

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

FEBRUARY 13, 2019

9:45 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

Mayor Gail L. Coniglio
Danielle H. Moore, President
Margaret A. Zeidman, President Pro Tem
Julie Araskog
Lew Crampton
Bobbie Lindsay

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND DIRECTOR OF PLANNING, ZONING AND BUILDING

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VI. APPROVAL OF AGENDA

VII. PUBLIC HEARINGS

- A. RESOLUTION NO. 05-2019 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 244 Nightingale Trail, Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach. pg. 9

VIII. DEVELOPMENT REVIEWS

A. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **Z-18-00138 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of Palm Beach Day Academy, Inc., Applicant, relative to property located at **241 SEAVIEW AVE SUITE: SITE**, legal description on file, is described below. 1. Request for Special Exception with Site Plan Review approval to create 30 paved parking spaces on the west lawn to be used by Palm Beach Day Academy faculty, families and guests to the school. 2. Request to modify the existing Declaration of Use Agreement (a copy of the Agreement is on file at the Town of Palm Beach Building Department). [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review and variance will not cause negative architectural impact to the subject landmark property. Carried 4-1. The Landmarks Preservation Commission deferred the project to the February 20, 2019 meeting at the request of the attorney. Carried 7-0.] pg. 37
- b. **Z-18-00146 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-A Estate Residential The application of Harvey E. Oyer, III, Esq. on behalf of Mar-a-Lago Club, Inc., Applicant, relative to property located at **1100 S OCEAN BLVD**, legal description on file, is described below. 1. The Applicant seeks approval of a Special Exception with Site Plan Review to add an accessory dock to the property in the approximate location of the prior historic dock. The dock is to be located at the northwest corner of the site and projects 40 feet from the existing seawall into the Lake Worth Lagoon. [Applicant's Representative: Harvey E Oyer III Esq] [The Landmarks Preservation Commission Recommendation: Implementation of pg. 41

the proposed special exception with site plan review will not cause negative architectural impact to the subject landmark property. Carried 7-0. The Landmarks Preservation Commission deferred the project to the February 20, 2019 meeting at the request of the attorney. Carried 7-0.]

- c. **Z-18-00149 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: C-TS Town-Serving Commercial The application of Carriage House and JHD Associates, LLC, Applicant, relative to property located at **264 S COUNTY RD SUITE: BLDG 1**, legal description on file, is described below. A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the C-TS Zoning District. The Club will have a membership cap of 248 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 67 seats, which is the same number of seats 264 Grill restaurant had when owned by Peter Pullitzer in the 1970s. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m. A request for a special exception to provide 68 night-time (after 6pm) supplemental off-site shared parking spaces at 230/240 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House. **Z-18-00149 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: C-TS Town-Serving Commercial The application of Carriage House and JHD Associates, LLC, Applicant, relative to property located at **264 S COUNTY RD SUITE: BLDG 1**, legal description on file, is described below. [Applicant's Representative: Maura Ziska Esq] pg. 60
- d. **Z-18-00158 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Palm Beach Dunbar, LLC, a New York limited liability company (John Randolph, Manager), Applicant, relative to property located at **171 DUNBAR RD**, legal description on file, is described below. The Applicant is requesting a variance to add a 388 square foot addition for an additional garage bay to have a two-car garage in lieu of the one-car garage existing. This will result in an angle of vision of 123 degrees in lieu of the 114 degrees existing and 108 degrees maximum allowed in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Review Commission approved the project. Carried 6-1] pg. 110
- e. **Z-18-00161 SITE PLAN REVIEW** Zoning District: R-A Estate Residential The application of 1404NORTHLAKE LLC (Maura Ziska, Manager), Applicant, relative to property located at **1404 N LAKE WAY**, legal description on file, is described below. pg. 113

Special Exception with Site Plan Review to allow the construction of a 9,263 square foot two-story, single family residence on a non-conforming lot that is 110 feet in width in lieu of the 125 foot minimum required and 19,563 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact to the subject property. Carried 6-1. The Architectural Review Commission approved the project with architectural and landscape changes. Carried 5-2]

2. New Business

- a. **Z-18-00163 SITE PLAN REVIEW** Zoning District: R-D (2) High Density Residential pg. 116
The application of Kirkland House (Elaine Gunnoe, Manager), Applicant, relative to property located at **101 WORTH AVE SUITE: SITE**, legal description on file, is described below. The Kirkland House Condominium Association, Inc. is requesting site plan approval for a 750 KW generator with a 3000 gallon underground fuel tank and the construction of a required building to house said generator which measures 445 square feet. The generator building is proposed to be located on the southwest side of the condominium building. The building is designed so that it will match the look of the condominium building and will not be visible from Worth Avenue, South Ocean Boulevard, or the property to the west of the Kirkland House. It will also be sufficiently screened with landscaping. This project is adding approximately 171 square feet of landscaped open space to the property. [Applicant's Representative: Maura Ziska Esq]
- b. **Z-18-00164 VARIANCE(S)** Zoning District: R-A Estate Residential pg. 120
The application of 640 Palm Beach LLC, Larry Alexander, authorized representative, Applicant, relative to property located at **640 S OCEAN BLVD**, legal description on file, is described below. Request for a variance to allow a sliding driveway gate with a 7-foot setback from the edge of pavement in lieu of the 18 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property. Carried 6-1]
- c. **Z-18-00165 VARIANCE(S)** Zoning District: R-AA Large Estate Residential pg. 123
The application of Maura Ziska as Trustee of the 515 North County Road Trust, Applicant, relative to property located at **515 N COUNTY RD**, legal description on file, is described below. Request for a variance to allow two wing walls flanking the main entrance driveway gate with a height of 7.49 feet

as measured from the crown of the road in lieu of the 6 feet maximum allowed. [Applicant's Representative: Maura Ziska Esq]

- d. **Z-18-00166 VARIANCE(S)** Zoning District: R-AA Large Estate Residential The application of Joel and Carol Jankowsky, Applicant, relative to property located at **200 REGENTS PARK**, legal description on file, is described below. A request for a variance to allow the existing 6' 4" enclosure wall to be increased by 2' 4" for a total height of 8' 8" in lieu of the 7' wall maximum height allowed in order to fully encompass and screen a new 46 KW generator. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property. Carried 7-0] pg. 126
- e. **Z-18-00167 SITE PLAN REVIEW** Zoning District: R-AA Large Estate Residential The application of 535 North County Road LLC (Mark Pulte), Applicant, relative to property located at **535 N COUNTY RD SUITE: GUESTHOUSE**, legal description on file, is described below. A request for Site Plan Review to install a 180 KW generator to be located within the guesthouse, which was previously approved by ARCOM. [Applicant's Representative: Maura Ziska Esq] pg. 129
- f. **Z-18-00168 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of 244 Nightingale LLC (Stan Johnson, Manager), Applicant, relative to property located at **244 NIGHTINGALE TRL**, legal description on file, is described below. A request for a flood plain variance in order to renovate a landmarked residence with a finished floor elevation of 5.68 North American Vertical Datum ("NAVD") in excess of 50% of the market value of the residence per section 50-114 of the code. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property and that the proposed development will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. Carried 7-0.] pg. 132
- g. **Z-18-00169 VARIANCE(S)** Zoning District: B-A Beach Area The application of Alex Chesterman, Applicant, relative to property located at **880 S OCEAN BLVD**, legal description on file, is described below. 1) Request a Special Exception with Site Plan Review to allow construction of a two 424 square foot beach cabanas in the R-A/B-A Zoning District. 2) Request for a variance to allow two beach houses to be erected on a property pg. 137

under single ownership. 3) Request for a variance to construct a new 130'-7" seawall on LOTS 26, 27 & 28 which will be placed to the east of the existing seawall, which is east of the Town of Palm Beach Bulkhead Line 3'-11" at the south end and 2'-0" at the north end. The new seawall will be constructed east of the Town of Palm Beach Bulkhead Line by 6'-1" at the south end and 4'-1" at the north end. It is also proposed to be 2'-1" east of the existing seawall and align with the recently constructed seawall on Lot 29 in lieu of the 12" maximum allowed per Sec. 62-37 and Sec. 134-1701. [Applicant's Representative: Maura Ziska Esq]

3. Other

- a. Request to Consider Ordinance No. 02-2019 Prior to 5:00 p.m. at a Public Hearing pg. 141
- b. Combination Projects and Informal Review at Landmarks Preservation Commission pg. 143

IX. ORDINANCES

A. First Reading

1. **ORDINANCE NO. 2-2019** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Definitions And Rules Of Construction, By Adding A Definition Of Public Structure; Modifying The Definition Of Essential Services To Include Town-Owned Municipal Buildings And Structures, And Modifying The Definition Of Lot To Exclude Town-Owned Or Town-Leased Property; At Article IV, Nonconformities, Section 134-416, Continuation; Definition; Intent, To Exempt Town-Owned Municipal Buildings And Structures Which Are At Least Fifty (50) Years Old From Article IV, Nonconformities, Division 3, Buildings And Structures; At Article VI, District Regulations, Sections 134-790, 134-840, 134-890, 144-945, 134-1000, 134-1055, 134-1109, 134-1159, 134-1209, 134-1259, 134-1304 And 134-1354 To Add Essential Services Related To Town-Owned Municipal Buildings And Structures In All Zoning Districts As A Special Exception Use And Renumbering The Special Exception Uses In Those Sections; Article VIII, Supplementary District Regulation, Section 134-1697, Structures Over Lake Worth By Adding "Buildings" Into The Title And To Allow "Essential Services Related To Town-Owned Buildings And Structures" Over Lake Worth; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date pg. 146
2. **ORDINANCE NO. 03-2019** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 106, Streets, Sidewalks And Other Public Places, Town Code Of Ordinances, At Article VIII, Section 106 – 290 By Amending The Definition Of "Moveable Fixture" And At Section 106 – 292 By pg. 159

Amending The Title Of The Section And By Adding A New Subsection 106 – 292(17), Temporary Signs / Podiums Designating Passenger Loading Zones; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

3. **ORDINANCE NO. 04-2019** - An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 18, Buildings And Building Regulations, Town Code Of Ordinances; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date. pg. 166
4. **ORDINANCE NO. 05-2019** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Town Code Of Ordinances, At Article XI, Signs, Section 134 – 2372, General Regulations Applicable To Permitted Signs, By Adding New Subsections (12) And (13) Relating To The Nailing And Posting Of Signage And Blocking Ingress And Ingress With Signage; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date. pg. 206

X. ANY OTHER MATTERS

XI. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 12:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 12:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

Note 5: Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.

Note 6: All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

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: February 13, 2019

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 05-2019 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 244 Nightingale Trail, Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 29, 2019 from Josh Martin, Director of Planning, Zoning & Building**
- ▣ **Resolution No. 05-2019**
- ▣ **Designation Report for 244 Nightingale Trail**
- ▣ **Excerpt of Minutes from the January 16, 2019 LPC Meeting**
- ▣ **Designation Procedure**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director of Planning, Zoning & Building

Re: Landmark Designation of 244 Nightingale Trail
Resolution No. 05-2019

Date: January 29, 2019

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 244 Nightingale Trail as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the January 16, 2019 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

The property meets the following criteria for designation as a landmark of the Town of Palm Beach:

Sec. 54-161 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.

Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.

Sec. 54-161 (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or has influenced his age.

OWNER CONSENT

The property owner, 244 Nightingale LLC, was properly notified of the hearing before the Landmarks Preservation Commission. Maura Ziska, attorney for the owner and Gene Pandula, architect for the owner were in attendance.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 05-2019 relating to 244 Nightingale Trail, and has approved it as to legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
Murphy Stillings, LLC

RESOLUTION NO. 05-2019

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY KNOWN AS 244 NIGHTINGALE TRAIL, MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND DESIGNATING SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

WHEREAS, pursuant to the provisions of Ordinance No. 2-84, (Chapter 54, Article IV, Code of Ordinances of the Town of Palm Beach) the Landmarks Preservation Commission of the Town of Palm Beach held a public hearing and recommended to the Town Council that certain property described herein be designated as a landmark as described in said Ordinance and Code; and

WHEREAS, after due notice to the property owner(s) affected, a public hearing was held at which all parties interested were given an opportunity to be heard and express their views and opinions with respect to the property and its designation as a landmark; and

WHEREAS, the Town Council does hereby find and determine that the property described herein meets the criteria required by the Ordinance to designate a landmark, and shall be designated as a landmark;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The foregoing recitals are hereby ratified and confirmed.

Section 2. The recommendation and determination of the Landmarks Preservation Commission as to the property hereinafter described in Section 3 of this Resolution, being designated as a landmark is hereby ratified, approved and confirmed.

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **244 Nightingale Trail** and the property to be landmarked is legally described as follows:

Mockingbird Trail Tract Lot 49 and UND INT IN Part of Lots 41A and 42A and UNMERD TR AS IN DB863P263 K/A Private Beach

Section 4. The Town Clerk is hereby ordered to furnish the property owner of the landmarked property a copy of this Resolution.

Section 5. Within thirty (30) days from the date of this Resolution, the Landmarks Preservation Commission shall cause to be filed in the Office of the Recorder of Deeds in and for Palm Beach County, Florida, a certificate that the above-described property comprises a landmark, as defined in and subject to the provisions of Ordinance No. 2-84 and the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13TH day of February, 2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kathleen Dominguez, Town Clerk

Bobbie Lindsay, Town Council Member

244 Nightingale Trail



DESIGNATION REPORT

December 19, 2018

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

244 Nightingale Trail

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Report produced by Murphy Stillings, LLC

I. General Information

Location: 244 Nightingale Trail
Palm Beach, Florida

Date of Construction: 1945-1947

First Owner: John Paul Butler

Architect: Simonson & Holley

Builder/Contractor: John Paul Butler

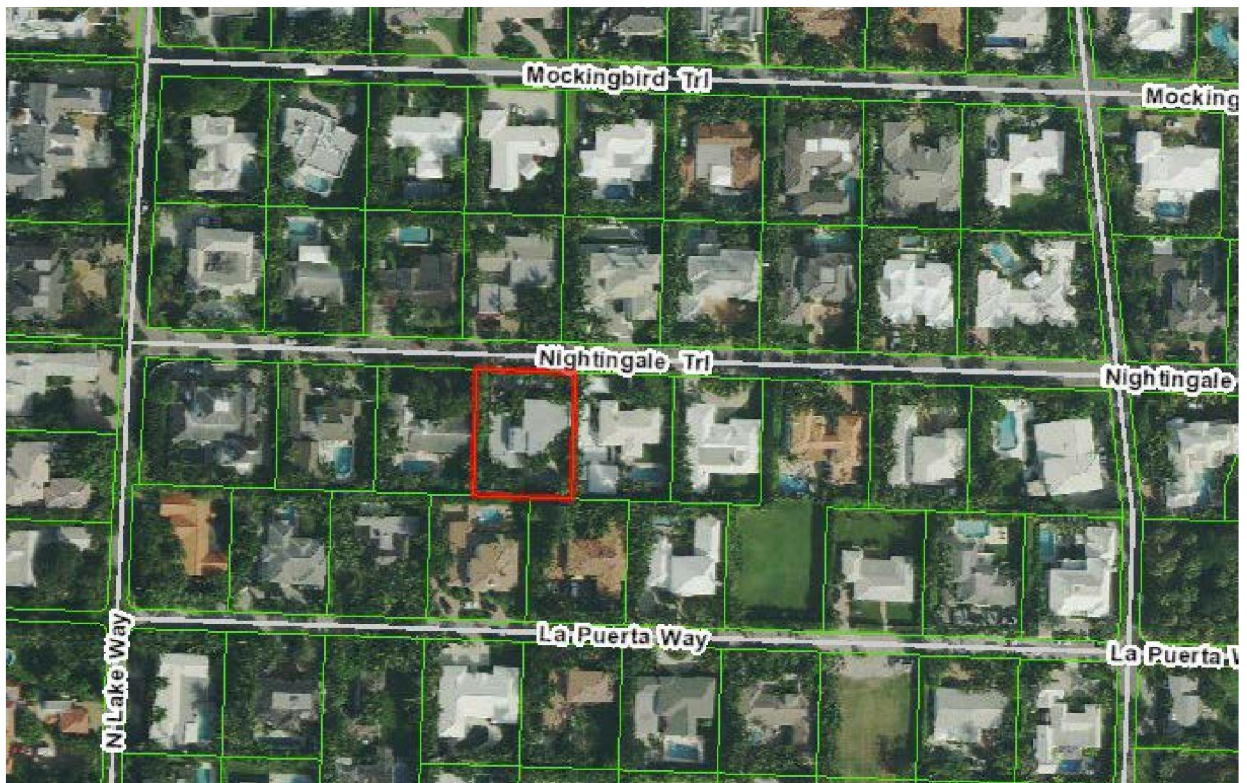
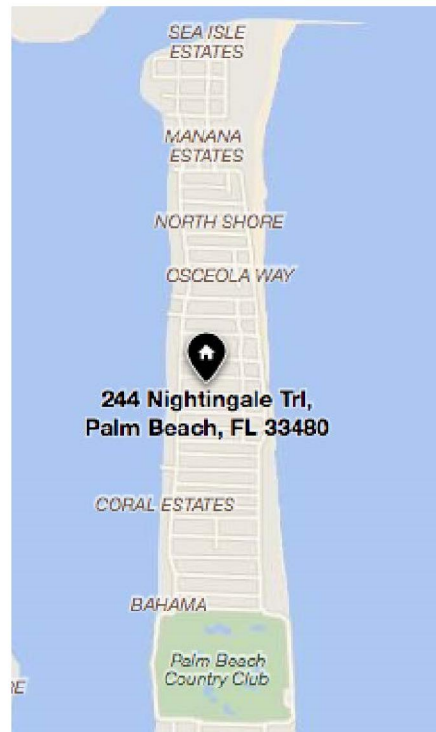
Current Owner: 244 Nightingale LLC

Present Use: Residence

PBC Tax Folio Number: 50434303090000490

Current Legal Description: Mockingbird Trail Tract Lot 49 and UND INT IN Part of
Lots 41A and 42A and UNMERD TR AS IN
DB863P263 K/A Private Beach

II. Location Map



III. Architectural Information

Architects Byron Simonson and Maurice Holley designed 244 Nightingale Trail in 1945 in the International style of architecture.¹ The International style was an early form of minimalism with a distinctly modern look that originated in western Europe in the 1920s from the precedent breaking work of noted architects Le Corbusier in France, Oud and Rietveld in Holland and Walter Gropius and Mies van der Rohe in Germany.² These architects discarded tradition to create a pared down, unornamented style that used new materials and technology to create architecture for the modern age. Socially, these pioneering architects wanted to create an International style of architecture “independent of specific materials, sites or cultural tradition,” thereby avoiding regional differences they felt led to World War I.³ Many European architects came to the United States in the years preceding World War II, bringing their new ideas about modern design with them.⁴



¹ Permit # 1146 dated July 14, 1945: John Paul Butler builder, Simonson and Holley architects, residence and garage, cost \$18,000.

² Three early émigrés already designing International style architecture in the United States in the 1920s were William Lescaze in New York City and Rudolf Schindler and Richard Neutra in Los Angeles.

³ Richard Weston, *Twentieth-Century Residential Architecture* (New York, NY: Abbeville Press, 2002).

⁴ Pennsylvania Architectural Field Guide: International Style 1930-1950.

The phrase "International Style" was created in 1932 by curators Henry-Russell Hitchcock and Philip Johnson, in a book to accompany their show "Modern Architecture: International Exhibition" held at the Museum of Modern Art in New York. The aim of the show and the book, International Style: Architecture Since 1922, was to explain and promote what they considered to be an exemplary "modern" style of architecture. Although the exhibition and the book were highly acclaimed, the International style never became a leading style of residential architecture in the United States. It did, however, influence other modern styles, such as the Contemporary style, and was used commercially for many early skyscrapers.

Identifying features of International style residential architecture include rectilinear forms, flat roofs with cantilevers, windows set flush with outer walls often in ribbons, and smooth and unadorned surfaces, usually white stucco, devoid of detailing at doors or windows. The façade composition is generally asymmetrical and on multiple planes, and commonly includes large window grouping, often linear, and expanses of windowless wall surfaces.⁵ In the late 1930s, Marcel Breuer introduced the concept of adding a picturesque stone or brick wall to the residence.

The house at 244 Nightingale Trail is a very good example of the International style with its' rectilinear, asymmetrical design with a two-story vertical block and receding one-story horizontal sections all covered with flat roofs. The dwelling is very three dimensional with recurrent protruding and recessed elements accentuated by numerous cantilevers at the roofline.



⁵ Ibid.

The most prominent portion of the front façade is the two-story projecting section with its off-center front entry consisting of a wood entry door surrounded by nine square glass windows on the first story and a full width panel of five glass windows (a wide rectangular window flanked on each side by two narrower, vertical rectangular windows) on the second story. Both the entry and the windows above are deeply recessed from the front plane of the house, which is covered with smooth white stucco and encased by crab orchard stone veneer walls.⁶ The flat roof extends out to the front plane of this section creating a cantilever over the second floor windows.



The one-story east wing of the dwelling is the main living and entertaining section and has floor to ceiling three-light sliding glass doors and windows on the north and south elevations, making it bright and giving the residence a modern feel. Set back on the west side of the dwelling is an attached two car garage. Like the house, the garage door is recessed from the flanking stone veneer walls and the flat roof extends out to the front plane creating a cantilever over the door.

⁶ According to an account by the builder, 30,000 pounds of crabby orchard stone veneer walls were imported from Tennessee.



244 Nightingale Trail was considered very modern for its time both on the interior and the exterior. Simonson and Holley designed the house to allow the owner to open the entire first floor living room, great room and dining area to the outside by using custom made wood and glass sliding and stacking doors. The house was nicknamed Fort Butler not only because it was built by and for John Butler but also because the house was constructed of concrete block covered with smooth stucco and 30,000 pounds of crabby orchard stone veneer as well as being built on a floating slab of concrete secured to pilings to help protect the house from flooding.⁷

The house has had a few additions and alterations since its construction in 1946-1947.⁸ In 1957, Butler & Oenbrink built a small addition on the western section of the rear of the house and in 1965 they renovated the existing kitchen and added a bay window in the rear.⁹ In 1990, the pool and deck in the rear were constructed and in 1992, the carport became an enclosed garage and a window on a recessed portion of the façade between the house and the garage became a door.¹⁰ At unknown dates, the front door was replaced, window openings adjacent to the staircase were altered and the chimneystack above the roofline was modified. These additions did not negatively

⁷ This information came from a pamphlet in the Preservation Foundation of Palm Beach's Nightingale Trail file.

⁸ The house was designed by Simonson and Holley in 1945 but not constructed until 1946-1947.

⁹ Permit #48257 dated September 20, 1957: Butler & Oenbrink, Addition to rear of the house, \$2200 and Permit #61565 October 14, 1965: John Butler, Owner. Renovate existing kitchen/ Add bay window. Builder-Butler & Oenbrink. Architect – William Beebe. Cost \$1500.

¹⁰ When the carport was enclosed, approximately 12 feet was added to the north to create a proper size garage. Butler Construction Company was the contractor for this work.

alter the architecture of the house and the residence retains its historic architectural significance.

IV. Historical Information

244 Nightingale Trail was designed and constructed in 1945-1947 shortly after the end of World War II. The Second World War and its aftermath brought significant changes to Palm Beach. During the course of the War the Army stationed tens of thousands of troops in and around Palm Beach County. News reports stated that Palm Beach had “turned the full power of its vast resources both of wealth and talent for war relief measures and civilian defense.” Nonessential construction was halted throughout World War II so there was very little new construction in town during the war years.

Following World War II, Florida had explosive economic and demographic growth. Soldiers came home, America began to recover and reconvert to a peacetime economy. It was a great time with a prosperous economy and plentiful jobs. Thousands of people came to Florida during the war and decided to live and visit afterwards. While the nation’s overall population grew 15% after the war, Florida's population rose an astonishing 46%.¹¹ Furthermore, the lifting of wartime restrictions and an increasing supply of materials accelerated Florida’s post-World War II economy with new construction.¹² Despite high costs of supplies, Palm Beach building permits in 1946 outrivaled those of 1925, previously the town’s greatest construction period.¹³ It was the start of the second big building boom in Palm Beach.¹⁴

John P. Butler, the first owner of 244 Nightingale Trail, was also the contractor and builder of the house. At the time, Butler was working for Watts & Sinclair, the prominent building firm that first came to Palm Beach in 1927 to build Cielito Lindo.¹⁵ Butler became a prolific builder, and in 1947 he partnered with August H.

¹¹ The 1940 pre-war population of Palm Beach County, nearly 80,000, would grow to almost 115,000 by 1950 and escalate quickly from there.

¹² Augustus Mayhew. *Palm Beach: A Greater Grandeur*.

¹³ Ibid. From 1945 to 1955, the annual totals for building permits increased from \$1 million to \$6 million.

¹⁴ There was another building boom in the Palm Beach’s north end when a number of the grand ocean to lake estates, including El Mirasol, Playa Riente and casa Bendita, were demolished and subdivided into plats for smaller houses.

¹⁵ Cielito Lindo was James and Jessie Donahue’s ocean to lake estate, which are now five residences along Kings Road.

Oenbrink, Sr. to form the construction firm Butler and Oenbrink, which became one of the foremost construction firms in Palm Beach County. Two of their leading projects were the extraordinary Bazaar International and Trylon Tower in Riviera Beach designed by Alfred Browning Parker and the West Palm Beach Municipal Auditorium designed by Bertrand Goldberg.¹⁶ John P. Butler was president of the Palm Beach Contractor's Association and also owned Butler Lumber in West Palm Beach. John Butler and his family lived at 244 Nightingale Trail for 40 years, until it was sold in 1986. From 1986 to 2018 it was owned by a number of different owners including L.W. Little, William J. and Patricia Tracy, Jack and Talbott Maxey and David Baumann and Henriette Meran. All of these owners were excellent stewards of the house by maintaining it to high standards and preserving its historic integrity.

244 Nightingale Trail is likely one of the earliest and last remaining modern style houses designed by Simonson and Holley in Palm Beach. After parting with Holley in 1949, Byron Simonson fully abandoned the classical styles in favor of Modern architecture and became a very sought after architect.¹⁷ Unfortunately most of the houses he designed for Palm Beach clients were torn down after Modernism fell out of favor locally in the 1980s.¹⁸ Fortunately, 244 Nightingale Trail was spared.

V. Architects Biographies

Byron Simonson

Byron “Bud” Simonson was born in Milwaukee, Wisconsin on December 9, 1902. He attended Milwaukee State Teachers College from 1920 – 1923. He then attended the Chicago Institute of Fine and Applied Arts and the Ray School of Design for a year. After college, Simonson became affiliated with Clas, Shepherd and Clas in

¹⁶ The Bazaar International and Trylon Tower were constructed in 1960 and the Municipal Auditorium was constructed in 1965-1967. Other commercial buildings constructed by Butler & Oenbrink include Town House Hotel, St. Juliana's Church, Park Place Cooperative Apartments, Sea Breeze Hotel, Rosarian Academy, Monastery and Retreat House for Passionate Fathers, Fourth District Court of Appeals Building, Breakers west Golf Club and the WIRKTV Tower and Antenna.

¹⁷ Simonson's name on a “For Sale Sign” was a buyer's lure, evidence of the architect's popularity. Palm Beach Post. 3 February 2012.

¹⁸ As recently as 2009, Simonson's Mid-Century Modern aerodynamic design at 123 Via Fontana was demolished.

