TENTATIVE:
SUBJECT TO
REVISION

# TOWN OF PALM BEACH

PLANNING, ZONING, & BUILDING DEPARTMENT

**TOWN COUNCIL MEETING DEVELOPMENT REVIEW**

**TOWN HALL**
**COUNCIL CHAMBERS - SECOND FLOOR**
**360 SOUTH COUNTY ROAD**

**AGENDA**

**JULY 12, 2023**

**9:30 AM**

## Welcome

**For information regarding procedures for public participation at Town Council Meetings, please refer to the end of this agenda.**

### I. CALL TO ORDER AND ROLL CALL

Danielle H. Moore, Mayor
Margaret A. Zeidman, President
Bobbie Lindsay, President Pro Tem
Julie Araskog
Ted Cooney
Lew Crampton

### II. COMMENTS OF MAYOR DANIELLE H. MOORE

### III. COMMENTS OF TOWN COUNCIL MEMBERS

## IV. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

## V. APPROVAL OF AGENDA

## VI. APPROVAL CONSENT AGENDA

## VII. REGULAR BUSINESS

A. Public Notices (Continued) - Notice Radius Pg. 12
*Wayne Bergman, Director of Planning, Zoning and Building*

B. Code Review Pg. 13

a. Update
b. Discussion regarding Recommendation on Garages by the Planning and Zoning Commission

*Sean S. Suder, ZoneCo., Planning Consultant*
*Joe Nickol, Yard & Company, Planning Consultant*

**10:00 AM TIME CERTAIN**

C. Matters Pulled from the Consent Agenda Pg.16

## VIII. CONSENT AGENDA

**A.** **ZON-23-060 (ARC-23-065) 304 MADDOCK WAY (COMBO)-SITE PLAN REVIEW** The applicant, 304 Maddock Way LLC, has filed an application requesting Town Council Site Plan Review for the installation of one (1) generator with a 200kW output capacity housed in an enclosed building, in conjunction with the development of the parcel with a new two-story primary residence, two-story detached garage, and two-story detached guest house providing over 20,000 SF of enclosed space with site wide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application. *[The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting. Carried 5-2.]* Pg. 17

## IX. DEVELOPMENT REVIEWS

### A. Declaration of Use Agreements

**1.** **ZON-23-019 (COA-23-002) 363 COCOANUT ROW—THE VINETA HOTEL (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** - Declaration of Use Agreement & Seating Chart Review Pg. 24
**2:00 PM TIME CERTAIN**

### B. Appeals

**1.** **APPEAL OF MAY 24, 2023, ARCOM APPROVAL RE: 232 COLONIAL LN** Pg. 67

*[The Appellant made a request to defer this matter one (1) month and the request was agreed to by the Applicant of the 232 Colonial Lane project.]*

***[This appeal shall be deferred to the August 9, 2023, Town Council Meeting.]***

*Scott M. Zaslav, Zaslav & Armbruster, P.A.*

**C. Time Extensions and Waivers**

1. Waiver of Town Code Section 42-199, For Construction Work Hour Extension at 170 N. Ocean Blvd. Pg. 138
2. Waiver of Town Code Section 18-237, For Building Permit Extension at 525 N. County Rd. Pg. 150
3. Waiver of Town Code Section 18-237, For Building Permit Extension at 369 S. Lake Drive Pg. 160
4. Waiver of Town Code Section 18-237, For Building Permit Extension at 236 & 238 Phipps Plaza Pg. 165
5. Waiver of Town Code Section 42-199, For Construction Work Hour Extension at 3300 S. Ocean Blvd. Pg. 174

**D. Variances, Special Exceptions, and Site Plan Reviews**

**1. Old Business**

a. **ZON-22-115 (COA-22-040) 801 S COUNTY ROAD (COMBO) - VARIANCES** The applicant, Palmeiral Revocable Trust/Frances I. Kettenbach, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for a beach house structure and three (3) variances (1) to vest an existing non-conforming west setback due to the demolition of more than 50% of the structure, (2) to place an air conditioning condensing unit within the front setback, and (3) to reduce the Ocean Bulkhead setback, in conjunction with proposed exterior alterations and additions to an existing beach cabana. The Landmarks Preservation Commission will perform the design review component of the application. *[The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved this project with conditions at the June 21, 2023, meeting. Carried 7-0.]* Pg. 178

b. **ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES** The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined Pg. 185

parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. [*The Architectural Review Commission deferred the project to their March 29, 2023, meeting.]* ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]***

c. **ZON-22-032 (HSB-23-003) 594 N COUNTY RD (COMBO)— VARIANCES** The applicant, George Marucci, has filed an application requesting Town Council review and approval for variances (1 and 2) to reduce both side yard setback requirements for two, one-story additions to a historically significant one-story building. The Landmarks Preservation Commission will perform the design review. *[The Landmarks Preservation Commission deferred this project to the April 19, 2023, meeting.]* ***[The applicant has withdrawn this application.]*** Pg. 186

d. **ZON-22-122 (HSB-22-011) 141 AUSTRALIAN AVE (COMBO) —VARIANCES** The applicant, Gregory James Pamel, has filed an application requesting Town Council review and approval for Variances to (1) reduce the required side (east) yard setback, (2) to reduce the required rear (north) yard setback, (3) to exceed the overall building height for an accessory structure, and (4) to exceed the maximum Cubic Content Ratio (CCR), and (5) to allow a two story accessory structure where only one story is permitted, for the demolition and reconstruction of a two-story accessory structure in the rear yard in conjunction with the proposed renovations to an existing Historically Significant two-story building. The Landmarks Preservation Commission will perform design review of the application. *[The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [ The Landmarks Preservation Commission approved this project with conditions at the May 17, 2023, meeting. Carried 7-0.] [At the June 14, 2023, Town Council meeting, the Council decided to deferred this project to the July 12, 2023, Town Council meeting.]* Pg. 187

e. **ZON-23-014 (ARC-22-243) 302 SEABREEZE AVE (COMBO) — SITE PLAN REVIEW AND VARIANCE** The applicant, Sean Rooney, has filed an application requesting town council review and approval for development of a new two-story single-family structure on a parcel, comprised of platted lots, which is deficient in lot width and lot area in the R-B zoning district requiring Site Plan Review, and a variance to provide one garage parking spot in lieu of the two required. The Architectural Commission will perform design review of the application. [*The Architectural Review Commission deferred the project to their March 29, 2023, meeting.]* ***[This project shall be deferred to the*** Pg. 198

***August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]***

f. **ZON-23-041 (ARC-23-032) 176 SEMINOLE AVE (COMBO)—VARIANCES** The applicant, William Paca Beatson, Jr. Trustee of the William Paca Beatson Revocable Trust dated January 8, 2021, has filed an application requesting Town Council review and approval for four (4) Variances required to convert an existing two-car garage into interior storage space and to construct a second-story addition over the rear garage with site and landscape alterations, including (1) to eliminate required garage parking spaces, (2) to construct a second floor addition with reduced rear setbacks, (3) to exceed the maximum allowable Cubic Content Ratio (CCR), and (4) to reduce the overall Landscape Open Space below the required minimum. The Architectural Commission will perform the design review component of the application. *[The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting with conditions. Carried 4-3.]* Pg. 199

g. **ZON-22-121 (HSB-22-012) 428 CHILEAN AVE (COMBO)—VARIANCE** The applicant, David Mooney, has filed an application requesting Town Council review and approval for a variance to exceed maximum equipment screening wall height, to screen equipment in the west side yard. The Landmarks Preservation Commission shall perform design and flood plain variance review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]*** Pg. 207

h. **ZON-23-002 (ARC-22-241) 624 ISLAND DR (COMBO)—VARIANCES** The applicant, Holly Ann Bartlett, as Trustee of the 1220 South Ocean Boulevard Trust dated May 23, 2013, has filed an application requesting Town Council review and approval Variances (1) to exceed the maximum amount of lot coverage, (2) to exceed the maximum amount of Cubic Content Ratio (CCR), (3) to exceed the maximum allowable building height, and (4) to exceed the maximum allowable overall building height, in the R-B zoning district in conjunction with the enclosure of an existing open-air courtyard of a two-story residence with a new clerestory. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission deferred this project for restudy to the May 24, 2023, meeting. Carried 7-0.]* ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]*** Pg. 208

i. **ZON-23-020 (COA-23-003) 139 N COUNTY RD—THE PARAMOUNT THEATER (COMBO) —SPECIAL** Pg. 209

**EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, WEG Paramount LLC, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the renovation of an existing Landmarked theater structure and the construction of a new three-story mixed use (retail and four residential units) development including Special Exception requests (1) to permit Private Club use in the C-TS district, (2) for square footage > 3,000 SF in the C-TS district, (3) for Restaurant use in the C-TS district, (4) for Outdoor seating use (100 seats) associated with a restaurant or private club in the C-TS district, (5) for a maximum of two stories in the C-TS district and (6) for shared parking in the C-TS district. The applicant is also seeking Site Plan Review for new building(s) or for changes in a permitted use in Sec. 134-1107 which involve more than 2000 square feet of building floor area in the C-TS zoning district. Additionally, the applicant is seeking review and approval for Variances (1) to reduce the required front yard for new construction, (2) front side street yard for new construction, (3) and rear yard setback requirements for new construction, (4) to allow three stories in lieu of two stories in CTS district, (5) to exceed the maximum height, (6) to exceed the maximum overall building height, (7) to exceed the maximum allowable lot coverage limitation, (8) to exceed the maximum building length permitted, (9) to exceed the maximum building size (floor area) permitted, (10) to reduce the require overall landscape open space, (11) to reduce the required front yard landscape open space, (12) to reduce the required front yard setback for the subterranean parking level, (13) front side street yard setback for the subterranean parking level, (14) and rear yard setback requirements for the subterranean parking level, (15) a variance to permit tandem and triple stacking for parking in the garage structure, (16) a variance to eliminate the required onsite loading space, (17) a variance to reduce the required drive aisle width, (18) a variance to exceed the maximum drive aisle slope in a garage, (19) a variance to exceed the maximum height of a perimeter wall on a side or rear property line, and (20) a variance to allow a generator (between 64kW-100kW) within a required side or rear setback, in conjunction with the renovation of an existing Landmarked theater structure and the construction of a new three-story mixed use (retail and four residential units) development with two subterranean parking levels (127 parked spaces). The Landmarks Preservation Commission will perform the design review. ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]***

j. **ZON-23-050 (ARC-23-036) 243 SEASPRAY AVE (COMBO) – VARIANCES** The applicant, 243 Seaspray LLC (Larry Meyer, Manager), has filed an application requesting Town Council review Pg. 211

and approval for (2) variances for (1) a reduced west side yard setback and (2) a reduced north rear yard setback, as it pertains to construction of a new two-story single family residence. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]***

k. **ZON-23-049 (ARC-23-057) 2 S COUNTY RD (COMBO) — SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, The Breakers Palm Beach, Inc. (Alex Gilmurray), has filed an application requesting Town Council review and approval for Special Exception with Site Plan Review for modifications to the tennis center at the Breakers hotel including replacement of and addition of courts, shade structures, walkway and stretching area, and (2) variances to (1) provide court fencing that is deficient in height and (2) to provide tennis court lighting that exceeds maximum heights allowed. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the October 11, 2023, Town Council meeting pending review by the Architectural Review Commission and at the request of the applicant.]*** Pg. 212

l. **ZON-23-063 (ARC-23-039) 599 S COUNTY RD (COMBO) – VARIANCES** The applicant SAS Realty Enterprises LLC (Greg Simonian, President), has filed an application requesting Town Council review and approval for a variance to exceed the maximum overall building height, as part of the construction of a new two-story single family dwelling. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]*** Pg. 213

**2. New Business**

a. **ZON-23-059 (ARC-23-063) 1265 N LAKE WAY (COMBO) – SITE PLAN REVIEW** The applicant, 1265 N Lake Way LLC (Maura Ziska, Manager), has filed an application requesting Town Council Site Plan Review for development of single-family dwelling on a lot deficient in lot width in the R-B zoning district. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]*** Pg. 214

b. **ZON-23-021 (ARC-23-015) 320 CHILEAN AVE (COMBO)— VARIANCES** The applicants, Valentin and Yaz Hernandez, have filed an application requesting Town Council review and approval Pg. 215

for Site Plan Review and (6) variances, including (1) to reduce side setbacks for the installation of a new pool, (2) to reduce rear setbacks for a new pool heater, (3) to place pool equipment within a yard setback more than 25 linear feet away from the pool water's edge, (4) to reduce overall Landscape Open Space below the required amount, (5) to reduce Front Yard Open Space below the required amount, and (6) to reduce the required parking spaces, in conjunction with overall site plan modifications for an existing two-story condominium building, including landscape and hardscape improvements and the installation of a pool. The Architectural Commission will perform the design review component of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]***

c. **ZON-23-054 (ARC-23-064) 1473 N OCEAN BLVD (COMBO) – VARIANCES** The applicants, William C. Powers & Marianne Elaine Elmasri, have filed an application requesting Town Council review and approval for (2) variances from (1-2) north and south side setback requirements. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]*** Pg. 216

d. **ZON-23-061 (ARC-23-074) 100 WORTH AVE (COMBO)— SITE PLAN REVIEW AND VARIANCE** The applicant, The Winthrop House, has filed an application requesting Town Council review and approval for a Site Plan Review for modifications to existing site plan for a multifamily building and a Variance to remove required on-site parking spaces. The Architectural Commission will perform the design review component of the application. *[The Architectural Review Commission Recommendation: Implementation of the proposed parking variance will not cause negative impact to the subject property. Carried 7-0.] [The Architectural Review Commission deferred this project at the August 23, 2023, meeting for a restudy of the proposed fenestration changes. Carried 7-0.]* Pg. 217

e. **ZON-23-065 (ARC-23-080) 210 FAIRVIEW RD (COMBO) – VARIANCES** The applicant, Aaron W. Ford, has filed an application requesting Town Council review and approval for (1) a variance to allow an addition to a one-story garage within the required front yard setback and (2) a variance for an addition in the required west side yard setback. The Architectural Commission shall perform design review of the application. *[The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting with conditions. Carried 7-0.]* Pg. 224

f. **ZON-23-073 (ARC-23-096) 150 WORTH AVE, STE 137 (COMBO)—SPECIAL EXCEPTION** The applicant, Lugano Diamonds, has filed an application requesting Town Council review and approval for a Special Exception for a permitted use (retail) over 4,000 SF of leasable area in the C-WA zoning district and a Special Exception request to allow lighted/illuminated signage within the courtyard of the Esplanade. The Architectural Commission will perform design review of the application. *[This project will be heard at Town Council prior to being heard at the Architectural Review Commission due to the project being a Commercial project requesting zoning relief.]* Pg. 229

## X. ORDINANCES

### A. First Reading

1. Amendment to the Special Exception Clause in the Commercial Districts Related to Business Tax Receipts (BTRs) and Non-Conforming Permitted Uses Pg. 234

   **Ordinance No. 009-2023:** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, so as to Amend the Fees Delineated for each Business, Profession or Occupation; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing for an Effective Date.

2. Amendment to the Requirements for Special Exception on Non-Conforming Lots within the Single-Family Districts Pg. 286

   **Ordinance No. 010-2023:** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article IV, Nonconformities, Division 4. - Land; Section 134-446. Development and Redevelopment of Nonconforming Residential Lots; Article VI, District Regulations, Division 2. - RAA Large Estate Residential District, Section 134-793. Lot, Yard, and Area Requirements; Division 3. -R-A Estate Residential District, Section 134-843. Lot, Yard, and Area Requirements; and Division 4. - R-B Low Density Residential District, Section 134-893. Lot, Yard, and Area Requirements Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

3. Amendment to the Definition of Building Height, Point of Measurement Pg. 292

   **Ordinance No. 011-2023:** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article I, in General; Section 134-2, Definitions and Rules of Construction, Related to Building Height Point of Measurement; Providing for Severability; Providing for the Repeal of Ordinances in

Conflict; Providing for Codification; and Providing an Effective Date.

## XI. ANY OTHER MATTERS

## XII. ADJOURNMENT

### PLEASE TAKE NOTE:

**Note 1:** Live meeting audio is available on the Town's website at https://www.townofpalmbeach.com/. To listen to the live stream, please visit the Meeting Audio page and select the "In Progress" or "Click Here to Listen" button.

**Note 2:** In-person or virtual Public Comment is limited to three minutes and must be preceded by your name and address for the record. Alternative public comment is also welcome for Town Council Meetings via four methods:

- To make a public comment virtually, email request to publiccomment@townofpalmbeach.com and identify desired agenda item(s) to be addressed.
- Written public comment submittals should be sent to publiccomment@townofpalmbeach.com,
- Direct written entry into the public meeting record through the eComment portal, or
- In-person submittal of a written document to the Town Clerk's Office at Town Hall no later than the Friday prior to the meeting.

**Note 3:** As a public business meeting, the chair retains the right to limit discussion on any issue.

**Note 4:** If a person decides to appeal any decision made with respect to any matter considered at this meeting, he/she/they will need to ensure that a verbatim record of the proceedings is made for such purposes, which shall include the testimony and evidence upon which the appeal is to be based.

**Note 5:** Disabled persons needing accommodations to participate in this meeting are requested to call the Clerk's Office at (561) 838-5416 at least one day prior to the 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. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for

discussion.

**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 Development Review on: July 12, 2023

Section of Agenda
Regular Business

Agenda Title
Public Notices (Continued) - Notice Radius

Presenter
Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Regular Business

Agenda Title
Code Review

a. Update
b. Discussion regarding Recommendation on Garages by the Planning and Zoning Commission

*Sean S. Suder, ZoneCo., Planning Consultant*
*Joe Nickol, Yard & Company, Planning Consultant*

**10:00 AM TIME CERTAIN**

Presenter

ATTACHMENTS:

- **Memorandum Dated: June 27, 2023, From Sean Suder, ZoneCo., Code Review Consultant**

TO: Mayor Danielle Moore and Town Council Members, Margaret Zeidman, Chair
Wayne Bergman, Director of Planning, Zoning & Building
James Murphy, Deputy Director of Planning, Zoning & Building
Jennifer Hofmeister, Planner III

FROM: Sean Suder, ZoneCo, Project Manager

COPY: Gail Coniglio, Chair, Planning and Zoning Commission
Joe Nickol, Yard & Company

DATE: June 27, 2023

RE: Town of Palm Beach Zoning Code Review - Module III – "Codify" - Revised Work Plan/Schedule

ZoneCo and our project partners are pleased to have commenced Module III – "Codify" on May 9, 2023. This follows extensive work in Module I – "Diagnose" and Module II – "Calibrate." The Codify module follows the productive public ideation of the "Designing Our Palm Beach Week" Charrettes, which took place in late February 2023. The Codify module will be followed by Module IV – Adopt, the timing of which is to be determined.

We had put together an aggressive schedule of P&Z Commission and Town Council work sessions to be held from June through November 2023. This schedule was in response to the Town's direction to work against an April 2024 adoption deadline. This deadline is no longer in place and per Town Council's direction we are proposing an alternative project schedule as follows:

We propose the following schedule of draft deliverables based on the table of contents including with the Diagnostic Report:

| **Administrative Drafts** | **Draft Delivery Date to Town Staff** | **Town Staff Review Completed** | **Complete Administrative Draft** |
|---|---|---|---|
| Residential Zoning Districts | September 30, 2023 | November 1, 2023 | December 31, 2023 |
| Non-Residential Zoning Districts | March 2024 | April 2024 | May 2024 |
| Generally Applicable Regulations; Introduction; Nonconformities; Glossary | July 2024 | September 2024 | November 2024 |
| **Full Public Review Draft** November 1, 2024 | | | |

We propose holding monthly listening sessions of key constituent groups to be held at the regularly scheduled P&Z meeting. Each meeting with address where we have been, where are planning to go, and address certain issues important to the constituency (in no particular order):

| **P&Z Meeting** | |
|---|---|
| Architects and Designers | November 2023 |
| Building Contractors and Developers | December 2023 |
| Historic Preservationists | January 2024 |
| Realtors | February 2024 |
| Business Associations | March 2024 |
| Civic, Cultural, and Institutional | April 2024 |

We look forward to your comments and discussion.

Thank you,

ZoneCo Palm Beach Team

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Regular Business

Agenda Title
Matters Pulled from the Consent Agenda

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
CONSENT AGENDA

Agenda Title
**ZON-23-060 (ARC-23-065) 304 MADDOCK WAY (COMBO)-SITE PLAN REVIEW** The applicant, 304 Maddock Way LLC, has filed an application requesting Town Council Site Plan Review for the installation of one (1) generator with a 200kW output capacity housed in an enclosed building, in conjunction with the development of the parcel with a new two-story primary residence, two-story detached garage, and two-story detached guest house providing over 20,000 SF of enclosed space with site wide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application. *[The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting. Carried 5-2.]*

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **Letter of Intent**
- **Plans**
- **Plans**
- **Plans**

**TOWN OF PALM BEACH**
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Combination Memorandum: Architectural Commission and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ARC-23-065 (ZON-23-060) 304 MADDOCK WAY (COMBO)

MEETING: JUNE 28, 2023 ARCOM
JULY 12, 2023 TC

**ARC-23-065 (ZON-23-060) 304 MADDOCK WAY (COMBO).** The applicant, 304 Maddock Way LLC, has filed an application requesting Architectural Commission review and approval for the construction of a new two-story primary residence, two-story detached garage, and two-story detached guest house providing over 20,000 SF of enclosed space with site wide landscape and hardscape improvements. The application shall be reviewed by the Town Council as it pertains to the Site Plan Review.

**ZON-23-060 (ARC-23-065) 304 MADDOCK WAY (COMBO)-SITE PLAN REVIEW**. The applicant, 304 Maddock Way LLC, has filed an application requesting Town Council Site Plan Review for the installation of one (1) generator with a 200kW output capacity housed in an enclosed building, in conjunction with the development of the parcel with a new two-story primary residence, two-story detached garage, and two-story detached guest house providing over 20,000 SF of enclosed space with site wide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application.

Applicant: 304 Maddock Way, LLC
Professional: Peter Papadopoulos | Smith and Moore Architects
Mario Nievera | Nievera Williams Design

**THE PROJECT:**
The applicant has submitted plans, entitled "304 Maddock Way, Palm Beach, Florida" as prepared by **Smith and Moore Architects**, dated May 16, 2023.

The following is the scope of work:

- Construction of a new two-story single-family residence
- Construction of a two-story detached garage and detached guest house
- Installation of a 200kW generator in a detached building
- Landscape and hardscape improvements including the relocation of one historic specimen tree

The following Special Exception, Site Plan Review and/or Variances are required to complete the project:

- **Site Plan Review:** Sec. 134-1729(2)(c): for the installation of one (1) 200kW generator

housed in an enclosed building with landscaping.

| Site Data | | | |
|---|---|---|---|
| **Zoning District** | R-B | **Future Land Use** | SINGLE-FAMILY |
| **Lot Size** | Required: 10,000 SF<br>Existing: 79,804 SF | **Crown of Road (COR)** | 4.34' NAVD |
| **Total Enclosed SF** | 21, 807 SF | **FEMA Flood Zone** | AE 6 |
| **Building Height** | Permitted: 22'<br>Proposed: 22' | **Overall Building Height** | Permitted: 30'<br>Proposed: 29'-8 ½" |
| **Cubic Content Ratio** | Permitted: 4.5 (359,118 cu ft)<br>Proposed: 2.67 (212, 920 cu ft) | **Angle of Vision** | Permitted: 116 deg.<br>Proposed: 81 deg. |
| **Finished Floor Elevation** | 7' NAVD | **Point of Measurement** | 7' NAVD |
| **Lot Coverage** | Permitted: 30% (29,941 SF)<br>Proposed: 17% (13,828 SF) | **Maximum Fill** | 1.33' |
| **Landscape Open Space (LOS)** | Required: 45% (35,912 SF)<br>Proposed: 47% (37,736 SF) | **Front Yard Landscape Open Space** | Required: 40% (2,600 SF)<br>Proposed: 96% (6,241 SF) |
| **Surrounding Properties / Zoning** | | | |
| **North** | 306 Maddock Way / R-B | | |
| **South** | 321 Tangier Ave. / R-B<br>315 Tangier Ave. / R-B<br>309 Tangier Ave. / R-B<br>528 N Lake Way / R-B | | |
| **East** | 6 La Costa Way / R-B | | |
| **West** | Lake Worth Lagoon | | |

**STAFF ANALYSIS**

A preliminary review of the project indicates that the application, as proposed, is consistent with the Town of Palm Beach zoning code. A 200kW generator is proposed for the property, which exceeds the maximum allowed output for administrative or ARCOM approval. The applicants have filed an application for Site Plan Review for the installation of the generator, which will be reviewed by Town Council at the completion of ARCOM's review.

The application for 304 Maddock Way requests approval for the construction of a new two-story single-family residence, two-story detached garage, two-story guest house, generator house, and sitewide landscape and hardscape improvements. The existing parcel is vacant of structures and maintains frontage on North Lake Way to the east, Maddock Way to the north, and Lake Worth Lagoon to the west. The lot has 79,804 SF in area, which is nearly eight times the minimum lot size for the R-B zoning district.

The parcel program consists of a vehicular entry point off Maddock Way, just west of the Maddock

and North Lake Way intersection. The drive leads to a central motor court in front of the primary residence, with secondary drive aisles accessing a four-bay garage with vehicular entry to the south. The primary residence has an "H" shaped footprint but is generally linear in form and parallels Lake Worth Lagoon. The garage is situated on the south side of lot, east of the primary residence. East of the garage is a utility yard with a generator room and a walled air conditioning equipment area. A two-story guest cottage fronting North Lake Way is situated in the southeast corner of the parcel.

The three buildings proposed for the site have a graduated architectural hierarchy, with the primary residence featuring the most elaborate detailing. Sheet A0.01 (pg. 9) of the miniset provides a historical context for the design of the structures, including significant works by Marion Sims Wyeth and Treanor & Fatio. The architectural styling blends detailing and form from Italian Renaissance, Spanish, and Mediterranean Revival styles, utilizing oxidized bronze windows and doors, stucco clad walls, handmade terra cotta Roman-pan roof tiles, and old growth Pecky Cypress outlookers. Material samples are provided on sheet A3.05 (pg. 27), with architectural details provided on following sheets A3.01B-A3.04 (pgs. 28-31).

New landscaping and garden features proposed at the site are included in the miniset, beginning on sheet SITE. The parcel contains three historic specimen trees: a live oak, a green buttonwood, and a satinleaf tree. The historic specimen tree locations are provided on sheet HT. The live oak tree located south of Maddock Way circle and the green buttonwood tree at the southwest corner of the property along the lake trail are proposed to remain in place. The satinleaf tree currently located in the center of the parcel is proposed to be relocated to the more visible southeast corner of the lot as part of the planting buffer between the guest cottage and N Lake Way (sheet LP2). As part of the tree protection program, the relocation and maintenance of the historic specimen trees will be coordinated with the Town of Palm Beach Public Works Department and the town arborist.

**Conclusion**

This application is presented to the Commission to consider whether all criteria in Sec. 18-205 have been met. Approval of the project will require one motion to be made by the Commission: (1) for the overall design of the project in accordance with the aforementioned criteria, subject to any imposed conditions. Once the design of the property has been approved by ARCOM, the Site Plan Review component of the application will be scheduled for review and approval by Town Council.

Approval of the project will require one motion to be made by the Town Council: (1) for the overall the Site Plan Review component of the application of the project in accordance with the criteria within Sec. 134-329, subject to any imposed conditions.

WRB:JGM:JRH

RECEIVED
By yfigueroa at 1:28 pm, May 16, 2023

Re: 304 Maddock Way
Palm Beach, FL 33480

May 16th, 2023

**LETTER OF INTENT (LOI)**

**ARC- 23 – 065 (ZON -23 -060)**

PROPOSED 2-STORY RESIDENCE, DETACHED GARAGE AND DETACHED 2-STORY GUEST COTTAGE IN THE R-B ZONING

Site History:
304 Maddock Way, was originally part of the larger Maddock Estate that spanned South Woods Road to the North, Tangier Ave. to the South, North Lake Way to the East and the waters of Lake Worth to the West.
That original Estate has since been divided into four properties, all located off Maddock Way. Which in turn comes off North Lake Way.

At 303 Maddock Way sits the house known as 'Ducks Nest' (circa. 1891). Recently rehabilitated, this is the second-oldest residential structure on the island.

At 306 Maddock Way is 'Old Bethesda-by-the-Sea'. This Episcopal Church served the community until it was deconsecrated in the mid-1920s. The building became a private home, passed down through the Maddock family.

As late as 2008. Several, separate 2-story wooden structures, which have since been demolished, used to occupy what is now 302 Maddock Way. The road Maddock Way & cul-de-sac was also added in 2008.

There are three sets of existing historic landmarked trees on the property. At the South West corner of the property and West of the bike trail growing over Lake Worth are Button Woods. Roughly in the center of the property grow the Satin Leaf trees. And most visible and prominent towards the middle North of the property are the Live Oak trees.

Currently the Lot at 304 Maddock Way is vacant and other than the Landmarked trees. There exists well maintained vegetation along the perimeter and the interior of the property.

Please find for review the attached drawings and documentation for our proposed new project in the R-B Zoning District of Palm Beach. The proposal is for the construction of a new 2-story Residence, detached Garage and detached 2-story Guest Cottage on the currently vacant Lot.

Justification:
We believe the proposal is in accordance with the following guidelines:

**ARCHITECTURAL REVIEW IN ACCORDANCE WITH SECTION 18-205:**

**Sec. 18-205. - Criteria for building permit.**

We are submitting a proposed design that we consider tasteful with harmonious and balanced elevations, providing texture and shadow, and designed with appropriate proportions, materials and details.

1. The plan for this proposed design is in conformity with good taste and design and in general contributes to the image of the town and neighborhood as a place of beauty, spaciousness, balance, charm and high quality.
2. The plan for the proposed buildings indicates the manner in which the structures are reasonably protected against external and internal noise and other factors that would tend to make the environment less desirable.
    a. The plans show that major entertaining spaces are located on the site placing these spaces far as possible from neighboring properties.
    b. The proposed pool area is located on the West side of the Residence.
3. The proposed building's exterior design and appearance is not of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance value.
4. The proposed buildings are in harmony with the proposed developments on land in the general area and with the compressive plan for the town.
5. The proposed buildings are not excessively similar to any other structure existing or within 200 feet of the proposed site in respect to one or more of the following features of the exterior design and appearance:
    a. The proposed design does not have apparently visible identical front or side elevations.
    b. The proposed design does not have substantially identical size and arrangement of either doors, windows, porticos or other opening or breaks in the elevation facing the street, including reverse arrangement.
    c. The proposed design does not have other significant identical features of design such as, but not limited to, material roof line and height of other design elements.
6. The proposed building is not excessively dissimilar in relation to any other structures existing or within 200 feet of the proposed site in respect to one or more of the following features:
    a. Height of building or height of roof.
    b. Other significant design features including, but not limited to, materials or quality of architectural design.
    c. Architectural compatibility.
    d. Arrangements of components of the structure.
    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 the 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 a neighboring property.

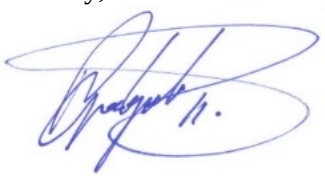
7. The proposed accessory structures are subservient in style and massing to the principal structure.
8. The proposed design is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way.
9. The proposed design is in conformity with the standards of this code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.
10. The project's location and design adequately protect unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways and similar features. The proposed design does not negatively impact any existing natural features.

**134-1729 (2) c. – GENERATOR**

**SITE PLAN REVIEW:** The proposed generator exceeds an output capacity of 100kW and therefore shall be subject to Site Plan Review, as defined in sections 134-326 —134-330. Generator output capacity exceeds 100 kW and shall be housed in an enclosed building with landscaping as approved by the Architectural Commission.

1. The proposed 200kW generator is a permitted use in the RB Zoning District with Site Plan Review.
2. The generator is housed in a separate enclosed building with landscaping, meeting all codes and will NOT have any negative impact on the abutting neighbors, adjacent area nor neighborhood.

Sincerely,



Peter Papadopoulos
Principal Architect

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Declaration of Use Agreements

Agenda Title
**ZON-23-019 (COA-23-002) 363 COCOANUT ROW—THE VINETA HOTEL (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** - Declaration of Use Agreement & Seating Chart Review
**2:00 PM TIME CERTAIN**

Presenter

ATTACHMENTS:

- **DRAFT Declaration of Use Agreement w/Attachments**
- **DRAFT Redlined Declaration of Use Agreement**

# DECLARATION OF USE AGREEMENT

**by**

**THE TOWN OF PALM BEACH**

**and**

**363 COCOANUT ROW PROPCO, LLC**

**Prepared by and return to:**
**M. Timothy Hanlon, Esq.**
**Alley, Maass, Rogers & Lindsay, P.A.**
**340 Royal Poinciana Way, Suite 321**
**Palm Beach, Florida 33480**
**(561) 659-1770**

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# DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ___ day of _____, 2023 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called the "Town"); and 363 COCOANUT ROW PROPCO, LLC, a Delaware limited liability company (hereinafter called "Owner"), which terms "Town" and "Owner" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH:

WHEREAS, the land described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Land") is located within the municipal limits of the Town; and

WHEREAS, LPC approved COA-23-002 on January 18, 2023, for the interior and exterior renovation of an existing landmarked four-story hotel structure including alterations to the facades, a reduction of rooms from 57 to 41, the reconstruction of historic door and window locations and associated hardscape/landscape and rooftop projections requiring height variances for rooftop allowances. LPC also unanimously determined that the five proposed variances will not cause negative architectural impact.

WHEREAS, by Application ZON-23-019 (the "Application"), Owner sought approval of the Town Council for three special exceptions, site plan approval, vesting parking rights and five variances as listed in Exhibit "B" attached hereto and made a part hereof to permit the renovation of the landmarked building on the Land and the continued operation of a hotel, pool, food and beverage service and a nightclub on the Land under the name "The Vineta" (all of said operations shall be referred to in this Agreement as the "Hotel") (all zoning relief requested and approved by Town Council pursuant to Application ZON-23-019 shall be referred to in this Agreement as the "Zoning Relief"); and

WHEREAS, the Town Council at its April 4, 2023 meeting conditionally approved all of the Zoning Relief, conditioned on the execution and recordation of this Declaration of Use Agreement.

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
## AUTHORITY

Owner has full right to enter this Agreement and to bind 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 Agreement nor the consummation of the transaction contemplated hereby will violate any restrictions, court order or agreement to which Owner is subject.

## ARTICLE III
## CONDITIONS

The Town Council approval of the Zoning Relief is based upon the following conditions:

1. The project was approved for the continued operation of a nonconforming hotel with accessory dining, lounge, pool and nightclub uses. The following licenses shall be required to be applied for, reviewed and approved annually:

   a. Hotel (41 rooms)
   b. Pool
   c. Main Hotel Restaurant (66 indoor seats)
   d. Nightclub (SF and located in main dining room indoors only)
   e. Outdoor café seating (32 courtyard seats)
   f. Indoor Pool Café (37 seats)
   g. Outdoor café seating (pool deck 16 seats open specifically to hotel guests)
   h. Bar Lounge (37 seats)

2. Regarding the number of seats open to the public (non-hotel guests) for food and/or beverage service in the Hotel, the numbers, configuration and hours of use shall be limited to those described in Exhibit "C" attached hereto, which reflect the following seat numbers:

   a. Main Hotel Restaurant and Nightclub (66 seats);
   b. Courtyard next to main Hotel Restaurant (32 seats);
   c. Indoor Bar Lounge (37 seats);
   d. Poolside Restaurant Lounge (37 seats);
   e. Outside poolside food and beverage seats (specifically for hotel guests)(16 seats); and
   f. Pool lounges.

As stated in the hour-by-hour seating chart attached as part of Exhibit "C," no more than 135 seats for food and beverage service to the public shall be open at any given time (the "135 seat Limitation"). A copy of the approved seating plan shall be maintained on site at all times and made available for inspection by the Town, on request. Notwithstanding the foregoing, during inclement weather, seats may be moved from the outside courtyard area to indoor restaurant and bar areas as long as the 135 seat Limitation is not exceeded. An example of a seating chart during inclement weather is attached as part of Exhibit "C" attached hereto (the "Inclement Weather Seating Chart Example"), but the seats may be rearranged inside the Hotel during inclement weather as long as the 135 seat Limitation is not exceeded; provided, however, see Section 16 regarding contingent future increases in seat numbers and operating hours. The 16 seats adjacent to the pool café as part of the approved Special Exception for outdoor café seating and the additional recreational seating options around the pool deck area are not included in the hour-by-hour seating limitations because they are designated specifically for hotel guest use.

3. The Owner or operator of the Hotel shall maintain a parking agreement for the use of a combined total of fifty (50) off-site valet parking spaces at 440 Royal Palm Way and 340-350 Royal Palm Way (or other alternative location and/or number acceptable to the Owner and reviewed and approved by Town Staff). No valet parking shall be permitted on any of Australian Avenue, Brazilian Avenue, Chilean Avenue or Peruvian Avenue. The routes to be taken by valet parkers are shown on Exhibit "D." Owner shall furnish a redacted copy of such agreement to the Town.

4. Valet parking is required to be available for hotel guests and food and beverage guests during all hours that the hotel is open to the public for food and beverage service.

5. The Hotel operation shall include off-site parking (in West Palm Beach) of fifty (50) parking spaces for employee and excess parking ("Employee Parking"). The Employee Parking plan shall include a shuttle bus operated by Hotel representatives and agents throughout the day and evening to bring employees to and from the Hotel to the Employee Parking facility.

6. As shown in the hour-by-hour seating plan, all food and beverage service shall close to the public no later than midnight. For purposes of this Agreement, the term "close to the public" shall specifically not apply to food and beverage service in specific rooms that offer services at a given time only to hotel guests, employees, owners of the property, owners of the hotel operator and guests of hotel guests.

7. Only background music shall be permitted in the pool area until 6:00 p.m. and the courtyard until 10:00 p.m. Only ambient music shall be permitted in the pool or courtyard area. In addition, when the courtyard restaurant closes to the public at 10:00

p.m., the five double doors leading to the main Hotel Restaurant shall remain closed for the rest of the evening.

8. There shall be no more than four events per month, and all events shall comply with the required opening and closing hours for each service area as shown in Exhibit "C," and the events shall be subject to the seat limitations in the hour-by-hour seating plan. An event is defined as an organized function for more than 40 or more people within the Hotel such as wedding receptions, birthday parties and religious or other celebrations. The number of valet parkers shall be increased on an "as needed" basis for each event.

9. The Hotel shall obtain and maintain a valet parking permit for one valet stand. An appropriate number of valet parking attendants shall be on duty to meet the demand from day to day and season to season. The number of valet parkers may be modified by the Town's Police Department if it is determined that either more or fewer valet parkers are required to manage the Hotel's parking. The valet operator shall use software to track the locations and driving speed of the valet parkers, which data shall be reviewed periodically by the Hotel operator to ensure compliance by the valet parkers with applicable laws and this Agreement.

10. All trash shall be stored in the indoor trash room inside the southeast corner of the Hotel daily and not taken to the outdoor rubbish receptacle in the parking area north of the building until after 8:00 a.m. the following day.

11. Commercial delivery services will be instructed to use the delivery location at either the south door of the kitchen or through the north side by the pool deck and not in front of the Hotel on Cocoanut Row.

12. State-of-the-art exhaust vents and scrubbers shall be installed and maintained on the roof as approved by the Town and shall have them cleaned on a regular basis consistent with manufacturer's recommendations.

13. At least two "street legal" golf carts shall be used to shuttle valet parkers to and from the valet parking garages and the Hotel.

14. Prior to the issuance of any building permit, copies of the signed lease agreements regarding the Hotel's right to use the parking lots at 440 Royal Palm Way and 340/350 Royal Palm Way (or any other off-site parking lot acquired by the Hotel for its use), including any amendments thereto, will be provided to the Town to confirm the Hotel's right to use and the termination provisions thereof. The agreements may be redacted to exclude economic terms and/or other terms unrelated to the Hotel's right to use the parking lots.

15. The Owner or operator of the Hotel shall provide an affidavit of compliance each year at the time of renewal of the business tax receipt.

**16.** After the first season (December through April), the Owner and operator shall return to the Town Council to review compliance with conditions imposed in this Agreement, which Town Council meeting shall take place during the months of either April or May (subject to deferral by Town Council to other months). If the Hotel is in compliance with the conditions of this Agreement described in this Article III at such time, then Owner may request additional seats and expanded operating hours to be determined in the reasonable discretion of Town Council. The Hotel shall not under any circumstances, including the loss of its parking or valet stand facilities, apply for any revisions to this agreement to allow valet parking on Australian Avenue, Brazilian Avenue, Chilean Avenue or Peruvian Avenue. Any future requested revisions to this Agreement will require at least 30-day notice to all property owners within a 1,000 foot radius. Any initial Town Council hearing regarding a requested revision(s) to this Agreement will only be conducted in the months of January through April, but deferrals by the Town Council may extend to other months.

## ARTICLE IV
## VOLUNTARY AGREEMENT

Owner agrees to be bound by the terms and conditions in this Agreement, and Owner waives any legal objection it might otherwise have to said terms and conditions or part thereof.

## ARTICLE V
## REMEDIES FOR VIOLATION

1. Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this agreement or any other provision in the Town Code of Ordinances, and upon notice in writing from the Town to Owner of said violation(s) and the date upon which said violation(s) shall be corrected, Owner shall pay to the Town a liquidated amount of $2,000.00 per violation. Said liquidated amount shall accrue on a per day basis for each day a violation of this agreement exists. In addition, in the event a violation remains uncorrected beyond the date noticed for correction by the Director of the Planning, Zoning and Building Department, this Agreement may be reconsidered by the Town Council at a future meeting upon thirty days notification to the Owner. The Town Council may, upon a finding of violation, alter this agreement or rescind the approval of the use.

In the event Owner disputes the determination of the Director of Planning, Zoning and Building Department of the violation of the conditions of this agreement, or in the event the Owner disputes any code violation, Owner may appeal the determination of the Director of the Planning, Zoning, and Building Department to the Town Council, said appeal to be filed no later than fifteen (15) days of the written notice of violation.

2. In addition to the above, 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 equitable relief through the civil courts in and for Palm Beach County, Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

## ARTICLE VI
## PROVISIONS TO RUN WITH THE LAND

This Agreement shall run with the Land but shall be binding upon the Owner and Owner's successors and assigns for only so long as a hotel is operated by Owner or Owner's agents on the Land.

## 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 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 the Agreement.

## ARTICLE IX
## 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.

All references in this Agreement to times of day are stated in terms of Eastern time, i.e. whichever of Eastern Standard time or Eastern Daylight time is in effect at a given time.

This Agreement 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 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 here from 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.

***Signatures Appear on the Following Pages***

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

Witnesses:

Town of Palm Beach, a municipal corporation

_____
Print Name: _____

By:_____
Daniel Hickox Moore, Mayor

_____
Print Name: _____

_____
Print Name: _____

By:_____
Margaret Zeidman, Town Council President

_____
Print Name: _____

_____
Print Name: _____

By:_____
Kirk Blouin, Town Manager

_____
Print Name: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE TOWN OF PALM BEACH

By: _____
John C. Randolph, Esquire

STATE OF FLORIDA )
) :SS
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023 by Daniel Hickox Moore, as Mayor of the Town of Palm Beach, a municipal corporation, who ( ) is personally known to me or ( ) has produced _____ as identification.

_____
(Signature)

_____
(Type or Print Name)
My Commission Expires: _____

(Notary Seal)

STATE OF FLORIDA )
) :SS
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023 by Margaret Zeidman, as Town Council President of the Town of Palm Beach, a municipal corporation, who ( ) is personally known to me or ( ) has produced _____ as identification.

_____
(Signature)

_____
(Type or Print Name)
My Commission Expires: _____

(Notary Seal)

STATE OF FLORIDA )
) :SS
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023 by Kirk Blouin, as Town Manager of the Town of Palm Beach, a municipal corporation, who ( ) is personally known to me or ( ) has produced _____ as identification.

_____
(Signature)

_____
(Type or Print Name)
My Commission Expires: _____

(Notary Seal)

363 Cocoanut Row Propco, LLC, a Florida limited liability

_____ By: _____
Print Name: _____ Name:
Its:

_____
Print Name: _____

STATE OF FLORIDA )
) :SS
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023 by _____, as _____ of 363 Cocoanut Row Propco, LLC, who ( ) is personally known to me or ( ) has produced _____ as identification.

_____
(Signature)

_____
(Type or Print Name)
My Commission Expires: _____

(Notary Seal)

**EXHIBIT "A"**
**Legal Description**

Lots 1 through 6, Block 6, Revised Map of Royal Park Addition to Palm Beach, Florida, according to the map or plat thereof, as recorded in Plat Book 4, Page 1, of the Public Records of Palm Beach County, Florida.

**EXHIBIT "B"**
**Zoning Relief**
**SPECIAL EXCEPTIONS / SITE PLAN**

1. Section 134-226, 134-227 and 134-326. Special exception and site plan approval to permit the following non-conforming uses: hotel with reduction of rooms from 57 to 41;
2. Restaurant, nightclub and swimming pool with 197 combined seats.

3. Section 134-2106. Special exception to permit outdoor café seating.

**VARIANCES**

1. A variance to modify a nonconforming hotel use to permit the expansion of the restaurant, nightclub and pool area uses with a total of 172 combined seats not to exceed a maximum seating capacity of 135 seats at any given hour and the closing time of all dining establishments shall be restricted to no later than midnight (12:00am).
    - *This variance was approved at the April 04, 2023 Town Council Development Review hearing.*

2. A variance to exceed the maximum allowable height for new rooftop construction specifically to replace an elevator and stair bulkhead on the rooftop of a nonconforming four-story building with a height of 47.6 ft in lieu of the 23.5 ft maximum building height allowed.
    - *This variance was approved at the February 15, 2023 Town Council Development Review hearing.*

3. A variance to exceed the maximum allowable height for new rooftop construction specifically a rooftop trellis on a nonconforming third floor of a nonconforming four-story building with a height of 33'0" in lieu of 23'6" maximum height and 26'6" maximum building height permitted.
    - *This variance was approved at the March 15, 2023 Town Council Development Review hearing.*

4. A variance to exceed the maximum allowable height for the installation of rooftop air conditioning units (five) at a height of 108" (9') above the maximum height permitted in lieu of the 48" (4') maximum height allowed.
    - *This variance was approved at the March 15, 2023 Town Council Development Review hearing.*

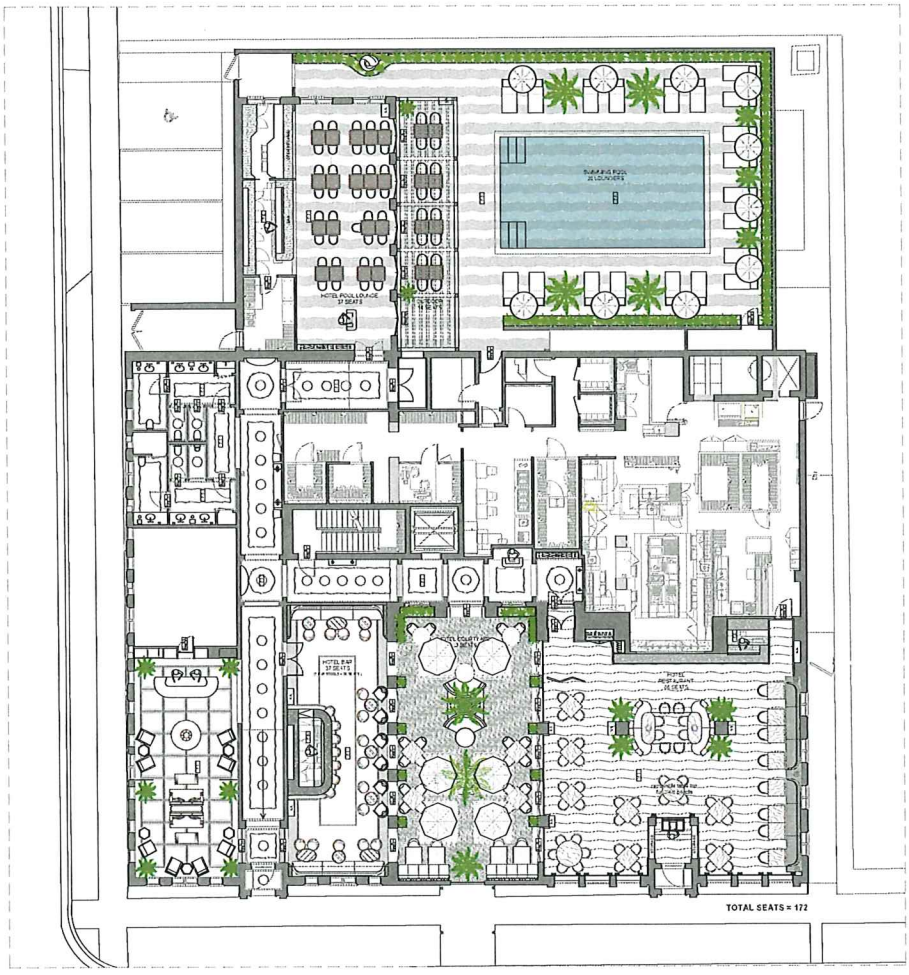
5. A variance to exceed the maximum allowable height for a roof top commercial kitchen exhaust scrubber at a height of 84" (7') above the maximum height permitted in lieu of the 36" (3') maximum height allowed.
    - *This variance was approved at the March 15, 2023 Town Council Development Review hearing.*

**OTHER**

The existing building has parking credits for 57 rooms and 113 dining seats and 4 existing on-site surface spaces. The application received final approval on 04-04-23 which permitted 41 rooms and 172 seats and 4 on-site surface spaces to remain, leaving the balance of any remaining parking credits for future use appropriate under the 'principle of equivalency' for evaluating off-street parking requirement; up to 197 food and beverage seats is hereby vested and shall run with the property without the need for future variances to expand or from parking requirements.

**EXHIBIT "C"**
**Allowable Seat Limits and Hours of Operation**
**For Food and Beverage Service to the Public**

| Number of Seats | Outlet | 07.00 - 08.00 | 08.00 - 09.00 | 09.00 - 10.00 | 10.00 - 11.00 | 11.00 - 12.00 | 12.00 - 13.00 | 13.00 - 14.00 | 14.00 - 15.00 | 15.00 - 16.00 | 16.00 - 17.00 | 17.00 - 18.00 | 18.00 - 19.00 | 19.00 - 20.00 | 20.00 - 21.00 | 21.00 - 22.00 | 22.00 - 23.00 | 23.00 - 00.00 | 00.00 - 01.00 | 01.00 - 02.00 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 66 | Restaurant | 66 | 66 | 66 | 66 | | 66 | 66 | 66 | | | | 66 | 66 | 66 | 66 | | | | |
| 32 | Courtyard | 32 | 32 | 32 | 32 | | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 32 | | | | |
| 37 | Bar | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 37 | 37 | 37 | 37 | 37 | 37 | 37 | 37 | 37 | 37 | 37 |
| 37 | Pool Lounge | 0 | 0 | 0 | 0 | 37 | 37 | 37 | 37 | 37 | | | 0 | 0 | 0 | 0 | | | | |
| | | | | | | | | | | | | | | | | | | | | |
| Total | 172 | 98 | 98 | 98 | 98 | 37 | 135 | 135 | 135 | 106 | 69 | 69 | 135 | 135 | 135 | 135 | 37 | 37 | 37 | 37 |




FLOOR LEGEND

F-1 : TERRAZZO FLOOR - REFER TO FINISH SCHEDULE FOR COLOUR IN EACH ROOM

F-2 : TERRACOTTA FLOOR

F-3 : MOSAIC FLOOR

F-4 : SWIMMING POOL MOSAIC FLOOR

F-5 : TERRAZZO FLOOR FOR RESTROOM

F-6 : ALTRO VINYL FLOOR

DETAIL DRAWINGS REFER TO GF-D-01.

REV C - SEATS UPDATED, 03.05.2023
REV B - SEATS UPDATED, 02.05.2023
REV A - RESTAURANT UPDATED, 17.03.2023

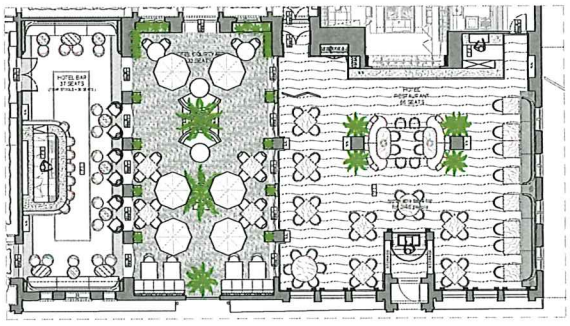
| | | | |
|---|---|---|---|
| PROJECT | THE VINETA | DWN BY | KP, DZ |
| TITLE | GROUND FLOOR | DATE | 17.03.2023 |
| | PLAN | SCALE | 1:100 @ A1<br>1:200 @ A3 |
| | | DWG No | GF-01 |
| | | REV. B | TENDER |

MLINARIC, HENRY AND ZERVUDACHI
INTERIOR DESIGN AND DECORATION

THE VINETA
363, COCOANUT ROW, PALM BEACH - FLORIDA

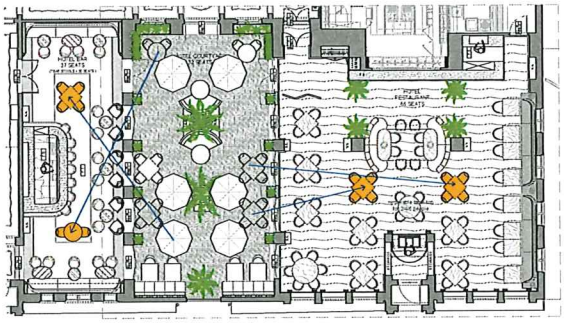
CURRENT PLAN

RESTAURANT 66 SEATS
BAR 37 SEATS



INCLEMENT PLAN

RESTAURANT 66 SEATS + 8 = 74
BAR 37 SEATS + 6 = 43

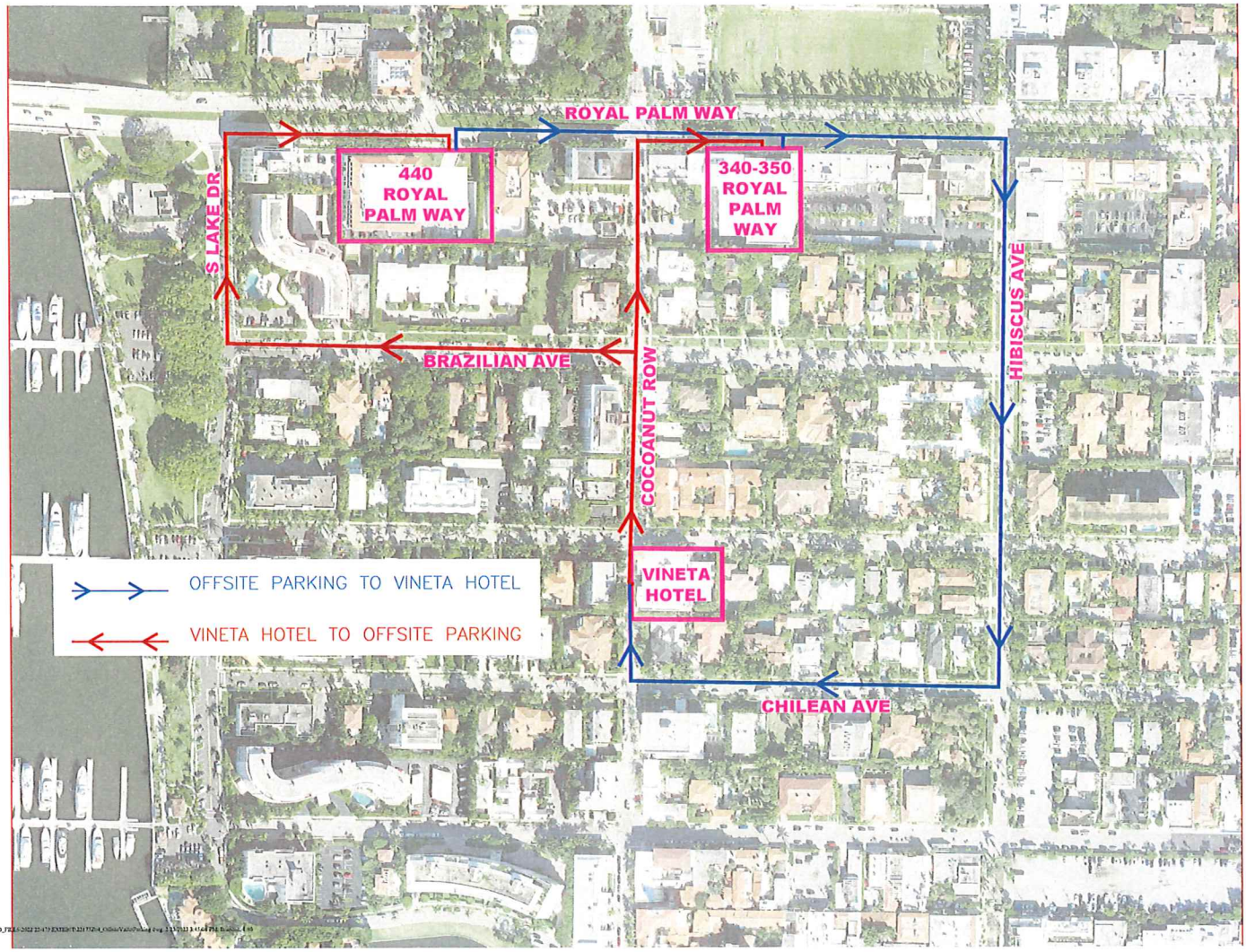


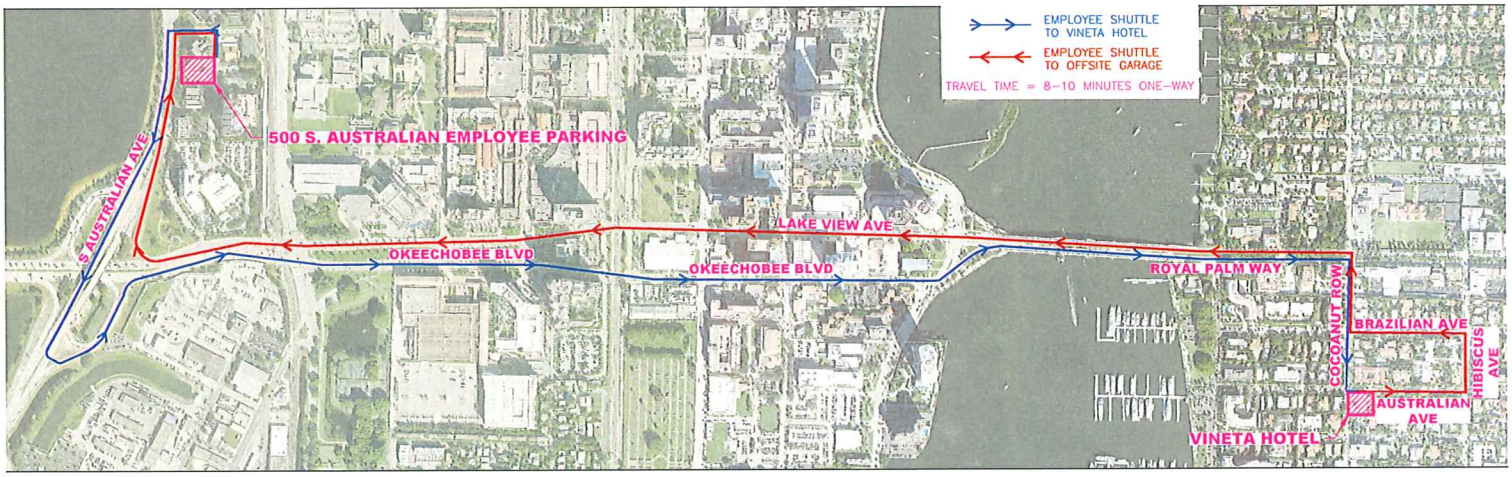
THE VINETA - RESTAURANT
363, COCOANUT ROW, PALM BEACH - FLORIDA

| | | | |
|---|---|---|---|
| PROJECT | THE VINETA | DWN BY | FP |
| TITLE | GROUND FLOOR | DATE | 29.06.2023 |
| | RESTAURANT OPTIONS | SCALE | [illegible] |
| | | DWG. No | GF-01 |
| | | REV. 8 | TENDER |

MLINARIC, HENRY AND ZERVUDACHI
INTERIOR DESIGN AND DECORATION

**EXHIBIT "D"**
**Valet Parking Routes**
**Employee Shuttle Bus Routes**


ROYAL PALM WAY
440 ROYAL PALM WAY
340-350 ROYAL PALM WAY
S LAKE DR
HIBISCUS AVE
BRAZILIAN AVE
COCOANUT ROW
VINETA HOTEL
CHILEAN AVE
OFFSITE PARKING TO VINETA HOTEL
VINETA HOTEL TO OFFSITE PARKING

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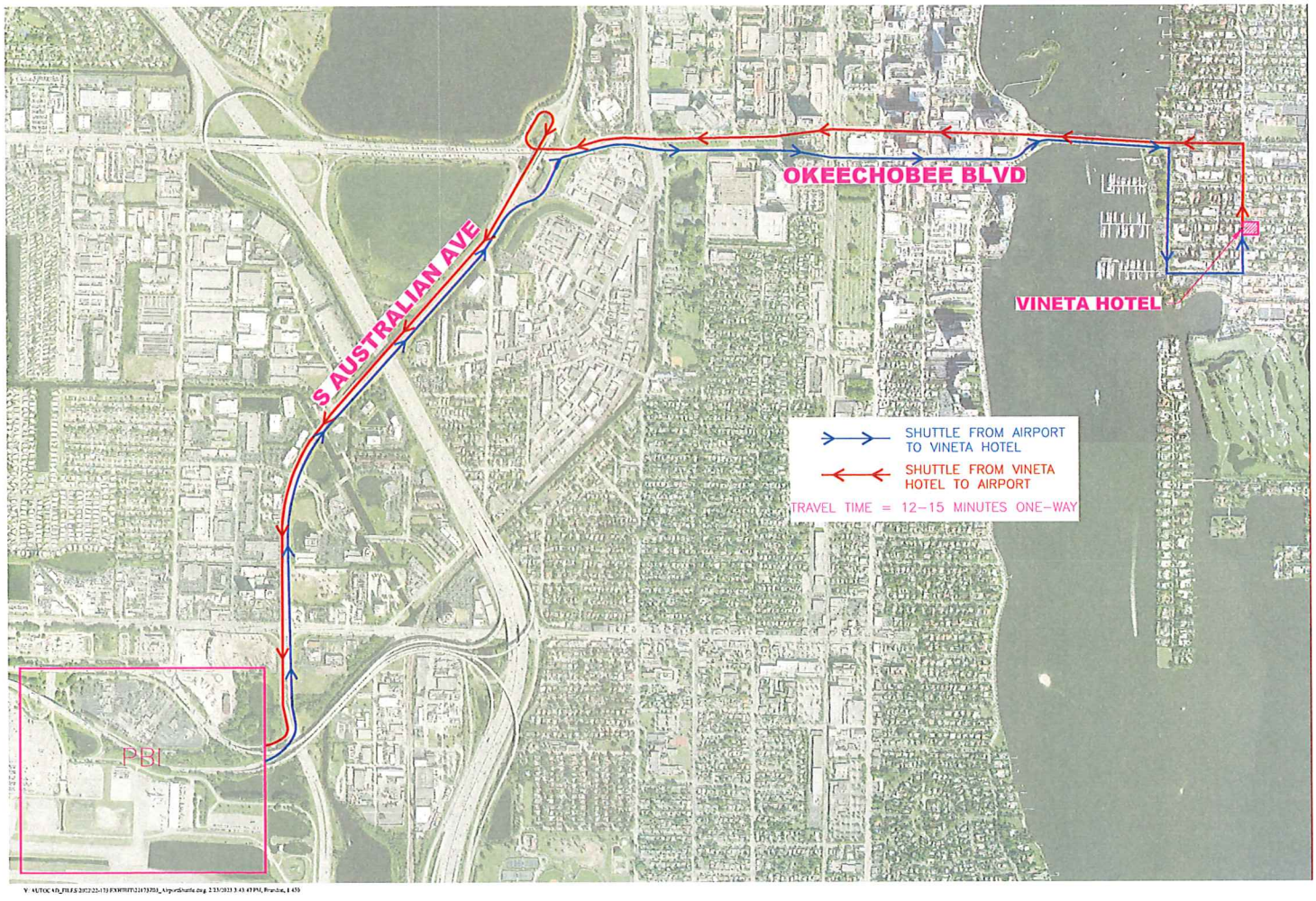
OKEECHOBEE BLVD
S AUSTRALIAN AVE
VINETA HOTEL
SHUTTLE FROM AIRPORT TO VINETA HOTEL
SHUTTLE FROM VINETA HOTEL TO AIRPORT
TRAVEL TIME = 12-15 MINUTES ONE-WAY
PBI

# DECLARATION OF USE AGREEMENT

**by**

**THE TOWN OF PALM BEACH**

**and**

**363 COCOANUT ROW PROPCO, LLC**

**Prepared by and return to:**
**M. Timothy Hanlon, Esq.**
**Alley, Maass, Rogers & Lindsay, P.A.**
**340 Royal Poinciana Way, Suite 321**
**Palm Beach, Florida 33480**
**(561) 659-1770**

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# DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ___ day of _____, 2023 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called the "Town"); and 363 COCOANUT ROW PROPCO, LLC, a Delaware limited liability company (hereinafter called "Owner"), which terms "Town" and "Owner" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH:

WHEREAS, the land described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Land") is located within the municipal limits of the Town; and

WHEREAS, LPC approved COA-23-002 on January 18, 2023, for the interior and exterior renovation of an existing landmarked four-story hotel structure including alterations to the facades, a reduction of rooms from 57 to 41, the reconstruction of historic door and window locations and associated hardscape/landscape and rooftop projections requiring height variances for rooftop allowances. LPC also unanimously determined that the five proposed variances will not cause negative architectural impact.

WHEREAS, by Application ZON-23-019 (the "Application"), Owner sought approval of the Town Council for three special exceptions, site plan approval, vesting parking rights and five variances as listed in Exhibit "B" attached hereto and made a part hereof to permit the renovation of the landmarked building on the Land and the continued operation of a hotel, pool, food and beverage service and a nightclub on the Land under the name "The Vineta" (all of said operations shall be referred to in this Agreement as the "Hotel") (all zoning relief requested and approved by Town Council pursuant to Application ZON-23-019 shall be referred to in this Agreement as the "Zoning Relief"); and

WHEREAS, the Town Council at its April 4, 2023 meeting conditionally approved all of the Zoning Relief, conditioned on the execution and recordation of this Declaration of Use Agreement.

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
## AUTHORITY

Owner has full right to enter this Agreement and to bind 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 Agreement nor the consummation of the transaction contemplated hereby will violate any restrictions, court order or agreement to which Owner is subject.

## ARTICLE III
## CONDITIONS

The Town Council approval of the Zoning Relief is based upon the following conditions:

1. The project was approved for the continued operation of a nonconforming hotel with accessory dining, lounge, pool and nightclub uses. The following licenses shall be required to be applied for, reviewed and approved annually:

   a. Hotel (41 rooms)
   b. Pool
   c. Main Hotel Restaurant (66 indoor seats)
   d. Nightclub (SF and located in main dining room indoors only)
   e. Outdoor café seating (32 courtyard seats)
   f. Indoor Pool Café (37 seats)
   g. Outdoor café seating (pool deck 16 seats open specifically to hotel guests)
   h. Bar Lounge (37 seats)

2. Regarding the number of seats open to the public (non-hotel guests) for food and/or beverage service in the Hotel, the numbers, configuration and hours of use shall be limited to those described in Exhibit "C" attached hereto, which reflect the following seat numbers:

   a. Main Hotel Restaurant and Nightclub (66 seats);
   b. Courtyard next to main Hotel Restaurant (32 seats);
   c. Indoor Bar Lounge (37 seats);
   d. Poolside Restaurant Lounge (37 seats);
   e. Outside poolside food and beverage seats (specifically for hotel guests)(16 seats); and
   f. Pool lounges.

