mr. Page:

I am sending you this letter as a written request for the Town Council to reconsider the fine at the 95 N. County project. Woolems would like to be placed on the agenda for the next Town Council meeting to discuss this project.

A few items that we would like to address with the Council are as follows:

1. Anticipated start date of December 20, 2011 (as referred to in Exhibit B of the Construction Management Agreement) versus actual start date of January 6, 2012 based on a delay in permit issuance.
2. Substructure conflicts in existing and "as-built" drawings and access to verify existing conditions prior to construction start.
3. Subsequent structural revisions due to increased scope based on a high water table.
4. The Declaration of Use Agreement limits 2nd floor build out, and in order to accommodate life safety requirements from the town and Fire Department regarding that 2nd floor area, additional scope and build out was required, resulting in additional time.

Please let me know if there is any additional information that you would like to see regarding this matter. You can reach me by email at hjohnson@woolemsinc.com, or by phone at (561) 718-5425. Thank you for your time in this matter.

Sincerely,

Hunter Johnson
Woolems, Inc.

cc: John Rogers
Mark Marsh
Doug Taylor

95 North County Road – Time Table			
Description	Application Date	Issue Date	Completion Date
Town Council Approval – Site Plan		5-11-2011	
Placed on Landmarks hold		8-11-2011	
Landmarks approval		8-17-2011	
Town Council approval to occupy before completion of work- CMA		12-14-2011	
Business Tax approval		12-28-2011	
Construction Management Agreement executed by Town		1-4-2012	
Building permit – B-11-19080	8-5-2011	1-15-2012*	9-28-2012
Exploratory demolition permit - B-11-19090	8-5-2011	8-9-2011	8-14-2011
Plumbing permit – B-12-23899	4-20-2012	4-23-2012	8-14-2012
Gas Permit – B-12-23900	4-20-2012	4-23-2012	8-14-2012
Electric permit – B-12-24087	5-1-2012	5-4-2012	8-14-2012
Mechanical permit – B-24219	5-7-2012	5-7-2012	2-10-2012
Fire Alarm permit – B-12-24653	5-29-2012	6-5-2012	8-14-2012
Fire Sprinkler permit – B-12-24958	6-12-2012	6-13-2012	8-14-2012
Plumbing permit – B-12-23899	4-20-2012	4-23-2012	8-14-2012
Site work permit (Landscaping and Drainage) – B-12-26722	8-15-2012	8-24-2012	9-28-2012
Request for substantial completion walk through		7-18-2012	
Substantial Completion Certificate from Private Provider (Copy)		7-20-2012**	
Signed/Sealed Original Substantial Completion Certificate from Private Provider		8-14-2012	

* Permit not approved/issued until this date because submitted plans did not match plans approved by Landmarks Preservation Commission, and execution of construction management agreement.

** Substantial Completion Certificate from Private Provider indicates all work pertaining to the Interior and Occupancy of the building has been completed and the building is safe to occupy.

Beverly Tew
President
Cell: 561-252-6440

TEW & TAYLOR, INC.
1562 Wiltshire Village Drive
Wellington, Florida 33414
561-791-9667 office/fax
tewandtaylorinc.com

Doug Taylor
Vice President
Cell: 561-847-0844

CERTIFICATE OF COMPLIANCE/OCCUPANCY

To the best of our knowledge and belief, the building components and site improvements outlined herein and inspected under our authority have been completed in conformance with the approved plans and the applicable codes as issued and approved by the Governing Authority having jurisdiction for this project.

Project: 95 N. County Road – previous post office

Contractor: Woolems, Inc.

This is a Conditional Certificate of Occupancy for the first floor only. The second floor is to be used for storage only. No additional occupant load is granted than is currently allowed. All sprinklers and life safety devices are currently operational on all floors. Any additional requirements agreed to or requested by the local authority are to be complied with before any occupancy or use.

OK for occupancy/use - _____

(local authority)

Sworn to under oath that the above statement is true and correct, this month and day,

July 20, of year 2012.

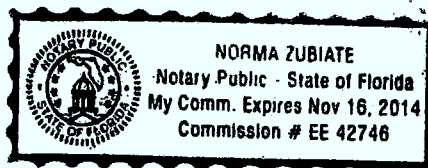
Charles L. Taylor
FIDELITY# T469172551480 204-13
Tew & Taylor, Inc. Officer/Authorized Representative

ATTEST/NOTARY:

Name: NORMA ZUBIATE

Signature: [Signature]

Date: 07-20-2012



SEAL

Construction Management Agreement
95 North County Road, Palm Beach, Florida

Little Broad Beach Partners, L.P. ("Owner") and the Town of Palm Beach, Florida ("Town") enter into the following Agreement on this 21 day of December, 2011.

WHEREAS, Owner owns property located at 95 North County Road in the Town of Palm Beach ("Property") as identified in the legal description (Exhibit A attached); and

WHEREAS, Owner received approval by the Town Council of Site Plan Review #6-2011 with Special Exception and Variances on May 11, 2011 ("Approval") for the renovation of Property; and

WHEREAS, at the Town Council meeting on December 14, 2011, the Town approved the Owner to occupy the Property prior to the completion of the renovation and has required that the Owner enters into this Construction Management Agreement ("Agreement") prior to the Owner's occupancy.