Milwaukee, and then York and Sawyer in New York.¹⁹ Simonson moved to Palm Beach and served as chief draftsman for Addison Mizner from 1930 until Mizner's death in 1933. From 1933-1942, Simonson was the chief designer for Treanor and Fatio. On April 28, 1944, Simonson applied to the State of Florida for licensure as an architect, which was granted with certificate #AR0001418 on January 11, 1945. Upon receiving his Florida architectural license, Byron Simonson formed a partnership with Maurice E. Holley, which thrived until they dissolved the partnership in 1949, at which time Simonson began to practice under his own name. He acquired a N.C.A.R.B. certification and was active in the Palm Beach Chapter of the A.I.A.²⁰

Byron Simonson's most prominent work in Palm Beach is British Colonial style Colony Hotel he designed in 1946-1947. It was the first post World War II hotel constructed in Palm Beach to meet the growing demand of tourists to the Island. Another important project in Palm Beach was his ingenious plan in 1946 to save the Wyeth-designed Donahue mansion Cielito Lindo by subdividing the ocean to lake property into the nineteen-lot Ocean Boulevard Estates subdivision and then partitioning the Cielito Lindo estate into five residences.

In the 1950's, Simonson "renounced the arches and columns of classical styles" for Mid-Century Modernism. The former La Coquille Club in Manalapan was considered a modernist masterpiece popular with the jet set and for a time put Simonson in the top tier of Palm Beach's society architects.²¹ Built in 1952 for Spelman Prentice, John D. Rockefeller's grandson, "the club's flat-roofed buildings were so stunningly avant-garde that the year after it opened, awed Florida AIA members held their meeting at the club and high society loved its minimalist elegance."²² Simonson became one of the areas most prominent modern architects in the post-war building boom of the 1950s but unfortunately most of his Palm Beach houses were torn down after modernism fell out of favor locally in the 1980s.

¹⁹ Clas, Shepherd & Clas was a prestigious architectural firm in Milwaukee, Wisconsin that designed many buildings that are listed on the National Register of Historic Places. The architectural firm of York and Sawyer produced many outstanding structures, exemplary of Beaux-Arts architecture as it was practiced in the United States. The partners Edward York and Philip Sawyer, had both trained in the office of McKim, Mead, and White. In 1898, they established their independent firm, based in New York City.

²⁰ N.C.A.R.B is the National Council of Architectural Registration Boards.

²¹ The La Coquille Club was demolished in 1985 to make room for the Ritz Hotel (now Eau Palm Beach).

²² Augustus Mayhew, New York Social Diary.

Byron and Frances Simonson had two children, Dawn and Byron Douglas. The Simonson family summered at their Tioga Coach House in Sapphire Valley, North Carolina where Byron also designed a number of Mid-Century Modern houses. Byron Simonson passed away in 1972.

Maurice Etheridge Holley

Maurice E. “Buster” Holley was born in West Palm Beach, Florida on November 22, 1905. He received a Bachelor of Science in Architecture degree from the University of Florida in 1930. He worked for a draftsman for Henry Stephen Harvey in 1929 and Addison Mizner in 1930. On May 30, 1936 he applied to sit for the Florida State Architectural examination from his address at 155 Worth Avenue in Palm Beach and was awarded Certificate # AR0000179 on June 17, 1937. He continued to work for several local architects and for the Defense Effort until 1944 when he entered into partnership with Byron Simonson as Simonson & Holley, Architects. That association flourished until it was dissolved by mutual consent in 1949 and “Bus” Holley returned to practice under his own name. Like many other architects, he was a man of many talents, skills and interests. He was a licensed aircraft pilot, an amateur “Ham” radio operator, a handwriting analysis expert, and a photography buff. “Bus” was active in the Palm Beach Chapter of the American Institute of Architects, serving as its president in 1953. He was also active in West Palm Beach civic and political activities, serving on the West Palm Beach Planning Board for several years and as Mayor of West Palm Beach for one term. Maurice “Bus” Holley passed away in 1969, at the age of 64.

VI. Statement of Significance

Designed by Simonson and Holley in 1945, 244 Nightingale Trail is a rare example of a mid-century International style house in Palm Beach. At a time when many houses were being constructed on speculation to keep up the growing Post war demand for housing in Palm Beach, this house was designed and built by the long-time owner John P. Butler.

VII. Criteria for Designation

Section 54-161 of the Town of Palm Beach Landmarks Preservation Ordinance outlines the criteria for designation of a landmark or landmark site and suggests that at least one criterion must be met to justify the designation. Listed below are criteria, which relate to this property and justification for designation:

(1) “Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.”

244 Nightingale Trail was constructed in 1946-1947 during the Island’s second boom time era. Following World War II, Florida had explosive economic and demographic growth and the lifting of wartime restrictions coupled with an increasing supply of materials accelerated Florida’s post-World War II economy with new construction. Palm Beach’s north end received a surge in single-family residential development and 244 Nightingale Trail was part of this significant development.

(3) “Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.”

244 Nightingale Trail is a very good example of the International Style of architecture. The house’s rectilinear, asymmetrical design with multiple planes, large window groupings and flat roofs with cantilevers are important features of residential architecture in the International Style.

(4) “Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or has influenced his age.”

244 Nightingale Trail is a notable work of Palm Beach architects Byron Simonson and Maurice Holley. Simonson & Holley were prominent architects best known in Palm Beach for their design of The Colony Hotel. Byron Simonson, in particular, was highly recognized for his Modern designs and 244 Nightingale Trail is most likely his earliest and longest standing Modern designs in Palm Beach.

VIII. Selected Bibliography

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Marconi, Richard and the Historical Society of Palm Beach County. Palm Beach Then & Now. Charleston, South Carolina: Arcadia Publishing, 2013.

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Mayhew, Augustus. Lost in Wonderland: Reflections on Palm Beach. West Palm Beach, FL: Palm Beach Editorial Services, 2012.

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O'Sullivan, Maureen. Palm Beach: Then and Now. West Palm Beach, FL: Lickle Publishing Inc. in association with the Historical Society of Palm Beach County, 2004.

Palm Beach Daily News and Palm Beach Post. Archived Articles 1940 – 2018.

Preservation Foundation of Palm Beach. Nightingale Trail File

Sanborn Insurance Maps. 1924 updated to 1952.

Town of Palm Beach. Building Permits and Microfiche Records 1945– 2018.

West Palm Beach City Directories. Palm Beach Section, 1945 – 1979.

IX. Florida Master Site File Form



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB07916
 Recorder # Day, Jane
 Field Date 10/20/2010
 Form Date 12/8/2010
 Form No 201010
 Form No = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Jack Maxey, House Multiple Listing (DHR only) _____
 Other Names _____ >> _____
 Survey or Project Name Palm Beach Historic Sites Survey, Phase V Survey# _____
 National Register Category Building(s)

LOCATION & IDENTIFICATION

Address _____

Street No.	Direction	Street Name	Street Type	Direction Suffix
<u>244</u>		<u>Nightingale</u>	<u>Trail</u>	

Cross Streets (nearest/ between) North Lake Way and North Ocean Way
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES
 County Palm Beach Tax Parcel #(s) 50-43-43-03-09-000-0490
 Subdivision Name Mockingbird Trail TR Block _____ Lot 49
 Ownership Private Individual
 Name of Public Tract (e.g., park) _____
 Route to (especially if no street address) On the south side of Nightingale between North Lake Way and North Ocean Way

MAPPING

USGS 7.5' Map Name _____ Publication Date _____ >> PAIM BEACH;1986
 Township: _____ Range: _____ Section: _____ 1/4 section: _____ >> 438 / 438 / 60 / 2 irrelevant-irregular
 Irregular Section Name: _____
 Landgrant _____
 UTM: Zone _____ Easting _____ Northing _____
 Plat or Other Map (map's name, location) _____

DESCRIPTION

Style International Other Style _____
 Exterior Plan Irregular Other Exterior Plan _____
 Number of Stories 2
 Structural System(s) _____ >> Concrete block
 Other Structural System(s) _____
 Foundation Type(s) _____ >> Slab
 Other Foundation Types _____
 Foundation Material(s) _____ >> Poured Concrete Footing
 Other Foundation Material(s) _____
 Exterior Fabric(s) _____ >> Stucco
 Other Exterior Fabric(s) _____
 Roof Type(s) _____ >> Flat
 Other Roof Type(s) _____
 Roof Material(s) _____ >> Tar & gravel
 Other Roof Material(s) _____
 Roof Secondary Structure(s) (dormers etc) _____ >> _____
 Other Roof Secondary Structure(s) _____
 Number of Chimneys _____
 Chimney Material _____
 Other Chimney Material(s) _____
 Chimney Location(s) _____

HISTORICAL STRUCTURE FORM

8PB07916

DESCRIPTION (continued)

Window Descriptions 8/8 DBS, fixed

Main Entrance Description (stylistic details) non the north facade under large section of blank wall

Porches: #open 1 #closed #incised Location(s) entry - n

Porch Roof Types(s) flat

Exterior Ornament stone

Interior Plan Unknown

Other Interior Plan

Condition Good

Structure Surroundings

Commercial: NONE of this category Residential: ALL this category

Institutional: NONE of this category Undeveloped: NONE of this category

Ancillary Features (Number / type of outbuildings, major landscape features)

Archaeological Remains (describe): none observed

If archaeological remains are present, was an Archaeological Site Form completed?

Narrative Description (optional)

HISTORY

Construction year 1946

Architect (last name first): Simonson and Holley

Builder (last name first): Butler, J. P.

Changes in Locations or Conditions

Type of Change	Year of Change	Date Change Noted	Description of Changes
>> <u>Rehabilitated to standards;2004;6/10/2004;</u>			

Structure Use History

Use Year Use Started Year Use Ended >> Private residence;1946;

Other Structure Uses

Ownership History (especially original owner, dates, profession, etc.)

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods windshield, tax

SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? YES

Name of Local Register if Eligible Town of Palm Beach Landmark

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? NO

Area(s) of historical significance >> Architecture

Other Historical Associations

Explanation of Evaluation (required) This is a rare example of the International style at the north end of Palm Beach Island. It is worthy of consideration for local landmarking.

HISTORICAL STRUCTURE FORM

82B07916

DOCUMENTATION (Photos, Plans, etc.)

Photographic Negatives or Other Collections Not Filed with FMSF, Including Field Notes, Plans, other Important Documents.

Document type: _____ Maintaining Organization: _____
 File or Accession #: _____ Descriptive Information: _____
 >> _____

RECORDER INFORMATION

Recorder Name (Last, First) Day, Jane
 Recorder Address / Phone 728 Granada Dr., Boca Raton, FL 33432 561-362-4473
 Recorder Affiliation Research Atlantica Other Affiliation Town of Palm Beach
 Is a Text-Only Supplement File Attached (Surveyor Only)? _____

***** MASTER SITE FILE USE ONLY *****

Cultural Resource Type: <u>SS</u> Electronic Form Used: <u>SL10</u> Form Type Code: <u>SCRR1</u> Form Quality Ranking: <u>NEW</u> Form Status Code: <u>SCAF</u> Supplement Information Status: <u>NO SUPPLEMENT</u> Supplement File Status: <u>NO SUPPLEMENT FILE</u> Form Comments: _____ _____ _____	SHPO's Evaluation of Resource _____ Date _____ FMSF Staffer: _____ Computer Entry Date: <u>11/14/2004</u>
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REQUIRED PAPER ATTACHMENTS

- (1) USGS 7.5" MAP WITH STRUCTURE PINPOINTED IN RED
- (2) LARGE SCALE STREET OR PLAT MAP
- (3) PHOTO OF MAIN FACADE, B&W, AT LEAST 3"X5"

I. DESIGNATION HEARINGS

Item 1: 244 Nightingale Trail

Owner: 244 Nightingale LLC

A motion carried at the December 19, 2018 meeting to defer the designation hearing to the January 16, 2019 meeting at the owner's request.

Call for disclosure of ex parte communication: Disclosure by several members.

Janet Murphy, MurphyStillings, LLC, testified to the architecture and history for this 1945 International style home. Ms. Murphy pointed out the design features of this building. Ms. Murphy testified that the building met the following criteria for designation as a landmark: Sec. 54-161 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and, Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable of the study of a period, style, method of construction or use of indigenous materials or craftsmanship; and Sec. 54-161 (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

Mr. Cooney was delighted to support the designation of the property.

Mr. Silvin inquired why the home did not meet the second criteria for designation as a landmark. Ms. Murphy provided the reasons why criteria two was not offered in the recommendation.

Mr. Cooney asked for confirmation on proof of publication. Ms. Churney provided confirmation.

Motion made by Mr. Silvin and second by Ms. Coleman to make the designation report for 244 Nightingale Trail part of the record. Motion carried unanimously.

Mr. Cooney called for any public comment on the designation.

Aimee Sunny, Director of Education of the Preservation Foundation of Palm Beach, offered her support for the designation.

Motion made by Mr. Gannon and second by Mr. Silvin to recommend 244 Nightingale Trail to the Town Council for designation as a Landmark of the Town of Palm Beach based on criteria 1, 3 and 4 in Section 54-161. Motion carried unanimously.

Palm Beach, Florida, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 54 - HISTORICAL PRESERVATION >> ARTICLE IV. - DESIGNATION PROCEDURE >>

ARTICLE IV. - DESIGNATION PROCEDURE

Sec. 54-161. - Criteria for landmarks and landmark sites.

Sec. 54-162. - Creation of historic districts.

Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

Sec. 54-161. - Criteria for landmarks and landmark sites.

A landmark or landmark site shall meet at least one of the following criteria:

- (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
- (2) Is identified with historic personages or with important events in national, state or local history.
- (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.
- (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

(Code 1982, § 16-38)

Sec. 54-162. - Creation of historic districts.

- (a) *Authorized.* For preservation purposes, the commission shall identify geographically defined areas within the town to be designated as historic districts and shall cite the guideline criteria upon which such designation shall be made. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the town that:
 - (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
 - (2) Is identified with historic personages or with important events in national, state or local history.
 - (3) Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style or methods of construction or use of indigenous materials or craftsmanship.
 - (4) Is representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.
 - (5) Constitutes a unique area of architecture, landscaping and planning.
- (b) *Petition for special historic district category.* Following the designation of each landmark or landmark site, the commission may petition the town council for the categorizing of such

property as special district H. Following the designation of each historic district, the commission may petition the town council for the categorizing of each property in such district to special district HD.

(Code 1982, §§ 16-38.1, 16-39)

Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.

The commission has the power to:

- (1) Designate a building, together with its accessory buildings and its lot of record, or a vacant site or a district as historic and worthy of preservation as a landmark, landmark site or historic district, as the case may be, within the jurisdiction of the commission, provided such designation is ratified by the town council.
- (2) Recommend appropriate legislation for the preservation of any building, site or district which it has so designated.
- (3) Make application for public and private funds when appropriate and available for the purposes set forth in this article subject to the approval of the town council.
- (4) Review applications proposing erection, alteration, restoration or moving of any building it has so designated or any building located in a district it has so designated, and to issue or deny certificates of appropriateness accordingly.
- (5) Review applications for demolition permits proposing demolition of all or part of any landmark or any building located in an historic district, and to issue certificates of appropriateness or to deny them for one year.
- (6) Cooperate with the owner of a landmark or a property located in an historic district throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for such landmark or property.
- (7) Review its denial of a certificate of appropriateness for demolition of such landmark or property annually, during a public hearing at which time the owner of the affected landmark or property shall be afforded an opportunity to appear with counsel and to present testimony.
- (8) Prohibit the issuance of building, exterior remodeling or demolition permits affecting any property under consideration for landmark designation without a certificate of appropriateness, this prohibition to remain in effect for the length of time required by the commission and the town council for final action on the proposed designation. The commission shall accomplish such prohibition by furnishing the building official a list of all property under consideration for landmark designation.

(Code 1982, § 16-42)

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

- (a) The following procedure shall be adhered to by the commission in designating any building, building site or district that is worthy of preservation:
 - (1) The commission shall consider for landmark designation any property proposed by the owner of record or by a member of the commission.
 - (2)

Notice of a proposed designation shall be sent by certified mail to the owner of record of property proposed for designation as a landmark or landmark site and to each owner of record of property in a district proposed for designation as an historic district, describing the property proposed and announcing a public hearing by the commission to consider such a designation to be held not less than 30 days after the mailing of such notice.

- (3) The commission shall also cause notice of each such proposed designation to be posted at least 30 days prior to the public hearing on the bulletin board in the lobby of the town hall, and in addition the commission shall cause such notice to be published in a newspaper having general circulation in the town.
 - (4) The commission may retain or solicit expert testimony regarding the historic and architectural importance of the buildings and districts under consideration for designation.
 - (5) The commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark, landmark site or historic district.
 - (6) The commission shall afford the owner of each affected property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of such property.
 - (7) The owner of each affected property shall be afforded a right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the commission.
 - (8) Any interested party may present testimony or documentary evidence regarding the designation of a proposed landmark, landmark site or historic district at the public hearing and may submit to the commission documentary evidence within three days after the hearing.
 - (9) Within not more than 30 days after a public hearing, the commission shall render a final decision regarding the proposed designation and give written notice of its decision to each owner of property affected by the designation, setting forth the reasons for the decision.
 - (10) The commission shall maintain a record of testimony and documentary evidence submitted to it for consideration of the designation of a proposed or previously designated landmark, landmark site or historic district.
 - (11) In accordance with section 54-163(1), the town council shall, within 90 days of the commission's final decision, hold a public hearing to consider ratification of the determination of the commission prior to the designation of a property as a landmark or landmark site or of a district as an historic district becoming effective. Absent ratification by the town council, the commission's determination shall be ineffective.
 - (12) Within 30 days of the date on which the town council ratifies the commission's designation of a landmark, landmark site or historic district, the commission shall cause to be filed in the office of the county recorder of deeds a certificate of notification that such property is designated a landmark or landmark site or is located within a district designated an historic district; and the certificate of notification shall be maintained on the public record until such time as such designation may be withdrawn by the commission and the town council.
- (b) Designation and undesignation hearings before the commission shall be held only during the months of November, December, January, February, March and April.
- (c)

Designation of a landmark, landmark site or a historic district may be withdrawn by following the same procedure as listed above.

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

The owner of any landmark or landmark site may, at any time following the designation of his property, enter into a restrictive covenant on the property after negotiation with the commission. The commission may assist the owner in preparing such a covenant in the interest of preserving the landmark or the landmark site. The owner shall record such covenant in the office of the county recorder of deeds and shall notify the town clerk, building official and town council and may notify the office of the county property appraiser of such covenant and the conditions thereof.

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - Old Business

Agenda Title

Z-18-00138 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: R-B Low Density Residential The application of Palm Beach Day Academy, Inc., Applicant, relative to property located at **241 SEAVIEW AVE SUITE: SITE**, legal description on file, is described below. 1. Request for Special Exception with Site Plan Review approval to create 30 paved parking spaces on the west lawn to be used by Palm Beach Day Academy faculty, families and guests to the school. 2. Request to modify the existing Declaration of Use Agreement (a copy of the Agreement is on file at the Town of Palm Beach Building Department). [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review and variance will not cause negative architectural impact to the subject landmark property. Carried 4-1. The Landmarks Preservation Commission deferred the project to the February 20, 2019 meeting at the request of the attorney. Carried 7-0.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00138 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**
241 SEAVIEW AVE SUITE: SITE

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

1. Request for Special Exception with Site Plan Review approval to create 30 paved parking spaces on the west lawn to be used by Palm Beach Day Academy faculty, families and guests to the school.
2. Request to modify the existing Declaration of Use Agreement (a copy of the Agreement is on file at the Town of Palm Beach Building Department).

ADDRESS: 241 SEAVIEW AVE SUITE: SITE

OWNER: PALM BEACH DAY SCHOOL

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-22-08-000-6640

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: POINCIANA PARK 3RD ADD, LTS 664, 666, 668,
670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690,
692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712,
714, 716, 718, 720, 722, 724, 726, 728, 730 etc

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/28/18

APPLICATION NO.: Z-18-00138 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW

ADDRESS: 241 SEAVIEW AVE SUITE: SITE

DESCRIPTION:

1. Request for Special Exception with Site Plan Review approval to create 30 paved parking spaces on the west lawn to be used by Palm Beach Day Academy faculty, families and guests to the school. 2. Request to modify the existing Declaration of Use Agreement (a copy of the Agreement is on file at the Town of Palm Beach Building Department).

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	8/24/2018	No comments at this time.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	9/27/2018	The proposed driveway configurations onto Seaview Avenue appears to eliminate at least two (2) existing on-street parking stalls. The sight triangle for the exit has not been shown. Its inclusion may impact additional on-street parking stall(s). The project needs to look at relocating any existing on street parking space(s) should the proposed improvements impact it; coordinate this relocation with Public Works. This work will require a Public Works ROW Permit. The required sketch of a Stormwater System has been provided. The trench width is greater than two times the depth. Additional perforated pipe and/or a narrower longer trench configuration fitting to the formula used needs to be proposed. A more representative 'K' value may be desired. Also, please check the depth of the water table (H2) used in the calculations. Furthermore, stormwater runoff from the site needs to be captured at proposed driveway exit. Please provide a collection device or elevations demonstrating that runoff is keep onsite. The Stormwater Agreement and Engineer's Drainage Certification dates back to January of 2009. The accumulation of sediments and clogging of the filter fabric and the void spaces of the aggregates over time hinders the operational life of an exfiltration system. Systems are required to be tested every five years and recertified. Confirmation that the system is performing as designed should be obtained prior to reconstruction of the driveway. A utility easement for undergrounding in this area may be desirous.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	8/31/2018	There are no fire code concerns with this proposal.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	9/28/2018	This application will require review and approval from the Landmarks Preservation Commission (LPC) as a combination project.



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/28/18

POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	8/27/2018	No Comment
PZB DIRECTOR			No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	9/5/2018	The applicant is required to obtain an additional variance as the Code does not allow off-street parking in the front yard setback. The applicant should also demonstrate what the hardship is for the proposed variance. If approved, the applicant should be required to construct a six foot high wall on the north property line and along the northwest side of the proposed parking lot to buffer the proposed off-street parking from the residential property to the north. In addition, the applicant should also be required to provide an easement or an agreement that ensures that if necessary that an easement be granted to facilitate undergrounding utilities in the area.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - Old Business

Agenda Title

Z-18-00146 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: R-A Estate Residential The application of Harvey E. Oyer, III, Esq. on behalf of Mar-a-Lago Club, Inc., Applicant, relative to property located at **1100 S OCEAN BLVD**, legal description on file, is described below. 1. The Applicant seeks approval of a Special Exception with Site Plan Review to add an accessory dock to the property in the approximate location of the prior historic dock. The dock is to be located at the northwest corner of the site and projects 40 feet from the existing seawall into the Lake Worth Lagoon. [Applicant's Representative: Harvey E Oyer III Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact to the subject landmark property. Carried 7-0. The Landmarks Preservation Commission deferred the project to the February 20, 2019 meeting at the request of the attorney. Carried 7-0.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**
- ▣ **Proposed Restrictions**
- ▣ **Email from Reginald Stambaugh dated February 4, 2019**
- ▣ **Fourth Amendment of Declaration of Use Agreement February 2019**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00146 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**
1100 S OCEAN BLVD

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

1. The Applicant seeks approval of a Special Exception with Site Plan Review to add an accessory dock to the property in the approximate location of the prior historic dock. The dock is to be located at the northwest corner of the site and projects 40 feet from the existing seawall into the Lake Worth Lagoon.

ADDRESS: 1100 S OCEAN BLVD

OWNER: MAR A LAGO CLUB INC

OWNER'S REPRESENTATIVE: HARVEY E OYER III ESQ

PROPERTY CONTROL NO.: 50-43-43-35-00-002-0390

ZONING DISTRICT: R-A Estate Residential

LEGAL DESCRIPTION: 35-43-43, N 610 FT OF S 1170 FT & N 358 FT OF S
1125 FT OF GOV LT 2 LYG E & W OF & ADJ TO
OCEAN BLVD R/W K/A MAR-A-LAGO LT 20
(LESS E 50 FT OF N 120 FT) & S 15 FT OF W 1/2
OF

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 9/27/18

APPLICATION NO.: Z-18-00146 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW

ADDRESS: 1100 S OCEAN BLVD

DESCRIPTION: 1. The Applicant seeks approval of a Special Exception with Site Plan Review to add an accessory dock to the property in the approximate location of the prior historic dock. The dock is to be located at the northwest corner of the site and projects 40 feet from the existing seawall into the Lake Worth Lagoon.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	9/24/2018	No comments at this time.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	10/26/2018	No Comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	9/26/2018	There are no fire code concerns with this proposed project.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	9/28/2018	This application will require review and approval from the Landmarks Preservation Commission (LPC) as a combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	9/25/2018	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	2/1/2019	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	10/26/2018	There is no hardship for variance request for the proposed dock. The property is wide enough to accommodate a dock and meet the twenty-five foot setback requirement.

Mar-a-Lago Club, LLC
Proposed Restrictions with Dock Approval

*****Requests are submitted given (1) the fact that the De Moss house and property are closer to the proposed dock than the Mar-a-Lago Club house and accessory structures and (2) the dock is for a commercial use for a club resort in a residentially zoned area.*****

1. Security:
 - a. Town of Palm Beach monitored channel and dock.
 - b. Only Town registered boats permitted in neighborhood channel.
 - c. Only motor boats of no more than 25 feet in length to moor on dock.
 - d. Temporary mooring for loading and unloading passengers only.
 - e. No overnight mooring.
 - f. Dock is only open for use between the hours of 10 am and 4 pm.
 - g. No jet ski usage at Mar-a-Lago Club.
 - h. No shuttles between Mar-a-Lago Club and large cruise vessels in the intracoastal.
 - i. No gaming vessels.
2. Dock Location:
 - a. Re-location of dock from the north end of Mar-a-Lago Club to the south end.
 - b. Ingress and egress closer to commercial use of Southern Blvd bridge versus close to the residential neighborhood of Woodbridge Road.
 - c. Wherever the dock is located on the sea wall, it remains closer to the De Moss house than the Mar-a-Lago Club house.
3. Dredging:
 - a. Indemnify De Moss for any damage resulting from pneumatic dredging.
 - b. Restrict method of dredging to minimize loss of integrity in De Moss sea wall foundation.
4. Title Issues:
 - a. Woodbridge Road property owned by Donald Trump, Sr., to be unified with contiguous tract held by LLC.
 - b. Woodbridge Road property owned by Donald Trump, Sr., to be removed from the application for the dock since the Second Amendment to the Declaration of Use Agreement specifically opted out the Woodbridge Road property.
5. Environmental
 - a. Updated Johnson Seagrass and manatee survey prior to dredging of channel and dredging for dock. (Baseline was before the Southern Boulevard Bridge construction began.)
 - b. Third party entity such as The University of Miami Oceanography department to monitor environmental concerns surrounding Mar-a-Lago Club.