As stated in the hour-by-hour seating chart attached as part of Exhibit "C," ~~-~~no more than 135 seats for food and beverage service to the public shall be open at any given time~~.~~ (the "135 seat Limitation"). A copy of the approved seating plan shall be maintained on site at all times and made available for inspection by the Town, on request. Notwithstanding the foregoing, during inclement weather, seats may be moved from the outside courtyard area to indoor restaurant and bar areas as long as the ~~hour-by-hour maximum number of~~ 135 seat ~~limitations described in Exhibit "C" are~~Limitation is not exceeded. ~~See~~An example of a seating chart during inclement weather is attached as part of Exhibit "C" attached hereto (the "Inclement Weather Seating Chart Example"), but the seats may be rearranged inside the Hotel during inclement weather as long as the 135 seat Limitation is not exceeded; provided, however, see Section 16 regarding contingent future increases in seat numbers and operating hours. The 16 seats adjacent to the pool café as part of the approved Special Exception for outdoor café seating and the additional recreational seating options around the pool deck area are not included in the hour-by-hour seating limitations because they are designated specifically for hotel guest use.

3. The Owner or operator of the Hotel shall maintain a parking agreement for the use of a combined total of fifty (50) off-site valet parking spaces at 440 Royal Palm Way and 340-350 Royal Palm Way (or other alternative location and/or number acceptable to the Owner and reviewed and approved by Town Staff). No valet parking shall be permitted on any of Australian Avenue, Brazilian Avenue, Chilean Avenue or Peruvian Avenue. The routes to be taken by valet parkers are shown on Exhibit "D." Owner shall furnish a redacted copy of such agreement to the Town.

4. Valet parking is required to be available for hotel guests and food and beverage guests during all hours that the hotel is open to the public for food and beverage service.

5. The Hotel operation shall include off-site parking (in West Palm Beach) of fifty (50) parking spaces for employee and excess parking ("Employee Parking"). The Employee Parking plan shall include a shuttle bus operated by Hotel representatives and agents throughout the day and evening to bring employees to and from the Hotel to the Employee Parking facility.

6. As shown in the hour-by-hour seating plan, all food and beverage service shall close to the public no later than midnight. For purposes of this Agreement, the term "close to the public" shall specifically not apply to food and beverage service in specific rooms that offer services at a given time only to hotel guests, employees, owners of the property, owners of the hotel operator and guests of hotel guests.

7. Only background music shall be permitted in the pool area until 6:00 p.m. and the courtyard until 10:00 p.m. Only ambient music shall be permitted in the pool or courtyard area. In addition, when the courtyard restaurant closes to the public at 10:00

p.m., the five double doors leading to the main Hotel Restaurant shall remain closed for the rest of the evening.

8. There shall be no more than four events per month, and all events shall comply with the required opening and closing hours for each service area as shown in Exhibit "C," and the events shall be subject to the seat limitations in the hour-by-hour seating plan. An event is defined as an organized function for more than 40 or more people within the Hotel such as wedding receptions, birthday parties and religious or other celebrations. The number of valet parkers shall be increased on an "as needed" basis for each event.

9. The Hotel shall obtain and maintain a valet parking permit for one valet stand. An appropriate number of valet parking attendants shall be on duty to meet the demand from day to day and season to season. The number of valet parkers may be modified by the Town's Police Department if it is determined that either more or fewer valet parkers are required to manage the Hotel's parking. The valet operator shall use software to track the locations and driving speed of the valet parkers, which data shall be reviewed periodically by the Hotel operator to ensure compliance by the valet parkers with applicable laws and this Agreement.

10. All trash shall be stored in the indoor trash room inside the southeast corner of the Hotel daily and not taken to the outdoor rubbish receptacle in the parking area north of the building until after 8:00 a.m. the following day.

11. Commercial delivery services will be instructed to use the delivery location at either the south door of the kitchen or through the north side by the pool deck and not in front of the Hotel on Cocoanut Row.

12. State-of-the-art exhaust vents and scrubbers shall be installed and maintained on the roof as approved by the Town and shall have them cleaned on a regular basis consistent with manufacturer's recommendations.

13. At least two "street legal" golf carts shall be used to shuttle valet parkers to and from the valet parking garages and the Hotel.

14. Prior to the issuance of any building permit, copies of the signed lease agreements regarding the Hotel's right to use the parking lots at 440 Royal Palm Way and 340/350 Royal Palm Way (or any other off-site parking lot acquired by the Hotel for its use), including any amendments thereto, will be provided to the Town to confirm the Hotel's right to use and the termination provisions thereof. The agreements may be redacted to exclude economic terms and/or other terms unrelated to the Hotel's right to use the parking lots.

15. The Owner or operator of the Hotel shall provide an affidavit of compliance each year at the time of renewal of the business tax receipt.

**16.** After the first season (December through April), the Owner and operator shall return to the Town Council to review compliance with conditions imposed in this Agreement, which Town Council meeting shall take place during the months of either April or May (subject to deferral by Town Council to other months). If the Hotel is in compliance with the conditions of this Agreement described in this Article III at such time, then Owner may request additional seats and expanded operating hours to be determined in the reasonable discretion of Town Council. The Hotel shall not under any circumstances, including the loss of its parking or valet stand facilities, apply for any revisions to this agreement to allow valet parking on Australian Avenue, Brazilian Avenue, Chilean Avenue or Peruvian Avenue. Any future requested revisions to this Agreement will require at least 30-day notice to all property owners within a 1,000 foot radius. Any initial Town Council hearing regarding a requested revision(s) to this Agreement will only be conducted in the months of January through April, but deferrals by the Town Council may extend to other months.

## ARTICLE IV
## VOLUNTARY AGREEMENT

Owner agrees to be bound by the terms and conditions in this Agreement, and Owner waives any legal objection it might otherwise have to said terms and conditions or part thereof.

## ARTICLE V
## REMEDIES FOR VIOLATION

1. Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this agreement or any other provision in the Town Code of Ordinances, and upon notice in writing from the Town to Owner of said violation(s) and the date upon which said violation(s) shall be corrected, Owner shall pay to the Town a liquidated amount of $2,000.00 per violation. Said liquidated amount shall accrue on a per day basis for each day a violation of this agreement exists. In addition, in the event a violation remains uncorrected beyond the date noticed for correction by the Director of the Planning, Zoning and Building Department, this Agreement may be reconsidered by the Town Council at a future meeting upon thirty days notification to the Owner. The Town Council may, upon a finding of violation, alter this agreement or rescind the approval of the use.

In the event Owner disputes the determination of the Director of Planning, Zoning and Building Department of the violation of the conditions of this agreement, or in the event the Owner disputes any code violation, Owner may appeal the determination of the Director of the Planning, Zoning, and Building Department to the Town Council, said appeal to be filed no later than fifteen (15) days of the written notice of violation.

2. In addition to the above, 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 equitable relief through the civil courts in and for Palm Beach County, Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

## ARTICLE VI
## PROVISIONS TO RUN WITH THE LAND

This Agreement shall run with the Land but shall be binding upon the Owner and Owner's successors and assigns for only so long as a hotel is operated by Owner or Owner's agents on the Land.

## 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 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 the Agreement.

## ARTICLE IX
## 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.

All references in this Agreement to times of day are stated in terms of Eastern time, i.e. whichever of Eastern Standard time or Eastern Daylight time is in effect at a given time.

This Agreement 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 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 here from 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.

***Signatures Appear on the Following Pages***

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

Witnesses:

Town of Palm Beach, a municipal corporation

_____
Print Name: _____

By:_____
Daniel Hickox Moore, Mayor

_____
Print Name: _____

_____
Print Name: _____

By:_____
Margaret Zeidman, Town Council President

_____
Print Name: _____

_____
Print Name: _____

By:_____
Kirk Blouin, Town Manager

_____
Print Name: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE TOWN OF PALM BEACH

By: _____
John C. Randolph, Esquire

STATE OF FLORIDA )
) :SS
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023 by Daniel Hickox Moore, as Mayor of the Town of Palm Beach, a municipal corporation, who ( ) is personally known to me or ( ) has produced _____ as identification.

_____
(Signature)

_____
(Type or Print Name)
My Commission Expires: _____

(Notary Seal)

STATE OF FLORIDA )
) :SS
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023 by Margaret Zeidman, as Town Council President of the Town of Palm Beach, a municipal corporation, who ( ) is personally known to me or ( ) has produced _____ as identification.

_____
(Signature)

_____
(Type or Print Name)
My Commission Expires: _____

(Notary Seal)

STATE OF FLORIDA )
) :SS
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023 by Kirk Blouin, as Town Manager of the Town of Palm Beach, a municipal corporation, who ( ) is personally known to me or ( ) has produced _____ as identification.

_____
(Signature)

_____
(Type or Print Name)
My Commission Expires: _____

(Notary Seal)

363 Cocoanut Row Propco, LLC, a Florida limited liability

_____ By: _____
Print Name: _____ Name:
Its:

_____
Print Name: _____

STATE OF FLORIDA )
) :SS
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023 by _____, as _____ of 363 Cocoanut Row Propco, LLC, who ( ) is personally known to me or ( ) has produced _____ as identification.

_____
(Signature)

_____
(Type or Print Name)
My Commission Expires: _____

(Notary Seal)

**EXHIBIT "A"**
**Legal Description**

Lots 1 through 6, Block 6, Revised Map of Royal Park Addition to Palm Beach, Florida, according to the map or plat thereof, as recorded in Plat Book 4, Page 1, of the Public Records of Palm Beach County, Florida.

**EXHIBIT "B"**
**Zoning Relief**
**SPECIAL EXCEPTIONS / SITE PLAN**

1. Section 134-226, 134-227 and 134-326. Special exception and site plan approval to permit the following non-conforming uses: hotel with reduction of rooms from 57 to 41;
2. Restaurant, nightclub and swimming pool with 197 combined seats.

3. Section 134-2106. Special exception to permit outdoor café seating.

**VARIANCES**

1. A variance to modify a nonconforming hotel use to permit the expansion of the restaurant, nightclub and pool area uses with a total of 172 combined seats not to exceed a maximum seating capacity of 135 seats at any given hour and the closing time of all dining establishments shall be restricted to no later than midnight (12:00am).
    - *This variance was approved at the April 04, 2023 Town Council Development Review hearing.*

2. A variance to exceed the maximum allowable height for new rooftop construction specifically to replace an elevator and stair bulkhead on the rooftop of a nonconforming four-story building with a height of 47.6 ft in lieu of the 23.5 ft maximum building height allowed.
    - *This variance was approved at the February 15, 2023 Town Council Development Review hearing.*

3. A variance to exceed the maximum allowable height for new rooftop construction specifically a rooftop trellis on a nonconforming third floor of a nonconforming four-story building with a height of 33'0" in lieu of 23'6" maximum height and 26'6" maximum building height permitted.
    - *This variance was approved at the March 15, 2023 Town Council Development Review hearing.*

4. A variance to exceed the maximum allowable height for the installation of rooftop air conditioning units (five) at a height of 108" (9') above the maximum height permitted in lieu of the 48" (4') maximum height allowed.
    - *This variance was approved at the March 15, 2023 Town Council Development Review hearing.*

5. A variance to exceed the maximum allowable height for a roof top commercial kitchen exhaust scrubber at a height of 84" (7') above the maximum height permitted in lieu of the 36" (3') maximum height allowed.
    - *This variance was approved at the March 15, 2023 Town Council Development Review hearing.*

**OTHER**

The existing building has parking credits for 57 rooms and 113 dining seats and 4 existing on-site surface spaces. The application received final approval on 04-04-23 which permitted 41 rooms and 172 seats and 4 on-site surface spaces to remain, leaving the balance of any remaining parking credits for future use appropriate under the 'principle of equivalency' for evaluating off-street parking requirement; up to 197 food and beverage seats is hereby vested and shall run with the property without the need for future variances to expand or from parking requirements.

**EXHIBIT "C"**
**Allowable Seat Limits and Hours of Operation**
**For Food and Beverage Service to the Public**

**EXHIBIT "D"**
**Valet Parking Routes**
**Employee Shuttle Bus Routes**

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Appeals

Agenda Title
**APPEAL OF MAY 24, 2023, ARCOM APPROVAL RE: 232 COLONIAL LN**
*[The Appellant made a request to defer this matter one (1) month and the request was agreed to by the Applicant of the 232 Colonial Lane project.]*
***[This appeal shall be deferred to the August 9, 2023, Town Council Meeting.]***

Presenter
Scott M. Zaslav, Zaslav & Armbruster, P.A.

ATTACHMENTS:

- **Appeal Letter w/Attachments Regarding May 24,2023, ARCOM Approval of the Project at 232 Colonial Ln.**
- **Request for Deferral of Appeal to August 9, 2023, Town Council Meeting**
- **Email Confirmation Agreeing to the Appellant's Request for a Deferral to the August 9, 2023, Town Council Meeting**

Town of Palm Beach
Planning, Zoning & Building
360 S. County Rd
Palm Beach, FL 33480
(561) 838-5400
www.townofpalmbeach.com
Welcome

031196-0007 Michelle 06/02/2023 01:10PM

PZB RECEIPTS
Payment Tran Code: ARCOM
FEES (ARCOM)
Description: APPEAL FOR
ARC-23-041 FOR 232
COLONIAL LANE
ARCOM FEES (ARCOM)
2023 Item: ARCOM
ARCOM FEES (ARCOM) 2,000.00

001.322.800 2,000.00C

2,000.00

| | |
|---|---|
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| Fee FEE | 44.80 |
| Total | 2,044.80 |

| | |
|---|---|
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| American Express **********2032 | |
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| Auth=513287 | |
| Change due | 0.00 |

Paid by: STEVEN M WOLF

Signature: _____

Thank you for your payment

Town of Palm Beach COPY
DUPLICATE RECEIPT

RECEIVED
JUN 02 2023
TOWN OF PALM BEACH
PZB DEPARTMENT

**ZASLAV & ARMBRUSTER, P.A.**
*Attorneys at Law*
P.O. BOX 670914
CORAL SPRINGS, FLORIDA 33067
TELEPHONE (954) 205-3776 (Zaslav Direct)
TELEPHONE (954) 501-8155 (Armbruster Direct)
WWW.SZTALAW.COM

SCOTT M. ZASLAV, ESQ.
szaslav@sztalaw.com

June 2, 2023

**Via e-mail:**
pgayle-gordon@townofpalmbeach.com
kchurney@townofpalmbeach.com
kdeclaire@townofpalmbeach.com

Pat Gayle-Gordon, Deputy Town Clerk
Kelly Churney, Deputy Town Clerk
Katherine deClaire, Clerk Support Assistant
Town Of Palm Beach
360 South County Road
Palm Beach, FL 33480

**Re:** **Appeal By Steven & Heather Wolf From ARCOM's May 24, 2023 Approval Of ARC-23-041**
**Applicants:** **George & Zvenka Kleinfeld**
**Property Address:** **232 Colonial Lane**

Dear Ms. Gayle-Gordon; Ms. Churney; & Ms. Declaire,

This Firm represents Steven & Heather Wolf (collectively the "Wolfs") who own the property located at 225 Monterey Road in Palm Beach, Florida. The Wolfs hereby appeal, pursuant to §18-177 of the Town's Code, the Palm Beach Architectural Commission's ("ARCOM") May 24, 2023 approval of the revised plans ("Plans") submitted by the above referenced Applicants relating to their property located at 232 Colonial Lane.

## I. Overview

ARCOM's role at the May 24th meeting was to consider all of the criteria set forth in §18-205 of the Town's Code (the "Code") and determine whether the Applicants' Plans complied with all such criteria as supported by competent substantial evidence. The criteria is set forth in sub-division (a) which states the following:

The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction **only after consideration of whether the following criteria are complied with**...

(1) The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.

(2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.

(3) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.

(4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.

(5) The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:

a. Apparently visibly identical front or side elevations;

b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the elevation facing the street, including reverse arrangement; or

c. Other significant identical features of design such as, but not limited to, material, roof line and height of other design elements.

(6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit

application within 200 feet of the proposed site in respect to one or more of the following features:

a. Height of building or height of roof.

b. Other significant design features including, but not limited to, materials or quality of architectural design.

c. Architectural compatibility.

d. Arrangement of the components of the structure.

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.

(7) The proposed addition or accessory structure is subservient in style and massing to the principal or main structure.

(8) The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).

(9) ***The proposed development is in conformity with the standards of this Code*** and other applicable ordinances ***insofar as the location*** and appearance of the buildings ***and structures are involved.***

(10) ***The project's location and design adequately protects unique site characteristics*** such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.[1]

[1] A copy of §18-205 is attached as **Exhibit #1**.

As the transcript from the proceedings clearly reflects, ARCOM completely failed to consider ***any*** of the foregoing criteria.[2] The members of ARCOM never even mentioned a single criteria much less discussed whether the Applicants' Plans satisfied each and every one of the criteria (nor referred to any supporting evidence relating to the criteria). The transcript could not be any clearer that the criteria simply were not the focus of the proceedings **as none of them were ever even mentioned**. ARCOM's approval must be reversed for this reason standing alone.

Even had ARCOM considered all of the criteria (as they were required but failed to do), it would not have even been possible to find that the Plans satisfied all of the criteria as there was no competent substantial evidence establishing that *any* (much less all) of the criteria were satisfied. To the contrary, the evidence in the transcript reflects that the Plans failed to satisfy the criteria and also violate other Code provisions.

By way of example, ARCOM approved the Plans even though the location and design elements fail to adequately protect (and will actually damage if not destroy) the following unique site characteristics:[3]

- The Wolfs' thirty (30) plus foot high and approximately seventy (70) year old ficus hedge and the significant privacy which it provides;
- The noise barrier protection provided by the Applicants' concrete wall and the Wolfs' concrete wall; and
- The Wolfs' sprinkler/irrigation and low voltage electrical lines located behind their concrete wall.

By way of yet another example, ARCOM approved the Applicants' Plans even though its design elements include tearing down their existing concrete wall and installing a new fence closer towards the boundary of the property line ***such that the fence will be within the existing five (5) foot utility easement between the Applicants' and the Wolfs' properties.***

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[2] A copy of the transcript is attached as **Exhibit #2**.

[3] See §18-205(a)(10) requiring ARCOM to consider and find that the following criteria has been complied with: "[T]he project's location and design adequately protects unique site characteristics…"

## II. The Neighbors Properties

The Wolfs and the Applicants are neighbors and the back of their properties directly abut one another on the south property line. Attached to this letter as **Exhibit #3** is a copy of the slide presentation prepared by the Wolfs and utilized in connection with their presentation at the May 24th meeting. The Wolfs direct the Town Council's attention to Slides #3 - #7 of Exhibit #3 as these visuals will assist the Council members in gaining a clear picture of the unique characteristics of this particular site and how ARCOM's approval of the Applicants' Plans is inconsistent with the mandatory criteria including §18-205(a)(9) and (10).

**Slide #3 ("South side of hedges, Wolf backyard")**

Both pictures depict the Wolfs' backyard and show the thirty (30) plus foot high ficus hedge which runs along the length of their yard, and which provides significant privacy from the Applicants' property and which also serves as a sound barrier.

**Slides #4 & #5 ("5 foot easement area & opposite side of hedges")**

The pictures on the left hand side of these slides show how the ficus hedge including its root system is located within a five (5) foot utility easement ("Utility "Easement") which is separated by the concrete wall on the left hand side of the picture (owned by the Applicants) and a second concrete wall owned by the Wolfs which (although not visible in these pictures) runs the length of the Wolfs' backyard.

**Slide #6 ("Existing Conditions")**

The picture on the right hand side depicts both concrete walls and shows how the Wolfs' ficus hedge including its root system and a ficus tree are all located within the Utility Easement and have been there for decades. As all of these pictures also reflect, the only current access point to perform the maintenance required to keep the ficus hedge healthy and alive is within the Utility Easement as that is where its root system is located.

**Slide #7 ("2023 design-similar to 2019 denial")**

As reflected on the right hand side, the south property line which separates the Applicants' and the Wolfs' respective properties is located in the middle of the Utility Easement (i.e. - 2.5 feet is located on the Applicants' side of the property line and the other 2.5 feet is located on the Wolfs' side of the property line).

**Slide #9 (Brasseur & Drobot, Architects Site Plan)**

The schematic on the right hand side clearly shows how the Applicants' proposed fence (if permitted) would be located ***within the existing Utility Easement.***

## III. The Applicants' Plans

A copy of the Applicants Plans are set forth in **Exhibit #4** attached to this letter. As the Scope of Work at the top of the first page reflects, the Applicants seek to demolish most of their concrete wall running the length of their backyard and convert it to a 6 inch drainage curb[4] and install a black powder aluminum fence close to the south property line (which, to reiterate, would be located *within the Utility Easement* if permitted). The Applicants also seek to plant a new green island ficus hedge within the Utility Easement which would run up against the length of the proposed fence.

## IV. ARCOM's May 24, 2023 Meeting

### A. The Evidence Established That The Location And Design Elements Of The Plans Failed To Adequately Protect Several Unique Site Characteristics.

The Applicants' Plans were considered by ARCOM at its May 24th meeting. During their presentation, the Wolfs' zoning consultant, Jim Frogman, showed the members of ARCOM pictures of the Utility Easement which exists between the two (2) concrete walls separating the neighbors' properties and pointed out how it "*has been an existing unique [site] characteristic since 1935.*"[5]

In terms of the Wolfs' thirty (30) plus foot high ficus hedges, Mr. Frogman noted that they "*were put in approximately sometime in the '50s.*"[6] Mr. Frogman further explained how "*if the neighbor puts a hedge in there, too,* [within the Utility Easement]*...there is no room to maintain Mr. Wolf's hedge*"[7] and that placement of such a new hedge "***would absolutely destroy Mr. Wolf's hedge.***"[8] Mr. Frogman then specifically pointed out to the ARCOM members "*Under the Code of Ordinances in Palm Beach and criteria for getting building permit* [§18-205] ***the proposed landscape plan elements would disrupt and destroy the adjacent hedges***" and that the "*design for 232 Colonial*

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[4] The Plans propose to retain only a small portion of the wall located near a generator on the Applicants' property.
[5] Page 9, lines 11-13 of the transcript.
[6] Page 9, lines 13-14 of the transcript.
[7] Page 9, lines 9-11 of the transcript.
[8] Page 9, lines 15-16 of the transcript.

***offers no protection for Mr. Wolf's unique site characteristics***..."[9] Mr. Frogman reiterated that *"if they* [the Applicants] *put a hedge in that easement area,* ***it will make it totally inaccessible and totally destroy the unique*** [site characteristics] ***that have been there since the '50s.***" [Emphasis added].

Finally, Mr. Frogman noted that the Applicants' design plan does not adequately protect yet another unique site characteristic in terms of "***the sound barrier which the wall currently provides***"[10] since approval will force the Wolfs to remove their concrete wall in order to gain the new access point for maintenance as discussed above.

Mr. Frogman's testimony was undisputed as the Applicants offered ***no evidence*** contradicting his relevant, fact-based statements.

The lack of access and destruction of the Wolfs' ficus hedge (and resulting loss of privacy which it provides) was further confirmed in a letter dated May 22, 2023 submitted by the Wolfs' well known and respected Palm Beach landscape contractor, Jesse Casserino.[11] Mr. Casserino explained that if the Applicants are permitted to install the proposed fence within the Utility Easement (along with their proposed new hedge):

- No access to the privacy hedge would be available;
- Granular fertilizer could not be applied;
- Whitefly treatment to drench the roots with systematic pesticide could not be accomplished; and
- Sprinkler service could not be accomplished.[12]

In light of the above factors, Mr. Casserino confirmed that the Applicants' Plans "***severely threaten the privacy hedge living and ultimately would cause failure of privacy.***"

Mr. Casserino's testimony was undisputed as the Applicants offered ***no evidence*** contradicting his relevant, fact-based statements.[13]

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[9] Page 10, lines 9-14 of the transcript.
[10] Page 10, lines 17-19 of the transcript.
[11] A copy of Mr. Casserino's letter is set forth on the right hand side in Slide #6 of **Exhibit #3**.
[12] See Paragraphs #1 - #4 of Mr. Casserino's letter.
[13] To the contrary, the Applicants' own landscape architect, Dustin Mizell, ***acknowledged*** that planting a new hedge *within the Utility Easement* (as proposed in the Plans) will result in fighting between the root systems of the proposed new hedge and the Wolfs' existing ficus hedge, explaining that: "*we decided that it would be better to not plant the Clusia,* ***which might fight against the*** [Wolfs'] ***ficus a little bit more***" and instead "*change that to green island ficus.*" See, Page 5 lines 24-25 and Page 6, lines 1-3 of the transcript.

The ARCOM members were also shown a video prepared by Mr. Wolf showing him taking a walking tour through the Utility Easement so that the members could see the unique site characteristics with their own eyes. Mr. Wolf explained that tearing down the Applicants' concrete wall and putting in the proposed fence near the property line would completely cut off his access to not only maintain his ficus hedge but also other unique site characteristics in that area including his "*electrical equipment back there*"; the "*irrigation equipment*" and the "*landscape lighting.*"[14]

Mr. Wolf further pointed out to the ARCOM members that if they approved the Applicants' Plans (resulting in his access being cut off to maintain his ficus hedge *within the Utility Easement*) it would require him "*to come back to this Committee* ***to remove our 100-foot cement decorative wall***" (to gain a new access point to maintain the hedge and its root system and make sure it does not get white fly) thereby destroying his concrete wall which is yet another unique site characteristic.[15]

Mr. Wolf's testimony was undisputed as the Applicants offered ***no evidence*** contradicting his relevant, fact-based statements.

### B. The Evidence Also Established The Proposed Fence Will Be Located Within The Utility Easement.

During the meeting, the Applicants' landscape architect incorrectly suggested that the installation of the fence would not be located within the Utility Easement. However, Mr. Frogman pointed out this was simply false. Mr. Frogman explained that if permitted, the fence would indeed be located ***within the Utility Easement*** and he showed the ARCOM members the slides in the Wolfs' presentation which clearly depicted this.[16] (See Slides #7 and #9 in Exhibit #3).

### C. ARCOM's Approval Of The Plans.

Despite the overwhelming and undisputed evidence which showed that the location and design elements of the Applicants' Plans failed to adequately protect the unique site characteristics and that the fence would be located within the Utility Easement, ARCOM nonetheless approved the Plans. This was despite comments made by ARCOM's members during their deliberations ***acknowledging the Plans fail to provide***

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[14] Page 11, lines 24-25 and Page 12, line 1.
[15] Page 12, lines 2-8 of the transcript. Mr. Frogman corroborated the same point during his presentation "*the proposed landscape plan and elements* ***also will result*** [in] ***having to take down the concrete wall just so they*** [the Wolfs] ***can gain a new access point to maintain the ficus.***" Page 10, lines 14-17 of the transcript.
[16] Page 8, lines 19-24.

***the required adequate protection*** and other comments making clear that ARCOM was concerned about allowing the installation of a new fence within the Utility Easement.

By way of example, clearly recognizing that the Plans are not designed to protect the Wolfs' ficus hedge which has been there since the 1950s, Ms. Catlin inquired "*Is there a way to do that proposed hedge and fence a little bit far – just a little bit more out or a little bit narrower* ***something that allows the neighbor*** [the Wolfs] ***to get in and maintain their hedge?***"[17]

Mr. Floershimer similarly recognized that the proposed seven (7) foot fence in the Plans will damage the Wolfs' ficus hedge: "*And then the footings for any kind of fence, he's going to have to, I don't know* ***chop down part of the ficus hedge that exists there.***"[18] Mr. Floershimer went on to state: "*So I'd like to see whether the two neighbors could get together and come back to us and find a compromise that satisfies both neighbors in terms of Mr. Kleinfeld getting a little bit more space for his backyard, but preserving privacy for both parties* ***without a diminishment of Mr. Wolf's, you know, 40-foot hedge, which I think would be severely impacted.***"[19]

Mr. Floershimer also acknowledged that with the proposed demolition of the Applicants' concrete wall and installation of the new fence: "***It does not provide any noise protection****, either, from splashing or swimming in the pool to the Wolfs* ***that they currently have with the*** *[Applicants]* ***concrete wall.***"[20]

In terms of the proposed fence, Mr. Corey expressed his concerns about its location having asked for confirmation that the entire Utility Easement was completely on the Wolfs' side of the property line – "So the easement is on the person's [Wolfs] property to the south completely?"[21] While Mr. Mizell (the Applicants' landscape architect) said that it was, **that is simply not the case** as confirmed by Mr. Frogman in his testimony and as reflected in the Slides he showed ARCOM during the meeting which clearly showed the fence would be located right near the very middle of the Utility Easement.

Not a single member of ARCOM ever mentioned §18-205 at the May 24th meeting much less stated that they believed the Applicants' Plans complied with all of its mandatory criteria. Nor, for that matter, did any of the members state that they believed the Plans adequately protected each of the unique site characteristics as required by §18-205(a)(10). Yet, such a determination was required in order to approve the Applicants'

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[17] Page 15, lines 10-13 of the transcript.
[18] Page 18, lines 16-19 of the transcript.
[19] Page 19, lines 2-9 of the transcript.
[20] Page 21, lines 16-19 of the transcript.
[21] Page 7, lines 23-25 of the transcript.

Plans. And most importantly, none of the ARCOM members cited ***any*** competent, substantial evidence in the record supporting their decision approving the Plans. The transcript from the meeting reflects that the members merely made a purely ad hoc and subjective determination. ARCOM gave its approval without regard to either the required criteria or the evidence all of which showed that the Plans were inconsistent and failed to conform with the required criteria.

## V. The Council Must Now Reverse ARCOM's Approval Since The Plans Are Inconsistent With And Do Not Conform With The Criteria In §18-205(a)(9) and (10)

§18-177 of the Code governs this appeal and states, in pertinent part, "***Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this Code***…" [Emphasis added].[22]

ARCOM's approval must be reversed because it failed to apply the correct law and its decision is not supported by competent, substantial evidence. The transcript clearly reflects that ARCOM did not follow proper procedures as it failed to consider *any* of the mandatory criteria in §18-205 much less find that the Applicants' Plans complied with all such criteria. ARCOM also failed to follow proper procedures which further required that it find that there was substantial competent evidence establishing compliance with all of the criteria. No such determination was made.

Reversal is also required given that there is no substantial competent evidence establishing that the Plans complied with the criteria. To the contrary, the evidence stood uncontradicted that the location and design elements of the Plans are inconsistent with and do not conform with the criteria including §18-205(a)(10). Rather than *adequately protect* each of the unique site characteristics that are involved (as required to obtain approval), the evidence discussed throughout Section IV.A above clearly reflects that the Plans will significantly damage if not destroy the unique site characteristics as discussed throughout this letter.

Reversal is also required given that the proposed fence (if permitted) will be Located ***within the currently existing Utility Easement which has not been abandoned.*** Placement of such a fence would be in violation of §110-128 of the Code which clearly states that – "a minimum of five (5) feet shall be reserved at the rear or side within all platted lots for drainage and utilities…" Consistent with this requirement, the Utility Easement is five (5) feet wide and this Code provisions very purpose in requiring five (5) feet is to provide sufficient access for the utility companies to perform their work in terms of inspections, maintenance, repairs, etc. However, installation of the fence right near the

[22] A copy of §18-177 is attached as **Exhibit #5**.

middle of the Utility Easement will literally cut off all access for the utility companies thereby violating the very purpose of §110-128 of the Code. Reversal of ARCOM's approval is required since the criteria in §18-205(a)(9) requires that: "***The proposed development is in conformity with the standards of this Code*** and other applicable ordinances ***insofar as the location*** and appearance of the buildings ***and structures are involved.***" The proposed fence clearly is not in conformity with the very purpose of §110-128 of the Code as relating to the location of the fence.

## VI. Conclusion

For all of these reasons, the Wolfs respectfully submit that ARCOM's approval of the Applicants' Plans was improper and must now be reversed. We look forward to the Council's consideration of this appeal.[23]

Respectfully submitted,

**ZASLAV & ARMBRUSTER, P.A.**

By:*/s/ Scott M. Zaslav*
For The Firm

Encls (Exhibits #1 - #6)

cc Steven & Heather Wolf

[23] In light of the filing of this appeal, no permits relating to the Applicants' Plans can be issued. If any such permits have already been mistakenly issued, this appeal operates to automatically suspend them. To that end, §18-177 states the following, in pertinent part, "*The town council shall decide an appeal within 45 days of the filing of such appeal unless an extension of time is consented to by the applicant,* ***and such filing shall suspend any building permit issued pursuant to the ruling of the architectural commission*** *or director of the planning, zoning and building department or his/her designee* ***until the town council has decided the appeal***..." [Emphasis added].

# EXHIBIT #1

Sec. 18-205. - Criteria for building permit.

(a) The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:

(1) The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.

(2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.

(3) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.

(4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.

(5) The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:

a. Apparently visibly identical front or side elevations;

b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the elevation facing the street, including reverse arrangement; or

c. Other significant identical features of design such as, but not limited to, material, roof line and height of other design elements.

(6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:

a. Height of building or height of roof.

b. Other significant design features including, but not limited to, materials or quality of architectural design.

c. Architectural compatibility.

d. Arrangement of the components of the structure.

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.

(7) The proposed addition or accessory structure is subservient in style and massing to the principal or main structure.

(8) The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).

(9) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.

(10) The project's location and design adequately protects unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.

(b) If the above criteria are met, the application shall be approved. Conditions may be applied when the proposed building or structure does not comply with the above criteria and shall be such as to bring such building or structure into conformity. If an application is disapproved, the architectural commission shall detail in its findings the criterion or criteria that are not met. The action taken by the architectural commission shall be reduced to writing, and a copy thereof shall be made available to the applicant upon request.

(c) A decision or order of the commission or the planning, zoning and building department director or his/her designee shall not become effective until the expiration of ten working days after the date upon which a ruling of the commission or the planning, zoning and building department director or his/her designee has been made.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

# EXHIBIT #2

TOWN OF PALM BEACH

ARCHITECTURAL COMMISSION

TOWN HALL

COUNCIL CHAMBERS-SECOND FLOOR

360 SOUTH COUNTY ROAD

Palm Beach, Florida 33480

May 24, 2023

9:00 a.m.

Ryan Doyle
Digital Reporter
Commission No. HH 216279

COMMISSION PANEL - PRESENT

Jeffrey W. Smith, Chairman
Richard F. Sammons, Vice Chairman
John David Corey, Member
Betsy Shiverick, Member
Kenn Karakul, Member
Thomas Kirchhoff, Member
Elizabeth Connaughton, Member
Dan Floersheimer, Alternate Member
Joshua L. Martin, Alternate Member

Staff Members Present:

Sarah Pardue, Narrarator
Kelly Churney, Acting Town Clerk

Also Present:

Dustin Mizell
Jim Frogman
Steven Wolf
George Kleinfeld
Jamie Crawley

(Proceedings recorded by digital sound recording; transcript produced by transcriptionist.)

MR. MIZELL: Thank you. We're just waiting for the drawings to come up.

CHAIRMAN SMITH: 041: 232 Colonial Lane.

MS. PARDUE: Yes. 232 Colonial Lane is a deferred project coming back, seeking modifications to the perimeter and wall of the landscape as well as the additional pergola. At the April meeting, public comment from neighbors resulted in a deferral and the applicant has made revisions to the proposed plans. Two letters of support were received by staff, one from Ms. Sher -- Shera -- and I'm sorry if I mispronounced that -- at 224 Colonial Lane. The second is Ms. Wasserman, also in support.

A letter of opposition was received and distributed to the Board as well from a Mr. Wolf. Additionally, Mr. Wolf is here today and would like to ask -- request the Commission for time to speak exceeding the three minutes allowed after the applicant's presentation should the Chairman and the Board accept that.

CHAIRMAN SMITH: Thank you.

MS. PARDUE: And I will now do ex parte.

MS. CHURNEY: Yes. Ms. Connaughton?

MS. CONNAUGHTON: No.

MR. KARAKUL: I went by the site and I read

the correspondence.

MR. KIRCHOFF: I read the correspondence.

UNIDENTIFIED SPEAKER: Read the correspondence.

MR. KIRCHOFF: Read what the town said.

MR. COREY: I went by the site, both Colonial and Monterey, but just couldn't see too much.

MS. SHIVERICK: I read the correspondence.

MR. FLOERSHEIMER: I read the correspondence, went to the site, met with Mr. Kleinfeld, who showed me his backyard, and on the following day met with Mr. Wolf, who showed me the easement area, which I think is the area of concern.

MS. CATLIN: I drove by the site and I read the correspondence, and I would just request that when someone wants to meet with us if they give us some contact information so that we can follow through.

MS. CONNAUGHTON: Kelly, I also read the correspondence.

MR. MIZELL: Thank you. Good morning, Dustin Mizell with the Environment Design Group in Palm Beach. I'm here this morning with my client, Mr. Kleinfeld and also Jamie Crawley, the attorney for the project.

There were a few things that came out of our

meeting last month that we want to respond to quickly. The first was we had photographs of the backyard but not the front yard. So we did take the pictures of the front and the side, which I think was helpful as well, because we were originally proposing a black aluminum, more contemporary pergola. We're actually now going to a white wood to match the house, and the columns on the second floor were taken as exact proportions and bringing them down. So we appreciate that feedback. I think it helped us land on the right place.

Also, too, and I'll jump right to the site plan, which we'll tell you what we changed. Mr. Corey had a comment, and he was correct, about the southwest corner. We were proposing to remove the entire wall but we do have a generator there. So we're going to keep that portion of the wall to screen the generator. And we're actually going to increase it in height. It won't exceed seven feet height, but it will screen the generator, which is a better condition for Mr. Wolf.

Also, too, I did have the opportunity to meet with Mr. Wolf at his property and he showed me his backyard and his vista, just so I could look at that. That was very helpful. So we decided that it would be better to not plant the Clusia, which might fight

against the ficus a little bit more. And so we're willing to go ahead and change that to green island ficus. It's a six-foot height. It is definitely more expensive. We're more than willing to absorb that cost. I think it's more synergy with his hedge, and if there ever were an encroachment, I mean, they certainly would be more compatible together as opposed to the Clusia versus the ficus. So we made that change as well.

So the three changes again -- excuse me -- four -- was we included photographs of the front, used inspiration on existing columns to do a new wood trellis. It'll be the same exact proportions. We are keeping the side wall, actually increasing the height for better privacy, getting rid of the Clusia, installing green island ficus instead, and then the fence request remains the same.

Just before I end my remarks, as I am going to be brief here -- I do want to remind everybody because this is important for our conversation and there's going to be some follow-up here. Again, just to remind everybody, there was some confusion I think last month.

As you see our property line, which is the dark line, our wall, our current wall right now is two

and a half feet on the east side, offset. It becomes almost three feet down here, see, 2.9. That's about 200 square feet. Our backyard a little less than 1,500 square feet. It really translates to about 14 percent of a very small backyard. The purpose of my client is not to put a line in the sand, determine, this is my property, that's yours. They really want to reclaim some of the backyard, which is very small to begin with, I mean, almost 14 percent.

The easement is south of our property, very clearly. So we're not asking for easement release agreement. We're not asking to do anything unique. We're asking just for a property rights issue that we can solve. Have it go to aluminum fence. Will not be visible. It will be buried in the green island ficus, and allow our client to, you know, reclaim a little bit of backyard, which is very well to begin with. So, again, the easement is not on our property, just for clarity purposes.

So those are the things we responded to. And I'm going to end it now and I'll just turn it over to Mr. Wolf, if that's okay.

MR. COREY: Can I have a sec quick? So the easement is on the person's property to the south completely?

MR. MIZELL: Yes, sir.

MR. COREY: Okay. Thank you.

MR. CRAWLEY: Mr. Chair, if we can just reserve two minutes to rebut any comments that are made, that would complete our presentation. Thank you.

CHAIRMAN SMITH: Anyone from the audience want to speak?

MR. FROGMAN: Good morning. My name is Jim Frogman. I'm a zoning consultant for Mr. Wolf, and I've been examining his backyard issues. I recall coming here in 2019 when this Board denied this, basically this same exact design. Let' go through this very quickly.

This easement was part of the original plan in 1935.

CHAIRMAN SMITH: Can you just raise your microphone a little bit? Thank you.

MR. FROGMAN: The easement in the properties and the (inaudible) addition were acquired in 1935. The purple area on the screen is basically a blow-up showing the two-and-a-half-foot easement on the south side for Mr. Wolf and two and a half feet on the north side for the Kleinfelds.

This is how the existing issue looks today.

The concrete wall on the left abuts the Kleinfeld's property. Mr. Wolf's 30-foot ficus hedge. You can see the roots at the bottom and the nice foliage on the top which his backyard pool is shown.

This is the existing situation also on Mr. Wolf's side. Here's a complete green screen. On the opposite side is the easement. As you can see, there is very little room between the wall and the roots and the existing hedge material. If the neighbor puts a hedge in there, too, so it stays, there is no room to maintain Mr. Wolf's hedge. This has been an existing unique state characteristic since 1935. The hedges were put in approximately sometime in the '50s. So any work done in that easement, especially placement of a new landscape buffer, would absolutely destroy Mr. Wolf's hedge.

This is the letter from an inspection of the landscape contractor that's well-known in Palm Beach. He looked at the situation, and he was adamant that any hedge material going in that little space between the wall and the roof will absolutely impact Mr. Wolf's hedge.

This is the exact plan in 2019. It was rejected. Again, there's very little room in that easement for a new hedge. We don't have any objection

to them keeping the wall as it is and putting a new Clusia hedge on the inside and the north side of the wall. That's not an issue for us. The issue is their proposed landscape buffer inside the easement right up against ours. We have no way to maintain that hedge. This is an architectural rendering showing the limited area. Again, two and a half feet is not going to support a large hedge against Mr. Wolf.

Under the Court of Ordinances in Palm Beach and criteria for getting building permit, the proposed landscape plan elements would disrupt and destroy the adjacent hedges. The design for 232 Colonial offers no protection for Mr. Wolf's unique site characteristics, and the proposed landscape plan and elements also will result having to take down the concrete wall just so they can gain a new access point to maintain the ficus. So we maintain that their design plan does not adequately protect the sound barrier the wall currently provides. Again, if they put a hedge in that easement area, it will make it totally inaccessible and totally destroy the unique statistics that have been there since the '50s. Thank you.

CHAIRMAN SMITH: Anyone else in the audience want to address the Commission?

MR. WOLF: Yes, please.

Thank you, everyone. Steven Wolf. I reside at 225 Monterey. Third generation Palm Beacher. I think -- there's a video actually playing right now -- sorry -- I should be narrating that.

MS. PARDUE: No, I can start over.

MR. WOLF: But just -- listen, obviously very difficult for everybody to get there, and you see many things, and it's my job to at least give you as quick a picture as I can.

This is the lush backyard. These are 30 to 40-foot high. That's the cement wall on our side. So you essentially have a cement wall, a cement wall, five feet. And was able to get -- Dan as able to come by. And I think before any decision could be made, hopefully this gives some clarity as to what we're talking about.

The second video, did our best to walk through that easement. As you can see, these are healthy. The roof system is there that tree right there is about an inch from the wall. When you walk through here, it's just simply impractical to knock down that wall, go two and a half feet, to their point, 30 inches. And to put a fence, there's electrical equipment back there, there's irrigation equipment,

there is landscape lighting.

Essentially, we talked about the unique characteristics, but this would require me to maintain it to come back to this Committee to remove our 100-foot cement decorative wall so I can access the front of the property, to the front of the roof system to be able to clean it, make sure it doesn't get white fly. Then come back to this Committee and say, we want to put the wall back up in some way. There's not a lot of room, as you can see.

We have a 9,000-foot lot. I appreciate that they have, it looks like a 6,000-foot lot, and this is not a lot of room, but we're talking about 24 to 30 inches. The complete destruction would be our hedges, our privacy. This is a two-story house on their side. So I just wanted to have you hear from us, and hopefully this gave you a little bit of a picture.

I do apologize. There was no telephone number there, but I was able to get one of the ARCOM members to come by. And thank you very much.

CHAIRMAN SMITH: Thank you. Any other comments?

MR. CRAWLEY: So Jamie Crawley for the record. So this, again, is an abstracted survey. What that means is if you look at Survey Note 1, this was done

with a title review. So all of the easements that are recorded in the public records are shown on this survey.

We are not showing any easement on our property. There is no right of access on our property to walk behind that hedge to maintain that. This is our client's property. So we're not proposing to do anything with respect to their property or any easement. This is our client's private property.

One of the most fundamental rights in property is the right to exclude others. This is our property. We're doing what is allowed under the Code. The supplemental regulations in Chapter 134 allow you to put fences and walls into the rear setbacks as long as you meet the Code criteria for issuance and building permit, which this project does.

We have gone back. We have added the screening for the generator, which will protect the sound. We have agreed to replace the hedge material at additional cost in order to be good neighbors. So there is no issue with an access easement. This is 100 percent our client's unencumbered property.

Now, with respect to the prior rejection of an application at this Board, that was for a chain link fence. And it was said on the record, this is Palm

Beach, we don't do chain link fences. So we're not proposing a chain link fence. We're proposing a project which is in keeping with all the requirements in Section 18 to apply for issuance of a building permit. There is no easement here, so we would ask that you grant our application. And my client would like to come up and just say a few words before we close.

MR. KLEINFELD: I am George Kleinfeld, and I'm the owner of 232 Colonial Lane. I just want to say that we believe we have a fundamental right to the full use of our backyard. Right now we're not using 14 percent of our yard. We just want to make full use of the yard. And I would emphasize that we're as dedicated to maintain our privacy as the Wolfs are to maintaining theirs. There's no disagreement about the desirability of lush privacy, preserving landscaping.

One of the problems here is that the ficus that are in the easement, which is on the Wolf's side of the property line, are dying. I can't tell you how many times I've had to spend Saturday morning skimming dead ficus leaves out of my swimming pool. You know, we're going to do our very best to ensure that the landscaping preserves our privacy, which in turn will also preserve the Wolfs' privacy. Thank you.

MR. CRAWLEY: Thank you. That concludes our presentation. Thank you.

CHAIRMAN SMITH: Thank you. Ms. Catlin?

MS. CATLIN: I just have some questions because I want to understand a little about the hedges, Dustin. Because when you look at it from the Colonial wayside, the back of those ficus hedge look pretty ratty. And I appreciate the desire to gain that square footage, because on a small lot, that's a lot. Is there a way to do that proposed hedge and fence a little bit far -- just a little bit more out or a little bit narrower something that allows the neighbor to get in and maintain their hedge?

MR. MIZELL: I think the technical answer would be his hedge is in the wrong place. You know, if you look at his exhibit, it shows a dirt path. That dirt path is our private property. So he currently maintains it on our property. If his hedge was not in the two-and-a-half foot easement and was on his property, he would have access in easement, not our property.

So I just think it's one of those conditions where it's been there a while and everyone assumes their property is the back of our wall, but it's not. So I think my client would answer that, you know, we

really want to reclaim our yard.

MR. CRAWLEY: And in addition, if there is no easement there and someone gets injured back there, keeping, you know, maintaining that hedge, our client's going to get sued. And they're going to say, this is your property. So it's not an ideal situation, but it exists all over town. And the people that have hedges against hedges and -- and they do the best to maintain them. So, again, we're just trying to do what we are bound to do under the Code.

MS. CATLIN: Thank you.

CHAIRMAN SMITH: Mr. Kirchoff?

MR. KIRCHOFF: Yeah. I think we're spending way too much time on this, but I would have to agree with the applicant. I mean, I think this situation happens all over town. I mean, there's hedges against hedges. Each person takes care of what's on their side.

And I would say the problem here seems to be Mr. Wolf. His hedge is in an easement, and whoever has the right to that easement, the utilities could tear it out at any point in time, and he couldn't say a thing. So I don't know why we're arguing about this. I think the applicant should have a right to a defense on the property line if there was indeed no

easement on his side. So I think we just move on.

CHAIRMAN SMITH: Mr. Corey?

MR. COREY: And I would agree with Mr. Kirchoff, and I actually would argue that you're not rebuilding the wall right on the property line, which would be extremely disruptive to the root system. You're putting in a fence, not a chain link fence, but a skip fence or aluminum fence which seems -- you know, it does the Code, in the four-inch wall, the sphere to keep people out of the pool. And I think the project is fine as presented.

CHAIRMAN SMITH: Mr. Floersheimer?

MR. FLOERSHEIMER: Yes, thank you. It seems to me like a Solomonesque type of decision that needs to be made here. There are certain existing circumstances. When I went to visit the site, there's a pool equipment that is hard to determine whether it's on Mr. Wolf's property or in the easement. Do you have a site plan of the whole property?

MR. WOLF: Second to last page on our PDF.

MS. CHURNEY: You need to speak in the microphone if you're going to speak.

MR. FLOERSHEIMER: Can we -- can we see the second to last page?

MR. WOLF: The PDF (inaudible), the one before

that page, right before that page -- right there, and you can expand that.

MR. FLOERSHEIMER: Can we blow that up and maybe center it a little bit?

So I understand property rights. And Mr. Kleinfeld, you know, should have use of his property. But does that use of his property extend to a diminishment of a neighbor's property's landscape? He's not violating Mr. Wolf's property, but I looked at those trees, and the trunks of the trees, in some cases, are eight to ten inches away from the wall. And the roof structure is probably at the wall or potentially even underneath the wall.

So if you were to -- if Mr. Kleinfeld wants to demolish most of the wall, I think he's leaving six-inch curve; is that correct? And then the footings for any kind of fence, he's going to have to, I don't know, chop down part of the ficus hedge that exists there. And it would seem to me that he wants to add ficus to an additional ficus hedge. Perhaps he could just maintain the ficus hedge that is there such that he has to foliage on both sides. I have an existing situation with my neighbor that is the same. We had a double ficus hedge. He removed his ficus hedge, and now it's leafing out on the other side

because it's now getting more sunlight.

So I'd like to see whether the two neighbors could get together and come back to us and find a compromise that satisfies both neighbors in terms of Mr. Kleinfeld getting a little bit more space for his backyard, but preserving privacy for both parties without a diminishment of Mr. Wolf's, you know, 40-foot hedge, which I think would be severely impacted. Alternatively, if, you know, if the hedge is impacted, would Mr. Kleinfeld reimburse Mr. Wolf for any damage done to his hedge? So some of this I think is a legal question that may go beyond our purview and have the lawyers deal with this.

MR. COREY: And I think we should stick to the architecture and make a decision like we always do.

CHAIRMAN SMITH: Any other comments from Commissioners? Can I go --

MR. FLOERSHEIMER: I mean, Dustin, do you want to respond to how -- how do you --

MR. WOLF: I can respond.

MR. FLOERSHEIMER: You're a landscape person.

MR. WOLF: We take the --

MR. FLOERSHEIMER: I understand your point of, you know, he's got a legal right to use his property. I wanted to ask Mr. Mizell --

MR. WOLF: Without the Code (inaudible) than that.

MR. FLOERSHEIMER: How he can -- how he can install ficus and how he can revive the -- how he can revive the hedge. And what about the pool equipment that appears to be in the easement?

MR. MIZELL: Yeah. I'll be --

MR. FLOERSHEIMER: Which I believe Mr. Wolf has the CO of -- as a pre-existing condition when he bought the house.

MR. MIZELL: The issue is, for my client, is -- and I was on Mr. Wolf's property. His hedge faces south. He gets fantastic sun. It is much fuller, for sure, on his side. It actually looks really nice. He's cared for it.

The issue is on our side, which is the north side, it actually gets no sun, so the ficus looks terrible. So the only way that we have a backyard that is pleasing is that we have to plant it because it doesn't get the sun over there. So that's the problem.

MR. FLOERSHEIMER: So you're saying new smaller ficus to cover the lower portion of the roots.

MR. MIZELL: It's all dead. It's all dead.

MR. CRAWLEY: And we agreed to change from the

Clusia to the ficus because it would work better with his hedge. So we did -- we've already compromised here.

MR. KARAKUL: And I just had one more question. The fence on the new property line, what is that fence?

MR. MIZELL: It's just a powder-coated aluminum fence, standard picket.

MR. KARAKUL: Picket?

MR. MIZELL: Yes, sir. Yes, sir, very clean.

MR. KARAKUL: But clearly doesn't provide any privacy?

MR. MIZELL: No, sir.

MR. KARAKUL: -- sound, obviously.

MS. CHURNEY: Your microphone, Mr. Karakul.

MR. FLOERSHEIMER: It doesn't provide any noise protection, either, from splashing or swimming in the pool to the Wolfs that they currently have with the concrete wall.

CHAIRMAN SMITH: Walter Kirchoff?

MR. KIRCHOFF: I'd like to make a motion to approve the project as presented.

MR. COREY: Second.

MR. FLOERSHEIMER: Can I make one more comment? Would Mr. --

UNIDENTIFIED SPEAKER: Kleinfeld?

MR. FLOERSHEIMER: Oh, replace it with a concrete wall, a cinder block concrete wall like he has now?

MR. COREY: With a six-foot footing and destroy all the ficus roots? I think that would destroy the -- yeah, I mean, I don't know -- we have a landscape (inaudible).

MR. MIZELL: Yeah, it would kill it.

CHAIRMAN SMITH: Okay. I know there was a motion. Was there a second on the motion?

MR. COREY: Second.

VICE CHAIRMAN SAMMONS: Second.

CHAIRMAN SMITH: All in favor?

COUNCIL MEMBERS: Aye.

CHAIRMAN SMITH: Opposed? So moved. Thank you very much.

(Proceedings adjourned at 10:29 a.m.)

CERTIFICATE OF DIGITAL REPORTER

I, Ryan Doyle, a Digital Reporter and Notary Public within the State of Florida do hereby certify that on May 24, 2023, in the Town of Palm Beach, State of Florida, I digitally reported the proceedings had and the evidence given, together with the objections of counsel, and that said testimony was accurately captured with annotations by me during the proceeding taken at said time and place.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS THEREOF, I have hereunto set my hand this 26th of May, 2023.

Ryan Doyle
Notary Commission Florida No. HH 216279
Commission Expires: January 12, 2026

CERTIFICATE OF TRANSCRIPTIONIST

I, Phyllis Sullivan, Legal Transcriptionist, do hereby certify:

That the foregoing is a complete and true transcription of the original digital audio recording of the testimony and proceedings captured in the above-entitled matter. As the transcriptionist, I have reviewed and transcribed the entirety of the original digital audio recording of the proceeding to ensure a verbatim record to the best of my ability.

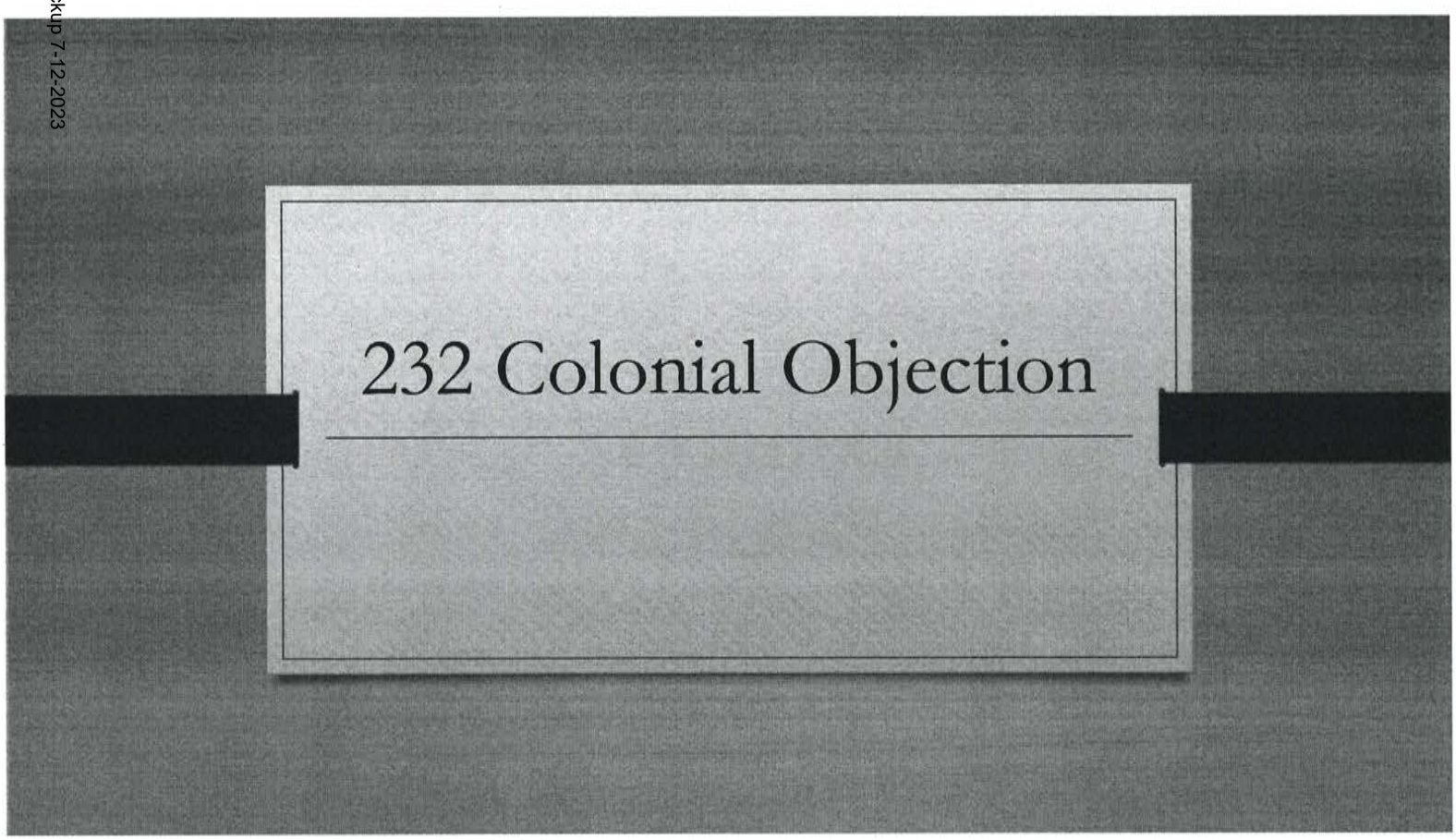
I further certify that I am neither attorney for nor a relative or employee of any of the parties to the action; further, that I am not a relative or employee of any attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this matter.

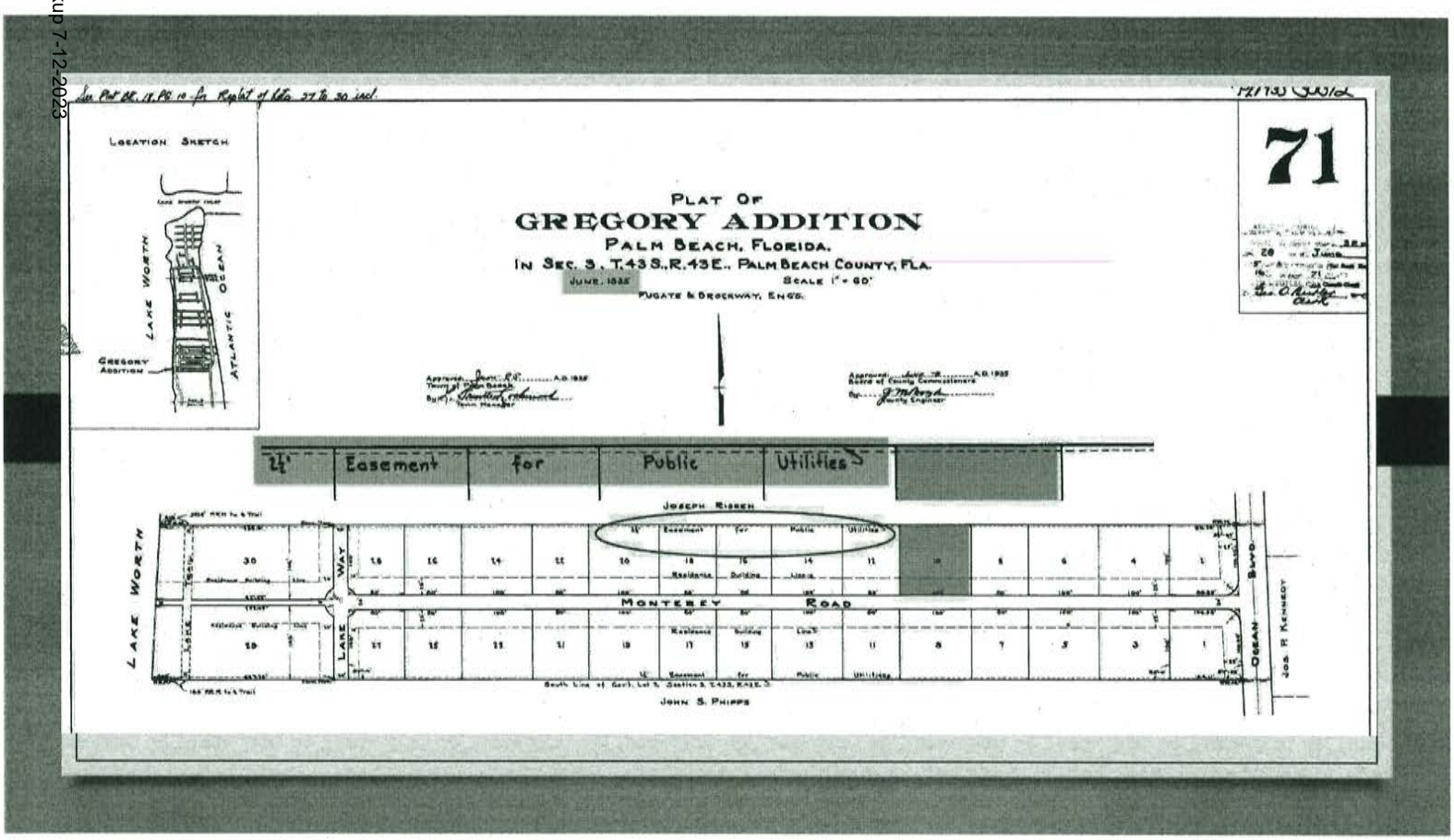
IN WITNESS THEREOF, I have hereunto set my hand this 26th of May, 2023.

Phyllis Sullivan

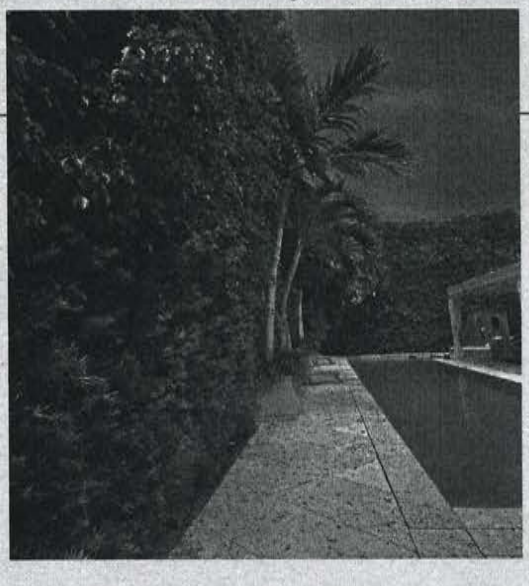
Phyllis Sullivan
Legal Transcriptionist

# EXHIBIT #3


232 Colonial Objection


In Plat Bk. 19, Pg. 10 for Replat of Lots 27 to 30 incl.
71
LOCATION SKETCH
LAKE WORTH
ATLANTIC OCEAN
GREGORY ADDITION
PLAT OF
GREGORY ADDITION
PALM BEACH, FLORIDA.
IN SEC. 3, T. 43 S., R. 43 E., PALM BEACH COUNTY, FLA.
JUNE, 1933
SCALE 1" = 60'
PUGATE & BROCKWAY, ENG'RS.
24' Easement for Public Utilities
JOSEPH RISSEN
LAKE WORTH
LAKE WAY
MONTEREY ROAD
OCEAN BLVD.
JOS. P. KENNEDY
JOHN S. PHIPPS

# South side of hedges, Wolf backyard



# 5 foot easement area & opposite side of hedges

Block wall constructed in 1940, Hedges installed cica 1950"s

North side

South/ Wolf's side

# Existing Conditions

JESSE T. CASSERINO
LANDSCAPE CONTRACTOR
P.O. BOX 2543
PALM BEACH, FL 33480
(561) 758-3236

May 22, 2023

Mr. Steven Wolf
225 Monterey Rd.
Palm Beach, FL 33480

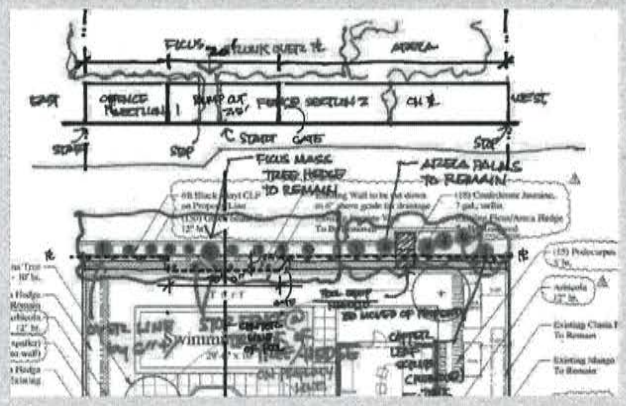
I am providing a professional opinion of how the landscape would be affected if the proposed fence is installed to the north property line of 225 Monterey Rd.

1. No access to the privacy hedge would be available to remove debris.
2. Granular fertilizer could not be applied.
3. Whitefly treatment to drench the roots with systemic pesticide could not be accomplished.
4. Sprinkler service could not be accomplished.

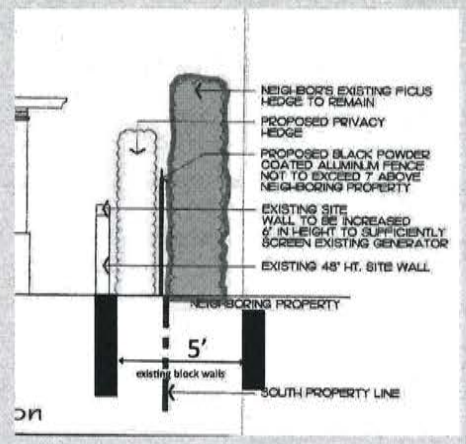
For these reasons, this would severely threaten the privacy hedges living, and ultimately would cause failure of privacy.