NOW THEREFORE, Owner and Town agree as follows:

RECITALS

1. The recitals set forth above are true and correct and are incorporated herein and made a part hereof.

CONDITIONS

2. The Owner shall follow the Schedule of Construction as set forth in Exhibit B ("Schedule") attached hereto. The completion date in said Schedule may only be modified with the consent of the Town Council. The dates within the schedule may be modified with the consent of the Building Official provided that construction does not exceed the maximum number of days allowed by the Town Council as provided for in the attached Schedule. The Town shall use its best efforts to expedite review and issuing of the building permit and/or any modifications to the building permit. Such modifications shall be monitored and approved by the Building Official. The Owner's construction personnel shall provide to the Town's Building Official a progress report on the Schedule on the 1st business day of each month starting February 1, 2012.

The construction is approved subject to the following conditions

A. Exterior Improvements. Upon occupancy, Owner agrees to commence the exterior improvements per the plan approved by the Town Council on May 11, 2011. Exterior improvements shall be completed by June 30, 2012.

B. Interior Improvements. The interior improvements as per the plan approved by the Town Council on May 11, 2011 shall be completed by June 30, 2012.

OFFICE COPY
SUBJECT TO COMPLIANCE WITH
ALL CODES AND ORDINANCES
IN EFFECT IN THE TOWN OF
PALM BEACH, FLORIDA

C. Violations

1. If the Owner fails to complete the construction in the maximum number of days allowed by the Town Council, the Owner shall pay to the Town a liquidated amount of \$2,000.00 per day for each calendar day past the maximum number of days allowed. An extension of the completion date shall be granted in the event of an "Act of God" which would shut down the project for a period of time, to be determined by the Town.

2. All outstanding amounts imposed under this provision shall be paid by the Owner prior to the issuance of a certificate of occupancy for any building.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above. Signed, sealed and delivered in the presence of:

By: Gail L. Coniglio
Gail Coniglio, Mayor

By: David Rosow
David Rosow, President Town Council

By: Peter B. Elwell
Peter B. Elwell, Town Manager

Little Broad Beach Partners, L.P.

By: [Signature]
Its: Per CF

RECOMMEND APPROVAL:

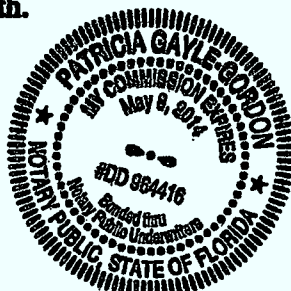
12/21/11
[Signature]
Paul Castro, AICP
Zoning Administrator

Approved as to Legal Form and Sufficiency:

[Signature]
John C. Randolph, Town Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

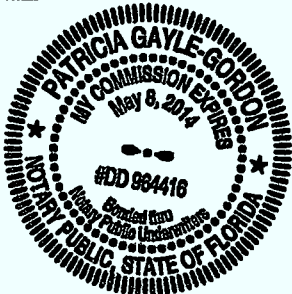
The foregoing instrument was acknowledged before me this 4th day of January, 2012, by Gail Coniglio, Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.



Patricia Gayle Gordon
Signature of Notary Public
Printed Name of Notary Public
Commission No: _____
Commission Expires: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 4th day of January 2012, by David Rosow, President of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.



Patricia Gayle-Gordon
Signature of Notary Public

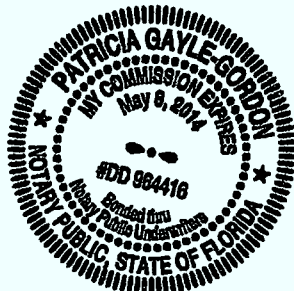
Printed Name of Notary Public

Commission No: _____

Commission Expires: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 4th day of January 2012, by Peter B. Elwell, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.



Patricia Gayle-Gordon
Signature of Notary Public

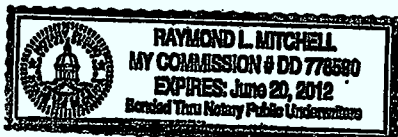
Printed Name of Notary Public

Commission No: _____

Commission Expires: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 21st day of December 2011, by Jeff Greene, on behalf of Little Broad Beach Partners, L.P., a Florida limited partnership. He is personally known to me and did not take an oath.