6. Sound Restrictions.
 - a. Amplified sound devices or speakers are prohibited uses on any vessel moored at dock or coming and going to the dock.
 - b. No amplified sound devices or speakers outside on the Mar-a-Lago Club west lawn or dock.
 - c. No fog horn use when approaching or departing from Mar-a-Lago Club.
7. Restriction of Dock Usage
 - a. Accessory structures such as vessel storage sheds or dock master offices are prohibited.
 - b. No loading or unloading of vessels from Mar-a-Lago Club.
 - i. No cranes affixed to sea wall.
 - ii. No temporary floating docks.
 - iii. No slide covers on sea wall for dropping small vessels in Lake Worth.
 - c. No electric generators.
8. Restriction of Channel Usage in connection with Dock Usage
 - a. Lease of Dock with the State of Florida.
 - b. Lease and use of Dock not to interfere with De Moss private riparian rights.
9. No floodlights on boats or the dock itself.
10. Alternate location is a dock on the south side of Southern Blvd. bridge with a joint use agreement with The Bath and Tennis Club, Inc. This keeps commercial uses in an already commercially used space.

From: [Joshua Martin](#)
To: [Town Council & Mayor](#)
Cc: [Kirk Blouin](#); [Jay Boodheshwar](#); [Kathleen Dominguez](#); [Kelly Churney](#); [Kathleen Ruderman](#); [Wayne Bergman](#); [Paul Castro](#); [Joshua Martin](#)
Subject: FW: Fourth Amendment of Declaration of Use Agreement
Date: Tuesday, February 05, 2019 6:01:49 PM
Attachments: [image001.png](#)
[Screen Shot 2017-11-18 at 10.56.20 AM.png](#)
[9847538_1 \(WPBDOCS\) Fourth Amendment of Declaration of Use Agreement 1.2....doc](#)

Mayor and Members of Town Council:

Good evening. I hope this email finds each of you well.

Please see below and attached—your Tuesday evening edition of The Dock at Mar-A-Lago.

If you have any questions, please let me know.

Thank you!

Respectfully,
Josh

Josh Martin, AICP, CNU-A
Director

Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, FL 33480
Office: 561-227-6401
Mobile: 843-247-2057
www.townofpalmbeach.com

From: Reginald Stambaugh <reg@stambaughlaw.com>
Sent: Monday, February 04, 2019 11:05 PM
To: Harvey E. Oyer, III <HOyer@shutts.com>
Cc: Joshua Martin <jmartin@TownOfPalmBeach.com>
Subject: Re: Fourth Amendment of Declaration of Use Agreement

Harvey:

I have consulted with my client regarding the proposed Fourth Amendment to the Declaration of Use Agreement and we have reviewed the draft.

As I advised at our meeting, my client does not support the addition of a dock. I need to be abundantly clear that any conversation about proposed restrictions should not be deemed as an endorsement of a dock addition.

The fact remains that The Town of Palm Beach gave your client an extraordinary benefit in converting a private residence into a commercial use and the *quid pro quo* in that negotiation included the Town prohibiting a dock. I was there and remember this vividly.

Moreover, your client's conversion of a private residence into a commercial enterprise in a residential zone negates your argument that your client is just another resident seeking just another family dock.

On Feb 4, 2019, at 6:14 PM, Harvey E. Oyer, III <HOyer@shutts.com> wrote:

Gentlemen,

Attached for your review and comment is my draft Fourth Amendment of Declaration of Use Agreement that addresses each of the issues that the Town Council asked us to address at the January Town Council meeting together with some additional restrictions that we discussed at our meeting in Josh's office last Tuesday afternoon. Please note that my client has not yet reviewed and approved this document so I must reserve the right to make additional changes.

Given that the Town Council meeting is next Wednesday, I hope that we can wrap this up quickly. Please let me know if I missed anything that we discussed.

Thank you.

Harvey

<image001.jpg>

Harvey E. Oyer, III
Partner

Shutts & Bowen LLP

CityPlace Tower, 525 Okeechobee Blvd, Suite 1100 | West Palm Beach, FL 33401

Direct: (561) 650-8517 | Fax: (561) 822-5522

[E-Mail](#) | [Biography](#) | [V-Card](#) | [Website](#)

Please consider the environment before printing this email

<9847538_1_(WPBDOCS)_Fourth Amendment of Declaration of Use Agreement 1.2....doc>

Respectfully,

REGINALD G. STAMBAUGH, P.A.



By: Reginald G. Stambaugh

As: President

The Harvey Building

224 Datura Street

Suite 1001

West Palm Beach, FL 33401

Fla. Bar Number 957127

561-573-9733 (direct)

561-832-0272 (office)



This message is confidential and may be legally privileged or otherwise protected from disclosure. If you are not the intended recipient, please telephone or email the sender and delete this message and any attachment from your system; you must not copy or disclose the contents of this message or any attachment to any other person.

THIS INSTRUMENT WAS PREPARED BY:
Harvey E. Oyer, III, Esq.

PLEASE RECORD AND RETURN TO:
Harvey E. Oyer, III, Esq.
Shutts & Bowen LLP
525 Okeechobee Boulevard, Suite 1100
West Palm Beach, FL 33401

FOURTH AMENDMENT OF DECLARATION OF USE AGREEMENT
by
THE TOWN OF PALM BEACH
and
MAR-A-LAGO CLUB, L.L.C.

Dated: _____, 2019

FOURTH AMENDMENT OF DECLARATION OF USE AGREEMENT

THIS FOURTH AMENDMENT OF DECLARATION OF USE AGREEMENT

("Fourth Amendment") is made and entered into this ____ day of February 2019 by and between THE TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (herein called "Town") and MAR-A-LAGO CLUB, L.L.C., a limited liability company organized under the laws of the State of Delaware, c/o Harvey E. Oyer, III, Esq. Shutts & Bowen LLP, 525 Okeechobee Boulevard, Suite 1100, West Palm Beach, Florida 33401 (herein called the "Club").

WITNESSETH:

WHEREAS, the Town, Mar-a-Lago Club, Inc., and Donald J. Trump entered into a Declaration of Use Agreement dated August 10, 1993 and recorded in Official Records Book 7933, Page 22, and Official Records Book 8691, Page 802, of the Public Records of Palm Beach County, Florida (hereinafter called "Declaration"); and

WHEREAS, the Town, the Mar-a-Lago Club, Inc. and Donald J. Trump thereafter entered into an Amendment of Declaration of Use Agreement, dated November 30, 1999 and recorded in Official Records Book 11492, Page 1762, of the Public Records of Palm Beach County, Florida ("First Amendment"); and

WHEREAS, pursuant to a Certificate of Succession recorded in Official Records Book 9655, Page 1441, and the documents attached thereto, the Mar-a-Lago Club, Inc. was merged into MALC, Inc., a Delaware corporation, which was thereafter merged with Mar-a-Lago Club, L.L.C., which is the surviving entity and is the owner of the land and improvements thereon described in the Declaration, as amended; and

WHEREAS, the Town and the Club thereafter entered into a Second Amendment of Declaration of Use Agreement, dated September 30, 2002 and recorded in Official Records Book

14327, Page 233, of the Public Records of Palm Beach County, Florida (“Second Amendment”);
and

WHEREAS, the Town and the Club thereafter entered into a Third Amendment of Declaration of Use Agreement, dated December 13, 2004 and recorded in Official Records Book 17886, Page 1415, of the Public Records of Palm Beach County, Florida (“Third Amendment”);
and

WHEREAS, the Club has requested approval from the Town for the construction and use of a certain dock to serve the Club (“the Dock”); and

WHEREAS, the Club and the Town desire to enter into this Fourth Amendment to confirm the Town’s approval of the Dock, provided that the construction and use of the Dock be subject to the restrictions set forth in this Fourth Amendment.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed that the Declaration, as amended by the First Amendment, the Second Amendment, and the Third Amendment, is hereby further amended and modified by this Fourth Amendment as follows:

1. All of the recitals set forth above are true and correct and are incorporated herein and made a part hereof. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Declaration.

2. The Town hereby approves of the construction and use of the Dock, subject to the following restrictions:

- (a) The Club shall indemnify the owner of the property located at 185 Woodbridge Road, Palm Beach, Florida, Parcel No. 50434335050000101

(the “Adjacent Property”), for any damage caused to the Adjacent Property in connection with the construction of the Dock;

- (b) The Dock shall be equipped with a locked gate;
- (c) The Club shall install security cameras at the Dock;
- (d) The lighting installed on the Dock shall not emit excessive light that would unreasonably disturb the use or enjoyment of the properties adjacent to the Dock;
- (e) The Club shall provide a designated dockmaster to oversee the operations and maintenance of the Dock;
- (f) Accessory structures such as vessel storage sheds or dockmaster offices are prohibited;
- (g) The Dock shall be for the exclusive use of Club members and the Owner’s family members only;
- (h) The Dock shall not be expanded without the prior approval of the Town Council;
- (i) No jet skis shall be moored, housed, or launched from the Dock;
- (j) No boat or other vessels moored at the Dock shall be used for overnight or live-aboard purposes;
- (k) The hours of operation of the Dock shall be limited to the hours of operation of the Club;
- (l) No generators shall be installed on or used at the Dock;
- (m) No cranes shall be affixed to the Dock or the sea wall adjacent to the Dock;

- (n) No gaming vessels or shuttles to and from gaming vessels shall be permitted at the Dock;
- (o) No bait, tackle, or fuel sales shall be permitted at the Dock; and
- (p) Fog horns or other instruments of amplified noise are prohibited when approaching or departing the Dock.

[Signature page follows.]

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

Signed, sealed and delivered
in the presence of:

TOWN OF PALM BEACH

By: _____
Gail Coniglio, Mayor

By: _____
Danielle H. Moore,
Town Council President

By: _____
Kirk Blouin, Town Manager

By: _____
Joshua Martin,
Director of Planning, Zoning and
Building

By: _____
John C. Randolph, Esq.
Town Attorney

MAR-A-LAGO CLUB, L.L.C.

By: _____
Name: _____
Title: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by **Gail Coniglio**, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of _____. She is personally known to me or has produced _____ as identification and who did not take an oath.

[SEAL]

Signature of Notary Public

Printed Name of Notary Public

Commission No. _____

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by **Danielle H. Moore**, Town Council President of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me or has produced _____ as identification and who did not take an oath.

[SEAL]

Signature of Notary Public

Printed Name of Notary Public

Commission No. _____

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by **Kirk Blouin**, the Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and who did not take an oath.

[SEAL]

Signature of Notary Public

Printed Name of Notary Public

Commission No. _____

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by **Joshua Martin**, the Director of Planning, Zoning and Building of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and who did not take an oath.

[SEAL]

Signature of Notary Public

Printed Name of Notary Public

Commission No. _____

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by **John C. Randolph, Esq.**, the Attorney for the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and who did not take an oath.

[SEAL]

Signature of Notary Public

Printed Name of Notary Public

Commission No. _____

Commission Expires: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, as _____ of Mar-a-Lago Club, L.L.C., Delaware limited liability company, on behalf of the company. He is personally known to me or has produced _____ as identification and who did not take an oath.

[SEAL]

Signature of Notary Public

Printed Name of Notary Public

Commission No. _____

Commission Expires: _____

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - Old Business

Agenda Title

Z-18-00149 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: C-TS Town-Serving Commercial The application of Carriage House and JHD Associates, LLC, Applicant, relative to property located at **264 S COUNTY RD SUITE: BLDG 1**, legal description on file, is described below. A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the C-TS Zoning District. The Club will have a membership cap of 248 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 67 seats, which is the same number of seats 264 Grill restaurant had when owned by Peter Pullitzer in the 1970s. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m. A request for a special exception to provide 68 night-time (after 6pm) supplemental off-site shared parking spaces at 230/240 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House. **Z-18-00149 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: C-TS Town-Serving Commercial The application of Carriage House and JHD Associates, LLC, Applicant, relative to property located at 264 S COUNTY RD SUITE: BLDG 1, legal description on file, is described below. [Applicant's Representative: Maura Ziska Esq]

Presenter

ATTACHMENTS:

- ❑ **Memorandum from Josh Martin dated January 31, 2019**
- ❑ **Comments from the Development Review Committee**
- ❑ **Memorandum from Josh Martin dated February 5, 2019**
- ❑ **Exhibit A, Proposed Declaration of Use Agreement**
- ❑ **Declaration of Use Agreement Redlines**
- ❑ **Carriage House Logistics Plan**

- ▣ **Neighbors' Proposed Carriage House Conditions**
- ▣ **Letter Dated January 18, 2019 from Lieff**
- ▣ **Letter Dated January 23, 2019 from Nadal**
- ▣ **Letter Dated January 30, 2019 from Webster**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00149 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**
264 S COUNTY RD SUITE: BLDG 1

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the C-TS Zoning District. The Club will have a membership cap of 248 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 67 seats, which is the same number of seats 264 Grill restaurant had when owned by Peter Pullitzer in the 1970s. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m. A request for a special exception to provide 68 night-time (after 6pm) supplemental off-site shared parking spaces at 230/240 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House.

ADDRESS: 264 S COUNTY RD SUITE: BLDG 1

OWNER: CARRIAGE HOUSE PROPERTIES PART

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-22-10-000-0120

ZONING DISTRICT: C-TS Town-Serving Commercial

LEGAL DESCRIPTION: PL OF PHIPPS PLAZA LT L

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 10/23/18

APPLICATION NO.: Z-18-00149 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW

ADDRESS: 264 S COUNTY RD SUITE: BLDG 1

DESCRIPTION:

A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the C-TS Zoning District. The Club will have a membership cap of 248 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 67 seats, which is the same number of seats 264 Grill restaurant had when owned by Peter Pullitzer in the 1970s. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m. A request for a special exception to provide 68 night-time (after 6pm) supplemental off-site shared parking spaces at 230/240 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	10/22/2018	No comments at this time.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/28/2018	Applicant needs to provide the circulation routes for the valet service, foot traffic. Valet should be required to cross at a signalized intersection in a safe manner. The vehicle circulation proposes the crossing of two lanes of traffic in a short distance, which may prove to be a dangerous situation. Moreover, the repeated use of the un-signalized cut through may adversely affect eastbound traffic turning north onto South County Road. Currently, there is no room to queue vehicles in the median. The applicant may also need consent from the Florida Department of Transportation (FDOT) for the proposed traffic / circulation pattern. There is concern regarding the logic that each vehicle will have 4 occupants; I believe that we will see single occupancy vehicles and couples. It would take all spaces available to handle the proposed club attendees during large events. Will all available spaces be open? There does not appear to be sufficient on-street parking in this area to supplement the valet parking and handle the lunch time demand. An independent review from a Traffic Consultant Engineering Firm working for the Town is currently underway. Their information will be provided to supplementary these comments at a later date.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/29/2018	The project as proposed does not contain enough information to state that there are no fire code concerns. The use and occupancy arrangements would need to be established as well as the arrangements inside the building would need to be reviewed and approved before all code concerns could be addressed. The fire department always wants to work with building owners and the community to find the best use of our commercial properties.



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 10/23/18

PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	11/2/2018	Proposed use of landmarked structure does not require LPC review and approval; however, active use of a historic building is paramount in maintaining a historic structure in a good and sound condition. Lack of use of a historic structure often leads to deterioration of the building, which in many cases is difficult to reverse.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	10/19/2018	Recommend Town Council consider mandating having no less than two valets on duty when the business is open/operating.
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	11/29/2018	No comments.



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 10/23/18

PZB - ZONING

Paul Castro, Zoning
Administrator

10/25/2018

There is no on-site parking for this proposed club use, nor is off-street parking required based upon the principal of equivalency for parking in the Code. However, the principal of equivalency only allows for 244 club members (based on 61 parking spaces) and not 248 member as stated in the application.

There is proposed off-site "supplemental" parking, and an off-site valet pickup and drop off area on private property on both sides of Royal Palm Way. The valet will have to cross the median, south bound from 205 Royal Palm Way into 230/240 Royal Palm Way. In addition, valets will be crossing Royal Palm Way at midblock to retrieve and pickup vehicles. This could be dangerous at night. In addition, to date no assurances have been provided that the applicant has secured leases for the proposed valet operation and off-site parking locations. Nor is there any documentation related to how the proposed club would be allowed to use the property and for how long the leases would be available.

My concern continues to be parking, loading and traffic circulation for the proposed use in this high traffic area. If the proposed club is approved and the applicant at some point in time loses use of the valet stand and/or off-site parking area, there will be major traffic congestion and parking problems in the area. The proposed valet operation and traffic concurrency is being reviewed by the Town's traffic engineering consultant, however, to date that review is incomplete as there are unresolved issues with the applicant's traffic consultant.

In addition, the applicant needs to demonstrate to the satisfaction of the Town Council that the proposed Club will be Town-serving. The applicant has stated that at a minimum 50% of the membership will be Townpersons as defined in the Code, however, to date the updated Town-serving documentation as stated in the application has yet to be provided as part of the backup for the application.

As it relates to the proposed club use on the property, I am concerned about late night noise, garbage pickup and food deliveries in the mornings. Deliveries and service related to the proposed club would occur at the same time that the Palm Beach Day Academy parents are dropping off students on Seaview Avenue.

Lastly, the applicant should not be allowed to use the roof of 264 South County Road or the patio between the buildings at 264 and 270 South County Road for any club activities as that could also become a noise nuisance to residential neighbors.

If approved, the applicant should be required to enter into a Declaration of Use Agreement and Construction Management Agreement to ensure that activity related to the renovation does not impact the surrounding neighborhood. If it does, the remedies for violation should be stiff.

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director of Planning, Zoning & Building

Re: Z-18-00149, Special Exception with Site Plan Review, Proposed Declaration of Use Agreement for the Proposed Carriage House Club, 264 & 270 South County Road

Date: February 5, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the proposed Declaration of Use Agreement as identified in Exhibit A.

GENERAL INFORMATION

At the December 12, 2018 meeting, the Council considered the subject application to allow a proposed private club at the addresses referenced in the memorandum heading. The Town Council deferred the subject application to its January 9, 2019 meeting and asked the applicant to draft a proposed Declaration of Use Agreement which incorporates comments made by the Council. The Council also asked the applicant meet with the residents and take into account their concerns in drafting the proposed Agreement.

Subsequently, on January 9, 2019, the Town Council reconsidered the application, which included the Kimley-Horn updated traffic and parking study and the Town's consultant peer review. After hearing all testimony from the engineering professionals and interested parties, the Council deferred the application in order for Staff to have another meeting with the applicant and neighbors in attempt to resolve issues and change the proposed Declaration of Use Agreement to address those issues.

Staff met with all parties on January 25th to discuss the proposed private club and Declaration of Use Agreement. The topics that were discussed at that meeting were as follows:

- Maximum occupancy;
- Special events;
- The valet operation;
- Parking/traffic;
- Operating hours;
- Noise and nuisance;
- Membership regulations;
- Restrictions on club expansion;
- Revisions to the Declaration of Use Agreement; and
- Other enforcement mechanisms.

After a lengthy discussion on all of these topics, the applicant agreed to make certain modifications to the draft Declaration of Use Agreement. The attached Agreement contains all of the conditions that the applicant has agreed to make at this time. There are minor changes made by Staff that are in add/delete format. The Town Attorney had also advised Staff that Condition no. 24 in the draft agreement may not be able to be confidential as stated in the condition. Once the lease agreements are provided to the Town Attorney, they may become public record. There are other proposed conditions by the neighbors that were not incorporated in the draft agreement. The list of all of the topics is provided as an attachment. It is color coded in three categories (Continue to discuss, agreed to and denied by the applicant), Staff, the applicant and the neighbors are prepared to address the proposed conditions at the meeting.

TOWN ATTORNEY REVIEW

The proposed Declaration of Use Agreement was approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Kirk Blouin, Town Manager
Jay Boodheshwar, Deputy Town Manager
Wayne Bergman, Asst. Director of Planning, Zoning and Bldg.
Paul Castro, Zoning Administrator
zf & pf

EXHIBIT A

DECLARATION OF USE AGREEMENT

by

THE TOWN OF PALM BEACH

and

CARRIAGE HOUSE PROPERTIES PARTNERS LLC

FEBRUARY 2019

**Prepared by and return to:
Maura A. Ziska, Esquire
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401
(561) 802-8960**

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DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2019 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called "Town") and CARRIAGE HOUSE PROPERTIES PARTNERS LLC., 264/270 South County Road, Palm Beach, Florida 33480 (hereinafter called "Club"), which terms "Town" and "Club" 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" or "Club Location") is located within the municipal limits of the Town; and

WHEREAS, the Club Location falls within the Town's C-TS Zoning District; and

WHEREAS, The Club desires a Special Exception use at the Club Location; and

WHEREAS, the Town Council conditionally approved Zoning Application Number Z-18-00149 on February 13, 2019 which granted the Club special exception approval to open a private club at the Club Location and a second special exception approval to allow off-site supplemental shared parking for 68 night-time parking spaces (after 6:00 p.m.) at 230/240 Royal Palm Way, Palm Beach, Florida; and

WHEREAS, all of the representations made herein are true and accurate and the approval of the Special Exceptions are conditioned upon the representations made herein and all of the conditions herein imposed; and

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

ARTICLE I **RECITALS**

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

ARTICLE II **REPRESENTATION OF OWNERSHIP**

The Club has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance 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. The execution of this Agreement or the consummation of the transactions contemplated herein will not violate any restriction, court order or agreement to which the Club or Land are subject.

ARTICLE III
PRIVATE CLUB USE

The private club use that is the subject of this Agreement shall be as set forth in the application submitted to the Town as Z-18-00149 and approved by the Town Council on February 13, as the same may be amended from time to time (hereinafter referred to as the "Approval").

ARTICLE IV
CONDITIONS

The approval shall be based upon the following conditions:

- 1) The Club shall be located in the 264 building and the first floor of the 270 building with the hours of operation to be 11:00 a.m. until 12:00 a.m. seven days a week. All patrons will be required to exit the Club within 30 minutes of close.
- 2) ~~The~~ Neither the Dining Room size nor any other room shall ~~not~~ exceed 1,500 square feet.
- 3) There shall be no dance floor.
- 4) There will be no dinner reservations made earlier than 6:15 p.m.
- 5) The maximum membership shall be 232 people regardless of designation and whether or not dues paying. At least 50% of the Club members shall consist of individuals who are "townpersons" as defined in the Town's Code. Members are limited to natural persons and expressly exclude corporations or other entities. Use of a single membership is limited to an adult, that person's spouse or significant other, and that person's adult children under the age of 30. Guests must be accompanied by a member when present at the Club. The Club is required to provide proof of town-serving compliance on an annual basis and per the Town's code. The Club shall not be required to provide names of Members when providing proof of town-serving compliance.
- 6) The maximum occupancy shall not exceed 100 people until 6:00 p.m. and 250 people after 6:00 p.m. Maximum occupancy shall include Club employees. All guests and members must register at the Club upon entry and the occupancy registry will be made available for inspection by the Town upon request.
- 7) Valet parking is required from 6:00 p.m. until closing. The valet stand drop off and pick up shall be located in the parking lot at 205 Royal Palm Way, provided, however, should the Club lose the right to operate a valet drop off and pick up stand at 205 Royal Palm Way, ~~the valet stand drop off and pick up shall be located at 230 Royal Palm Way~~ or such other location to be agreed upon by ~~the Director of the Planning, Zoning and Building or~~ the Town Council. There shall be no valet stand on South County Road, in Phipps Plaza, or on Seaview Ave.

- 8) The Club must provide off-street parking with a parking lot capacity of at least 68 vehicles accessible to Club valet services, members, guests, and employees from 6:00 p.m. to close. Club's valet services shall use the off-street parking lot to park member and guest vehicles. There shall be no parking of member or guest vehicles in the 205 Royal Palm Way parking lot.
- 9) No events shall be allowed prior to 6:00 p.m. After 6:00 p.m. no events of more than sixty (60) people shall be allowed. There shall be no more than 1 event per month. An event is defined as an organized member sponsored function for 40 or more people including charitable events, rehearsal dinners, wedding receptions, bar mitzvahs, Hanukkah, Christmas or birthday parties. Only a Club member may host an event and 1 off duty police officer shall be required for all events unless an acceptable alternative arrangement is agreed to by the Town police. The Club is required to maintain records of events and will make such available to the Town upon request. The Club shall be required to keep such records for a period of 12 months.
- 10) The Club shall be allowed to remain open until 2:00 a.m. on New Year's Eve. The Club will be required to hire 2 off duty police officers on New Year's Eve, unless an acceptable alternative arrangement is agreed to by the Town police. A minimum of 6 valets shall be required for events and on New Year's Eve.
- 11) Club members (who are non-Phipps Plaza residents) will be instructed not to park in Phipps Plaza or on Seaview Ave, Seaspray Ave, Seabreeze Ave, and Clarke Ave when visiting the Club. All Club members will be instructed to a) use the Club provided valet when visiting the Club after 6:00 p.m. and b) instruct their guests to use the Club provided valet when visiting the Club after 6:00 p.m.; the Club will issue periodic reminders to Club members of this policy.
- 12) The Club shall obtain and maintain a valet parking permit. A minimum of 4 valets shall be on duty from 6:00 p.m. to closing Thursday to Saturday and a minimum of 3 valets shall be on duty from 6:00 p.m. to closing Sunday to Wednesday. The number of valets ~~may~~ shall be modified by the Police Department should it be determined that more or less valets are required to manage the Club parking. Valets will be instructed not to park in Phipps Plaza or on Seaview Ave, Seaspray Ave, Seabreeze Ave, and Clarke Ave.
- 13) After 6:00 p.m., all vehicular pick-up and drop-off of Club members, guests and employees (including car services) must occur at the same location as the valet pick up and drop off stands provided that car services may drop off and pick up on South County Road in the current commercial loading zone. Club Members, valets, and employees will be instructed that vehicular pick-up and drop-off of Club members, guests and employees is expressly prohibited from occurring at the 264 South County Road building entrance / exit. The only exception to the forgoing is that in the event the valet stand is not operating at 205 Royal Palm Way, Club members and guests who are transported to and from the Club by Club-operated golf carts may be dropped off and picked up at the 264 South County Road or 270 South County Road entrance. In this case, Club-operated golf carts shall be expressly prohibited from

driving within the circle of Phipps Plaza. The Club will issue periodic reminders to Club members, valets, and employees of this policy.

- 14) Club employees who drive to work after 6:00 p.m. shall be required to park in the off-street parking lot secured by the Club as detailed in paragraph 7 above or a parking lot or garage at an alternative off-street location. Club employees who drive to work prior to 6:00 p.m. shall be required to park in the Esplanade or Apollo parking lots or a parking lot or garage at an alternative off-street location. Employees will be explicitly instructed not to park in Phipps Plaza or on Seaview Avenue, Seaspray Avenue, Seabreeze Avenue, and Clarke Avenue. Employees shall be required to present proof of day time parking to the Club administrative staff. The Club shall be required to keep such employee parking records for a period of 12 months and make such available to the Town for confidential review upon request.
- 15) The lunch seating shall be limited to 67 seats. The total seats after 6:00 p.m. shall not exceed 153.
- 16) The Club shall not add lighting to either the 205 Royal Palm Way or 230 Royal Palm Way parking lots.
- 17) All trash shall be stored inside the Club and will not be taken to the dumpster until after 8:00 a.m. the following day.
- 18) The Club shall instruct its delivery services to use the commercial loading zones at the corner of Seaview Avenue and South County Road. Delivery services will be instructed not to park in Phipps Plaza or on Seaview Avenue, Seaspray Avenue, Seabreeze Avenue, and Clarke Avenue. There shall be no Club deliveries or vendor services before 8:00 a.m.
- 19) The Club shall provide state of the art exhaust vents and scrubbers and shall have them cleaned on a weekly basis.
- 20) The roof of the Club's buildings shall not be used for any type of Club activity.
- 21) The Club shall purchase two (2) "street legal" golf carts to aid in valet operations.
- 22) The Club shall commit to pay an amount up to \$300,000 to beautify Phipps Park according to a plan approved by the Town. The Club's use of Phipps Plaza Park shall be subject to the Town's rules and guidelines governing private use of public Town parks.
- 23) Club shall enter into a Construction Management Agreement prior to the issuance of a building permit. The Agreement shall be approved by the Planning, Zoning and Building Director and shall include a provision to prohibit a lay down area for construction in Phipps Plaza Drive and the associated park.
- 24) Prior to receiving a certificate of occupancy, copies of the signed lease agreements regarding the Club's right to use the parking lots at 205 Royal Palm Way and 230 Royal Palm Way (or any other off-site parking lot acquired by the Club for its use),

including any amendments thereto, will be provided, confidentially, to the Town attorney to confirm Club's right to use. The agreements may be redacted to exclude economic terms or other terms unrelated to the Club's right to use the parking lots.