Sincerely,
*Jesse T. Casserino*

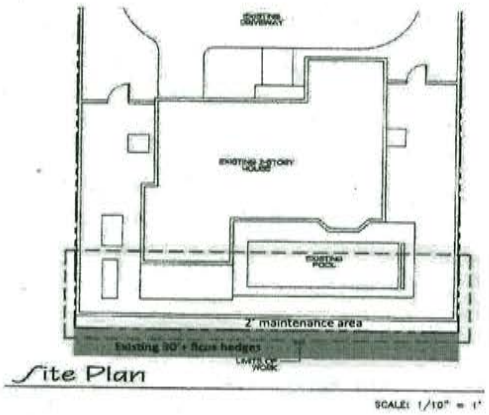
# 2019 plan rejected by Mr. Bob Villa

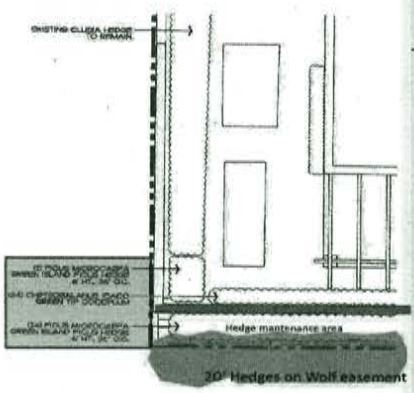


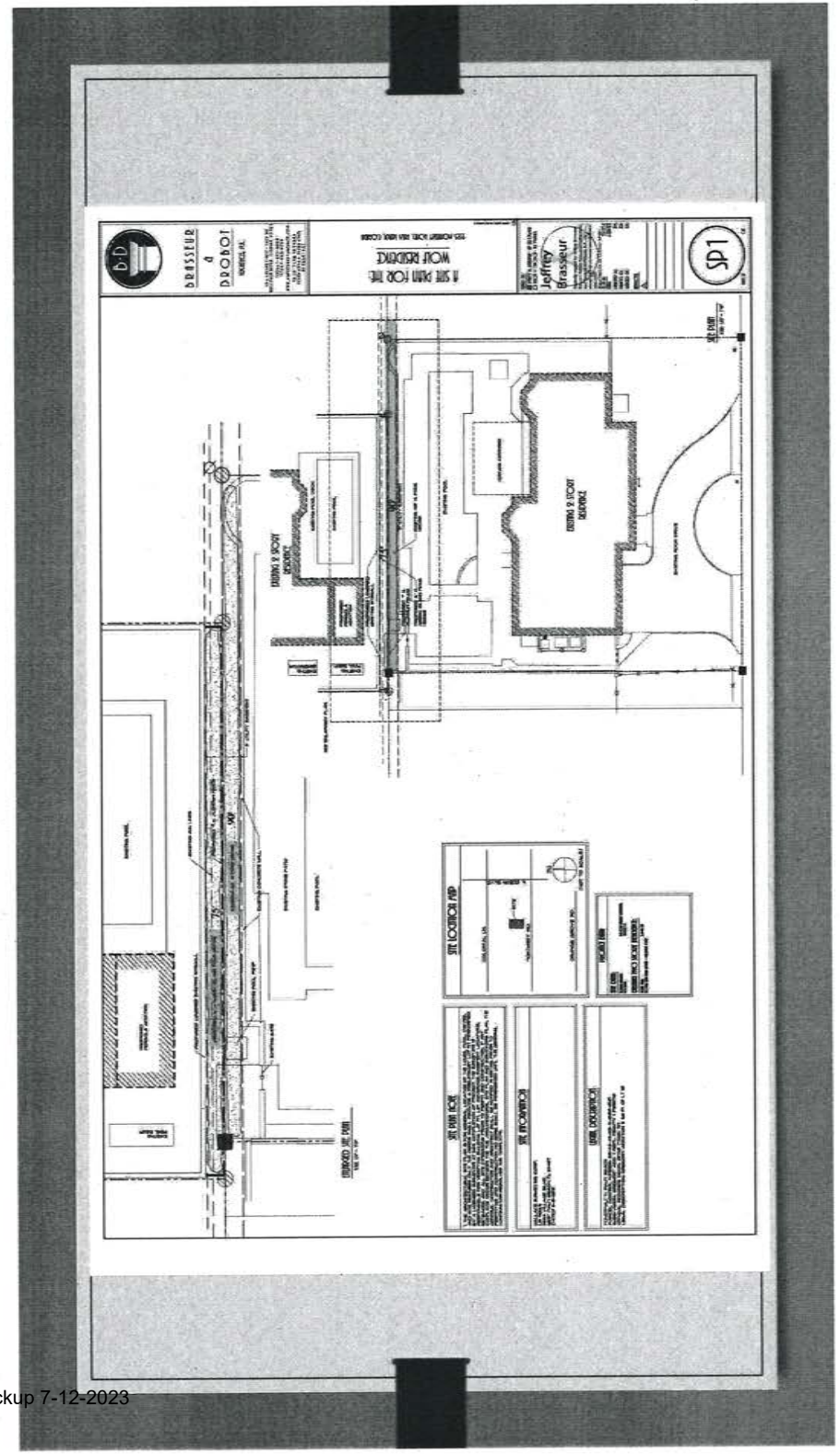

## 2023 design-similar to 2019 denial



# Proposed impact of new design - 232 Colonial





**CODE OF ORDINANCES TOWN OF PALM BEACH,**

**Sec. 18-205. - Criteria for building permit.**

The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:

(10) The project's location and design ***adequately protects unique site characteristics*** such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.

The proposed landscape plan and elements will disrupt and destroy the adjacent hedges, thus, the design for 232 Colonial offers NO protection for the unique site characteristics. The proposed landscape plan and elements will also result in having to take down the concrete wall (to gain new access point to maintain the ficus) and as a result, their design plan does not adequately protect the sound barrier that the wall currently provides.

# EXHIBIT #4

## Scope of Work

- Addition of 18'-0" x 9'-9" (174 S.F.) pergola.
- Portion of existing site wall along south property line, to be demolished down to 6" Drainage Curb and replaced with chain-link fence.
- Portion of existing site wall to be raised 6" in height to sufficiently screen existing generator.
- Minor modifications to landscape buffer along south property line.

## Design Team/Consultants

Landscape Architects
ENVIRONMENT DESIGN GROUP
139 NORTH COUNTY ROAD SUITE 20B
PALM BEACH, FL 33480
561.832.4600
WWW.ENVIRONMENTDESIGNGROUP.COM

Civil Engineer
GRUBER CONSULTING ENGINEERS
2475 MERCER AVE
WEST PALM BEACH, FL 33401
561.312.2041

Application #: ARC-23-041
Final Submittal
Projected Hearing Date: 04.26.2023

## Sheet Index

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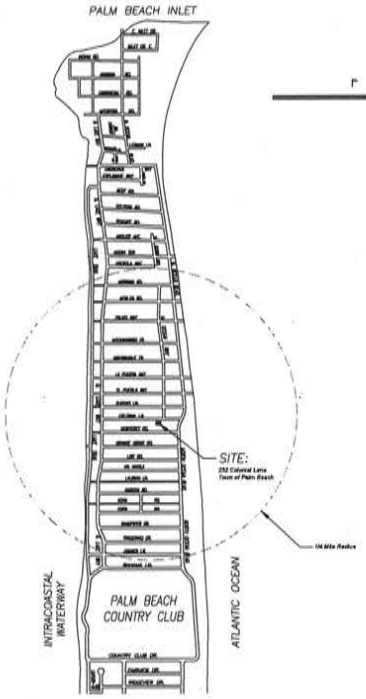
Zoning Legend / Vicinity Map
L1.0 - Existing Condition Images
L1.1 - Existing Conditions Inventory / Demolition Plan
L1.2 - Construction Screening & Staging Plan
L1.3 - Truck Logistics Plan
L2.0 - Site Plan
L2.1 - Site Data Calculations
L3.0 - Landscape Plan
Civil Engineering Plan
Survey

ENVIRONMENT DESIGN GROUP
130 North County Road #203-B Palm Beach, FL 33480
Phone 561.833.4000 Mobile 561.313.4424
Landscape Architecture
Land Planning
Landscape Management
Dustin W. Mizell, MLA FLA #6666784

# Private Residence
# 232 Colonial Lane
# Palm Beach
F L O R I D A

## Vicinity/Location Map




## Zoning Legend

| | | | |
|---|---|---|---|
| Property Address: | 232 Colonial Way | | |
| Zoning District: | R-B | | |
| Structure Type: | Single Family Residence | | |
| | Required/Allowed | Existing | Proposed |
| Lot Size: | 10,000 SF min. | 6,150 SF | 6,150 SF |
| Lot Depth: | FT | 82' | 82' |
| Lot Width: | FT | 75' | 75'% |
| Lot Coverage: | % | % | N/A |
| Front Yard Setback: | N/A | N/A | N/A |
| Side Yard Setback (1st Story): | N/A | N/A | N/A |
| Side Yard Setback (2nd Story): | N/A | N/A | N/A |
| Rear Yard Setback: | N/A | N/A | N/A |
| Angle of Vision: | N/A | N/A | N/A |
| Building Height: | N/A | N/A | N/A |
| Overall Building Height: | N/A | N/A | N/A |
| Finish Floor Elevation (FFE) (NAVD): | N/A | N/A | N/A |
| Zero Datum for Pt of Measurement: | N/A | N/A | NAVD |
| Base Flood Elevation (BFE) (NAVD) | NAVD | NAVD | SF % |
| Landscape Open Space (LOS): | SF % | SF % | SF % |
| Perimeter LOS: | SF % | SF % | SF % |
| Front Yard LOS: | SF % | SF % | % |
| Native Plant Species Percentage: | % | % | |

NOTES:
PERGOLA IS PROPOSED ON EXISTING DECK. SITE DATA CALCULATIONS WILL NOT BE AFFECTED BY PROPOSED MODIFICATIONS.

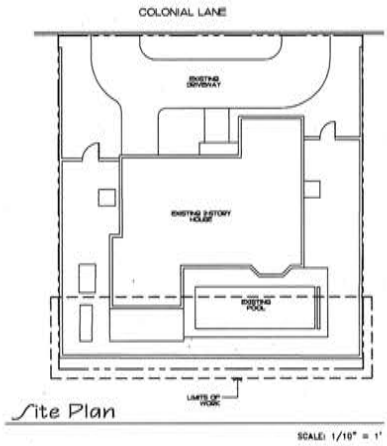
PROPOSED PERGOLA DOES NOT EXCEED V IN HEIGHT.

Private Residence
232 Colonial Lane
Town of Palm Beach
FLORIDA

SHEET L1.0

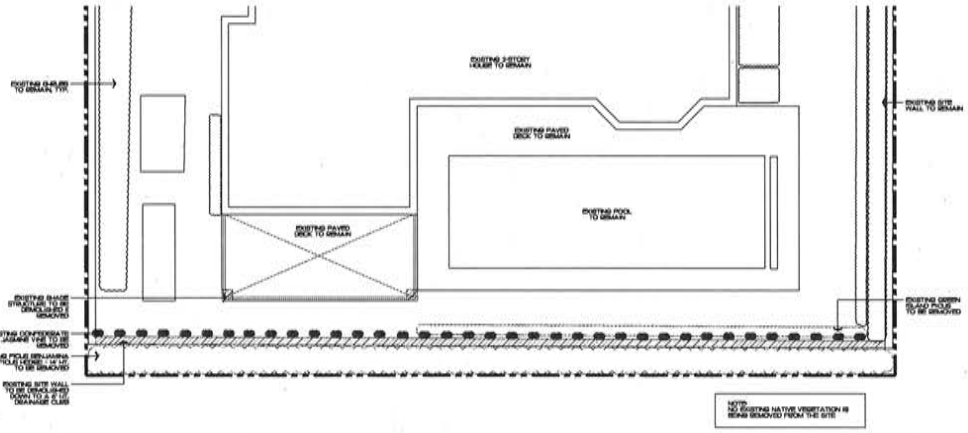
2023 2023

ARC#-23-041
Existing Condition Images




Site Plan

SCALE: 1/10" = 1'




Private Residence
232 Colonial Lane
Town of Palm Beach
FLORIDA

Existing Condition Photos - Limits of Work

2023

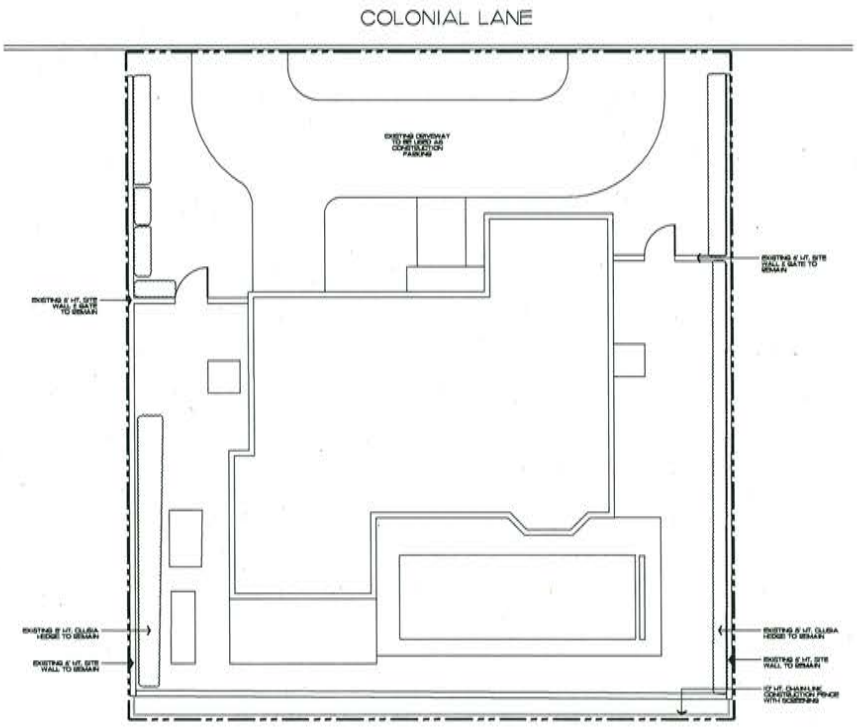
2023

ARC#-23-041

Existing Conditions Inventory / Demolition Plan

SCALE IN FEET 0' 4' 8' 12'

SHEET L1.1




NOTE:
EXISTING SITE WALL AND LANDSCAPE BUFFER ALONG SOUTH PROPERTY LINE WILL BE REMOVED WHEN NECESSARY FOR SITE UTILIZATION AND CONSTRUCTION DEVELOPMENT. A CONSTRUCTION SCREEN WILL BE ADDED IN THESE AREAS UNTIL SITE WALLS, NEW FENCING, OR NEW LANDSCAPING IS INSTALLED. AT NO TIME SHALL THE SITE BE OPEN TO ADJACENT PROPERTIES WITHOUT ANY PERMANENT OR TEMPORARY SCREENING DURING CONSTRUCTION.

2023 2023

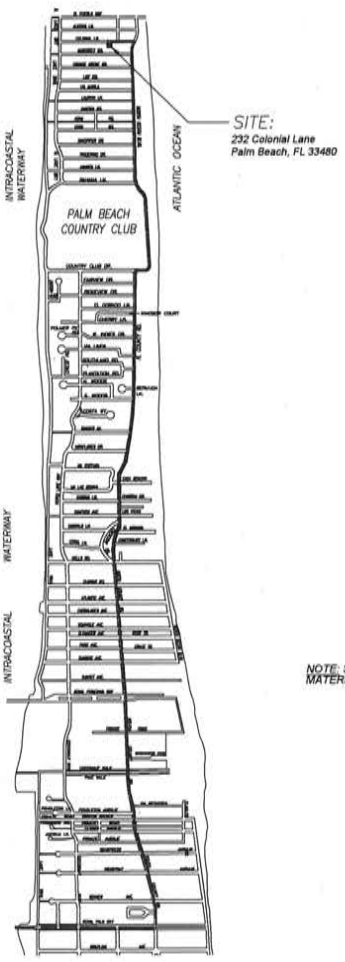
ARC#-23-041

# Construction Screening & Staging Plan

SCALE IN FEET 0' 4' 8' 12'

Private Residence
232 Colonial Lane
Town of Palm Beach
FLORIDA

SHEET L1.2




1 PROPOSED TRUCK INGRESS / EGRESS ROUTES MAP

SCHEDULE:

MONTH 1: DEMOLITION AND INSTALLATION (30 DAYS)

NOTE: SEE SEPARATE "CONSTRUCTION STAGING PLAN" SHEET FOR INFORMATION ON LOCATIONS FOR PARKING, MATERIAL STORAGE, DELIVERIES, DUMPSTER, PORTABLE TOILETS, TIRE CLEANING AREA, SILT FENCE, ETC.

PROPOSED INGRESS TRUCK ROUTE

PROPOSED EGRESS TRUCK ROUTE

Private Residence
252 Colonial Lane
Town of Palm Beach
FLORIDA

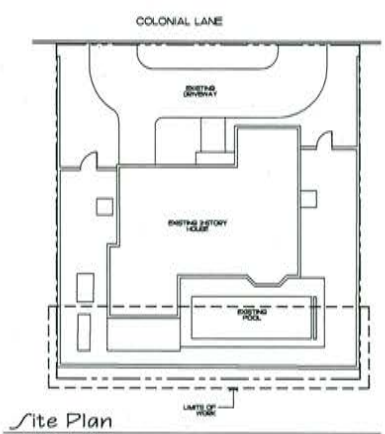
SHEET L1.3

ARC#-23-041

Truck Logistics Plan

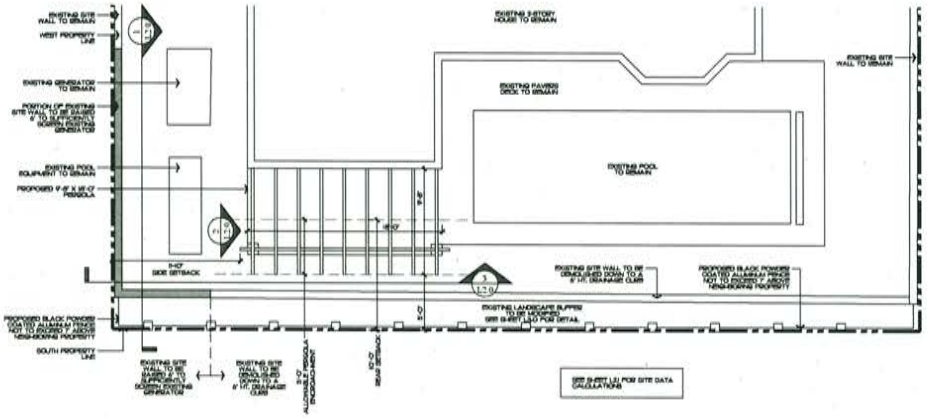
NOT TO SCALE

2023 2023




Site Plan

SCALE: 1/10" = 1'

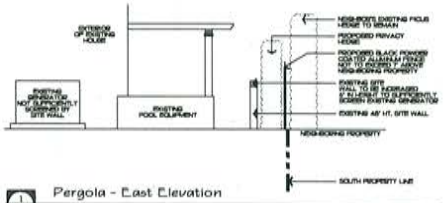



Hardscape Materials

PERGOLA DESIGN INTENDED TO BE PAINTED WHITE TO MATCH EXISTING EXTERIOR HOUSE COLOR

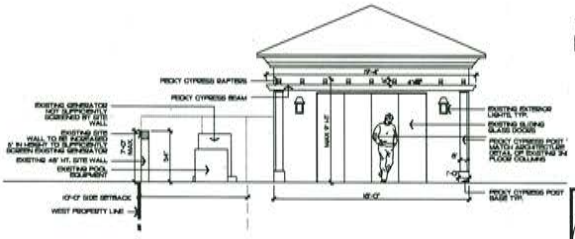
BLACK POWDER COATED ALUMINUM FENCE

PERGOLA POSTS TO MATCH ARCHITECTURAL DETAIL OF EXISTING 2ND FLOOR COLUMNS



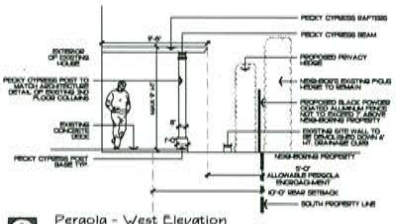

Pergola - East Elevation

SCALE: 1/4" = 1'




Pergola - South Elevation / Generator Screening Plan

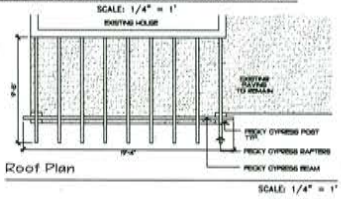
SCALE: 1/4" = 1'




Pergola - West Elevation

SCALE: 1/4" = 1'

PERGOLA TO BE PAINTED WHITE TO MATCH EXISTING EXTERIOR OF EXISTING RESIDENCE




Roof Plan

SCALE: 1/4" = 1'

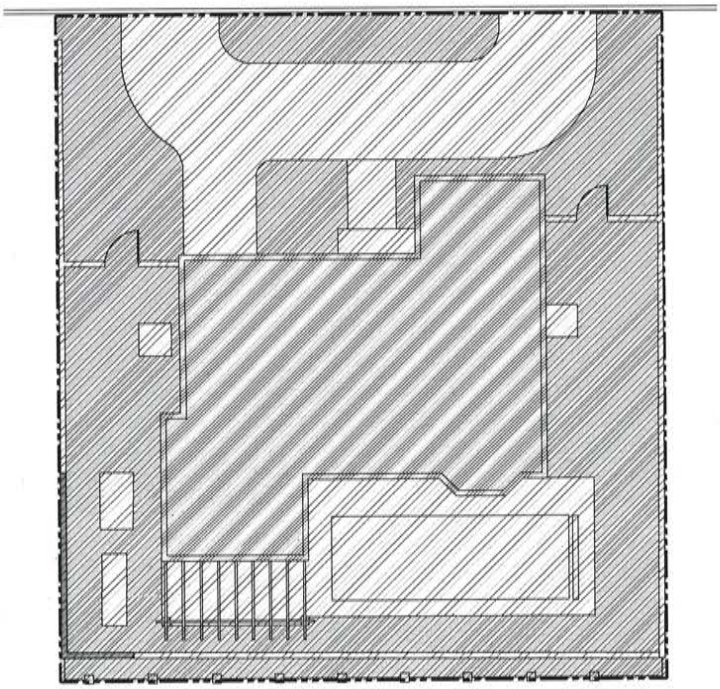
ARC#-23-041

Proposed Pergola

SCALE IN FEET 0' 4' 8' 12'

Private Residence
232 Colonial Lane
Town of Palm Beach
FLORIDA

SHEET L2.0



## Proposed Site Data

R-B LOW DENSITY RESIDENTIAL

| | REQUIRED | EXISTING | PROPOSED |
|---|---|---|---|
| LOT AREA | 10,000 SQ. FT. MINIMUM | 6,150 SQFT | 6,150 SQFT |
| LOT COVERAGE TWO-STORY BLDG. | MAXIMUM 30% 1,845 S.F. | 28% 1,604 S.F. | 28.9% 1,778 S.F. |
| LANDSCAPE OPEN SPACE | 45% 2,767.5 S.F. | 40.9% 2,514 S.F. | 40.9% 2,514 S.F. |

NOTES:
PERGOLA IS PROPOSED ON EXISTING DECK. SITE DATA CALCULATIONS WILL NOT BE AFFECTED BY PROPOSED MODIFICATIONS.

PROPOSED PERGOLA IS UNENCLOSED AND DOES NOT EXCEED 9' IN HEIGHT.

PROPOSED PERGOLA IS NOT MORE THAN 5% OF THE OVERALL LOT COVERAGE.

## Legend

- BUILDING FOOTPRINT
- HARDSCAPE
- LANDSCAPE – OPEN SPACE

ENVIRONMENT DESIGN GROUP
Landscape Architecture
Land Planning
Landscape Management

Private Residence
232 Colonial Lane
Town of Palm Beach
FLORIDA

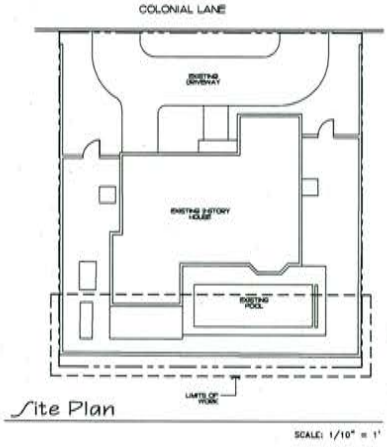
JOB NUMBER: # 22288.00 LA
DRAWN BY: Sean Tenney
Allison Padda
DATE: 03.03.2023
05.08.2023

SHEET L2.1

ARC#-23-041

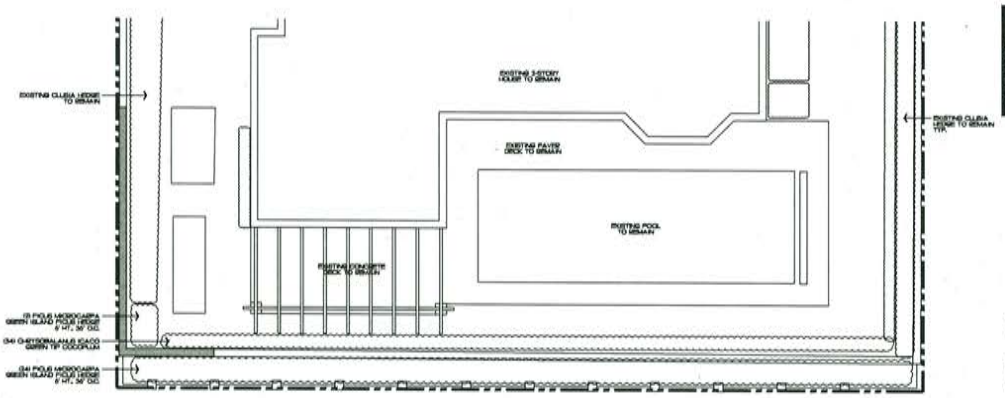
# Site Calculation/Lot Coverage Graphics

SCALE: 3/16" = 1




Site Plan

SCALE: 1/10" = 1'




Private Residence
232 Colonial Lane
Town of Palm Beach
FLORIDA

Shrubs

| SYMBOL | PLANT NAME | QTY. | DESCRIPTION | NATIVE |
|---|---|---|---|---|
| | CHRYSOBALANUS ICACO GREEN TIP COCOPLUM | 34 | 7 GAL., 24" O.C. | YES |
| | FICUS MICROCARPA GREEN ISLAND FICUS HEDGE | 26 | 6' HT., 36" O.C. | NO |
| | TOTAL: | 60 | | |
| | NATIVE SPECIES: | 34 (56.66%) | | |

JOB NUMBER: # 22288.00 LA
DRAWN BY: Jean Tenney
Allison Pardo
DATE: 01-23-2023
02-27-2023
03-06-2023

2023

2023

SHEET L3.0

ARC#-23-041

Landscape Plan

SCALE IN FEET 0' 4' 8' 12'

STORMWATER RETENTION CALCULATIONS

A. SITE INFORMATION

Total Property Area = 6,370 sq.ft.

Drainage Area Impervious Surface (existing driveway) = 3,443 sq.ft.

Drainage Area Pervious Surface = 2,703 sq.ft.

B. ESTIMATED STORMWATER RETENTION VOLUME

The retention volume is estimated using the Rational Method (QrVSA) where:
C = 1.0 (impervious surface)
C = 0.5 (pervious surface)
I = 2.0x3w

Impervious Surface Runoff Volume:
1.0 x 2.0x3w x 3,443 sq.ft. x 1 ft./12 in. = 574 cu.ft.

Pervious Runoff Volume:
0.5 x 2.0x3w x 2,703 sq.ft. x 1 ft./12 in. = 90 cu.ft.

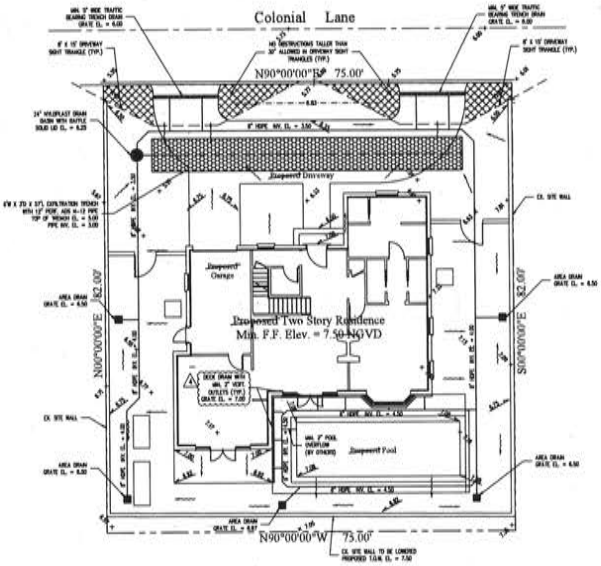
Total Volume to be Retained = 663 cu.ft.

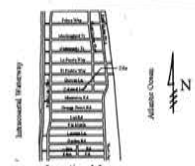
C. EXAMINATION EXFILTRATION TRENCH SIZING

| | | | | | |
|---|---|---|---|---|---|
| L | = | Total Length of Trench Provided | = | 37 | ft |
| W | = | Trench Width | = | 4 | ft |
| K | = | Hydraulic Conductivity | = | 0.00063 cfs/sq.ft./ft. of head | |
| HA | = | Depth to Water Table | = | 3.00 | ft |
| DU | = | Undisturbed Trench Depth | = | 2.00 | ft |
| DS | = | Saturated Trench Depth | = | 1.00 | ft |
| V | = | Volume Treated | = | 676 | cu.ft. |

## Notes:

1) Exfiltration trenches and storm piping to be protected from roots with a root barrier.
2) Roof drain downspouts are to be connected to the proposed drainage system. Contractor to provide engineer with downspout locations prior to installation of drainage system.
3) Exfiltration trench design uses an assumed value of hydraulic conductivity. Client may obtain a site specific test for hydraulic conductivity prior to exfiltration trench installation.
4) Contractor shall mill and overlay all roadway cuts a minimum of 30 ft on either side of the excavation the entire width of each affected lane.
5) Contractor is responsible for installing and maintaining erosion control measures during construction.
6) Video inspection of storm drainage system required prior to installation of sod.




## Legend

- EXISTING ELEVATION PER MILLER LAND SURVEYING (NGVD-29)
- PROPOSED ELEVATION (NGVD-29)
- PROPOSED ELEVATION CONTOUR (NGVD-29)
- FLOW DIRECTION
- EXFILTRATION TRENCH
- AREA DRAIN
- 24" HYLOPLAST DRAIN BASIN WITH BAFFLE

N

Scale: 1/8" = 1'-0"

## Record Drawing

THIS RECORD DRAWING IS A COMPILED REPRESENTATION OF A COPY OF THE SEALED ENGINEERING OR SURVEYING DRAWING APPROVED FOR THIS PROJECT, MODIFIED BY ADDENDA, CHANGE ORDERS, AND INFORMATION FURNISHED BY OTHERS. THE INFORMATION SHOWN ON THE RECORD DRAWINGS IS, TO THE BEST OF OUR KNOWLEDGE CORRECT BASED ON OBSERVATIONS PERFORMED DURING CONSTRUCTION AND OTHER INFORMATION.

| | | |
|---|---|---|
| 1 | 08/17/16 | UPDATE PLAN BACKGROUND; REVISE PROPOSED GRADING AND DRAINAGE |
| 2 | 11/16/16 | UPDATE PLAN BACKGROUND; REVISE PROPOSED GRADING AND DRAINAGE |
| 3 | 02/05/19 | INDICATE EX. WALL ALONG SOUTH PROPERTY LINE TO BE LOWERED |
| 4 | 10/07/19 | UPDATE PLAN TO REFLECT AS-BUILT DRAINAGE SYSTEM CONFIGURATION |

Plan Background from Site Plan by SKA Architect + Planner Received 11/14/16

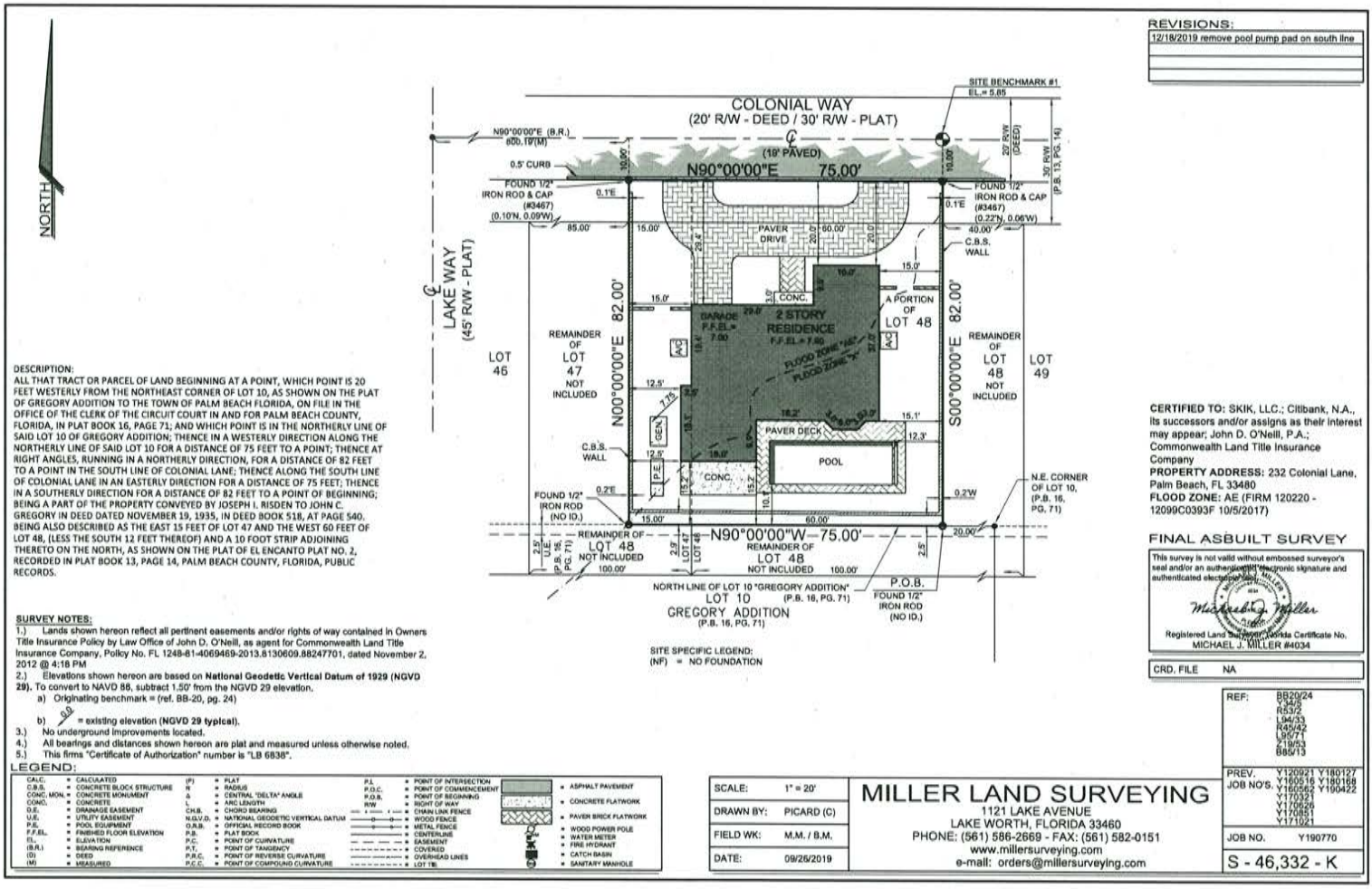
© 2019 Gruber Consulting Engineers, Inc.

Site Grading & Drainage Plan For
Kleinfeld Residence
Palm Beach, Florida
272 Colonial Lane

Revisions

Chad M. Gruber

Sheet No.
C-1




**REVISIONS:**

| 12/18/2019 remove pool pump pad on south line |
|---|
| |
| |
| |

DESCRIPTION:
ALL THAT TRACT OR PARCEL OF LAND BEGINNING AT A POINT, WHICH POINT IS 20 FEET WESTERLY FROM THE NORTHEAST CORNER OF LOT 10, AS SHOWN ON THE PLAT OF GREGORY ADDITION TO THE TOWN OF PALM BEACH FLORIDA, ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 16, PAGE 71; AND WHICH POINT IS IN THE NORTHERLY LINE OF SAID LOT 10 OF GREGORY ADDITION; THENCE IN A WESTERLY DIRECTION ALONG THE NORTHERLY LINE OF SAID LOT 10 FOR A DISTANCE OF 75 FEET TO A POINT; THENCE AT RIGHT ANGLES, RUNNING IN A NORTHERLY DIRECTION, FOR A DISTANCE OF 82 FEET TO A POINT IN THE SOUTH LINE OF COLONIAL LANE; THENCE ALONG THE SOUTH LINE OF COLONIAL LANE IN AN EASTERLY DIRECTION FOR A DISTANCE OF 75 FEET; THENCE IN A SOUTHERLY DIRECTION FOR A DISTANCE OF 82 FEET TO A POINT OF BEGINNING; BEING A PART OF THE PROPERTY CONVEYED BY JOSEPH I. RISDEN TO JOHN C. GREGORY IN DEED DATED NOVEMBER 19, 1935, IN DEED BOOK 518, AT PAGE 540. BEING ALSO DESCRIBED AS THE EAST 15 FEET OF LOT 47 AND THE WEST 60 FEET OF LOT 48, (LESS THE SOUTH 12 FEET THEREOF) AND A 10 FOOT STRIP ADJOINING THERETO ON THE NORTH, AS SHOWN ON THE PLAT OF EL ENCANTO PLAT NO. 2, RECORDED IN PLAT BOOK 13, PAGE 14, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS.

**SURVEY NOTES:**
1.) Lands shown hereon reflect all pertinent easements and/or rights of way contained in Owners Title Insurance Policy by Law Office of John D. O'Neill, as agent for Commonwealth Land Title Insurance Company, Policy No. FL 1248-61-4069469-2013.8130609.88247701, dated November 2, 2012 @ 4:18 PM
2.) Elevations shown hereon are based on **National Geodetic Vertical Datum of 1929 (NGVD 29).** To convert to NAVD 88, subtract 1.50' from the NGVD 29 elevation.
a) Originating benchmark = (ref. BB-20, pg. 24)
b) 0.0 = existing elevation **(NGVD 29 typical).**
3.) No underground improvements located.
4.) All bearings and distances shown hereon are plat and measured unless otherwise noted.
5.) This firms "Certificate of Authorization" number is "LB 6838".

LEGEND:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| CALC. | = CALCUALATED | (P) | = PLAT | P.I. | = POINT OF INTERSECTION | | = ASPHALT PAVEMENT |
| C.B.S. | = CONCRETE BLOCK STRUCTURE | R | = RADIUS | P.O.C. | = POINT OF COMMENCEMENT | | = CONCRETE FLATWORK |
| CONC. MON. | = CONCRETE MONUMENT | Δ | = CENTRAL "DELTA" ANGLE | P.O.B. | = POINT OF BEGINNING | | = PAVER BRICK FLATWORK |
| CONC. | = CONCRETE | L | = ARC LENGTH | R/W | = RIGHT OF WAY | | = WOOD POWER POLE |
| D.E. | = DRAINAGE EASEMENT | CH.B. | = CHORD BEARING | | = CHAIN LINK FENCE | | = WATER METER |
| U.E. | = UTILITY EASEMENT | N.G.V.D. | = NATIONAL GEODETIC VERTICAL DATUM | | = WOOD FENCE | | = FIRE HYDRANT |
| P.E. | = POOL EQUIPMENT | O.R.B. | = OFFICIAL RECORD BOOK | | = METAL FENCE | | = CATCH BASIN |
| F.F.EL. | = FINISHED FLOOR ELEVATION | P.B. | = PLAT BOOK | | = CENTERLINE | | = SANITARY MANHOLE |
| EL. | = ELEVATION | P.C. | = POINT OF CURVATURE | | = EASEMENT | | |
| (B.R.) | = BEARING REFERENCE | P.T. | = POINT OF TANGENCY | | = COVERED | | |
| (D) | = DEED | P.R.C. | = POINT OF REVERSE CURVATURE | | = OVERHEAD LINES | | |
| (M) | = MEASURED | P.C.C. | = POINT OF COMPOUND CURVATURE | | = LOT TIE | | |

**CERTIFIED TO:** SKIK, LLC.; Citibank, N.A., its successors and/or assigns as their interest may appear; John D. O'Neill, P.A.; Commonwealth Land Title Insurance Company
**PROPERTY ADDRESS:** 232 Colonial Lane, Palm Beach, FL 33480
**FLOOD ZONE:** AE (FIRM 120220 - 12099C0393F 10/5/2017)

**FINAL ASBUILT SURVEY**

This survey is not valid without embossed surveyor's seal and/or an authenticated electronic signature and authenticated electronic seal.

Registered Land Surveyor, Florida Certificate No.
MICHAEL J. MILLER #4034

| CRD. FILE | NA |
|---|---|

| REF: | BB20/24<br>Y348<br>R53/2<br>L94/33<br>R45/42<br>L95/71<br>F19/53<br>B85/13 |
|---|---|
| PREV. JOB NO'S. | Y120921 Y180127<br>Y160516 Y180168<br>Y160562 Y190422<br>Y170321<br>Y170526<br>Y170851<br>Y171021 |
| JOB NO. | Y190770 |
| | S - 46,332 - K |

| | |
|---|---|
| SCALE: | 1" = 20' |
| DRAWN BY: | PICARD (C) |
| FIELD WK: | M.M. / B.M. |
| DATE: | 09/26/2019 |


**MILLER LAND SURVEYING**
1121 LAKE AVENUE
LAKE WORTH, FLORIDA 33460
PHONE: (561) 586-2669 - FAX: (561) 582-0151
www.millersurveying.com
e-mail: orders@millersurveying.com

# EXHIBIT #5

## Sec. 18-177. - Appeals and review.

An applicant or any interested party may file an appeal to the town council on any ruling by the architectural commission or the director of the planning, zoning and building department or his/her designee made pursuant to this article. The appeal shall take the form of a letter addressed to the town clerk. In the case of an appeal from the architectural commission, the appeals shall be filed or made within ten calendar days of the date of the meeting at which the decision of the commission is rendered. In the case of an appeal from the decision of the director of planning, zoning and building, the appeal shall be filed or made within ten calendar days of the date the director of the planning, zoning and building department or his or her designee renders the decision in writing. Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this Code. The town council shall decide an appeal within 45 days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall suspend any building permit issued pursuant to the ruling of the architectural commission or director of the planning, zoning and building department or his/her designee until the town council has decided the appeal. The town council may review any decision of the architectural commission or the director of the planning, zoning and building department and its disposition of the matter shall be final. In addition to appeals, the town council shall consider major projects as defined in the ARCOM Project Designation Manual at the next regularly scheduled town council meeting, subsequent to the meeting of the commission. The disposition of such matters by the town council shall be final. Appeals filed pursuant to this section shall be based on the record of the proceedings below and shall not be presented de novo. The time allotted for presentation of an appeal shall be determined by the town council president.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

**ZASLAV & ARMBRUSTER, P.A.**
*Attorneys at Law*
P.O. BOX 670914
CORAL SPRINGS, FLORIDA 33067
TELEPHONE (954) 205-3776 (Zaslav Direct)
TELEPHONE (954) 501-8155 (Armbruster Direct)
WWW.SZTALAW.COM

SCOTT M. ZASLAV, ESQ.
szaslav@sztalaw.com

June 27, 2023

**Via e-mail:**
pgayle-gordon@townofpalmbeach.com
kchurney@townofpalmbeach.com
kdeclaire@townofpalmbeach.com

Pat Gayle-Gordon, Deputy Town Clerk
Kelly Churney, Deputy Town Clerk
Katherine deClaire, Clerk Support Assistant
Town Of Palm Beach
360 South County Road
Palm Beach, FL 33480

**Re:** **Appeal By Steven & Heather Wolf From ARCOM's May 24, 2023 Approval Of ARC-23-041**
**Applicants:** **George & Zvenka Kleinfeld**
**Property Address:** **232 Colonial Lane**

Dear Ms. Gayle-Gordon; Ms. Churney; & Ms. Declaire,

This Firm represents Steven & Heather Wolf (collectively the "Wolfs") who previously filed an appeal on June 2, 2023 from ARCOM's approval of ARC-23-041 relating to the above referenced Applicants' and their property located at 232 Colonial Lane.

Having reviewed the Town's online Public Meeting Audio & Agendas, I note that the next meeting of the Town Council relating to Development Review is scheduled for July 12, 2023. The Wolfs respectfully request that their appeal be scheduled on the Town Council's Development Review Agenda ***in August*** as they will be out of the country on July 12th in connection with a previously scheduled and pre-paid trip and cannot attend on that date.

Kindly confirm, via e-mail, receipt of the Wolfs' request to defer scheduling their appeal on the Town Council's Development Review Agenda **in August, 2023**.

Very truly yours,

**ZASLAV & ARMBRUSTER, P.A.**

By:*/s/ Scott M. Zaslav*
For The Firm

cc Steven & Heather Wolf

| | |
|---|---|
| **From:** | Crowley, James |
| **To:** | Antonette Fabrizi |
| **Cc:** | Lindgren, John; John (Skip) C. Randolph; Dustin; Wayne Bergman; James Murphy; Kelly Churney |
| **Subject:** | Re: REQUEST FOR DEFERRAL TO AUGUST TCM BY APPELLANT - APPEAL of MAY 24, 2023, ARCOM APPROVAL RE: 232 COLONIAL LN |
| **Date:** | Wednesday, June 28, 2023 3:47:49 PM |
| **Attachments:** | FW Steven Heather Wolfs Request For Postponement Of Town Council"s Consideration Of Appeal Relating To ARC-23-041.msg<br>Request For Postponement Of Appeal Hearing.pdf<br>232 COLONIAL LN_APPEAL OF ARCOM APPROVAL AT MAY 24, 2023 MTG._06.08.23.pdf |

******Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

Hi Antonette,

We will agree to the deferral of this frivolous appeal. We will deal with recovering our client's costs and fees if and when the appellants pursue similarly frivolous judicial action. Thanks!

Jamie

James M. Crowley, Esq.
**Gunster**
777 South Flagler Drive
Suite 500 East
West Palm Beach, FL 33401
(561) 650-0633

Sent from my iPhone

> On Jun 28, 2023, at 5:52 PM, Antonette Fabrizi <afabrizi@townofpalmbeach.com> wrote:
>
> Good morning Jamie,
>
> Scott M. Zaslav, Esq, the legal representative of the Wolfs in the Appeal of the May ARCOM approval of ARC-23-041 232 Colonial Lane, has reached out to the clerk's office to request a deferral of the appeal to the August Town Council Development Review meeting. Please see the email attached and the letter of request.
>
> Please advise if you and your client are agreeable to the deferral request or not.
>
> Currently, this matter is schedule to be heard at the July 12, 2023, Town Council Development Review meeting.

I have also included a copy of the appeal for ease of access.

Thank you,

**Antonette Fabrizi**
**Administrative Assistant**

Planning, Zoning & Building Department
Town of Palm Beach
360 S County Road
Palm Beach, FL 33480
Ph: 561-227-6408
www.townofpalmbeach.com

---

**From:** Wayne Bergman <wbergman@TownOfPalmBeach.com>
**Sent:** Thursday, June 08, 2023 9:43 AM
**To:** Antonette Fabrizi <afabrizi@TownOfPalmBeach.com>; James Murphy <jmurphy@TownOfPalmBeach.com>; James M. Crowley - Gunster (jcrowley@gunster.com) <JCrowley@gunster.com>; Lindgren, John <JLindgren@gunster.com>; jrandolph@jonesfoster.com
**Cc:** Dustin <Dustin@environmentdesigngroup.com>; Sarah Pardue <spardue@TownOfPalmBeach.com>; Jordan Hodges <jhodges@TownOfPalmBeach.com>; Bradley Falco <bfalco@TownOfPalmBeach.com>; Jennifer Hofmeister-Drew <jhofmeister@TownOfPalmBeach.com>; James Murphy <jmurphy@TownOfPalmBeach.com>
**Subject:** RE: APPEAL of MAY 24, 2023, ARCOM APPROVAL RE: 232 COLONIAL LN

Antonette – schedule this appeal for the July 12, 2023 TC Dev Rev mtg. Thanks.

**Wayne Bergman, MCP, LEED® AP**
**Director**
Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, FL 33480
Office: 561-227-6426
**www.townofpalmbeach.com**

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**From:** Antonette Fabrizi <afabrizi@TownOfPalmBeach.com>
**Sent:** Thursday, June 8, 2023 9:15 AM
**To:** Wayne Bergman <wbergman@TownOfPalmBeach.com>; James Murphy <jmurphy@TownOfPalmBeach.com>; James M. Crowley - Gunster (jcrowley@gunster.com) <JCrowley@gunster.com>; Lindgren, John <JLindgren@gunster.com>; jrandolph@jonesfoster.com
**Cc:** Dustin <Dustin@environmentdesigngroup.com>; Sarah Pardue <spardue@TownOfPalmBeach.com>; Jordan Hodges

<jhodges@TownOfPalmBeach.com>
**Subject:** APPEAL of MAY 24, 2023, ARCOM APPROVAL RE: 232 COLONIAL LN

Good morning All,

Please see the attached appeal of the May 24, 2023, ARCOM approval regarding 232 Colonial Lane.

Thank you,

**Antonette Fabrizi**
**Administrative Assistant**

Planning, Zoning & Building Department
Town of Palm Beach
360 S County Road
Palm Beach, FL 33480
Ph: 561-227-6408
www.townofpalmbeach.com

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# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Time Extensions

Agenda Title
Waiver of Town Code Section 42-199, For Construction Work Hour Extension at 170 N. Ocean Blvd.

Presenter

ATTACHMENTS:

- **Memorandum Dated June 28, 2023, from Wayne Bergman, Director of Planning, Building and Zoning**
- **Letter Dated June 27, 2023, from James Gallo, Requesting a Work Hour Extension**
- **Construction Schedule**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: July 12, 2023

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To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Waiver of Town Code Section 42-199, For Construction Work Hour Extension at 170 N. Ocean Blvd.

Date: June 28, 2023

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## STAFF RECOMMENDATION

Staff recommends that the Town Council consider the request from James Gallo, President of Waterfront Services, regarding an extension of construction hours in which to complete a concrete restoration project at the Ocean Towers North Condominium, 170 N. Ocean Blvd. The request is to work Saturdays during the summer season. The construction schedule shows a possible completion date January 3, 2024 (without Saturday work).

## GENERAL INFORMATION

The concrete restoration building permit was issued on February 22, 2023, and is scheduled to expire in June of 2024. The attached schedule shows possible project completion of all stacks on January 3, 2024.

The Town Code restricts Saturday work, as shown below. Only the Town Council can approve an exception to the work restrictions.

*"Sec. 42-199. - Hours for construction work.*
*Limited. Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March and April of each year, construction work not otherwise prohibited by section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday and observed town holidays, and the days before and after Thanksgiving, when all construction and lawn maintenance work, other than as excepted in section 42-230, is prohibited. In no event shall heavy equipment or other outdoor construction-related and lawn maintenance noise be permitted before 9:00 a.m. Beginning on May 1 until the Monday preceding Thanksgiving, work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and town observed holidays, when all construction and lawn maintenance work is restricted or prohibited. In no event shall heavy equipment or other outdoor construction-related and lawn maintenance noise be permitted before 9:00 a.m. Construction work is permissible on Saturdays from May 1 through the*

*Monday preceding Thanksgiving, but subject to the following restrictions: work shall not begin until the hour of 9:00 a.m. and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature and limited to indoor activity, with the exception of quiet lawn maintenance work and tree trimming); material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restrictions due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending October 31, except Sundays and legal holidays, when all construction work is prohibited. Workers are prohibited from arriving at construction and lawn maintenance sites prior to 7:30 a.m. and are restricted from conducting any kind of site activity prior to 8:00 a.m. during the weekdays. Workers are prohibited from arriving at construction and lawn maintenance sites prior to 8:30 a.m. and are restricted from conducting any kind of site activity prior to 9:00 a.m. on Saturdays, when limited."*

Staff has no objection to the request.

Attachment: Letter from James Gallo, President, w/ Construction Schedule

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR
CGC#1506787

June 27, 2023

Town of Palm Beach Building Department
Antonette Fabrizi
Wayne Bergman, Director/Building Official

RE: B22-97621 (170 N. Ocean Boulevard, Palm Beach, FL)

Dear Officials,

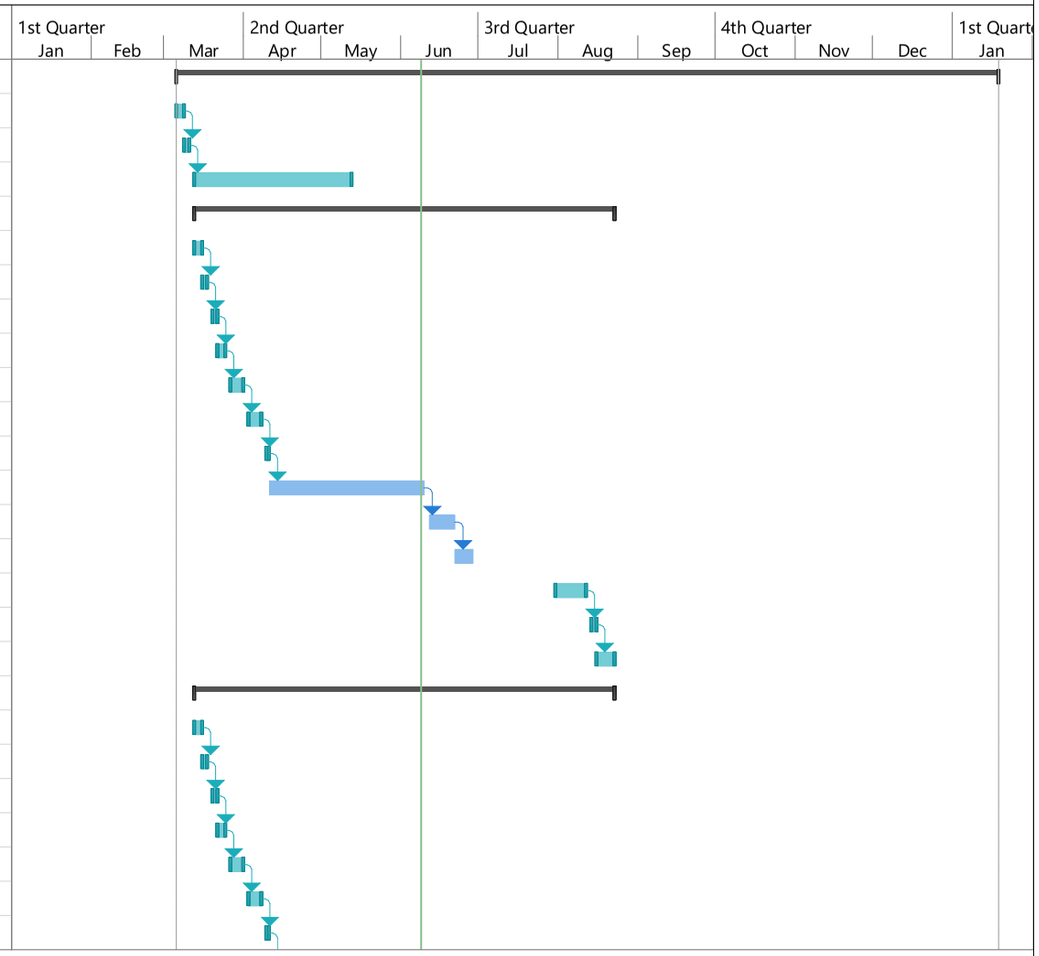
We would like to request permission to work on Saturdays during the Summer Season. This is the rainy season and we need to prevent water intrusion. We request permission to do light waterproofing and exterior stucco if necessary. We respect the Towns ordinance and will do our best to use this permission with consideration of the residents and local community.
Thank you for your consideration,

James Gallo
President

908 10th Street Lake Park, FL 33403 * Phone (561) 721-2902 * Fax (561) 360-2042

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR

| ID | Task Mode | Task Name | Duration | Start | Finish |
|---|---|---|---|---|---|
| 1 | | **Ocean Towers North** | **217 days** | **Mon 3/6/23** | **Thu 1/18/24** |
| 2 | | Mobilize Project | 3 days | Mon 3/6/23 | Wed 3/8/23 |
| 3 | | Video Survey | 2 days | Thu 3/9/23 | Fri 3/10/23 |
| 4 | | Order Railings | 45 days | Mon 3/13/23 | Fri 5/12/23 |
| 5 | | **Stack 11** | **114 days** | **Mon 3/13/23** | **Tue 8/22/23** |
| 6 | | Mobilize Stack | 3 days | Mon 3/13/23 | Wed 3/15/23 |
| 7 | | Install Scaffolding | 2 days | Thu 3/16/23 | Fri 3/17/23 |
| 8 | | Video Survey | 2 days | Mon 3/20/23 | Tue 3/21/23 |
| 9 | | Cover-up Windows and SGD's | 3 days | Wed 3/22/23 | Fri 3/24/23 |
| 10 | | Remove Existing Railing | 5 days | Mon 3/27/23 | Fri 3/31/23 |
| 11 | | Remove Exisiting Floor Finish | 5 days | Mon 4/3/23 | Fri 4/7/23 |
| 12 | | Engineer to Mark Repairs | 1 day | Mon 4/10/23 | Mon 4/10/23 |
| 13 | | Repair Concrete | 43 days | Tue 4/11/23 | Fri 6/9/23 |
| 14 | | Waterproof Balconies | 7 days | Mon 6/12/23 | Wed 6/21/23 |
| 15 | | Paint and Caulk | 5 days | Thu 6/22/23 | Wed 6/28/23 |
| 16 | | Install Railings | 10 days | Mon 7/31/23 | Fri 8/11/23 |
| 17 | | Punchout | 2 days | Mon 8/14/23 | Tue 8/15/23 |
| 18 | | Demobilize Stack | 5 days | Wed 8/16/23 | Tue 8/22/23 |
| 19 | | **Stack 09** | **114 days** | **Mon 3/13/23** | **Tue 8/22/23** |
| 20 | | Mobilize Stack | 3 days | Mon 3/13/23 | Wed 3/15/23 |
| 21 | | Install Scaffolding | 2 days | Thu 3/16/23 | Fri 3/17/23 |
| 22 | | Video Survey | 2 days | Mon 3/20/23 | Tue 3/21/23 |
| 23 | | Cover-up Windows and SGD's | 3 days | Wed 3/22/23 | Fri 3/24/23 |
| 24 | | Remove Existing Railing | 5 days | Mon 3/27/23 | Fri 3/31/23 |
| 25 | | Remove Exisiting Floor Finish | 5 days | Mon 4/3/23 | Fri 4/7/23 |
| 26 | | Engineer to Mark Repairs | 1 day | Mon 4/10/23 | Mon 4/10/23 |

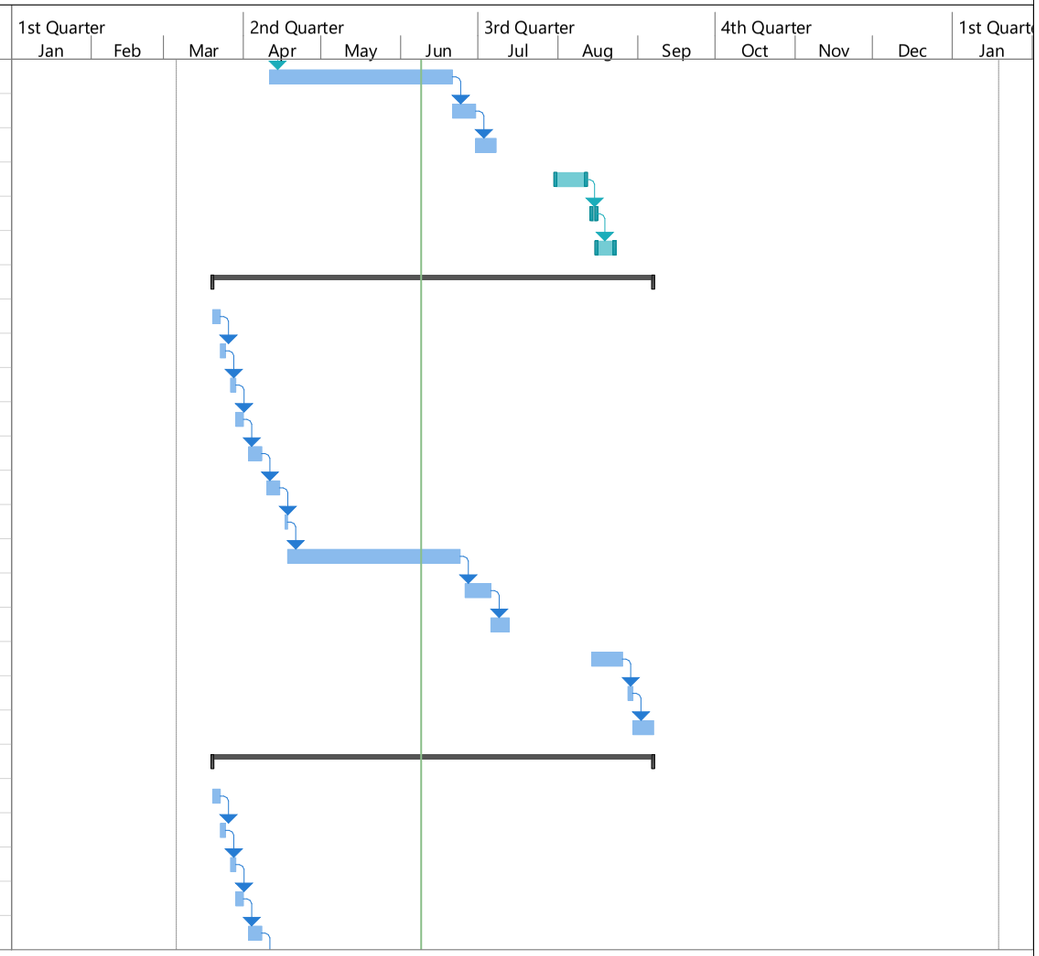



Project: Ocean Towers North
Date: Fri 6/9/23

| | | | | |
|---|---|---|---|---|
| Task | Project Summary | Manual Task | Start-only | Deadline |
| Split | Inactive Task | Duration-only | Finish-only | Progress |
| Milestone | Inactive Milestone | Manual Summary Rollup | External Tasks | Manual Progress |
| Summary | Inactive Summary | Manual Summary | External Milestone | |

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR

| ID | Task Mode | Task Name | Duration | Start | Finish |
|---|---|---|---|---|---|
| 27 | | Repair Concrete | 49 days | Tue 4/11/23 | Tue 6/20/23 |
| 28 | | Waterproof Balconies | 7 days | Wed 6/21/23 | Thu 6/29/23 |
| 29 | | Paint and Caulk | 5 days | Fri 6/30/23 | Fri 7/7/23 |
| 30 | | Install Railings | 10 days | Mon 7/31/23 | Fri 8/11/23 |
| 31 | | Punchout | 2 days | Mon 8/14/23 | Tue 8/15/23 |
| 32 | | Demobilize Stack | 5 days | Wed 8/16/23 | Tue 8/22/23 |
| 33 | | **Stack 07** | **119 days** | **Mon 3/20/23** | **Wed 9/6/23** |
| 34 | | Mobilize Stack | 3 days | Mon 3/20/23 | Wed 3/22/23 |
| 35 | | Install Scaffolding | 2 days | Thu 3/23/23 | Fri 3/24/23 |
| 36 | | Video Survey | 2 days | Mon 3/27/23 | Tue 3/28/23 |
| 37 | | Cover-up Windows and SGD's | 3 days | Wed 3/29/23 | Fri 3/31/23 |
| 38 | | Remove Existing Railing | 5 days | Mon 4/3/23 | Fri 4/7/23 |
| 39 | | Remove Exisiting Floor Finish | 5 days | Mon 4/10/23 | Fri 4/14/23 |
| 40 | | Engineer to Mark Repairs | 1 day | Mon 4/17/23 | Mon 4/17/23 |
| 41 | | Repair Concrete | 47 days | Tue 4/18/23 | Fri 6/23/23 |
| 42 | | Waterproof Balconies | 7 days | Mon 6/26/23 | Wed 7/5/23 |
| 43 | | Paint and Caulk | 5 days | Thu 7/6/23 | Wed 7/12/23 |
| 44 | | Install Railings | 10 days | Mon 8/14/23 | Fri 8/25/23 |
| 45 | | Punchout | 2 days | Mon 8/28/23 | Tue 8/29/23 |
| 46 | | Demobilize Stack | 5 days | Wed 8/30/23 | Wed 9/6/23 |
| 47 | | **Stack 05** | **119 days** | **Mon 3/20/23** | **Wed 9/6/23** |
| 48 | | Mobilize Stack | 3 days | Mon 3/20/23 | Wed 3/22/23 |
| 49 | | Install Scaffolding | 2 days | Thu 3/23/23 | Fri 3/24/23 |
| 50 | | Video Survey | 2 days | Mon 3/27/23 | Tue 3/28/23 |
| 51 | | Cover-up Windows and SGD's | 3 days | Wed 3/29/23 | Fri 3/31/23 |
| 52 | | Remove Existing Railing | 5 days | Mon 4/3/23 | Fri 4/7/23 |

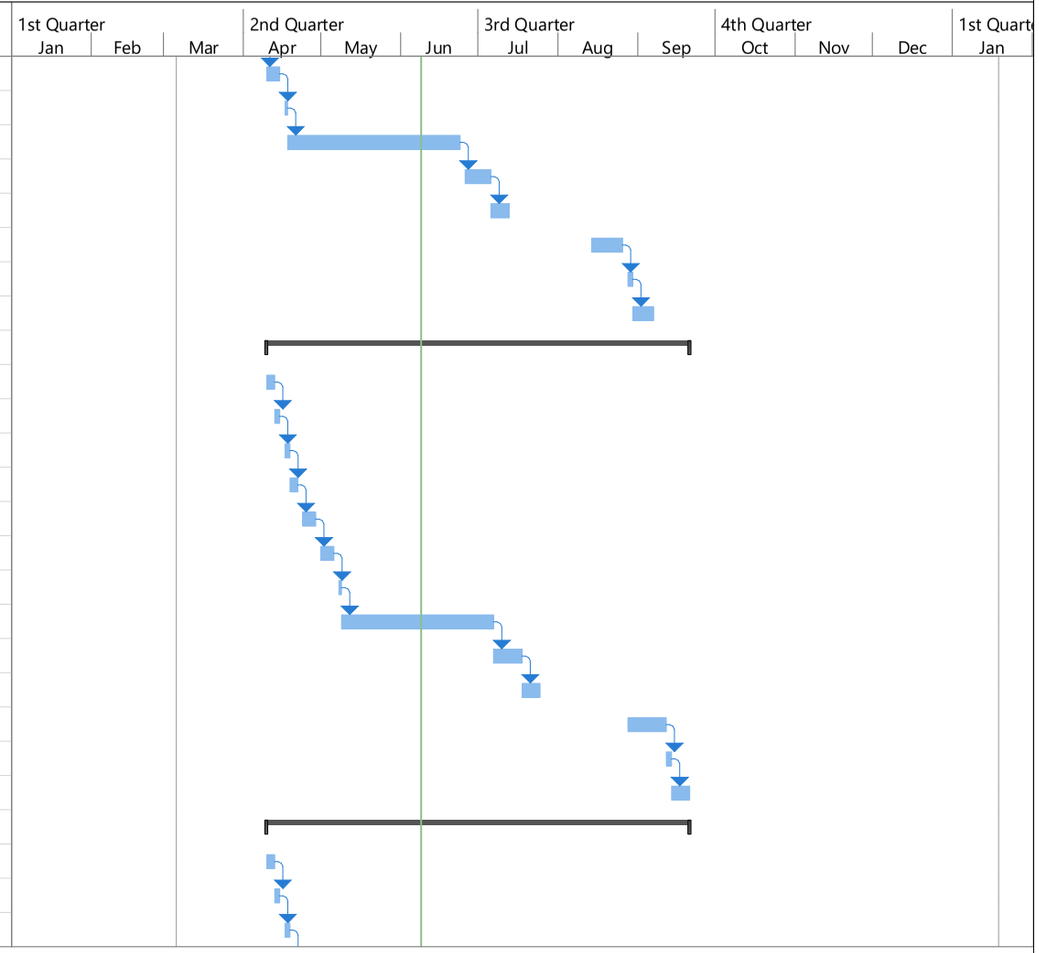



Project: Ocean Towers North
Date: Fri 6/9/23

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Task | Project Summary | Manual Task | Start-only | Deadline |
| Split | Inactive Task | Duration-only | Finish-only | Progress |
| Milestone | Inactive Milestone | Manual Summary Rollup | External Tasks | Manual Progress |
| Summary | Inactive Summary | Manual Summary | External Milestone | |