Raymond Mitchell
Signature of Notary Public

Printed Name of Notary Public

Commission No: DD 778590

Commission Expires: 06/20/2012

EXHIBIT "A"

LEGAL DESCRIPTION

A part of Government Lot One (1), in Section Twenty-three (23), Township Forty-three (43) South, Range Forty-three (43) East, situated in the Town of Palm Beach, Florida, more particularly described as follows:

For a point of beginning, commence at the Northwest corner of Section Twenty-three (23), Township Forty-three (43) South, Range Forty-three (43) East, Palm Beach County, Florida;

run thence South One Degree, Twenty-five Minutes, Fifty Seconds East (South $01^{\circ}25'50''$ East) along the West line of said Section Twenty-three (23), which line is also the center line of Palm Beach Avenue, so-called, a distance of Four Hundred Fifty-Two and $17/100$ (452.17) feet to a point;

thence South Eighty-Eight Degrees, Twenty-Eight Minutes, Ten Seconds East (South $88^{\circ}28'10''$ East) a distance of Thirty and $03/100$ (30.03) feet to the Southeast corner of said Palm Beach Avenue and Main Street, so-called, said point being hereinafter known as the POINT OF BEGINNING;

thence continue South Eighty-Eight Degrees, Twenty-Eight Minutes, Ten Seconds East (South $88^{\circ}28'10''$ East) along the South line of said Main Street a distance of One Hundred Eighty-Two and $97/100$ (182.97) feet;

thence South One Degree, Thirty-One Minutes, Fifty Seconds West (South $01^{\circ}31'50''$ West) a distance of One Hundred and Fifteen and $00/100$ (115.0) feet;

thence North Eighty-Eight Degrees, Twenty-Eight Minutes, Ten Seconds West, (North $88^{\circ}28'10''$ West) a distance of One Hundred Seventy-Seven and $03/100$ (177.03) feet;

thence North One Degree, Twenty-Five Minutes, Fifty Seconds West, (North $01^{\circ}25'50''$ West) along the East line of said Palm Beach Avenue, a distance of One Hundred Fifteen and $15/100$ (115.15) feet to the POINT OF BEGINNING.

EXHIBIT "B"

ID	Task Name	Duration	Start	Finish	Predecessors	Calendar											
						July	August	September	October	November	December	January	February	March	April	May	June
1	CMPP Prelim Sketch	100.0 days	Tue 12/20/11	Wed 6/27/12													
2	Complete Structural Design	10 days	Tue 12/20/11	Thu 1/5/12													
3	Structural Steel Shop Drawings	10 days	Tue 12/20/11	Fri 1/12/12													
4	Fabricate Steel	5 days	Fri 1/12/12	Mon 1/29/12													
5	Partial Service Motor Out	0 days	Fri 6/24/11	Fri 6/24/11													
6	Start Construction	100.0 days	Tue 12/20/11	Thu 6/14/12													
7	Demolition	5 days	Wed 12/22/11	Mon 1/8/12	478-18 days												
8	Structural Work	30 days	Thu 1/4/12	Thu 2/22/12													
9	Interior Framing	10 days	Fri 2/2/12	Wed 2/9/12	107-5 days												
10	MFP Rough In's	10 days	Thu 2/2/12	Thu 2/9/12	107-5 days												
11	Fire Sprinkler Rough In	5 days	Thu 2/2/12	Fri 2/9/12	107-5 days												
12	Hang Drywall	7 days	Wed 2/22/12	Mon 3/5/12	107-5 days												
13	Tape and Finish	7 days	Thu 3/8/12	Wed 3/14/12	107-5 days												
14	Paint	5 days	Fri 4/6/12	Mon 4/16/12	107-5 days												
15	ACV GFI	5 days	Thu 4/12/12	Fri 4/27/12	107-5 days												
16	MFP Video	5 days	Wed 4/25/12	Thu 5/3/12	107-5 days, 11												
17	Final Inspection	5 days	Thu 5/3/12	Wed 5/9/12	10												
18	Substantial Completion	1 day	Wed 5/9/12	Thu 5/10/12	17												
19	YCS (Ground Floor Office Space)	0 days	Thu 5/10/12	Thu 5/10/12	18												
20	Exterior Site	14.5 days	Tue 5/8/12	Thu 5/24/12	7												
21	Demolition ramp, cut parking for trash container, drainage	4 days	Tue 5/8/12	Mon 5/14/12													
22	Repair front entry	3 days	Tue 5/15/12	Fri 5/18/12	21												
23	Drainage and certification	10 days	Thu 5/17/12	Thu 6/7/12	21												
24	Grading and asphalt	10 days	Thu 5/17/12	Wed 6/13/12	21												
25	Reconnect sewer and fire line and patch	3.5 days	Tue 5/22/12	Fri 5/25/12													
26	Finish all site MEP items	20 days	Mon 5/7/12	Fri 6/8/12	20												
27	Repair and install landscaping	10 days	Mon 5/7/12	Thu 5/24/12	20												
28	Strip Parking lot as required	3 days	Mon 5/14/12	Thu 5/24/12	20, 27												
29	Completion of Construction	27 days	Thu 5/24/12	Wed 6/27/12													
30	Complete Build Out	28 days	Thu 5/24/12	Fri 6/22/12	10												
31	Final CO	2 days	Fri 6/22/12	Wed 6/27/12	10												

Task	External Task	Manual Task	Field-only	2	Task
Split	External Milestone	Manual Milestone	Manual	1	Task
Milestone	Task	Manual Summary	Official		
Summary	Task Milestone	Manual Summary	Official Split		
Project Summary	Task Summary	Manual Summary	Program		

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