- 25) Club shall return to the Town Council after 6 months of operation during "season" to review the list of conditions and compliance. The Club is prohibited from seeking a revision(s) to this Agreement for a period of 1 year following the date of Club opening. Any future requested revision to this Agreement will require at least 45 day notice to all property owners within a 750 foot radius. Any Town Council hearing regarding a requested revision(s) to this Agreement will only be conducted between the months of December and May.

ARTICLE V VOLUNTARY AGREEMENT AND HOLD HARMLESS

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

ARTICLE VI 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 the Club and the Club's representative of said violation(s) and the date upon which said violations(s) shall be corrected, Club or Club's successor or assigns shall pay to the TOWN a liquidated amount of \$2,000 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 Club 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 Club disputes any code violation, Club 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 following the written notice of violation.

2. 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 for the State of 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 VII
PROVISIONS TO RUN WITH THE CLUB

This Agreement shall NOT run with the Land and shall be binding upon the Club only and shall terminate upon the termination of the Club's business tax receipt for operation of a private club, or rescission of the Approval. This Agreement shall be recorded by the Club in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto.

ARTICLE VIII
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 IX
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 X
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 a day are stated in terms of Eastern Time, i.e. whichever of Eastern Standard Time or Eastern Daylight Time may be in effect at the time. The word "day" in this Agreement means any period beginning when the time of day is midnight and ending on the next later occasion when the time of day is midnight.

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 attached hereto, which exhibits are by this reference made a part hereof.

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

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

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

Signed, sealed and delivered
In the presence of:

THE TOWN OF PALM BEACH:

Print Name: _____

By: _____
Gail Coniglio, Mayor

Print Name: _____

By: _____
Danielle Hickox Moore, President

Print Name: _____

By: _____
Kirk Blouin, Town Manager

Print Name: _____

CLUB:

CARRIAGE HOUSE PROPERTIES
PARTNERS LLC

Print Name: _____

By: _____
Its: _____

Print Name: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by Danielle Hickox Moore, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by Kirk Blouin, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by _____, on behalf of CARRIAGE HOUSE PROPERTIES PARTNERS LLC. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

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

By: _____
John C. Randolph, Esquire

EXHIBIT "A"

LEGAL DESCRIPTION

Lots K and L, PHIPPS PLAZA, according to the Plat thereof as recorded in Plat Book 20, Page(s) 72, of the Public Records of Palm Beach County, Florida.

DECLARATION OF USE AGREEMENT

by

THE TOWN OF PALM BEACH

and

CARRIAGE HOUSE PROPERTIES PARTNERS LLC

JANUARY 2019

**Prepared by and return to:
Maura A. Ziska, Esquire
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401
(561) 802-8960**

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DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ____ day of _____, 2019 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called "Town") and CARRIAGE HOUSE PROPERTIES PARTNERS LLC., 264/270 South County Road, Palm Beach, Florida 33480 (hereinafter called "Club"), which terms "Town" and "Club" 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, The Club is a Special Exception use in the C-TS Zoning District; and

WHEREAS, the Town Council conditionally approved Zoning Application Number Z-18-00149 on January 9, 2019 which granted the Club special exception approval to open a private club at 264/270 South County Road in Palm Beach, Florida and a second special exception approval to allow off-site supplemental shared parking for 68 night-time parking spaces (after 6 p.m.) at 230/240 Royal Palm Way, Palm Beach, Florida; and

WHEREAS, all of the representations made herein are true and accurate and the approval of the Special Exceptions are conditioned upon the representations made herein and all of the conditions herein imposed; and

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

ARTICLE I **RECITALS**

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

ARTICLE II **REPRESENTATION OF OWNERSHIP**

The Club has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance 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. The execution of this Agreement or the consummation of the transactions contemplated herein will not violate any restriction, court order or agreement to which the Club or Land are subject.

ARTICLE III
PRIVATE CLUB USE

The Club use that is the subject of this Declaration shall be as set forth in the application submitted to the Town as Z-18-00149 and approved by the Town Council on January 9, 2019 as the same may be amended from time to time (hereinafter referred to as the “Approval”).

ARTICLE IV
CONDITIONS

The approval to allow the Club to operate is based upon the following conditions:

- 1) The Club shall be located in the 264 building and the first floor of the 270 building with the hours of operation to be 11:00 a.m. until 12:30 a.m. seven days a week. All patrons will be required to exit the Club within 30 minutes of close.
- 2) The Dining Room size nor any other room shall not exceed 1,500 square feet.
- 3) There shall not be a dance floor.
- 4) The maximum membership shall be 232 people regardless of designation and whether or not dues paying. At least 50% of the Club members shall consist of individuals who are “townpersons” as defined Town’s Code. Members are limited to natural persons and expressly exclude corporations or other entities. Use of a single membership is limited to an adult, that person’s spouse or significant other, and that person’s adult children under the age of 30. Guests must be accompanied by a member when present at the Club. The Club is required to provide proof of town-serving compliance on an annual basis and per the Town’s code. The Club shall not be required to provide names of Members when providing proof of town-serving compliance.
- 5) The maximum occupancy shall not exceed 100 people until 6:00 p.m. and 250 people after 6:00 p.m. Maximum occupancy shall include Club employees. All guests and members must register at the Club upon entry and the occupancy registry will be made available for inspection by the Town upon request.
- 6) Valet parking is required from 6:00 p.m. until closing. The valet stand drop off and pick up shall be located in the parking lot at 205 Royal Palm Way, provided, however, should the Club lose the right to operate a valet drop off and pick up stand at 205 Royal Palm Way, the valet stand drop off and pick up shall be located at 230 Royal Palm Way or such other location to be agreed upon by the Director of the Planning, Zoning and Building or the Town Council. There shall be no valet stand on South County Road, in Phipps Plaza, or on Seaview Ave.
- 7) The Club must provide off-street parking with a parking lot capacity of at least 68 vehicles accessible to Club valet services, members, guests, and employees from 6:00 p.m to close. Club’s valet services shall use the off-street parking lot to park member and guest vehicles. There shall be no parking of member or guest vehicles in the 205 Royal Palm Way parking lot.

- 8) No events shall be allowed prior to 6:00 p.m. After 6:00 p.m. no events of more than ninety (90) people shall be allowed. There shall be no more than 12 events per year, nor more than 1 event per month. An event is defined as an organized member sponsored function for 40 or more people including charitable events, rehearsal dinners, wedding receptions, bar mitzvahs, Hanukkah, Christmas or birthday parties. Only a Club member may host an event and 1 off duty police officer shall be required for all events unless an acceptable alternative arrangement is agreed to by the Town police. The Club is required to maintain records of events and will make such available to the Town upon request. The Club shall be required to keep such records for a period of 12 months.
- 9) The Club shall be allowed to remain open until 2:00 a.m. on New Year's Eve. The Club will be required to hire 2 off duty police officers on New Year's Eve, unless an acceptable alternative arrangement is agreed to by the Town police. A minimum of 6 valets shall be required for events and on New Year's Eve.
- 10) Club members (who are non-Phipps Plaza residents) will be instructed not to park in Phipps Plaza or on Seaview Ave, Seaspray Ave, Seabreeze Ave, and Clarke Ave when visiting the Club. All Club members will be instructed to a) use the Club provided valet when visiting the Club after 6:00 p.m and b) instruct their guests to use the Club provided valet when visiting the Club after 6:00 p.m.; the Club will issue periodic reminders to Club members of this policy.
- 11) The Club shall obtain and maintain a valet parking permit. A minimum of 4 valets shall be on duty from 6:00 p.m to closing Thursday to Saturday and a minimum of 3 valets shall be on duty from 6:00 p.m to closing Sunday to Wednesday. The number of valets may be modified by the Police Department should it be determined that more or less valets are required to manage the Club parking. Valets will be instructed not to park in Phipps Plaza or on Seaview Ave, Seaspray Ave, Seabreeze Ave, and Clarke Ave.
- 12) After 6:00 p.m., all vehicular pick-up and drop-off of Club members, guests and employees (including car services) must occur at the same location as the valet pick up and drop off stands provided that car services may drop off and pick up on South County Rd. in the current commercial loading zone. Club Members, valets, and employees will be instructed that vehicular pick-up and drop-off of Club members, guests, and employees is expressly prohibited from occurring at the 264 S. County Rd. building entrance / exit. The only exception to the forgoing is that in the event the valet stand is not operating at 205 Royal Palm Way, Club members and guests who are transported to and from the Club by Club-operated golf carts may be dropped off and picked up at the 264 S. County Rd. or 270 S County Rd entrance. In this case, Club-operated golf carts shall be expressly prohibited from driving within the circle of Phipps Plaza. The Club will issue periodic reminders to Club members, valets, and employees of this policy.
- 13) Club employees who drive to work after 6:00 p.m. shall be required to park in the off-street parking lot secured by Club as detailed in condition 7 above or a parking lot or garage at an alternative off-street location. Club employees who drive to work prior to 6:00 p.m. shall be required to park in the Esplanade or Apollo parking lots or

a parking lot or garage at an alternative off-street location. Employees will be explicitly instructed not to park in Phipps Plaza or on Seaview Ave, Seaspray Ave, Seabreeze Ave, and Clarke Ave. Employees shall be required to present proof of day time parking to the Club administrative staff. The Club shall be required to keep such employee parking records for a period of 12 months and make such available to the Town for confidential review upon request.

- 14) The lunch seating shall be limited to 67 seats. The total seats after 6:00 p.m. shall not exceed 153.
- 15) The Club shall not add lighting to either the 205 Royal Palm Way or 230 Royal Palm Way parking lots.
- 16) All trash shall be stored inside the Club and will not be taken to the dumpster until after 8:00 a.m.
- 17) The Club shall instruct its delivery services to only use the commercial loading zones at the corner of Seaview Ave. and South County Road. Delivery services will be instructed not to park in Phipps Plaza or on Seaview Ave, Seaspray Ave, Seabreeze Ave, and Clarke Ave. There shall be no Club deliveries before 8:00 a.m.
- 18) The Club shall provide state of the art exhaust vents and scrubbers and shall have them cleaned on a weekly basis.
- 19) The roof of the Club's buildings shall not be used for any type of Club activity.
- 20) The Club shall purchase two (2) "street legal" golf carts to aid in valet operations.
- 21) The Club shall commit to pay an amount up to \$300,000 to beautify Phipps Park according to a plan approved by the Town. The Club's use of Phipps Plaza Park shall be subject to the Town's rules and guidelines governing private use of public Town parks.
- 22) Club shall enter into a Construction Management Agreement prior to the issuance of a building permit.
- 23) Prior to receiving a certificate of occupancy, copies of the signed lease agreements regarding the Club's right to use the parking lots at 205 Royal Palm Way and 230 Royal Palm Way (or any other off-site parking lot acquired by the Club for its use), including any amendments thereto, will be provided, confidentially, to the Town attorney to confirm Club's right to use. The agreements may be redacted to exclude economic terms or other terms unrelated to the Club's right to use the parking lots.
- 24) Club shall return to the Town Council after 6 months of operation during "season" to review the list of conditions and compliance. The Club is prohibited from seeking a revision(s) to this Agreement for a period of 1 year following the date of Club opening. Any future requested revision to this Agreement will require at least 45 day notice to all property owners within a 750 foot radius. Any Town Council hearing

regarding a requested revision(s) to this Agreement will only be conducted between the months of December and May.

ARTICLE V VOLUNTARY AGREEMENT AND HOLD HARMLESS

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

ARTICLE VI 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 the Club and the Club's representative of said violation(s) and the date upon which said violations(s) shall be corrected, Club or Club's successor or assigns shall pay to the TOWN a liquidated amount of \$2,000 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 Club 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 Club disputes any code violation, Club 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 following the written notice of violation.

2. 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 for the State of 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 VII PROVISIONS TO RUN WITH THE CLUB

This Agreement shall NOT run with the Land and shall be binding upon the Club only and shall terminate upon the termination of the Club's business tax receipt, or rescission of

approval by the Town Council. This Agreement shall be recorded by the Club in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto.

ARTICLE VIII
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 IX
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 X
MISCELLANEOUS

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

This 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 attached hereto, which exhibits are by this reference made a part hereof.

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

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

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

Signed, sealed and delivered
In the presence of:

THE TOWN OF PALM BEACH:

Print Name: _____

By: _____
Gail Coniglio, Mayor

Print Name: _____

By: _____
Danielle Hickox Moore, President

Print Name: _____

By: _____
Kirk Blouin, Town Manager

Print Name: _____

CLUB:

CARRIAGE HOUSE PROPERTIES
PARTNERS LLC

Print Name: _____

By: _____
Its: _____

Print Name: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by Danielle Hickox Moore, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by Kirk Blouin, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by _____, on behalf of CARRIAGE HOUSE PROPERTIES PARTNERS LLC. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

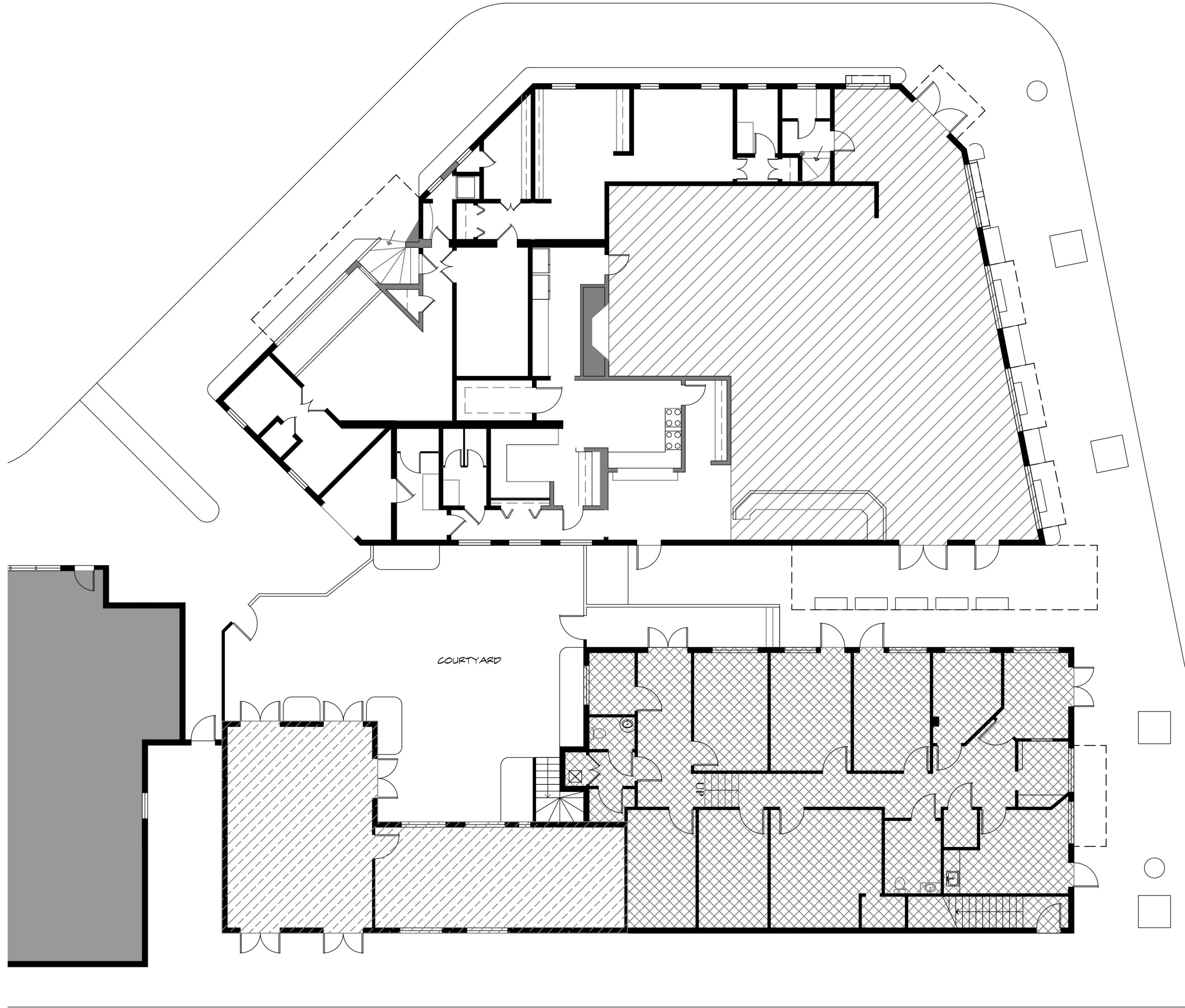
APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE TOWN OF
PALM BEACH

By: _____
John C. Randolph, Esquire

EXHIBIT "A"

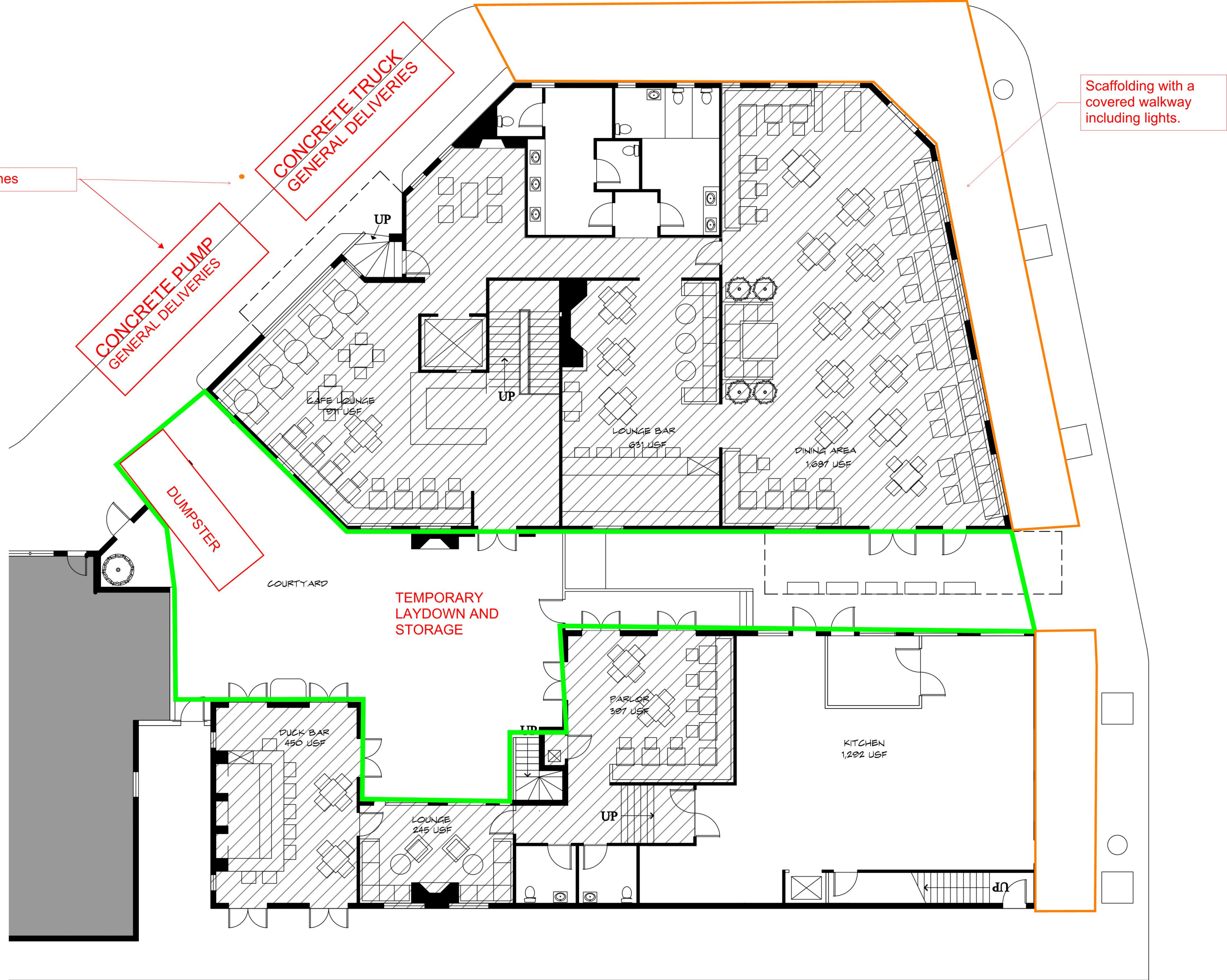
LEGAL DESCRIPTION

Lots K and L, PHIPPS PLAZA, according to the Plat thereof as recorded in Plat Book 20, Page(s) 72, of the Public Records of Palm Beach County, Florida.



1 EXISTING FIRST FLOOR PLAN
SCALE 3/32" = 1'-0"

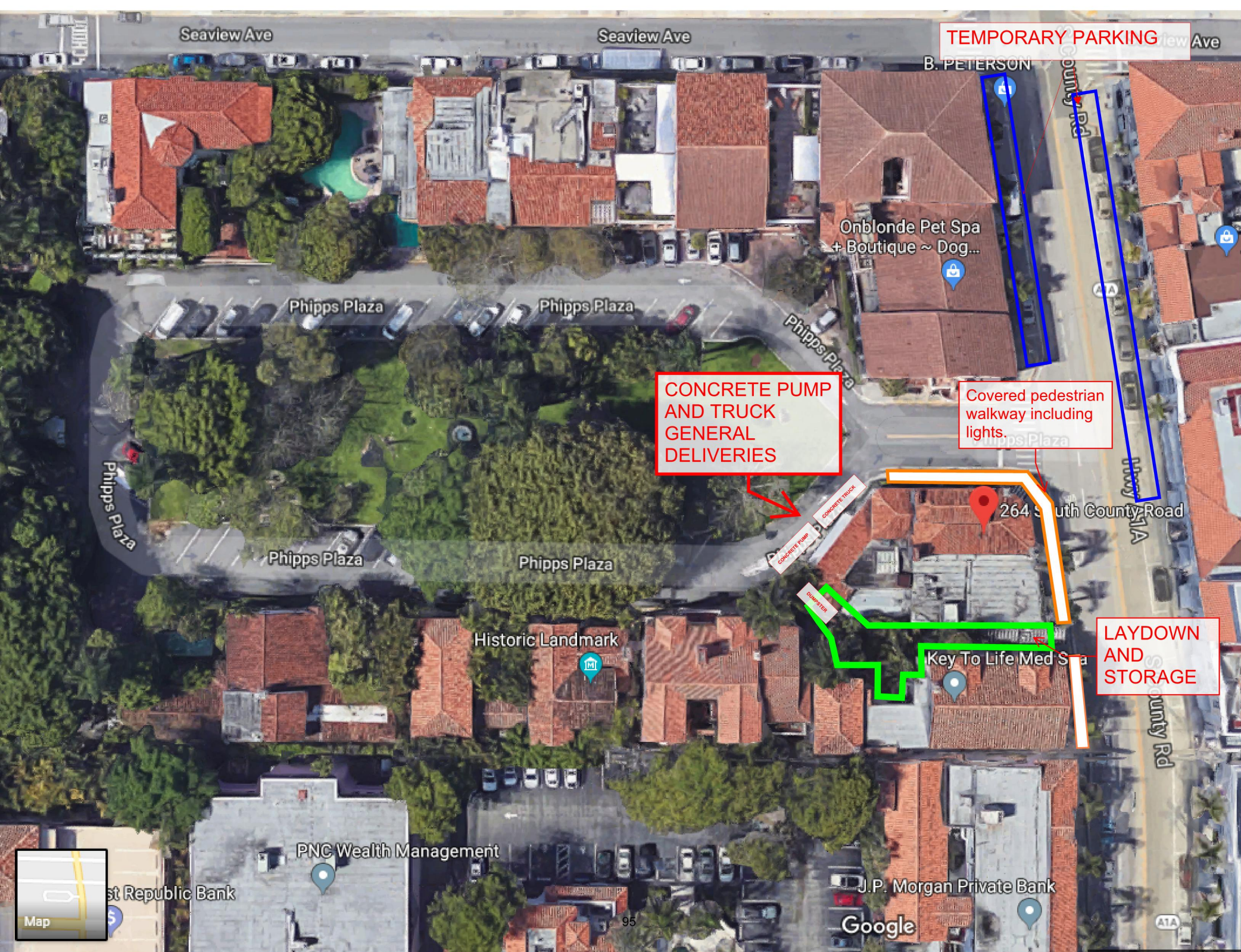
CARRIAGE HOUSE - ANALYSIS OF EXISTING FOR REQUIRED PARKING				
SPACE	AREA	PARKING RATIO	PARKING COUNT	
 1ST FLOOR - DINING AREA	2,091 SF. (118 SEATS)	1:3	39.3 SPACES	
 1ST FLOOR - RETAIL AREA	2,101 SF.	1:200 GROSS	10.5 SPACES	
 1ST FLOOR - BACK OF HOUSE	2,490 SF.	1:300 GROSS	8.3 SPACES	
 2ND FLOOR - BACK OF HOUSE	369 SF.	1:300 GROSS	1.2 SPACES	
 1ST FLOOR - RESIDENTIAL UNITS EACH UNIT	938 SF.	2 SPACES/UNIT	2.0 SPACES	
 TOTAL 1 UNITS	-	-	2.0 SPACES	
 2ND FLOOR - RESIDENTIAL UNITS EACH UNIT	3,185 SF.	2 SPACES/UNIT	4.0 SPACES	
 TOTAL 2 UNITS	-	-	4.0 SPACES	
TOTAL			66 SPACES	



2 PROPOSED FIRST FLOOR PLAN
SCALE 3/32" = 1'-0"

CARRIAGE HOUSE - ANALYSIS PARKING TO SEATING	
PARKING/SEATING COUNT CALCULATION	
66 SPACES X 4 PERSONS PER SPACE = 264 PERSONS	

ZONING CASE # Z-17-00020





Flagman to direct deliveries into jobsite

GENERAL DELIVERIES

Historic Landmark

CARRIAGE HOUSE CONDITIONS*

(* means CH has already agreed but requires inclusion in DOU if not already included)

NINE CATEGORIES - GOAL MINIMIZE IMPACT TO RESIDENTS.