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR

| ID | Task Mode | Task Name | Duration | Start | Finish |
|---|---|---|---|---|---|
| 53 | | Remove Exisiting Floor Finish | 5 days | Mon 4/10/23 | Fri 4/14/23 |
| 54 | | Engineer to Mark Repairs | 1 day | Mon 4/17/23 | Mon 4/17/23 |
| 55 | | Repair Concrete | 47 days | Tue 4/18/23 | Fri 6/23/23 |
| 56 | | Waterproof Balconies | 7 days | Mon 6/26/23 | Wed 7/5/23 |
| 57 | | Paint and Caulk | 5 days | Thu 7/6/23 | Wed 7/12/23 |
| 58 | | Install Railings | 10 days | Mon 8/14/23 | Fri 8/25/23 |
| 59 | | Punchout | 2 days | Mon 8/28/23 | Tue 8/29/23 |
| 60 | | Demobilize Stack | 5 days | Wed 8/30/23 | Wed 9/6/23 |
| 61 | | **Stack 03** | **114 days** | **Mon 4/10/23** | **Wed 9/20/23** |
| 62 | | Mobilize Stack | 3 days | Mon 4/10/23 | Wed 4/12/23 |
| 63 | | Install Scaffolding | 2 days | Thu 4/13/23 | Fri 4/14/23 |
| 64 | | Video Survey | 2 days | Mon 4/17/23 | Tue 4/18/23 |
| 65 | | Cover-up Windows and SGD's | 3 days | Wed 4/19/23 | Fri 4/21/23 |
| 66 | | Remove Existing Railing | 5 days | Mon 4/24/23 | Fri 4/28/23 |
| 67 | | Remove Exisiting Floor Finish | 5 days | Mon 5/1/23 | Fri 5/5/23 |
| 68 | | Engineer to Mark Repairs | 1 day | Mon 5/8/23 | Mon 5/8/23 |
| 69 | | Repair Concrete | 40 days | Tue 5/9/23 | Thu 7/6/23 |
| 70 | | Waterproof Balconies | 7 days | Fri 7/7/23 | Mon 7/17/23 |
| 71 | | Paint and Caulk | 5 days | Tue 7/18/23 | Mon 7/24/23 |
| 72 | | Install Railings | 10 days | Mon 8/28/23 | Mon 9/11/23 |
| 73 | | Punchout | 2 days | Tue 9/12/23 | Wed 9/13/23 |
| 74 | | Demobilize Stack | 5 days | Thu 9/14/23 | Wed 9/20/23 |
| 75 | | **Stack 01 South** | **114 days** | **Mon 4/10/23** | **Wed 9/20/23** |
| 76 | | Mobilize Stack | 3 days | Mon 4/10/23 | Wed 4/12/23 |
| 77 | | Install Scaffolding | 2 days | Thu 4/13/23 | Fri 4/14/23 |
| 78 | | Video Survey | 2 days | Mon 4/17/23 | Tue 4/18/23 |

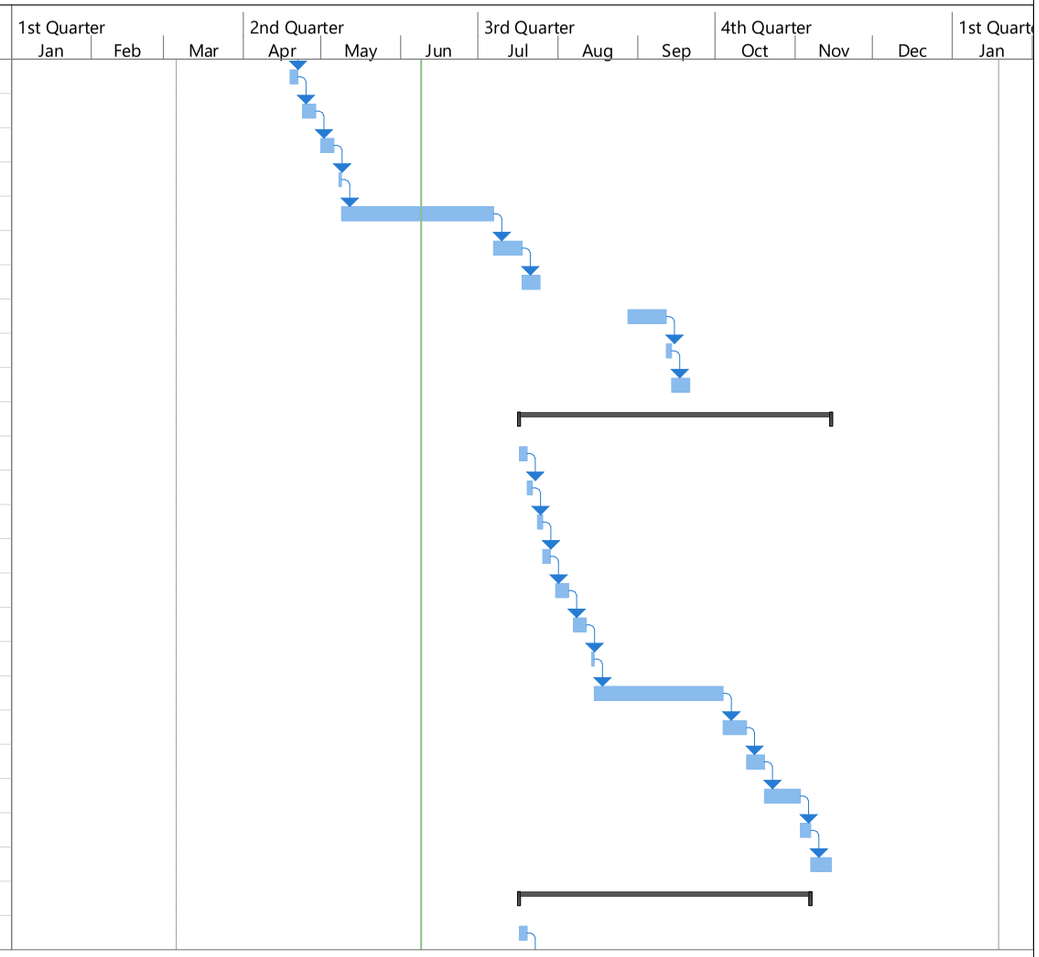



Project: Ocean Towers North
Date: Fri 6/9/23

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Task | Project Summary | Manual Task | Start-only | Deadline |
| Split | Inactive Task | Duration-only | Finish-only | Progress |
| Milestone | Inactive Milestone | Manual Summary Rollup | External Tasks | Manual Progress |
| Summary | Inactive Summary | Manual Summary | External Milestone | |

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR

| ID | Task Mode | Task Name | Duration | Start | Finish |
|---|---|---|---|---|---|
| 79 | | Cover-up Windows and SGD's | 3 days | Wed 4/19/23 | Fri 4/21/23 |
| 80 | | Remove Existing Railing | 5 days | Mon 4/24/23 | Fri 4/28/23 |
| 81 | | Remove Exisiting Floor Finish | 5 days | Mon 5/1/23 | Fri 5/5/23 |
| 82 | | Engineer to Mark Repairs | 1 day | Mon 5/8/23 | Mon 5/8/23 |
| 83 | | Repair Concrete | 40 days | Tue 5/9/23 | Thu 7/6/23 |
| 84 | | Waterproof Balconies | 7 days | Fri 7/7/23 | Mon 7/17/23 |
| 85 | | Paint and Caulk | 5 days | Tue 7/18/23 | Mon 7/24/23 |
| 86 | | Install Railings | 10 days | Mon 8/28/23 | Mon 9/11/23 |
| 87 | | Punchout | 2 days | Tue 9/12/23 | Wed 9/13/23 |
| 88 | | Demobilize Stack | 5 days | Thu 9/14/23 | Wed 9/20/23 |
| 89 | | **Stack 01 East** | **85 days** | **Mon 7/17/23** | **Tue 11/14/23** |
| 90 | | Mobilize Stack | 3 days | Mon 7/17/23 | Wed 7/19/23 |
| 91 | | Install Scaffolding | 2 days | Thu 7/20/23 | Fri 7/21/23 |
| 92 | | Video Survey | 2 days | Mon 7/24/23 | Tue 7/25/23 |
| 93 | | Cover-up Windows and SGD's | 3 days | Wed 7/26/23 | Fri 7/28/23 |
| 94 | | Remove Existing Railing | 5 days | Mon 7/31/23 | Fri 8/4/23 |
| 95 | | Remove Exisiting Floor Finish | 5 days | Mon 8/7/23 | Fri 8/11/23 |
| 96 | | Engineer to Mark Repairs | 1 day | Mon 8/14/23 | Mon 8/14/23 |
| 97 | | Repair Concrete | 35 days | Tue 8/15/23 | Tue 10/3/23 |
| 98 | | Waterproof Balconies | 7 days | Wed 10/4/23 | Thu 10/12/23 |
| 99 | | Paint and Caulk | 5 days | Fri 10/13/23 | Thu 10/19/23 |
| 100 | | Install Railings | 10 days | Fri 10/20/23 | Thu 11/2/23 |
| 101 | | Punchout | 2 days | Fri 11/3/23 | Mon 11/6/23 |
| 102 | | Demobilize Stack | 5 days | Tue 11/7/23 | Tue 11/14/23 |
| 103 | | **Stack 02 East** | **80 days** | **Mon 7/17/23** | **Mon 11/6/23** |
| 104 | | Mobilize Stack | 3 days | Mon 7/17/23 | Wed 7/19/23 |

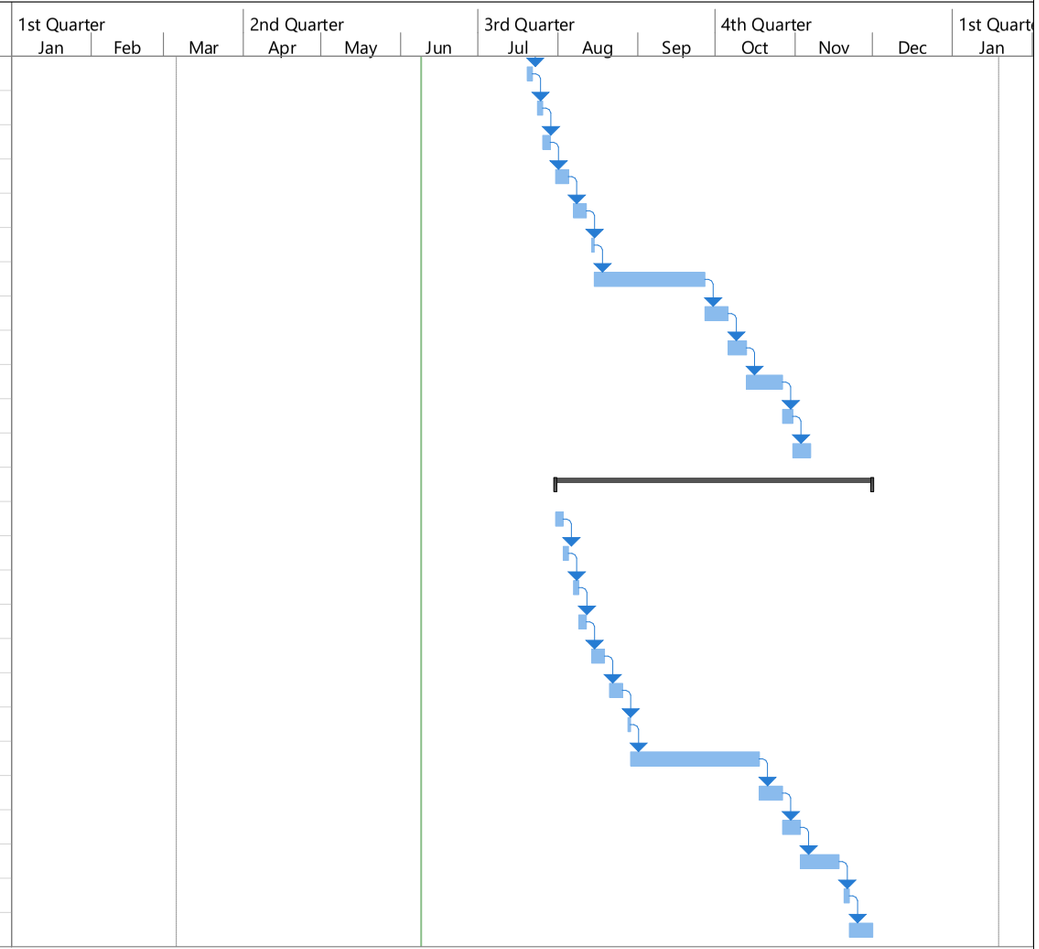



Project: Ocean Towers North
Date: Fri 6/9/23

| | | | | |
|---|---|---|---|---|
| Task | Project Summary | Manual Task | Start-only | Deadline |
| Split | Inactive Task | Duration-only | Finish-only | Progress |
| Milestone | Inactive Milestone | Manual Summary Rollup | External Tasks | Manual Progress |
| Summary | Inactive Summary | Manual Summary | External Milestone | |

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR

| ID | Task Mode | Task Name | Duration | Start | Finish |
|---|---|---|---|---|---|
| 105 | | Install Scaffolding | 2 days | Thu 7/20/23 | Fri 7/21/23 |
| 106 | | Video Survey | 2 days | Mon 7/24/23 | Tue 7/25/23 |
| 107 | | Cover-up Windows and SGD's | 3 days | Wed 7/26/23 | Fri 7/28/23 |
| 108 | | Remove Existing Railing | 5 days | Mon 7/31/23 | Fri 8/4/23 |
| 109 | | Remove Exisiting Floor Finish | 5 days | Mon 8/7/23 | Fri 8/11/23 |
| 110 | | Engineer to Mark Repairs | 1 day | Mon 8/14/23 | Mon 8/14/23 |
| 111 | | Repair Concrete | 30 days | Tue 8/15/23 | Tue 9/26/23 |
| 112 | | Waterproof Balconies | 7 days | Wed 9/27/23 | Thu 10/5/23 |
| 113 | | Paint and Caulk | 5 days | Fri 10/6/23 | Thu 10/12/23 |
| 114 | | Install Railings | 10 days | Fri 10/13/23 | Thu 10/26/23 |
| 115 | | Punchout | 2 days | Fri 10/27/23 | Mon 10/30/23 |
| 116 | | Demobilize Stack | 5 days | Tue 10/31/23 | Mon 11/6/23 |
| 117 | | **Stack 02 North** | **85 days** | **Mon 7/31/23** | **Thu 11/30/23** |
| 118 | | Mobilize Stack | 3 days | Mon 7/31/23 | Wed 8/2/23 |
| 119 | | Install Scaffolding | 2 days | Thu 8/3/23 | Fri 8/4/23 |
| 120 | | Video Survey | 2 days | Mon 8/7/23 | Tue 8/8/23 |
| 121 | | Cover-up Windows and SGD's | 3 days | Wed 8/9/23 | Fri 8/11/23 |
| 122 | | Remove Existing Railing | 5 days | Mon 8/14/23 | Fri 8/18/23 |
| 123 | | Remove Exisiting Floor Finish | 5 days | Mon 8/21/23 | Fri 8/25/23 |
| 124 | | Engineer to Mark Repairs | 1 day | Mon 8/28/23 | Mon 8/28/23 |
| 125 | | Repair Concrete | 35 days | Tue 8/29/23 | Tue 10/17/23 |
| 126 | | Waterproof Balconies | 7 days | Wed 10/18/23 | Thu 10/26/23 |
| 127 | | Paint and Caulk | 5 days | Fri 10/27/23 | Thu 11/2/23 |
| 128 | | Install Railings | 10 days | Fri 11/3/23 | Fri 11/17/23 |
| 129 | | Punchout | 2 days | Mon 11/20/23 | Tue 11/21/23 |
| 130 | | Demobilize Stack | 5 days | Wed 11/22/23 | Thu 11/30/23 |

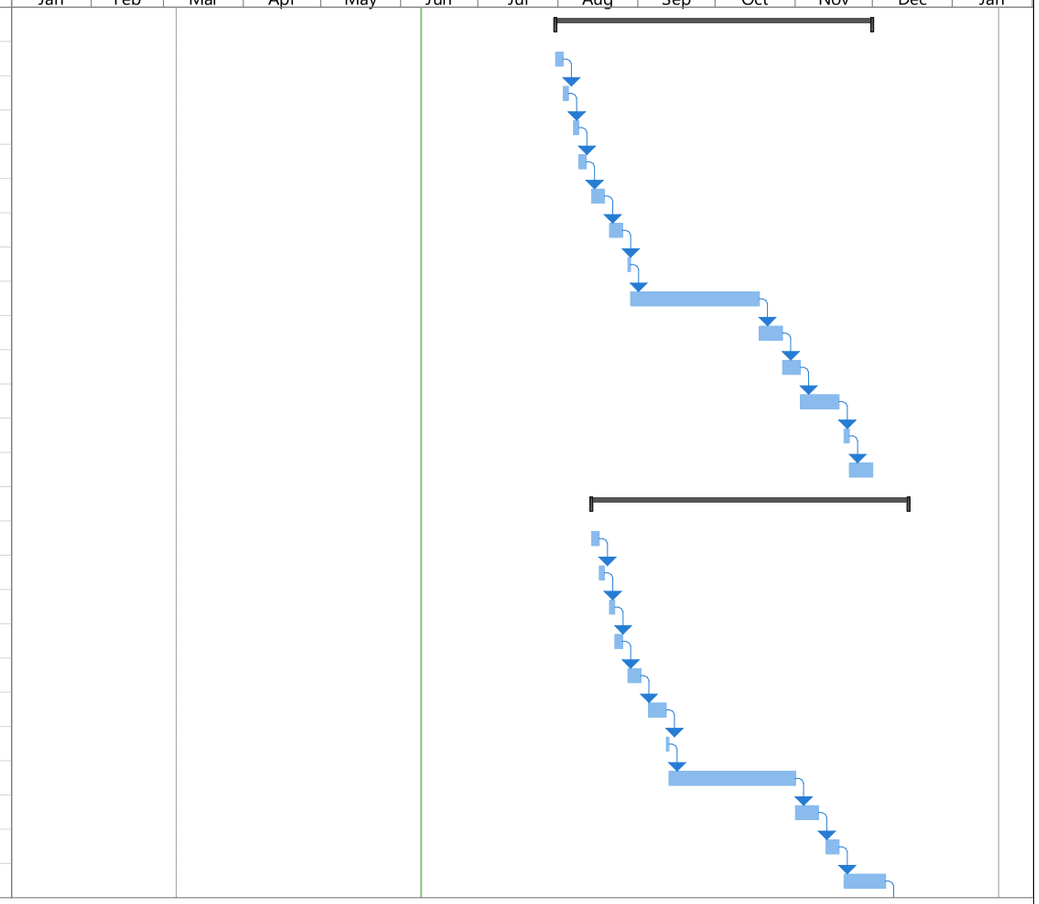



Project: Ocean Towers North
Date: Fri 6/9/23

Task
Split
Milestone
Summary
Project Summary
Inactive Task
Inactive Milestone
Inactive Summary
Manual Task
Duration-only
Manual Summary Rollup
Manual Summary
Start-only
Finish-only
External Tasks
External Milestone
Deadline
Progress
Manual Progress

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR

| ID | Task Mode | Task Name | Duration | Start | Finish |
|---|---|---|---|---|---|
| 131 | | **Stack 04** | **85 days** | **Mon 7/31/23** | **Thu 11/30/23** |
| 132 | | Mobilize Stack | 3 days | Mon 7/31/23 | Wed 8/2/23 |
| 133 | | Install Scaffolding | 2 days | Thu 8/3/23 | Fri 8/4/23 |
| 134 | | Video Survey | 2 days | Mon 8/7/23 | Tue 8/8/23 |
| 135 | | Cover-up Windows and SGD's | 3 days | Wed 8/9/23 | Fri 8/11/23 |
| 136 | | Remove Existing Railing | 5 days | Mon 8/14/23 | Fri 8/18/23 |
| 137 | | Remove Exisiting Floor Finish | 5 days | Mon 8/21/23 | Fri 8/25/23 |
| 138 | | Engineer to Mark Repairs | 1 day | Mon 8/28/23 | Mon 8/28/23 |
| 139 | | Repair Concrete | 35 days | Tue 8/29/23 | Tue 10/17/23 |
| 140 | | Waterproof Balconies | 7 days | Wed 10/18/23 | Thu 10/26/23 |
| 141 | | Paint and Caulk | 5 days | Fri 10/27/23 | Thu 11/2/23 |
| 142 | | Install Railings | 10 days | Fri 11/3/23 | Fri 11/17/23 |
| 143 | | Punchout | 2 days | Mon 11/20/23 | Tue 11/21/23 |
| 144 | | Demobilize Stack | 5 days | Wed 11/22/23 | Thu 11/30/23 |
| 145 | | **Stack 06** | **85 days** | **Mon 8/14/23** | **Thu 12/14/23** |
| 146 | | Mobilize Stack | 3 days | Mon 8/14/23 | Wed 8/16/23 |
| 147 | | Install Scaffolding | 2 days | Thu 8/17/23 | Fri 8/18/23 |
| 148 | | Video Survey | 2 days | Mon 8/21/23 | Tue 8/22/23 |
| 149 | | Cover-up Windows and SGD's | 3 days | Wed 8/23/23 | Fri 8/25/23 |
| 150 | | Remove Existing Railing | 5 days | Mon 8/28/23 | Fri 9/1/23 |
| 151 | | Remove Exisiting Floor Finish | 5 days | Tue 9/5/23 | Mon 9/11/23 |
| 152 | | Engineer to Mark Repairs | 1 day | Tue 9/12/23 | Tue 9/12/23 |
| 153 | | Repair Concrete | 35 days | Wed 9/13/23 | Tue 10/31/23 |
| 154 | | Waterproof Balconies | 7 days | Wed 11/1/23 | Thu 11/9/23 |
| 155 | | Paint and Caulk | 5 days | Mon 11/13/23 | Fri 11/17/23 |
| 156 | | Install Railings | 10 days | Mon 11/20/23 | Tue 12/5/23 |

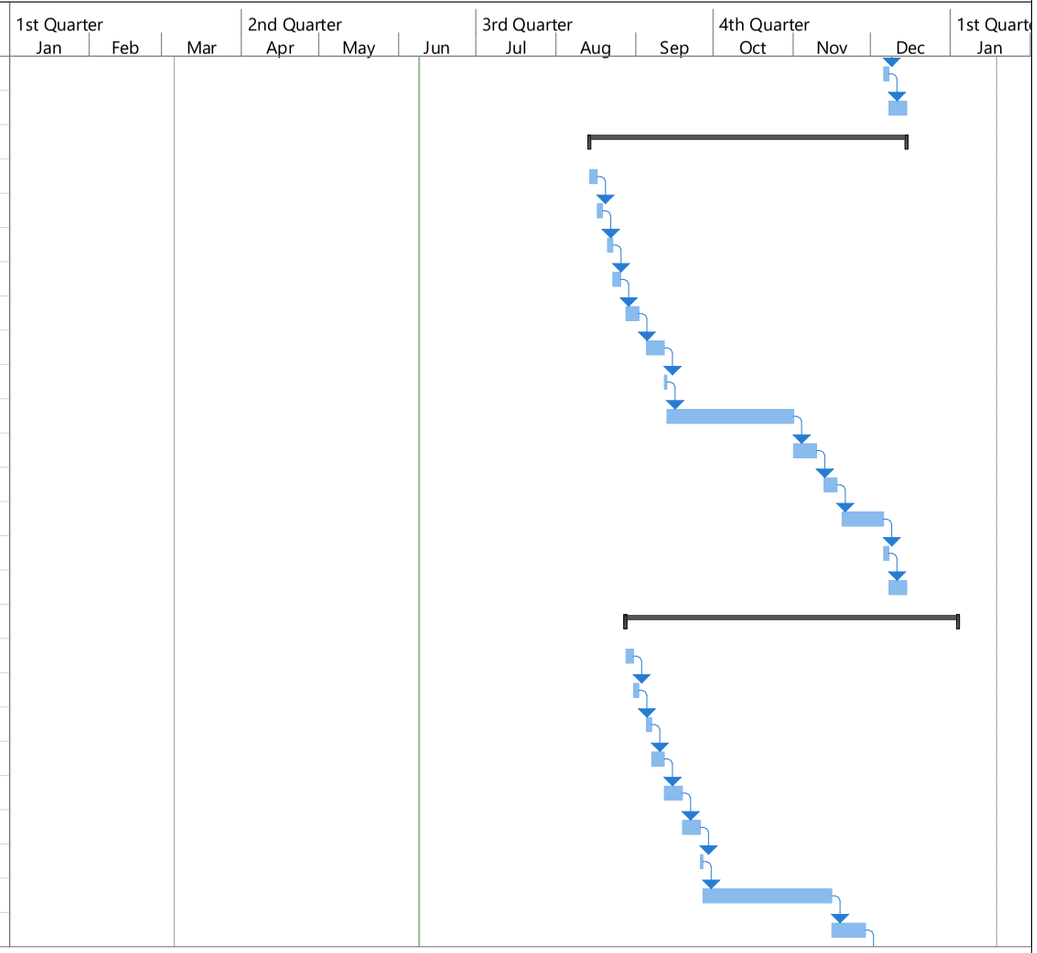



Project: Ocean Towers North
Date: Fri 6/9/23

| | | | | |
|---|---|---|---|---|
| Task | Project Summary | Manual Task | Start-only | Deadline |
| Split | Inactive Task | Duration-only | Finish-only | Progress |
| Milestone | Inactive Milestone | Manual Summary Rollup | External Tasks | Manual Progress |
| Summary | Inactive Summary | Manual Summary | External Milestone | |

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR

| ID | Task Mode | Task Name | Duration | Start | Finish |
|---|---|---|---|---|---|
| 157 | | Punchout | 2 days | Wed 12/6/23 | Thu 12/7/23 |
| 158 | | Demobilize Stack | 5 days | Fri 12/8/23 | Thu 12/14/23 |
| 159 | | **Stack 08** | **85 days** | **Mon 8/14/23** | **Thu 12/14/23** |
| 160 | | Mobilize Stack | 3 days | Mon 8/14/23 | Wed 8/16/23 |
| 161 | | Install Scaffolding | 2 days | Thu 8/17/23 | Fri 8/18/23 |
| 162 | | Video Survey | 2 days | Mon 8/21/23 | Tue 8/22/23 |
| 163 | | Cover-up Windows and SGD's | 3 days | Wed 8/23/23 | Fri 8/25/23 |
| 164 | | Remove Existing Railing | 5 days | Mon 8/28/23 | Fri 9/1/23 |
| 165 | | Remove Exisiting Floor Finish | 5 days | Tue 9/5/23 | Mon 9/11/23 |
| 166 | | Engineer to Mark Repairs | 1 day | Tue 9/12/23 | Tue 9/12/23 |
| 167 | | Repair Concrete | 35 days | Wed 9/13/23 | Tue 10/31/23 |
| 168 | | Waterproof Balconies | 7 days | Wed 11/1/23 | Thu 11/9/23 |
| 169 | | Paint and Caulk | 5 days | Mon 11/13/23 | Fri 11/17/23 |
| 170 | | Install Railings | 10 days | Mon 11/20/23 | Tue 12/5/23 |
| 171 | | Punchout | 2 days | Wed 12/6/23 | Thu 12/7/23 |
| 172 | | Demobilize Stack | 5 days | Fri 12/8/23 | Thu 12/14/23 |
| 173 | | **Stack 10** | **85 days** | **Mon 8/28/23** | **Wed 1/3/24** |
| 174 | | Mobilize Stack | 3 days | Mon 8/28/23 | Wed 8/30/23 |
| 175 | | Install Scaffolding | 2 days | Thu 8/31/23 | Fri 9/1/23 |
| 176 | | Video Survey | 2 days | Tue 9/5/23 | Wed 9/6/23 |
| 177 | | Cover-up Windows and SGD's | 3 days | Thu 9/7/23 | Mon 9/11/23 |
| 178 | | Remove Existing Railing | 5 days | Tue 9/12/23 | Mon 9/18/23 |
| 179 | | Remove Exisiting Floor Finish | 5 days | Tue 9/19/23 | Mon 9/25/23 |
| 180 | | Engineer to Mark Repairs | 1 day | Tue 9/26/23 | Tue 9/26/23 |
| 181 | | Repair Concrete | 35 days | Wed 9/27/23 | Wed 11/15/23 |
| 182 | | Waterproof Balconies | 7 days | Thu 11/16/23 | Tue 11/28/23 |

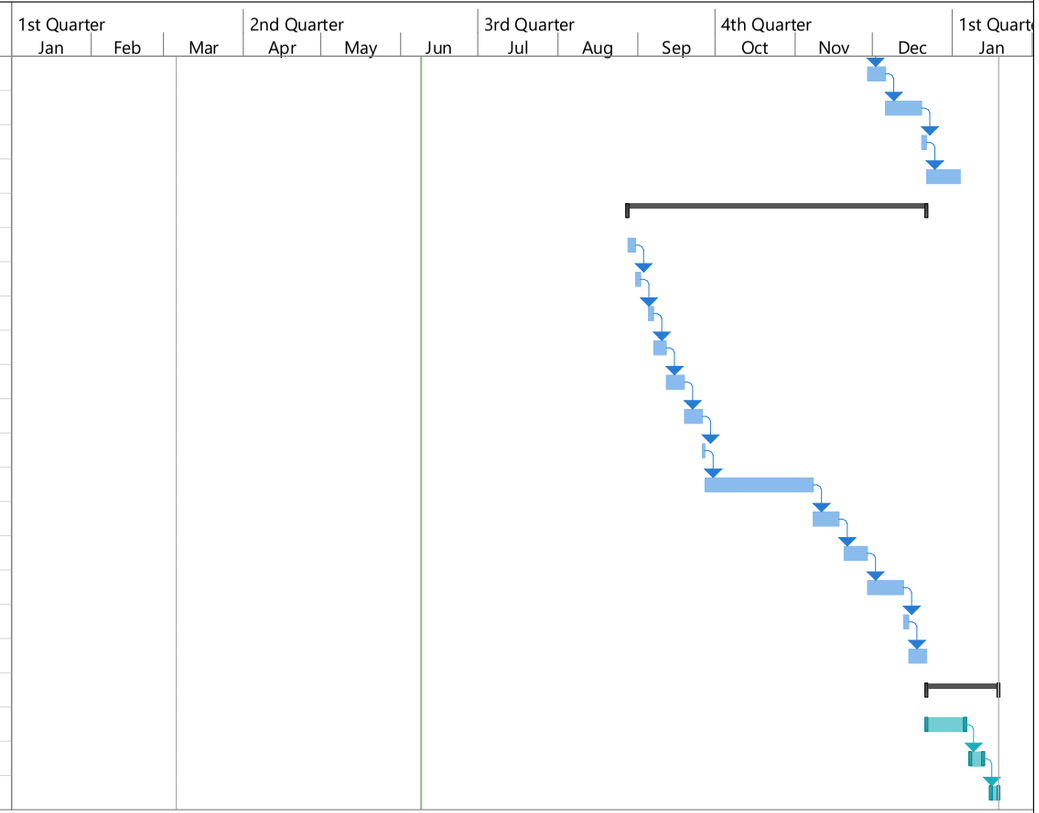



Project: Ocean Towers North
Date: Fri 6/9/23

| | | | | |
|---|---|---|---|---|
| Task | Project Summary | Manual Task | Start-only | Deadline |
| Split | Inactive Task | Duration-only | Finish-only | Progress |
| Milestone | Inactive Milestone | Manual Summary Rollup | External Tasks | Manual Progress |
| Summary | Inactive Summary | Manual Summary | External Milestone | |

WATERFRONT SERVICES Inc.
GENERAL CONTRACTOR

| ID | Task Mode | Task Name | Duration | Start | Finish |
|---|---|---|---|---|---|
| 183 | | Paint and Caulk | 5 days | Wed 11/29/23 | Tue 12/5/23 |
| 184 | | Install Railings | 10 days | Wed 12/6/23 | Tue 12/19/23 |
| 185 | | Punchout | 2 days | Wed 12/20/23 | Thu 12/21/23 |
| 186 | | Demobilize Stack | 5 days | Fri 12/22/23 | Wed 1/3/24 |
| 187 | | **Stack 12** | **80 days** | **Mon 8/28/23** | **Thu 12/21/23** |
| 188 | | Mobilize Stack | 3 days | Mon 8/28/23 | Wed 8/30/23 |
| 189 | | Install Scaffolding | 2 days | Thu 8/31/23 | Fri 9/1/23 |
| 190 | | Video Survey | 2 days | Tue 9/5/23 | Wed 9/6/23 |
| 191 | | Cover-up Windows and SGD's | 3 days | Thu 9/7/23 | Mon 9/11/23 |
| 192 | | Remove Existing Railing | 5 days | Tue 9/12/23 | Mon 9/18/23 |
| 193 | | Remove Exisiting Floor Finish | 5 days | Tue 9/19/23 | Mon 9/25/23 |
| 194 | | Engineer to Mark Repairs | 1 day | Tue 9/26/23 | Tue 9/26/23 |
| 195 | | Repair Concrete | 30 days | Wed 9/27/23 | Tue 11/7/23 |
| 196 | | Waterproof Balconies | 7 days | Wed 11/8/23 | Fri 11/17/23 |
| 197 | | Paint and Caulk | 5 days | Mon 11/20/23 | Tue 11/28/23 |
| 198 | | Install Railings | 10 days | Wed 11/29/23 | Tue 12/12/23 |
| 199 | | Punchout | 2 days | Wed 12/13/23 | Thu 12/14/23 |
| 200 | | Demobilize Stack | 5 days | Fri 12/15/23 | Thu 12/21/23 |
| 201 | | **Demobilize Work Site** | **15 days** | **Fri 12/22/23** | **Thu 1/18/24** |
| 202 | | Remove Scaffolding and Equipment | 7 days | Fri 12/22/23 | Fri 1/5/24 |
| 203 | | Pressure Clean | 5 days | Mon 1/8/24 | Fri 1/12/24 |
| 204 | | Punchout | 3 days | Tue 1/16/24 | Thu 1/18/24 |




Project: Ocean Towers North
Date: Fri 6/9/23

| | | | | |
|---|---|---|---|---|
| Task | Project Summary | Manual Task | Start-only | Deadline |
| Split | Inactive Task | Duration-only | Finish-only | Progress |
| Milestone | Inactive Milestone | Manual Summary Rollup | External Tasks | Manual Progress |
| Summary | Inactive Summary | Manual Summary | External Milestone | |

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Time Extensions

Agenda Title
Waiver of Town Code Section 18-237, For Building Permit Extension at 525 N. County Rd.

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum w/Attachments**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: July 12, 2023

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To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Waiver of Town Code Section 18-237, For Building Permit Extension at 525 N. County Road

Date: June 28, 2023

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## STAFF RECOMMENDATION

Staff recommends that the Town Council consider the request from Hugh C. Davis, President, of Davis General Contracting Corporation, regarding a time extension in which to complete the construction of a new residence at 525 N. County Road; and to extend the building permit until October 31, 2023.

## GENERAL INFORMATION

The property is owned by James Christopher Flowers. Prior to this owner, the property was a vacant lot. Arcom approved a new residence and a permit was issued on June 24, 2020 for construction. The permit will expire on July 14, 2023.

Mr. Davis explains in his letter of June 26, 2023, that he is requesting a time extension to complete the new residence. He states that there have been many delays caused by the global pandemic. Covid work stoppages and slowdowns, inflation pressures on building materials, the unprecedented boom in local and national construction which caused supply shortages in materials and manpower, are all listed as reasons for the delay.

Staff has no objection to the requests.

Attachments: Letter from Hugh C. Davis, President, w/ Neighbor Notices & Schedule
Permit List
Property Appraiser Details

Davis
General
Contracting
Corporation

RECEIVED
JUN 26 2023
Town of Palm Beach
PZB Dept

26 June 2023

Madame Mayor & Town Council Members
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Re: Flowers Residence
525 N County Road
Palm Beach, Florida 33480

Dear Madams and Sirs,

I would like to respectfully request a time extension to 31 October 2023 for the construction of Anne & Chris Flower's Residence at 525 North County Road.

Despite every and all of our best efforts, the project will exceed the allowed time for construction due to the Covid pandemic and the resultant events that followed, including; Covid Illness work stoppages and slow-downs, inflation pressures on materials and an unprecedented boom in construction across the nation & locally causing severe supply shortages of materials and manpower.

We are continuing to work diligently every available and allowable hour to complete the project.

Thank you for your consideration of this matter.

Sincerely,

Hugh C. Davis
President

313 5th Street West Palm Beach Florida 33401 PHONE 561.820.1400
www.davisgeneralcontracting.com

Davis
General
Contracting
Corporation

28 June 2023

Mr. Paul Seville
515 N. County Road
Palm Beach, Florida 33480

Re: Flowers Residence
Delivery: Hand

Dear Mr. Seville,

The Town of Palm Beach wanted me to officially confirm with you we are going before town council on July 12, 2023 to request an extension of construction time to October 31, 2023 for the project we are building for your neighbors Anne & Chris Flowers at 525 North County Road.

We actually anticipate being complete by September 1st excepting possibly some minor unforeseen item I cannot currently envision.

We are requesting the added time to ensure we have a bit of a cushion in the event of some unforeseen event that might slightly hold us up and put us in violation of the town allowed construction period.

Thank you for your understanding and as always let us know if you need anything from us.

Yours Sincerely,

ALL THE BEST.

Hugh C. Davis

President

cc: Town of Palm Beach


313 5th Street West Palm Beach Florida 33401 PHONE 561.820.1400
www.davisgeneralcontracting.com

Davis
General
Contracting
Corporation

28 June 2023

Mr. Scott Shleifer
535 N. County Road
Palm Beach, Florida 33480

Re: Flowers Residence
Delivery: Hand

Dear Mr. Shleifer, SCOTT

The Town of Palm Beach wanted me to officially confirm with you we are going before town council on July 12, 2023 to request an extension of construction time to October 31, 2023 for the project we are building for your neighbors Anne & Chris Flowers at 525 North County Road.

We actually anticipate being complete by September 1st excepting possibly some minor unforeseen item I cannot currently envision.

We are requesting the added time to ensure we have a bit of a cushion in the event of some unforeseen event that might slightly hold us up and put us in violation of the town allowed construction period.

Thank you for your understanding and as always let us know if you need anything from us.

Yours Sincerely, ALL THE BEST.

Hugh C. Davis

President

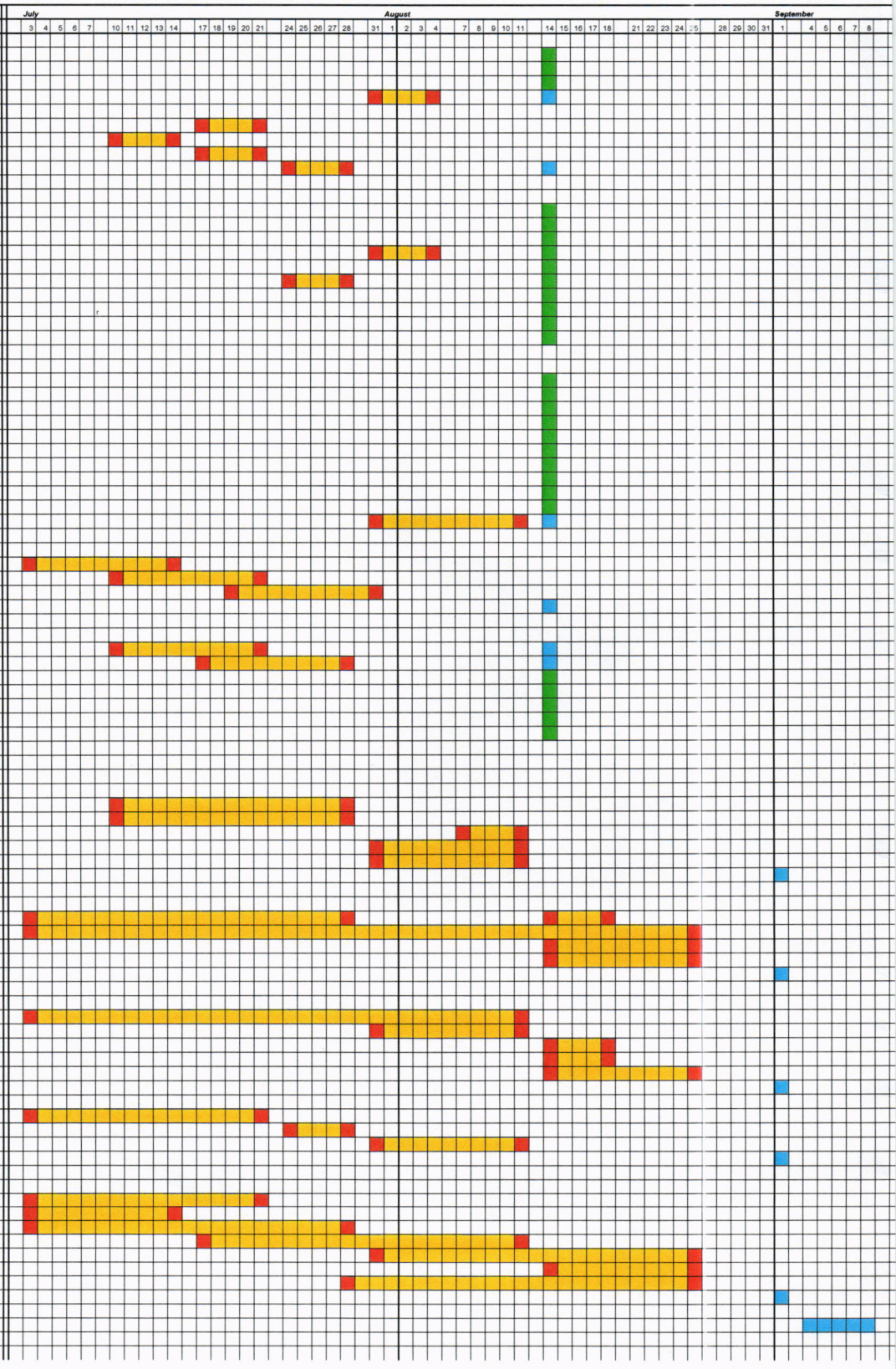
cc: Town of Palm Beach

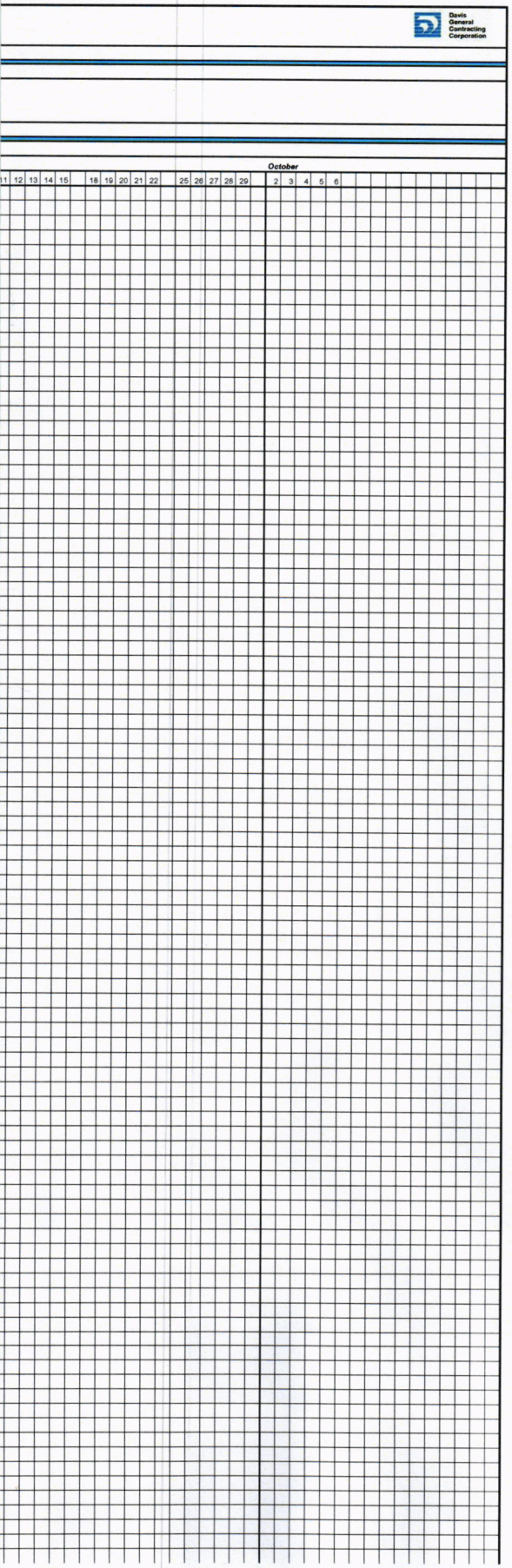

313 5th Street West Palm Beach Florida 33401 PHONE 561.820.1400
www.davisgeneralcontracting.com

## Flowers Completion Schedule

| | | | |
|---|---|---|---|
| **Project:** | **Flowers Residence** | **Update** 25 June 2023 | **Update** |
| **Address:** | **525 North County Road** | **Update** | **Update** |
| | **Palm Beach, Florida 33480** | **Update** | **Update** |

| Item | Description | | |
|---|---|---|---|
| 1 | | | |
| 2 | ***Guest Suite 1*** | Complete | |
| 3 | ***Guest Suite 2*** | Complete | |
| 4 | ***Guest Suite 3*** | Complete | |
| 5 | ***Exercise Room*** Install Trim on Ceiling LED Light Panel | Complete | |
| 6 | ***Media Room*** | | |
| 7 | Trim Vanity & Shower Plumbing Trim | | |
| 8 | Install Door & Window Hardware | | |
| 9 | Electrical Trim Out | | |
| 10 | Final Clean | Complete | |
| 11 | | | |
| 12 | ***2nd Floor*** | | |
| 13 | Master Sitting | Complete | |
| 14 | Master Bedroom | Complete | |
| 15 | His Closet | Complete | |
| 16 | His Bath Vanity | Complete | |
| 17 | Her Closet | Complete | |
| 18 | Ber Bath Vanity & Medicine Cabinet | Complete | |
| 19 | Spare Sleeping Room | Complete | |
| 20 | Spare Room Bath | Complete | |
| 21 | Morning Bar | Complete | |
| 22 | Back Hall | Complete | |
| 23 | | | |
| 24 | ***1st Floor*** | | |
| 25 | Breakfast Room | Complete | |
| 26 | Kitchen & Office Counter Tops | Complete | |
| 27 | Pantry | Complete | |
| 28 | Staff Office | Complete | |
| 29 | Hall | Complete | |
| 30 | Bar 126 | Complete | |
| 31 | Dinning Room | Complete | |
| 32 | Center Hall | Complete | |
| 33 | Living Room | Complete | |
| 34 | Linrary | Complete | |
| 35 | Library Bar Final Paint & Hardware | Complete | |
| 36 | Foyer | | |
| 37 | Stair marble | | |
| 38 | Floor Marble | | |
| 39 | Stair Railing | | |
| 40 | Final Paint & Hardware | | |
| 41 | | Complete | |
| 42 | | | |
| 43 | ***Basement*** | | |
| 44 | Office Paint | Complete | |
| 45 | Kitchen & Office Counter Tops | Complete | |
| 46 | Laundry | Complete | |
| 47 | Hall | Complete | |
| 48 | Mechanical Rooms | Complete | |
| 49 | Garage | Complete | |
| 50 | Generatror | Complete | |
| 51 | | | |
| 52 | | | |
| 53 | ***Exterior*** | | |
| 54 | ***North*** | | |
| 55 | Complete Runnal Fountain Stone | | |
| 56 | Complete Stone on Site Wall | | |
| 57 | Install Site Wall Gate | | |
| 58 | Install Site Lighting | | |
| 59 | Complete Landscapiong & Stepping Stones | | |
| 60 | | Complete | |
| 61 | | | |
| 62 | ***East*** | | |
| 63 | Complete Glass Lift Up Window Frames | | |
| 64 | Complete Stone On Building | | |
| 65 | Install Site Lighting | | |
| 66 | Install Final Landscaping & Irrigation | | |
| 67 | | Complete | |
| 68 | | | |
| 69 | ***South*** | | |
| 70 | Fabricate & Install Chimney Caps | | |
| 71 | Complete Stone on Site Wall | | |
| 72 | Install Site Wall Gates | | |
| 73 | Install Site Lighting | | |
| 74 | Install Final Landscaping & Irrigation | | |
| 75 | | Complete | |
| 76 | ***Pool Court Yard*** | | |
| 77 | Stone Steps to Motor court | | |
| 78 | Install Site Lighting | | |
| 79 | Ground Cover Landscape and Irrigation | | |
| 80 | | Complete | |
| 81 | | | |
| 82 | ***West*** | | |
| 83 | Complete Cobblestone Driveway to Street | | |
| 84 | Large Trees at motor court | | |
| 85 | Complete Stone Cladding Site Walls | | |
| 86 | Complete Stone on Entry Walls | | |
| 87 | Site Wall Stone | | |
| 88 | Entry Gates | | |
| 89 | Landscaping & Irrigation | | |
| 90 | | Complete | |
| | ***Project Complete*** | | |




Davis
General
Contracting
Corporation
October
11 12 13 14 15 18 19 20 21 22 25 26 27 28 29 2 3 4 5 6

| Permit number | Permit type | Master permit ID | Permit type name | Permit description | Permit Suite | Permit Address | Customer Nu | Customer | Customer Last Name | Application d | Issue date | Expiration date | Approval state |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| U-23-13195 | u-p03 | | U-EXCAVATION IN ROW | WED 6/21 - FRI 6/23: EASEMENT WORK - NO LANE CLOSURES - EXCAVATE GREEN AREA IN FRONT OF RESIDENCE WITH E-35 & T-590. | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 6/14/2023 | 6/22/2023 | 12/19/2023 | issued |
| U-23-12889 | u-p03 | | U-EXCAVATION IN ROW | *****PRIVATE PROVIDER***** EXCAVATE- PHASE 1: HEADER CURB MON 05/15-05/17 ON SITE MONDAY 05/15/ ACME TO PROVIDER FLAGGERS AND SIGNAGE DURING THE DURATION OF THE ROW WORK- INSTALL 85 LF OF HEADER CURB-2ND PHASE WE WILL COMPLE | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 5/4/2023 | 5/9/2023 | 11/5/2023 | issued |
| U-23-12890 | u-p02 | | U-USE OF/WORK IN ROW | EXCAVATE- PHASE 1: HEADER CURB MON 05/15-05/17 ON SITE MONDAY 05/15/ ACME TO PROVIDER FLAGGERS AND SIGNAGE DURING THE DURATION OF THE ROW WORK- INSTALL 85 LF OF HEADER CURB-2ND PHASE WE WILL COMPLETE HEADER CURB UNDER SEPAR | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 5/4/2023 | 5/9/2023 | 8/7/2023 | issued |
| U-23-12680 | u-p03 | | U-EXCAVATION IN ROW | EXCAVATION- ABANDON WATER W/CITY OF WPB. NO LANE CLOSURES. WORK WILL BE LIMITED TO THE EASEMENT IN FRONT OF PROP | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 4/7/2023 | 4/11/2023 | 10/14/2023 | issued |
| B-23-98139 | b-r05 | 421381 | R-PERMIT UPDATE-CORRECTION/CHANGE IN VALUE ONLY | PERMIT UPDATE VALUE ONLY | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 2/23/2023 | 2/23/2023 | 2/23/2023 | final |
| B-23-97949 | b-r01 | 421381 | R-REVISION | REVISION SITE PLAN - AS BUILTS | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 2/3/2023 | 2/10/2023 | 2/3/2023 | final |
| B-23-97789 | b-r01 | 421381 | R-REVISION | REVISION - ELECTRICAL - AS BUILT | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 1/18/2023 | 1/19/2023 | 1/18/2023 | final |
| U-23-12265 | u-p03 | | U-EXCAVATION IN ROW | TAP WATER WITH CITY OF WPB NO LANE CLOSURES. | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 1/13/2023 | 1/20/2023 | 7/30/2023 | issued |
| A-22-02676 | a-a01 | 421381 | A-ARCOM STAFF APPROVAL | STAFF APPROVAL FOR LANDSCAPE LIGHTING | | 525 N COUNTY RD | 604867 | | SMI LANDSCAPE ARCHITECTURE INC | 11/4/2022 | 11/14/2022 | 10/30/2023 | final |
| B-22-97129 | b-r01 | 421381 | R-REVISION | REVISION ELECTRICAL - AS BUILTS | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 11/2/2022 | 11/9/2022 | 11/2/2022 | final |
| U-22-11626 | u-p03 | | U-EXCAVATION IN ROW | EXCAVATION WITHIN GRASS AREA - SINGLE LANE CLOSURE N COUNTY RD.<br>EXCAVATE- INSTALL 1.25" PE GAS SERVICE BY DIRECTIONAL BORE AND CONNECT TO EXISTING 2" PE GAS MAIN.<br>LOCATION WITH PHASE 6 N OF UNDERGROUNDING WHICH IS ON G | | 525 N COUNTY RD | 540925 | | GAS SYSTEMS TECHNOLOGY INC | 10/19/2022 | 10/21/2022 | 7/23/2023 | issued |
| B-22-96931 | b-r01 | 421381 | R-REVISION | REVISION PLUMBING AND MECHANICAL - AS BUILTS | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 10/18/2022 | 10/20/2022 | 10/18/2022 | final |
| B-22-96146 | b-r01 | 421381 | R-REVISION | REVISION- OTHER- REVISED CIVIL PLANS | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 8/23/2022 | 9/15/2022 | 8/23/2022 | final |
| B-22-93375 | b-r01 | 421381 | R-REVISION | REVISION- OTHER- PLAN SUBMITTAL - FOUNTAINS AND RELATED WORK. | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 2/22/2022 | 8/23/2022 | 2/22/2022 | final |
| B-21-92520 | b-r01 | 421381 | R-REVISION | REVISION- BUILDING- STRUCTURAL UPDATES | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 12/16/2021 | 12/21/2021 | 12/16/2021 | final |
| B-21-92067 | b-r01 | 421381 | R-REVISION | REVISION- PLUMBING, MECHANICAL, ELECTRICAL- REVISIONS/PLAN UPDATE (NO VALUE CHANGE) | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 11/16/2021 | 11/23/2021 | 11/16/2021 | final |
| B-21-91655 | b-r01 | 421381 | R-REVISION | REVISION OTHER - POOL AND RELATED WORK | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 10/20/2021 | 10/28/2021 | 10/20/2021 | final |
| B-21-91552 | b-r01 | 421381 | R-REVISION | REVISION GAS INSTALL 1000GAL/ASME TANK BY ELITE GAS CONTRACTORS. | | 525 N COUNTY RD | 502005 | | J A ADAMS INC | 10/11/2021 | 10/13/2021 | 10/11/2021 | final |
| A-21-02014 | a-a01 | | A-ARCOM STAFF APPROVAL | STAFF APPROVAL FOR RELOCATION OF COOLING TOWER AND POOL EQUIPMENT AS SHOWN. REMOVAL OF WOOD PERGOLA FROM RAI | | 525 N COUNTY RD | 600569 | | SMITH ARCHITECTURAL GROUP INC | 10/6/2021 | 11/12/2021 | 10/1/2022 | final |
| U-21-08495 | u-p01 | | U-DEWATERING | DEWATER WITH ONE 4" HOSE FROM JOBSITE TO EXISTING CATCH BASIN ON THE EAST SIDE OF NORTH COUNTY ROAD ACROSS FROM T | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 10/6/2021 | 10/14/2021 | 12/13/2021 | final |
| B-21-90716 | b-r01 | 421381 | R-REVISION | REVISION OTHER INSTALL FIRE SPRINKLER SYSTEM. | | 525 N COUNTY RD | 532305 | | J W FIRE SPRINKLER INC | 8/13/2021 | 8/16/2021 | 8/13/2021 | final |
| U-21-07621 | u-p02 | | U-USE OF/WORK IN ROW | CRANE SET UP AND LANE RESTRICTION (ONLY WHEN NECESSARY) ON N COUNTY RD | | 525 N COUNTY RD | 604465 | | FLORIDA POWER & LIGHT | 6/22/2021 | 6/29/2021 | 9/27/2021 | final |
| B-21-88861 | b-r01 | 421381 | R-REVISION | REVISION- FIRE ALARM - INSTALL RESIDENTIAL FIRE ALARM/VESDA SYSTEM | | 525 N COUNTY RD | 602883 | | J W FIRE & SECURITY LLC | 5/5/2021 | 5/12/2021 | 5/5/2021 | final |
| B-21-87990 | b-r01 | 421381 | R-REVISION | PLUMBING/HVAC/ELECTRICAL | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 3/19/2021 | | 3/19/2021 | canceled |
| U-21-06796 | u-p02 | | U-USE OF/WORK IN ROW | USE OF- LOAD/UNLOAD STAGING AREA: NOT ALL DAY. LOAD OUT BASEMENT FILL TRUCKS WILL BE LOADED ONSITE HOWEVER WE MAY NEED TO PARK ON TANGIER OR MIRAFLORES FOR A COUPLE MIN | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 1/26/2021 | | 4/26/2021 | canceled |
| U-20-06411 | u-p01 | | U-DEWATERING | DEWATERING PERMIT - DEWATER WITH ONE 4" HOSE FROM JOBSITE TO EXISTING CATCH BASIN LOCATED ON THE EAST SIDE OF NORT | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 11/3/2020 | 11/12/2020 | 5/28/2021 | final |
| U-20-06183 | u-p01 | | U-DEWATERING | DE WATER WITH ONE 4" HOSE FROM JOBSITE TO EXISTING CATCH BASIN LOCATED ON THE EAST SIDE OF NORTH COUNTY RD ACROSS | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 10/7/2020 | 10/14/2020 | 5/28/2021 | final |
| U-20-05990 | u-p01 | | U-DEWATERING | DE-WATER WITH ONE 4" HOSE FROM JOBSITE TO EXISTING CATCH BASIN LOCATED ON THE EAST SIDE OF NORTH COUNTY ROAD ACRO | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 9/15/2020 | 9/15/2020 | 11/14/2020 | final |
| U-20-05623 | u-p07 | | U-SEWER/DRAINAGE - CAP-OFF/CONNECTION | INSTALL NEW 6" SEWER LATERAL IN THE SAME OPEN ROAD TRENCH AS 535 N COUNTY (U-20-05464) ACROSS NORTH COUNTY INTO E | | 525 N COUNTY RD | 542582 | | S MACDONALD CONTRACTING LLC | 7/8/2020 | 7/14/2020 | 7/1/2021 | issued |
| B-20-84672 | b-r01 | 421381 | R-REVISION | ELECTRICAL: PROVIDE 600AMP UNDERGROUND ELECTRICAL SERVICE | | 525 N COUNTY RD | 534530 | | ELECTRICAL SPECIALTY SERVICES | 6/26/2020 | 6/29/2020 | 6/26/2020 | final |
| B-20-84631 | b-r03 | 422459 | FEE CHARGE | PER CH PERMIT NOT NEEDED. MAIN PERMIT WAS APPROVED NOW. | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 6/24/2020 | 6/24/2020 | 6/24/2020 | final |

Count: 42

Filter is Empty

| Permit number | Permit type | Master permit ID | Permit type name | Permit description | Permit Suite | Permit Address | Customer Nu | Customer | Customer Last Name | Application d | Issue date | Expiration date | Approval state |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| B-20-84383 | b-s11 | | S-SITE WORK/DRAINAGE | CLEARING OF VEGETATION, ROUGH, GRADING, INSTALLATION OF E RSION CONTROL, PREPARATION OF SITE FOR CONSTRUCTION. | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 6/5/2020 | | 12/2/2020 | canceled |
| A-20-00994 | a-a01 | 421381 | A-ARCOM STAFF APPROVAL | | | 525 N COUNTY RD | 600569 | | SMITH ARCHITECTURAL GROUP INC | 5/22/2020 | | 5/17/2021 | final |
| B-20-83936 | b-b01 | | B-RESIDENTIAL NEW CONSTRUCTION/ADDITION | CONSTRUCTION OF SINGLE FAMILY RESIDENCE WITH POOL AND RE LATED SITE WORK | | 525 N COUNTY RD | 502993 | | DAVIS GENERAL CONTRACTING CORP | 4/29/2020 | 6/24/2020 | 7/14/2023 | issued |
| Z-20-00245 | z-01 | | Z-DEVELOPMENT REVIEW PERMIT | Applicant is requesting the following variances to construct a new t wo-story house:<br>Section 134-793(1)b: Request for a variance to allow a roof height o f 40 feet in lieu of the 35 feet allowed in the R-AA District. Section 1 34-2(a): Building height of (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL): Re quest for a variance to allow dormer windows in habitable space w hich is not permitted. Dormer windows are only allowed in attic spa | | 525 N COUNTY RD | 602091 | | KOCHMAN AND ZISKA | 2/25/2020 | | 2/19/2021 | pending |
| B-20-82863 | b-r03 | | FEE CHARGE | DEP LETTER | | 525 N COUNTY RD | 600569 | | SMITH ARCHITECTURAL GROUP INC | 1/14/2020 | 1/14/2020 | 1/14/2020 | final |
| B-19-77404 | b-r01 | 407017 | R-REVISION | REVISION ELECTRICAL: SUMBIT DRAWING (ORIGINAL DRAWINGS C AN NOT BE LOCATED @TOWN OF PALM BEACH BLDG DEPT) | | 525 N COUNTY RD | 531324 | | LIGHTNING ELECTRIC INC | 1/22/2019 | 1/22/2019 | 1/22/2019 | final |
| U-18-02382 | u-p02 | 406157 | U-USE OF/WORK IN ROW | USE OF/WORK IN ROW FOR EXPAND DRIVEWAY BY 7-8 FT. | | 525 N COUNTY RD | 600841 | | MAURO BROTHERS LLC | 11/19/2018 | 11/30/2018 | 9/11/2019 | final |
| B-18-76186 | b-e09 | | E-SITE WORK | SEE DISCHARGE LETTER ATTACHED- TAKING OVER -ELECTRIC FOR F RONT GATES. | | 525 N COUNTY RD | 531324 | | LIGHTNING ELECTRIC INC | 10/29/2018 | 11/6/2018 | 12/11/2019 | final |
| B-18-75664 | b-s08 | | S-HARDSCAPE/DRIVEWAY/LANDSCAPE | EXPAND DRIVEWAY BY 7-8 FT. | | 525 N COUNTY RD | 600841 | | MAURO BROTHERS LLC | 10/3/2018 | 12/4/2018 | 12/10/2019 | final |
| B-18-69969 | b-e09 | | E-SITE WORK | INSTALL ELECTRICAL FOR FRONT GATES | | 525 N COUNTY RD | 602716 | | TOWER ELECTRIC OF PALM BEA CH I | 2/8/2018 | 4/10/2018 | 3/17/2019 | canceled |
| B-17-67854 | b-p05 | | P-SITE WORK | SUPPLY AND INSTALL 2" BACKFLOW | | 525 N COUNTY RD | 504385 | | BUCKEYE PLUMBING INC | 10/13/2017 | 10/22/2017 | 4/22/2018 | final |

Count: 42

<Filter is Empty>

## Property Detail

| | | | | | |
|---|---|---|---|---|---|
| Parcel Control Number: | 50-43-43-14-30-000-0020 | Location Address: | 525 N COUNTY RD | | |
| Owners: | FLOWERS JAMES CHRISTOPHER | | | | |
| Mailing Address: | 525 N COUNTY RD,PALM BEACH FL 33480 3504 | | | | |
| Last Sale: | MAR-2022 | Book/Page#: | 33411 / 334 | Price: | $10 |
| Property Use Code: | 0000 - VACANT | Zoning: | R-AA - LARGE ESTATE RESIDENTIAL ( 50-PALM BEACH ) | | |
| Legal Description: | NORTH COUNTY ROAD ESTATE PROPERTIES LT 2 | Total SF: | 0 | Acres | 2.2269 |

## 2022 Values (Current)

| | |
|---|---|
| Improvement Value | $0 |
| Land Value | $46,888,515 |
| Total Market Value | $46,888,515 |
| Assessed Value | $36,143,063 |
| Exemption Amount | $0 |
| Taxable Value | $36,143,063 |

All values are as of January 1st each year.

## 2022 Taxes

| | |
|---|---|
| Ad Valorem | $630,090 |
| Non Ad Valorem | $6,463 |
| Total Tax | $636,553 |

## 2023 Qualified Exemptions

No Details Found

## Applicants

No Details Found

## Building Footprint (Building 0 )

No Image Found

## Subarea and Square Footage (Building 0 )

| Description | Area | Sq. Footage |
|---|---|---|

## Extra Features

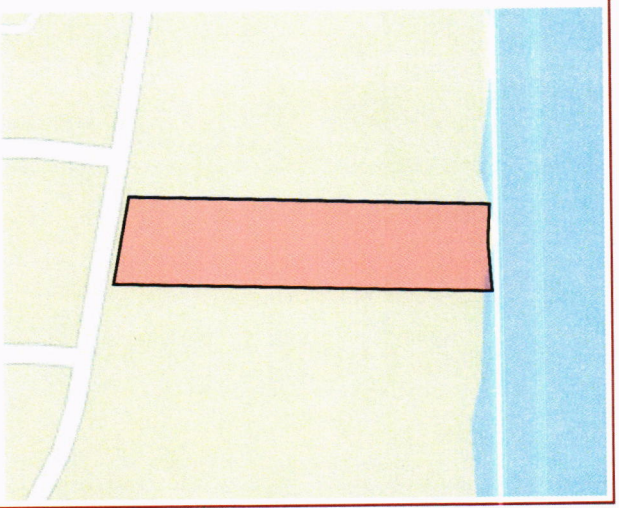
| Description | Year Built | Unit |
|---|---|---|

No Extra Feature Available

## Structural Details (Building 0 )

Description

## MAP



Dorothy Jacks, CFA, AAS PALM BEACH COUNTY PROPERTY APPRAISER www.pbcgov.org/PAPA

6/28/2023

Owner: FLOWERS JAMES CHRISTOPHER PCN: 50434314300000020 1 of 1

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Time Extensions

Agenda Title
Waiver of Town Code Section 18-237, For Building Permit Extension at 369 S. Lake Drive

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum w/Attachments**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: July 12, 2023

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To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Waiver of Town Code Section 18-237, For Building Permit Extension at 369 S. Lake Drive

Date: June 28, 2023

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## STAFF RECOMMENDATION

Staff recommends that the Town Council consider the request from contractor Butler Construction Company (Scott A. Butler, Vice President) regarding a time extension in which to complete the installation of a large generator, with a generator building, at Park Place Inc. Condominiums, located at 369 S. Lake Drive; and to extend the building permit for six months - until December 25, 2023.

## GENERAL INFORMATION

The Park Place Inc. Condominiums received a building permit to construct a generator building with new generator on February 25, 2022. The permit will expire on June 25, 2023.

Mr. Butler explains in his letter of June 13, 2023, that the extension is needed due to a delay in the delivery of the generator. It has finally arrived, been installed, and the remaining work includes landscaping, building completion, and coordination with the Town's undergrounding program.

Staff has no objection to the requests.

Attachments: Letter from Scott A. Butler, Vice President of Butler Construction Company
Copy of Permit B-22-92783
Property Appraiser Details for the Properties

BUTLER
CONSTRUCTION

June 13th, 2023

Town of Palm Beach
Planning, Zoning, Building Department
360 S. County Road
Palm Beach, FL 33480

**RE: Permit Extension Request, B22-92783 – 369 South Lake Drive**

To Whom it May Concern,

Please accept this letter as our formal request to extend the allotted construction time for the above referenced project. The project experienced delays due to extended delivery time for the emergency generator. The generator has arrived and been installed. We are beginning landscaping and dumpster enclosure work which requires coordination with the Town's undergrounding project.