I. MAXIMUM OCCUPANCY

- A. Reduce capacity from 250 to 180 after 6 pm (136 diners + 20 employees + 24 non-diners) - ^{MAXIMUM} ~~fixed~~ INTO I.C.
- B. Capacity expressly includes employees*
- C. Reduce dining seats from 153 to 136 after 6 pm
- D. No change to pre-6 pm capacity (100) and dining seats (67)*
- E. Time first available dinner seating following availability of 205 valet and 230 lot (no dinner seating prior to 6:15?)
- ~~F. Need to better define "dining seat" to ensure intent is met~~ N/A.
- G. No room greater than 1,400 SF*

II. SPECIAL EVENTS

- A. Maximum of one special event per calendar month up to a maximum of 12 events/year (but New Year's Eve party doesn't count against the one/month limit for the month of December)
- B. Evening only, no day time special events*
- C. Special event is defined as a single member responsible for attendance of 25 or more
- D. Special event capped at 60 people*
- E. Special event requires club to hire one off-duty police officer (or appropriate alternative at recommendation of Town police) until closing to control noise and resolve traffic issues; 2 off-duty police officers required for New Year's Eve (or appropriate alternative at recommendation of Town police)
- F. Only a club member may host a special event

ASK THE POLICE

LEGEND

- ☐ CONTINUE TO DISCUSS
- ☒ AGREED
- ☐ DENIED

G. Club is required to maintain a record of special events

F. NO ADDITIONAL LIGHTING ALLOWED IN JP MORGAN OR 230 RPW.
 G. ADDITIONAL SCREENING TO BE PROVIDED ADJACENT TO RESOURCES
 IN JP MORGAN LOT

III. VALET

A. Club is required to maintain valet service (min. 4 valets*; min. of 6 valets for special events) from 6 pm to close every day that club is in operation; there may be no valet charge to club members and guests*

B. The club is limited to one valet stand (however, when the club has use of both the 205 and 230 lots, the club at its discretion may operate valet stands at both 205 and 230), and such valet stand(s) must be located on Royal Palm Way; valet stand on S. County, Phipps Plaza & Seaview expressly prohibited (this condition is IRREVOCABLE and the club will never request to change this condition)

C. All club members and guests must use the club-provided valet after 6 pm; this policy must be broadly and continuously communicated to members and guests (WHAT ABOUT UBER AND LYFT)?

D. If the club doesn't have use of the 205 RPW lot for its valet operations, the club shall provide valet service at 230 RPW*

E. No PARKING ALLOWED IN JP MORGAN LOT.

IV. PARKING/TRAFFIC

A. On every day the club is in operation the club must provide off-site parking with a ~~parking lot~~ capacity of at least 68 vehicles for its members, guests and employees from 6 pm until close

B. All club members, guests, managers, employees, valets, and deliveries are expressly prohibited from parking at any time of day in Phipps Plaza or on Seaview (with the exception of the middle block of Seaview for deliveries), Seaspray, Seabreeze, and Clarke; this policy must be broadly and continuously communicated to all club users; this condition is IRREVOCABLE and the club will never request to change this condition

CLUB POLICY.

CLUB POLICY

Membership Documents.

— SUPER IMPORTANT TO NEIGHBORHOOD.

Handwritten: ~~Hand~~ REWRITE C.

NO VEHICULAR PICKUP OR DROP OFF CAN NOT BE DROPPED OFF OR PICKED UP @ PHIPPS PLAZA/SEA STREETS.

CAND D CAN BE APPLIED EQUALLY.

CLUB MUST INSTRUCT DELIVERY SERVICES TO USE LOADING ZONE ON S. COUNTY ROAD

C. After 6 pm, all vehicular pick-up and drop-off of club members, guests and employees (including Uber/taxi/private driver) must occur at either the 205 or 230 RPW lot (or other available parking lot on RPW); vehicular pick-up and drop-off of club members, guests, and employees is expressly prohibited from occurring at the 264 building entrance/exit (the only exception is for club members and guests who are transported to and from the club and the 230 RPW lot by club-operated golf carts when the valet stand is not operating at 205 RPW); this policy must be broadly and continuously communicated to all club users

D. In the event that the valet stand is not operating at 205 RPW, club-operated golf carts transporting club members and guests are expressly prohibited from driving within Phipps Plaza and on Seaview, Seaspray, Seabreeze, and Clarke

E. The club must instruct its delivery services to ~~arrive and depart without using Phipps Plaza, Seaview (with the exception of middle block of Seaview), Seaspray, Seabreeze, and Clarke~~

FUNCTION

F. Club employees must park at either the Apollo parking lot or at the Esplanade (or a parking lot or garage at an alternative off-site location) during daytime hours prior to 6 pm*; employees shall be required to present proof of parking at Apollo/Esplanade to the club general manager, and the club shall be required to keep such employee parking records for a period of 12 months

G. After 6 pm, club employees are required to park in the 230 lot*

H. The club is required to maintain a current record of the vehicle license plate numbers for each employee and provide same to the town upon request

ALL EMPLOYEES WHO HAVE TO WORK.

V. OPERATING HOURS

A. Sunday-Wednesday: 11:00 am – 11:00 pm

B. Thursday-Saturday: 11:00 am – Midnight ~~X~~ New Year's Eve until 1:00 am ~~X~~

2.00.

- ~~D. X~~ C. Closing time is a "hard closing", doors closed ~~except for max. of 2 employees for final clean and close~~
- ~~E. X~~ D. No club deliveries prior to 8:00 am

VI. NOISE & NUISANCE

- ~~A. X~~ A. No smoking, drinking, or loitering by club members, guests, managers, and employees, within the outdoor space between 264 & 270 buildings, or in the outdoor areas surrounding the club
- ~~B. X~~ B. No club use of Phipps Plaza for any club purpose, including but not limited to events, parking or deliveries
- C. No amplified music; limit on musicians to a trio without amplified sound*
- ~~D. X~~ D. ~~Other demands specific to Phipps residents (which will be outlined by John Eubanks)~~
- ~~D. X~~ D. NO OUTSIDE DINING.

VII. MEMBERSHIP REGULATIONS

- A. Maximum number of members is 232, no matter how designated (owner, shareholder, honorary, proprietary, resident, seasonal, etc.) and whether or not dues-paying ~~children up to AGE 25.~~
- B. Members are limited to natural persons and expressly exclude corporations or other entities*
- ~~C. X~~ C. ~~Guests are limited to natural persons and expressly exclude corporations or other entities.~~
- ~~C. X~~ D. Use of a single membership is limited to an adult head of household, that person's spouse or significant other, and that person's adult children under the age of 25
- ~~D. X~~ E. Guests must be accompanied by a member when present at the club

~~F.~~ F. All members and guests must register at club upon entry and the written registry must be maintained by the club for a period of 12 months and available to inspection by the town upon request

~~G.~~ G. The club is required to maintain and make available to the town its membership records for town-serving compliance

THE CLUB WILL PROVIDE TOWN SERVING DOCUMENTATION ON AN ANNUAL BASIS. to the town

VIII. RESTRICTIONS ON CLUB EXPANSION AND REVISIONS TO DOU AGREEMENT

A. The following areas are prohibited from club use, including transient occupancy by club members, guests or employees: Second floor of 270 building, balconies and rooftops of 264 & 270, the outdoor area between 264 & 270 buildings (except for passage from one building to the other in the normal course of club operations), 236 Phipps, 238 Phipps, and any other Phipps Plaza residence acquired hereafter by the club or any person or entity affiliated with the club

B. The club is required to return to Town Council for review of its compliance with the DOU the first February that the club is in operation, and again 12 months later in the following February

C. The club is prohibited from seeking a revision(s) to the DOU agreement for a period of 5 years following the date of commencement of club operations

D. Any future requested revision(s) to the DOU agreement requires at least 45 day notice (by certified mail) to all residents of Phipps, Sea Streets, Clarke, and residents living behind 230 RPW lot

E. Any Town Council hearing regarding a requested revision(s) to the DOU agreement will only be conducted between the months of ~~December~~ and May

JOHN WILL WORK ON LANGUAGE

CAROL WILL REWORK.

APPLICANT AGREES TO ONE YEAR

First 6 months of continuous operation after November 1, 2019.

JANUARY

IX. OTHER ENFORCEMENT MECHANISMS

A. Copies of the signed lease agreements regarding the club's right to use the parking lots at 205 and 230 RPW (or any other off-site parking lot acquired by the club for its use), including any amendments thereto, must be provided to the town prior to receiving a certificate of occupancy (the agreements may be redacted to exclude economic terms or other terms unrelated to the club's right to use the parking lots) ~~XXXXXXXXXXXX~~

B. Club records will remain available for inspection by the town to determine compliance with town-serving, ~~guest use of club,~~ employee parking, and special events, per above

C. ~~The penalty for any failure to comply with the DOU agreement shall be \$2,000 per violation*; if the violation(s) continues after 90 days, the club shall cease operation until the violation(s) is cured~~

D. ~~Any violation of the DOU agreement shall be considered a material breach of the agreement~~

→ USE STANDARD Dec of Use language.

* Construction Management Agreement.

Joan for screen

From: [Joshua Martin](#)
To: [Kathleen Ruderman](#)
Cc: [Joshua Martin](#)
Subject: FW: Carriage House Plan
Date: Tuesday, January 22, 2019 10:29:20 AM

FYI

**Josh Martin, AICP, CNU-A
Director**

Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, FL 33480
Office: 561-227-6401
Mobile: 843-247-2057
www.townofpalmbeach.com

From: Gwendolynn Peirce
Sent: Friday, January 18, 2019 9:47 AM
To: Town Council & Mayor <Town_Council_Mayor@TownofPalmBeach.com>
Cc: Joshua Martin <jmartin@TownOfPalmBeach.com>; Public Comment
<publiccomment@townofpalmbeach.com>; Kirk Blouin <KBlouin@TownofPalmBeach.com>; Kelly
Churney <KChurney@TownofPalmBeach.com>
Subject: FW: Carriage House Plan

Please see below.

**Gwen Peirce
Administrative Manager**

Town of Palm Beach
Town Manager's Office
360 S. County Road
Palm Beach, FL 33480
Phone: 561-838-5410
Direct: 561-227-6308
Fax: 561-838-5411
www.townofpalmbeach.com

From: Gail Coniglio
Sent: Friday, January 18, 2019 9:36 AM
To: Gwendolynn Peirce <gpeirce@TownOfPalmBeach.com>
Subject: Fwd: Carriage House Plan

Hi Gwen
Could you please forward to TC?
Thank you. G

Sent from my iPhone

Begin forwarded message:

From: Clief <clieffl@aol.com>
Date: January 14, 2019 at 7:37:47 PM EST
To: Gail Coniglio <GConiglio@townofpalmbeach.com>
Subject: Re: Carriage House Plan

Gail-

It's worth keeping in mind that when 264 was up & running, houses in Phipps Plaza & on the "Sea" streets weren't selling for \$3.5-\$7million dollars

The complexion of neighbourhood is greatly changed from those days

Middle-and-senior age residents who may their life savings tied up in a house, are loathe to toss the dice when so much is at stake-

C-
406.600.7000

On 13 Jan 2019, at 5:59 pm, Gail Coniglio <GConiglio@townofpalmbeach.com> wrote:

Dear Carole

Thank you for your heartfelt letter. May I forward it to the Town Council and staff?

Warm regards

Gail

Sent from my iPhone

On Jan 13, 2019, at 2:55 PM, CL <clieffl@aol.com> wrote:

Dear Mayor Coniglio:

I am a resident of Phipps Plz, having recently (May, 2018) bought a 2nd home for over \$3,200,000 because of the sense of solitude & serenity of the plaza, because of its Garden of Eden ambiance, and because it's off the beaten path while being central to everything a resident could desire

I first became aware of this "project" when I returned for the season Jan 5, 2019

Because my Phipps Plz neighbor and new 'friend', Scott Snyder, encouraged me to support the project, I didn't think much about it, until neighbors began explaining just how badly the Carriage House nightclub will effect the neighborhood's property values, safety & security, privacy & sense of well-being living in this protected garden like

space

I don't want a nightclub (or busy "in-crowd" restaurant & drinking club on my corner)
Had I known this was in the offing, I'd not have bought 222 Phipps Plz from Josephine Bayard

I now hear that Scott Snyder, such a booster for the project, now has put his Phipps Plaza house on the market!!
Speak about naïvete (mine)- So this project's big booster wants out because he doesn't want to live in "CLUB ZONE"
and I don't either. I will feel very ripped off if you ruin our neighborhood, almost as if it had been bait-and-switch
when I bought a multi-million dollar home less than a year ago

All are shocked that Scott is doing this
Throwing the rest of us to the wolves while he sneaks away from the coming nightclub disaster
Thank you for your attention & consideration- I'm available to discuss this at anytime

Carole Christensen Lieff
222 Phipps Plz
PB 33480
406.600.7000

Please be advised that under Florida law, e-mails and e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact the Town of Palm Beach by phone at (561) 838-5400, or in writing: 360 S. County RD, Palm Beach, FL 33480.

Kathleen Ruderman

From: Kelly Churney
Sent: Wednesday, January 23, 2019 8:53 AM
To: Kathleen Ruderman; Public Comment
Cc: Maura Ziska; Courtney Hudak
Subject: FW: Carriage House

FYI

Kelly Churney
Administrative Assistant

Town of Palm Beach
Planning, Zoning & Building
360 S. County Rd.
Palm Beach, FL 33480
561-227-6408
561-835-4621 (fax)
www.townofpalmbeach.com

From: Cheryl Kleen **On Behalf Of** Town Council
Sent: Tuesday, January 22, 2019 5:21 PM
To: Bobbie Lindsay <BLindsay@TownofPalmBeach.com>; Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Gail Coniglio <GConiglio@TownofPalmBeach.com>; Julie Araskog <jaraskog@TownOfPalmBeach.com>; Lew Crampton <lcrampton@TownOfPalmBeach.com>; Margaret Zeidman <MZeidman@TownofPalmBeach.com>
Cc: Kirk Blouin <KBlouin@TownofPalmBeach.com>; Jay Boodheshwar <JBoodheshwar@TownofPalmBeach.com>; Joshua Martin <jmartin@TownOfPalmBeach.com>; Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: FW: Carriage House

From: bonnie allsopp <bonniea20002@yahoo.com>
Sent: Tuesday, January 22, 2019 4:19 PM
To: Town Council <TCouncil@TownofPalmBeach.com>
Cc: MM@CarriageHousePB.com
Subject: Carriage House

Bonnie Allsopp Nadal

2560 South Ocean Blvd. Apt.501

Palm Beach, Fl. 33480

Jan. 20, 2019

To Whom it may concern;

I was very excited to learn that Michel McCarty was proposing to open a new club in Palm Beach. I started coming down to the area in the late nineties and the highlight of every visit was a dinner or two at McCarty's restaurant. The food was great, the atmosphere both welcoming and elegant, and the opportunity to meet old friends and new ones was unsurpassed.

Having made Palm Beach my permanent residence just three years ago, I sorely miss the tradition of McCarty's. The proposed Carriage House Club plan is exciting as well as respectful to the neighbors and anything that Michael McCarty is involved with is sure to be an asset to the community in keeping with the gracious life style that makes Palm Beach so special, world renowned.

I look forward to the opening of the Carriage House!

Sincerely,

Bonnie Allsopp Nadal

From: [Joshua Martin](#)
To: [Kathleen Ruderman](#)
Cc: [Joshua Martin](#)
Subject: FW: Private Clubs
Date: Monday, February 04, 2019 5:27:07 PM

FYI for back up

Josh Martin, AICP, CNU-A
Director

Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, FL 33480
Office: 561-227-6401
Mobile: 843-247-2057
www.townofpalmbeach.com

From: Cheryl Kleen

Sent: Monday, February 04, 2019 4:53 PM

To: Kirk Blouin <KBlouin@TownofPalmBeach.com>; Jay Boodheshwar <JBoodheshwar@TownofPalmBeach.com>; Joshua Martin <jmartin@TownOfPalmBeach.com>; Kelly Churney <KChurney@TownofPalmBeach.com>

Subject: FW: Private Clubs

From: Antonette Fabrizi **On Behalf Of** Town Council

Sent: Friday, February 01, 2019 9:24 AM

To: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Margaret Zeidman <MZeidman@TownofPalmBeach.com>; Bobbie Lindsay <BLindsay@TownofPalmBeach.com>; Julie Araskog <jaraskog@TownOfPalmBeach.com>; Lew Crampton <lcrampton@TownOfPalmBeach.com>

Cc: Gail Coniglio <GConiglio@TownofPalmBeach.com>; Cheryl Kleen <CKleen@Townofpalmbeach.com>

Subject: FW: Private Clubs

From: Mary Chapman Webster <marychapmanwebster@gmail.com>

Sent: Wednesday, January 30, 2019 8:52 AM

To: Town Council <TCouncil@TownofPalmBeach.com>

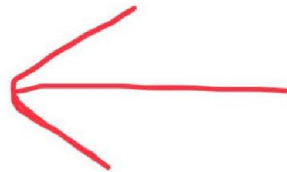
Subject: Private Clubs

I call your attention to this article that appeared in Reside Magazine, a high-end publication by Sotheby's. The key words here are "appealing to a younger generation." Those who think Palm Beach does not need another club (an opinion expoused by mostly long-time residents many of whom are already members of several clubs) are out of touch and have no clue how the demographics of Palm Beach have changed, and for the better. The Carriage House, in my opinion, it would be a welcome addition to the town. Approve it. Mary Webster



THE NEW PRIVATE CLUBS

HOT SPOTS BECOME MORE
DIVERSE, APPEALING
TO A YOUNGER GENERATION



TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - Old Business

Agenda Title

Z-18-00158 VARIANCE(S) Zoning District: R-B Low Density Residential The application of Palm Beach Dunbar, LLC, a New York limited liability company (John Randolph, Manager), Applicant, relative to property located at **171 DUNBAR RD**, legal description on file, is described below. The Applicant is requesting a variance to add a 388 square foot addition for an additional garage bay to have a two-car garage in lieu of the one-car garage existing. This will result in an angle of vision of 123 degrees in lieu of the 114 degrees existing and 108 degrees maximum allowed in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Review Commission approved the project. Carried 6-1]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00158 VARIANCE(S)**
171 DUNBAR RD

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

The Applicant is requesting a variance to add a 388 square foot addition for an additional garage bay to have a two-car garage in lieu of the one-car garage existing. This will result in an angle of vision of 123 degrees in lieu of the 114 degrees existing and 108 degrees maximum allowed in the R-B Zoning District.

ADDRESS: 171 DUNBAR RD

OWNER: PALM BEACH DUNBAR LLC

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-14-07-000-0440

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: ADAMS ADDITION LT 44 (LESS W 10 FT
COUNTY RD R/W)

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 11/29/18

APPLICATION NO.: Z-18-00158 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 171 DUNBAR RD

DESCRIPTION:

The Applicant is requesting a variance to add a 388 square foot addition for an additional garage bay to have a two-car garage in lieu of the one-car garage existing. This will result in an angle of vision of 123 degrees in lieu of the 114 degrees existing and 108 degrees maximum allowed in the R-B Zoning District.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Assistant Director, Planning, Zoning and Building	1/30/2019	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	12/27/2018	Please make sure proposed improvements do not adversely affect existing site Stormwater Management System.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	1/31/2019	There are no fire code concerns with this proposed project
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	12/4/2018	Application will require Architectural Commission (ARCOM) review and approval as a major combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	11/9/2018	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	11/29/2018	No comments.
PZB - ZONING	Paul Castro, Zoning Administrator	1/31/2019	Does not appear to be a hardship for the proposed variance.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - Old Business

Agenda Title

Z-18-00161 SITE PLAN REVIEW Zoning District: R-A Estate Residential
The application of 1404NORTHLAKE LLC (Maura Ziska, Manager), Applicant, relative to property located at **1404 N LAKE WAY**, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a 9,263 square foot two-story, single family residence on a non-conforming lot that is 110 feet in width in lieu of the 125 foot minimum required and 19,563 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq]
[Architectural Review Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact to the subject property. Carried 6-1. The Architectural Review Commission approved the project with architectural and landscape changes. Carried 5-2]

Presenter

ATTACHMENTS:

- **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00161 SITE PLAN REVIEW**
1404 N LAKE WAY

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Special Exception with Site Plan Review to allow the construction of a 9,263 square foot two-story, single family residence on a non-conforming lot that is 110 feet in width in lieu of the 125 foot minimum required and 19,563 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District.

ADDRESS: 1404 N LAKE WAY

OWNER: 1404NORTHLAKE LLC

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-42-34-10-000-0051

ZONING DISTRICT: R-A Estate Residential

LEGAL DESCRIPTION: EDEN VILLA LOT 5 & N 20 FT OF LOT
6 W OF LAKE WAY

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 11/29/18

APPLICATION NO.: Z-18-00161 **APPLICATION TYPE:** SITE PLAN REVIEW

ADDRESS: 1404 N LAKE WAY

DESCRIPTION:

Special Exception with Site Plan Review to allow the construction of a 9,263 square foot two-story, single family residence on a non-conforming lot that is 110 feet in width in lieu of the 125 foot minimum required and 19,563 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	11/29/2018	No comments at this time.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	12/27/2018	The Stormwater Management System designed meets Town's adopted level of service.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/16/2018	10-foot utility undergrounding easement requested is shown on plans. No fire code concern with the proposed project on lot size.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	12/4/2018	Application will require Architectural Commission (ARCOM) review and approval as a major combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	11/13/2018	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	11/29/2018	No comments.
PZB - ZONING	Paul Castro, Zoning Administrator	1/31/2019	The proposed house meets all Zoning Code regulations with the exception of the nonconforming lot issue. I have no comments.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00163 SITE PLAN REVIEW Zoning District: R-D (2) High Density Residential The application of Kirkland House (Elaine Gunnoe, Manager), Applicant, relative to property located at **101 WORTH AVE SUITE: SITE**, legal description on file, is described below. The Kirkland House Condominium Association, Inc. is requesting site plan approval for a 750 KW generator with a 3000 gallon underground fuel tank and the construction of a required building to house said generator which measures 445 square feet. The generator building is proposed to be located on the southwest side of the condominium building. The building is designed so that it will match the look of the condominium building and will not be visible from Worth Avenue, South Ocean Boulevard, or the property to the west of the Kirkland House. It will also be sufficiently screened with landscaping. This project is adding approximately 171 square feet of landscaped open space to the property. [Applicant's Representative: Maura Ziska Esq]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00163 SITE PLAN REVIEW**
101 WORTH AVE SUITE: SITE

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

The Kirkland House Condominium Association, Inc. is requesting site plan approval for a 750 KW generator with a 3000 gallon underground fuel tank and the construction of a required building to house said generator which measures 445 square feet. The generator building is proposed to be located on the southwest side of the condominium building. The building is designed so that it will match the look of the condominium building and will not be visible from Worth Avenue, South Ocean Boulevard, or the property to the west of the Kirkland House. It will also be sufficiently screened with landscaping. This project is adding approximately 171 square feet of landscaped open space to the property.

ADDRESS: 101 WORTH AVE SUITE: SITE

OWNER: KIRKLAND HOUSE COND

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-26-08-000-0000

ZONING DISTRICT: R-D(2) High Density Residential

LEGAL DESCRIPTION:

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/2/19

APPLICATION NO.: Z-18-00163 **APPLICATION TYPE:** SITE PLAN REVIEW

ADDRESS: 101 WORTH AVE SUITE: SITE

DESCRIPTION:

The Kirkland House Condominium Association, Inc. is requesting site plan approval for a 750 KW generator with a 3000 gallon underground fuel tank and the construction of a required building to house said generator which measures 445 square feet. The generator building is proposed to be located on the southwest side of the condominium building. The building is designed so that it will match the look of the condominium building and will not be visible from Worth Avenue, South Ocean Boulevard, or the property to the west of the Kirkland House. It will also be sufficiently screened with landscaping. This project is adding approximately 171 square feet of landscaped open space to the property.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Assistant Director, Planning, Zoning and Building	1/11/2019	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/30/2019	No Comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	12/18/2018	There will be some code provisions that will need to be complied with but the overall proposal can be approved.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/10/2019	The proposed generator building will require approval from the Architectural Commission (ARCOM) as a major project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/17/2018	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building		No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/28/2019	I have no comment on the proposed generator and tank. The proposed generator is out of the street setback and will be enclosed in a building. The proposed 4,000 gallon tank is buried behind the generator.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00164 VARIANCE(S) Zoning District: R-A Estate Residential The application of 640 Palm Beach LLC, Larry Alexander, authorized representative, Applicant, relative to property located at **640 S OCEAN BLVD**, legal description on file, is described below. Request for a variance to allow a sliding driveway gate with a 7-foot setback from the edge of pavement in lieu of the 18 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property. Carried 6-1]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00164 VARIANCE(S)**
640 S OCEAN BLVD

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Request for a variance to allow a sliding driveway gate with a 7 foot setback from the edge of pavement in lieu of the 18 foot minimum required.

ADDRESS: 640 S OCEAN BLVD

OWNER: 640 PALM BEACH LLC

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-27-05-000-0200

ZONING DISTRICT: R-A Estate Residential

LEGAL DESCRIPTION: EL BRAVO PARK LT 20

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/2/19

APPLICATION NO.: Z-18-00164 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 640 S OCEAN BLVD

DESCRIPTION: Request for a variance to allow a sliding driveway gate with a 7 foot setback from the edge of pavement in lieu of the 18 foot minimum required.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Assistant Director, Planning Zoning and Building	1/11/2019	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/30/2019	Resident has a second driveway which can be utilized incase gate is inoperative. The accumulation of sediments and clogging of the filter fabric and the void spaces of the aggregates over time hinders the operational life of an exfiltration system. Systems are required to be tested every five years and recertified. Confirmation that the system is performing as designed should be obtained as a condition.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	12/17/2018	The owner should provide a Knox Box for emergency vehicle access. This will save valuable time in the event of an emergency.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/10/2019	This request will require Landmarks Preservation Commission (LPC) approval as a combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/17/2018	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	2/1/2019	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/28/2019	I am unclear what the hardship is to have proposed gates so close to the street.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00165 VARIANCE(S) Zoning District: R-AA Large Estate Residential
The application of Maura Ziska as Trustee of the 515 North County Road Trust, Applicant, relative to property located at **515 N COUNTY RD**, legal description on file, is described below. Request for a variance to allow two wing walls flanking the main entrance driveway gate with a height of 7.49 feet as measured from the crown of the road in lieu of the 6 feet maximum allowed. [Applicant's Representative: Maura Ziska Esq]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00165 VARIANCE(S)**
515 N COUNTY RD

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Request for a variance to allow two wing walls flanking the main entrance driveway gate with a height of 7.49 feet as measured from the crown of the road in lieu of the 6 feet maximum allowed.

ADDRESS: 515 N COUNTY RD

OWNER: 515 NORTH COUNTY ROAD TRUST

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-14-30-000-0030

ZONING DISTRICT: R-AA Large Estate Residential

LEGAL DESCRIPTION: NORTH COUNTY ROAD ESTATES, LOT 3

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/2/19

APPLICATION NO.: Z-18-00165 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 515 N COUNTY RD

DESCRIPTION: Request for a variance to allow two wing walls flanking the main entrance driveway gate with a height of 7.49 feet as measured from the crown of the road in lieu of the 6 feet maximum allowed.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Assistant Director, Planning Zoning and Building	1/11/2019	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/30/2019	No Comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	12/18/2018	There are no fire code concerns with this proposed project.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/10/2019	This project will require Architectural Commission (ARCOM) administrative approval from Town staff.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/18/2018	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	2/1/2019	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	12/28/2018	There appears to be no hardship to allow the proposed improvements at the height being requested.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00166 VARIANCE(S) Zoning District: R-AA Large Estate Residential
The application of Joel and Carol Jankowsky, Applicant, relative to property located at **200 REGENTS PARK**, legal description on file, is described below. A request for a variance to allow the existing 6' 4" enclosure wall to be increased by 2' 4" for a total height of 8' 8" in lieu of the 7' wall maximum height allowed in order to fully encompass and screen a new 46 KW generator. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property. Carried 7-0]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00166 VARIANCE(S)**
200 REGENTS PARK

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

A request for a variance to allow the existing 6' 4" enclosure wall to be increased by 2' 4" for a total height of 8' 8" in lieu of the 7' wall maximum height allowed in order to fully encompass and screen a new 46 KW generator.

ADDRESS: 200 REGENTS PARK

OWNER: JANKOWSKY JOEL &

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-35-07-000-0050

ZONING DISTRICT: R-AA Large Estate Residential

LEGAL DESCRIPTION: REGENTS PARK LT 5

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/2/19

APPLICATION NO.: Z-18-00166 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 200 REGENTS PARK

DESCRIPTION: A request for a variance to allow the existing 6' 4" enclosure wall to be increased by 2' 4" for a total height of 8' 8" in lieu of the 7' wall maximum height allowed in order to fully encompass and screen a new 46 KW generator.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Assistant Director, Planning Zoning and Building	1/11/2019	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/30/2019	No Comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	1/31/2019	There are no fire code concerns with this proposed work
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/10/2019	This request will require Landmarks Preservation Commission (LPC) approval as a combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/17/2018	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	2/1/2019	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/28/2019	The applicant needs to demonstrate a hardship based on Sec. 134-201 related to increasing the height of the wall to screen the proposed generator.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00167 SITE PLAN REVIEW Zoning District: R-AA Large Estate Residential The application of 535 North County Road LLC (Mark Pulte), Applicant, relative to property located at **535 N COUNTY RD SUITE: GUESTHOUSE**, legal description on file, is described below. A request for Site Plan Review to install a 180 KW generator to be located within the guesthouse, which was previously approved by ARCOM. [Applicant's Representative: Maura Ziska Esq]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00167 SITE PLAN REVIEW**
535 N COUNTY RD SUITE: GUESTHOUSE

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

A request for Site Plan Review to install a 180 KW generator to be located within the guesthouse, which was previously approved by ARCOM.

ADDRESS: 535 N COUNTY RD SUITE: GUESTHOUSE

OWNER: 535 NORTH COUNTY ROAD LLC

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-14-30-000-0010

ZONING DISTRICT: R-AA Large Estate Residential

LEGAL DESCRIPTION: NORTH COUNTY ROAD ESTATES, LOT 1

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/2/19

APPLICATION NO.: Z-18-00167 **APPLICATION TYPE:** SITE PLAN REVIEW

ADDRESS: 535 N COUNTY RD SUITE: GUESTHOUSE

DESCRIPTION: A request for Site Plan Review to install a 180 KW generator to be located within the guesthouse, which was previously approved by ARCOM.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Assistant Director, Planning Zoning and Building	1/11/2019	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/30/2019	No Comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	12/17/2018	There are no fire code concerns with the proposed project.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/10/2019	I have no comment regarding this application.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/17/2018	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building		No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/28/2019	The proposed generator is to be located in a building and meets the Zoning Code.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00168 VARIANCE(S) Zoning District: R-B Low Density Residential The application of 244 Nightingale LLC (Stan Johnson, Manager), Applicant, relative to property located at **244 NIGHTINGALE TRL**, legal description on file, is described below. A request for a flood plain variance in order to renovate a landmarked residence with a finished floor elevation of 5.68 North American Vertical Datum ("NAVD") in excess of 50% of the market value of the residence per section 50-114 of the code. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property and that the proposed development will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. Carried 7-0.]

Presenter

ATTACHMENTS:

- **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00168 VARIANCE(S)**
244 NIGHTINGALE TRL

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

A request for a variance in order to renovate a landmarked residence with a finished floor elevation of 5.68 North American Vertical Datum ("NAVD") in excess of 50% of the market value of the residence. Section 50-114. - Historic buildings states:

A variance is authorized to be issued for the repair, improvement or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code. Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

ADDRESS: 244 NIGHTINGALE TRL

OWNER: 244 NIGHTINGALE LLC

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-03-09-000-0490

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: MOCKING BIRD TRAIL TRACT LT 49 & UND
1/26 INT IN LT 41A /LESS N 52.5 FT/, LT 42A
/LESSS 70 FT/ & TR E OF OCEAN BLVD LYG BET
LTS 41A & 42A

Page Two

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/2/19

APPLICATION NO.: Z-18-00168 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 244 NIGHTINGALE TRL

DESCRIPTION:

A request for a variance in order to renovate a landmarked residence with a finished floor elevation of 5.68 North American Vertical Datum ("NAVD") in excess of 50% of the market value of the residence. Section 50-114. - Historic buildings states:

A variance is authorized to be issued for the repair, improvement or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code. Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Assistant Director, Planning Zoning and Building	1/11/2019	The application should reference Chapter 50, Floods, and further show compliance with Division 7, Variances and Appeals. The applicant should provide written responses to Section 50-117, Conditions for the Issuance of Variances (1 through 4) and Section 50-116, Considerations for Issuance of Variances (1 through 10). The Town must be able to demonstrate compliance with Chapter 50 each year to help maintain the current Community Rating System (CRS) rating of 7. The CRS rating of 7 allows Town residents to receive a 15% flood insurance premium discount for properties located in a Special Flood Hazard Area (flood risk properties).



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/2/19

PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/31/2019	The Site Wall proposed within the southeast corner of the site needs to be outside of the existing easement. Site Walls are typically not allowed to be located with easements, in accordance with Section 134-1671- Restrictions. The required sketch of a Stormwater System has been provided. Exfiltration calculation to confirm compliance with Town requirements have not been provided. The close proximity of the groundwater table, 1.5 NAVD, as determined by the SFWMD, will adversely influence the design shown. Drainage plans must meet the requirements of The Town of Palm Beach Code of Ordinances, Chapter 86, Planning, Article III, Stormwater Management and comply with the Town's adopted level of service as described in Chapter 30, Consistency and Concurrency management System, Section 30-114, (a) Drainage and (b) Management Procedures. A drainage barrier around the perimeter of the site (typically at least six inches above grade) and drainage collection devices across the driveway(s) (typically a trench / sock drain) are not apparent. Additional coordination between the Material Removal Plan and the Erosion Control plan, specifically the location of the proposed silt fence, to protect vegetation to remain may be necessary. Contact Steven Stern (561) 227-6307 regarding a 10-foot undergrounding easement across the frontage of the property.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	12/17/2018	There are no fire code concerns with the proposed project.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/10/2019	This request will require Landmarks Preservation Commission (LPC) approval as a combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	2/1/2019	No Comment
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	2/1/2019	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/28/2019	I have no comment on the proposed flood plain variance.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00169 VARIANCE(S) Zoning District: B-A Beach Area The application of Alex Chesterman, Applicant, relative to property located at **880 S OCEAN BLVD**, legal description on file, is described below. 1) Request a Special Exception with Site Plan Review to allow construction of a two 424 square foot beach cabanas in the R-A/B-A Zoning District. 2) Request for a variance to allow two beach houses to be erected on a property under single ownership. 3) Request for a variance to construct a new 130'-7" seawall on LOTS 26, 27 & 28 which will be placed to the east of the existing seawall, which is east of the Town of Palm Beach Bulkhead Line 3'-11" at the south end and 2'-0" at the north end. The new seawall will be constructed east of the Town of Palm Beach Bulkhead Line by 6'-1" at the south end and 4'-1" at the north end. It is also proposed to be 2'-1" east of the existing seawall and align with the recently constructed seawall on Lot 29 in lieu of the 12" maximum allowed per Sec. 62-37 and Sec. 134-1701. [Applicant's Representative: Maura Ziska Esq]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 31, 2019 from Josh Martin, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director, Planning, Zoning & Building Department

Subject: **Z-18-00169 VARIANCE(S)**
880 S OCEAN BLVD

Date: January 31, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

1) Request a Special Exception with Site Plan Review to allow construction of a two 424 square foot beach cabanas in the R-A/B-A Zoning District. 2) Request for a variance to allow two beach houses to be erected on a property under single ownership. 3) Request for a variance to construct a new 130'-7" seawall on LOTS 26, 27 & 28 which will be placed to the east of the existing seawall, which is east of the Town of Palm Beach Bulkhead Line 3'-11" at the south end and 2'-0" at the north end. The new seawall will be constructed east of the Town of Palm Beach Bulkhead Line 6'-1" at the south end and 4'-1" at the north end and 2'-1" east of the existing seawall and align with the recently constructed seawall on Lot 29 in lieu of the 12" allowed per Sec. 62-37 and Sec. 134-1701.

ADDRESS: 880 S OCEAN BLVD

OWNER: CHESTERMAN ALEX

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-35-02-000-0220

ZONING DISTRICT: B-A Beach Area

LEGAL DESCRIPTION: VIA VIZCAYA ADD, LT 22 & LTS 26 THRU 28

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/2/19

APPLICATION NO.: Z-18-00169 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 880 S OCEAN BLVD **TENANT:ALSO INCL 888 SOB**

DESCRIPTION:

1) Request a Special Exception with Site Plan Review to allow construction of a two 424 square foot beach cabanas in the R-A/B-A Zoning District. 2) Request for a variance to allow two beach houses to be erected on a property under single ownership. 3) Request for a variance to construct a new 130'-7" seawall on LOTS 26, 27 & 28 which will be placed to the east of the existing seawall, which is east of the Town of Palm Beach Bulkhead Line 3'-11" at the south end and 2'-0" at the north end. The new seawall will be constructed east of the Town of Palm Beach Bulkhead Line 6'-1" at the south end and 4'-1" at the north end and 2'-1" east of the existing seawall and align with the recently constructed seawall on Lot 29 in lieu of the 12" allowed per Sec. 62-37 and Sec. 134-1701.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Assistant Director, Planning Zoning and Building	1/11/2019	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/31/2019	The required sketch of a Stormwater System has been provided. The exfiltration calculation provided meet Town's Level of Service.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	12/18/2018	There are no fire code concerns with this proposed project
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/10/2019	This project will require Architectural Commission (ARCOM) review and approval as a major project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/18/2018	May need traffic control flaggers.
PZB DIRECTOR	Josh Martin, Director, Planning, Zoning and Building	1/30/2019	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/28/2019	Do not know what the hardship is to have two beach cabanas on one Beach Area district property. In addition, do not know the hardship for building a new bulkhead at the location being proposed.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - Other

Agenda Title

Request to Consider Ordinance No. 02-2019 Prior to 5:00 p.m. at a Public Hearing

Presenter

ATTACHMENTS:

- **Memorandum Dated February 1, 2019 from Josh Martin, Director of Planning, Zoning & Building**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director of Planning, Zoning & Building

Re: Request to Consider Ordinance No. 2-2019 Prior to 5:00 p.m. at a Public Hearing

Date: February 1, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council conduct the public hearings on Ordinance No. 2-2019 at the Town Council meetings at which the proposed Ordinance is to be heard prior to 5:00 p.m. The proposed Ordinance will be heard on first reading at the February 13, 2019 meeting, and it is anticipated that the second reading will be on March 19, 2019. If the Town Council adopts the Consent Agenda the Staff recommendation will be effectuated.

GENERAL INFORMATION

Florida Statutes require the Town Council hold at least one of two public hearings to adopt a comprehensive plan amendment or zoning amendment ordinance after 5:00 p.m. However, the Statute provides that the time can be changed if a majority plus one of the local governing body elect to have a hearing at another time. Staff is requesting that the Town Council elect to conduct the public hearings on Ordinance No. 2-2019 during the course of the normal Council business. The first reading of the proposed Ordinance will be on February 13, 2019. Second reading is anticipated to be on March 19, 2019. All public hearings may occur before 5:00 p.m.

cc: John C. Randolph, Town Attorney
Jay Boodheshwar, Deputy Town Manager

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Development Review - Other

Agenda Title

Combination Projects and Informal Review at Landmarks Preservation Commission

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated February 4, 2019**
- ▣ **Combo Projects and Informal LPC Review 2 of 2**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

From: Josh Martin, Director of Planning, Zoning & Building

Re: ARCOM/LPC Combination Project Discussion

Date: February 4, 2019

STAFF RECOMMENDATION

Staff recommends that Town Council revise the current ARCOM/LPC Combination Project Criteria be amended to simply state “The Director of Planning, Zoning, and Building shall determine those projects that are unique or unusual in nature to be referred to the ARCOM and/or LPC for review in addition to the required Town Council review.”

GENERAL INFORMATION

Please refer to the attached Criteria for Submission to ARCOM/LPC.

Attachment

cc: Kirk Blouin, Town Manager
Jay Boodheshwar, Deputy Town Manager
Wayne Bergman, Assistant Director of Planning, Zoning, and Building

CRITERIA FOR SUBMISSION TO ARCOM/LPC

INCLUDED IN ARCOM/LPC REVIEW: (Please note: if project is not a landmark, only those proposed variance requests which can be seen from the street will be subject to this procedure)

- Variance to cubic content
- New construction with variances (except in the R-C district where the only variance requested is for a single family home on a non-conforming lot)
- Reconstruction where proposed demolition exceeds 50% of cubic volume
- Additions over 300 sf with at least 3 variances per modification
- Variances which deviate from Worth Avenue Design Guidelines
- Relocation of houses involving variances
- Variances involving changes to lot coverage or landscaped open space in excess of allowable
- Beach cabanas in excess of the square footage allowable
- Point of measurement variances where proposed structure is taller than neighboring structures
- Variances to maximum stories permitted
- Any other project unique or unusual in nature that may be referred by the Mayor and Town Council or the Staff

NOT REQUIRING ARCOM/LPC REVIEW (OPTIONAL)

- 2nd story additions over existing 1st stories or infill additions
- Subdivision of property resulting in non-conformities or non-conforming lots
- Signs/gates/walls/awnings/air conditioning and pool equipment/dock variances
- Variance requests which exceed lot, yard & bulk requirements by 25% or less

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 2-2019 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Definitions And Rules Of Construction, By Adding A Definition Of Public Structure; Modifying The Definition Of Essential Services To Include Town-Owned Municipal Buildings And Structures, And Modifying The Definition Of Lot To Exclude Town-Owned Or Town-Leased Property; At Article IV, Nonconformities, Section 134-416, Continuation; Definition; Intent, To Exempt Town-Owned Municipal Buildings And Structures Which Are At Least Fifty (50) Years Old From Article IV, Nonconformities, Division 3, Buildings And Structures; At Article VI, District Regulations, Sections 134-790, 134-840, 134-890, 144-945, 134-1000, 134-1055, 134-1109, 134-1159, 134-1209, 134-1259, 134-1304 And 134-1354 To Add Essential Services Related To Town-Owned Municipal Buildings And Structures In All Zoning Districts As A Special Exception Use And Renumbering The Special Exception Uses In Those Sections; Article VIII, Supplementary District Regulation, Section 134-1697, Structures Over Lake Worth By Adding “Buildings” Into The Title And To Allow “Essential Services Related To Town-Owned Buildings And Structures” Over Lake Worth; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date

Presenter

ATTACHMENTS:

- ▣ **Memorandum from Josh Martin dated February 5, 2019**
- ▣ **Ordinance No. 2-2019**

TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council meeting on:
February 13, 2019

To: Town Council

From: Josh Martin, Planning, Zoning and Building Director

Re: Consideration of Proposed Zoning Text Amendments regarding Town-Owned Municipal Buildings and Structures in Chapter 134 of the Code of Ordinances.
Ordinance No. 2-2019

Date: February 5, 2019

STAFF RECOMMENDATION

Staff recommends the Local Planning Agency recommend approval and the Town Council approve attached Ordinance No. 2-2019 on first reading.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its December 18, 2018 meeting, considered and unanimously recommended approval with minor modifications the proposed Zoning Code modifications as outlined in Ordinance No. 2-2019.

BACKGROUND

The Town Council, at its December 12, 2018 meeting, considered a list of Staff initiated study items that the Planning and Zoning Commission forwarded to the Council at its November meeting. A zoning text amendment item that was not on the initial list, but which was added by the Town Council, involves a Staff initiated request to look at Zoning Code changes allowing Town-owned municipal buildings and structures west of Lake Trail. Last year the Town changed the Zoning Code to allow “essential services” west of Lake Trail. There are times when other types of Town projects that aren’t at this time defined as “essential services” need to be constructed west of Lake Trail. The Code currently does not allow those buildings and structures.

The Planning and Zoning Commission, at its December 18, 2018 meeting, recommended approval of the changes outlined in add/delete format in Ordinance No. 2-2019. These changes allow Town-owned municipal buildings to be built or rebuilt west of Lake Trail. The minor changes the Commission made to Staff’s recommendation were related to changing the term “site plan and review” to “site plan review” throughout the Code sections and they added the City of Lake Worth to the definition of “public structures.”

In order to bring Town-owned municipal buildings and structures into conformity with the Zoning Code, Ordinance No. 2-2019 does the following:

1. Modifies the definition of “essential services” to include Town-owned municipal buildings and structures;
2. Creates a definition of “public structures” which clarifies that all other governmental agencies’ buildings and structures are public structures;
3. Modifies the definition of “Lot” to clarify that Town-owned municipal buildings and structures are not included in this definition as some of the Town’s buildings and structures are on Lake Worth, west of the Bulkhead Line or mean high water line;
4. Makes “essential services related to Town-owned buildings and structures” a special exception use in all of the zoning districts with the exception of the Beach Area District. As such, those buildings and structures would also require site plan review approval by the Town Council in a quasi-judicial hearing. All other essential services related to utilities and drainage would remain as permitted uses in all zoning districts;
5. Public structures (all other governmental agencies’ buildings and structures) remain as a special exception use in all zoning districts and also require site plan review approval from the Town Council in a quasi-judicial hearing; and
6. All “essential services” as redefined in this proposed ordinance, with the exception of wireless telecommunication towers and distribution electrical sub-stations, would be a special exception use in the Conservation Zoning District.

The proposed amendments still require essential services related to Town-owned municipal building and structures to obtain special exception and site plan review approval from the Town Council, and Architectural or Landmark Commission approval, whichever is relevant, at a public hearing with required public notice and legal advertisement. In addition, the proposed changes do not modify the zoning requirements for all Federal, State, County, City of Lake Worth and City of West Palm Beach projects within the Town’s jurisdiction. Those projects will also require special exception and site plan review approval and Commission approval. The specific changes to sections of the Code are identified in add/delete format in attached Ordinance No. 2-2019.

TOWN ATTORNEY REVIEW

Ordinance No. 2-2019 has been approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Kirk Blouin, Town Manager
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Planning and Zoning Commission

Paul Castro, Zoning Administrator

ORDINANCE NO. 2-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, AS FOLLOWS: AT ARTICLE I, IN GENERAL, SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY ADDING A DEFINITION OF PUBLIC STRUCTURE; MODIFYING THE DEFINITION OF ESSENTIAL SERVICES TO INCLUDE TOWN-OWNED MUNICIPAL BUILDINGS AND STRUCTURES, AND MODIFYING THE DEFINITION OF LOT TO EXCLUDE TOWN-OWNED OR TOWN-LEASED PROPERTY; AT ARTICLE IV, NONCONFORMITIES, SECTION 134-416, CONTINUATION; DEFINITION; INTENT, TO EXEMPT TOWN-OWNED MUNICIPAL BUILDINGS AND STRUCTURES WHICH ARE AT LEAST FIFTY (50) YEARS OLD FROM ARTICLE IV, NONCONFORMITIES, DIVISION 3, BUILDINGS AND STRUCTURES; AT ARTICLE VI, DISTRICT REGULATIONS, SECTIONS 134-790, 134-840, 134-890, 144-945, 134-1000, 134-1055, 134-1109, 134-1159, 134-1209, 134-1259, 134-1304 AND 134-1354 TO ADD ESSENTIAL SERVICES RELATED TO TOWN-OWNED MUNICIPAL BUILDINGS AND STRUCTURES IN ALL ZONING DISTRICTS AS A SPECIAL EXCEPTION USE AND RENUMBERING THE SPECIAL EXCEPTION USES IN THOSE SECTIONS; ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATION, SECTION 134-1697, STRUCTURES OVER LAKE WORK BY ADDING “BUILDINGS” INTO THE TITLE AND TO ALLOW “ESSENTIAL SERVICES RELATED TO TOWN-OWNED BUILDINGS AND STRUCTURES” OVER LAKE WORK; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE

WHEREAS, after public hearings pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended modification to the Code of Ordinances; and

WHEREAS, after public hearing pursuant to notice required by law, the Town Council considered the Planning and Zoning Commission’s Record and Report and all evidence and testimony and as the Local Planning Agency recommended that the Town Council adopt the subject Ordinance; and

WHEREAS, after public hearing 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 requires that the aforesaid Chapter 134, ZONING, of the Code of Ordinances, be 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 I, IN GENERAL, Section 134-2, Definitions and rules of construction, is hereby amended to read as follows:

Sec. 134-2. Definitions and rules of construction.

(a)...

(b) *Definitions* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Rules of construction. For the purpose of this chapter, the regulations are structured so as to be strictly permissive. As such, only those uses and structures which are specifically permitted in the Code of Ordinances are allowed. If there is no specific language in the Code which addresses a use or a structure, then said use or structure is not permitted.

The term "used for" shall include the term "designed for", the term "structure" shall include the term "building", the term "lot" shall include the terms "plot" or "tract", and the term "shall" is mandatory and not permissive.

In the interpretation or application of any provision of this chapter, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulations shall be controlling.

(b) Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

Essential services means public utility facilities related to water supply, telephone, cable television, gas and electrical distribution systems, ~~and~~ town-owned town-operated services such as sanitary sewer, stormwater drainage and solid waste collection and disposal systems, and Town-owned municipal buildings and structures, including any necessary appurtenant structures serving the town, but not including buildings housing employees.

...

Lot means a parcel of land, vacant or occupied. For the purpose of this chapter, the word "lot" shall be taken to mean any number of contiguous lots of record or unplatted parcels of land or portions thereof not separated by a street or public way, upon which one or more principal structures for a single use are erected or are to be erected. When the lot is situated immediately adjacent to the ocean front, for the purpose of this chapter, the east lot line shall be the town's bulkhead line as provided in chapter 62 of this Code or the mean high water line, whichever is most westerly. When the lot is situated immediately adjacent to the waters of Lake Worth, the

west lot line shall be the existing bulkhead wall or mean high water line, whichever is most easterly. The exception to this definition is that Town-owned or Town-leased property is exempt from this definition. The following is an illustration of this definition:

...

Structure, Public means anything constructed, placed or erected on land, submerged land or over water by a Federal, State, County, City of West Palm Beach and City of Lake Worth governmental entities, the use of which requires permanent or temporary location on the land, submerged land or over water, or attachment to something having a permanent or temporary location on or over the land, submerged land, or water.

Section 2. Article IV. NONCONFORMITIES, DIVISION 3 BUILDINGS AND STRUCTURES, Section 134-416, Continuation; definition; intent, is hereby amended to read as follows:

DIVISION 3. - BUILDINGS AND STRUCTURES

Sec. 134-416. - Continuation; definition; intent.

- (a) A building or structure, lawfully in existence at the effective date of the ordinance from which this chapter is derived, which shall be made nonconforming at the passage of this chapter or any applicable amendment thereto, may be continued except as otherwise provided in this article.
- (b) A building or structure is, for the purposes of this chapter, nonconforming if the building or structure or any physical characteristics thereof is not in full compliance with all regulations of the zoning district in which it is situated.
- (c) The intent of this division is to exempt Town-owned municipal buildings and structures which are at least fifty (50) years old from Article IV, NONCONFORMITIES, Division 3, Buildings and Structures.
- (d) It is further the intent that, by the provisions of this chapter or by amendments that may be adopted, there may exist buildings or structures which were lawful before this chapter was adopted or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these nonconforming buildings and structures to exist until they are voluntarily removed, removed by abandonment, or otherwise removed as required by this chapter, but not to encourage their survival. Such ~~(d) It is further the intent of this chapter that nonconforming buildings and structures are allowed to be enlarged, expanded or extended, provided that said enlargement, expansion or extension meets all of the lot yard and bulk regulations for the zoning district in which the building or structure is located and provided that said enlargement, expansion or extension is not used as grounds for adding other buildings or structures prohibited elsewhere, in the same district.~~

Section 3. Article VI, DISTRICT REGULATIONS, Section 134-790, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

Sec. 134-790. Special exception uses.

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-AA large estate residential district are as follows:

- (1) Planned unit development (see article V of this chapter for standards).
- (2) Public structures west of Lake Trail.
- (3) Essential services related to Town-owned municipal buildings and structures.
- (34) Beach houses intended for the use of family and guests.
- (45) Municipally owned and operated parks and recreation areas.
- (6) ~~Reserved~~ Private, social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996...

Section 4. Article VI, DISTRICT REGULATIONS, Section 134-840, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses read as follows:

Sec. 134-840. Special exception uses.

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-A estate residential district are as follows:

- (1) Planned unit development (see article V of this chapter for standards).
- (2) Public structure.
- (3) Essential services related to Town-owned municipal buildings and structures.
- (34) Beach houses intended for the use of family and guests
- (45) Municipally owned and operated parks and recreation areas.
- (6) ~~Reserved~~. Private, social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996

...

Section 5. Article VI, DISTRICT REGULATIONS, Section 134-890, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

Sec. 134-890. Special exception uses.

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-B low density residential district are as follows:

- (1) Planned unit development, PUD(1) (see article V of this chapter for standards).
- (2) Public structures west of Lake Trail.
- (3) Essential services related to Town-owned municipal buildings and structures.
- ...
- (1415) Municipally owned and operated parks and recreation ~~centers~~ areas.

Section 6. Article VI, DISTRICT REGULATIONS, Section 134-945, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

Sec. 134-945. Special exception uses.

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-C medium density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to Town-owned municipal buildings and structures.

...

- (~~14~~15) Municipally owned and operated parks and recreation areas.

Section 7. Article VI, DISTRICT REGULATIONS, Section 134-1000, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

Sec. 134-1000. Special exception uses.

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-D(1) moderate density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to Town-owned municipal buildings and structures.

...

- (~~11~~12) Municipally owned and operated parks and recreation areas.

Section 8. Article VI, DISTRICT REGULATIONS, Section 134-1055, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

Sec. 134-1055. - Special exception uses.

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-D(2) high density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to Town-owned municipal buildings and structures.

...

- (~~17~~18) Municipally owned and operated parks and recreation areas.

Section 9. Article VI, DISTRICT REGULATIONS, Section 134-1109, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

Sec. 134-1109. Special exception uses.

(a) The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:

- (1) Public or private parking lots or storage garages.
- (2) Auto rental lots.
- (3) Residential tenancy above the first floor.
- (4) Private social, swimming, golf, tennis and yacht clubs.
- (5) Service stations.
- (6) Public structures/uses.
- (7) Essential services related to Town-owned municipal buildings and structures.
- ...
- (~~21~~22) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.

Section 10. Article VI, DISTRICT REGULATIONS, Section 134-1159, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

Sec. 134-1159. Special exception uses.

(a) The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-WA Worth Avenue district are as follows:

- (1) Pay parking.
- (2) Public or private parking or storage garages.
- (3) Private social, swimming, tennis or yacht clubs.
- (4) Public structures/uses.
- (5) Essential services related to Town-owned municipal buildings and structures.
- ...
- (~~13~~14) Outdoor seating in conjunction with permitted restaurants where administrative approval is not being requested. See section 134-1161 for additional conditions.
- (~~14~~) Public structures.

Section 11. Article VI, DISTRICT REGULATIONS, Section 134-1209, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

Sec. 134-1209. - Special exception uses.