We are asking that this permit be extended by 6 months to allow us to complete the remaining work and landscaping. Should this request require town council approval, we ask to be added to the July agenda to avoid any additional delays.

Sincerely,
***Butler Construction Company***

Scott A. Butler
Vice-President

4807 GEORGIA AVENUE, WEST PALM BEACH, FLORIDA 33405
PHONE (561) 832-9700 - FAX (561) 832-5992
www.butlerconstructionusa.com

TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 S County Rd
Palm Beach, FL 33480-6735

Permit No.: **B-22-92783**
Permit ID: **440193**
Issue Date: **02/25/2022**
Expiration Date: **06/25/2023**
**Inspection Scheduling: (561) 227-7090**
**Web: townofpalmbeach.com/permits**

# PERMIT

Contractor: **BUTLER CONSTRUCTION COMPANY**
Address: 4807 GEORGIA AVE
Suite: WEST PALM BEACH FL 33402

Phone: (561) 832-9700
Fax: (561) 832-5992

Qualifier: KEVIN BUTLER
Certification No.: CGC002233

Project Address: 369 S LAKE DR
PALM BEACH FL 33480

PCN: 50-43-43-27-67-000-0000-00

Owner's Name: PARK PLACE INC
Owner's Address: 369 S LAKE DR
PALM BEACH FL 33480-4571

Construction Valuation: 1152000
Sq Footage: 0

Permit Type: **B-COMMERCIAL NEW CONSTRUCTION/ADDITION**
Description: *****PRIVATE PROVIDE***** (SEE PERMIT CONDITIONS)
CONSTRUCTION OF NEW FREE STANDING GENERATOR BUILDING INCLUDED ALL ASSOCIATED ELECTRICAL, FUEL,, HVAC AND SITE WORK AS NEEDED FOR NEW BUILDING.

**PERMIT FEES:**

| | |
|---|---|
| OPT BAIF FUND STATE ISSUE UPD | 304.82 |
| OPT BAIF FUND TOWN ISSUE | 33.87 |
| OPT HMWNR RECOV TOWN PL REV | 9.68 |
| OPT BAIF FUND TOWN PL REV | 14.52 |
| OPT CONST PLAN REVIEW BLDG | 9,676.80 |

**PERMIT FEES:**

| | |
|---|---|
| OPT HMWNR RECOV TOWN ISSUE | 22.58 |
| OPT HMWNR RECOV STATE PL REV | 87.09 |
| OPT BAIF FUND STATE PL REV | 130.64 |
| OPT CONST PERMIT FEE BLDG | 22,579.20 |
| OPT HMWNR RECOV STATE ISSUE | 203.21 |
| **Total Fees:** | **33,062.41** |

**WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.**

The issuance of this permit is conditioned upon compliance with any approvals granted by the Town Council, Landmarks Preservaton Commission, and/or Architectural Commision. Any misrepresentation of facts pertaining to required permit information and/or the required desgin professional's plans shall be considered prima-facie evidence and be cause for permit revocation.

Rev. 12/12/14

## Property Detail

| | | | | | |
|---|---|---|---|---|---|
| Parcel Control Number: | 50-43-43-23-05-005-0060 | Location Address: | 369 S LAKE DR | | |
| Owners: | PARK PLACE INC | | | | |
| Mailing Address: | 369 S LAKE DR,PALM BEACH FL 33480 4571 | | | | |
| Last Sale: | Not available | Book/Page#: | / | Price: | Not available |
| Property Use Code: | 0900 - RESIDENTIAL COMMON AREA/ELEMENT | Zoning: | R-D(2) - HEAVY DENSITY RESIDENTIAL ( 50-PALM BEACH ) | | |
| Legal Description: | ROYAL PARK ADD LTS 6 TO 9 INC BLK 5 | Total SF: | 0 | Acres | 0.2870 |

## 2022 Values (Current)

| | |
|---|---|
| Improvement Value | $0 |
| Land Value | $0 |
| Total Market Value | $0 |
| Assessed Value | $0 |
| Exemption Amount | $0 |
| Taxable Value | $0 |

**All values are as of January 1st each year.**

## 2022 Taxes

| | |
|---|---|
| Ad Valorem | $0 |
| Non Ad Valorem | $0 |
| Total Tax | $0 |

## 2023 Qualified Exemptions

No Details Found

## Applicants

No Details Found

## Building Footprint (Building 0 )

No Image Found

## Subarea and Square Footage (Building 0 )

| Description | Area | Sq. Footage |
|---|---|---|

### Extra Features

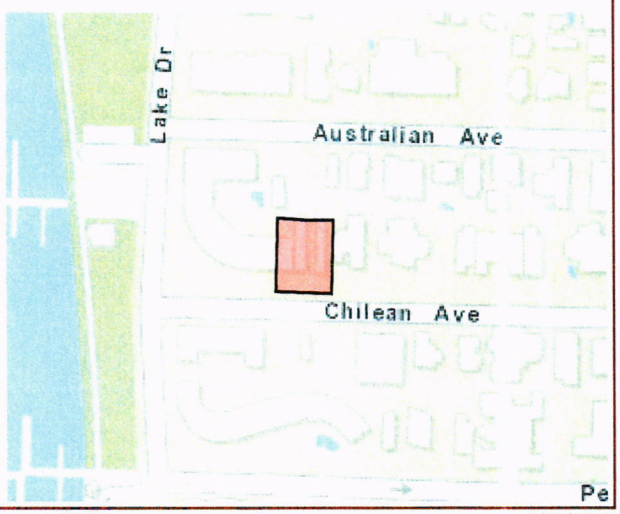
| Description | Year Built | Unit |
|---|---|---|
| Carport | 1980 | 2112 |

Unit may represent the perimeter, square footage, linear footage, total number or other measurement.

## Structural Details (Building 0 )

Description

## MAP




Owner: PARK PLACE INC PCN: 50434323050050060 1 of 1

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Time Extensions

Agenda Title
Waiver of Town Code Section 18-237, For Building Permit Extension at 236 & 238 Phipps Plaza

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: July 12, 2023

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To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Waiver of Town Code Section 18-237, For Building Permit Extension at 236 & 238 Phipps Plaza

Date: June 22, 2023

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## STAFF RECOMMENDATION

Staff recommends that the Town Council consider the request from contractor BCC Residential LLC (Scott A. Butler, Vice President) regarding a time extension in which to complete renovations of a landmarked building located at 236 & 238 Phipps Plaza and to extend the permit duration until December 31, 2023 – about six months from today.

## GENERAL INFORMATION

The properties are separate parcels and have separate ownership, but both addresses are in the same building and being renovated at the same time and by the same contractor. 238 Phipps Plaza is listed as a single-family residence and 236 Phipps Plaza is listed as a five-unit multifamily residence. Two separate sets of permits were required for this renovation [since there are two different parcels]. Permits were issued on October 8, 2019, and will expire on August 30, 2023.

BCC Residential LLC explain in their letters of June 21, 2023, that structural deficiencies were discovered that required extensive repairs, which extended this project. Finishes were fabricated overseas, and owner revisions are also reasons for the time extension requests.

Staff has no objection to the requests.

Attachments: Letter from Scott A. Butler, Vice President of BCC Residential LLC
Permit Summary for the Properties
Property Appraiser Details for the Properties

BCC RESIDENTIAL

June 21, 2023

Town of Palm Beach
Planning, Zoning, Building Department
360 S. County Road
Palm Beach, FL 33480

**RE: Permit Extension Request B19-81597**
**236 Phipps Plaza**

To Whom it May Concern,

Please accept this letter as our formal request to extend the allotted construction time for the above referenced project. This is a historic building and during demolition, several walls were opened up and we discovered several structural deficiencies that required repairs. Once repairs were completed, finishes are very intricate and being fabricated overseas. With the changes due to unforeseen conditions as well as some client driven changes, the project is taking longer than previously anticipated.

We anticipate that the balance of work will be completed this year and would request a 6 month extension onto the existing permit.

If this request requires Town Council approval, we hope you are able to add us to the July Agenda to avoid further delays.

Sincerely,
***BCC Residential, LLC***

Scott A. Butler
Vice-President

BCC
RESIDENTIAL

June 21, 2023

Town of Palm Beach
Planning, Zoning, Building Department
360 S. County Road
Palm Beach, FL 33480

**RE: Permit Extension Request B19-81598**
**238 Phipps Plaza**

To Whom it May Concern,

Please accept this letter as our formal request to extend the allotted construction time for the above referenced project. This is a historic building and during demolition, several walls were opened up and we discovered several structural deficiencies that required repairs. Once repairs were completed, finishes are very intricate and being fabricated overseas. With the changes due to unforeseen conditions as well as some client driven changes, the project is taking longer than previously anticipated.

We anticipate that the balance of work will be completed this year and would request a 6 month extension onto the existing permit.

If this request requires Town Council approval, we hope you are able to add us to the July Agenda to avoid further delays.

Sincerely,
***BCC Residential, LLC***

Scott A. Butler
Vice-President

| Permit number | Permit type | Master permit ID | Permit type name | Permit description | Permit Suite | Permit Address | Customer Nu | Customer | Customer Last Name | Application d | Issue date | Expiration date | Approval state |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| U-23-13216 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- TRASH TRUCK LOADING, MATERIAL DELIVERY/HANDLING. SCREENING TO BE SET UP DURING TRASH TRUCK, LOADING OR WHILE WORKING IN ROW, BUT NOT R | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 6/20/2023 | | 9/18/2023 | pending |
| U-23-13063 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- TRASH TRUCK LOADING, MATERIAL DELIVERY/HANDLING. SCREENING TO BE SET UP DURING TRASH TRUCK, LOADING OR WHILE WORKING IN ROW, BUT NOT R | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 5/25/2023 | 6/1/2023 | 8/30/2023 | issued |
| U-23-13025 | u-p03 | | U-EXCAVATION IN ROW | EXCAVATE- INSTALL 7 FEET OF 1 - 1/4" PE GAS SERVICE TO SERVE AD DRESS ABOVE | | 236 PHIPPS PLZ | 500056 | | FLORIDA PUBLIC UTILITIES COM PA | 5/19/2023 | 5/25/2023 | 11/21/2023 | issued |
| U-23-12759 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- TRASH TRUCK LOADING, MATERIAL DELIVERY/HANDLING. SCREENING TO BE SET UP DURING TRASH TRUCK, LOADING OR WHILE WORKING IN ROW, BUT NOT R | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 4/19/2023 | 4/21/2023 | 7/20/2023 | issued |
| U-23-12572 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- TRASH TRUCK LOADING, MATERIAL DELIVERY/HANDLING. SCREENING TO BE SET UP DURING TRASH TRUCK, LOADING OR WHILE WORKING IN ROW, BUT NOT R | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 3/21/2023 | 3/24/2023 | 6/22/2023 | issued |
| B-23-98272 | b-r01 | 416532 | R-REVISION | *****PRIVATE PROVIDER***** REVISION OTHER- DRAINAGE FEASI BILITY REPORT | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 3/8/2023 | | 3/8/2023 | pending |
| B-23-98185 | b-r03 | | FEE CHARGE | ZONING VERIFICATION LETTER REQUEST | | 236 PHIPPS PLZ | 606786 | | COZEN O'CONNOR | 2/28/2023 | 2/28/2023 | 2/28/2023 | final |
| U-23-12400 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- TRASH TRUCK LOADING, MATERIAL DELIVERY/HANDLING. SCREENING TO BE SET UP DURING TRASH TRUCK, LOADING OR WHILE WORKING IN ROW, BUT NOT R | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 2/13/2023 | 2/24/2023 | 5/25/2023 | issued |
| L-23-00711 | l-l01 | | L-LPC STAFF APPROVAL | LANDMARKS- (2) ADDITIONAL WINDOWS ON SOUTH SIDE OF BUIL DING; RELOCATED HVAC EQUIPMENT, COURTYARD FOUNTAIN WIT H WATER HEATERS ON BACK; BUILDING COLOR CHANGED TO WHIT | | 236 PHIPPS PLZ | 605989 | | SPINA O'ROURKE & PARTNERS | 1/27/2023 | 3/9/2023 | 1/22/2024 | final |
| U-23-12297 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF - TRASH TRUCK LOADING, MATERIAL DELIVERY / HANDLING. SCREENING TO BE SET UP DURIN G TRASH TRUCK LOADING OR WHILE WORKING IN ROW, BUT NOT | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 1/20/2023 | 2/14/2023 | 5/15/2023 | issued |
| U-23-12253 | u-p03 | | U-EXCAVATION IN ROW | WED 1/18-FRI 1/20/23: NO LANE CLOSURE-REAR EASEMENT LANDS CAPE AREA-REMOVE 1 LATERALS AND INSTALL THREE 6" PVC LATER ALS AT SAME LINE, GRADE & ELEVATION TO WHAT WAS EXISTING-D | | 236 PHIPPS PLZ | 542582 | | S MACDONALD CONTRACTING L LC | 1/12/2023 | 1/18/2023 | 7/30/2023 | issued |
| U-23-12254 | u-p07 | | U-SEWER/DRAINAGE - CAP-OFF/CONNECTION | WED 1/18-FRI 1/20/23: NO LANE CLOSURE-REAR EASEMENT LANDS CAPE AREA-REMOVE 1 LATERALS AND INSTALL THREE 6" PVC LATER ALS AT SAME LINE, GRADE & ELEVATION TO WHAT WAS EXISTING-D | | 236 PHIPPS PLZ | 542582 | | S MACDONALD CONTRACTING L LC | 1/12/2023 | 1/18/2023 | 5/1/2023 | issued |
| B-22-97640 | b-r01 | 416532 | R-REVISION | *****PRIVATE PROVIDER***** REVISION OTHER: FIRE ALARM SHO P DWGS & PRODUCT DATA | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 12/28/2022 | 1/6/2023 | 12/28/2022 | final |
| B-22-97608 | b-r01 | 416532 | R-REVISION | *****PRIVATE PROVIDER***** REVISION OTHER: SUBMITTING FIR E SPRINKLER DRAWINGS AND HEAD CUT SHEETS. | | 236 PHIPPS PLZ | 535670 | | SOUTHERN FIRE PROTECTION O F P | 12/22/2022 | 1/3/2023 | 12/22/2022 | final |
| U-22-12139 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF - DUMP TRUCK LOADING D ELIVERY/HANDLING CONCRETE POUR/ PUMP SET UP, ALL WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP AT END O | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 12/19/2022 | 1/5/2023 | 4/5/2023 | final |
| U-22-11942 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF - DUMP TRUCK LOADING D ELIVERY/HANDLING CONCRETE POUR/ PUMP SET UP, ALL WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP AT END O | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 11/21/2022 | 12/16/2022 | 3/16/2023 | issued |
| U-22-11617 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- DUMP TRUCK LOADING, M ATERIAL DELIVERY/ HANDLING CONCRETE POUR/PUMP SET UP. ALL WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP AT END OF THE DAY. | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 10/18/2022 | 11/7/2022 | 2/5/2023 | issued |
| U-22-11251 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- DUMP TRUCK LOADING, M ATERIAL DELIVERY/ HANDLING CONCRETE POUR/PUMP SET UP. ALL WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP AT END OF THE DAY. | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 9/16/2022 | 9/19/2022 | 12/18/2022 | final |
| B-22-96210 | b-r01 | 416532 | R-REVISION | *****PRIVATE PROVIDER***** REVISION BUILING - ADDITIONAL P RODUCT APPROVALS - ALUMINUM MULLION FOR LOWEN WINDO | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/26/2022 | 8/30/2022 | 8/26/2022 | final |
| B-22-95990 | b-r01 | 416532 | R-REVISION | *****PRIVATE PROVIDER***** REVISION BUILDING: UPDATED PR ODUCT APPROVALS-WINDOWS & DOORS (CHANGED MANUFACTU | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/15/2022 | 8/18/2022 | 8/15/2022 | final |
| U-22-10840 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- DUMP TRUCK LOADING, M ATERIAL DELIVERY/ HANDLING CONCRETE POUR/ PUMP SET UP. AL L WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/10/2022 | 8/15/2022 | 11/13/2022 | issued |
| U-22-10743 | u-p07 | | U-SEWER/DRAINAGE - CAP-OFF/CONNECTION | TWO SEWER SERVICE CONNECTIONS TIE INTO EXISTING SEWER MA IN FOR NEW SERVICE CONNCETIONS. | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/3/2022 | 8/12/2022 | 11/10/2022 | issued |
| U-22-10006 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- DUMP TRUCK LOADING, M ATERIAL DELIVERY/HANDLING CONCRETE POUR, PUMP SET UP, ALL WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 5/16/2022 | 5/17/2022 | 8/15/2022 | issued |
| U-22-09749 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- DUMP TRUCK LOADING, M ATERIAL DELIVERY/ HANDLING, CONCRETE POUR/PUMP SET UP. AL L WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 4/18/2022 | 4/27/2022 | 7/26/2022 | final |

Count: 35

<Filter is Empty>

Town Council Development Review Meeting Backup 7-12-2023

| Permit number | Permit type | Master permit ID | Permit type name | Permit description | Permit Suite | Permit Address | Customer Nu | Customer | Customer Last Name | Application d | Issue date | Expiration date | Approval state |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| U-22-09536 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** USE OF- DUMP TRUCK LOADING, MATERIAL DELIVERY/ HANDLING, CONCRETE POUR/PUMP SET UP, ALL WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 3/17/2022 | 3/20/2022 | 6/18/2022 | final |
| U-22-09260 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** DUMP TRUCK LOADING, MATERIAL DELIVERY / HANDLING CONCRETE POUR / PUMP SET UP - ALL WILL BE DURING WORKING HOURS ONLY AND AREA CLEANED UP AT EN | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 1/21/2022 | 1/27/2022 | 4/27/2022 | final |
| B-21-92435 | b-b06 | | B-COMMERCIAL ALTERATION | REMOVE DAMAGED HANDRAIL AND REPLACE W/NEW. WE WILL BE DOING THE SAME SPEC'S. | | 236 PHIPPS PLZ | 602494 | | BLUE COAST ALUMINUM INC | 12/13/2021 | 12/15/2021 | 7/20/2022 | final |
| U-21-08875 | u-p02 | 416532 | U-USE OF/WORK IN ROW | ROW DUMP TRUCK LOADING, MATERIALS DELIVERY/HANDLING CONCRETE POUR/ PUMP SET UP. | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 11/15/2021 | 11/23/2021 | 2/21/2022 | final |
| F-21-03584 | f-f01 | 416532 | F-FIRE RESCUE STANDARD | *****PRIVATE PROVIDER***** FIRE HYDRANT FLOW TEST | | 236 PHIPPS PLZ | 535670 | | SOUTHERN FIRE PROTECTION OF P | 10/15/2021 | 10/18/2021 | 10/13/2022 | final |
| U-21-08385 | u-p02 | 416532 | U-USE OF/WORK IN ROW | *****PRIVATE PROVIDER***** ROW DUMP TRUCK LOADING, MATERIAL DELIVERY/HANDLING CONCRETE POUR/PUMP SET UP. | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 9/27/2021 | 9/28/2021 | 12/27/2021 | final |
| B-21-90497 | b-r02 | 416532 | R-CHANGE OF CONTRACTOR/QUALIFIER | *****PRIVATE PROVIDER***** CHANGE OF CONTRACTOR | | 236 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/2/2021 | 8/2/2021 | 8/2/2021 | final |
| B-21-87670 | b-r04 | 416532 | R-PERMIT UPDATE-CHG OF PLANS & VALUE/CORRECTION | *****PRIVATE PROVIDER***** PERMIT UPDATE CHANGE IN PLANS AND VALUE FOR INTERIOR AND EXTERIOR RENOVATION | | 236 PHIPPS PLZ | 501979 | | HEDRICK BROTHERS CONST CO INC | 2/26/2021 | 4/8/2021 | 10/5/2021 | final |
| Z-20-00309 | z-01 | | Z-DEVELOPMENT REVIEW PERMIT | Section 134-942(4): Request for a modification to the existing multi-family site plan (4 units) to allow applicant to undertake a renovation of a 3 story nonconforming landmarked residence located in the R-C Zoning District in Phipps Plaza. Modifications include: Removal of existing 70 SF non-conforming bike storage shed; Removal of existing exterior stair leading from second floor to third floor; New balconies (3) with corbel and railing details to match existing exterior stair; New infill and enclosure of existing 38 SF second floor covered porch; New infill and enclosure of exiting 134 SF third floor covered porch (variance requested); New spa in existing ground level courtyard<br>; New spa equipment (1) in housing at ground level (variance requested); New 6' tall ac units (3) at ground level (variance requested)<br>; New elevator within existing building footprint; Revised interior floor plans.<br>The variances being requested are as follows:<br>1) Section 134-948(8): To allow the enclosure of a porch on the existing nonconforming third floor of a three story building in lieu of the two-story building maximum allowed in the R-C Zoning District.<br>2) 134-1728(0): to allow the three (3) air-conditioning units in a required rear setback to be 6 feet in height in lieu of the 4 foot maximum allowed.<br>3) 134-1728(a): to allow three (3) air-conditioning units in a required setback where only maximum of two are allowed.<br>4) 134-1728(a): to allow the west two (2) air-conditioning units to be 9 inches and 3 feet, respectively, from the rear property line in lieu of the 5 foot minimum required.<br>5) 134-1728(a): to allow the east air-conditioning unit and pool equipment to be 1 inch from the east side property line in lieu of the 5 foot minimum required.<br>6) 134-1728(a): to allow the east air-conditioning unit and pool equipment to be 9 inches and 3 feet from the rear property line, respectively, in lieu of the 5 foot minimum required.<br>7) 134-1729: to allow the proposed spa pump and filter equipment to be 9 inches from the rear property line in lieu of the five foot minimum setback required. | | 236 PHIPPS PLZ | 602091 | | KOCHMAN AND ZISKA | 11/13/2020 | | 11/8/2021 | pending |
| B-19-81597 | b-b02 | | B-RESIDENTIAL ALTERATION | *****PRIVATE PROVIDER***** SELECTIVE INTERIOR AND EXTERIOR DEMOLITION | | 236 PHIPPS PLZ | 501979 | | HEDRICK BROTHERS CONST CO INC | 9/30/2019 | 10/8/2019 | 8/30/2023 | issued |
| B-13-31289 | b-e02 | | E-ELECTRICAL COM STANDARD | PUT UP NEW LANTERNS PER PLAN | | 236 PHIPPS PLZ | 600944 | | ELI'S ELECTRIC CORP | 4/10/2013 | 4/16/2013 | 10/13/2013 | final |

Count: 35

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Town Council Development Review Meeting Backup 7-12-2023

# Permit Browse
## Town of Palm Beach



Town Council Development Review Meeting Backup 7-12-2023

| Permit number | Permit type | Master permit ID | Permit type name | Permit description | Permit Suite | Permit Address | Customer Nu | Customer | Customer Last Name | Application d | Issue date | Expiration date | Approval state |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| U-23-13021 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 05/24/2023 THRU 08/22//2023 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 5/18/2023 | 5/25/2023 | 5/25/2023 | issued |
| U-23-13022 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 05/24/2023 THRU 08/22//2023 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 5/18/2023 | 5/25/2023 | 5/25/2023 | issued |
| U-23-13023 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 05/24/2023 THRU 08/22//2023 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 5/18/2023 | 5/25/2023 | 5/25/2023 | issued |
| U-23-12397 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 02/18/2023 THRU 05/17/2023 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 2/13/2023 | 2/24/2023 | 2/24/2023 | issued |
| U-23-12398 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 02/18/2023 THRU 05/17/2023 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 2/13/2023 | 2/24/2023 | 2/24/2023 | issued |
| U-23-12399 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 02/18/2023 THRU 05/17/2023 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 2/13/2023 | 2/24/2023 | 2/24/2023 | issued |
| U-23-12279 | u-p03 | | U-EXCAVATION IN ROW | WED- 1/18/2023-FRI 01/20/2023 - NO LANE CLOSURE- REAR EASEMENT LANDSCAPE AREA- REMOVE 1 LATERAL AND INSTALL ONE 6" PVC LATERALS AT SAME LINE. GRADE & ELEVATION TO WHAT WAS E | | 238 PHIPPS PLZ | 542582 | | S MACDONALD CONTRACTING LLC | 1/18/2023 | 1/18/2023 | 7/30/2023 | issued |
| U-23-12280 | u-p07 | | U-SEWER/DRAINAGE - CAP-OFF/CONNECTION | WED- 1/18/2023-FRI 01/20/2023 - NO LANE CLOSURE- REAR EASEMENT LANDSCAPE AREA- REMOVE 1 LATERAL AND INSTALL ONE 6" PVC LATERALS AT SAME LINE. GRADE & ELEVATION TO WHAT WAS E | | 238 PHIPPS PLZ | 542582 | | S MACDONALD CONTRACTING LLC | 1/18/2023 | 1/18/2023 | 5/1/2023 | issued |
| B-22-97641 | b-r01 | 416533 | R-REVISION | *****PRIVATE PROVIDER***** REVISION OTHER - SUBMITTING FIRE SPRINKLER DRAWINGS AND HEAD CUT SHEETS | | 238 PHIPPS PLZ | 535670 | | SOUTHERN FIRE PROTECTION OF P | 12/28/2022 | 1/3/2023 | 12/28/2022 | final |
| U-22-11883 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 11/18 THRU 2/17 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 11/14/2022 | 11/18/2022 | 11/18/2022 | final |
| U-22-11884 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 11/18 THRU 2/17 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 11/14/2022 | 11/18/2022 | 11/18/2022 | final |
| U-22-11885 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING: 11/18 THRU 2/17 | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 11/14/2022 | 11/18/2022 | 11/18/2022 | final |
| B-22-96211 | b-r01 | 416533 | R-REVISION | *****PRIVATE PROVIDER***** REVISION BUILING - ADDITIONAL PRODUCT APPROVALS - ALUMINUM MULLION FOR LOWEN WINDO | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/26/2022 | | 8/26/2022 | pending |
| B-22-95988 | b-r01 | 416533 | R-REVISION | *****PRIVATE PROVIDER***** REVISION BULIDING: UPDATED PRODUCT APPROVALS-WINDOWS & DOORS (CHANGED MANUFACTU | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/15/2022 | 8/18/2022 | 8/15/2022 | final |
| U-22-10838 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/10/2022 | 8/15/2022 | 8/15/2022 | final |
| U-22-10841 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/10/2022 | 8/15/2022 | 8/15/2022 | final |
| U-22-10842 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/10/2022 | 8/15/2022 | 8/15/2022 | final |
| U-22-09953 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CCONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 5/10/2022 | 5/13/2022 | 5/13/2022 | final |
| U-22-09954 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CCONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 5/10/2022 | 5/13/2022 | 5/13/2022 | final |
| U-22-09955 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CCONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 5/10/2022 | 5/13/2022 | 5/13/2022 | final |
| U-22-09449 | u-p03 | | U-EXCAVATION IN ROW | EXCAVATE IN ROW | | 238 PHIPPS PLZ | 505500 | | WM D ADEIMY JR INC | 2/23/2022 | 2/24/2022 | 8/28/2022 | issued |
| U-22-09350 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER*****CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 2/8/2022 | 2/10/2022 | 2/10/2022 | final |
| U-22-09351 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER*****CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 2/8/2022 | 2/10/2022 | 2/10/2022 | final |
| U-22-09352 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER*****CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 2/8/2022 | 2/10/2022 | 2/10/2022 | final |
| U-21-08879 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 11/15/2021 | 11/23/2021 | 11/23/2021 | final |
| U-21-08880 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 11/15/2021 | 11/23/2021 | 11/23/2021 | final |
| U-21-08881 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER***** CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 11/15/2021 | 11/23/2021 | 11/23/2021 | final |
| U-21-07960 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER****CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/4/2021 | 8/17/2021 | 8/17/2021 | final |
| U-21-07961 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER****CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/4/2021 | 8/17/2021 | 8/17/2021 | final |
| U-21-07962 | u-p05 | 416533 | U-CONSTRUCTION PARKING | *****PRIVATE PROVIDER****CONSTRUCTION PARKING | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/4/2021 | 8/17/2021 | 8/17/2021 | final |
| B-21-90498 | b-r02 | 416533 | R-CHANGE OF CONTRACTOR/QUALIFIER | *****PRIVATE PROVIDER***** CHANGE OF CONTRACTOR | | 238 PHIPPS PLZ | 606120 | | BCC RESIDENTIAL LLC | 8/2/2021 | 8/2/2021 | 8/2/2021 | final |
| B-21-87669 | b-r04 | 416533 | R-PERMIT UPDATE-CHG OF PLANS & VALUE/CORRECTION | *****PRIVATE PROVIDER***** PERMIT UPDATE CHANGE IN PLANS AND VALUE FOR INTERIOR AND EXTERIOR RENOVATION | | 238 PHIPPS PLZ | 501979 | | HEDRICK BROTHERS CONST CO INC | 2/26/2021 | 4/8/2021 | 10/5/2021 | final |
| B-19-81598 | b-b02 | | B-RESIDENTIAL ALTERATION | *****PRIVATE PROVIDER***** SELECTIVE INTERIOR AND EXTERIOR DEMOLITION | | 238 PHIPPS PLZ | 501979 | | HEDRICK BROTHERS CONST CO INC | 9/30/2019 | 10/8/2019 | 8/30/2023 | issued |
| B-11-16990 | b-p07 | | P-REPLACEMENT | REPLACE EXISTING 3/4" BACKFLOW DEVICE | | 238 PHIPPS PLZ | 602226 | | GENERAL HOME SOLUTIONS INC | 5/16/2011 | 5/17/2011 | 11/13/2011 | final |
| X-08-37348 | legacy | | X-LEGACY PERMIT | RE-ROOF WITH (2) PIECE BARRELL TILE.MATCH EXISTING MATERIAL TILE. | | 238 PHIPPS PLZ | 599999 | | INACTIVE | 9/17/2008 | 9/17/2008 | 10/2/2008 | final |
| X-07-27062 | legacy | | X-LEGACY PERMIT | HARDWIRE NEW WATER HEATER | | 238 PHIPPS PLZ | 537669 | | LIFESTYLES ELECTRICAL SERVICE | 1/4/2007 | 1/4/2007 | 10/2/2008 | final |
| X-06-26938 | legacy | | X-LEGACY PERMIT | REPLACE EXISTING ELECTRIC WATER HEATER IN ATTIC | | 238 PHIPPS PLZ | 602226 | | GENERAL HOME SOLUTIONS INC | 12/20/2006 | 12/20/2006 | 10/2/2008 | final |
| X-05-13839 | legacy | | X-LEGACY PERMIT | EMERGENCY REPLACEMENT OF METER CAN | | 238 PHIPPS PLZ | 541080 | | MALONE ELECTRICAL SOLUTIONS LLC | 1/19/2005 | 1/19/2005 | 10/2/2008 | final |

Count: 38

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## Property Detail

| | | | | | |
|---|---|---|---|---|---|
| Parcel Control Number: | 50-43-43-22-10-000-0102 | Location Address: | 236 PHIPPS PLZ | | |
| Owners: | 236 PHIPPS PLAZA PROPERTIES PARTNERS LLC | | | | |
| Mailing Address: | 230 ROYAL PALM WAY STE 411,PALM BEACH FL 33480 4340 | | | | |
| Last Sale: | JAN-2022 | Book/Page#: | 33289 / 1285 | Price: | $1,547,600 |
| Property Use Code: | 0800 - MULTIFAMILY < 5 UNITS | Zoning: | R-C - MEDIUM DENSITY RESIDENTIAL ( 50-PALM BEACH ) | | |
| Legal Description: | PL OF PHIPPS PLAZA WLY 50.86 FT OF LT J | Total SF: | 5176 | Acres | 0.0674 |

## 2022 Values (Current)

| | |
|---|---|
| Improvement Value | $710,702 |
| Land Value | $2,746,998 |
| Total Market Value | $3,457,700 |
| Assessed Value | $2,792,712 |
| Exemption Amount | $0 |
| Taxable Value | $2,792,712 |

**All values are as of January 1st each year.**

## 2022 Taxes

| | |
|---|---|
| Ad Valorem | $47,608 |
| Non Ad Valorem | $1,945 |
| Total Tax | $49,553 |

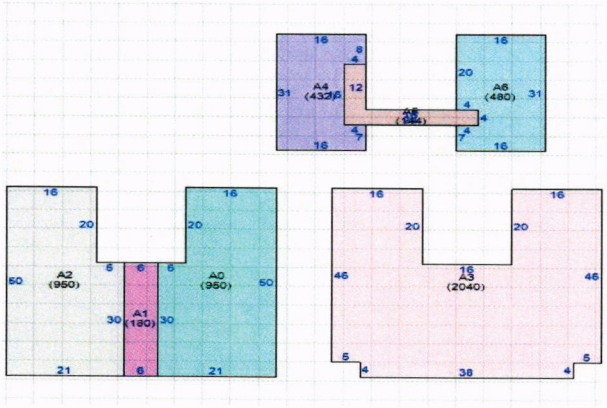
## 2023 Qualified Exemptions

No Details Found

## Applicants

No Details Found

## Building Footprint (Building 1 )




## Subarea and Square Footage (Building 1 )

| Description | Area Sq. Footage |
|---|---|
| FUS Finished Upper Story | 2040 |
| BAS Base Area | 950 |
| FUS Finished Upper Story | 144 |
| FUS Finished Upper Story | 432 |
| FUS Finished Upper Story | 480 |
| FOP Finished Open Porch | 180 |
| BAS Base Area | 950 |
| Total Square Footage : | 5176 |
| Total Area Under Air : | 4996 |

## Extra Features

| Description | Year Built | Unit |
|---|---|---|
| No Extra Feature Available | | |

## Structural Details (Building 1 )

| | Description |
|---|---|
| 1. Exterior Wall 1 | WSF: BRICK |
| 2. Year Built | 1925 |
| 3. Air Condition Desc. | HTG & AC |
| 4. Heat Type | FORCED AIR DUCT |
| 5. Heat Fuel | ELECTRIC |
| 6. Bed Rooms | 0 |
| 7. Full Baths | 5 |
| 8. Half Baths | 1 |
| 9. Exterior Wall 2 | NONE |
| 10. Roof Structure | GABLE/HIP |
| 11. Roof Cover | CLAY/BERMUDA TILE |
| 12. Interior Wall 1 | PLASTER |
| 13. Interior Wall 2 | N/A |
| 14. Floor Type 1 | CERAMIC/QUARRY TILE |
| 15. Floor Type 2 | N/A |
| 16. Stories | 2 |

## MAP

## Property Detail

| | | | | | |
|---|---|---|---|---|---|
| Parcel Control Number: | 50-43-43-22-10-000-0101 | Location Address: | 238 PHIPPS PLZ | | |
| Owners: | PHIPPS PLAZA PROPERTIES PARTNERS LLC | | | | |
| Mailing Address: | 230 ROYAL PALM WAY,PALM BEACH FL 33480 4303 | | | | |
| Last Sale: | JUN-2017 | Book/Page#: | 29227 / 1316 | Price: | $1,950,000 |
| Property Use Code: | 0100 - SINGLE FAMILY | Zoning: | R-C - MEDIUM DENSITY RESIDENTIAL ( 50-PALM BEACH ) | | |
| Legal Description: | PL OF PHIPPS PLAZA LT J /LESS WLY 50.86 FT/ | Total SF: | 2020 | Acres | 0.0395 |

## 2022 Values (Current)

| | |
|---|---|
| Improvement Value | $633,459 |
| Land Value | $2,408,629 |
| Total Market Value | $3,042,088 |
| Assessed Value | $1,850,853 |
| Exemption Amount | $0 |
| Taxable Value | $1,850,853 |

**All values are as of January 1st each year.**

## 2022 Taxes

| | |
|---|---|
| Ad Valorem | $36,445 |
| Non Ad Valorem | $638 |
| Total Tax | $37,083 |

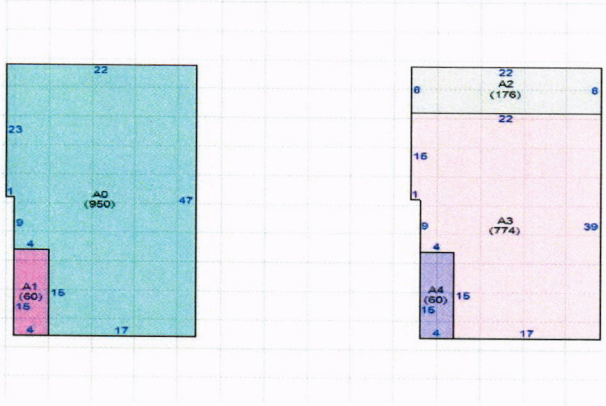
## 2023 Qualified Exemptions

No Details Found

## Applicants

No Details Found

## Building Footprint (Building 1 )




## Subarea and Square Footage (Building 1 )

| Description | Area Sq. Footage |
|---|---|
| UST Unfinished Storage | 60 |
| BAS Base Area | 950 |
| UST Unfinished Storage | 60 |
| UOP Unfinished Open Porch | 176 |
| FUS Finished Upper Story | 774 |
| Total Square Footage : | 2020 |
| Total Area Under Air : | 1724 |

## Extra Features

| Description | Year Built | Unit |
|---|---|---|
| No Extra Feature Available | | |

## Structural Details (Building 1 )

| | Description | |
|---|---|---|
| 1. | Exterior Wall 1 | WSF: BRICK |
| 2. | Year Built | 1925 |
| 3. | Air Condition Desc. | HTG & AC |
| 4. | Heat Type | FORCED AIR DUCT |
| 5. | Heat Fuel | ELECTRIC |
| 6. | Bed Rooms | 0 |
| 7. | Full Baths | 0 |
| 8. | Half Baths | 0 |
| 9. | Roof Structure | WOOD TRUSS |
| 10. | Roof Cover | CLAY/BERMUDA TILE |
| 11. | Interior Wall 1 | PLASTER |
| 12. | Interior Wall 2 | N/A |
| 13. | Floor Type 1 | CERAMIC/QUARRY TILE |
| 14. | Floor Type 2 | CONCRETE FINISHED |
| 15. | Stories | 2 |

## MAP

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Time Extensions

Agenda Title
Waiver of Town Code Section 42-199, For Construction Work Hour Extension at 3300 S. Ocean Blvd.

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum w/Attachments**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: July 12, 2023

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To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Waiver of Town Code Section 42-199, For Construction Work Hour Extension at 3300 S. Ocean Blvd.

Date: June 28, 2023

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## STAFF RECOMMENDATION

Staff recommends that the Town Council consider the request from Michael Markovitz, President of the Meridian Condominium, regarding an extension of construction hours in which to complete a concrete restoration project at the Meridian Condominium, 3300 S. Ocean Blvd. The request is to begin work at 8:00 am instead of waiting until 9:00 am during the summer and fall seasons.

## GENERAL INFORMATION

The concrete restoration building permits were issued on July 1, 2021, and expire on November 30, 2023. Mr. Markovitz is requesting the ability to begin the concrete restoration work at 8:00 am instead of 9:00 am, as regulated by the code.

The Town Code restricts noisy work to begin no earlier than 9:00 am, as shown below. Only the Town Council can approve an exception to the work restrictions.

*"Sec. 42-199. - Hours for construction work.*
*Limited. Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March and April of each year, construction work not otherwise prohibited by section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday and observed town holidays, and the days before and after Thanksgiving, when all construction and lawn maintenance work, other than as excepted in section 42-230, is prohibited. In no event shall heavy equipment or other outdoor construction-related and lawn maintenance noise be permitted before 9:00 a.m. Beginning on May 1 until the Monday preceding Thanksgiving, work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and town observed holidays, when all construction and lawn maintenance work is restricted or prohibited. In no event shall heavy equipment or other outdoor construction-related and lawn maintenance noise be permitted before 9:00 a.m. Construction work is permissible on Saturdays from May 1 through the Monday preceding Thanksgiving, but subject to the following restrictions: work shall not begin*

*until the hour of 9:00 a.m. and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature and limited to indoor activity, with the exception of quiet lawn maintenance work and tree trimming); material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restrictions due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending October 31, except Sundays and legal holidays, when all construction work is prohibited. Workers are prohibited from arriving at construction and lawn maintenance sites prior to 7:30 a.m. and are restricted from conducting any kind of site activity prior to 8:00 a.m. during the weekdays. Workers are prohibited from arriving at construction and lawn maintenance sites prior to 8:30 a.m. and are restricted from conducting any kind of site activity prior to 9:00 a.m. on Saturdays, when limited."*

Staff has no objection to the request.

Attachment: Letter from Michael Markovitz, President

MERIDIAN OF PALM BEACH
CONDOMINIUM ASSOCIATION, INC.

June 27, 2023

Mr. Wayne Bergman
Head of Planning Zoning Building Department
360 South County Road
Palm Beach, Florida 33480

RE: 3300 S Ocean Blvd Summer Construction Hours

Dear Mr. Bergman:

As a result of the almost daily thunderstorms beginning in the early afternoon, our construction crew is falling behind on the total renovation of the South Building. We are trying to complete the entire concrete work this year and have been well on our way before these thunderstorms shortened the workday.

We would appreciate your considering our start time for the concrete work at 8 am instead of 9 am. We want to complete the noisy and dusty concrete work before the winter season. The earlier start time should avoid such work during the season and lessen the financial burdens to the association.

Thank you very much for entertaining this change and on behalf of our residents please know that we appreciate your hard work and dedication to the citizens of this Town.

Warm Regards,

MICHAEL E MARKOVITZ

Mr. Michael Markovitz
President of the Meridian Condominium

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-22-115 (COA-22-040) 801 S COUNTY ROAD (COMBO) - VARIANCES** The applicant, Palmeiral Revocable Trust/Frances I. Kettenbach, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for a beach house structure and three (3) variances (1) to vest an existing non-conforming west setback due to the demolition of more than 50% of the structure, (2) to place an air conditioning condensing unit within the front setback, and (3) to reduce the Ocean Bulkhead setback, in conjunction with proposed exterior alterations and additions to an existing beach cabana. The Landmarks Preservation Commission will perform the design review component of the application. *[The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved this project with conditions at the June 21, 2023, meeting. Carried 7-0.]*

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **Letter of Intent**
- **Plans**
- **Plans**
- **Plans**

**TOWN OF PALM BEACH**
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Combination Memorandum: Landmarks Preservation Commission and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-115 (COA-22-040) 801 S COUNTY ROAD (COMBO)

MEETING: JUNE 21, 2023 LPC
JULY 12, 2023 TC

**COA-22-040 (ZON-22-115) 801 S COUNTY ROAD (COMBO).** The applicant, Palmeiral Revocable Trust/Frances I. Kettenbach, has filed an application requesting a Certificate of Appropriateness for proposed exterior alterations and additions to an existing beach cabana requiring a Special Exception with Site Plan Review and variances to vest existing non-conforming setbacks, mechanical equipment setbacks, and a to reduce the ocean bulkhead setback. Town Council will review the zoning components and relief requests of the application.

**ZON-22-115 (COA-22-040) 801 S COUNTY ROAD (COMBO) - VARIANCES.** The applicant, Palmeiral Revocable Trust/Frances I. Kettenbach, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for a beach house structure and three (3) variances (1) to vest an existing non-conforming west setback due to the demolition of more than 50% of the structure, (2) to place an air conditioning condensing unit within the front setback, and (3) to reduce the Ocean Bulkhead setback, in conjunction with proposed exterior alterations and additions to an existing beach cabana. The Landmarks Preservation Commission will perform the design review component of the application.

Applicant: Palmeiral Revocable Trust / Frances I. Kettenbach
Professional: LaBerge & Menard Inc. (Chris Kidle)
Representative: Maura Ziska, Esq.

## HISTORY

The project was heard at the May 17, 2023 LPC Hearing. The project was deferred to the June 21. 2023 hearing. The commission provided feedback regarding architectural elements and felt the design was too contemporary and the structure was too massive. The applicant has made modifications and resubmitted plans in response to the comments of the commission.

801 S County Rd is a Mediterranean style residence constructed in 1929 and designed by Maurice Fatio. The property was designated a Landmark in 1990. Numerous permits have been issued throughout the years for updates, maintenance and renovations to the site.

At the JUNE 21, 2023 LPC meeting, the project was reviewed and approved (7-0) w/ condition that certain aspects of the project be modified and reviewed as a staff level application, including a reduction in the overall height of the main portion by at least 1' among other things. Additionally,

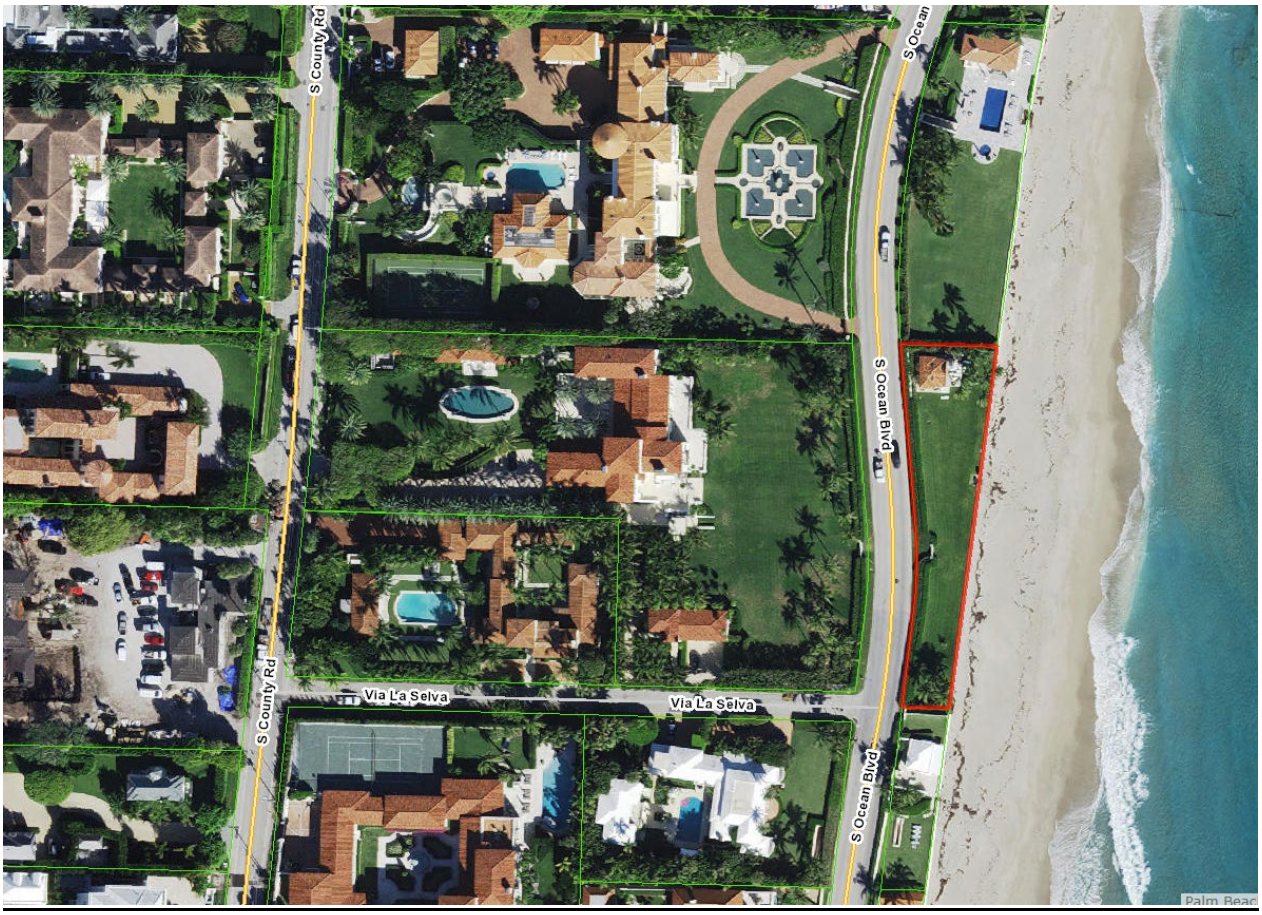
the variances were supported and that the implementation of the variances would not negatively impact the architecture (7-0).

**THE PROJECT:**

The applicant has submitted plans, entitled "CABANA RENOVATION 801 SOUTH COUNTY RD", as prepared by **LaBerge & Menard Inc.**, dated May 30, 2023.

The following is the scope of work for the Project:

- Renovation and addition to existing beach cabana.




*Subject beach parcel location.*

| Site Data | | | |
|---|---|---|---|
| **Zoning District** | BA / R-A | **Lot Size (SF)** | 136,015 SF |
| **Crown of Road (C-O-R)** | 16.67' NAVD | **Flood Zone** | ZONE X |
| **Exist Fin. Floor Elevation** | 13.85' NAVD | **Zero Datum for Point of Measurement** | 14.6' NAVD |
| **Project** | | | |
| | **Required/Allowed** | **Existing** | **Proposed** |

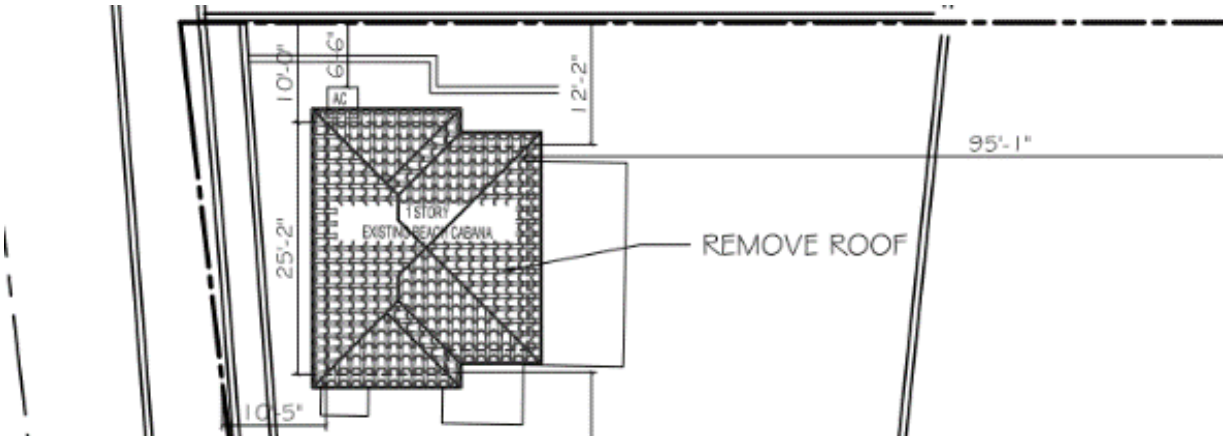
| | | | |
|---|---|---|---|
| **Lot Coverage** | 2,000 sq. ft. | 488 sq. ft. | 1,486 sq. ft. (previously proposed)<br>1,374 sq. ft. (proposed) |
| **North Setback** | 10’ | 10’ | 10’ |
| **West Setback** | 35’ | 10’-5” | 10’-5” (No Change)<br>*Variance Requested* |
| **South Setback** | 10’ | 265’ | 245’ |
| **East (Ocean Bulkhead) Setback** | 50’ | 40’ | 17’<br>*Variance Requested* |
| **Overall Building Height** | 16’ | 12’-10” | 14’-10” |
| **Surrounding Properties / Zoning** | | | |
| **North** | Beach Parcel and Cabana / BA Zoning | | |
| **South** | Beach Parcel and Cabana / BA Zoning | | |
| **East** | Atlantic Ocean | | |
| **West** | 1929 Two-Story Residence (Main Parcel) / R-A Zoning | | |

## STAFF ANALYSIS

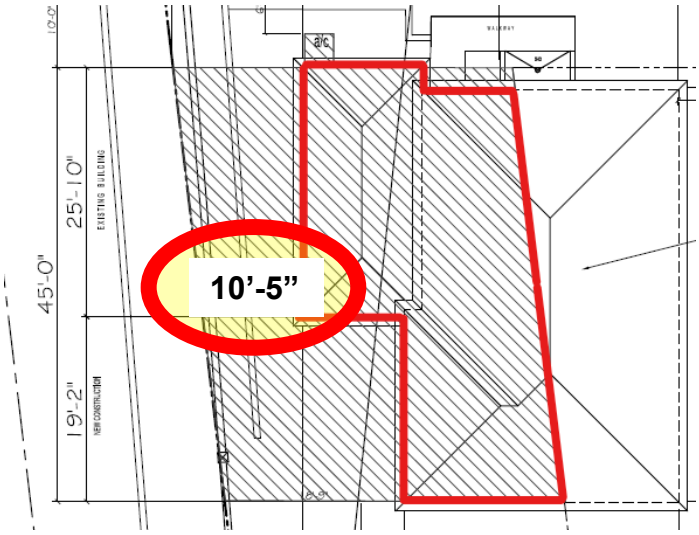
The application, as proposed, appears inconsistent with the following sections of the town code:

a. **Special Exception with Site Plan Review:** Sec. 134-1473(a)(1): To allow a beach house structure in the B-A, Beach Area district.
b. **Variance 1:** Sec. 134-1475(b)(3): A variance to vest an existing west setback of 10’-5” in lieu of the 35’-0” minimum required for a beach house structure due to the demolition of more than 50% of the existing structure.
c. **Variance 2**: Sec.134-1702: A variance to allow an Ocean Bulkhead setback of 17’ in lieu of the 50’ minimum required.
d. **Variance 3:** Sec. 134-1728(a): A variance to allow an air conditioning condensing unit with a 13’-7 ½” west front setback in lieu of the 35’ minimum front yard setback required.

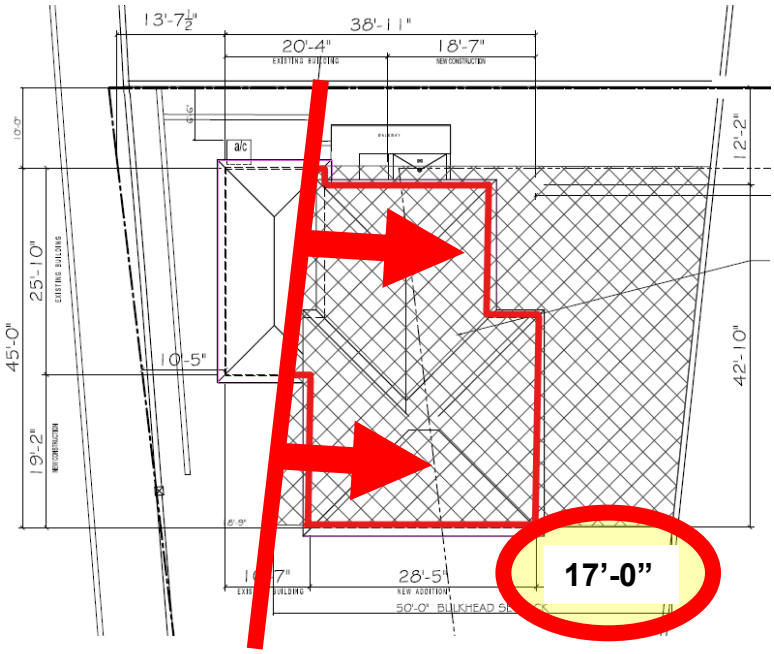
The application seeks approval for the renovation of and addition to an existing beach cabana. The renovation and addition result in the demolition of more than 50% of the cabana, requiring any existing nonconformities to be revested and requiring review by the Town Council for Special



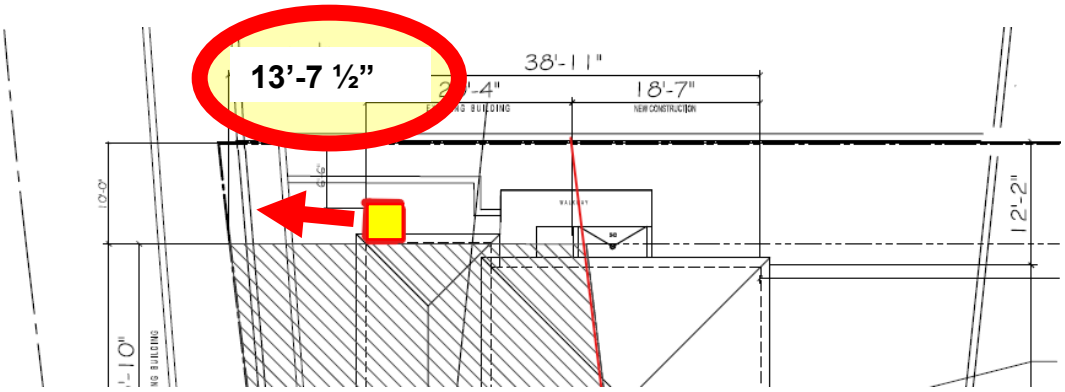
Exception with Site Plan Review.
As it pertains to Variance #1, the existing cabana has a nonconforming west street setback of 10'-5" in lieu of the 35' setback required. Due to demo of greater than 50% as part of the renovation, the nonconforming setback must be revested.




As it pertains to Variance #2, the applicant is proposing an addition which expands the footprint of the cabana closer to the ocean bulkhead. The existing cabana setback is currently nonconforming with an existing 40' setback; this nonconformity is being further increased by proposing a 17' setback, wher a 50' setback is the minimum required. Therefore, a variance is being requested to further encroach into the setback.



As it pertains to Variance #3, the applicant is seeking a variance to maintain existing A/C equipment in the required street setback at 13'-7 ½" in lieu of the 35' setback required. The variance requests to revest the existing nonconformity due to demolition of more than 50% of the existing cabana.




**Conclusion**

The application is presented to the Commission to consider whether all the criteria in section 54-122 have been met. Approval of the project will require two motions to be made by the Landmarks Preservation Commission: (1) for the overall design of the project in accordance with the criteria, subject to any imposed conditions and (2) that the proposed variances will/will not have negative architectural impact.

The project shall be reviewed for final determination of approval or denial of the three (3) variances by the Town Council. Approval of the project will require one motion to be made by the Town Council: (1) that the variances (#1-3) **should or should not** be granted that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met.

WRB:JGM:BMF

REVIEWED
By yfigueroa at 12:03 pm, May 30, 2023

LABERGE & MÉNARD INC.

444 25TH STREET SUITE #1 | WEST PALM BEACH, FL 33407
P: 561.655.8582 | DANIELAMENARD@GMAIL.COM

FINAL SUBMITTAL REV-1
LETTER OF INTENT

Re: 801 S. County Rd., Palm Beach 33480
LANDMARKS: COA- 22-040 June 21, 2023
ZONING: ZON- 22-115 July 19, 2023

We are seeking Landmarks and town council approval for a renovation and addition of an existing beach cabana, please note the following:

A) Landmarks Preservation Commission 54-122 & 54-161:

1. Modification of the existing cabana, to add a 876 sq ft addition, using similar architectural details to the main house, and current cabana.

B) ARCOM 18-205 & 18-206
not applicable

C) SPECIAL EXCEPTION 134-229
Site plan special exception is required

D) SITE PLAN REVIEW 134-329
Required

E) VARIANCES 134-201:

1. Variance for West setback to vest an existing 10'-5" setback in lieu of the 35'-0" West setback required. this is an existing condition and would not change
2. variance of 17'-0" in lieu of 50' from bulkhead
3. variance to allow air conditioning condensing unit, with an existging 13'-7" front setback in lieu of 50' required

F) OTHER
not applicable

Sincerely,

Chris Kidle

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES**

The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. [*The Architectural Review Commission deferred the project to their March 29, 2023, meeting.]* ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-22-032 (HSB-23-003) 594 N COUNTY RD (COMBO)—VARIANCES** The applicant, George Marucci, has filed an application requesting Town Council review and approval for variances (1 and 2) to reduce both side yard setback requirements for two, one-story additions to a historically significant one-story building. The Landmarks Preservation Commission will perform the design review. *[The Landmarks Preservation Commission deferred this project to the April 19, 2023, meeting.]* ***[The applicant has withdrawn this application.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-22-122 (HSB-22-011) 141 AUSTRALIAN AVE (COMBO)—VARIANCES** The applicant, Gregory James Pamel, has filed an application requesting Town Council review and approval for Variances to (1) reduce the required side (east) yard setback, (2) to reduce the required rear (north) yard setback, (3) to exceed the overall building height for an accessory structure, and (4) to exceed the maximum Cubic Content Ratio (CCR), and (5) to allow a two story accessory structure where only one story is permitted, for the demolition and reconstruction of a two-story accessory structure in the rear yard in conjunction with the proposed renovations to an existing Historically Significant two-story building. The Landmarks Preservation Commission will perform design review of the application. *[The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [ The Landmarks Preservation Commission approved this project with conditions at the May 17, 2023, meeting. Carried 7-0.] [At the June 14, 2023, Town Council meeting, the Council decided to deferred this project to the July 12, 2023, Town Council meeting.]*

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **All Submitted Material for Review**

**TOWN OF PALM BEACH**
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

THRU: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-122 (HSB-22-011) 141 AUSTRALIAN AVE (COMBO)

MEETING: JULY 12, 2023

**ZON-22-122 (HSB-22-011) 141 AUSTRALIAN AVE (COMBO)—VARIANCE.** The applicant, Gregory James Pamel, has filed an application requesting Town Council review and approval for Variances to (1) reduce the required side (east) yard setback, (2) to reduce the required rear (north) yard setback, (3) to exceed the overall building height for an accessory structure, and (4) to exceed the maximum Cubic Content Ratio (CCR), and (5) to allow a two story accessory structure where only one story is permitted, for the demolition and reconstruction of a two-story accessory structure in the rear yard in conjunction with the proposed renovations to an existing Historically Significant two-story building. The Landmarks Preservation Commission will perform design review of the application.

**HSB-22-011 (ZON-22-122) 141 AUSTRALIAN AVE (COMBO).** The applicant, Gregory James Pamel, has filed an application requesting Landmarks Preservation Commission review and approval for proposed exterior alterations to a Historically Significant two-story primary structure, and for the demolition and reconstruction of an existing two-story nonconforming accessory structure in the rear yard, including variances for setback, height, number of stories, and Cubic Content Ratio (CCR). This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Applicant: Gregory James Pamel
Professional: SKA Architect + Planner
Representative: David Klein, Esq.

**HISTORY:**
The subject property is located within the Royal Park Conservation District and was designated Historically Significant in June of 2022. The primary structure is designed in the Craftsman stye and was constructed circa 1910-1915.

The current proposal was initially scheduled to be reviewed by the LPC at the November 16, 2022, meeting but was deferred by the applicant to the April 19, 2023, meeting.

At the April 2023 meeting, the request to demolish and reconstruct the rear accessory structure was discussed. The project was deferred for one month, with the Commission requesting that the

applicants study retaining and rehabilitating the building in lieu of demolition and reconstruction. The applicants revised their proposal based on Commission direction, and resubmitted plans on May 3, 2023. At the May 17, 2023 LPC meeting the item was approved (7-0) and a motion was made that the variances would not (7-0) negatively impact the architecture. However, the Commission did require certain design improvements to be made, which included:

- The applicant shall submit revised plans with conditions as a Staff Level Application.
- The first-floor ceiling height shall be lowered to 8'.
- The finished floor shall be raised to a 4" step from grade.
- The proposed exterior band between the first floor and second floors shall be included.
- Two bracketed trellises shall be added over the French doors.
- Applicant shall modify at the direction of the Commission the casement window and mullion band.

The applicant submitted a staff level application dated June 21. 2023, L-23-00789 complying with these conditions outlined in the Development Order.

**THE PROJECT:**

The applicant has submitted plans, entitled "Pamel Residence 141 Australian Ave", as prepared by **SKA Architect + Planner** dated May 3, 2023 and staff level application entitled "L-23-00789" dated June 21. 2023.

The following is the scope of work for the Project:

- Removal of vinyl siding and installation of wood shingle siding on the primary residence
- Rehabilitation of the rear accessory structure, including raising the finished floor elevation by .54' and increasing the wall height by 2'
- Landscape and hardscape improvements.

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

- **VARIANCE 1:** Section 134-893(b)(7): Variance request to increase the height of an existing non-conforming accessory structure with a side (east) yard setback of 3.5 feet in lieu of the 15-foot required in R-B Zoning District.
- **VARIANCE 2:** Section 134-893(b)(9): Variance request to increase the height of an existing non-conforming accessory structure with a rear (north) yard setback of 3'-2" in lieu of the 15-foot required in R-B Zoning District.
- **VARIANCE 3**: Section 134-893(b)(13): Variance request for a cubic content ratio (CCR) of **4.63** in lieu of the 4.30 maximum allowed in R-B Zoning District.
- **VARIANCE 4**: Section 134-891(b): Variance request to increase the height of a non-conforming two-story accessory structure to an overall building height of **22.5**' in lieu of the 14-foot maximum allowed in R-B Zoning District.
- **VARIANCE 5**: Section 134-891(b)(1): Variance request for an accessory building height of two stories in lieu of the one story maximum allowed on a lot with less than 20,000 square feet.

| **Site Data** | | | |
|---|---|---|---|
| **Zoning District** | R-B | **Lot Size (SF)** | 7,011 SF |

| | | | |
|---|---|---|---|
| **Future Land Use** | SINGLE-FAMILY | **Total Building Size (SF)** | 3,688.4 SF |
| **C-O-R** | 10.42’ | **Flood Zone** | X |
| **Exist Fin. Floor Elevation** | 12.17’ (main)<br>10.96’ (accessory) | **Prop. Fin. Floor Elevation** | 12.17’ (main)<br>1’ (accessory) |
| **Year of Construction:** | 1910-1925 | **Architect/Builder:** | No record |
| **Project** | | | |
| | **Required/Allowed** | **Existing** | **Proposed** |
| **Lot Coverage** | 30% (2,100 SF) | 28.64% (2,008 SF) | 28.64% (2,008 SF) |
| **Cubic Content Ratio (CCR)** | 4.3 | 4.53 | 4.63<br>***Variance requested*** |
| **Building Height** | 14’ | 21.5’ (accessory) | 22.5’ (accessory)<br>***Variance requested*** |
| **Landscape Open Space** | 45% (3,155 SF) | 43.2% (2,962 SF) | 47.8% (3,353 SF) |
| **Front Yard Open Space** | 40% (500 SF) | 57.95% (725 SF) | 65.9% (824 SF) |
| **Perimeter Open Space** | 50% (1,079.5 SF) | 66.69% (2,057 SF) | 65.6% (2,233 SF) |
| **Native Plant Species %** | 35% | N/A% | 35% met |
| **Surrounding Properties / Zoning** | | | |
| **North** | 2004 Two-story residence / R-B | | |
| **South** | 2014 Two-story residence / R-B | | |
| **East** | 2006 Two-story residence / R-B | | |
| **West** | 2006 Two-story residence / R-B | | |

## STAFF ANALYSIS

As a HSB project the proposed changes must meet the Secretary of the Interior's Standards for Rehabilitation and Sec. 18-306, Sec. 54-122 and 54-123 of the Landmark Preservation Ordinance. A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the Town zoning code: 5 requested variances.

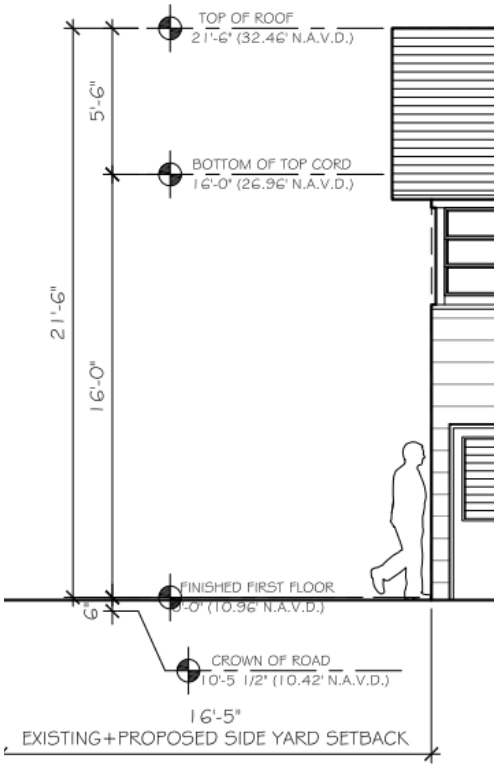
Firstly, it is admirable that the applicant has opted to designate the property as a Historically Significant Building and has chosen to preserve and renovate the property. The residence is surrounded by new(er) two-story residences and its preservation contributes to the rich architectural history of Palm Beach, as well as the streetscape of Australian Avenue.

The scope of work includes the renovation of the two-story primary residence. While altered over the years, the structure is an excellent example of the Craftsman style of architecture. Craftsman style residences generally have steep pitched gable roofs with wide, unenclosed eaves, exposed rafter tails, and full or partial width open porches with knee walls. Additional features of the style often include paired and single casement and double-hung windows and wood lap or shingle siding. The proposed removal of the vinyl siding and installation of the wood shingle siding on the primary structure is appropriate and enhances the character of the building.

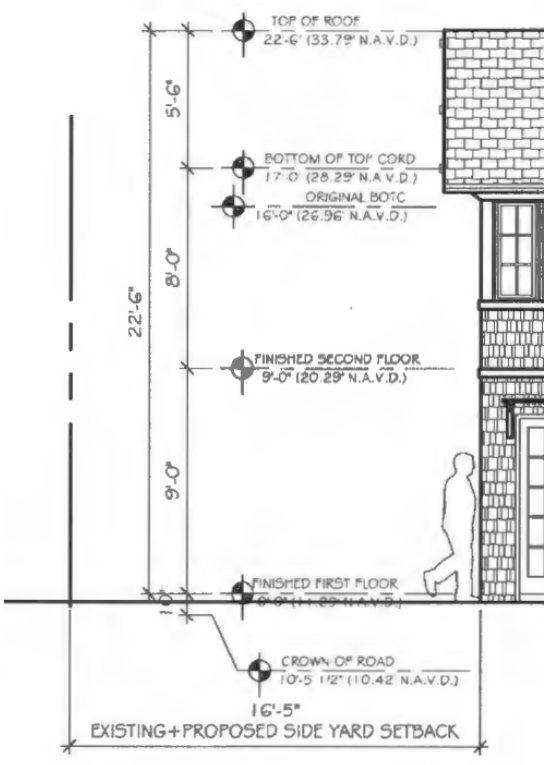
At the April 2023 LPC meeting, a request to demolish and "reconstruct" the rear two-story accessory building was proposed. The Commission deferred the application and instructed the applicants to explore the retention and rehabilitation of the building in lieu of demolition and new construction. The applicants resubmitted plans for the May meeting with a revised proposal.

The May application requests rehabilitating the historically significant accessory structure per Commission directive. The plans indicate that the structure will be reclad with new wood shake siding and that the second story sleeping porch will be maintained through the introduction of a band of casement windows. The plans also request to modify the fenestration on all sides of the building – including the removal, addition, and adjustment of openings. Lastly, the application seeks to increase the height of the accessory structure by 2.54'.

The parcel is located within the FEMA X zone, which is a Non-Special Flood Hazard Area of moderate to low risk. FEMA does not prescribe a finished floor elevation for this zone, but the parcel is relatively high by Palm Beach standards. Per the submitted plans, the building's finished floor height will be increased with a new foundation from an elevation of 10.96' NAVD to 11.50' NAVD. In addition to the increased finished floor elevation, two (2) feet of additional height will be added to the structure's ground floor walls, resulting in a floor-to-floor height of 10'-0". The 2.54' increase in height is most evident in the elevation drawings, provided on Sheets 19-20 of the architectural plan set.




**Sheet 19, Existing South Elevation**
Finished Floor Elevation: 10.96' NAVD
Height (From FFE to bottom of top chord): 16'




**Sheet 19, Proposed South Elevation**
Finished Floor Elevation: 11.50' NAVD
Height (From FFE to bottom of top chord): 18'

Because the applicants are electing to increase the height of the building's finished floor elevation and wall height for a reason other than FEMA compliance, the application will require the same

variances initially necessary to reconstruct the building, with modifications to variance amounts. Staff contends that the building could be rehabilitated with a new foundation without increasing the height of the building, and therefore eliminating the need for all five variances.

- **VARIANCE 1:** Section 134-893(b)(7): Variance request to increase the height of an existing non-conforming accessory structure with a side (east) yard setback of 3'-5" in lieu of the 15-foot required in R-B Zoning District.

The existing accessory structure is sited with a 3'-5" east side yard setback, whereas 15' is currently required. The application seeks to increase the height of the accessory structure, therefore increasing the setback's non-conformity vertically. This variance would not be necessary if the building was not increasing in height.

- **VARIANCE 2:** Section 134-893(b)(9): Variance request to increase the height of an existing non-conforming accessory structure with a rear (north) yard setback of 3'-2" in lieu of the 15-foot required in R-B Zoning District.

The existing accessory structure is sited with a 3'-2" rear (north) yard setback, whereas 15' is currently required. The application seeks to increase the height of the accessory structure, therefore increasing the setback's non-conformity vertically. This variance would not be necessary if the building was rehabilitated without increasing the height.

- **VARIANCE 3**: Section 134-893(b)(13): Variance request for a cubic content ratio (CCR) of 4.73 in lieu of the 4.30 maximum allowed in R-B Zoning District.
- **VARIANCE 4**: Section 134-891(b): Variance request to increase the height of a non-conforming two-story accessory structure to an overall building height of 23.5' feet in lieu of the 14-foot maximum allowed in R-B Zoning District.

The existing primary and accessory structure have a combined CCR of 4.53 CF, which currently exceeds the allowable 4.30 CCF. With the rehabilitation and increase in height of the new accessory structure, the applicants are requesting to increase the CCR to 4.63 CF; the changes required by the LPC lowered the initial request by 0.10. This variance would not be necessary if the building was rehabilitated without increasing the height. The area of the subject parcel limits the height of accessory structures to 14'. The applicants are requesting to increase the height of an already height non-conforming accessory structure. This variance would not be necessary if the building was rehabilitated without increasing the height. The changes required by the LPC lowered the initial request by 1' from 23'-6" to 22'-6".

- **VARIANCE 5**: Section 134-891(b)(1): Variance request for an accessory building height of two stories in lieu of the one story maximum allowed on a lot with less than 20,000 square feet.

Per the RB zoning code, two-story accessory structures are only allowed on parcels with an area of 20,000 SF or greater. As the parcel is only 7,011 SF, only a single-story accessory structure is permitted. The applicants are electing to expand this non-conformity by increasing the height of the existing two-story accessory structure.

WRB:JGM:JRH

**TOWN OF PALM BEACH**
Planning, Zoning & Building Department
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Palm Beach, FL 33480
permits@townofpalmbeach.com

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JUN 21 2023
Town of Palm Beach
PZB Dept

# APPLICATION FOR STAFF APPROVAL

The Architectural Review Commission (ARCOM) and Landmark Preservation Commission (LPC) have granted staff the ability to administratively approve certain projects per the Project Designation Manual Matrix. For more information on must be submitted with this application, see the Staff Approval Application Guide.

Payment of the Staff Approval fee is due upon application submittal. Payment may be made by check payable to the Town of Palm Beach or by cash or credit card in Town Hall during normal business hours of 8:30am and 4:00pm Monday through Friday. If the subject property is Landmark the fee is $150.00, all others are $350.00.

**APPLICATION TYPE:** X **LPC Staff Approval $150.00** _____ **ARCOM Staff Approval $350.00**
****If LPC, is this a tax abatement project? YES or NO**

DATE: 6-21-23 MASTER PERMIT #_____-_____-_____ STAFF APPROVAL PERMIT # L 23 00789

I. **PROJECT ADDRESS:** 141 Australian Avenue

II. **DESCRIPTION OF REQUEST** (Please provide a brief, comprehensive and summarized description of the proposed project below. (If needed, please include further details on a continuation sheet).

Reducing height by 1' and window rearrangement per LPC condition of approval.
These changes needed for approval to proceed to Town Council.

III. **BUSINESS NAME/TENANT INFO** (For commercial properties ONLY)_____
Phone number:_____ Email:_____

IV. **DESIGN PROFESSIONAL NAME AND CONTACT INFO:**
V. Name of Professional: SKA Architect+Planner License #: AR 10,181
Phone Number: 561-655-1116 Email: pat@skaarchitect.com daniel@skaarchitect.com

VI. **CONTRACTOR NAME AND CONTACT INFO:**
Construction Company: NA
Phone Number:_____ Email: _____

VII. **PROPERTY OWNER / AGENT NAME AND CONTACT INFORMATION:**
Property Owner's Name: 141 Australian Ave, LLC
Owners address (if different from subject address): _____
Phone Number:_____ Email: _____

VIII. **Applicant Signature:** Daniel Clavijo Date: 6-21-23
(Printed Name) Daniel Clavijo Title: Architect

FOR STAFF USE ONLY:

Rev. 11/02/2022

# TOWN OF PALM BEACH

**Planning, Zoning & Building Department**

## DEVELOPMENT ORDER (LPC)

File: HSB-22-011 (ZON-22-122)
Property: 141 Australian Ave (Historically Significant Building)
Meeting Date: May 17, 2023

The Landmarks Preservation Commission (LPC) approved the second story addition and modifications to the rear building at the historically significant property (7-0) as part of this Development Order, with the following conditions:

1. The applicant shall submit revised plans with conditions as a Staff Level Application.
2. The first-floor ceiling height shall be lowered to 8'.
3. The finished floor shall be raised to a 4" step from grade.
4. The proposed exterior band between the first floor and second floors shall be included.
5. Two bracketed trellises shall be added over the French doors.
6. Applicant shall modify at the direction of the Commission the casement window and mullion band.

Additionally, the Commission found that implementation of the proposed variances would not cause negative architectural impact to the subject property (7-0).

Provided, the applicant builds substantially in accordance with the approved plans, as prepared and submitted by **SKA Architect + Planner** on May 10, 2023, as approved by the LPC, and as determined by staff.

Approval of this application by the LPC does not relieve the owner and/or applicant from obtaining additional Town approvals as may be required, such as Town Council approval and the necessary building permits. A building permit for the work authorized under this approval must be obtained within one year from the date of approval or said approval will expire. When requesting a building permit, the plans submitted to the Town for permit are required to be consistent with the plans approved by the Commission and modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Development Order. A copy of all pages of the Development Order shall be scanned into the plans submitted for a building permit and shall be located immediately after the front cover page of the permit plans. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the Commission and shall be subject to all conditions of approval herein, unless otherwise modified by the Commission. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

This Development Order shall serve as the written approval of the LPC in accordance with Section 54-94.

Dated this 25th day of May, 2023.

Sincerely,

Wayne Bergman, Director of Planning, Zoning and Building, on behalf of
LANDMARKS PRESERVATION COMMISSION

cc: James G. Murphy, Assistant Director of Planning, Zoning and Building
Sarah C. Pardue, Design & Preservation Planner
Jordan R. Hodges, Design & Preservation Planner

# Town of Palm Beach

Planning Zoning and Building
360 S County Rd
Palm Beach, FL 33480
www.townofpalmbeach.com

| Line # | Zoning Legend | | | |
|---|---|---|---|---|
| 1 | **Property Address:** | 141 AUSTRARIAN AVENUE | | |
| 2 | **Zoning District:** | R-B LOW DENSITY RESIDENTIAL | | |
| 3 | **Structure Type:** | TWO STORY, SINGLE FAMILY HOME | | |
| 4 | | Required/Allowed | Existing | Proposed |
| 5 | Lot Size (sq ft) | 10,000 SQ.FT. | 7,011 SQ.FT. | 7,011 SQ.FT. |
| 6 | Lot Depth | 100.00' | 140.00' | 140.00' |
| 7 | Lot Width | 100.00' | 50.08' | 50.08' |
| 8 | Lot Coverage (Sq Ft and %) | 40%(1)-30%(2) | 2,008 (28.64%) | 2,008 (28.64%) |
| 9 | Enclosed Square Footage (Basement, 1st Fl, 2nd Fl., Accesory Structues, etc) | NA | 3,688.40 SQ.FT. | 3,688.40 SQ.FT. |
| 10 | Cubic Content Ratio (CCR) (R-B ONLY) | 4.30 | 4.53 | 4.63 |
| 11 | *Front Yard Setback (Ft.) | 25'(1)-35'(2) | 28.1' | 28.1' |
| 12 | * Side Yard Setback (1st Story) (Ft.) | 12.50'(W+E) | 8.2',12.4' | 8.2',12.4' |
| 13 | * Side Yard Setback (2nd Story) (Ft.) | 15.00'(W+E) | 16.4',3.4' | 16.4',3.4' |
| 14 | *Rear Yard Setback (Ft.) | 10'(1)-15'(2) | 3.2' | 3.2' |
| 15 | Angle of Vision (Deg.) | 100 | 55 | 55 |
| 16 | Building Height (Ft.) | 14'(1)-22'(2) | 18' (Main) / 16' (Guest) | 18' (Main) / 17' (Guest) |
| 17 | Overall Building Height (Ft.) | 22'(1)-30'(2) | 21.5' | 22.5' |
| 18 | Crown of Road (COR) (NAVD) | NA | 10.42 | NO CHANGE |
| 19 | Max. Amount of Fill Added to Site (Ft.) | NA | NA | NA |
| 20 | Finished Floor Elev. (FFE)(NAVD) | 7.00' MINIMUM | 12.17' (M) / 10.96' (G) | 12.17' (M) / 11.50' (G) |
| 21 | Zero Datum for point of meas. (NAVD) | 7.00' MINIMUM | 7.00' | 7.00' |
| 22 | FEMA Flood Zone Designation | NA | X | X |
| 23 | Base Flood Elevation (BFE)(NAVD) | | 7.00' | 7.00' |
| 24 | Landscape Open Space (LOS) (Sq Ft and %) | 3,155 SF (45%) | 2,962 SF (43.2%) | 3,159 SF (45.01%) |
| 25 | Perimeter LOS (Sq Ft and %) | 1,079.5 SF (50%) | 2,057 SF (66.69%) | 2,057 SF (66.69%) |
| 26 | Front Yard LOS (Sq Ft and %) | 500 SF (40%) | 725 SF (57.95%) | 824 SF (65.9%) |
| 27 | **Native Plant Species % | *Please refer to separate landscape legend.* | | |

** Indicate each yard area with cardinal direction (N,S,E,W)*

*** Provide Native plant species calculation per category as requited by Ord. 24-2021 on separate table*

**If value is not applicable, enter N/A**

**If value is not changing, enter N/C**

*REV BF 20220304*

SKA

ARCHITECT + PLANNER

Re:
141 Australian Ave
Palm Beach, Florida 33480
Date:
June 1, 2023

**SKA Architect+Planner - LETTER OF INTENT**
**RELATED TO THE RENOVATION OF AN EXISTING RESIDENCE AND AN EXISTING GUEST HOUSE AT**
**141 AUSTRALIAN AVE**

We are pleased to submit the accompanying drawings for the renovation of an existing residence and reconstruction of an existing guest house at 141 Australian Ave. Please note the following:

**A) LANDMARKS PRESERVATION COMMISSION 54-122 & 54-161**
Renovation to an existing two story residence (replacing vinyl siding for wood shingle siding). Renovation and lifting of an existing guest house. New landscape and hardscape.

**B) ARCOM 18-205 N/A**

**B) ARCOM 18-206 N/A**

**C) SPECIAL EXCEPTION 134-229 N/A**

**D) SITE PLAN REVIEW 134-329 N/A**

**E) VARIANCES 134-201 N/A**
The guest house require the following variances:

Section 134-893(b)(7): Request for lifting an existing accessory structure with an east side yard setback of 3.5 feet in lieu of the 15-foot required in R-B Zoning District.

Section 134-893(b)(9): Request for lifting an existing accessory structure with a rear yard setback of 5 feet in lieu of the 15-foot required in R-B Zoning District.

Section 134-893(b)(13): Request for a cubic content ratio of 4.63 in lieu of the 4.30 maximum allowed in R-B Zoning District.

Section 134-891(b)(1): Request to lift an existing accessory structure with a maximum height of 22.5 feet in lieu of the 15-foot maximum allowed in R-B Zoning District.

Section 134-891(b)(1) Request to lifting and maintaining an existing two story accessory structure in lieu of the one story maximum stories due to size of lot under 20,000SF

249 PERUVIAN AVENUE SUITE F-2 - PALM BEACH FL 33480 - 561-65[illegible] - FAX 561-832-7328

Section 134-201 – Findings prior to authorization.

1. The special conditions and circumstances related to the subject property is that it is non-conforming in width and area, with a width of 50 feet in lieu of the 100-foot required in the R-B Zoning District and an area of 7,000 square feet in lieu of the 10,000-foot minimum in the R-B Zoning District.
2. The special conditions and circumstances are not the result of the applicant as the property was non-conforming in width and area prior to acquisition by the applicant.
3. Granting of the variances requested will not confer any special privilege that is denied to the neighboring properties as the neighboring properties contain significantly more square footage than the subject property. Further, the proposed guest house will encroach into the setbacks less than the existing structure.
4. The hardship, which runs with the land, is that the property is non-conforming in width and area, which prevents having adequate square footage of the guest house without encroaching into the setbacks, making the guest house a two-stories with a height of 23.5 feet, and exceeding the maximum cubic content ratio.
5. The variances requested are the minimum necessary to make reasonable use of the land as the reconstructed guest house will encroach less into the setbacks than the existing house and will increase the cubic content ratio only slightly from 4.53 to 4.73.
6. The granting of the variances will not be injurious to the neighborhood. The guest house will encroach into the setbacks less than the existing structure and the height of the guest house will not be noticeable to passersby or negatively affect the surrounding properties.

**F) OTHER**

Sincerely,

Daniel Clavijo

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-23-014 (ARC-22-243) 302 SEABREEZE AVE (COMBO) — SITE PLAN REVIEW AND VARIANCE** The applicant, Sean Rooney, has filed an application requesting town council review and approval for development of a new two-story single-family structure on a parcel, comprised of platted lots, which is deficient in lot width and lot area in the R-B zoning district requiring Site Plan Review, and a variance to provide one garage parking spot in lieu of the two required. The Architectural Commission will perform design review of the application. [*The Architectural Review Commission deferred the project to their March 29, 2023, meeting.]* ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-23-041 (ARC-23-032) 176 SEMINOLE AVE (COMBO)—VARIANCES** The applicant, William Paca Beatson, Jr. Trustee of the William Paca Beatson Revocable Trust dated January 8, 2021, has filed an application requesting Town Council review and approval for four (4) Variances required to convert an existing two-car garage into interior storage space and to construct a second-story addition over the rear garage with site and landscape alterations, including (1) to eliminate required garage parking spaces, (2) to construct a second floor addition with reduced rear setbacks, (3) to exceed the maximum allowable Cubic Content Ratio (CCR), and (4) to reduce the overall Landscape Open Space below the required minimum. The Architectural Commission will perform the design review component of the application. *[The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting with conditions. Carried 4-3.]*

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **Letter of Intent**
- **Plans**
- **Plans**
- **Plans**

**TOWN OF PALM BEACH**
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Combination Staff Memorandum: Architectural Commission and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-23-041 (ARC-23-032)176 SEMINOLE AVE (COMBO)

MEETING: JUNE 28, 2023 ARCOM
JULY 12, 2023 TC

**ARC-23-032 (ZON-23-041) 176 SEMINOLE AVE (COMBO).** The applicant, William Paca Beatson, Jr. Trustee of the William Paca Beatson Revocable Trust dated January 8, 2021, has filed an application requesting Commission review and approval for the conversion of a rear vehicular garage into storage space, for the construction of a second-floor addition over the existing single-story garage, and landscape and hardscape alterations requiring four variances to eliminate required garage parking, to construct a second floor addition with a reduced rear setback, to exceed the maximum allowable Cubic Content Ratio (CCR), and to reduce landscape open space below code requirements. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

**ZON-23-041 (ARC-23-032) 176 SEMINOLE AVE (COMBO)—VARIANCES**. The applicant, William Paca Beatson, Jr. Trustee of the William Paca Beatson Revocable Trust dated January 8, 2021, has filed an application requesting Town Council review and approval for four (4) Variances required to convert an existing two-car garage into interior storage space and to construct a second-story addition over the rear garage with site and landscape alterations, including (1) to eliminate required garage parking spaces, (2) to construct a second floor addition with reduced rear setbacks, (3) to exceed the maximum allowable Cubic Content Ratio (CCR), and (4) to reduce the overall Landscape Open Space below the required minimum. The Architectural Commission will perform the design review component of the application.

| | |
|---|---|
| Applicant: | William Paca Beatson, Jr. Trustee of the William Paca Beatson Rev. Trust |
| Professional: | Daniel Kahan \| Smith and Moore Architects, Inc |
| | Dustin Mizell \| Environment Design Group |
| Representative: | Maura Ziska |

**HISTORY:**
The existing two-story residence was built in 2005. The structure received Special Exception with Site Plan Review in 2003 due to the nonconforming width (89') of the R-B zoned parcel. Additionally, the design received variance approval for a swimming pool setback and a side yard setback for the two-story portion of the residence, pursuant to SE-28-2003.

The current application was initially reviewed at the March 29, 2023, ARCOM meeting. The project was deferred for restudy to the April meeting, and subsequently deferred from the May meeting at the request of the applicant. A revised submitted was provided to the Town on June 5, 2023.

At the June 28, 2023 ARCOM meeting the item was approved (4-3) with the following condition to increase the amount landscape in order to reduce variance request #4; and a motion was made that the variances #1-#4 would not (4-3) negatively impact the architecture.

**THE PROJECT:**

The applicant has submitted plans, entitled "176 Seminole Ave, Palm Beach Florida", as prepared by **Smith and Moore Architects, Inc** dated June 5, 2023.

The following is the scope of work for the project:

- Construction of a new second floor addition above a rear attached garage requiring a variance from setback requirements and Cubic Content Ratio (CCR) limitations
- Conversion of existing garage into storage space requiring a variance for the removal of required parking
- Site modifications, including the removal of portions of the existing driveway

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

- **Variance 1:** Sec. 134-893(b)(9): A variance to allow the proposed addition with a rear yard setback of 14 feet in lieu of the 15-foot minimum required.
- **Variance 2:** Sec. 134-2179(b): A variance to have zero (0) garage parking spaces in lieu of the two (2) garage parking spaces required.
- **Variance 3:** Sec. 134-893(13): A variance for a Cubic Content Ratio (CCR) of 4.39 in lieu of the 4.0 maximum allowed and the 4.05 existing.
- **Variance 4:** 134-893(b)(12)(a): A variance for a Landscape Open Space (LOS) of 37.8% in lieu of the 45% minimum required.

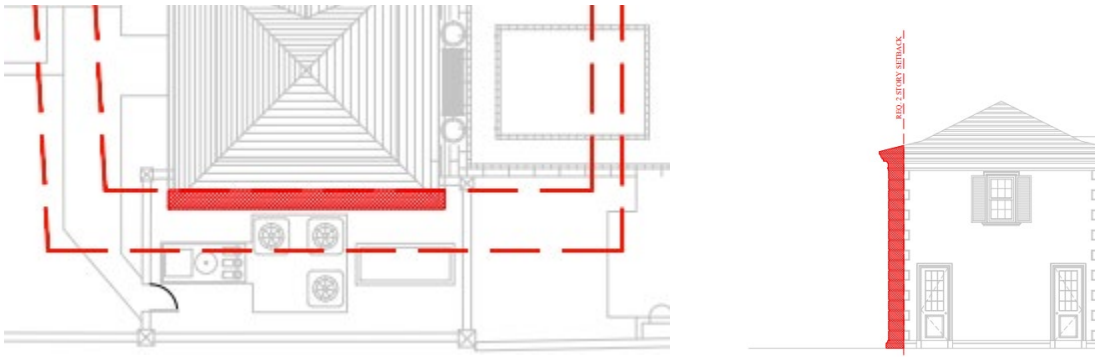
| **Site Data** | | | |
|---|---|---|---|
| **Zoning District** | R-B | **Lot Size (SF)** | 10,197 SF |
| **Future Land Use** | SINGLE FAMILY | **FEMA Zone** | X |
| **Total Building Size (SF)** | Existing: 3,708 SF<br>Proposed: 4,186 SF | **Lot Coverage** | Existing: 24.81%<br>Proposed: 24.16%<br>Permitted: 30% |
| **Landscape Open Space (LOS)** | Existing: 35.8% (3,647 SF)<br>Proposed: 37.8% (3,847 SF)<br>Required: 45% (4,585 SF)<br>***Variance requested*** | **Cubic Content Ratio (CCR)** | Existing: 4.05<br>Proposed: 4.39<br>Permitted: 4.0<br>***Variance requested*** |
| **Crown of Road (COR)** | 8.74' NAVD (Seminole) | **Finished Floor Elevation** | 8.93' NAVD (garage) |
| **Surrounding Properties / Zoning** | | | |
| **North** | 1992 One-story Single-family residence / R-B | | |
| **South** | 1969 One-story Commercial / C-TS | | |
| **East** | Vacant (pool) / R-B | | |
| **West** | 1974 Two-story Temple Emanuel Synagogue / C-TS | | |

**STAFF ANALYSIS**

The application requests the construction of a new 478 SF second story addition above an existing one-story garage. The proposed second story does not meet the minimum rear setback requirements

for two-story buildings, and thus requires a setback reduction variance. Additionally, the second floor pushes the CCR for the residence above the maximum amount allowed within the RB zoning district, also requiring a variance.

**Variance #1** seeks a 1'-0" reduction of the required rear setback for the addition of the second floor. The rear setback amount for ground floors is 10'. The rear setback amount for second floors is 15'. The existing setback for the ground floor is 14'-0", and for ease of construction, the applicant is proposing to build up from the one-story portion, requiring rear setback reduction of 1'-0".



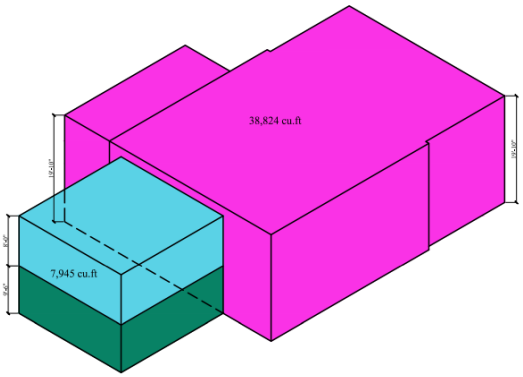
Second Story Setback Reduction Diagrams

Staff notes that the setback relief would generally only impact the property to the south, which is commercially zoned. Staff is generally supportive of the variance due to the existing configuration of the property and the minimal impacts to surrounding properties.

**Variance #2** requests to eliminate the two (2) required off-street garage parking spaces to convert the area into storage space and vertical circulation. The garage is located in the southern portion of the site and is accessed from Seminole Avenue via a driveway approach roughly 80' in length. Additionally, the property maintains a circular front motor court, which can also accommodate parking. In the proposed configuration, the property will be able to accommodate a minimum of two vehicles parked off-street on the driveways.

**Variance #3** requests to exceed the maximum Cubic Content Ratio (CCR). The existing property maintains a non-conforming CCR of 4.05, in lieu of the 4.0 maximum allowed. The March ARCOM application sought to increase the CCR to 4.41. The June ARCOM submittal reduces the request to 4.39.

Designed in 2003, the residence features a one-story garage element on the southern portion of the site. One-story portions of residences can serve as transitional design elements to sensitively address massing concerns of abutting properties; however, this garage portion abuts a discordant commercial zoning district (C-TS) to the south, which allows three stories in height under the Special Exception process.

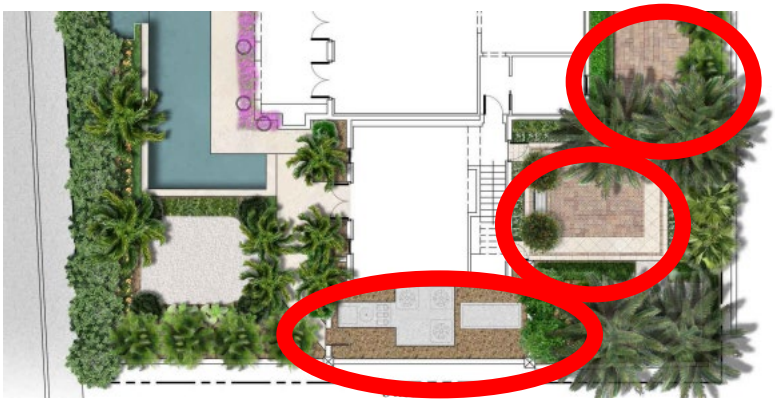



From the east property line, the garage maintains a setback of roughly 28' from the neighboring

residential lot, which recently received ARCOM approval for the construction of a new single-story single-family residence. The subject structure is currently over the allowable CCR (likely an oversight during permit review). In this instance, staff opines that the addition of the new second floor over the existing one-story portion would likely not overwhelm the overall massing of the property on site—as the primary massing element features prominent two-story form more proximate to Seminole Avenue and N County Road.

**Variance #4** requests to reduce the required Landscape Open Space (LOS) to 37.8% in lieu of the 45% minimum required. Should the elimination of garage parking be approved, staff is largely supportive of the current request to modify the rear portion of the driveway due to the circumstances of the property's zoning history. Per the record plans, at the time of its construction, the property complied with the minimum Landscape Open Space requirements-which in 2003 was 40%. This was increased in 45% in 2005, pursuant to Ord. 01-05.

The applicant has made considerable efforts to bring the subject property more into compliance through the current application. The existing condition is roughly 36%, or 3,647 SF of green space. The current application proposed to reduce the amount of paving at the garage vehicular access point, which increases the LOS amount by roughly 200 SF. However, at the June 28, 2023 ARCOM meeting the item was approved (4-3) with the following condition to increase the amount landscape in order to reduce variance—an actual threshold amount of increase was not established. Staff would recommend that the applicant revise the hardscape and landscape plan and bring the overall landscape open space up to at least 40% (4,079 SF) from the current proposal of 37.8% (3,847 SF). With the elimination of the garage component from the residential component, the amount of hardscape formerly accessing the driveway and garage backout should rationally be reduced.



Architectural modifications since the March ARCOM meeting includes a 10" reduction in the addition's building height, as well as cornice and detailing alterations.

## CONCLUSION:

This application is presented to the Commission to consider whether all of the criteria in Sec. 18-205 have been met. Approval of the subject project will require two (2) separate motions to be made by the Architectural Review Commission: (1) that the overall design of the project is in accordance with the criteria provided below, subject to any imposed conditions, and (2) that the implementation of the proposed variances will or will not cause negative architectural impact to the subject property.

Approval of the project will require one motion to be made by the Town Council: (1) that the variances **should or should not** be granted that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met.

WRB:JGM:JRH

RECEIVED
By yfigueroa at 12:07 pm, Jun 05, 2023

# SMITH AND MOORE ARCHITECTS, INC.

Harold Smith • Jonathan Moore • Peter Papadopoulos • Daniel Kahan

Re: 176 Seminole Avenue
Palm Beach, FL 33480

January 4, 2023
**UPDATED: January 18, 2023**
**UPDATED: May 31, 2023 (Post-Deferral)**

**LETTER OF INTENT (LOI)**
**ARC-23-032**
**ZON-23-041**

PROPOSED RENOVATION TO A TWO-STORY HOUSE IN THE R-B DISTRICT

Please find for review the attached drawings for our project at 176 Seminole Avenue in the R-B Zoning District of Palm Beach. The existing house on the property was built in 2005. The proposal is for a second-story addition above an existing garage. As part of the project, the existing garage will be converted into storage and vertical circulation to the new space above. The area of driveway that is being removed will be converted into a garden. No changes are being proposed to the existing footprint or existing volume of the residence.

**Post Deferral Revisions:**
Following a deferral by the Architectural Commission at the March 29, 2023 meeting, the following changes have been made in accordance with the comments of the commissioners:

- Quoins have been removed from the wing of the house where the second-story addition is being proposed
- The cornice has been modified to be smaller in scale that the cornice which exists on the main body of the house
- The building height of the addition has been reduced by ten inches
- The owner of the property has decided to continue with the request for the elimination of the garage, due to the non-functionality of the garage as presently configured

We believe the proposal is in accordance with the following guidelines:

**ARCHITECTURAL REVIEW IN ACCORDANCE WITH SECTION 18-205 AND 18-206:**

**Sec. 18-205. - Criteria for building permit.**

1. The plan for this proposed residence is in conformity with good taste and design and in general contributes to the image of the town and neighborhood as a place of beauty, spaciousness, balance, charm and high quality.

1500 South Olive Avenue • West Palm Beach, Florida 33401
Telephone (561) 835-1888 • Fax (561) 832-7015
www.smithmoorearchitects.com • Florida AAC No. 001285

2. The plan for the proposed building or structure is reasonably protected against external and internal noise and other factors that would tend to make the environment less desirable.
    a. The plans show that major entertaining spaces are centrally located on the site placing these spaces far as possible from neighboring properties.
    b. The pool area is located at the rear of the residence.
    c. The proposed generator and pool equipment are located in a walled enclosure on the North side of the house.
3. The proposed building exterior design and appearance is not of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance value.
4. The proposed residence is in harmony with the proposed developments on land in the general area and with the compressive plan for the town.
5. The proposed residence is not excessively similar to any other structure existing or within 200 feet of the proposed site in respect to one or more of the following features of the exterior design and appearance:

    a. This proposal does not have apparently visible identical front or side elevations.
    b. This proposal does not have substantially identical size and arrangement of either doors, windows, porticos or other opening or breaks in the elevation facing the street, including reverse arrangement.
    c. We do not have other significant identical features of design such as, but not limited to, material roof line and height of other design elements.
6. The proposed residence is not excessively dissimilar in relation to any other structures existing or within 200 feet of the proposed site in respect to one or more of the following features:
    a. Height of building or height of roof.
    b. Other significant design features including, but not limited to, materials or quality of architectural design.
    c. Architectural compatibility.
    d. Arrangements of components of the structure.
    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 the 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 a neighboring property.
7. The proposed addition or accessory structure is subservient in style and massing to the principal or main structure. This is not applicable; however, the design keeps the garage wing subservient to the principal mass.
8. The proposed residence is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).
9. The proposed development is in conformity with the standards of this code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved. The proposed design meets the zoning code without requiring variances.
10. The projects 'location and design adequately protect unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways and similar features. The proposed residence does not negatively impact any existing natural features.

**Sec. 134-201. - Criteria for Variances.**

1500 South Olive Avenue · West Palm Beach, Florida 33401
Telephone (561) 835-1888 · Fax (561) 832-7015
www.smithmoorearchitects.com • Florida AAC No. 001285

VARIANCE 1: Section 134-893(b)(9): A variance to allow the proposed addition with a rear yard setback of 14 feet in lieu of the 15 foot minimum required.
VARIANCE 2: Section 134-2179(b): A variance to forgo 2 required off-street parking spaces in an enclosed garage to convert it to storage space and vertical circulation.
VARIANCE 3: Section 134-893(13): A variance for Cubic Content Ratio (CCR) of 4.41 in lieu of the 4.0 maximum allowed and the 4.05 existing.
VARIANCE 4: 134-893(b)(12)(a): A variance for a Landscape Open Space (LOS) of 37.8% in lieu of the 45% minimum required.
1 ) The property is located in the R-B Zoning District and the residence was constructed in 2005 and non-conforming to today' s code in area as well as situated on an irregular shaped corner lot.
2) The applicant was not the cause of the special conditions of the property or residence. The non-conformities and irregularities of the lot were existing prior to the applicant owning the property.
3) The granting of the variances will not confer on the applicant a special privilege that is denied to the neighboring properties.
4) The hardship, which runs with the land, is that the property is nonconforming, irregular in shape and is situated on a corner. The existing garage, although conforming to code, is not functional because of the narrow driveway.
5) The variances requested are the minimum necessary to make reasonable use of the land considering the non-functioning garage and opportunity to bring the home up to today's living standards and add greenspace.
6) The granting of the variances will not be injurious to the neighborhood. A renovated single family residence will be beneficial to the neighborhood.

Sincerely,

Daniel Kahan
Principal Architect

1500 South Olive Avenue · West Palm Beach, Florida 33401
Telephone (561) 835-1888 · Fax (561) 832-7015
www.smithmoorearchitects.com • Florida AAC No. 001285

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-22-121 (HSB-22-012) 428 CHILEAN AVE (COMBO)—VARIANCE** The applicant, David Mooney, has filed an application requesting Town Council review and approval for a variance to exceed maximum equipment screening wall height, to screen equipment in the west side yard. The Landmarks Preservation Commission shall perform design and flood plain variance review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-23-002 (ARC-22-241) 624 ISLAND DR (COMBO)—VARIANCES** The applicant, Holly Ann Bartlett, as Trustee of the 1220 South Ocean Boulevard Trust dated May 23, 2013, has filed an application requesting Town Council review and approval Variances (1) to exceed the maximum amount of lot coverage, (2) to exceed the maximum amount of Cubic Content Ratio (CCR), (3) to exceed the maximum allowable building height, and (4) to exceed the maximum allowable overall building height, in the R-B zoning district in conjunction with the enclosure of an existing open-air courtyard of a two-story residence with a new clerestory. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission deferred this project for restudy to the May 24, 2023, meeting. Carried 7-0.]* ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-23-020 (COA-23-003) 139 N COUNTY RD—THE PARAMOUNT THEATER (COMBO) —SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, WEG Paramount LLC, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the renovation of an existing Landmarked theater structure and the construction of a new three-story mixed use (retail and four residential units) development including Special Exception requests (1) to permit Private Club use in the C-TS district, (2) for square footage > 3,000 SF in the C-TS district, (3) for Restaurant use in the C-TS district, (4) for Outdoor seating use (100 seats) associated with a restaurant or private club in the C-TS district, (5) for a maximum of two stories in the C-TS district and (6) for shared parking in the C-TS district. The applicant is also seeking Site Plan Review for new building(s) or for changes in a permitted use in Sec. 134-1107 which involve more than 2000 square feet of building floor area in the C-TS zoning district. Additionally, the applicant is seeking review and approval for Variances (1) to reduce the required front yard for new construction, (2) front side street yard for new construction, (3) and rear yard setback requirements for new construction, (4) to allow three stories in lieu of two stories in CTS district, (5) to exceed the maximum height, (6) to exceed the maximum overall building height, (7) to exceed the maximum allowable lot coverage limitation, (8) to exceed the maximum building length permitted, (9) to exceed the maximum building size (floor area) permitted, (10) to reduce the require overall landscape open space, (11) to reduce the required front yard landscape open space, (12) to reduce the required front yard setback for the subterranean parking level, (13) front side street yard setback for the subterranean parking level, (14) and rear yard setback requirements for the subterranean parking level, (15) a variance to permit tandem and triple stacking for parking in the garage structure, (16) a variance to eliminate the required onsite loading space, (17) a variance to reduce the required drive aisle width, (18) a variance to exceed the maximum drive aisle slope in a garage, (19) a variance to exceed the maximum height of a perimeter wall on a side or rear property line, and (20) a variance to allow a generator (between 64kW-100kW) within a required side

or rear setback, in conjunction with the renovation of an existing Landmarked theater structure and the construction of a new three-story mixed use (retail and four residential units) development with two subterranean parking levels (127 parked spaces). The Landmarks Preservation Commission will perform the design review. ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]***

## Presenter

## ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-23-050 (ARC-23-036) 243 SEASPRAY AVE (COMBO) – VARIANCES** The applicant, 243 Seaspray LLC (Larry Meyer, Manager), has filed an application requesting Town Council review and approval for (2) variances for (1) a reduced west side yard setback and (2) a reduced north rear yard setback, as it pertains to construction of a new two-story single family residence. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-23-049 (ARC-23-057) 2 S COUNTY RD (COMBO) —SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, The Breakers Palm Beach, Inc. (Alex Gilmurray), has filed an application requesting Town Council review and approval for Special Exception with Site Plan Review for modifications to the tennis center at the Breakers hotel including replacement of and addition of courts, shade structures, walkway and stretching area, and (2) variances to (1) provide court fencing that is deficient in height and (2) to provide tennis court lighting that exceeds maximum heights allowed. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the October 11, 2023, Town Council meeting pending review by the Architectural Review Commission and at the request of the applicant.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - Old Business

Agenda Title

**ZON-23-063 (ARC-23-039) 599 S COUNTY RD (COMBO) – VARIANCES**

The applicant SAS Realty Enterprises LLC (Greg Simonian, President), has filed an application requesting Town Council review and approval for a variance to exceed the maximum overall building height, as part of the construction of a new two-story single family dwelling. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - New Business

Agenda Title

**ZON-23-059 (ARC-23-063) 1265 N LAKE WAY (COMBO) – SITE PLAN REVIEW** The applicant, 1265 N Lake Way LLC (Maura Ziska, Manager), has filed an application requesting Town Council Site Plan Review for development of single-family dwelling on a lot deficient in lot width in the R-B zoning district. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - New Business

Agenda Title

**ZON-23-021 (ARC-23-015) 320 CHILEAN AVE (COMBO)—VARIANCES**

The applicants, Valentin and Yaz Hernandez, have filed an application requesting Town Council review and approval for Site Plan Review and (6) variances, including (1) to reduce side setbacks for the installation of a new pool, (2) to reduce rear setbacks for a new pool heater, (3) to place pool equipment within a yard setback more than 25 linear feet away from the pool water's edge, (4) to reduce overall Landscape Open Space below the required amount, (5) to reduce Front Yard Open Space below the required amount, and (6) to reduce the required parking spaces, in conjunction with overall site plan modifications for an existing two-story condominium building, including landscape and hardscape improvements and the installation of a pool. The Architectural Commission will perform the design review component of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - New Business

Agenda Title

**ZON-23-054 (ARC-23-064) 1473 N OCEAN BLVD (COMBO) – VARIANCES** The applicants, William C. Powers & Marianne Elaine Elmasri, have filed an application requesting Town Council review and approval for (2) variances from (1-2) north and south side setback requirements. The Architectural Commission shall perform design review of the application. ***[This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]***

Presenter

ATTACHMENTS:

No Attachments Available

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - New Business

Agenda Title

**ZON-23-061 (ARC-23-074) 100 WORTH AVE (COMBO)—SITE PLAN REVIEW AND VARIANCE** The applicant, The Winthrop House, has filed an application requesting Town Council review and approval for a Site Plan Review for modifications to existing site plan for a multifamily building and a Variance to remove required on-site parking spaces. The Architectural Commission will perform the design review component of the application. *[The Architectural Review Commission Recommendation: Implementation of the proposed parking variance will not cause negative impact to the subject property. Carried 7-0.] [The Architectural Review Commission deferred this project at the August 23, 2023, meeting for a restudy of the proposed fenestration changes. Carried 7-0.]*

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **Letter of Intent**
- **Plans**
- **Plans**

**TOWN OF PALM BEACH**
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Combination Memorandum: Architectural Commission and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-23-061 (ARC-23-074) 100 WORTH AVE (COMBO)

MEETING: JUNE 28, 2023 ARCOM
JULY 12, 2023, TC

**ARCOM NOTICE:**

**ARC-23-074 (ZON-23-061) 100 WORTH AVE (COMBO).** The applicant, The Winthrop House, has filed an application requesting Architectural Commission review and approval for an exterior renovation to an existing seven-story residential building including the installation of new storefronts at the ground level, new stucco, repairs and paint finishes to all elevations, the removal of exterior brick finish materials along all façades, the installation of new metal balconies guardrails along all balconies, removal and replacement of balustrade parapet at rooftop, sitework including new surface material, removal of existing drive aisle and parking lanes, new landscaping, modifications to the existing porte-cochere, and new pedestrian gates and a new vehicular gate; and including a variance for the removal of on-site parking. This is a combination project that shall be reviewed by Town Council as it pertains to zoning relief/approval.

**ZON-23-061 (ARC-23-074) 100 WORTH AVE (COMBO)—SITE PLAN REVIEW AND VARIANCE.**The applicant, The Winthrop House, has filed an application requesting Town Council review and approval for a Site Plan Review for modifications to existing site plan for a multifamily building and a Variance to remove required on-stie parking spaces. The Architectural Commission will perform the design review component of the application.

Applicant: The Winthrop House
Professional: David Miller & Associates and Environment Design Group
Representative: Maura Ziska, Esq.

**HISTORY:**

The existing 8-story multifamily building was constructed in 1970 with 121 units and surface parking for 251 vehicles. At the June 28, 2023 ARCOM meeting the item was presented and deferred (7-0) for two months to the August 23, 2023 ARCOM meeting for substantial changes to the proposal as it pertains to the building alterations, however the site plan alterations including the introduction of landscaping to remove hardscape (parking) received favorable responses; and a motion was made that the variances would not (7-0) negatively impact the architecture.

**THE PROJECT:**

The applicant has submitted plans, entitled "Winthrop House 100 Worth Avenue", as prepared by **David Miller & Associates and Environment Design Group**, dated May 16, 2023.

The following is the scope of work:

- The installation of new storefronts at the ground level, new stucco, repairs and paint finishes to all elevations, the removal of exterior brick finish materials along all façades, the installation of new metal balconies guardrails along all balconies, removal and replacement of balustrade parapet at rooftop, sitework including new surface material, removal of existing drive aisle and parking lanes, new landscaping, modifications to the existing porte-cochere, and new pedestrian gates.
- Construction of a new landscape areas located to replace existing hardscape functioning as drive aisles and parking in the front yard for the Winthrop House, requiring a variance for the elimination of parking spaces.

The following Special Exception with Site Plan Review and Variances are required to complete the project:

- **SITE PLAN REVIEW:** Sec. 134-1052: Site Plan Review for modifications to a multi-family condominium development in the R-D(2) zoning district.
- **VARIANCE 1:** Sec. 134-2176: A variance to remove five (5) required parking spaces from 251 to 246 where 267 is required.

| **Site Data** | | | |
|---|---|---|---|
| **Zoning District** | R-D(2) | **Lot Size (sq ft)** | 84,159 SF |
| **Future Land Use** | MULTI-FAMILY HIGH DENSITY | **# Stories** | 8 |
| **Year Built** | 1970 | **#Units** | 121 Units |
| **Landscape Open Space (LOS)** | Required 35% (29,455 SF)<br>Existing 24.19% (20,359 SF)<br>Proposed 26.59% (22,384 SF) | **Parking Spaces** | Required 267<br>Existing 251<br>**Proposed 246**<br>***Variance requested*** |
| **Surrounding Properties / Zoning** | | | |
| **North** | Six-story Condominium Building-The Kirkland House / R-D(2) | | |
| **South** | Two-story residence / R-C | | |
| **East** | Atlantic Ocean / BA | | |
| **West** | Two-story commercial –The Esplanade / C-WA<br>Two-story residence / R-D(2) | | |

## STAFF ANALYSIS

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the Town zoning code:

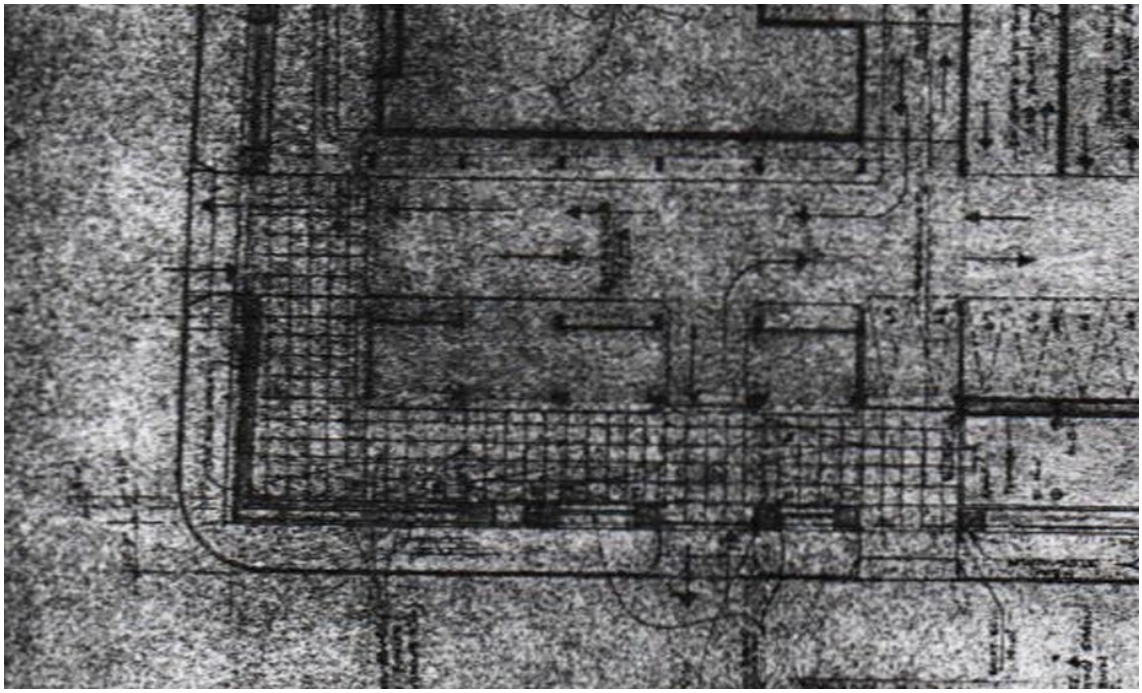
- A variance from the parking requirements to allow for 246 parking spaces in lieu of the 267 required by Code and 251 existing.

The renovations include full removal of the brick veneer facade, wall and waterproofing repairs under the brick, concrete repairs, stucco repairs, balcony guardrail replacement, porte cochere slab removal and waterproofing replacement, and structural repairs to the existing roof cornice. The proposed building improvements include new stucco and paint finishes, new decorative balcony

guardrails, new decorative roof cornice, new decorative treatments at the porte cochere, and new metal grilles at the garage openings.

The existing building is a later example of residential Midcentury architecture. One of the most character defining elements of the building are the curvilinear 'bubble' balconies that punctuate the elevations offset by vertical swaths of brick veneer that dominate the façade. Fields of white stucco outline and define the window and balcony openings. The brick façade along with the light vertical railings, as well as the ground floor decorate brise soleil at the southeast corner of the building, breaks up the massing of the building and provides a smaller detailed scale to the relatively large building that encompasses the entire frontage of South Ocean Boulevard and sits upon a 2 acre site. The replacement proposal alters the integrity of the building's architecture as the decorative breeze block, and the brick veneer, are character defining elements of the Midcentury design.

Proposed site improvements will include new landscape, infill site walls, decorative piers at entries, new pedestrian gates along both South Ocean Boulevard and Worth Avenue, a new vehicular "exit only" gate along South Ocean Boulevard.

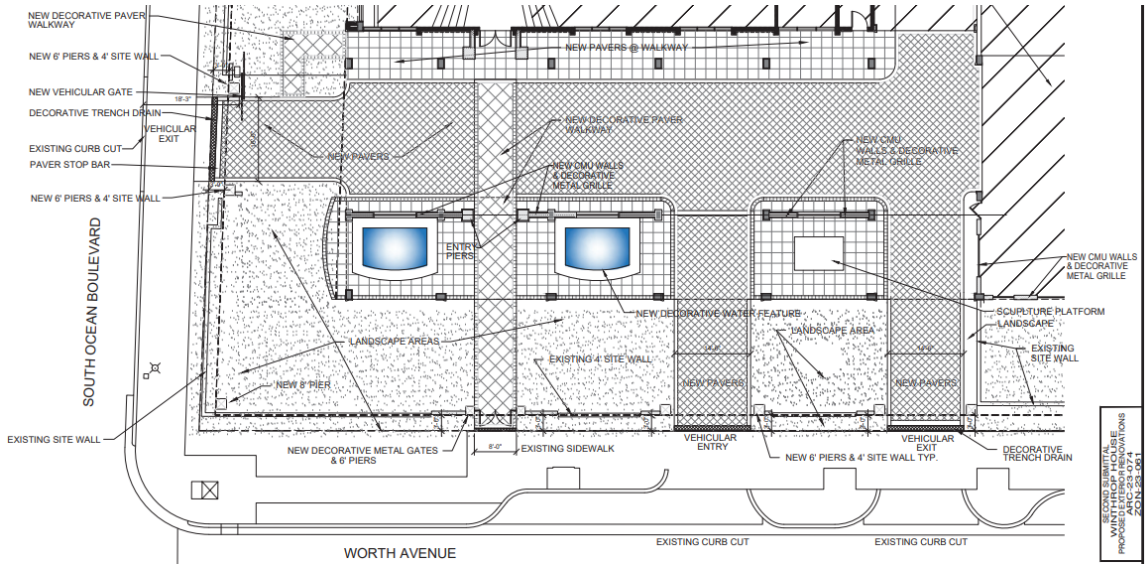


***ORIGINAL SITE PLAN***

The request for the variance relief is to improve the existing front yard open space conditions along Worth Avenue and South Ocean Boulevard by removing hardscape consisting of driveway motor court and what appears to be nonconforming partaking areas and replace those areas with natural landscape areas. If approved, the proposal would increase the overall landscape open space by 2%, or 2,000 SF; which is not an easy achievement in the sitework of an existing 8-story building built in 1970. The landscape improvements to the site will not include any vegetation greater than 30-inches within sight lines. The Public Works Department has reviewed the proposal and has no outstanding issues regarding the removal of drive aisles and the installation of the vehicular gate. The Fire Department has reviewed the proposal and has no outstanding issues regarding the

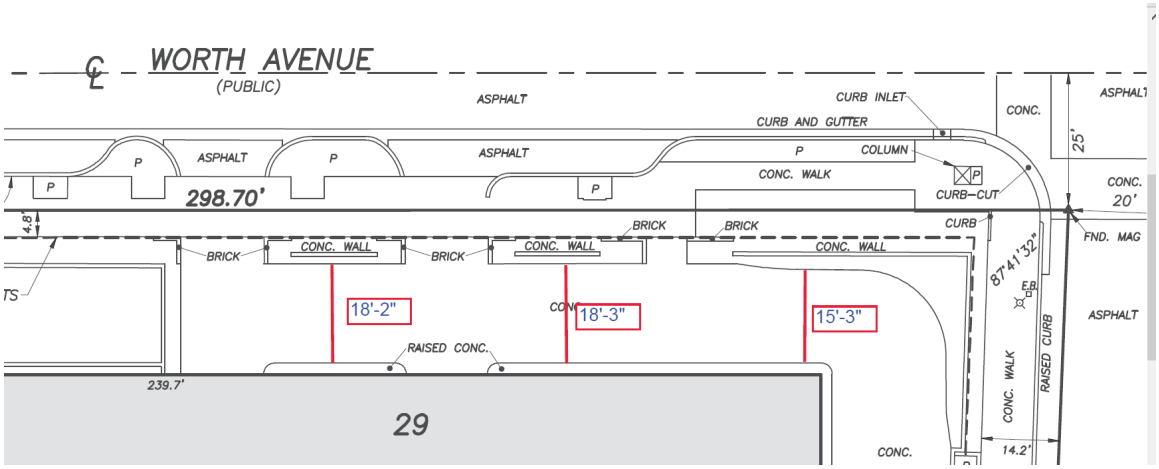
removal of drive aisles and the installation of the vehicular gate.

The existing 8-story building is nonconforming as it pertains to the current parking requirements, and the elimination of five of these will result in a furtherance of the nonconforming nature. The Code requires 2 spaces per unit + 1 per 5 for guests for a total of: 121 units x 2 =242 + 25 guest spots = 267. Currently the site has the original 251 spaces it was constructed with.




***PROPOSED SITE PLAN***

A careful review of the existing conditions, which included a field visit, confirms that the existing 'parking' area, or the hardscape area along the southeast corner of the subject property does not have sufficient width to provide both a one-way drive aisle (12') and parallel parking space (10') which is what the existing conditions recite. As such, to retain the existing conditions albeit with a new ground hardscape material would trigger variances that would be in contravention to life safety as it pertains to vehicular traffic flow.



Staff does have some concerns that the area does provide an adequate temporary loading and delivery space for the building. The applicant maintains that the site is currently overparked and that the 246 spaces that will remain is more than adequate for the needs of the building.

This application is presented to the Commission to consider whether all of the criteria in Sec. 18-205 have been met. Approval of the project will require two motions to be made by the Commission: (1) for the overall design of the project in accordance with the criteria, subject to any imposed conditions and (2) that the proposed variances will/will not have negative architectural impact.

Approval of the project will require two separate motions to be made by the Town Council: (1) for the Site Plan Review request for modifications to a multi-family condominium development in the R-D(2) zoning district. in accordance with the applicable criteria set forth in Section 134-329, subject to any imposed conditions, and for final determination of approval or denial of the variances by the Town Council: (2) that the variances **should or should not** be granted that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met.

WRB:JGM

RECEIVED
By yfigueroa at 1:49 pm, May 16, 2023

May 16, 2023

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Project: Winthrop House – Proposed Exterior Renovation – Final Submittal / Drop Off
ARCOM #: ARC-23-074
Town Council#: ZON-23-061

To Whom It May Concern:

We are pleased to submit our final submittal materials and drawings for the review of the proposed project at 100 Worth Avenue.

The proposed work includes a full exterior renovation. The required renovations include full removal of the brick veneer facade, wall and waterproofing repairs under the brick, concrete repairs, stucco repairs, balcony guardrail replacement, porte cochere slab removal and waterproofing replacement, and structural repairs to the existing roof cornice.

The proposed building improvements include new stucco and paint finishes, new decorative balcony guardrails, new decorative roof cornice, new decorative treatments at the porte cochere, and new metal grilles at the garage openings. Proposed site improvements will include new landscape, infill site walls, decorative piers at entries, new pedestrian gates along both Hammon Avenue and Worth Avenue, a new vehicular "exit only" gate along South Ocean Boulevard, and associated improvements.

Please note the following as it relates to this application:

A. Architectural Review in accordance with Section 18-205 and/or Section 18-206.
We consider the proposed renovation to be in good taste and design and in general contributes positively to the image of the Town of Palm Beach. We feel the proposed renovation meets all the criteria outlined in Section 18-205(a) in their entirety. There are no proposed additions or accessory structures.

B. Site Plan Review Approval in accordance with Section 134-329.
We feel the approval of the Site Plan by Town Council will not adversely affect the public interest. The proposed renovation and site improvements will not change or increase the intensity of use; ownership or control; change access or egress to the property; will not change the existing parking and loading facilities; will provide harmonious screens and buffers; address the drainage of the property; maintain, enlarge, and enhances open spaces; and will be unchanged in height, mass, visible size, and bulk.

C. Variance Request in accordance with Section 134-2176.
We feel the granting of a variance to eliminate five exterior parking spaces and replace the paved areas with landscape will not adversely affect the public interest. The subject spaces were intended for commercial uses which were never realized, there is a full-time valet available at the property, and feel this variance if granted, would enhance the Worth Avenue South Ocean Boulevard aesthetic experiences.

Thank you for your consideration.

Sincerely,

David R. Miller, A.I.A.
CC: Eli Wilson, GM, Winthrop House
Maura A. Ziska, Esq.
Dustin Mizell, ASLA

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - New Business

Agenda Title

**ZON-23-065 (ARC-23-080) 210 FAIRVIEW RD (COMBO) – VARIANCES**

The applicant, Aaron W. Ford, has filed an application requesting Town Council review and approval for (1) a variance to allow an addition to a one-story garage within the required front yard setback and (2) a variance for an addition in the required west side yard setback. The Architectural Commission shall perform design review of the application. *[The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting with conditions. Carried 7-0.]*

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **Letter of Intent**
- **Plans**

**TOWN OF PALM BEACH**
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Combination Memorandum: Architectural Commission and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ARC-23-080 (ZON-23-065) 210 FAIRVIEW RD (COMBO)

MEETING: JUNE 28, 2023 ARCOM
JULY 14, 2023 TC

**ARC-23-080 (ZON-23-065) 210 FAIRVIEW RD (COMBO).** The applicant, Aaron W. Ford, has filed an application requesting Architectural Commission review and approval for modification to the existing driveway, landscape modification, an addition to a one-story garage, requiring front and side yard setback variances. Town Council shall review the application as it pertains to zoning relief/approvals.

**ZON-23-065 (ARC-23-080) 210 FAIRVIEW RD (COMBO) – VARIANCES.** The applicant, Aaron W. Ford, has filed an application requesting Town Council review and approval for (1) a variance to allow an addition to a one-story garage within the required front yard setback and (2) a variance for an addition in the required west side yard setback. The Architectural Commission shall perform design review of the application.

Applicant: Aaron W. Ford
Professional: Kyle Fant | Bartholemew & Partners
Representative: Maura Ziska, Esq.

**THE PROJECT:**
The applicant has submitted plans, entitled "210 FAIRVIEW ROAD" as prepared by **Bartholemew & Partners**, dated May 16, 2023.

The following is the scope of work:

- Garage extension of 140 sq. ft.
- New driveway and apron.
- New site drainage.
- New landscape

The following Special Exception, Site Plan Review and/or Variances are required to complete the project:

1. **VARIANCE 1: Sec. 134-893(b)(1)b.:** A variance for a west side-yard setback of 13.83 ft in lieu of the 24 ft required as part of a one-story garage addition, for a lot over 20,000 sq. ft. in the R-B Zoning District.

2. **VARIANCE 2:** **Sec. 134-893(b)(5)a.:** A variance for a north front-yard setback of 18 ft in lieu of the 20 ft required as part of a one-story garage addition, for a building with a 15ft+ rear yard setback.

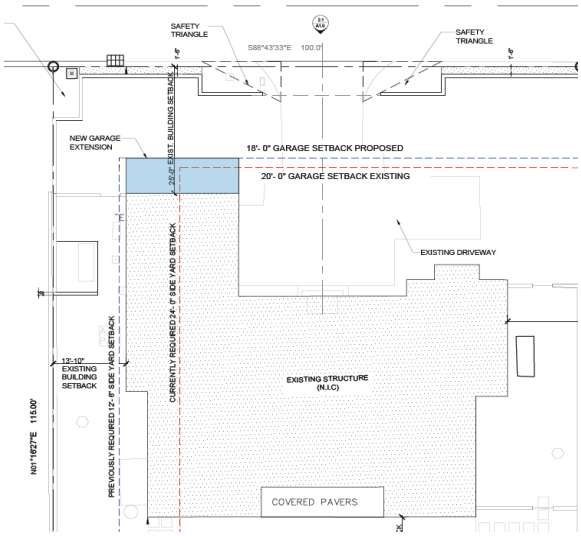
| Site Data | | | |
|---|---|---|---|
| **Zoning District** | R-B | **Future Land Use** | SINGLE-FAMILY |
| **Lot Size** | Existing: 20,815 SF<br>Required: 10,000 SF | **Crown of Road (COR)** | 2.78' NAVD (FAIRVIEW)<br>4.96' NAVD (N. OCEAN) |
| **Total Enclosed SF** | Existing: 4545 SF<br>Proposed: 4690 SF | **FEMA Flood Zone** | AE 6 |
| **Building Height** ***from point of meas.*** | Existing: 19'-10"<br>*No change w/ 1-story addition.* | **Overall Building Height** ***from point of meas.*** | Existing: 27'<br>*No change w/ 1-story addition.* |
| **Finished Floor Elevation** | 5.09' NAVD | **Point of Measurement** | 7' NAVD |
| **Lot Coverage** | Permitted: 25% (5,203 SF)<br>Existing: 15.8% (3,294 SF)<br>Proposed: 16.5% (3,439 SF) | **Front Yard Setback** | Permitted: 20'<br>(due to increased rear yard)<br>Existing: 25'<br>Proposed: 18' ***VARIANCE*** |
| **Landscape Open Space (LOS)** | Required: 50% (10,407.5 SF)<br>Existing: 45.17% (14,809 SF)<br>Proposed; 70.8% (14,755 SF) | **Side Yard Setback** | Required: 24'<br>(due to lot >20k SF)<br>Existing/Proposed: 13' 10"<br>***VARIANCE*** |
| **Surrounding Properties / Zoning** | | | |
| **North** | Beach Club Sport Courts / R-B | | |
| **South** | 2005 Two-Story Residence / R-B | | |
| **East** | N Ocean Blvd ROW, Multi-Structure Combined Estate Parcel / R-AA | | |
| **West** | 2001 One-Story Residence / R-B | | |

**STAFF ANALYSIS**

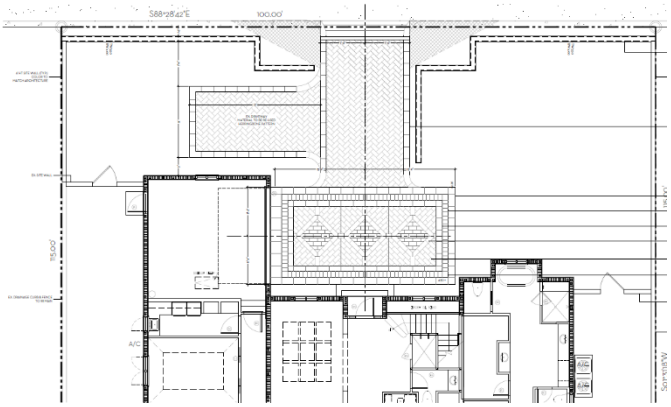
A preliminary review of the project indicates that the application, as proposed, is inconsistent with the abovementioned sections of the Town zoning code.

The variance requests are the result of the applicant's desire to enlarge an existing 1-story garage. The front yard setback variance requests to encroach 2' into the required front yard setback. The existing home has a rear yard setback at 26', which exceeds the 15' two-story minimum setback. The zoning code provides a provision which allows the front setback of a home to be decreased by a corresponding increase in a rear-yard setback, up to 5'. With a 26' rear yard setback, the applicant is permitted a 20' front yard setback. Therefore, the variance request is to allow an 18' setback where 20' is required, for the garage addition.

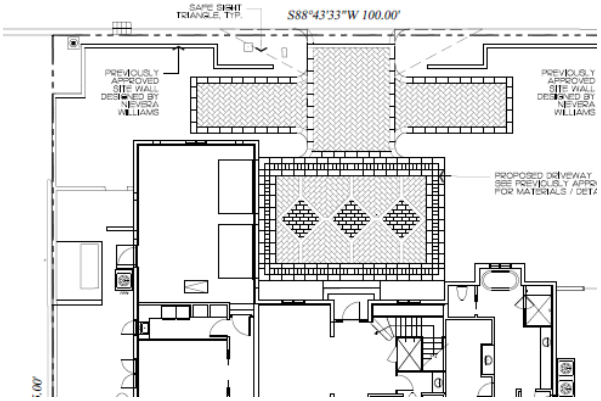
The side yard setback variance request is to encroach 10.17 ft into the required west side-yard setback, by continuing the existing non-conforming setback at 13.83 ft. The existing west side setback was conforming when it was constructed but became non-conforming after the parent parcel was joined with a parcel to the east, resulting in a lot over 20,000 square feet. When a lot in the R-B zoning district exceeds 20,000 square feet, setbacks may increase depending on lot dimensions. In this instance, the lot width is over 160' feet. The code requires that any lot in the R-B zoning district over 160' in width provide a 22' side yard setback, plus two feet for each additional ten feet in width in excess of 169', to a maximum side yard setback of 30'. In this instance, the width of the lot results in a required side-yard setback of 24'.




Aside from the garage expansion, no other modifications are proposed for the existing structure. Site improvements, including modifications to site walls, the driveway, and landscaping are requested. Site walls are being readjusted and the driveway apron is being changed to allow for better access into and out of the site. A previously approved parking space on the west of the drive, in front of the garage, is being mirrored to include an additional space on the east side of the entrance to make for a symmetrical design.



***Previously approved***




***Currently Proposed***

**<u>Conclusion</u>**

Approval of the project will require two separate motions to be made by the Commission: (1) for the overall design of the project in accordance with the aforementioned criteria, subject to any imposed conditions, and (2) that the implementation of the proposed variances **<u>will or will no</u>**t cause negative architectural impact to the subject property.