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-OPI office, professional and institutional district are as follows:

- (1) Public or private parking lot or storage garages.
- (2) Auto rental lot.
- (3) Public structures/uses.
- (4) Essential services related to Town-owned municipal buildings and structures.
- (5) ~~Reserved.~~ Supplemental parking.
- (6) Restaurants, excluding formula restaurants as defined in section 134-2.
-

Section 12. Article VI, DISTRICT REGULATIONS, Section 134-1259, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

Sec. 134-1259. - Special exception uses.

(a) The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-PC planned center district are as follows:

- (1) Public or private parking or storage garages.
- (2) Private, social, swimming, tennis and yacht clubs.
- (3) Public structures/uses.
- (4) Essential services related to Town-owned municipal buildings and structures.
- ...
- (~~16~~17) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.

Section 13. Article VI, DISTRICT REGULATIONS, Section 134-1304, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

Sec. 134-1304. - Special exception uses.

(a) The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-B commercial district are as follows:

- (1) Public or private parking lots or storage garages.
- ...
- (12) Essential services related to Town-owned municipal buildings and structures.

Section 14. Article VI, DISTRICT REGULATIONS, Section 134-1354, Special exception uses, is hereby amended to read as follows:

Sec. 134-1354. Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C conservation district are as follows:

- (1) Municipally owned and operated parks and recreation areas.

- (2) All Essential services, excluding wireless telecommunication towers and distribution electrical substations

Section 15. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1697, Structures over Lake Worth, is hereby amended to read as follows:

Sec. 134-1697. Buildings and Structures over Lake Worth.

With the exception of essential services related to Town-owned municipal buildings and structures, No buildings or structures shall be erected or constructed west of the established bulkhead or bulkhead line or over the water of Lake Worth except docks, which shall meet the requirements in article III, section 62-75, construction specifications. No cooking, sleeping, or business activity shall be permitted or conducted on a dock except as associated with the town's operation of its municipal docks.

Section 17. 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 18. 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 19. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 20. Effective Date.

This Ordinance shall take effect thirty-one days after its adoption, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 13th day of February, 2019, second reading and final adoption on this ____ day of _____, 2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kathleen Dominguez, Town Clerk

Bobbie Lindsay, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 03-2019 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 106, Streets, Sidewalks And Other Public Places, Town Code Of Ordinances, At Article VIII, Section 106 – 290 By Amending The Definition Of “Moveable Fixture” And At Section 106 – 292 By Amending The Title Of The Section And By Adding A New Subsection 106 – 292(17), Temporary Signs / Podiums Designating Passenger Loading Zones; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 23, 2019 from Wayne Bergman, Assistant Director of Planning, Zoning & Building**
- ▣ **Ordinance No 03-2019**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

Via: Josh Martin, Director of Planning, Zoning & Building

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

Re: Proposed Changes to Chapter 18 - Buildings & Building Regulations; Chapter 106 - Streets, Sidewalks, and Other Public Places; Chapter 134 – Zoning; and Administrative Amendments to the Florida Building Code
First Readings – Ordinances No. 03-2019 (Chapter 106), No. 04-2019 (Chapter 18), and No. 05-2019 (Chapter 134)

Date: January 23, 2019

STAFF REQUEST & RECOMMENDATION

Staff requests that the Town Council review the proposed changes to Chapter 18 (which includes moving sections out of Chapter 18 and into Chapter 106 and Chapter 134) and to the Town's Administrative Amendments to the Florida Building Code. Staff further recommends that the Town Council approve Ordinances No. 03-2019 (Chapter 106), No. 04-2019 (Chapter 18), and No. 05-2019 (Chapter 134) on First Reading.

GENERAL INFORMATION

Several changes are underway and proposed to improve efficiency and to provide a higher level of customer service in the Planning, Zoning & Building Department, and more specifically, the Building Division.

Phase I - Since December 18, 2018, staff has rolled out some simple changes relating to contractor self-certifications for minor A/C replacements, water heater replacements, and reroofing projects. We issued a revised interpretation on the applicability of the Florida Energy Conservation Code on window and door replacement projects, which should immediately benefit property owners. In addition, we created a simple Certificate of Occupancy checklist that can be used by owners, contractors, and staff in closing out new construction projects.

Phase II - The next phase of changes to improve efficiency and customer service will come in the form of simplifying and consolidating the numerous permits required on any construction project to just one permit per project. This is a bit more time consuming proposition, as the current EDEN software system was designed and set up to require a myriad of permits and sub-permits for any type of project. Example – a new swimming pool may necessitate seven (7)

different permits – site plan, building, electrical, plumbing, gas, mechanical, and right-of-way. We are currently dismantling this existing bureaucracy and we should be ready to roll out the one permit per project in about a month or so. This consolidated solution will free up staff and contractor time and allow a very easy “snap shot” view of a project at any time for anyone interested [without the need to review multiple independent permits].

Neither of Phase I or Phase II changes required any change in Town code. The changes were easily implemented with minor changes in department policies, code interpretations, and the creation of a few new forms.

Phase III - Other proposed changes will require code changes. Chapter 18 – Buildings and Building Regulations, was thoroughly reviewed over the last month. Several sections of Chapter 18 are actually redundant repetitions of code language found elsewhere, such as in the Florida Statutes and the Florida Building Code (FBC). Chapter 18 has been updated throughout with the redundant sections removed or modified. The more significant changes are the proposal to return the Building Board of Adjustment and Appeals to this Chapter and the proposed moving of sections relating to temporary podiums into Chapter 106 – Streets, Sidewalks, and Other Places, and relating to signage into Chapter 134 Zoning.

Another major proposal, part of the proposed Chapter 18 changes, is to address the Town’s restrictive Administrative Amendments to the Florida Building Code. Administrative Amendments (“Amendments”) are local revisions made to the administrative chapters of the Florida Building Code. This is a process that is done throughout the state and is actually very common, as many building officials over time have developed their own unique administration of the building departments that usually exceeds state law. The Amendments are popular to certain building officials [and municipalities] as it increases their abilities to regulate staff, impose staff qualifications, control contractors and owners, limit “owner / builders”, access to private properties, mandate additional steps and procedures for the issuance of permits, create new inspections, mandate testing and product evaluations, regulate certificates of occupancy, etc. The Amendments, at one time, helped building departments deal with former weak building codes [CABO and SBCC]. However, with the adoption of the Florida Building Code in 2001, and with the periodic code updates to the Florida building Code prepared by the International Code Council (ICC), the administrative sections found in today’s code books are sufficient. The Amendments are no longer needed for the department to do its job in administering and enforcing the provisions of the building code. The current Town Administrative Amendments are 60 pages long and completely replace and over-ride Chapter 1 of the Florida Building Code.

In staff’s opinion, the Amendments are not as relevant as they once were and are unfriendly and restrictive to business. Now all of the regulations that were once found only in Administrative Amendments are actually provided in the Chapter 1’s of the Florida Building Code, the FBC Residential Code, and the FBC Existing Building Code. Staff has found most of the current Town Amendments to be irrelevant, redundant, repetitious, and restricting. The proposed Amendments to the Florida Building Code Chapter 1’s strike out more than 95% of the current Amendments, thereby shortening the length to about 3 pages, return the Annual Facility Permit section [which would be helpful to many commercial building owners], and place the activities of the building division in full compliance with Florida Statutes and the Florida Building Code.

Collectively three (3) ordinances are required to enact the proposed changes to Chapter 18. One to amend Chapter 18 and to adopt the proposed [greatly reduced] Administrative Amendments to the Florida Building Code – Ordinance 04-2019; Two to adopt the sections moving from Chapter 18 into Chapter 106 – Ordinance 03-2019; and Three to adopt the sections moving from Chapter 18 into Chapter 134 – Ordinance 05-2019.

FUNDING/FISCAL IMPACT

No anticipated Impact to the General Fund, although it will be necessary to return to the Town Council with a revised Master Fee Schedule amendment to deal with the consolidation of multiple permits into one permit (sub-permits currently generate \$79 each). The goal would be to remain revenue-neutral with this change, or to possibly increase revenue.

STRATEGIC PLAN

The changes to the Building Division, both those underway at this time and those proposed, are consistent with the Town's Strategic Plan, as the changes will help the Department become part of a more Responsive Town Government and will improve the Resident's Quality of Life by streamlining the Department, reducing bureaucracy and simplifying the building process.

COMPREHENSIVE PLAN

Consistent with the Town's Comprehensive Plan and with Florida Statute 163 (Florida's Community Planning Act).

SPECIAL CONSIDERATIONS

It is acknowledged that the proposed ordinances could follow a more typical path and first be reviewed by the Ordinance, Rules and Standards Committee and the Chapter 134 changes may be reviewed by the Planning and Zoning Board prior to Town Council consideration. However, since the changes are non-substantive and are intended to eliminate self-imposed bureaucracies, staff believes it is in the community's best interest to expedite the proposed changes.

Ordinance No. 03-2019 (Chapter 106), Ordinance No. 04-2019 (Chapter 18), and Ordinance No. 05-2019 (Chapter 134) are ready to be approved on First Reading.

Attachments
WRB

ORDINANCE NO. 03-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 106, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, TOWN CODE OF ORDINANCES, AT ARTICLE VIII, SECTION 106 – 290 BY AMENDING THE DEFINITION OF “MOVEABLE FIXTURE” AND AT SECTION 106 – 292 BY AMENDING THE TITLE OF THE SECTION AND BY ADDING A NEW SUBSECTION 106 – 292(17), TEMPORARY SIGNS / PODIUMS DESIGNATING PASSENGER LOADING ZONES; 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 106, Street, Sidewalks and Other Public Places, of the Town Code of Ordinances, is hereby amended at Article VIII, Moveable Fixtures Within the Right-of-Way, Section 106 – 290, Definitions, by amending the definition of “Moveable Fixture to read as follows:

Chapter 106, Article VIII, Section 106 – 290, Definitions, “Moveable Fixture” – Any newsrack, modular newsrack, bench, temporary sign, temporary podium, or other non-attached fixture.

Section 2. Chapter 106, Street, Sidewalks and Other Public Places, of the Town Code or Ordinances, is hereby amended at Article VIII, Moveable Fixtures Within the Right-of-Way, Section 106 – 292, Standards for Newsrack and Modular Newsracks, Including Maintenance, Installation, and Locations. by amending the section title to read as follows:

Section 106 – 292. Standards for Newsracks, Modular Newsracks, Temporary Signs and Temporary Podiums Including Maintenance, Installation, and Locations.

Section 3. Chapter 106, Street, Sidewalks and Other Public Places, of the Town Code or Ordinances, is hereby amended at Article VIII, Moveable Fixtures Within the Right-of-Way, Section 106 – 292, Standards for Newsrack and Modular Newsracks, Including Maintenance, Installation, and Locations by adding the following new subsection (17) to read as follows:

Section 106 – 292, Standards for Newsracks and Modular Newsracks, Temporary Signs and Temporary Podiums Including Maintenance, Installation and Location.

(17) Temporary signs/podiums designating passenger loading zones.

(a) Notwithstanding any sections of this article to the contrary, temporary signs/podiums may be permitted to designate passenger loading zones in the commercial areas of the town, subject, however, to the following regulations:

(1) One passenger loading zone sign/podium shall be permitted adjacent to a passenger loading zone demarcated by the town for purposes of loading and off loading passengers.

(2) The sign/podium shall be approved by the town and shall be no larger than 24 inches wide and 19 inches deep and shall contain the words "Passenger Loading" and the name of the commercial establishment in addition to the name of the valet operator providing the service.

(3) Only one such sign/podium shall be authorized for display for each commercial establishment adjacent to a passenger loading zone.

(4) The signs/podium shall not be placed upon the paved right-of-way of the town but may be placed on the sidewalk or grass in a manner so as not to impede or impair the flow of pedestrian traffic on the sidewalk.

(5) The sign/podium may be placed only during those times that the passenger loading zone is designated for use as a passenger loading zone.

(b) No sign/podium other than the official sign described above is authorized for the purpose of designating passenger loading zone areas. The placement of any such sign/podium or of the use of the passenger loading sign/podium described herein in a manner contrary to the terms of this section shall be grounds for the town to confiscate the signs/podium and revoke the annual valet permit.

Section 4. 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 5. 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 6. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 7. 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 13th day of February, 2019; and for the Second and Final Reading on this _____ day of _____, 2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kathleen Dominguez, Town Clerk

Bobbie Lindsay, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 04-2019 - An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 18, Buildings And Building Regulations, Town Code Of Ordinances; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated January 23, 2019 from Wayne Bergman, Assistant Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 4-2019**
- ▣ **Chapter 18**
- ▣ **Amendments to Chapter 1**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

Via: Josh Martin, Director of Planning, Zoning & Building

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

Re: Proposed Changes to Chapter 18 - Buildings & Building Regulations; Chapter 106 - Streets, Sidewalks, and Other Public Places; Chapter 134 – Zoning; and Administrative Amendments to the Florida Building Code
First Readings – Ordinances No. 03-2019 (Chapter 106), No. 04-2019 (Chapter 18), and No. 05-2019 (Chapter 134)

Date: January 23, 2019

STAFF REQUEST & RECOMMENDATION

Staff requests that the Town Council review the proposed changes to Chapter 18 (which includes moving sections out of Chapter 18 and into Chapter 106 and Chapter 134) and to the Town's Administrative Amendments to the Florida Building Code. Staff further recommends that the Town Council approve Ordinances No. 03-2019 (Chapter 106), No. 04-2019 (Chapter 18), and No. 05-2019 (Chapter 134) on First Reading.

GENERAL INFORMATION

Several changes are underway and proposed to improve efficiency and to provide a higher level of customer service in the Planning, Zoning & Building Department, and more specifically, the Building Division.

Phase I - Since December 18, 2018, staff has rolled out some simple changes relating to contractor self-certifications for minor A/C replacements, water heater replacements, and reroofing projects. We issued a revised interpretation on the applicability of the Florida Energy Conservation Code on window and door replacement projects, which should immediately benefit property owners. In addition, we created a simple Certificate of Occupancy checklist that can be used by owners, contractors, and staff in closing out new construction projects.

Phase II - The next phase of changes to improve efficiency and customer service will come in the form of simplifying and consolidating the numerous permits required on any construction project to just one permit per project. This is a bit more time consuming proposition, as the current EDEN software system was designed and set up to require a myriad of permits and sub-permits for any type of project. Example – a new swimming pool may necessitate seven (7)

different permits – site plan, building, electrical, plumbing, gas, mechanical, and right-of-way. We are currently dismantling this existing bureaucracy and we should be ready to roll out the one permit per project in about a month or so. This consolidated solution will free up staff and contractor time and allow a very easy “snap shot” view of a project at any time for anyone interested [without the need to review multiple independent permits].

Neither of Phase I or Phase II changes required any change in Town code. The changes were easily implemented with minor changes in department policies, code interpretations, and the creation of a few new forms.

Phase III - Other proposed changes will require code changes. Chapter 18 – Buildings and Building Regulations, was thoroughly reviewed over the last month. Several sections of Chapter 18 are actually redundant repetitions of code language found elsewhere, such as in the Florida Statutes and the Florida Building Code (FBC). Chapter 18 has been updated throughout with the redundant sections removed or modified. The more significant changes are the proposal to return the Building Board of Adjustment and Appeals to this Chapter and the proposed moving of sections relating to temporary podiums into Chapter 106 – Streets, Sidewalks, and Other Places, and relating to signage into Chapter 134 Zoning.

Another major proposal, part of the proposed Chapter 18 changes, is to address the Town’s restrictive Administrative Amendments to the Florida Building Code. Administrative Amendments (“Amendments”) are local revisions made to the administrative chapters of the Florida Building Code. This is a process that is done throughout the state and is actually very common, as many building officials over time have developed their own unique administration of the building departments that usually exceeds state law. The Amendments are popular to certain building officials [and municipalities] as it increases their abilities to regulate staff, impose staff qualifications, control contractors and owners, limit “owner / builders”, access to private properties, mandate additional steps and procedures for the issuance of permits, create new inspections, mandate testing and product evaluations, regulate certificates of occupancy, etc. The Amendments, at one time, helped building departments deal with former weak building codes [CABO and SBCC]. However, with the adoption of the Florida Building Code in 2001, and with the periodic code updates to the Florida building Code prepared by the International Code Council (ICC), the administrative sections found in today’s code books are sufficient. The Amendments are no longer needed for the department to do its job in administering and enforcing the provisions of the building code. The current Town Administrative Amendments are 60 pages long and completely replace and over-ride Chapter 1 of the Florida Building Code.

In staff’s opinion, the Amendments are not as relevant as they once were and are unfriendly and restrictive to business. Now all of the regulations that were once found only in Administrative Amendments are actually provided in the Chapter 1’s of the Florida Building Code, the FBC Residential Code, and the FBC Existing Building Code. Staff has found most of the current Town Amendments to be irrelevant, redundant, repetitious, and restricting. The proposed Amendments to the Florida Building Code Chapter 1’s strike out more than 95% of the current Amendments, thereby shortening the length to about 3 pages, return the Annual Facility Permit section [which would be helpful to many commercial building owners], and place the activities of the building division in full compliance with Florida Statutes and the Florida Building Code.

Collectively three (3) ordinances are required to enact the proposed changes to Chapter 18. One to amend Chapter 18 and to adopt the proposed [greatly reduced] Administrative Amendments to the Florida Building Code – Ordinance 04-2019; Two to adopt the sections moving from Chapter 18 into Chapter 106 – Ordinance 03-2019; and Three to adopt the sections moving from Chapter 18 into Chapter 134 – Ordinance 05-2019.

FUNDING/FISCAL IMPACT

No anticipated Impact to the General Fund, although it will be necessary to return to the Town Council with a revised Master Fee Schedule amendment to deal with the consolidation of multiple permits into one permit (sub-permits currently generate \$79 each). The goal would be to remain revenue-neutral with this change, or to possibly increase revenue.

STRATEGIC PLAN

The changes to the Building Division, both those underway at this time and those proposed, are consistent with the Town's Strategic Plan, as the changes will help the Department become part of a more Responsive Town Government and will improve the Resident's Quality of Life by streamlining the Department, reducing bureaucracy and simplifying the building process.

COMPREHENSIVE PLAN

Consistent with the Town's Comprehensive Plan and with Florida Statute 163 (Florida's Community Planning Act).

SPECIAL CONSIDERATIONS

It is acknowledged that the proposed ordinances could follow a more typical path and first be reviewed by the Ordinance, Rules and Standards Committee and the Chapter 134 changes may be reviewed by the Planning and Zoning Board prior to Town Council consideration. However, since the changes are non-substantive and are intended to eliminate self-imposed bureaucracies, staff believes it is in the community's best interest to expedite the proposed changes.

Ordinance No. 03-2019 (Chapter 106), Ordinance No. 04-2019 (Chapter 18), and Ordinance No. 05-2019 (Chapter 134) are ready to be approved on First Reading.

Attachments
WRB

ORDINANCE NO. 04-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, TOWN CODE OF ORDINANCES; 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 18, Buildings and Building Regulations, of the Town Code of Ordinances, is hereby amended in its entirety, as shown on Exhibit “A”, attached.

Section 2. The Town’s Administrative Amendments to Chapter 1, Scope and Administration of the Florida Building Code, is hereby amended in its entirety, as shown on Exhibit “B”, attached.

Section 3. 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 4. 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 5. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 6. 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 13th day of February, 2019; and for the Second and Final Reading on this _____ day of _____, 2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kathleen Dominguez, Town Clerk

Bobbie Lindsay, Town Council Member

EXHIBIT “A”

CHAPTER 18 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. - IN GENERAL

Sec. 18-1. - Datum plane adopted.

The official datum plane to be used in the town is hereby declared to be the National Geodetic Vertical Datum (NGVD). The secondary datum plane to be used in the town is hereby declared to be the North American Vertical Datum (NAVD). Reference to NAVD should be included with a local conversion table when NGVD is provided on documents for town review.

Sec. 18-2. - Landscaping; maintenance where used for screening.

In any instance where hedges or other landscaping have been or are installed in the future, to provide screening for off-street parking or any other purpose, the owner of any such property is required to maintain any such hedge or other landscaping in accordance with the approved landscape plan and in the manner in which hedges and landscaping of a similar nature are required to be maintained as specified elsewhere in this Code.

Sec. 18-3. - On-job toilet facilities, required.

It shall be the duty of the owner or contractor on any construction work in the town requiring a permit to provide and have available on the premises where such construction is taking place such toilet facilities for all workers during the entire construction period as are deemed adequate by the building official. If a temporary building is used for that purpose, its construction, location and operation shall be approved by the building official. Such temporary toilet facility shall be effectively sight-screened from all roads, streets, etc., by walls, hedges, buildings or other methods as approved by the building official.

Secs. 18-4—18-35. - Reserved.

ARTICLE II. - ADMINISTRATION OF PLANNING, ZONING AND BUILDING

DIVISION 1. – GENERALLY

Sec. 18-36. - Penalties.

Any person violating the provisions of any section of this article shall upon conviction by the code enforcement board be fined as provided in section 2-430 and/or section 2-439. Nothing herein shall preclude prosecution under section 1-14.

Secs. 18-37—18-60. - Reserved.

DIVISION 2. - BUILDING OFFICIAL

Sec. 18-61. - Position established.

There is established the position of building official of the town, who shall report to the director of planning, zoning and building. The building official shall be certified as a building code administrator by the State of Florida. Alternatively, the director of planning, zoning and building may designate a qualified consultant or qualified person employed by a consultant to serve in the capacity of building official provided the person or firm has been selected in accordance with adopted town procedures.

Sec. 18-62. - Duties.

The building official shall be the administrative head of the building division of the planning, zoning and building department and shall be responsible for its operation and administration. In addition to the duties prescribed elsewhere in this Code, or the ordinances of the town, or in the codes and standards adopted by the town, the building official shall:

- (1) Issue all permits for the erection, repair or removal of any building or structure in the town, and shall keep on file record copy of every permit issued and applications upon which the permits were granted.
- (2) Subject to the ordinances, rules and regulations of the town council and ordinances of the town, inspect all buildings and structures in the course of erection, removal or repair, for the erection, removal and repair of which a permit is required by the ordinances of the town.

Secs. 18-63—18-85. - Reserved.

DIVISION 3. - PLANS AND PERMITS

Sec. 18-86. – Reserved.

Sec. 18-87. - Floor elevation in low areas.

- (a) No residence shall be constructed in any areas within the town that are subject to overflow and to the accumulation thereon of water unless the first floor of such residence shall be 18 inches or more above the grade established by a Florida registered professional engineer and approved by the town engineer or his or her designee, and in conformance with chapter 134. No garage shall be constructed incident to the residence unless the floor of such garage shall be six inches above the grade established by Florida registered professional engineer and approved by the town engineer or his or her designee, and in conformance with chapter 134; however, exceptions to the elevation required for the floor of such garages or residences may be granted, if suitable drainage, other than natural, is provided, with the written approval of the town engineer and building official.
- (b) No building permit for the construction of any residence or garage incident thereto in the areas described in subsection (a) of this section shall be issued by the building official unless the plans and specifications therefore show compliance with this section.
- (c) The provisions of this section shall not be applicable in those areas of the town subject to regulation under chapter 50, and elevations in such areas shall comply with that chapter rather than this section.

(d) All properties must retain or properly drain (as approved by the town engineer) all soil and water contained on or from the property. All modifications to property which may alter the drainage plan must be approved by the town, and a stormwater management agreement be recorded in the public records of the county setting forth restrictions relating to the property. Whenever the elevation of the existing grade is raised, the building official may require a retaining wall or other structure be installed to prevent the soil and water from their property adversely affecting neighboring properties. Upon site clearing, installation of an engineered storm water management system designed in accordance with the town's adopted level of service, shall commence according to applicable best management practices to retain stormwater and prevent soil erosion into the roadway or adjacent properties, and shall be maintained throughout the project. If the stormwater management plan includes a provision requiring installation of retention walls, these shall be completed prior to the stem wall foundation pour, or at a similar point in the construction process.

Sec. 18-88. - Submission, approval of retaining wall plans.

No person shall construct, modify or repair any retaining walls in the town without having first submitted to the building official detailed plans and specifications for the construction of such retaining walls, which detailed plans and specifications shall bear the approval of a professional engineer registered in the state. Upon review of the plans, the applicant may be required to submit a stormwater management plan. Retaining walls shall not occupy easements or road rights of way.

Sec. 18-89. - Permits to move buildings.

No permit shall be issued pursuant to the building code if it entails the moving of a building or structure along or across any street, sidewalk or other public way unless the issuance of such permit has first been approved by the town manager on recommendation of the building official and the director of public works. The manager may attach such reasonable conditions to his or her approval as deemed in the public interest.

Sec. 18-90. - Acts prohibited in course of moving buildings.

It shall be unlawful for any person engaged in moving any structure on or over any street or public way to:

- (1) Damage or interfere with any wires, trees, posts or other structures of any kind;
- (2) Do any injury or damage to any person or property;
- (3) Unreasonably obstruct or interfere with the traffic on any street;
- (4) Fail to obey any ordinance, rule or regulation relating to warning signals and barriers;
or
- (5) Fail and refuse to replace and repair any street, pavement or sidewalk that the town may permit to be disturbed.

Secs. 18-91—18-110. - Reserved.

DIVISION 4. - COMPLIANCE WITH TOWN'S RIGHT-OF-WAY MANUAL

Sec. 18-111. - Compliance with town's right-of-way manual.

Any person or entity receiving a permit pursuant to the provisions of this chapter, to the extent the public rights-of-way and easements of the town are used in conjunction with said project for parking and/or any other purposes, shall be required to comply with the department of public works, engineering division, standards applicable to public rights-of-way and easements, as adopted by Ordinance No. 11-94 and amended from time to time by resolution, a copy of which is on file and may be obtained from the department of public works.

DIVISION 5. - PROHIBITION ON DEMOLITION

Sec. 18-112. - Prohibition on demolition.

During the period of the year commencing on the Monday prior to Thanksgiving of each year and ending March 31 of the following year, including Good Friday, demolition of structures shall be prohibited and no permits for demolition of structures shall be issued by the Town during said periods. Demolitions of the interiors of structures are not prohibited during this time provided the demolition and the removal of debris from said demolition is completed in three days or less. Exceptions may be allowed by the town council for the demolition of accessory structures, when demolition shall be determined by the town council not to create a nuisance to surrounding properties, or in circumstances determined an emergency by the town council. In the event of an application for waiver to this prohibition on demolition, notice shall be filed with the town at least 45 days prior to the town council meeting at which such application is to be considered and notice shall be given to all property owners as listed with the property appraiser's office within 300 feet of the property lines on which the demolition is proposed to occur.

Secs. 18-113—18-145. - Reserved.

ARTICLE III. - ARCHITECTURAL REVIEW

DIVISION 1. - GENERALLY

Sec. 18-146. - Statement of findings and purpose.

- (a) The town council has found that Palm Beach is internationally known and has become a worldwide synonym for beauty, quality and value.
- (b) In recognition of the fact that beautiful communities can be created only through a deliberate search for beauty on the part of the community leadership, architects, planners, realtors and the building industry, backed by an appreciation of the visual world by the people, the town council has created the architectural commission.
- (c) Public action for improving community appearance, as embodied in the architectural commission, will provide the ultimate designers of individual structures with the larger

contexts in which their particular works will be viewed. Since the beauty of a community involves the aesthetic quality of all one sees in moving about, it goes far beyond the design of individual architectural facades.