The project shall be reviewed for final determination of approval or denial of the variances by the Town Council. Approval of the project will require one motion to be made by the Town Council: (1) that the variances **should or should not** be granted that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met.

WRB:JGM:BMF

RECEIVED
By yfigueroa at 1:02 pm, May 16, 2023

Bartholemew + Partners
ARCHITECTURE AND DESIGN
PROGETTO DI ARCHITETTURA

May 9th, 2023

Town of Palm Beach

Planning, Zoning, & Building Department

306 S. County Road, Palm Beach, Florida 33480

**Letter of Intent: ARC-23-080- ZON-23-065**

**Project Address:** 210 Fairview Road, Palm Beach FL 33480

The proposed work only pertains to architecture. Landscape and site work pertains to the Landscape package by Environment Design Group. Civil work by Gruber Consulting Engineers.

The proposed changes include:

- Existing garage extension of 140 sf.
- New driveway and apron
- New site drainage
- New landscape to meet requirements.
- Scope of work is less than 10% of the lot (Approximately 7%)

Zoning:

- Variance 1: sec. 134-893(b)(1)b: a variance for a West Side Yard setback of 12 12' in lieu of the 24' required as part of a One-story garage addition, for a lot over 20,000 sq ft. In The R-B zoning district.
- Variance 2: sec. 134-893(b)(5)a: a variance for a north Front Yard setback of 18' in lieu of the 20' required as part of a One-story garage addition, for a building with a 15'+ Rear Yard setback.

**Kyle Bartholemew Fant**
Architect # AR99255
AIA # 30425933

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Development Review - New Business

Agenda Title

**ZON-23-073 (ARC-23-096) 150 WORTH AVE, STE 137 (COMBO)—SPECIAL EXCEPTION** The applicant, Lugano Diamonds, has filed an application requesting Town Council review and approval for a Special Exception for a permitted use (retail) over 4,000 SF of leasable area in the C-WA zoning district and a Special Exception request to allow lighted/illuminated signage within the courtyard of the Esplanade. The Architectural Commission will perform design review of the application. *[This project will be heard at Town Council prior to being heard at the Architectural Review Commission due to the project being a Commercial project requesting zoning relief.]*

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **Letter of Intent**
- **Plans**

**TOWN OF PALM BEACH**
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5430 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Combination Memorandum: Town Council and Architectural Commission

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-23-073 (ARC-23-096) 150 WORTH AVE, STE 137-LUGANO DIAMOND

MEETING: JULY 12, 2023 TC
JULY26, 2023 ARCOM

**ZON-23-073 (ARC-23-096) 150 WORTH AVE, STE 137 (COMBO)—SPECIAL EXCEPTION.** The applicant, Lugano Diamonds, has filed an application requesting Town Council review and approval for a Special Exception for a permitted use (retail) over 4,000 SF of leasable area in the C-WA zoning district and a Special Exception request to allow lighted/illuminated signage within the courtyard of the Esplanade. The Architectural Commission will perform design review of the application.

**ARC-23-096 (ZON-23-073) 150 WORTH AVE, STE 137 (COMBO).** The applicant, Lugano Diamonds, has filed an application requesting Architectural Commission review and approval for modifications to the exterior storefront including window glazing, exterior façade changes to materials and finishes, change to the existing door storefronts, and new tenant signage including an illuminated sign. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Applicant: Lugano Diamonds
Professional: MBArchitecture and design LLC
Representative: Maura Ziska, Esq.

**THE PROJECT:**
The applicant has submitted plans, entitled "Second Submittal for Lugano Diamonds", as prepared by **MBArchitecture and design LLC**, dated May 30, 2022.

The following is the scope of work for the project:

- Change of occupant in larger retail area.
- Exterior modifications to an existing retail bay, including illuminated signage).

The following Special Exception with Site Plan Review and Variances are required to complete the project:

- **SPECIAL EXCEPTION: Sec. 134-2373 (13) 9):** Special Exception request to allow a new retail store Lugano Diamonds to open in a space that is in excess of 4,000 SF of GLA in the C-WA Zoning District. *SUPPORTIVE*
- **SPECIAL EXCEPTION: Sec. 134-2373 (13):** Special Exception request to allow lighted or illuminated sign. *NOT SUPPORTIVE*

| Site Data | | | |
|---|---|---|---|
| **Zoning District** | C-WA | **Future Land Use** | COMMERCIAL |
| **Existing Use** | +/- 4,528 SF Retail | **Proposed Use** | +/- 4,528 Retail |

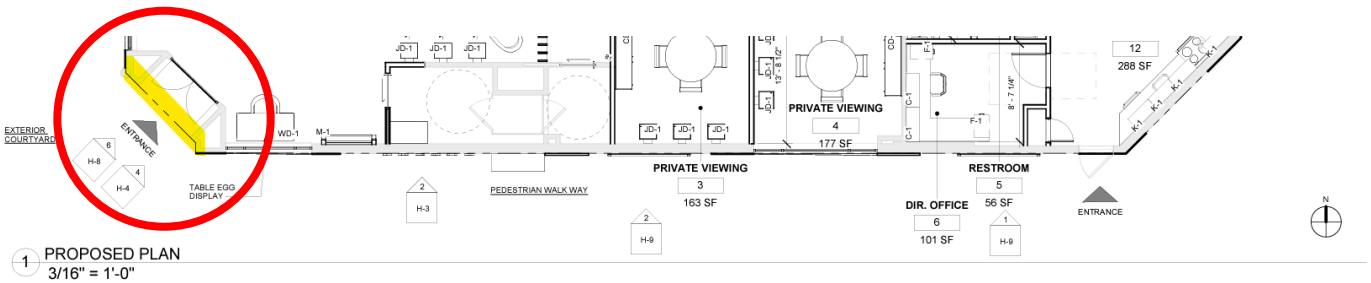
## STAFF ANALYSIS

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the Town zoning code.

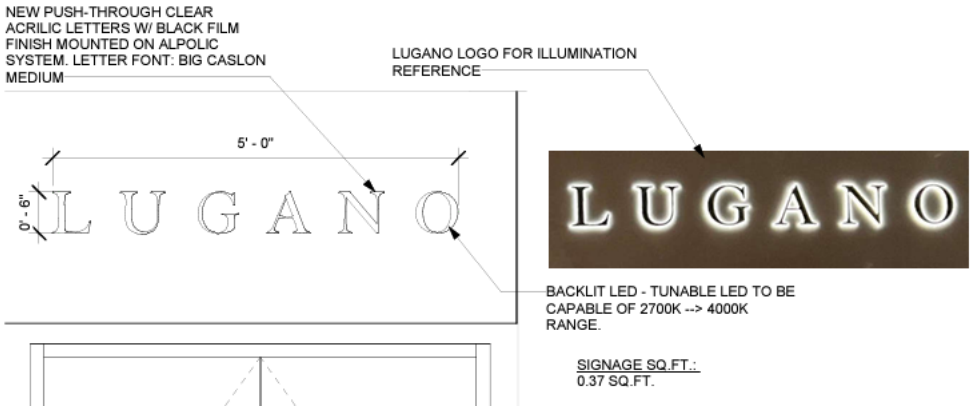
The application is for the exterior renovations of an existing retail space in the Esplanade facing Worth Avenue. The scope of architectural work include converting the existing retail space left behind from the former occupant into the luxury jewelry retailer Lugano Diamonds and the use of the space will remain as retail. The interior of the space will be fully renovated to the Lugano Diamonds concept. Some exterior finishes include alterations of existing accent walls to be replaced, storefront mullion location will be relocated, and the existing signage band will be painted to match the existing façade White finish. All door locations will remain the same except for the Worth Avenue single door which is proposed as a new double door in line with adjacent tenant entry doors. New signage is proposed consistent with the size regulations of the Code.

This application is presented to Town Council for review and approval for two (2) Special Exception requests. The first is for the purpose of obtaining a new business tax receipt for the interior buildout for a new luxury jeweler. The existing retail shell at Suite 137 at 150 Worth Avenue, the Esplanade, is 4,528 SF, in a space formerly occupied by the high end clothing and accessory goods, Gucci. The retail space was designed as such, and no new square footage is being constructed, but Sec. 134-1162 of the Code, requires that the new occupant of the space, the owner or tenant of a property, located within the C-WA district, to receive approval by the Town Council. The applicant has been advised that the tenant will be responsible for providing evidence of Town serving nature of business for BTR licenses renewal. Staff is fully supportive of this half of the application.

The second request is to allow lighted or illuminated signage. The applicant is proposing one, illuminated signage partially within the courtyard space of the Esplanade. This type of lightbox signage along Worth Avenue is out of character of the existing retail fabric of Worth Avenue. In fact, the Worth Avenue Design Guidelines when discussing signage and lighting states: *"Illuminating buildings and signs with remote light sources which are visually intrusive are considered inappropriate."* The applicant is proposing one sign, with letters measuring 6" in height spaced at 5'-0" in length that would be backlit LED lighted.




1 PROPOSED PLAN
3/16" = 1'-0"




While staff acknowledges that the proposed lit sign has been removed from the Worth Avenue façade as originally presented to staff and is now only with Esplanade courtyard, staff is not supportive of this portion of the application as the approval would be an anomaly within the outdoor retail shoppes of the Esplanade and may set a precedent for similar applications in the future.

**Conclusion**

This application is presented to the Town Council for review of two separate Special Exception requests. Approval of the project will require two separate motion to be made by the Town Council: (1) that the Special Exception No. and Site Plan Review for the retail space that is in excess of 4,000 SF of GLA **meet or does not meet the** criteria set for forth in sections 134-229 and 134-329 respectively, and (2) that the Special Exception No. and Site Plan Review for the illuminated signage **meet or does not meet the** criteria set for forth in sections 134-229 and 134-329 respectively.

This application is presented to the Architectural Commission to consider whether all of the criteria in Sec. 18-205 have been met. Approval of the project will require one motions to be made by the Commission: (1) for the overall design of the project in accordance with the criteria, subject to any imposed conditions.

WRB:JGM

RECEIVED
By yfigueroa at 1:34 pm, Jun 15, 2023

06/12/2023

To: Town of Palm Beach
Planning, Zoning and Building Department
360 South county Road
P.O. Box 2029
Palm Beach, FL 33480

Re: Lugano Diamonds
150 Worth Avenue
Suite 137
Palm Beach, Florida

To Whom it may concern,

The intent of this project is to renovate an existing Gucci tenant space into Lugano Diamonds. There will be no change to the use of the space, it will remain retail. The interior of the space will be fully renovated to the Lugano concept. New interior partitions, new space layout, New finishes, new power and New lighting. Some exterior finishes will be replaced to match the proposed Lugano design. Existing Metal panels from the previous tenant will be replaced, storefront mullion location will be relocated, and Worth Ave. sign band will be painted to match the existing façade White finish. All door locations will remain the same; Worth Avenue single door to be revised to be a double door in line with adjacent tenant entry doors. Previous Tenant signage will be replaced at existing location.

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda

Ordinances - First Reading

Agenda Title

Amendment to the Special Exception Clause in the Commercial Districts Related to Business Tax Receipts (BTRs) and Non-Conforming Permitted Uses

**Ordinance No. 009-2023:** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, so as to Amend the Fees Delineated for each Business, Profession or Occupation; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing for an Effective Date.

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **Draft Ordinance No. 010-2023 - Exhibit A**
- **Exhibit B**

# TOWN OF PALM BEACH
## Information for Town Council Meeting on: July 12, 2023

To: Mayor and Town Council Members, Serving as the Local Planning Agency & Town Council

Via: Kirk W. Blouin, Town Manager

From: Wayne Bergman, MCP, LEED-AP, Director PZ&B

Re: Amendment to the Special Exception Clause in the Commercial Districts Related to Business Tax Receipts (BTRs) and Non-Conforming Permitted Uses
**Ordinance No. 009-2023**

Date: July 12, 2023

## STAFF RECOMMENDATION

Staff recommends that the Town Council approve the ordinance on first reading accepting the preliminary findings of the proposed Code language related the Special Exception clause in the commercial districts related to Business Tax Receipts (BTRs) and non-conforming permitted uses.

## BOARD OR COMMISSION RECOMMENDATION

On April 27, 2023, the Planning and Zoning Commission recommended Ordinance No. 009-2023, attached as Exhibit A, move forward to first and second reading with the addition of a maximum square footage cap for like for like uses that would not be required to obtain a Special Exception approval in order to obtain a Business Tax Receipt (BTR). The proposed Code language does not apply to restaurants, nightclubs, bar/lounges, cafés, dining rooms or outdoor cafés.

## GENERAL INFORMATION

Currently, in order to obtain a BTR for a new business where that use has already been approved as a Special Exception in that zoning district, requires the new tenant to repeat the public hearing process for Special Exception Approval by the Town Council. This requirement is repetitive and cumbersome. Data was conducted into current square footage of retail businesses in determining a maximum square footage limitation. In addition, for informational purposes, research traced the background of the adopting ordinances which established the commercial zoning districts and provided for Special Exception Approval for all new businesses in order to obtain a new occupational license (See Exhibit B).

Staff is proposing to streamline the procedure from the affected commercial districts within the Zoning Code for retail, personal services, office, professional and business services, banks, and other financial institutions by removing the requirement that the tenant apply for a new Special

Exception. The proposed language does not apply to any space that is in excess of 6,000 square feet of gross leasable area (GLA) in the C-TS, C-PC, and C-B districts; and any space that is in excess of 8,000 square feet of GLA in the C-WA district. This allowance will not be granted to restaurants, bars, nightclubs, bar/lounges, cafés, dining rooms or outdoor cafés. Should a new restaurant, nightclub, bar/lounge, café, dining room or outdoor café application be submitted, Town Council review and approval will remain required.

## TOWN ATTORNEY REVIEW

The subject code amendment has been reviewed and approved for legal form and sufficiency.

Attachment: Proposed Ordinance No. 009-2023
Research Backup

cc: James Murphy, Assistant Planning Director
Jennifer Hofmeister-Drew, Planner III, AICP

# ORDINANCE NO. 009-2023

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE VI, DISTRICT REGULATIONS, DIVISION 8, C-TS TOWN-SERVING COMMERCIAL DISTRICT, SECTION 134-1107, PERMITTED USES, SECTION 134-1109, SPECIAL EXCEPTION USES; DIVISION 9, C-WA WORTH AVENUE COMMERCIAL DISTRICT, SECTION 134-1157, PERMITTED USES, SECTION 134-1159, SPECIAL EXCEPTION USES; DIVISION 11, C-PC PLANNED CENTER DISTRICT, SECTION 134-1257, PERMITTED USES, SECTION 134-1259, SPECIAL EXCEPTION USES; DIVISION 12, C-B COMMERCIAL DISTRICT, SECTION 134-1304, SPECIAL EXCEPTION USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.** Chapter 134, Zoning Article VI, District Regulations, Division 8, C-TS Town-Serving Commercial District, is hereby amended as follows:

Sec. 134-1107. - Permitted uses.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses.

(1) ~~However,~~ All future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). ~~In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council~~

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~~approval. For example, if a ladies apparel store of 8,000 square feet exists in the C-TS district and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council.~~

(2) No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

Section 134-1109. - Special exception uses.

(b) ~~An owner or tenant of a property, located within the C-TS district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.~~ When a change of ownership or tenancy occurs within a space legally permitted under a previously approved special exception for its size (SF) or location within the C-TS district, a new special exception review and approval by town council shall not be required, provided that the proposed new occupant is substantially similar in nature to a valid, pre-existing permitted or special exception use, and does not elicit a change of use or change in categorized permitted uses, as determined by the Director of Planning, Zoning and Building or designee. This provision shall not apply to any space that is in excess of 6,000 square feet of gross leasable area (GLA). This provision shall not apply to a change in ownership or tenancy of a property which operated as a restaurant, nightclub, bars/lounges, cafés, dining rooms, private clubs, outdoor cafe seating in association with a restaurant, or similar food and beverage operation, which shall be required to obtain approval as a special exception by the town council under the provisions of section 134-229 prior to being granted a building permit, Certificate of Occupancy/Completion, or new business tax receipt.

***

**Section 2.** Chapter 134, Zoning Article VI, District Regulations, Division 9, C-WA Worth Avenue Commercial District, is hereby amended as follows:

Sec. 134-1157. - Permitted uses.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 4,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses.

(1) ~~However,~~ All future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 4,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 4,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining

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to special exception uses). ~~In effect, this will allow any existing use over 4,000 square feet, in a district with a 4,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 10,000 square feet exists in the C-WA district and the owner wishes to change to an antique store of the same size of subdivide into two 5,000 square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council.~~

(2) No existing commercial use which is subject to the 4,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 4,000 square feet.

Section 134-1159.- Special exception uses.

(b) ~~An owner or tenant of a property, located within the C-WA district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.~~ When a change of ownership or tenancy occurs within a space legally permitted under a previously approved special exception for its size (SF) or location within the C-WA district, a new special exception review and approval by town council shall not be required, provided that the proposed new occupant is substantially similar in nature to a valid, pre-existing permitted or special exception use, and does not elicit a change of use or change in categorized permitted uses, as determined by the Director of Planning, Zoning and Building or designee. This provision shall not apply to any space that is in excess of 8,000 square feet of gross leasable area (GLA). This provision shall not apply to a change in ownership or tenancy of a property which operated as a restaurant, nightclub, bars/lounges, cafés, dining rooms, private clubs, outdoor cafe seating in association with a restaurant, or similar food and beverage operation, which shall be required to obtain approval as a special exception by the town council under the provisions of section 134-229 prior to being granted a building permit, Certificate of Occupancy/Completion, or new business tax receipt.

***

**Section 3.** Chapter 134, Zoning Article VI, District Regulations, Division 11, C-PC Planned Center Commercial District, is hereby amended as follows:

Sec. 134-1257. - Permitted uses.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses under subsection (a)(2) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses (refer to division 2 of article IV of this chapter).

(1) ~~However~~, All future changes of use shall be limited to those uses listed as permitted uses in subsection (a) of this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to

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another, or from one generic use (residential, commercial, public/private group use) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). ~~In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000-square-foot limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval.~~

(2) No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing licensed businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

Section 134-1259.- Special exception uses.

(b) ~~An owner or tenant of a property, located within the C-PC district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.~~ When a change of ownership or tenancy occurs within a space legally permitted under a previously approved special exception for its size (SF) or location within the C-PC district, a new special exception review and approval by town council shall not be required, provided that the proposed new occupant is substantially similar in nature to a valid, pre-existing permitted or special exception use, and does not elicit a change of use or change in categorized permitted uses, as determined by the Director of Planning, Zoning and Building or designee. This provision shall not apply to any space that is in excess of 6,000 square feet of gross leasable area (GLA). This provision shall not apply to a change in ownership or tenancy of a property which operated as a restaurant, nightclub, bars/lounges, cafés, dining rooms, private clubs, outdoor cafe seating in association with a restaurant, or similar food and beverage operation, which shall be required to obtain approval as a special exception by the town council under the provisions of section 134-229 prior to being granted a building permit, Certificate of Occupancy/Completion, or new business tax receipt.

***

**Section 4.** Chapter 134, Zoning Article VI, District Regulations, Division 12, C-B Commercial District, is hereby amended as follows:

Section 134-1304, Special Exception Uses.

(b) ~~An owner or tenant of a property, located within the C-B district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.~~ When a change of ownership or tenancy occurs within a space legally permitted under a previously approved special exception for its size (SF) or location within the C-B district, a new special exception review and approval by town council shall not be required, provided that the proposed new occupant is substantially similar in nature to a valid, pre-existing permitted or special exception use, and does not elicit a change of use or change in categorized permitted uses, as

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determined by the Director of Planning, Zoning and Building or designee. This provision shall not apply to any space that is in excess of 6,000 square feet of gross leasable area (GLA). This provision shall not apply to a change in ownership or tenancy of a property which operated as a restaurant, nightclub, bars/lounges, cafés, dining rooms, private clubs, outdoor cafe seating in association with a restaurant, or similar food and beverage operation, which shall be required to obtain approval as a special exception by the town council under the provisions of section 134-229 prior to being granted a building permit, Certificate of Occupancy/Completion, or new business tax receipt.

**Section 5.** Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

**Section 6.** Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

**Section 7.** Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

**Section 8.** Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this _____ day of _____, 2023; and for the Second and Final Reading on this _____day of _____, 2023.

_____
Danielle H. Moore, Mayor

_____
Margaret Zeidman, Town Council President

_____
Bobbie Lindsay, President Pro Tem

_____
Julie Araskog, Town Council Member

_____
Lewis S.W. Crampton, Town Council Member

ATTEST:

_____
Kelly Churney, Acting Town Clerk

_____
Edward Cooney, Town Council Member

DRAFT

| Status Code | Creation Date | Retire Date | Active Licenses | Licensee Category | DBA Name | SQ FT | ZONING DISTRICT |
|---|---|---|---|---|---|---|---|
| act | 11/4/2002 | | bustax 0003682509/30 /2023 state NOS601157712/0 1/2022 | rtl | BREAKERS' NEWS & GOURMET SHOP | 2497 | C-TS |
| cls | 9/16/2002 | 6/1/2018 | bustax 0000343609/30 /2018 | rtl | EVELYN & ARTHUR INC | 2475 | C-TS |
| act | 8/12/2021 | | bustax 0096039209/30 /2023 | rtl | FIVESTORY PALM BEACH | 2475 | C-TS |
| act | 8/12/2019 | | bustax 0096006909/30 /2023 | rtl | SERENA AND LILY INC | 4042 | C-TS |
| act | 9/17/2012 | | bustax 0095862709/30 /2023 | rtl | FERRETTI GROUP | 2144 | C-WA |
| act | 10/9/2002 | | state ANNUAL FOOD PERMIT 146585512/31/2020 state BEV600085103/3 1/2023 bustax 0001649009/30 /2023 | rtl | PUBLIX SUPERMARKETS INC #1395 | 45600 | C-TS |
| act | 12/21/2022 | | bustax 0096065809/30 /2023 | rtl | THE CURRENT | 2720 | C-PC |
| act | 9/11/2002 | | bustax 0002067609/30 /2023 | rtl | LOUIS VUITTON | 2188 | C-WA |
| cls | 11/18/2003 | 10/1/2007 | bustax 0010020109/30 /2007 | rtl | ALPARK THE SALON | 4700 | C-WA |
| cls | 10/24/2007 | 8/10/2009 | bustax 0095728809/30 /2008 | rtl | YOLY MUNOZ COUTURE | 2500 | C-WA |
| act | 8/15/2014 | | bustax 0095905309/30 /2023 | rtl | AKRIS | 2169 | C-WA |
| cls | 6/15/2005 | 3/3/2011 | bustax 0010074609/30 /2010 | rtl | BOSS HUGO BOSS | 3158 | C-WA |
| cls | 10/17/2018 | 6/10/2020 | bustax 0095985209/30 /2020 | rtl | LAUNCH PAD | 2200 | C-WA |
| act | 11/18/2021 | | bustax 0096049109/30 /2023 | rtl | UNSUBSCRIBED | 2207 | C-WA |

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|---|---|---|---|---|---|---|---|
| cls | 2/17/2005 | 6/25/2008 | bustax 0100630 09/30/2008 | rtl | GEORGETTE KLINGER | 2739 | C-WA |
| cls | 10/13/2003 | 9/30/2013 | bustax 0100166 09/30/2013 | rtl | JOHN DE MEDEIROS INTERNATIONAL BOUTIQUE INC | 2207 | C-WA |
| cls | 10/26/2004 | 3/9/2010 | bustax 0100509 09/30/2008 | rtl | SERENDIPITY FINE ARTS INC | 2207 | C-WA |
| cls | 2/23/2011 | 8/29/2011 | bustax 0958178 09/30/2011 | rtl | JACKIE ROGERS | 2207 | C-WA |
| cls | 10/28/2013 | 9/30/2014 | bustax 0958900 09/30/2014 | rtl | LOLE | 2207 | C-WA |
| cls | 9/29/2014 | 9/30/2015 | bustax 0959055 09/30/2015 | rtl | SHI LONDON | 2207 | C-WA |
| cls | 9/29/2015 | 9/30/2017 | bustax 0959275 09/30/2017 | rtl | HOP | 2207 | C-WA |
| cls | 10/10/2017 | 9/30/2019 | bustax 0959619 09/30/2019 | rtl | MASSIMILIANO STANCO | 2207 | C-WA |
| cls | 9/1/2017 | 2/28/2018 | bustax 0959581 09/30/2018 | rtl | THE KASHA MCKEE GALLERY | 3300 | C-WA |
| cls | 2/28/2018 | 5/1/2019 | bustax 0959732 09/30/2019 | rtl | GREYSON CLOTHIERS LLC | 3315 | C-WA |
| his | 12/8/1994 | 2/1/2009 | bustax 0035515 09/30/2009 | rtl | SAKS FIFTH AVENUE (MEN'S RETAIL) | 8826 | C-WA |
| act | 5/25/1993 | | bustax 0034335 09/30/2023 state BEV*pending state OB6011645 (Retail Tobacco Products) 01/15/2021 | rtl | GREEN'S PHARMACY | 3740 | C-TS |
| his | 12/4/2002 | 9/30/2019 | bustax 0039063 09/30/2019 | rtl | NEIMAN MARCUS | 48661 | C-WA |
| act | 9/23/2010 | | bustax 0958091 09/30/2023 state BEV6000002 2COP 03/31/2023 state FIRM#892986651002 99 | rtl | AMICI MARKET | 5950 | C-TS |

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|---|---|---|---|---|---|---|---|
| cls | 6/8/2005 | 4/1/2010 | cert#msp rpt filed bustax0010073909/30/2010 | rtl | MARKET SALAMANDER | 5980 | C-TS |
| act | 9/16/2002 | | bustax0001005009/30/2023 | rtl | WALLY FINDLAY GALLERIES INC | 5140 | C-WA |
| act | 12/3/2002 | | bustax0001738009/30/2023 | rtl | SAKS FIFTH AVENUE | 49917 | C-WA |
| act | 11/4/2002 | | bustax0003115609/30/2023 | rtl | GOLF AND TENNIS PRO SHOP | 2126 | C-TS |
| act | 1/3/2003 | | bustax0003082809/30/2023 | rtl | SALVATORE FERRAGAMO | 3826 | C-WA |
| cls | 11/4/2019 | 9/30/2020 | bustax0096006209/30/2020 | rtl | HIGHLINE @ 211 RPW | 2750 | C-TS (FROM PAPA. NOT IN EDEN) |
| act | 11/16/2020 | | bustax0096025709/30/2022 | rtl | HAVEN PALM BEACH LLC | 2750 | C-TS (FROM PAPA. NOT IN EDEN) |
| act | 2/7/2003 | | bustax0003872709/30/2022 | rtl | GIORGIO'S OF PALM BEACH | 3998 | C-WA |
| cls | 5/14/2004 | 9/30/2018 | bustax0010035109/30/2018 | rtl | A B LEVY | 5927 | C-WA |
| act | 11/6/2018 | | bustax0095985809/30/2023 | rtl | JENNIFER TATTANELLI | 2350 | C-WA |
| cls | 11/27/2002 | 9/30/2012 | bustax0003855809/30/2012 | rtl | LUCA LUCA | 2725 | C-WA |
| act | 11/9/2012 | | bustax0095862809/30/2023 | rtl | INTERMIX 2374 | 2520 | C-WA |
| cls | 3/10/2003 | 8/11/2022 | bustax0003147309/30/2022 | rtl | ESCADA | 7100 | C-WA |
| act | 9/18/2020 | | stateBEV PENDING bustax0096020009/30/2023 | rtl | MAIN STREET BY THE BREAKERS | 3532 | C-TS |
| cls | 2/25/2003 | 5/27/2014 | bustax0003802209/30/2014 | rtl | JUICY COUTURE | 4000 | C-WA |

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|---|---|---|---|---|---|---|---|
| act | 10/21/2021 | | bustax0096046209/30/2023 | rtl | G/FORE | 2300 | C-WA |
| act | 3/24/2003 | | bustax0000864009/30/2023 | rtl | GUCCI | 5600 | C-WA |
| cls | 10/10/2002 | 9/30/2020 | bustax0003798809/30/2020 | rtl | BROOKS BROTHERS | 6000 | C-WA |
| cls | 9/7/2005 | 12/31/2007 | bustax0010078509/30/2008 | rtl | GALERIE ELYSEES LLC | 2214 | C-WA |
| cls | 8/21/2008 | 7/13/2020 | bustax0095749009/30/2021 | rtl | MICHAEL KORS COLLECTION | 2250 | C-WA |
| act | 7/13/2020 | | bustax0096016009/30/2023 | rtl | DANIELI ARTWORLD | 2500 | C-WA |
| cls | 6/24/1992 | 6/1/2013 | bustax0003363409/30/2013 | rtl | THE GAZEBO FLOWER & PLANT SHOP | 2500 | C-TS |
| cls | 2/24/2015 | 9/30/2016 | bustax0095914609/30/2016 | rtl | PARADISE LOST | 2500 | C-TS |
| act | 5/24/2021 | | bustax0096035909/30/2023 | rtl | LIGNE ROSET | 2450 | C-TS |
| cls | 8/19/2019 | 4/30/2021 | bustax0096001009/30/2021 | rtl | GIORGIO'S OF PALM BEACH | 3998 | C-WA |
| act | 4/13/2021 | | bustax0096034709/30/2022 | rtl | GALERIE DANIELI | 3500 | C-WA |
| cls | 11/26/2002 | 8/30/2010 | bustax0003892109/30/2010 | rtl | LANA MARKS | 2300 | C-WA |
| cls | 11/7/2018 | 2/5/2021 | bustax0095986309/30/2021 | rtl | EVELYN & ARTHUR | 2172 | C-TS |
| cls | 10/24/2017 | 2/1/2020 | bustax0095962509/30/2020 | rtl | B PETERSON | 2466 | C-TS |
| act | 7/17/2018 | | bustax0095978909/30/2023 | rtl | LILLY PULITZER | 3952 | C-WA |
| act | 10/29/2020 | | bustax0096025009/30/2023 | rtl | PAULA COOPER GALLERY | 2770 | C-WA |
| act | 9/1/2020 | | bustax0096019009/30/2023 | rtl | VALENTINA KOVA | 2030 | C-WA |

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|---|---|---|---|---|---|---|---|
| cls | 1/22/1993 | 5/26/2016 | bustax 0003411709/30/2016 | rtl | GIORGIO ARMANI | 4683 | C-WA |
| cls | 9/9/2002 | 9/30/2017 | bustax 0003901709/30/2017 | rtl | CALYPSO | 2050 | C-WA |
| cls | 11/13/2017 | 9/30/2020 | bustax 0095964709/30/2020 | rtl | CONTESSA GALLERY | 2300 | C-WA |
| act | 8/23/2002 | | state BEV601273803/31/2023 bustax 0003993809/30/2023 | rtl | FEDCO DRUGS | 3800 | C-TS |
| act | 12/17/2020 | | bustax 0096031809/30/2023 | rtl | TW FINE ART | 2800 | C-WA |
| act | 12/9/2002 | | bustax 0003753009/30/2023 | rtl | ST JOHN | 5200 | C-WA |
| act | 12/13/1991 | | bustax 0003322509/30/2023 cert#60-8012211052 | rtl | TIFFANY & CO | 5440 | C-WA |
| act | 10/8/2002 | | bustax 0000006509/30/2023 | rtl | MILDRED HOIT INC | 3764 | C-TS |
| act | 10/4/2002 | | bustax 0003797409/30/2023 | rtl | RALPH LAUREN | 15816 | C-WA |
| act | 9/4/2002 | | bustax 0000405209/30/2023 | rtl | CHANEL | 9526 | C-WA |
| cls | 4/12/2012 | 8/25/2020 | bustax 0095844709/30/2020 | rtl | LORI JAYNE MONOGRAMMING AND MORE | 2400 | C-TS |
| act | 1/24/2022 | | bustax 0096052509/30/2023 | rtl | SHOES N MORE | 2200 | C-TS |
| act | 9/12/2013 | | bustax 0095883209/30/2023 | rtl | VINEYARD VINES | 2803 | C-WA |
| act | 9/11/2002 | | bustax 0001375009/30/2023 | rtl | MAUS & HOFFMAN INC | 5200 | C-WA |
| cls | 10/17/2002 | 11/18/2009 | bustax 0003814609/30/2008 | rtl | PHILLIPS GALLERIES | 3400 | C-WA |
| act | 8/16/2018 | | bustax 0095980909/30/2023 | rtl | ADELSON GALLERIES | 3400 | C-WA |

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| cls | 12/15/2003 | 9/30/2020 | bustax 0010022 09/30/2020 | rtl | RAPUNZEL'S CLOSET | 2840 | C-TS |
| act | 10/28/2020 | | bustax 0096024 09/30/2022 | rtl | LIFESTYLE SO CHIC LLC | 2900 | C-TS |
| his | 1/2/2003 | 9/30/2013 | bustax 0003693 09/30/2013 | rtl | FIANDACA | 1500 | C-WA |
| act | 11/13/2013 | | bustax 0095890 09/30/2023 | rtl | THE SILVER FUND | 2645 | C-WA |
| act | 10/19/2004 | | bustax 0010049 09/30/2023 | rtl | HOLDEN LUNTZ GALLERY | 2611 | C-WA |
| cls | 9/12/2007 | 4/1/2009 | bustax 0095715 09/30/2008 | rtl | EMILIO ROBBA | 2691 | C-TS |
| cls | 9/24/2008 | 3/17/2010 | bustax 0095753 09/30/2010 | rtl | PERSIAN GALLERIES | 2700 | C-TS |
| cls | 5/7/2013 | 8/25/2020 | bustax 0095872 09/30/2020 | rtl | ISLAND HOME | 3000 | C-WA |
| act | 8/25/2020 | | bustax 0096016 09/30/2023 | rtl | SHARIS PALM BEACH | 3000 | C-WA |
| act | 11/8/2002 | | bustax 0000422 09/30/2023 | rtl | C ORRICO | 5500 | C-TS |
| act | 12/28/1992 | | bustax 0003404 09/30/2023 | rtl | MARY MAHONEY | 2065 | C-WA |
| cls | 12/9/1993 | 7/20/2009 | bustax 0003489 09/30/2008 | rtl | BRIGHTON PAVILLION | 2082 | C-WA |
| cls | 11/4/2004 | 2/21/2008 | bustax 0010052 09/30/2007 | rtl | BRANDON OF PALM BEACH ISLAND | 5500 | C-PC |
| his | 4/3/2003 | 11/18/2009 | bustax 0003776 09/30/2009 | rtl | DESIGNER TO YOU | 2500 | C-PC |
| act | 11/13/2002 | | bustax 0000068 09/30/2023 | rtl | HERMES OF PARIS INC | 7725 | C-PC |
| act | 8/16/2017 | | bustax 0095956 09/30/2023 | rtl | KIRNA ZABETE | 2902 | C-PC |
| act | 6/26/2019 | | bustax 0095997 09/30/2023 | rtl | ZIMMERMANN | 2119 | C-PC |

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| cls | 10/24/2019 | 9/30/2021 | bustax 0096008 09/30/2021 | rtl | RENNY & REED | 3705 | C-PC |
| act | 7/22/2021 | | bustax 0096038 09/30/2023 | rtl | MARISSA COLLECTIONS | 3366 | C-PC |
| cls | 10/9/1992 | 12/23/2008 | bustax 0003387 09/30/2008 | rtl | DEVONSHIRE | 2065 | C-WA |
| act | 11/24/1993 | | bustax 0003484 09/30/2023 | rtl | STUBBS & WOOTTON INC | 2255 | C-WA |
| cls | 12/17/2008 | 9/30/2010 | bustax 0095764 09/30/2010 | rtl | BRETEAU GALLERY | 2423 | C-WA |
| act | 9/13/2002 | | bustax 0003834 09/30/2023 state BEV6000149 (4cop dual) 03/31/2023 | rtl | SCOTTI'S WINES AND LIQUORS | 2200 | C-TS |
| act | 11/5/2002 | | bustax 0000355 09/30/2023 | rtl | CHURCH MOUSE | 4759 | C-TS |
| his | 1/25/1995 | 7/26/2008 | bustax 0003558 09/30/2005 | rtl | LARS BOLANDER LTD INC | 2000 | C-TS |
| cls | 10/29/2002 | 9/30/2013 | bustax 0003233 09/30/2013 | rtl | GASIUNASEN GALLERY | 2590 | C-TS |
| act | 10/19/2020 | | bustax 0096022 09/30/2023 | rtl | SOTHEBY'S INC | 2720 | C-PC |
| act | 9/27/2002 | | bustax 0000228 09/30/2023 | rtl | JOHN H SUROVEK GALLERY | 2509 | C-WA |
| 109 | | | | | | | |

# ORDINANCE 1-91

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2-74, AS AMENDED, THE OFFICIAL ZONING ORDINANCE OF THE TOWN OF PALM BEACH; PROVIDING AMENDMENTS TO ARTICLE 2, SECTION 2.10 ENTITLED "DEFINITIONS", BY REVISING DEFINITION, (6) "BASEMENT"; ADDING NEW DEFINITION (22.1) "FLOOR AREA RATIO (FAR)"; TO PROVIDE AMENDMENTS TO ARTICLE 4 ENTITLED, "DISTRICT REGULATIONS"; BY AMENDING SECTION 4.10 SCHEDULE A, SCHEDULE OF LOT YARD AND BULK REGULATIONS, TO INCLUDE A COMPREHENSIVE SET OF DESIGN GUIDELINES WITH CORRESPONDING CHANGES AND/OR ADDITIONS TO SETBACK, HEIGHT, COVERAGE, LANDSCAPE, DENSITY AND USE REGULATIONS IN THE C-WA DISTRICT; AMEND ANGLE OF VISION REGULATIONS TO INCLUDE ACCESSORY BUILDINGS; REDUCE DENSITY FROM 8 UNITS PER ACRE TO 6 UNITS PER ACRE FOR TWO FAMILY DWELLINGS IN R-C DISTRICT AND CHANGE THE MINIMUM LOT AREA FOR SUCH USE FROM 10,000 SQUARE FEET TO 13,333 SQUARE FEET, WITH AN EXCEPTION FOR NOW VACANT 10,000 SQUARE FOOT LOTS FOR ONE YEAR; REDUCE BUILDING HEIGHT BY ELIMINATION OF BASEMENT CREDIT AS RELATED TO NUMBER OF STORIES IN R-B DISTRICT; INSTITUTE A FLOOR AREA RATIO (FAR) REGULATION OF 0.45 IN THE R-B DISTRICT; PROVIDE FOR A MINIMUM FRONT YARD SETBACK IN THE R-B DISTRICT WHICH SHALL BE THE AVERAGE FRONT SETBACKS OF THE TWO NEAREST DEVELOPED PROPERTIES ON THE SAME SIDE OF STREET IN THE SAME BLOCK; REDUCE ALLOWABLE OVERALL BUILDING HEIGHT IN R-B DISTRICT; INCREASE LANDSCAPE OPEN SPACE PERCENTAGES FROM 40% TO 50% IN R-AA DISTRICT AND FROM 40% TO 45% IN THE R-A DISTRICT; TO PROVIDE AMENDMENTS TO SECTION 4.10, SCHEDULE B,"SCHEDULE OF USE REGULATIONS", BY ADDING PROVISION ALLOWING THREE STORIES AS SPECIAL EXCEPTIONS IN C-WA DISTRICT; TO PROVIDE THAT IN THE EVENT ANY PROPERTY PREVIOUSLY GRANTED A SPECIAL EXCEPTION AFTER MARCH 31, 1980 IS REQUIRED TO OBTAIN A NEW OCCUPATIONAL LICENSE, SUCH NEW BUSINESS SHALL ALSO BE SUBJECT TO APPROVAL BY TOWN COUNCIL; TO PROVIDE AMENDMENTS TO ARTICLE 5 ENTITLED, "SUPPLEMENTARY LOT REGULATIONS", BY AMENDING SECTION 5.10, "LOT REGULATIONS", BY LIMITING ALTERATION OF NATURAL GRADE IN RESIDENTIAL DISTRICTS; AMEND SECTION 5.14, "STREET LOT LINES", BY ELIMINATING PARAGRAPHS (a), (b) and (d); AMEND SECTION 5.30, "YARD REGULATIONS", TO ALLOW ARCADES OR COLONNADES AS SPECIAL EXCEPTIONS; AMEND SECTION 5.47, "BEACH AREA", BY REDUCING ALLOWABLE BUILDING SIZE AND HEIGHT FOR PROPERTIES WITHIN THE BEACH AREA DISTRICT ADJACENT TO PROPERTIES IN THE R-B DISTRICT; TO PROVIDE AMENDMENTS TO ARTICLE 6 ENTITLED, "SUPPLEMENTARY USE REGULATIONS", BY AMENDING SECTION 6.32, "SIGNS IN RESIDENTIAL DISTRICTS" TO ALLOW NAME OF PERSONS AFFECTING THE SALE OR RENTAL OF PROPERTY TO BE INCLUDED ON PERMITTED SIGNAGE; AMEND SECTION 6.33, "SIGNS IN COMMERCIAL DISTRICTS", TO ALLOW BUSINESS IDENTIFICATION SIGNS FOR UPPER STORY TENANTS; AMEND SECTION 6.40, "SPECIAL EXCEPTION USES", TO PROVIDE THAT ANY NEW SPECIAL EXCEPTION USE BEING CONSIDERED WILL NOT PLACE AN INCREASED BURDEN ON MUNICIPAL POLICE AND FIRE PROTECTION SERVICES; TO PROVIDE AMENDMENTS TO ARTICLE 8 ENTITLED, "NONCONFORMITIES", BY AMENDING SECTION 8.11, "EXTENSION OR EXPANSION OF NONCONFORMING USES", BY INCLUDING PROVISIONS ALLOWING FOR THE GRANTING OF VARIANCES FOR NONCONFORMING USES; AMEND SECTION 10.13,

"VARIANCES", BY INCLUDING SPECIFIC CRITERIA THAT MUST BE CONSIDERED IN GRANTING VARIANCES TO NONCONFORMING USES; TO PROVIDE AMENDMENTS TO ARTICLE 13 ENTITLED, "VIOLATIONS AND PENALTIES", BY AMENDING SECTION 13.20, "VIOLATIONS AND PENALTIES", BY INCLUDING ADDITIONAL CLARIFYING LANGUAGE RELATING TO ABATEMENT OF ZONING ORDINANCE VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, after public hearings pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals, and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Zoning Ordinance No. 2-74, as amended, be further amended as hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. Article 2 of the aforesaid Ordinance titled "DEFINITIONS" is hereby amended as follows:

(a) Amend the following definition contained in Section 2.10 to read as follows:

(6) BASEMENT. A story situated under a building, said story having exterior perimeter wall and having a floor level two (2) or more feet below the level of the contiguous exterior ground outside of the building and having one-half or more of its floor to ceiling height below the average level of all of the exterior ground of the lot comprising the subject building development site. In all Zoning Districts except the R-B Zoning District, a basement story shall not be considered a story with regards to height regulations contained in this ordinance if said story does not exceed plus eight (8) feet above zero datum for the subject lot, and if clearly designed and adapted to and used solely for the purposes of automobile parking and/or machinery and essential building utility services not involving habitable space. The exterior walls of said basement story shall be set back from all property lines as required for said building situated over the basement story, and minimum door openings in said basement walls shall be limited to those essential to permit one (1) automobile access driveway and one (1) automobile exit driveway for each separated under building parking area, plus pedestrian lobby entries and required fire escape exitways.

(b) Add a the following new definition to Section 2.10

(22.1) Floor Area Ratio (FAR). A measure of land use intensity, expressing the mathematical relationship between the floor area of a building and the unit of land. It is arrived at by dividing the gross floor area of all buildings (exterior dimensions) on a lot by the gross area of that lot.

Section 1. Article 4 of the aforesaid Ordinance titled "DISTRICT REGULATIONS" is hereby amended as follows:

(a) Amend Section 4.20, A. "Schedule of Lot, Yard and Bulk Regulations," to:

1. Add a provision allowing a Special Exception for a maximum height of three stories/35 fee in the C-WA District with a requirement for a minimum of 25% landscaped open space and with a reference to footnote (20).

2. Add a provision for a rear yard setback of 10 feet for second and third stories in the C-WA District, together with a reference to footnote (25).

3. Reduce the maximum density for two-family uses in the R-C District from 8 to 6 dwelling units per acre and increase the minimum lot area for two-family uses in the R-C District from 10,000 square feet to 13,333 square feet,

4. Add a provision for a maximum Floor Area Ratio (FAR) of 0.45 (including basements) in the R-B District.

5. Increase the minimum landscaped open space requirement in the R-A District from 40% to 45% and increase the minimum landscaped open space requirement in the R-AA District from 40% to 50%

6. Amend footnote (3) to read as follows:

(3) With the exception of arcades and colonnades in the C-WA District all buildings shall be set back so as to provide at least a ten-foot wide pedestrian walkway between the street curbline and the building, exclusive of beautification strips, not more than five (5) feet of which may be on the town street right-of-way, where appropriate, and additionally, to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of said required pedestrian walkway.

Within the C-WA District, arcades or colonnades may be constructed subject to approval as a special exception over the sidewalks in the required front yard setback, provided they meet the requirements of Section 5.33 (e).

7. Amend footnote (7) to read as follows:

(7) The maximum density for hotels within the C-OPI commercial district shall be thirty (30).

8. Add a new footnote (13a) applicable to front yard setbacks in the R-B District, to read as follows:

(13a) The front yard setback required shall be not less than the average of the front yard setbacks of the two (2) nearest developed properties on the same side of the street in the same block.

9. Add a new footnote (18a) applicable to maximum height allowable in the R-B District, to read as follows:

(18a) Maximum overall height of a building in the R-B District shall be twenty-seven (27) feet for flat-roofed structures and thirty (30) feet for all other roof styled structures.

10. Amend footnote (20) to read as follows:

(20) One (1) story, with provision for a special exception for two (2) and three (3) stories. See special exception provisions in Sections 5.48 relating to allowable height and lot coverage, and Sections 6.40 (special exception use) and 9.60 (site plan review).

11. Amend footnote (23) by adding a new sub-item (e), to read as follows:

(e) For the purposes of determining application of the building angle of vision, an accessory structure shall be considered part of the principal structure when it is separated from the principal structure by a distance of less than twenty-five (25) feet.

When an accessory structure is separated by a distance of twenty-five (25) feet or more from the principal structure, it shall be treated as separate structure and individually subject to the building angle of vision.

12. Add a new footnote (25) applicable to the allowance of a third story in the C-WA District, to read as follows:

(25) The provision allowing a Special Exception for construction of a third story in the C-WA District shall expire upon the third anniversary of its adoption, unless the Town Council specifically authorizes its continuation.

13. Add a new footnote (26) applicable to maximum density and minimum lot area for two-family uses in the R-C District, to read as follows:

(26) Construction of two-family uses, on lots vacant at the time of adoption of Ordinance 1-91, shall be permitted up to a maximum density of 8 (eight) dwelling units per acre on lots of at least ten thousand (10,000) in area, until the anniversary of the adoption of Ordinance 1-91. Thereafter, the maximum density of six (6) dwelling units per acre and a minimum lot size of 13,333 square feet shall be applicable to all such vacant lots.

(b) Amend Section 4.20, B. "Schedule of Use Regulations," to:

1. Amend item "L" under the list of Special Exception Uses in the C-WA District to read as follows:

L(1) One dwelling unit located on the second floor per fifty (50) feet of frontage;

L(2) Dwelling units located on the third floor provided; the second floor is also devoted to residential use as set forth in L(1); and, provided that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue; and, provided such special allowance is based upon the "Worth Avenue Design Guidelines," and review and approval by the Architectural Commission.

The Worth Avenue Design Guidelines are hereby incorporated and adopted as part of this Zoning Ordinance as if fully set forth herein.

L(3) L(1) and L(2), above, shall expire upon the third anniversary of its adoption, unless the Town Council specifically authorizes their continuation.

2. Add a new item "N. Outdoor Cafe" to the list of Special Exceptions in the C-WA District.

3. Add a new footnote (3) to the Schedule of Use Regulations, applicable to Special Exception Uses in the C-TS, C-WA, C-PC and C-B Districts, to read as follows:

(3) An owner or tenant of a property, located within the C-TS, C-WA, C-PC or C-B Districts, which property has received approval of a Special Exception after March 31, 1980 shall be required to obtain approval by the Town Council under the provisions of Section 6.40 (L) prior to being granted a new occupational license. This provision shall not apply to renewal of existing occupational licenses.

Section 3. Article 5 of the aforesaid Ordinance titled "SUPPLEMENTARY LOT REGULATIONS" is hereby amended as follows:

(a) Amend Section 5.14, "Street Lot Lines," as follows: Paragraphs (a), (b) and (d) to be deleted; paragraph 5.14 to read as follows and remaining paragraphs (c), (e) and (f) to be relettered to (a), (b) and (c) respectively.

(5.14) STREET LOT LINES. The front lot line, side street line or rear street line of any lot shall be the right-of-way line (the street line) of the abutting street.

(a) When a lot abuts a private street where the right-of-way width is not, in the opinion of the building official, clearly determined, the street lot lines, for the purposes of this ordinance, shall be located fifteen (15) feet from and parallel to or concentric with the center line of said street.

(b) For the purpose of uniformity in administration of zoning regulations contained in this ordinance, no portions of a public or private street right-of-way as defined herein shall be included in required front yard, street side yard or street rear yard areas for determining required building setbacks, nor shall any portion of a public or private street right-of-way be used in computations of required minimum abutting lot areas. Further, cul-de-sacs and street transitions at street intersections, as shown, on Town Council approved subdivision plats having public or private streets therein, shall likewise not be included as a portion of required building setback areas or required minimum lot areas.

(c) Any structure on any lot which abuts a public or private alley or platted access walkway, except Lake Trail, shall be set back from that alley or platted walkway a distance equal to the side or rear yard setback requirements, as the case may be, for that district. A principal structure shall not front on such an alley or walkway.

(b) Amend Section 5.10, "Lot Regulations," by adding a new subsection 5.18 to read as follows:

5.18 ALTERATION OF NATURAL GRADE. In residential districts, for single-family development, the natural grade of a lot shall not be raised more than one (1) foot except to raise the grade to the minimum elevation to meet base flood elevation requirements.

(c) Amend Section 5.30, "Yard Regulations," by adding a new subsection (e) to Section 5.33, to read as follows:

(e) Within the C-WA District, arcades or colonnades may be constructed, subject to approval as a Special Exception, over sidewalks or ways, provided that they shall not project nearer than three (3) feet to the face of the street curb line, nor more than ten (10) feet but not less than seven (7) feet from the exterior wall as measured from the exterior face of the building to the exterior face of the arcade or colonnade; and, provided that no support shall be nearer than three (3) feet to the face of the curb and said installation shall have a minimum of nine (9) feet of vertical clearance.

The design of such arcades or colonnades shall be based upon the "Worth Avenue Design Guidelines," and shall be subject to review and approval by the Architectural Commission.

The Worth Avenue Design Guidelines are hereby incorporated and adopted as part of this Zoning Ordinance as if fully set forth herein.

(d) Amend Section 5.47(a), "Beach house building and fence, etc., height, width, and length limit," to read as follows:

(1) For properties within the Beach Area District adjacent to properties in the R-B District:

No structure or beach house building more than one (1) story (but not to exceed eight (8) feet in height as measured from the natural grade or crown of the road, whichever is less, to the underside of the roof plus four (4) feet in height to the highest point of the roof, twenty (20) feet in width but occupying not more than 20% of the width of the lot, and ten (10) feet in length) shall be constructed on privately owned property lying east of Ocean Boulevard; but this restriction shall not be deemed to apply to jetties or groins, or other structures for the protection of the beachfront; and provided further than no additional walls, fences, hedges or other structures or growth shall be erected or grown eastwardly of the Ocean Boulevard to a height greater than four (4) feet above the surface of the Ocean Boulevard pavement along which such wall, fence or growth is maintained. No parking will be allowed in the beach area district.

(2) For properties within the Beach Area District adjacent to properties in Districts other than R-B:

"No structure or beach house building more than one (1) story (but not to exceed sixteen (16) feet in height to the highest point of the roof, twenty (20) feet in width, and twenty-five (25) feet in length) shall be constructed on privately owned property lying east of Ocean Boulevard; but this restriction shall not be deemed to apply to jetties or groins, or other structures for the protection of the beachfront; and provided further than no additional walls, fences, hedges or other structures or growth shall be erected or grown eastwardly of the Ocean Boulevard to a height greater than four (4) feet above the surface

of the Ocean Boulevard pavement along which such wall, fence or growth is maintained. No parking will be allowed in the beach area district.

(e) Amend Section 5.48, "Special Exception to Height Regulations; Special Exception Structures" to provide new height and coverage guidelines for 2-story and 3-story structures in the C-WA District, by modifying subitem "G" to read as follows:

G. C-WA District: The following provisions shall be applicable to two-story and three-story construction in the C-WA District:

1. Two-story guidelines:

a. First story coverage not more than thirty-five (35) percent and second story coverage not more than thirty-five (35) percent.

b. First story coverage not more than fifty (50) percent and second story coverage not more than thirty-five (35) percent if designed under the Worth Avenue Design Guidelines in conformance with Section 6.40 (Q).

2. Three-story guidelines:

First story coverage not more than fifty (50) percent; second story coverage not more than thirty-five (35) percent; and third story coverage not more than twenty-five (25) percent per special allowance under the Worth Avenue Design Guidelines in conformance with Section 6.40 (Q).

3. Items 1 and 2, above, shall expire upon the third anniversary of their adoption, unless the Town Council specifically authorizes their continuation.

Section 4. Article 6 of the aforesaid Ordinance titled "SUPPLEMENTARY USE REGULATIONS" is hereby amended as follows:

(a) Amend Section 6.32, "Signs in Residential Districts" by amending subsection (b)(1)(a) to read as follows:

(a) The sign shall read either "Open", "For Rent" or "For Sale" and may include the name of the persons affecting the sale or rental and the telephone number of the owner or agent relative to the premises upon which the sign is located.

(b) Amend Section 6.33, "Signs in Commercial Districts," and paragraph 6.33 (c), "Location" to read as follows:

(6.33) SIGNS IN COMMERCIAL DISTRICTS.

One building identification sign which is installed flat against the main wall of a building may be provided for each building street frontage provided such sign does not exceed twenty (20) square feet in area. Additionally, business signs which are installed flat against the main wall of a building are permitted for each licensed business in a building, in accordance with the following regulations:

Amend Section 6.33(c) to read as follows:

(c) Location. Tenants shall be allowed signs on first floor merchandise display areas, provided that the sign area for each individual display area shall not exceed its proportionate share of the total allowable maximum gross surface area for the building as calculated under (a) above and that the total gross surface area of all signs displayed on the building shall not exceed the maximum for that building as calculated under (a) above.

(c) Amend Section 6.40, "Special Exception Uses," by adding a new item (q) to read as follows:

(q) Special exceptions in the C-WA District which involve special allowances pertaining to residential uses, height or coverage, as referenced in Sec. 5.48 of this Code, shall be based upon the Worth Avenue Design Guidelines and contingent upon review and recommendation by the Architectural Commission.

The Architectural Commission, in order to make a positive recommendation, must make an affirmative finding that the proposed special exception is meritorious to the Town of Palm Beach because of its general appearance and adherence to the "Worth Avenue Design Guidelines" published by Adley, Brisson, Engman, Inc.

The Worth Avenue Design Guidelines are hereby incorporated and adopted as part of this Zoning Ordinance as if fully set forth herein.

(d) Amend Section 6.40, "Special Exception Uses," by adding a new paragraph (r) as follows:

> (r) That the proposed use will not place a greater burden, than would be caused by a permitted use, on municipal police services due to increased traffic, or on fire protection services due to the existence of, or increased potential for, fire/safety code violations.

Section 5. Article 8 of the aforesaid Ordinance titled "NONCONFORMITIES" is hereby amended as follows:

(a) Amend Section 8.11, "Extension or Expansion of Nonconforming Uses," to read as follows:

> EXTENSION OR EXPANSION OF NONCONFORMING USES.
>
> No nonconforming use shall be enlarged, increased, intensified, substituted or extended to occupy greater area than it occupied at the effective date of adoption or amendment of this chapter [ordinance] except as may be granted by variance under section 10.13 of this ordinance. No such nonconforming use shall be relocated in whole or in part to any portion of lot or parcel except the location occupied by such use at the effective date of adoption or amendment of this chapter [ordinance].

Section 6. Article 10 of the aforesaid Ordinance titled "APPEALS AND VARIANCES" is hereby amended as follows:

(a) Amend Section 10.13, "Variances," by adding a new paragraph (f) and change existing paragraph (f) to paragraph (g). New paragraph (f) to read as follows.

> (f) That in the event of the granting of a variance to Sections 8.11, 8.14, or 8.15, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:
>
> 1) That it is the continuance of a unique hotel or residential use that has, for at least fifteen (15) years proven compatible with the surrounding uses; and,

2) Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district, would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area.

And, further, that such variance shall:

(3) be granted only for the continuation of the same hotel or residential use; and,

(4) require the applicant to submit a Declaration of Use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

Section 7. Article 13 of the aforesaid Ordinance titled "VIOLATIONS AND PENALTIES" is hereby amended as follows:

(a) Amend Section 13.20, "Violations and Penalties," by amending paragraph 4 thereunder to read as follows:

> Nothing herein contained shall prevent the Town from taking other lawful action necessary to prevent or remedy any violation of or failure to comply with the regulations contained in this ordinance, including, but not limited to, the issuance of a citation pursuant to the general penalty provision of the Town's code of ordinances and/or the commencement of a civil action in a court of appropriate jurisdiction.

(b) Amend Section 13.20, "Violations and Penalties," by eliminating paragraph (b) in its entirety.

PASSED AND ADOPTED in regular, adjourned session assembled on first reading this 9th day of April, 1991, and on second and final reading on this 23rd day of April, 1991.

Town Council

Mayor

ATTEST:

Town Clerk

TMF/t C:\TEMP\TC-ord1-.91

ORDINANCE NO. 4-80

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2-74, AS AMENDED, ENTITLED "AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, TO PROMOTE THE HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF THE INHABITANTS OF THE TOWN OF PALM BEACH, AMENDING ZONING ORDINANCE NO. 1-47, AS AMENDED, INCLUDING THE AMENDED ZONING MAP MADE A PART OF SAID ORDINANCE, WHICH SAID ORDINANCE IS ENTITLED "AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF THE INHABITANTS OF THE TOWN OF PALM BEACH, FLORIDA; TO FACILITATE THE ADEQUATE PROVISIONS OF TRANSPORTATION, SEWERAGE, WATER, SCHOOLS, PARKS, AND OTHER PUBLIC REQUIREMENTS; TO REGULATE AND RESTRICT THE LOCATION AND USE OF BUILDINGS, STRUCTURES, LAND AND WATER FOR TRADE, RESIDENCE OR OTHER PURPOSE; TO REGULATE AND RESTRICT THE ERECTION, CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF BUILDINGS; TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES AND SIZE OF ALL YARDS AND OTHER OPEN SPACES SURROUNDING BUILDINGS; TO REGULATE AND RESTRICT THE DENSITY OF POPULATION, AND FOR ALL SAID PURPOSES TO DIVIDE THE TOWN INTO DISTRICTS OF SUCH NUMBER, SHAPE AND AREA AS MAY BE BEST SUITED TO CARRY OUT THESE REGULATIONS AND AMENDMENTS; TO PROVIDE FOR ITS ENFORCEMENT; PROVIDING FOR SPECIAL EXCEPTIONS AND VARIANCES IN EVENT OF HARDSHIP,AND PROVIDING PENALTIES FOR A VIOLATION HEREOF', AND WHICH SAID ORDINANCE, AS AMENDED, IS FULLY SET FORTH IN CHAPTER 33 OF THE CODE OF ORDINANCES, TOWN OF PALM BEACH, FLORIDA, ENTITLED 'ZONING AND PLANNING'; AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES, TOWN OF PALM BEACH, ENTITLED 'SIGNS, BILLBOARDS AND AWNINGS'; PROVIDING PENALTIES FOR ANY VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE"; CHANGING EXISTING REGULATIONS IN THE C-A COMMERCIAL ZONING DISTRICT TO COMMERCIAL-TOWN SERVING (C-TS), COMMERCIAL-WORTH AVENUE (C-WA) AND OFFICE, PROFESSIONAL AND INSTITUTIONAL (C-OPI); CREATING A SPECIAL ZONING DISTRICT FOR ROYAL POINCIANA PLAZA; MODIFYING MINIMUM LOT WIDTH AND AREA REGULATIONS IN R-AA DISTRICT; REZONING A PORTION OF PHIPPS PLAZA FROM C-A COMMERCIAL DISTRICT TO R-C MEDIUM DENSITY RESIDENTIAL DISTRICT; MODIFYING BUILDING HEIGHT AND LANDSCAPE OPEN SPACE REGULATIONS IN C-B COMMERCIAL DISTRICT; AMENDING THE DEFINITION OF ABANDONMENT AND PARTIAL DESTRUCTION IN SEC. 8.30 OF THE OFFICIAL ZONING ORDINANCE; PROVIDING FOR AMORTIZATION OF EXISTING NONCONFORMING PARKING LOTS; REGULATING UNATTACHED ACCESSORY STRUCTURES IN RESIDENTIAL ZONING DISTRICTS; AMENDING SITE PLAN REVIEW REQUIREMENTS IN COMMERCIAL ZONING DISTRICTS; MODIFYING REGULATIONS PERTAINING TO HOTELS IN THE RESIDENTIAL AND COMMERCIAL ZONING DISTRICTS; MODIFYING OFF-STREET PARKING REQUIREMENTS IN COMMERCIAL ZONING DISTRICTS AND THE LOCATION OF SUCH PARKING; REGULATING MUSEUMS AND NON-PROFIT CULTURAL CENTERS IN RESIDENTIAL ZONING DISTRICTS; MODIFYING THE REGULATIONS CONCERNING BUSINESS SIGNS IN COMMERCIAL ZONING DISTRICTS; MODIFYING SECTION ENTITLED "DEFINITIONS" BY ADDING ADDITIONAL DEFINITION

ITEMS; MODIFYING THE TOWN'S ZONING MAP ACCORDINGLY BY THE PROPER TOWN OFFICIAL TO REFLECT CHANGES IN ZONING DISTRICT CLASSIFICATIONS; MODIFYING SECTION ENTITLED "SPECIAL EXCEPTION USES"; PROVIDING FOR STATUS OF NONCONFORMITIES CONTAINED WITHIN A SPECIAL EXCEPTION USE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

o O o

WHEREAS, after Public Hearings pursuant to notice as required by law, the Town Council does hereby find, determine and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Zoning Ordinance No. 2-74 be further amended as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Sec. 1: -- Sec. 2.10 of the aforesaid ordinance entitled "Definitions" shall be amended as follows by adding the following definitions:

"Sec. 2.10 - Definitions.

Retail Establishments: Establishments selling commodities or goods to ultimate consumers.

Personal Service Establishments: Establishments primarily engaged in the provision of services to individuals dealing with their person or immediate effects. Personal services would include, but not necessarily be limited to, hairstyling or beauty services, tailor/dressmaker, travel agent, cleaning services, interior decorator services, dance studio or similar personal instruction services.

Office and Professional Services: Administrative offices and establishments providing professional services such as lawyers, doctors, brokers, insurance agents, realtors, consultants, interior designers, architects and engineers.

Business Services: Establishments providing support services to other business concerns. Business services would include, but not necessarily be limited to,print shops, secretarial services, travel agents, drafting services, and advertising agencies, etc.

Banks and Financial Institutions: Establishments providing saving, lending, or trust services to the public. Banks and financial institutions

would include, but not necessarily be limited to, banks, savings and loan associations, mortgage companies, loan offices, credit unions, and trust companies.

Institutions: Public and semi-public uses of a non-profit nature typically engaged in public service, e.g., houses of worship, non-profit cultural centers, charitable organizations.

Town Person(s): All full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the Town.

Town-serving: Establishments principally oriented to serving the needs of Town Persons which would not substantially rely upon the patronage of persons not defined as Town Persons. Town-serving establishments, by definition, would typically contain 2,000 or less square feet of interior Gross Leasable Area (GLA) and would not engage in advertising designed to attract other than Town Persons.

Employee: An employee is defined as any person generally working onsite for the establishment and shall include sole proprietors, partners, limited partners, corporate officers and the like.

Museum: An institution for collecting, preparing, and exhibiting rare, interesting, or typical specimens of works of art, science, invention, manufacturers, etc., or of antiquities, curiosities; or objects of natural history; also, the collection of such articles or their repository.

Non-Profit Cultural Center: An institution for promoting education and the refinement of taste, intellectual and aesthetic matters, not including museum or display uses, operated without profit".

Sec. 2: -- Sec. 3.10 of the aforesaid ordinance entitled "Establishment of Districts" shall be amended to read as follows:

"Sec. 3.10 - Establishment of Districts.

For the purposes of protecting, promoting and improving the public health, safety, morals and the general welfare of the people, the Town of Palm Beach is hereby divided into the following districts:

| | |
|---|---|
| R-AA | Large estate residential |
| R-A | Estate residential |
| R-B | Low density residential |
| R-C | Medium density residential |
| R-D(1) | Moderate density residential |
| R-D(2) | High density residential |
| C-TS | Commercial - Town serving |
| C-WA | Commercial-Worth Avenue |
| C-OPI | Commercial - Offices, professional and institutional |

| | |
|---|---|
| C-PC | Commercial - Planned Center |
| C-B | Commercial, offices |
| PUD-A | Planned Unit Development |
| PUD-B | Planned Unit Development |
| PUD-C | Planned Unit Development |
| BEACH AREA | Beach area" . |

Sec. 3: -- Sec.4.10 of the aforesaid ordinance entitled "Schedules of Regulations" shall be amended as follows:

"(a) By removing schedule of use regulations for C-A Commercial District and substituting therefor the schedules of use regulations for C-TS Town-Serving Commercial, C-WA Worth Avenue District, C-PC Planned Center, C-OPI Office, Professional and Institutional District as attached hereto.

(b) By amending the schedule of Lot, Yard and Bulk Regulations for R-AA Residential District by increasing the minimum lot area to 60,000 square feet and the minimum lot width to 150 feet and the maximum density (D.U's acre) to 0.667. This paragraph shall not apply to approved subdivisions, the plats of which have been approved by the Town Council prior to the enactment of this ordinance; however, all provisions of Ordinance No.2-74, as amended, through and including Ordinance No. 7-79, shall apply to said subdivisions.

(c) By amending the schedule of Lot,Yard and Bulk Regulations for all Commercial Districts as shown on the attached sheet.

(d) By amending the schedule of Use Regulations in R-AA, R-A and R-B Residential Districts by adding under accessory uses the following paragraph:

The use of any portion of any building or accessory building or any land in this District for the accessory use as a museum or frequent or continuing display to the public is prohibited.

And under special exception uses the following paragraph:

Museums occupying buildings of unique value as historical landmarks as determined by the Landmarks Preservation Commission and the Town Council of the Town of Palm Beach, and for which it is demonstrated that no Permitted Use is economically viable".

Sec. 4: -- Any reference in Ordinance No. 2-74 as amended to C-A Commercial District shall be deemed to apply to C-TS Commercial - Town-Serving; C-WA Commercial-Worth Avenue; C-OPI Commercial, Office, Professional and Institutional; and C-PC Commercial - Planned Center.

## SCHEDULE OF USE REGULATIONS (cont'd)

## PALM BEACH

| DISTRICT | PURPOSE | PERMITTED USES* | ACCESSORY USES * | SPECIAL EXCEPTION USES * |
|---|---|---|---|---|
| C-TS Town-Serving Commercial | It is the intent of this district to create, preserve and enhance areas of attractive, small-scale, retail, personal and professional/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of Townpersons. To enhance the general character of the district and its compatibility with its residential surroundings, signs are limited to those accessory to businesses conducted on the premises, including the number, area and types; and retail drive-in facilities are not permitted. Further, in order to maintain the Town-serving nature of the district, limitations on gross leasable floor (GLA) area are imposed. | Maximum of 2,000 sq. ft. of Gross Leasable Area (GLA):<br>1. Retail and service establishments, such as: restaurants and drinking establishments, hardware stores, food stores, clothing stores, drug stores, barber shops, beauty salons and jewelry stores.<br>2. Office and Professional Services and Business Services<br>3. Banks and financial institutions.<br>4. Non-Profit Cultural Centers.<br>5. Professional or Studio-type Schools.<br>6. Essential Services. | 1. Off-street parking and loading.<br>2. Signs.<br>3. One-Family dwellings located above the first floor.<br>4. Accessory uses customarily incident to the permitted or approved Special Exception Uses. | 1. Public or private parking lots or storage garages.<br>2. Auto rental lots.<br>3. Multi-family dwellings.<br>4. Private social, swimming, golf, tennis and yacht clubs.<br>5. Service Stations.<br>6. Public Structures<br>7. Supplemental parking.<br>8. Public or private academic schools.<br>9. Drive-in business service facilities.<br>10. Churches, Synagogues or other Houses of Worship.<br>11. Any Commercial Establishments with greater than 2,000 sq. ft. of GLA, provided the Town Council has found, as a fact, that the proposed use is Town serving. |

NOTE: Establishments of greater than two thousand (2000) square feet gross leasable area (GLA) existing or temporarily vacant, as of the date of this Chapter shall be allowed to continue at the existing scale provided all future uses shall be those listed under Permitted Uses. (Refer Section 8.10 "Non-Conforming Uses").

*Site Plan review may be required (See Section 9.60)

SCHEDULE OF USE REGULATIONS (cont'd)

PALM BEACH

| DISTRICT | PURPOSE | PERMITTED USES * | ACCESSORY USES * | SPECIAL EXCEPTION USES * |
|---|---|---|---|---|
| C-WA<br>WORTH AVENUE DISTRICT | It is the intent of this district to preserve and enhance an area of unique quality and character oriented to pedestrian comparison shopping and providing a wide range of retail and service establishments, to be developed whether as a unit or as individual parcels, serving the short-term and long-term needs of Townpersons. Further, it shall be the intent of this district to enhance the Town-serving character of the area through use of limitations on maximum gross leasable area (GLA) thereby reducing the problems of parking and traffic congestion determined to result from establishments of a region-serving scale. | Maximum 2,000 square feet of GLA<br>1. Antiques<br>2. Apparel and Accessories<br>3. Art galleries<br>4. Art services<br>5. Bed and bath boutique<br>6. Cards/gifts<br>7. Crafts<br>8. Drugstore/pharmacy<br>9. Fabrics<br>10. Flowers/florist<br>11. Furniture<br>12. Hair styling/beauty salon<br>13. Interior decorating sales/services<br>14. Jewelry<br>15. Kitchenwares<br>16. Luggage/leather goods<br>17. News/books<br>18. Optical goods<br>19. Perfumery<br>20. Photographic services/studio<br>21. Shoes<br>22. Retail specialty foods (including incidental sale of prepared foods for take-out)<br>23. Stationery<br>24. Tobacconist<br>25. Toys<br>26. T.V. and electronic items<br>27. Offices located above the first floor.<br>28. Combinations of the above. | A. Off-street parking and loading.<br>B. Signs.<br>C. One -family dwellings located above the first floor.<br>D. Accessory uses customarily incident to the permitted or approved Special Exception uses.<br><br>NOTE:<br>Establishments of greater than 2,000 square feet (GLA) existing, or temporarily vacant, as of the date of this Chapter shall be allowed to continue at the existing scale provided all future uses shall be those listed under Permitted Use.<br>(Refer to Section 8.10 - "Non-Conforming Uses") | A. Pay parking.<br>B. Public or private parking or storage garages.<br>C. Private social, swimming, tennis or yacht clubs.<br>D. Public structures/uses.<br>E. Supplemental parking.<br>F. Restaurants, night clubs, lounges/bars.<br>G. Museums and non-profit cultural centers.<br>H. Multi-family residential<br>I. Retail and service activities, cited previously under Permitted Uses, which contain greater than 2,000 square feet of GLA.<br>J. Uses not specifically enumerated previously under Permitted Uses but having traffic, patronage and intensity of use characteristics similar to those uses cited therein.<br>K. Offices and professional and business services (including banks and financial institutions) not specifically cited previously under Permitted Uses, provided such uses shall be located only above the the first floor. |

* Site plan review may be required (See section 9.60)

SCHEDULE OF USE REGULATIONS (cont'd)

PALM BEACH

| DISTRICT | PURPOSE | PERMITTED USES * | ACCESSORY USES * | SPECIAL EXCEPTION USES * |
|---|---|---|---|---|
| (OPI) OFFICE, PROFESSIONAL AND INSTITUTIONAL DISTRICT | It is the intent of this district to provide locations for administrative, professional, business and institutional offices which are adequate for the Town's needs and convenient for use by Town citizens. | 1. Office and Professional Services and Business Services.<br>2. Dining-rooms and drinking places when not more than 15% of the gross floor area of the structure, no exterior or external advertising to be permitted.<br>3. Essential services. | 1. Off-street parking and loading<br>2. Signs<br>3. Accessory uses customarily incident to the permitted or approved Special Exception Uses. | 1. Public or private parking lots or storage garages.<br>2. Auto rental lot.<br>3. Public structures/uses.<br>4. Supplemental parking.<br>5. Public or private academic schools.<br>6. Hotels.<br>7. Restaurants.<br>8. Lounges/bars when associated with full service restaurants.<br>9. Banks and financial institutions.<br>10. Institutions.<br>11. Multi-family residential. |

* Site plan review may be required (See section 9.60)



Town Council Development Review Meeting Backup 7-12-2023

SCHEDULE OF USE REGULATIONS (cont'd)

PALM BEACH

| DISTRICT | PURPOSE | PERMITTED USES * | ACCESSORY USES * | SPECIAL EXCEPTION USES * |
|---|---|---|---|---|
| T-PC PLANNED CENTER | It is the intent of this district to preserve and enhance an area of unique character oriented towards a combination of office, professional and retail uses to be developed either as a unit or in individual parcels.<br><br>Further, it is the intent of this district to enhance the Town Serving character of the area through limitation on maximum Gross Leasable Area (GLA). | **A.** No Limitations on Gross Leasable Area (GLA)<br>1. Appliance services<br>2. Bookstore/newstand<br>3. Business and professional offices/services<br>4. Churches, Synagogues and other houses of worship<br>5. Dance instruction/ studio<br>6. Dining-rooms and drinking places when not more than 15% of the gross floor area of the structure, no exterior or external advertising to be permitted<br>7. Drugstore/pharmacy<br>8. Florist<br>9. Retail specialty foods (including incidental sale of prepared foods for take-out)<br>10. Formal wear rental<br>11. Furniture<br>12. Hardware/home improvements<br>13. Hobby shop<br>14. Laundry/dry cleaning<br>15. Locksmith<br>16. Medical services<br>17. Non-profit cultural centers<br>18. Optician/optometrist<br>19. Picture framing<br>20. Photocopying<br>21. Photographic studio<br>22. Print shop<br>23. Secretarial services<br>24. Shoe repair<br>25. Tobacconist<br>26. Tailor/dressmaker<br>27. Temporary help<br>28. Travel agent<br>29. Yard goods<br><br>B. Maximum 2,000 square feet of GLA<br><br>All other retail shops and personal services not specifically cited previously under Permitted Uses (A) | A. Off-street parking and loading<br><br>B. Signs<br><br>C. One -family dwellings located above the first floor<br><br>D. Drive-in business service facilities<br><br>E. Accessory uses customarily incident to the permitted or approved Special Exception uses | (A) Public or private parking or storage garages.<br><br>(B) Private, social, swimming, tennis and yacht clubs.<br><br>(C) Public structures/uses.<br><br>(D) Supplemental parking.<br><br>(E) Restaurants, hotels, theaters, night clubs, lounges/bars.<br><br>(F) Museums.<br><br>(G) Veterinarian/animal clinic.<br><br>(H) Auto rental.<br><br>(I) Banks and financial institutions.<br><br>(J) All retail and personal service activities exceeding 2,000 square feet of GLA not specifically cited previously under Permitted Uses **A.** |

NOTE: Establishments of greater than two thousand (2000) square feet gross leasable area (GLA) existing or temporarily vacant, as of the date of this Chapter shall be allowed to continue at the existing scale provided all future uses shall be those listed under Permitted Uses. (Refer Section 8.10 "Non-Conforming Uses").

*** Site plan review may be required (See section 9.60)**

SCHEDULE OF LOT, YARD AND BULK REGULATIONS
PALM BEACH, FLORIDA

** Except that any property to be developed which consists of two (2) or more lots shall have a minimum lot area of 40,000 square feet for each lot and that the average lot area of all lots to be developed shall not be less than 60,000 square feet.

Figures in tables enclosed in ( ) indicate reference to foot notes

| DISTRICT | LOT | | | | YARD | | | BULK | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | MINIMUM | | | MAXIMUM | MINIMUM | | | MAXIMUM | | |
| | Area (sq.ft.) | Width (feet) | Depth (feet) | Density (D.U.'s/ acre) | Front (feet) | Side Yard Both/One (feet) | Rear (feet) | Height (Stories/ feet). | Coverage (Percent) | Landscaped Open Space Minimum % |
| ** R-AA | 60,000 ** | 150 | 150 | 0.667 | 30 | 60/30 | 15 | 2/25 | 25 | 35 |
| R- | 20,000 | 100 | 150 | 2 | 30 | 30/15 | 15 | 2/25 | 35 | 25 |
| R- | 10,000 | 75 | 100 | 4 | 25 | 20/10 | 10 | 2/25 | 35 | 25 |
| R-C | | | | | | | | | | |
| Single-Family | 10,000 | 75 | 100 | 4 | 25 | 20/10 | 15 | 2/25 | 35 | 25 |
| Two-Family | 10,000 | 75 | 100 | 8 | 25 | 20/10 | 15 | 2/25 | 35 | 25 |
| Townhouses | (1) | (1) | (1) | 8 (11) | 25 | (1) | 15 | 2/25 | 40 | 25 |
| Multi-Family * | 15,000 | 100 | 100 | 11 (2)(11) | 25 | 35/15 | 30 | 3/40 (2) | 30 | 25 |
| R-D (1) | | | | | | | | | | |
| Single-Family | 10,000 | 75 | 100 | 4 | 25 | 20/10 | 15 | 2/25 | 35 | 25 |
| Two-Family | 10,000 | 75 | 100 | 8 | 25 | 20/10 | 15 | 2/25 | 35 | 25 |
| Townhouses | (1) | (1) | (1) | 12 (11) | 25 | 20/10 | 15 | 2/25 | 40 | 25 |
| Multi-Family* | 40,000 | 150 | 200 | 15 (11) | 25 | 55/25 | 30 | 5/55 (2)(9) | 35 (2) | 25 |
| R-D (2) | | | | | | | | | | |
| Single-Family | 10,000 | 75 | 100 | 4 | 25 | 20/10 | 15 | 2/25 | 35 | 25 |
| Two-Family | 10,000 | 75 | 100 | 8 | 25 | 20/10 | 15 | 2/25 | 35 | 25 |
| Townhouses | (1) | (1) | (1) | 12 (11) | 25 | (1) | 15 | 2/25 | 40 | 25 |
| Multi-Family* | 40,000 | 150 | 200 | 18 (2)(11) | 25 (2) | 55/25 (2) | 30 | 5/55 (2) (9) | 35 (2) | 25 |
| Hotels | 40,000 | 150 | 200 | 28 (6)(11) | 25 (2) | 55/25 (2) | 30 | 5/62 (2) | 35 (2) | 25 |

SCHEDULE OF LOT, YARD AND BULK REGULATIONS
PALM BEACH, FLORIDA

Figures in tables enclosed in ( ) indicate reference to foot notes.

| DISTRICT | LOT MINIMUM Area (sq.ft.) | LOT MINIMUM Width (feet) | LOT MINIMUM Depth (feet) | LOT MAXIMUM Density (D.U.'s/ acre). | YARD MINIMUM Front (feet) | YARD MINIMUM Side Yard Both/One (feet) | YARD MINIMUM Rear (feet) | BULK MAXIMUM Height (Stories/ feet) | BULK MAXIMUM Coverage (Percent) | Landscaped Open Space Minimum |
|---|---|---|---|---|---|---|---|---|---|---|
| C-TS, C-WA, C-OPI, C-PC | 4,000 | 30 | 90 | (7) (11) | (3) | (4) | 10 | 2/25 (2)<br>3/35 (2) | 90 (2)<br>60 (2) | (12) |
| C-B | 15,000 | 100 | 150 | (6)&(8) (11) | 10<br>25 (6) | 20/10 | 15 | 2/25 | 65<br>50 (6) | (12) |
| PUD (includes all Planned Unit Developments) | ..... SEE ARTICLE 7 for appropriate standards for all PUD Districts ..... | | | | | | | | | |
| Single-Family (5) | 20,000 | 100 | 150 | 2 | 30 | 30/15 | 15 | 2/25 | 35 | |
| BEACH AREA (See Section 5.47) | | 100 | | | 10 | 20/10 | | 1/16 | 20'x25' | |

(1) See Section 6.51 for special requirements regarding townhouses.
(2) See Sections 5.22 and 5.41 for special lot, yard, density and bulk requirements regarding development adjoined by existing buildings of greater height.
(3) All buildings shall be set back so as to provide at least a ten (10) foot concrete walkway between the curb line and the building exclusive of beautification strips.
(4) None, but five feet (5') if provided. When the sideyard of a C-TS, C-WA, C-OPI or C-PC property adjoins property zoned in any "R" District, a ten foot (10') side yard is required on that side.
(5) Lot, yard and bulk regulations noted for PUD District apply to single family permitted uses which are not a part of PUD application
(6) When applied to hotels permitted as a Special Exception Use in a C-B District or R-D (2) District.
(7) The maximum density for hotels within the C-TS, C-WA, C-OPI or C-PC Commercial Districts shall be 30.
(8) The maximum density for hotels within C-B Commercial District shall be 22
(9) Five story - 55 feet, plus one additional foot for each foot of ceiling height of each story over 8'6", up to a maximum of 62'.
(10) *For each multi-family building maximum dimensions, see Section 6.53 (6).
(11) See Section 9.60 for site plan review requirements.
(12) Landscaped Open Space Requirements.

C-TS, C-WA, C-OPI, C-PC Districts

| Landscaped Open Space | Site Size |
|---|---|
| 7½ % | 1/4 acre and less |
| 15 % | Greater than 1/4 acre but less than 1/2 acre |
| 20 % | 1/2 acre or greater |

C-B District

| Landscaped Open Space | Site Size |
|---|---|
| 15 % | Less than 1/2 acre |
| 20 % | 1/2 acre and greater |



Town Council DRC Development Review Meeting Backup 7-12-2023
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## SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

### PALM BEACH, FLORIDA

| USE | | SPACES REQUIRED PER UNIT |
|---|---|---|
| 1. | Single and two-family dwellings and Town Houses | Two per dwelling unit. |
| 2. | Multi-family dwellings | Two per dwelling unit plus one per each five (5) units or portion thereof. |
| 3. | Churches or other places of worship. | One per seven (7) permanent seats in the main auditorium. |
| 4. | Social, swimming, golf, tennis and yacht clubs. | One per four (4) members. |
| 5. | Retail commercial and personal service establishments. | One per two hundred (200) square feet of gross leasable area (GLA). |
| 6. | Hotels, Motels and Motor Inns | One and one-tenth per dwelling unit. A dwelling unit for the purpose of this requirement is composed of two (2) or less rooms. |
| 7. | Libraries, Museums | One per five hundred (500) square feet |
| 8. | Medical or dental offices or clinics. | Five for each doctor or dentist. |
| 9. | Restaurants, nightclubs or other eating places. | One for each three(3) proposed fixed seats, and/or one for each forty-five (45) square feet of floor area in the proposed public seating area not having fixed seats, plus one for each three hundred (300) square feet of floor area in the remainder of the floor area. |
| 10. | Boardinghouse. | One and one-half per dwelling unit. |
| 11. | Theatres, Auditoriums | One per each five (5) seats. |
| 12. | Schools (Public or Private)<br>Grades 1-6<br>Grades 7-9<br>Grades 10-12 | <br>One per fourteen (14) students.<br>One per nine (9) students.<br>One per three (3) students. |
| 13. | Accessory commercial uses in hotels. | One per five hundred (500) square feet except for a restaurant, night club, bar, or other entry place which shall require the same as (9) above. |
| 14. | Office, professional and business service establishments, institutions and banks and financial institutions. | One per two hundred-fifty (250) square feet of gross leasable area (GLA). |

Sec. 5: -- Sec. 5.50 of the aforesaid ordinance entitled "Accessory Structures" shall be amended at Sec. 5.51, so that the first sentence of paragraph 4 shall read as follows:

> "An accessory structure not exceeding twelve (12) feet in height may occupy not more than twenty (20) per cent of a required rear yard except that an awning, as defined, may occupy an additional twenty (20) per cent of a required rear yard. However, in no case shall all accessory structures including an awning occupy more than forty (40) per cent of a required yard";

and a paragraph be added to read:

> "(6) All enclosed accessory buildings shall comply with yard requirements for the principal structure".

Sec. 6: --Art. 6 of the aforesaid ordinance entitled "Supplementary Use Regulations" shall be amended so as to add to Sec. 6.21(c)(3) the following sentence:

(a) "For existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one (1) space per three hundred (300) square feet of floor area, and which may be required under these regulations to provide additional parking spaces as a result of a change in use, such establishments shall be required only to provide that number of spaces over and above the number of spaces that would have been required at one (1) space per three hundred (300) square feet of floor area".

(b) Said section is further hereby amended as to schedule of "Off-Street Parking Requirements", as shown on the attached sheet.

(c) Sec. 6.26 entitled "Public or Private Parking Lots" is amended by adding an Item (e) to read as follows:

> "(e). Amortization. All parking lots in existence for four (4) years or more prior to March 31, 1980, shall comply with all provisions herein relating thereto no later than April 1, 1983. Parking lots in existence for less than four (4) years prior to March 31, 1980, shall comply with all provisions herein relating thereto no later than April 1, 1984".

(d) Sec. 6.33 entitled "Signs in Commercial Districts" is hereby amended so that the first paragraph thereof and subparagraphs (a) and (b) thereof shall read as follows:

"One building identification sign which is installed flat against the main wall of a building may be provided for each building street frontage provided such sign does not exceed twenty (20) square feet in area. Additionally, business signs which are installed flat against the main wall of a building are permitted for each licensed business frontage, in a building, which has direct ground level walk-in access from a public or private roadway or sidewalk, in accordance with the following regulations:

(a) Size of Sign. The gross surface area of all signs for an individual business shall not exceed the following schedule*:

| BUILDING FRONTAGE | MAXIMUM GROSS SURFACE AREA |
|---|---|
| Less than 18 feet | 10 square feet |
| 18 feet and over | 20 square feet |

*This permitted gross surface sign area per business establishment may be in the form of one sign, or composed of a group of smaller signs provided their aggregate area does not exceed that area contained in the schedule. The gross surface area of any sign on a building shall not, however, exceed twenty (20) square feet.

(b) Location. Upper story tenants shall be allowed to display signs to the extent that the upper story display area of each individual business shall not exceed its proportionate share of the total allowable maximum gross surface area for the building as calculated under (a) above and that the total gross surface area of all signs displayed on the building not exceed the maximum for that building as calculated under (a) above".

(e) Sec. 6.40 entitled "Special Exception Uses" is hereby amended to read as follows:

"Sec. 6.40 - Special Exception Uses.

Special exception uses and their related accessory uses or any expansion, enlargement, or modification of an existing special exception use, or any physical expansion of an existing special use or facility, shall be permitted only upon authorization by the Town Council, provided that such uses shall be found by the Town Council to comply with the following requirements and other applicable requirements as set forth in this Chapter. All special exception uses require site plan review in accordance with Sec. 9.60 of this Chapter. (For additional standards applicable to Planned Unit Development, see Art. 7 of this Chapter.)

(a) That the use is a permitted Special Exception Use as set forth in the Schedule of Use Regulations, in Art. 4 thereof;

(b) That the use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected;

(c) That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located;

(d) That the use will be compatible with adjoining development and the intended purpose of the District in which it is to be located;

(e) That the use will comply with yard, other open space, and any special requirements set out in the Schedule of District Regulations for the particular use involved;

(f) That the use will comply with all elements of the Comprehensive Plan;

(g) That the use not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the District;

(h) That adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

The following factors may be used as a guide in determining the parking need generated by any commercial uses (retail, personal services, offices, professional and business services, banks and financial institutions) being considered for special exception approval:

Offices, professional and business services, banks and financial institutions.

0.65 spaces per each full-time employee plus

0.33 spaces per each part-time employee plus

0.16 spaces per salesman, plus

25% of the sum of the foregoing to cover customer parking need.

Retail and personal services uses.

0.65 spaces per each full-time employee plus

0.33 spaces per each part-time employee plus

Two times the sum of the foregoing to cover customer parking need.

The above calculations may be used to determine if the proposed use would generate parking need in excess of that required by the parking schedule of this Chapter.

(i) That signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact be compatible and in harmony with properties in the District;

(j) That location, availability and compatibility of utility service for the use be satisfactory to insure health and safety;

(k) That refuse and service areas for the use not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe;

(l) That the proposed use will not attract the principal portion of its customers/clients from off-island locations;

(m) That adequate landscaping and screening is provided as required herein;

(n) In the event an authorized or existing Special Exception Use is discontinued for any period of time with the intention on the part of the owner to abandon such Special Exception Use, or the discontinuance of such use for a period of two (2) years without the intention of the owner to abandon, shall be an abandonment thereof, and such Special Exception Use shall thereby be immediately terminated and may not thereafter be revived except upon new application and approval by the Town Council.

(f) Sec. 6.55 - Commercial Uses - C-A and C-B Districts so that the title thereof shall be Commercial Uses C-TS, C-WA, C-OPI, C-PC and C-B Districts, and by amending subparagraph (a) thereof so that the first sentence thereof shall read as follows:

"6.55 - Commercial Uses - C-TS, C-WA, C-OPI, C-PC and C-B Districts.

(a) All applications for new buildings or for new building additions or for changes in Permitted Use in the 'Schedule of Use Regulations' of this Chapter which involve more than 2,000 square feet of building floor area of buildings in the C-TS, C-WA, C-OPI, C-PC or C-B Districts shall require a site plan approval in accordance with Sec. 9.60 of this Chapter".

Sec. 7: -- Art. 8 of the aforesaid ordinance entitled "Nonconformities" shall be amended by adding an additional paragraph to the end of Sec. 8.10 thereof, as follows:

"In the event that an existing approved Special Exception Use which also has zoning nonconformity of use or structure existing in connection with the Special Exception Use should be removed by the Town Council from the list of Special Exception Uses in the

'Schedule of Use Regulations' contained in this Chapter, then said nonconforming use and/or structure shall become a nonconforming use as contained in this Chapter";

and further amending said Art. 8, Sec. 8.30, "Termination of Nonconforming Uses and Structures", as follows:

"Sec. 8.30 - Termination of Nonconforming Uses and Structures.

8.31 - Abandonment.

The discontinuance of a nonconforming use with the intention of the owner thereof to terminate said use for any period of time is an abandonment. Likewise, the discontinuance of a nonconforming use for a period of two years without the intention of the owner thereof to discontinue said use, and/or the change of a use to a more restricted or conforming use for any period of time shall be considered an abandonment thereof, and such nonconforming use shall not thereafter be revived.

8.32 - Partial Destruction.

When 50% or more of the existing floor area of a nonconforming structure or structure occupied by a nonconforming use is destroyed by fire or other casualty or Act of God or acts of the owner thereof, the use of such structure as a nonconforming use shall immediately be terminated".

Sec. 8: -- Art. 9 of the aforesaid ordinance entitled "Administration and Enforcement" shall be amended as follows:

(a) Sec. 9.61(m) entitled "Site Plan Review, Application" shall be amended to add an additional sentence to read as follows:

"In the case of commercial uses, colored photographs of each building within 100 feet to either side of the property line on any street and a diagramatic elevation drawing indicating the height and width of existing or planned structures within the same distance".

(b) Sec. 9.63(j) entitled "Site Plan Review, Review by Town Council" shall be amended by adding the following paragraph:

"(j) 'Height of Commercial Structures' with reference to adjoining buildings, the effect on uniformity in height, and the general principal of retaining the low profile scale of commercial architecture".

Sec. 9: -- The property situate, lying and being in the Town of Palm Beach, Palm Beach, County, Florida, described as:

> A portion of Phipps Plaza from 206 through 238 Phipps Plaza, legally described as Lots B, C, D, E, F, G, H and J of Phipps Plaza Subdivision, and 1, 1-A, 3-A, 4, 4-A, 5, 5-A of the Plat of the Plaza Subdivision (see attached map)

is hereby removed from the C-A Commercial District, and included in the R-C Residential District, and the Town's Zoning Map shall be amended accordingly by the proper Town officials to reflect this change in zoning classification.

Sec. 10: -- The properties located within the delineated areas identified on the attached maps are hereby removed from the C-A Commercial District and included in the newly created C-TS, C-WA, C-OPI and C-PC Commercial Districts (as appropriate),such districts having replaced the C-A District; and the Town's Zoning Map shall be amended accordingly by the proper Town officials to reflect these changes in zoning classification.

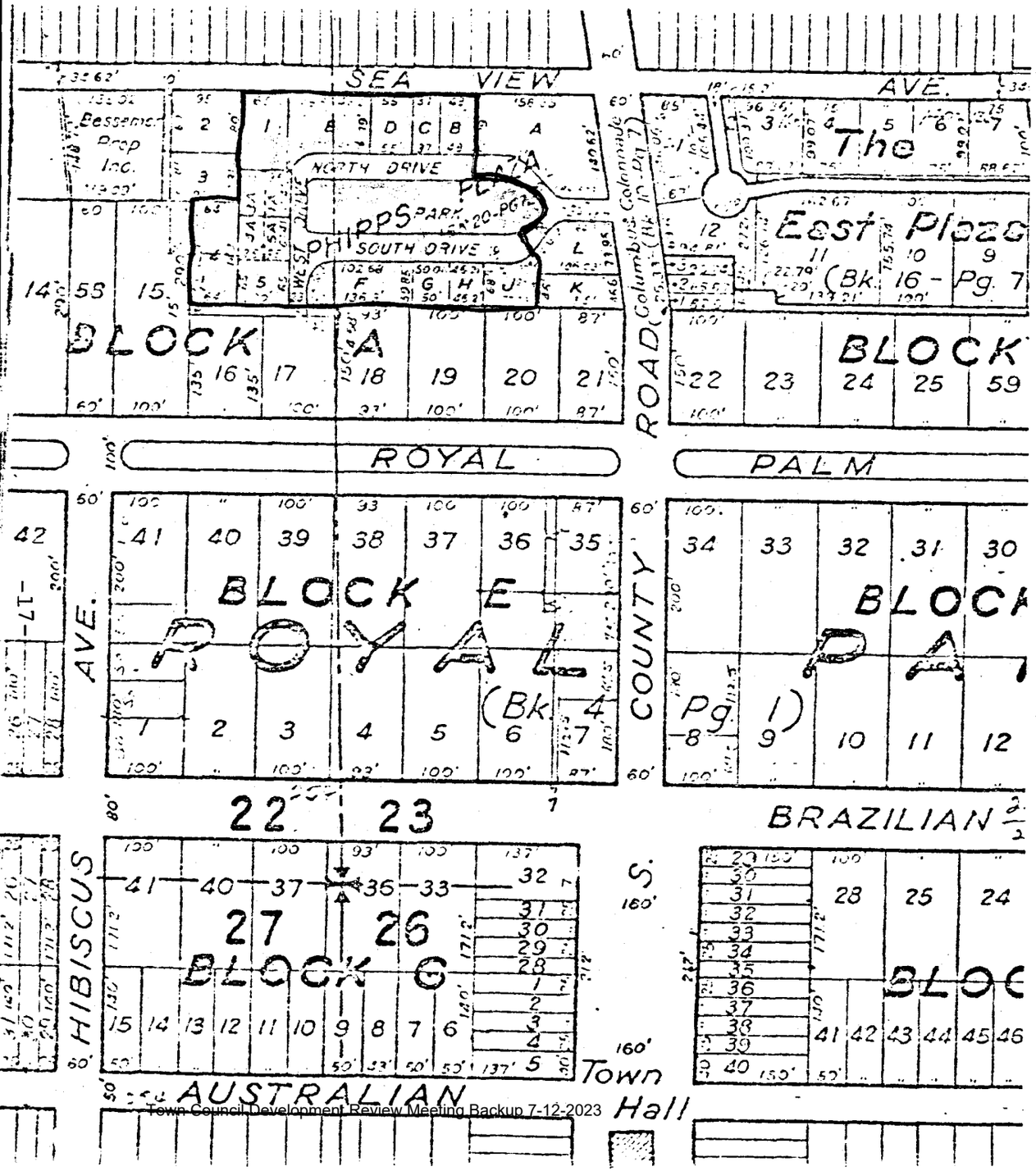
Sec. 11: -- If any provision of this ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance are hereby declared severable.

Sec. 12: -- Any person found guilty of a violation of this ordinance shall be punished in accordance with the provisions as in Sec. 13.20 of Ordinance No. 2-74.

Sec. 13: -- All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Sec. 14: -- This ordinance shall take effect immediately upon its passage and approval as provided by law.

PASSED AND ADOPTED in a regular, adjourned session assembled on first reading this 20th day of March,

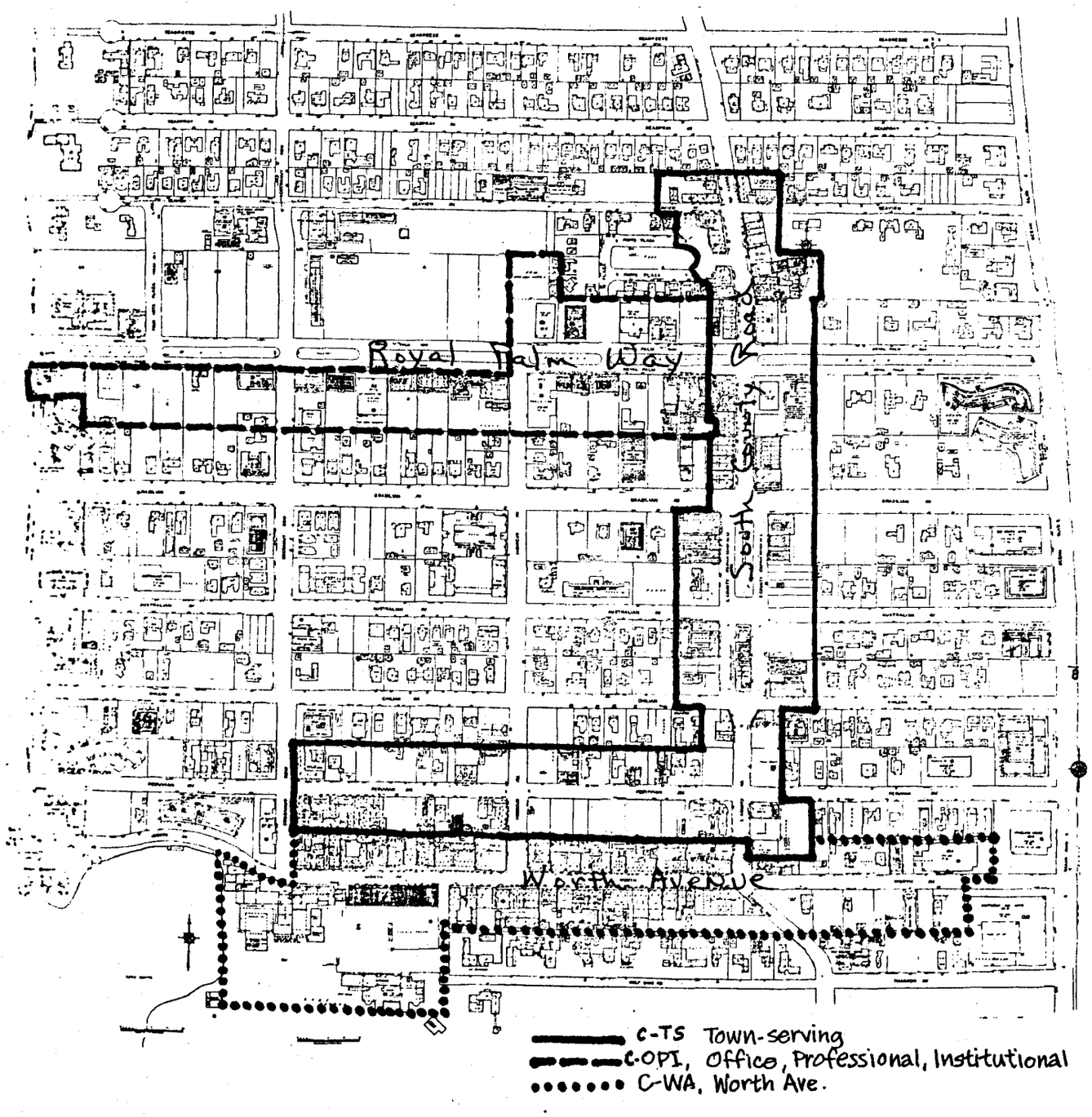



PROPOSED REZONING

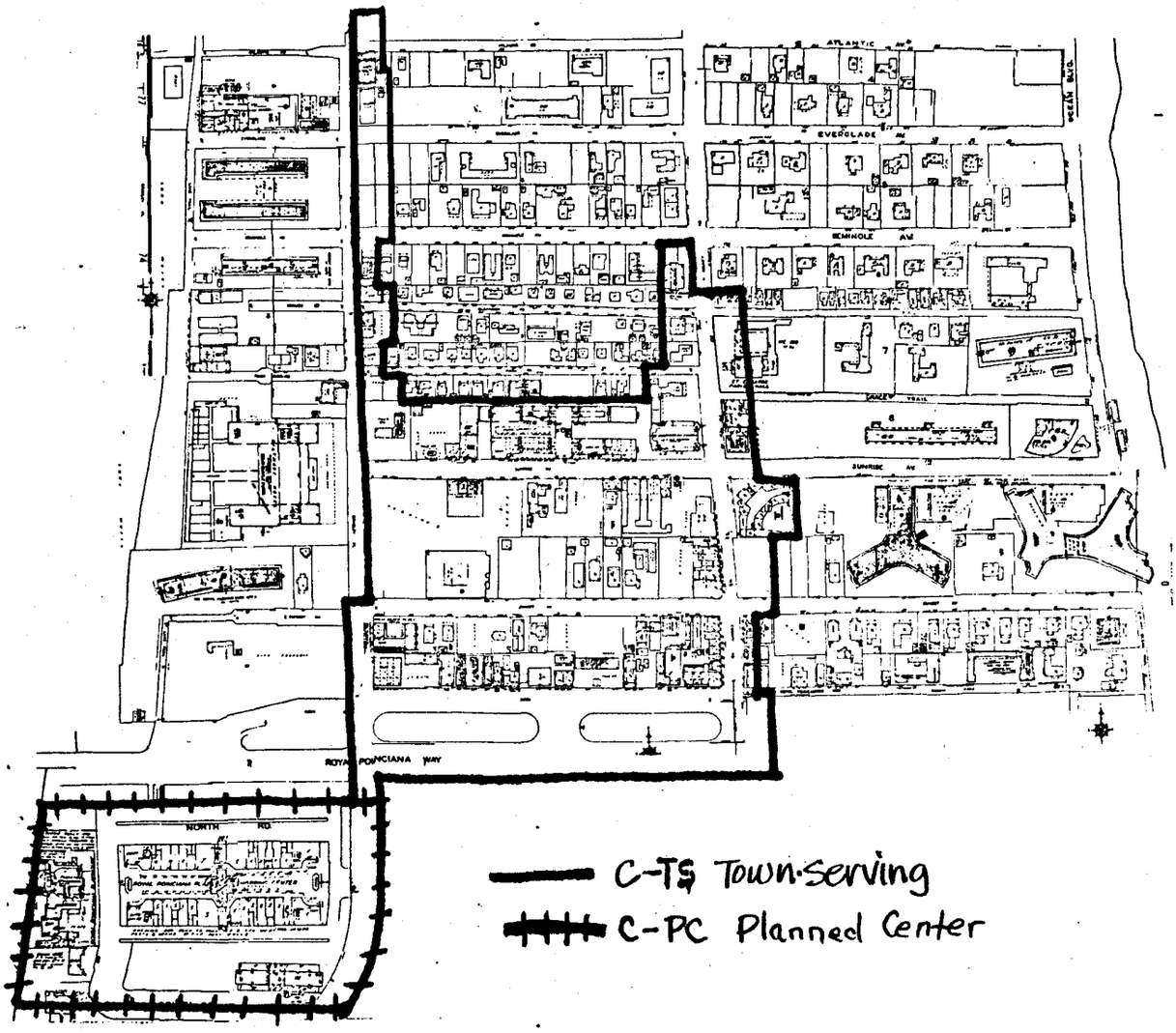
Portion of Phipps Plaza from C-A Commercial to R-C Medium Density Residential.

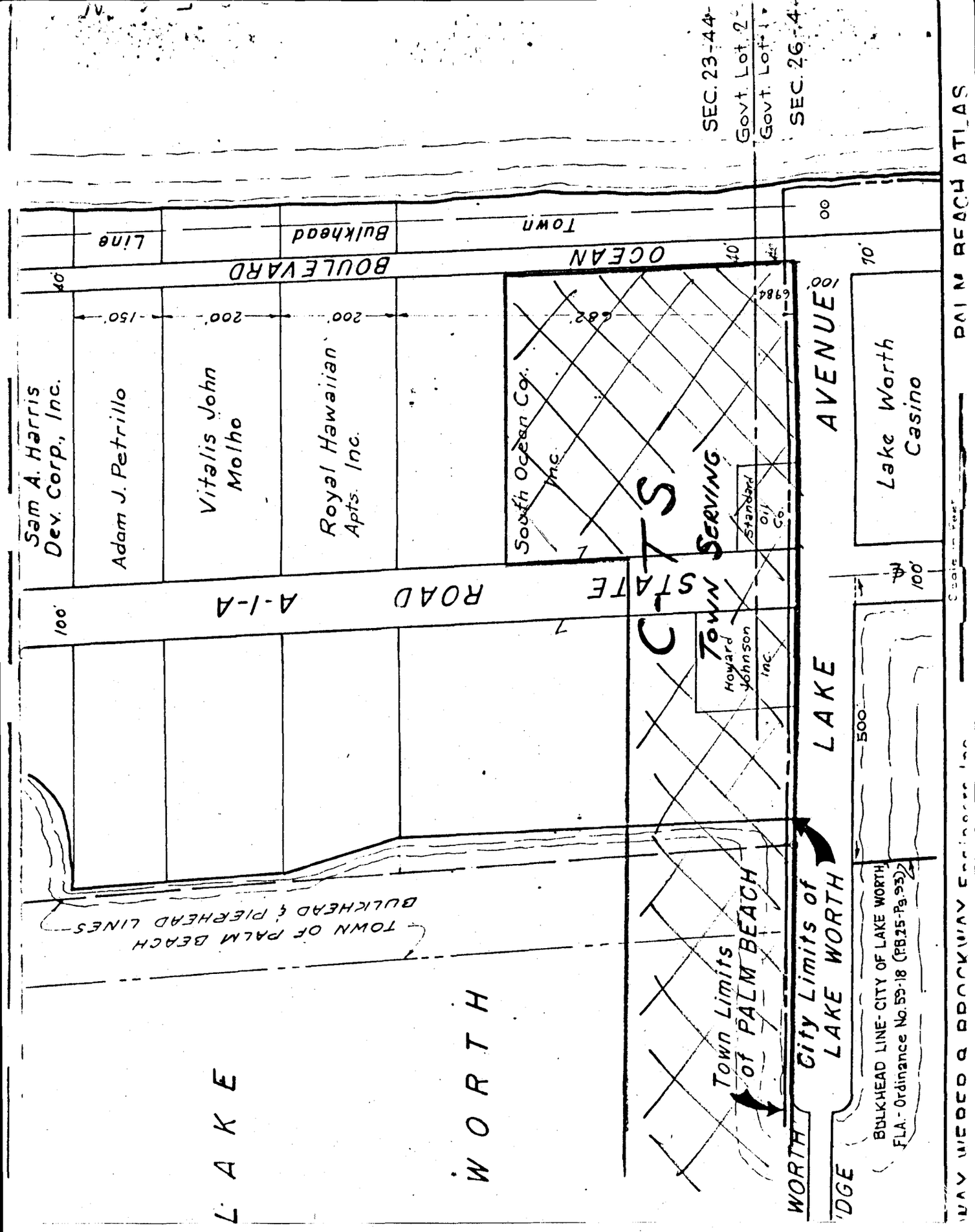
Property legally described as lots B,C,D,E,F,G,H and J of Phipps Plaza and lots 1,1A,3A,4,4A,5 and 5A of the Plat of the Plaza.

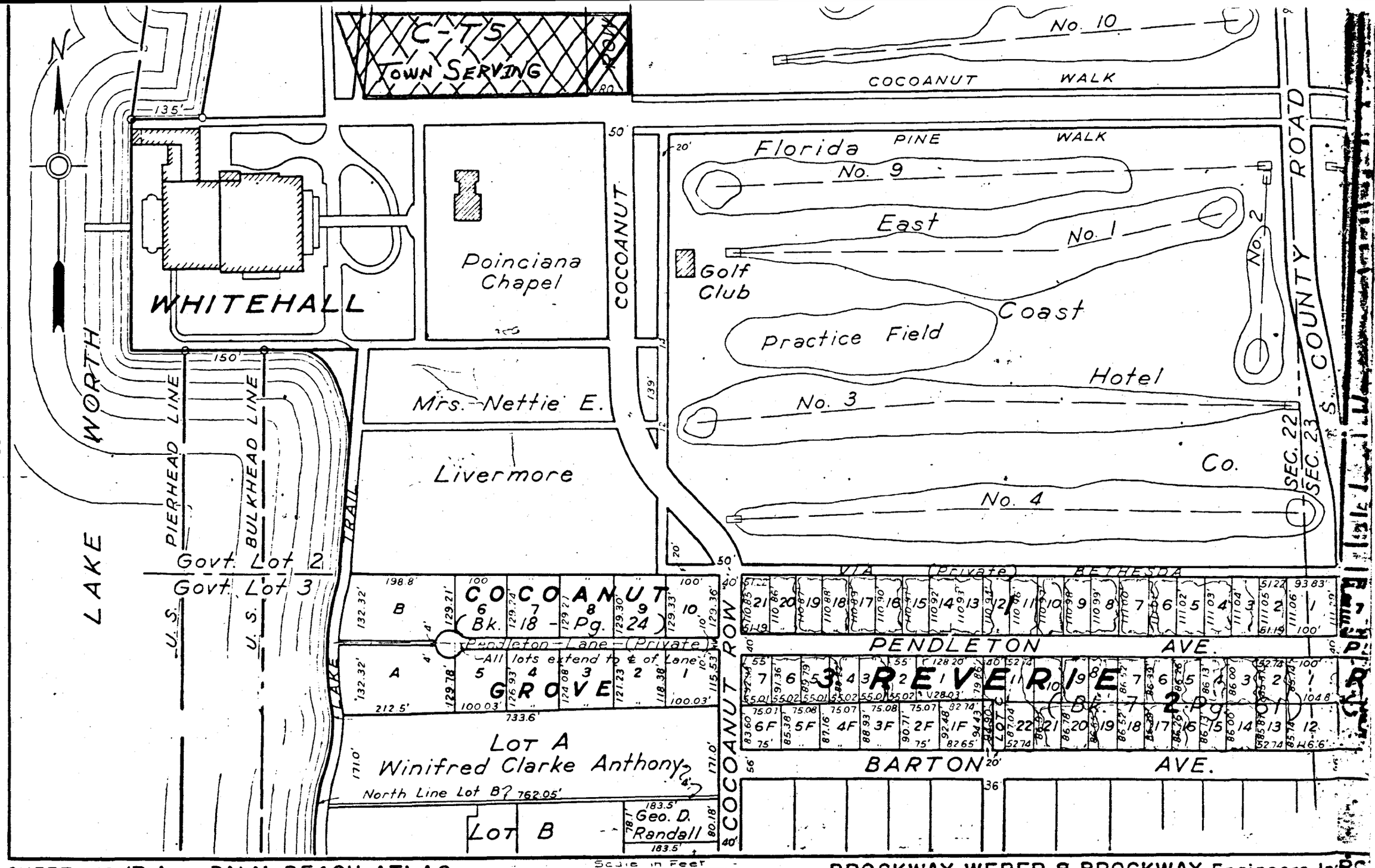
# COMMERCIAL ZONING



# COMMERCIAL ZONING




SEC. 23-44
Govt. Lot 2
Govt. Lot 1
SEC. 26-4
Sam A. Harris Dev. Corp., Inc.
Adam J. Petrillo
Vitalis John Molho
Royal Hawaiian Apts. Inc.
South Ocean Co. Inc.
Lake Worth Casino
Standard Oil Co.
Howard Johnson Inc.
Town Bulkhead Line
OCEAN BOULEVARD
STATE ROAD A-1-A
LAKE AVENUE
CITS
TOWN SERVING
TOWN OF PALM BEACH BULKHEAD & PIERHEAD LINES
Town Limits of PALM BEACH
City Limits of LAKE WORTH
BULKHEAD LINE-CITY OF LAKE WORTH FLA.-Ordinance No. 59-18 (P.B.25-Pg.93)
LAKE WORTH
WORTH
DGE
PALM BEACH ATLAS




Town Council Development Review Meeting Backup 1-12-23

1980, and on second and final reading this 31st day of March, 1980.

Robert M. Grace

Charles H. Wainig

Caldwell C. Thurson

Wm M Mann

Town Council

APPROVED:

Mack Ritchie

Mayor

ATTEST:

Grace T. Peters

Town Clerk

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Ordinances - First Reading

Agenda Title
Amendment to the Requirements for Special Exception on Non-Conforming Lots within the Single-Family Districts

**Ordinance No. 010-2023:** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article IV, Nonconformities, Division 4. - Land; Section 134-446. Development and Redevelopment of Nonconforming Residential Lots; Article VI, District Regulations, Division 2. - RAA Large Estate Residential District, Section 134-793. Lot, Yard, and Area Requirements; Division 3. -R-A Estate Residential District, Section 134-843. Lot, Yard, and Area Requirements; and Division 4. - R-B Low Density Residential District, Section 134-893. Lot, Yard, and Area Requirements Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**
- **Draft Ordinance No. 010-2023**

# TOWN OF PALM BEACH
## Information for Town Council Meeting on: July 12, 2023

To: Mayor and Town Council Members, Serving as the Local Planning Agency & Town Council

Via: Kirk W. Blouin, Town Manager

From: Wayne Bergman, MCP, LEED-AP, Director PZ&B

Re: Amendment to the Special Exception Clause in the Commercial Districts Related to Business Tax Receipts (BTRs) and Non-Conforming Permitted Uses
**Ordinance No. 009-2023**

Date: July 12, 2023

## STAFF RECOMMENDATION

Staff recommends that the Town Council approve the ordinance on first reading accepting the preliminary findings of the proposed Code language related the Special Exception clause in the commercial districts related to Business Tax Receipts (BTRs) and non-conforming permitted uses.

## BOARD OR COMMISSION RECOMMENDATION

On April 27, 2023, the Planning and Zoning Commission recommended Ordinance No. 009-2023, attached as Exhibit A, move forward to first and second reading with the addition of a maximum square footage cap for like for like uses that would not be required to obtain a Special Exception approval in order to obtain a Business Tax Receipt (BTR). The proposed Code language does not apply to restaurants, nightclubs, bar/lounges, cafés, dining rooms or outdoor cafés.

## GENERAL INFORMATION

Currently, in order to obtain a BTR for a new business where that use has already been approved as a Special Exception in that zoning district, requires the new tenant to repeat the public hearing process for Special Exception Approval by the Town Council. This requirement is repetitive and cumbersome. Data was conducted into current square footage of retail businesses in determining a maximum square footage limitation. In addition, for informational purposes, research traced the background of the adopting ordinances which established the commercial zoning districts and provided for Special Exception Approval for all new businesses in order to obtain a new occupational license (See Exhibit B).

Staff is proposing to streamline the procedure from the affected commercial districts within the Zoning Code for retail, personal services, office, professional and business services, banks, and other financial institutions by removing the requirement that the tenant apply for a new Special

Exception. The proposed language does not apply to any space that is in excess of 6,000 square feet of gross leasable area (GLA) in the C-TS, C-PC, and C-B districts; and any space that is in excess of 8,000 square feet of GLA in the C-WA district. This allowance will not be granted to restaurants, bars, nightclubs, bar/lounges, cafés, dining rooms or outdoor cafés. Should a new restaurant, nightclub, bar/lounge, café, dining room or outdoor café application be submitted, Town Council review and approval will remain required.

## TOWN ATTORNEY REVIEW

The subject code amendment has been reviewed and approved for legal form and sufficiency.

Attachment: Proposed Ordinance No. 009-2023
Research Backup

cc: James Murphy, Assistant Planning Director
Jennifer Hofmeister-Drew, Planner III, AICP

**ORDINANCE NO. 010-2023**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE IV, NONCONFORMITIES, DIVISION 4. – LAND; SECTION 134-446. DEVELOPMENT AND REDEVELOPMENT OF NONCONFORMING RESIDENTIAL LOTS; ARTICLE VI, DISTRICT REGULATIONS, DIVISION 2. -RAA LARGE ESTATE RESIDENTIAL DISTRICT, SECTION 134-793. LOT, YARD, AND AREA REQUIREMENTS; DIVISION 3.- R-A ESTATE RESIDENTIAL DISTRICT, SECTION 134-843. LOT, YARD, AND AREA REQUIREMENTS; AND DIVISION 4.-R-B LOW DENSITY RESIDENTIAL DISTRICT, SECTION 134-893. LOT, YARD, AND AREA REQUIREMENTS PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.** Chapter 134, Zoning Article IV, Nonconformities, Division 4.- Land, is hereby amended as follows:

**Sec. 134-446. Development and redevelopment of nonconforming residential lots.**

(a) ~~Vacant~~ Land located in any zoning district which does not conform to the minimum requirements of lot dimension or lot area as required by the schedule of lot, yard and bulk regulations for the district as given in article VI of this chapter may be developed or redeveloped as allowed in subsections (b) and (c) provided that ~~multi-family~~ residential use ~~and single-family residential use~~ does not exceed the maximum density allowed for the site, as identified in chapter 134 and the Future Land Use Element in the town's comprehensive plan. ~~Development of a single-family residential dwelling unit on a vacant residentially zoned lot which has existed in the same configuration for a minimum of 30 years is allowed subject to subsection (b) or (c), whichever is relevant.~~

(b) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B and PUD zoning districts shall be subject to an application to the town council for a variance. A variance to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.

(c) ~~The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements~~ A single-family dwelling, along with ancillary accessory structures, may be developed on a nonconforming lot in the R-AA, R-A and R-B

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zoning districts provided that the lot contained a single-family dwelling and the lot retains the same size and configuration as when the previous single-family dwelling was constructed on the lot. ~~shall be subject to an application to the town council for special exception and/or site plan review as provided for in subsections 134-793(b), 134-843(b) and 134-893(b). A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.~~

**Section 2.** Chapter 134, Zoning Article VI, District Regulations, Division 2. R-AA, is hereby amended as follows:

**Sec. 134-793. Lot, yard, and area requirements—Generally.**

(b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-AA zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, said single-family dwelling meets all other Town Codes. ~~however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.~~

**Section 3.** Chapter 134, Zoning Article VI, District Regulations, Division 3. R-A, is hereby amended as follows:

**Sec. 134-843. Lot, yard, and area requirements—Generally.**

(b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-A zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, said single-family dwelling meets all other Town Codes. ~~however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.~~

**Section 4.** Chapter 134, Zoning Article VI, District Regulations, Division 4. R.B, is hereby amended as follows:

**Sec. 134-893. Lot, yard, and area requirements—Generally.**

(c) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-B zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, said single-family dwelling meets all other Town Codes. ~~however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or~~

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~~dimension cannot be considered by the town council until the architectural commission has completed review of the project.~~

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**Section 5.** Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

**Section 6.** Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

**Section 7.** Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

**Section 8.** Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this _____ day of _____, 2023; and for the Second and Final Reading on this _____day of _____, 2023.

_____ _____

Danielle H. Moore, Mayor Margaret A. Zeidman, Town Council President

_____

Bobbie Lindsay, Town Council President Pro Tem

_____

Julie Araskog, Town Council Member

_____

ATTEST: Edward A. Cooney, Town Council Member

_____ _____

Kelly Churney, Acting Town Clerk Lewis S.W. Crampton, Town Council Member

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# TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 12, 2023

Section of Agenda
Ordinances - First Reading

Agenda Title
Amendment to the Definition of Building Height, Point of Measurement

**Ordinance No. 011-2023:** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article I, in General; Section 134-2, Definitions and Rules of Construction, Related to Building Height Point of Measurement; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Presenter

ATTACHMENTS:

- **PZB Staff Memorandum**

# TOWN OF PALM BEACH
## Information for Town Council Meeting on: July 12, 2023

To: Mayor and Town Council, Serving as the Local Planning Agency & Town Council

Via: Kirk W. Blouin, Town Manager

From: Wayne Bergman, MCP, LEED-AP, Director PZ&B

Re: Amendment to the Definition of Building Height, Point of Measurement
**Ordinance No. 011-2023**

Date: July 12, 2023

## STAFF RECOMMENDATION

Staff recommends that the Town Council approve the ordinance on first reading accepting the preliminary findings of on the proposed Code language related to building height definition related to point of measurement. The proposed language of the subject Ordinance will amend Chapter 134, Zoning, related to the definitions of Building Height, and to add definitions for Building Height and Exterior Wall Height, contained in Chapter 134, Article 1, Section 134-2(b), Definitions.

## BOARD OR COMMISSION RECOMMENDATION

On April 27, 2023, the Planning and Zoning Commission recommended Ordinance No. 011-2023, attached as Exhibit D, move forward to first and second reading on Code language related to building height, point of measurement.

## GENERAL INFORMATION

There are currently nine (9) separate definitions for Building Height, as outlined in Chapter 134, Article I, Section 134-2, Definitions, of the Town of Palm Beach, Florida Code of Ordinances (See Exhibit A). The different building height definitions cover various situations and districts, that include the following:

- Height measured vertically from a zero datum (point of measurement) point to either the bottom of the top chord of the roof framing member (for pitched roofs) or the point where the ceiling meets the exterior wall (for flat roofs).
- Zero datum (point of measurement) varies depending on district and building location, such as the crown of the street at its highest elevation, minimum flood elevation, existing grade elevation, or the highest first floor elevation of an abutting principal building.
- Building height definitions account for different situations, such as corner lots, lots abutting low streets, through lots, and lots abutting Lake Trail.

Although it may appear that the specific definitions are tailored for unique circumstances and situations based on the location of the subject lot, they can be a source of confusion and redundancy.

The amended definition of Building Height and Exterior Wall Height (See Exhibits B & C) aims to accomplish two primary objectives:

- Consolidate the nine (9) definitions into a single and comprehensive definition by simplifying the point of measurement (zero datum) into three (3) standardized conditions, applicable to any lot within the Town of Palm Beach.

- Revise the method for measuring maximum building height to accommodate various roof types and allow for flexibility in maximum building height and maximum exterior wall height, depending on the requirements of individual districts. In districts with heightened sensitivity to the scale of new developments, such as the North End, the updated definition permits the imposition of more stringent requirements for both maximum building height and maximum exterior wall height. In contrast, other residential districts may benefit from increased maximum building height allowances, promoting a diverse range of architectural styles within the streetscape and built environment.

## TOWN ATTORNEY REVIEW

The subject code amendment has been reviewed and approved for legal form and sufficiency.

Attachment: Proposed Ordinance No. 011-2023

cc: James Murphy, Assistant Planning Director
Jennifer Hofmeister-Drew, Planner III, AICP

## EXHIBIT A

**The nine (9) existing definitions of Building Height as outlined in Chapter 134, Article 1, Section 134-2, Definitions, of the Palm Beach, Florida, Code of Ordinances.**

1. Building, height of (applicable only in the R-B districts) means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The building height zero datum shall be a maximum of 18 inches above the crown of the public or private street or road at its highest street elevation or the minimum flood elevation as established in chapters 18 and 50 of this Code, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing building.

2. Building height of (applicable to all districts except the R-B districts) means the vertical distance from zero datum (excluding garage), which is the crown of the public or private street or road at its highest elevation abutting the lot or the minimum flood elevation as established in chapters 18 and 50 of the Code, whichever is higher, to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

3. Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R-AA district and having a natural ground level lower than that of the roadway on which the lot fronts) means the vertical distance from the point of measurement zero datum for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height is height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior wall meets the minimum flood elevation as defined in chapter 50 or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of first floor slab of the existing structure building.

4. Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height zero datum to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height shall be measured from zero datum to the point

where the ceiling meets the exterior wall. The point of measurement zero datum for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided all of the following conditions are met:

(1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met; and
(2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and

(3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

5. Building height of corner lot. In those cases involving a corner lot as defined in this section, the zero datum of the lot set forth in the definition of the term "building, height of (applicable to all districts except the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of the first-floor slab of the existing building.

6. Building, height of, lot abutting low streets, means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the lot, and if such street elevation is below the minimum flood elevation as established in chapter 50 of this Code. Zero datum for measuring building height shall be measured from the minimum flood elevation.

7. Building, height of, through lot. In those cases involving a through lot as defined in this section, zero datum as set forth in the definition of the term "building height of (applicable to all districts except in the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" and the definition of the term "building, height of, corner lot" of the portion of the building fronting on the front street to one-half of the mean lot depth shall be from the crown of the public street at its highest elevation abutting the front of the lot zero datum for the portion of the building fronting on the rear street shall

be from the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.

8. Building, height of, (applicable to R-B lots abutting Lake Trail), means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for buildings may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot and the minimum flood elevation. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing building.

9. Building, height of, (applicable to all other lots abutting Lake Trail), means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. Zero datum for buildings shall be either the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.

**EXHIBIT B**

**Amended / new definition of Building Height to replace the existing nine (9) definitions of Building Height as outlined in Chapter 134, Article 1, Section 134-2, Definitions, of the Palm Beach, Florida, Code of Ordinances.**

A. Building Height

The maximum height of the building is measured from the point of measurement to the highest point of the roof system, excluding chimneys, skylights, spires, cupolas, and similar architectural features that are usually carried above the roof level and not used for human occupancy, provided that each of the feature shall be erected only to such height and size as is necessary to accomplish the purpose it serves.

The building height point of measurement (zero datum) shall be the greater of the following conditions as applied to the location of the subject lot:

1. For lots in the Special Flood Hazard area, and not seaward of the CCCL, the point of measurement shall be at the current FEMA base flood elevation plus one foot of freeboard.
2. For lots seaward of the Coastal Construction Control Line (CCCL), the point of measurement shall be 15.9 feet NAVD (13.9 feet NAVD plus two feet above the lowest horizontal structural member).
3. For lots outside the Special Flood Hazard area and lots that are not seaward of the CCCL, the point of measurement shall be a maximum of 18 inches above the highest street elevation of the crown of the public or private street or road, measured along the front property line of the subject lot.

Additional requirements:

i. For through lots and corner lots, the point of measurement (zero datum) related to the crown of the abutting public or private street, shall be measured only along the street with the primary entrance for the proposed building on the subject lot.

ii. The lowest habitable finished floor elevation shall be at or above the point of measurement applicable to the subject lot.

B. Exterior Wall Height

The height of the outside exterior walls is measured from the point of measurement to the point at which the outside wall meets the horizontal eave of the roof or the bottom of a parapet wall.

Please refer to Chapter 134, Article 6, for information on allowable building heights, exterior wall heights, and other bulk regulations specific to various zoning districts.

**EXHIBIT C**
**Diagram for the amended / new definition of Building Height**

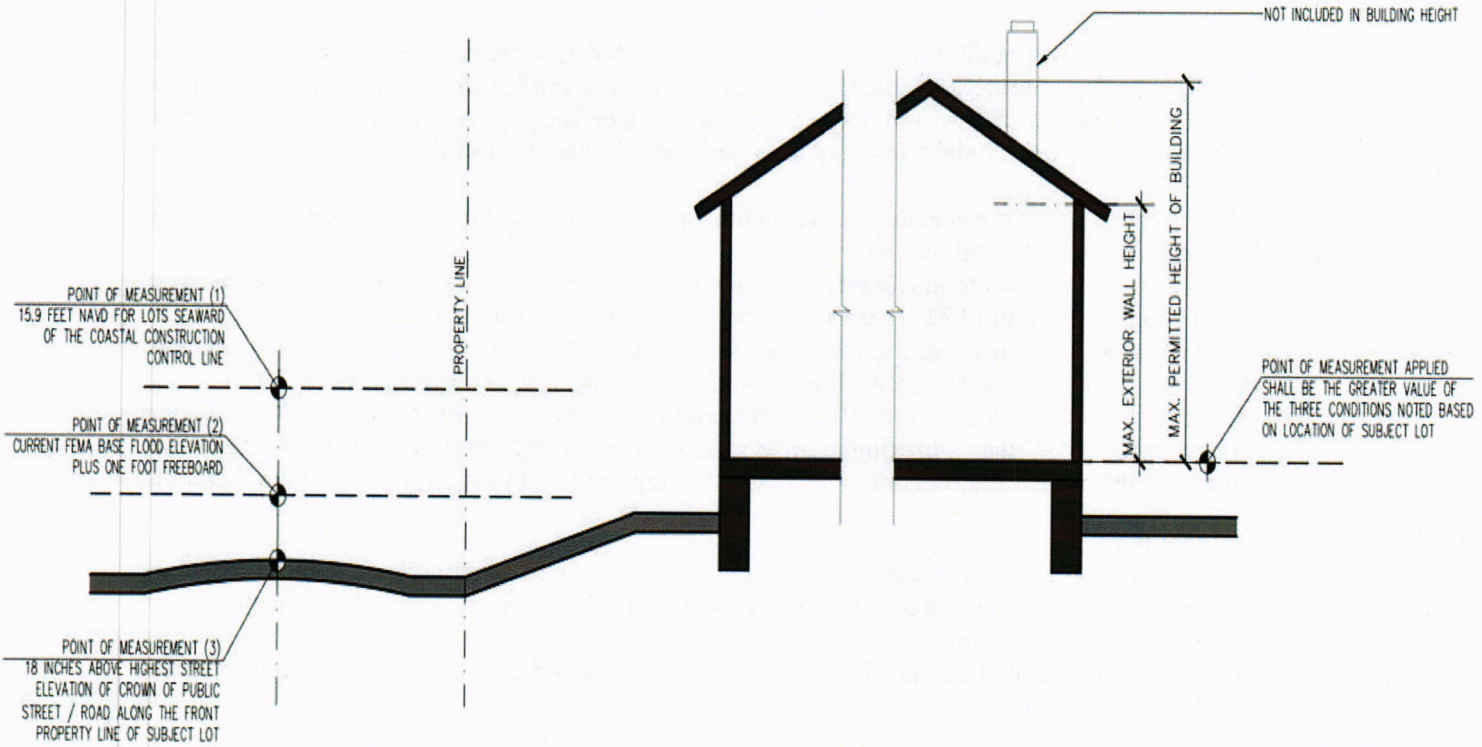

Exhibit D

# ORDINANCE NO. 011-2023

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE I, IN GENERAL; SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, RELATED TO BUILDING HEIGHT POINT OF MEASUREMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.** Chapter 134, Zoning, Article I, In General, is hereby amended as follows:

Sec. 134-2. Definitions and rules of construction.

~~*Building, height of (applicable only in the R-B districts)* means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The building height zero datum shall be a maximum of 18 inches above the crown of the public or private street or road at its highest street elevation or the minimum flood elevation as established in chapters 18 and 50 of this Code, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing building.~~

~~*Building height of (applicable to all districts except the R-B districts)* means the vertical distance from zero datum (excluding garage), which is the crown of the public or private street or road at its highest elevation abutting the lot or the minimum flood elevation as established in chapters 18 and 50 of the Code, whichever is higher, to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.~~

~~*Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R-AA district and having a natural ground level lower than that of the roadway on which the lot fronts)* means the vertical distance from the point of measurement zero datum for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height is height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum~~

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for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior wall meets the minimum flood elevation as defined in chapter 50 or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of first floor slab of the existing structure building.

*Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL))* means the vertical distance from the point of measurement for height zero datum to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non habitable space). For flat roofs the measurement is from the point of measurement for height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided all of the following conditions are met:

(1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;

(2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and

(3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

*Building height of corner lot.* In those cases involving a corner lot as defined in this section, the zero datum of the lot set forth in the definition of the term "building, height of (applicable to all districts except the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of the first floor slab of the existing building.

*Building, height of, lot abutting low streets,* means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the

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~~lot, and if such street elevation is below the minimum flood elevation as established in chapter 50 of this Code. Zero datum for measuring building height shall be measured from the minimum flood elevation.~~

~~*Building, height of, through lot.* In those cases involving a through lot as defined in this section, zero datum as set forth in the definition of the term "building height of (applicable to all districts except in the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" and the definition of the term "building, height of, corner lot" of the portion of the building fronting on the front street to one-half of the mean lot depth shall be from the crown of the public street at its highest elevation abutting the front of the lot zero datum for the portion of the building fronting on the rear street shall be from the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.~~

~~*Building, height of, (applicable to R-B lots abutting Lake Trail),* means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for buildings may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot and the minimum flood elevation. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing building.~~

~~*Building, height of, (applicable to all other lots abutting Lake Trail),* means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. Zero datum for buildings shall be either the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.~~

*Building, height of,* means the maximum height of the building measured from the point of measurement to the highest point of the roof system. It excludes chimneys, skylights, spires, cupolas, and similar architectural features that are usually carried above the roof level and not used for human occupancy, provided that each of the feature shall be erected only to such height and size as is necessary to accomplish the purpose it serves. The height of the outside exterior walls is measured from the point of measurement to the point at which the outside wall meets the horizontal eave of the roof or the bottom of a parapet wall. The lowest habitable finished floor elevation shall be at or above the point of measurement applicable to the subject lot.

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The building height point of measurement (zero datum) shall be the greater of the following conditions as applied to the location of the subject lot:

(1) For lots in the Special Flood Hazard Area, and not seaward of the CCCL, the point of measurement shall be at the current FEMA base flood elevation plus one foot of freeboard.

(2) For lots seaward of the Coastal Construction Control Line (CCCL), the point of measurement shall be 15.9 feet NAVD (13.9 feet NAVD plus two feet above the lowest horizontal structural member).

(3) For lots outside the Special Flood Hazard Area and lots that are not seaward of the CCCL, the point of measurement shall be a maximum of 18 inches above the highest street elevation of the crown of the public or private street or road, measured along the front property line of the subject lot.

(4) For through lots and corner lots, the point of measurement (zero datum) related to the crown of the abutting public or private street, shall be measured only along the street with the primary entrance for the proposed building on the subject lot.

Section 2. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this _____ day of _____, 2023; and for the Second and Final Reading on this _____ day of _____, 2023.

DRAFT

_____
Danielle H. Moore, Mayor

_____
Margaret Zeidman, Town Council President

_____
Bobbie Lindsay, President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kelly Churney, Acting Town Clerk

Edward Cooney, Town Council Member

DRAFT