(d) The comprehensive plan and zoning codes are the most powerful legal enforcement of an overall urban concept, but alone they do not create beauty, aesthetic order, or amenity. The task of the architectural commission is therefore to preserve various elements of urban beauty and require that new projects enhance the existing elements.

(e) The essential foundation of beauty in communities is harmony. The plan for achieving beauty must grow out of special local characteristics of site, aesthetic tradition and development potential. Some local areas of natural beauty are the beaches, ocean and intracoastal waterway. The vistas and visual delight of these should be allowed only to be enhanced. It is the intent of this article to achieve a pleasant and comprehensive cohesiveness in community development.

Secs. 18-147—18-165. - Reserved.

DIVISION 2. - ARCHITECTURAL COMMISSION

Sec. 18-166. - Membership; appointment.

(a) The architectural commission shall consist of seven members. At least two members, but not more than three members, of such commission shall be registered architects in the state. In the event there are in the discretion of the town council, no bona tide applicants who are registered architects in the State of Florida, the town may solicit and appoint architects registered outside the State of Florida to fill one of the architect seats. In addition to the two registered architects, one member of such commission shall be a landscape architect, if available. However, in the event a landscape architect is not available, then one member of such commission shall be a master gardener or someone with equivalent expertise in landscape.

(b) The members of such commission shall be appointed by the town council, and the commission shall designate a chair and a vice-chair.

Sec. 18-167. - Qualifications of members.

(a) All members of the architectural commission shall be specially qualified by reason of training or experience in art, architecture, community planning, land development, real estate, landscape architecture, or other relevant business or profession, or by reason of civic interest and sound judgment to judge the effects of a proposed building upon the desirability, property values and development of surrounding areas.

(b) Each member of the commission is required to be a registered voter in the town; however, one member may be a non-resident of the town in the event it is determined by the town council that said individual has a special expertise as a State of Florida licensed architect or landscape architect that will benefit the commission and the town.

Sec. 18-168. - Terms.

(a) Members of the architectural commission shall be appointed for terms of three years from and after the expiration of each term. If a vacancy shall occur otherwise than by the expiration of a term, it shall be filled by the town council for the unexpired term.

(b) No member of the commission may serve more than two consecutive terms; but this subsection shall not preclude any person from being appointed to a successive term, subsequent to the serving of two consecutive three-year terms, if such person has ceased to be a member of the commission for a period of time not less than nine months. Further, if a member has been appointed to fill a vacant term of office, which term is for a period of time less than 50 percent of a full three-year term, that person shall not be precluded from serving for two successive three-year terms. Additionally, although an alternate member may not serve more than two three-year terms as an alternate, the alternate member may be appointed to serve as a regular member of the commission and shall be entitled to serve two full three-year terms thereafter.

Sec. 18-169. - Removal provisions; absences.

All members of the architectural commission, including alternates, serve at the pleasure of the town council and may be removed from the commission with or without cause. Members of the commission shall be automatically removed for lack of attendance, which is defined as failure to attend three regularly scheduled meetings in any one calendar year. Excused absences due to illness, a death in the family, religious holidays and requirements of legal process shall not constitute lack of attendance. The member shall notify the director of planning, zoning and building in writing of the board member's intended absence at least seven business days prior to the regularly scheduled meeting. Failure to do so, absent an emergency which prevents timely notice, will cause the absence to be unexcused. Excused absences shall be entered into the minutes at the next regularly scheduled meeting of the commission after the absence. A member may petition the town council, in the event of extenuating circumstances, to excuse an absence otherwise not automatically excused pursuant to the provisions of this Code.

Sec. 18-170. - Conflicts of interest.

(a) If excessive conflicts of interest arise during any one calendar year, the architectural commission member shall be automatically removed from the commission. Excessive conflicts of interest are defined as five or more conflicts of interest in any one calendar year. Continuing conflicts of interest on a single application, once declared, shall not be counted as additional conflicts of interest. This rule shall apply from the date of adoption to the end of the 2013 calendar year and shall be applicable, thereafter, on a calendar year basis.

(b) If a member of the commission has a conflict of interest resulting from that member or the member's firm representing an applicant before the commission, it shall be the duty and obligation of the member having the conflict to comply with the following requirements:

(1) Notification of the conflict of interest shall be noted on the application form at the time of the submission of the application. The conflict will be identified on the commission agenda.

(2) The member having the conflict of interest shall not participate in the discussion and shall leave the chamber until the item is concluded.

(3) The member having the conflict shall not present the project to the commission, except in a case where the commission member is a sole practitioner who is unable to represent a client through an associate.

Sec. 18-171. - Alternate members.

The town council may, in its discretion, appoint three alternate members to the architectural commission, who shall serve when called upon by the chair of the commission in the absence of any regular member. Alternate members are required to attend all meetings of the commission and are subject to the same attendance requirements as regular members with the same provisions relating to excused absences being applicable. Alternate members shall not vote on any matter unless they are sitting to fill the position of a regular member of the commission who is absent or in the event of a conflict of interest; however, alternate members may participate in the discussion of matters coming before the commission whether they are sitting as voting members or not.

Sec. 18-172. - Rules.

The architectural commission shall adopt rules and regulations for the conduct of its business. Four voting members shall constitute a quorum. The affirmative or negative vote of a majority of the entire membership of the commission shall be necessary for it to take action.

Sec. 18-173. - Record of proceedings.

The records of all proceedings and the basis for all findings shall be available to the town council and to the public.

Sec. 18-174. - Meetings.

The architectural commission shall meet monthly and may schedule additional meetings in order to process applications within the time required by this Code. All meetings shall be open to the public.

Sec. 18-175. - Issuance of permits.

(a) Approval of request. Unless requests for demolition (request shall be reviewed considering proposed date to demolish, construct, and future use of new construction), building and landscaping plans, elevations and proposed signs for buildings or structures, or alterations thereto, including reroofing that involves a significant change in materials or appearance, have been approved by the architectural commission, or by the town council on appeal, no permit shall be issued for any such demolition, building, structure, sign, or other development of property, or appurtenances or alterations thereto. In addition to the criteria outlined in section 18-205, such requests will be reviewed in accordance with the procedures set forth in the ARCOM Project Designation Manual, as adopted by the town council by resolution and amended by the town council from time to time by resolution after review and recommendation by the architectural commission.

(b) Prior to approval of a building permit for construction for all primary structures other than single family structures in the town, the owner/applicant shall provide financial proof of ability to complete the construction. In addition, the owner/applicant shall provide to the town a financial guarantee in writing executed by all parties in interest to the property, including mortgagees, if any, in an amount to be adopted by resolution of the town council and amended by adoption of a resolution by the town council representing a percentage of the estimated cost of demolition of the construction when complete as verified by the town's building official, as well as the cost of returning the property to grade, and to be sodded, landscaped and irrigated. The financial guarantee shall provide that in the event the construction is not completed within 12 months of the maximum time permitted for construction as set forth in section 18-237 of this Code, the town may call in the financial guarantee which shall be secured in the form of a bond, cash deposit or clean, irrevocable letter of credit, and cause the demolition of the structure permitted herein, including bringing the property back to grade, sodded, irrigated and landscaped as required. The financial guarantee shall be recorded in the public records of Palm Beach County, Florida, so as to provide notice of said guarantee to all who may have or obtain an interest in the property. This subsection, requiring a financial guarantee, shall apply only to new construction on vacant lots and shall not be required for restoration or renovation of existing structures or structures accessory to an existing primary structure.

(c) Exceptions.

(1) When in the opinion of the planning, zoning and building department director or his or her designee, the improvements contemplated in an application for a construction permit are minimal in nature, and are not included in the listing of projects subject to architectural review contained within the ARCOM Project Designation Manual, and such improvements do not defeat the purposes and objectives of this article, he or she may grant the permit without requiring architectural review, notwithstanding any other provisions of this section or this article. The decision of the planning, zoning and building department director or his/her designee shall be subject to appeal made to the town council in accordance with the provisions of section 18-177.

(2) Individual structures and/or properties that have been designated or are under consideration or in an historic district are subject to review by the landmark preservation commission and shall not be subject to review by the architectural commission.

Sec. 18-176. - Building relocation.

The architectural commission shall review all plans submitted with applications for moving buildings within or into the town. Color photographs in a format specified by the town, shall be included with the application showing all elevations, the structure proposed to be moved, the proposed site, and the buildings adjacent to the proposed site. The commission shall determine whether the building proposed to be moved will fit harmoniously into the neighborhood wherein it is to be located. It may approve, approve with conditions, or disapprove the issuance of a permit to move such building.

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.

Secs. 18-178—18-200. - Reserved.

DIVISION 3. - PROCEDURE AND REQUIREMENTS

Sec. 18-201. - Preliminary sketch; site plan; final plan.

(a) Preliminary sketches of the design of a proposed structure or major alteration may be submitted to the planning, zoning and building department director or his/her designee for informal review so that an applicant may be informed of architectural commission policies prior to preparing working drawings.

(b) The applicant for a building permit, when subject to the requirements of this article, shall submit an application to, and on a standard form prescribed by, the planning, zoning and building department director or his/her designee, at least 35 days prior to the next regular meeting date for those projects classified as major projects or minor projects with notice as designated within the ARCOM Project Designation Manual. Required submittal materials also include a site plan as defined by section 18-207 and exterior elevations and such other data as will assist the architectural commission and the planning, zoning and building department director or his/her designee in evaluating the proposed building or structure or major alteration. Final plans and elevations shall be drawn to scale and submitted in a format as specified by the planning, zoning and building department and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this Code. The first sheet of each set of plans shall give the street address of the work and the name and address of the owner and the person who prepared them. The final plot plan shall conform to section 18-207. Plan revisions, if made, shall be submitted to the town no later than noon, nine days prior to the architectural commission meeting at which they will be

considered. Only minor changes from those submitted may be presented and considered at that meeting. Work not thus presented may be rejected by the planning, zoning and building department director or his/her designee.

(c) The applicant for a building permit, when subject to the requirements of this article, shall submit an application to, and on a standard form prescribed by, the planning, zoning and building department director or his/her designee at least 15 days prior to the next regular meeting date in the case of improvements classified as minor projects-no notice within the ARCOM Project Designation Manual. Required submitted materials also include a site plan as defined by section 18-207, and exterior elevations and such other data as will assist the architectural commission and the planning, zoning and building department director or his/her designee in evaluating the proposed building or structure or minor alteration. Final plans and elevations shall be drawn to scale and submitted in a format as specified by the planning, zoning and building department and shall be of sufficient clarity to indicate the nature and extent of the work proposed and shown in detail that it will confirm to the provisions of this Code. The first sheet of each set of plans shall give the street address of the work and the name and address of the owner and the person who prepared them. The final plot plan shall confirm to section 18-207. Work not thus presented may be rejected by the planning, zoning and building department director or his/her designee.

Sec. 18-202. - Notice; photographs.

An applicant for a building permit shall comply with the following:

(1) The applicant whose project is classified as a major project shall provide notice on a standard form prescribed by the town, together with a copy of the application and graphic depiction showing a building and landscaping elevation of the intended project, by mail to property owners within a 250 foot radius of the subject property, the cost of which shall be borne solely by the applicant. Such notice shall be sent to the nearby property owners at least 30 days prior to the scheduled meeting. Applicant shall sign and submit a notice affidavit to the town verifying compliance with this section.

(2) The applicant whose project is classified as a minor project-with notice shall provide notice to owners of the adjacent properties which share, or would share but for an intervening right-of-way, a contiguous border with the subject property, the cost of which shall be borne solely by the applicant. Such notice shall be sent at least 30 days prior to the scheduled meeting.

(3) The applicant shall provide digitized color photographs of the facades facing public or private way (alleys not included) of the adjacent buildings or structures 200 feet in either direction from the proposed construction on both sides of the public or private way (alleys not included). Photos shall measure at least 4 inches × 6 inches.

Sec. 18-203. - Referral of plans to commission.

(a) The planning, zoning and building department director shall refer the plans required by section 18-201 to the architectural commission at its next regular meeting provided plans have been submitted in accordance with application submittal deadlines. If such meeting is not

scheduled within the period set for commission action, a special meeting shall be called. The commission shall act on the application within 40 days of the filing deadline first occurring after the filing of full and complete data unless an extension of time is consented to by the applicant. The applicant's approval will expire 12 months from the date of the meeting at which the decision was rendered, unless a building permit has been obtained. If the building permit expires or is voided, or if a building permit has not been issued within 12 months from the date of approval the commission approval becomes void also. In the event such approval becomes void, an application for approval shall be required in the same form and manner as if submitted as a new project.

(b) A time extension from any of the requirements in subsection (a) may be granted or denied by the architectural commission for just cause. Said time extension request shall be submitted in writing to the planning, zoning and building department at least two weeks prior to an architectural commission meeting occurring prior to the expiration date, or said approval shall expire.

(c) If the application is denied, an application in substantially the same form may not be submitted until 12 months has elapsed from the date of denial.

(d) Determinations of the architectural commission shall be rendered in writing.

Sec. 18-204. - Stop work order authorized.

If work being performed is not in accordance with the approved plan, the building official or his designated representative shall issue a stop work order, and all work shall cease. No person shall undertake any work on such project as long as such stop work order shall continue in effect.

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.

Sec. 18-206. - Criteria for demolition permit.

A demolition permit shall be granted upon the following conditions being met:

(1) The property is not designated a landmark and is not included on a list of properties within the planning, zoning and building department placed under consideration as a landmark structure.

(2) That all precautions be taken as required by the planning, zoning and building department to protect adjacent properties from dust, vibration, pests, etc.

(3) That perimeter landscaping and other landscaping considered by the architectural commission to be worthy of saving be left in place and/or preserved in a manner satisfactory to the architectural commission.

(4) If construction is not to begin within 30 days subsequent to demolition, the lot shall be completely sodded and irrigated so as to assure that the property will have a neat and clean landscaped appearance.

(5) An agreement is entered into between the property owner and the town wherein the property owner agrees, in writing, to the conditions for demolition established by the architectural commission and further agreeing that in the event of a violation of any of the conditions placed upon the granting of the demolition permit, the property owner shall pay to the town a fee of \$250.00 per violation per day. In the event the property owner refuses to pay

any fine as required within 15 days after a notice of violation, the town may, at its expense, correct the violation and present a bill to the owner for the cost of correction. In the event the bill is not paid within 30 days of the date of the bill, the town may place a lien against the property for the costs incurred by the town. Further, no permit to construct shall be given until the fine or lien has been satisfied.

Sec. 18-207. - Site plans.

(a) A site plan shall be illustrated to scale and shall sufficiently indicate the following for consideration of visual, safety and economic factors:

- (1) Dimensions and orientation of the parcel;
- (2) Location of buildings and structures, both existing and proposed;
- (3) Location of off-street parking and loading facilities;
- (4) Location and dimensions of present and proposed street and highway dedications required to handle the traffic generated by the proposed uses;
- (5) Location of points of entry and exit for motor vehicles and internal circulation pattern;
- (6) Location of walls and fences and the indication of their height and the materials of their construction;
- (7) Indication of exterior lighting standards and devices adequate to review possible hazards and disturbances to the public and adjacent properties;
- (8) Location and size of exterior signs and outdoor advertising;
- (9) A preliminary landscaping plan, and a drainage statement by a professional engineer registered in the state that the landscape plan is not in conflict with the stormwater management plan;
- (10) Grading and slopes where they affect the relationship of the buildings;
- (11) Indication of the heights of buildings and structures;
- (12) Indication of the proposed use of the buildings shown on the site; and
- (13) The location and description of all elements of an approved stormwater management plan.
- (14) Such other architectural and engineering data as may be required to permit necessary findings that the provisions of this Code are being complied with.

(15) Three-dimensional (3-D) plans may be required if the architectural commission has determined that such illustrations are necessary for consideration of the project.

(16) A physical model for any project involving 10,000 square feet or more of new construction.

Any of the above requirements may be waived by the planning, zoning and building director if he or she deems the information not essential.

(b) Where an attachment or minor addition to an existing building or structure is proposed, the site plan shall indicate the relationship of such proposal to the existing development.

Sec. 18-208. - Encroachments.

Applications for permission to encroach upon town property or public rights-of-way, such as refacing a building, may be referred to the architectural commission. The commission shall make recommendations to the town council in such cases as to whether the alterations proposed would conform to the standards outlined in this article.

Secs. 18-209—18-230. - Reserved.

ARTICLE IV. - FLORIDA BUILDING CODE

DIVISION 1. - GENERALLY

Sec. 18-231. - Purpose.

The purpose of the Florida Building Code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

Sec. 18-232. - Definitions.

Construction Value. The value of all construction including, but not limited to, contractor supplied labor and materials, subcontractor supplied labor and materials, owner / decorator supplied labor and materials, and all associated overhead, supervision, and profit. The construction value should be representative of the market value of construction as established by comparable construction in the town.

Continuous construction, for the purposes of this article means major construction occurring on a site where a major construction project has been completed within the past 12 months.

Date of commencement, for the purposes of this article means the date on which the first permit is issued for any work on a property.

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the one-year period begins on the date of the first permit issued for improvement or repair of that

building or structure subsequent to (see Note). If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Major construction, for the purposes of this article, means a project involving improvements to real property with a valuation of \$250,000.00 or more. Permitted work with a valuation less than \$250,000.00 becomes major construction when additional permits are issued which cause the total construction value of the project to equal or exceed \$250,000.00. In that event, the date of commencement becomes the date of issuance of the initial permit of the project.

Sec. 18-233. - Florida Building Code adopted.

The Florida Building Commission has adopted, by rule pursuant to F.S. §§ 120.536(1) and 120.54, the Florida Building Code, which contains or incorporates by reference all laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repairs, and demolition of public and private buildings and structures, and the enforcement of such laws and rules. The initial adoption of, and any subsequent update or amendment to, the Florida Building Code by the commission is deemed adopted for use without adoption by the town pursuant to F.S. § 553.73(6), and is incorporated into the town code as if fully set forth herein.

Sec. 18-234. - Amendments.

The Town of Palm Beach Administrative Amendments to the Florida Building Code are hereby adopted by reference, and are incorporated into the Town Code as though fully set forth herein.

Sec. 18-235. - Building division.

There is hereby established a division to be called the building division and the person in charge shall be known as the building official, who shall be appointed by the director of planning, zoning and building.

Sec. 18-236. - Schedule of permit fees and charges.

The town council is authorized and empowered by resolution to fix reasonable permit and inspection fees to be charged by the town for such building permits, examinations and inspections as said council may determine is necessary in the administration of the provisions of this article and the Florida Building Code.

Sec. 18-237. - Agreed maximum time schedule for completion of major construction.

A maximum time, calculated from the date of commencement, is established for the completion of major construction projects in the construction schedule shown in Table 1

herein. Said maximum time is a condition of all applicable permits and applicant and owner accept such condition upon acceptance of a permit. The construction schedule shall take into effect historical data of the town of construction of similar structures within the limits of the town. Failure of the permit holder to complete construction under the permit in accordance with the maximum time schedule shall be prima facie evidence that the building project has not been commenced or has been suspended or abandoned. Such prima facie evidence shall be in addition to any other evidence that construction under the permit has not been commenced or has been suspended or abandoned under the permit.

This schedule may be extended to accommodate additional time for individual condominium units that are required by condominium rules and regulations to cease work during the season as defined by the rules and regulations of the condominium association. This extension shall be equal to the number of months during which construction is required by the condominium rules to cease. Similarly, for residential projects in the C-WA zoning district, this schedule may be extended to take into account the period of time during which construction is required to cease in the C-WA zoning district as specified in section 42-199(b) pursuant to town regulations.

TABLE 1. CONSTRUCTION SCHEDULE

	Square Footage Under Roof	New Construction* Maximum Time Permitted	Remodel/Accessory Construction Maximum Time Permitted
I.	Projects 3,999 sq. ft. or less	16 months	16 months
II.	Projects 4,000 Sq. ft. to 5,999 sq. ft.	20 months	24 months
III.	Projects 6,000 Sq. ft. to 9,999 sq. ft.	24 months	30 months
IV.	Projects 10,000 Sq. ft. to 19,999 sq. ft.	30 months	36 months
V.	Projects 20,000 Sq. ft. to 39,999 sq. ft.	36 months	42 months
VI.	Projects larger than 40,000 sq. ft.	To be determined by town council prior to permit issuance	To be determined by town council prior to permit issuance

* Principal structure

(a) Requests for extension from this schedule will be considered by the town council and approval may be granted for good cause shown as determined in the sole discretion of the town council. Said request for extension shall be filed with the town by the contractor and the owner no later than 45 calendar days, nor earlier than six months, prior to the scheduled completion date. The request for extension shall include reasons for the necessity of granting an extension, a revised construction schedule, proposed nuisance mitigation measures and a statement that notice to neighbors within 200 feet will be provided at least 25 days prior to the meeting at which the extension is to be considered. In the event the town council determines that good cause is not shown for granting the extension, the council may deny the extension. In the event the town council grants an extension, it may impose conditions on the extension which may include the implementation of mitigation measures deemed appropriate by the council and the imposition of a fee as established by resolution by the town council for each day of the extension beyond the term set forth in the above stated construction schedule.

(b) In the event no request is made for extension of time from the above referenced schedule, the building permit shall be immediately revoked and all work shall cease and desist on the project. In order to resume work, the contractor and the owner must apply to the town council for an extension of time. The application for extension shall include reasons for the necessity of granting an extension of time, a revised construction schedule, proposed nuisance mitigation measures, and a statement that notice to neighbors within 200 feet will be provided at least 25 days prior to the hearing before town council to consider the extension of time. The town council, in its sole discretion, may grant or deny the extension. In the event the town council grants an extension, it may impose conditions on the extension which may include the implementation of mitigation measures deemed appropriate by the council and the imposition of a fee as established by resolution by the town council for each day of the extension beyond the term set forth in the above state construction schedule. If an extension of time is granted, a new permit application is required and a permit reactivation fee shall be paid.

(c) Failure of the permit holder and/or the property owner to complete the construction within the preceding time table or within the time extension granted by the town council constitutes prima facie evidence that the building project has not been commenced or has been suspended or abandoned. All permits will be terminated, and all work at the site will stop immediately until the applicant and owner apply for and receive a reinstatement of the permit by the town council. If conditions are attached to the re-issuance, the permit may be reissued by the building official only upon continued conformance to the conditions established by the town council. Any conditions attached to re-issuance are conditions of all applicable permits and applicant and owner accept such conditions upon acceptance of a permit. The issuance of the certificate of occupancy or completion will be withheld until any fees incurred under this section are paid. If the town council does not approve the extension of time, applicant and owner may be required by the town council to remove all evidence of construction, and ensure that the project conforms to all applicable provisions of the code. Failure to cease construction or conform to all codes constitutes a violation and will be referred to the town's code enforcement board.

Sec. 18-238. - Agreed maximum time schedule for completion of minor construction.

(a) A maximum time is established for the completion of all building permits for construction work not subject to the provisions of section 18-237. Such work shall be considered minor construction and must be completed and receive a passed final inspection no later than 12 months from date of issuance. Said maximum time is a condition of all applicable permits and applicant and owner accept such condition upon acceptance of a permit.

(b) Requests for extension from this schedule may be granted by the building official upon application for extension filed with the town no later than 15 calendar days prior to the scheduled completion date. A permit extension fee, as established by resolution of the town council, shall be paid prior to issuance of the extension. Extensions may be granted for a period not to exceed 90 days from the scheduled completion date. If a permit expires before an extension is granted, the permit may be reactivated upon payment of a permit reactivation fee, as established by resolution of the town council, paid prior to issuance of the reactivation for a period not to exceed 90 days from the scheduled completion date.

(c) In the event the permit holder and/or the property owner fail to complete the construction within 12 months or by the expiration of an approved extension of time, whichever is latest, the building permit shall be immediately revoked and all work shall cease and desist on the project, and such failure shall constitute prima facie evidence that the building project has not been commenced or has been suspended or abandoned. Such prima facie evidence shall be in addition to any other evidence that construction under the permit has not been commenced or has been suspended or abandoned under the permit. Failure to complete the work or to cease construction constitutes a violation of the town's Code of Ordinances and shall be subject to code enforcement remedies under chapter 2 of the town's Code of Ordinances.

Sec. 18-239. - Continuous construction.

A project which involves continuous construction, as defined in section 18-232 is prohibited unless:

(1) Approved by the planning, zoning and building department director or his or her designee and meets the following conditions:

- a. Is initiated by a governmental entity, or
- b. Is a property which consists of at least 50 contiguous acres, and
 - 1. There exists a requirement or restriction which limits work to certain times of the year, and
 - 2. The work being contemplated occurs at least 500 feet away from residential dwellings at contiguous properties, or

(2) Approved by the town council and meets the following conditions:

- a. Is a property which consists of at least 50 contiguous acres, and
 - 1. There exists a requirement or restriction which limits work to certain times of the year, and
 - 2. The work being contemplated occurs within 500 feet from residential dwellings on contiguous properties, or
- b. Is a museum, or
- c. Is a multifamily residential property where construction is limited to no more than seven months per year through organizational restrictions, or
- d. Is a tenant space in a commercial zoning districts (other than C-WA).

Sec. 18-240. - Demolition permits.

Each application for a complete or major demolition permit shall include the following information as required by the building official.

- (1) A cash bond or irrevocable letter of credit redeemable at a Palm Beach County financial institution in an amount as established by adoption of a resolution by the town council and amended by adoption of a resolution of the town council;
- (2) Approval from either the Town of Palm Beach Architectural Commission or the Landmark Preservation Commission;
- (3) An approved erosion control/parking plan.
- (4) A statement confirming that if reconstruction does not commence within 30 days or a reconstruction permit becomes null and void the site shall be irrigated and sodded within ten working days of demolition or default and the property maintained so as not to be in an unsightly condition.
- (5) An affidavit confirming that notice to owners of all properties within 200 feet of proposed demolition has been provided in substantial accordance with a form as provided by the town.

Sec. 18-241. - BUILDING BOARD OF ADJUSTMENT AND APPEALS

1. Building Board of Adjustment and Appeals. Construction under this code shall be governed by the board created in this section of this code.

2. Appointment. There is hereby established a board to be called the building board of adjustment and appeals, which shall consist of seven members and two alternates. Members of the board shall be appointed by the town council. This Board shall hear, among other things, all appeals concerning interpretations and enforcement of the Florida Building Code including any amendments.

3. Membership and Terms.

3.1 Membership. The building board of adjustment and appeals shall consist of seven members. Such board members shall be composed of individuals with knowledge and experience in the technical codes to include an architect, engineer, general contractor, electrical contractor, HVAC contractor, plumbing contractor, and any other contractor licensed category. In addition to the regular members, there shall be two alternate members, one member with the qualifications referenced above and one member at large from the public. A board member shall not act in a case in which he/she has a personal or financial interest.

3.2 Terms. The terms of office of the members of the building board of adjustment and appeals shall be staggered so no more than one-third of the board is appointed or replaced in any twelve month period. The town council shall determine the length of a member's term. The two alternate members may serve indefinitely. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the board shall, at the discretion of the town council render any such member subject to immediate removal from office.

3.3 Quorum and voting. A simple majority of the board shall constitute a quorum. In varying any provision of this code, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the building official, not less than four affirmative votes, shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.

3.4 Secretary of board. The building official or his/her authorized representative shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member, and any failure of a member to vote.

4. Powers. The building board of adjustments and appeals shall have the power to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.

5. Appeals.

5.1 Decision of the building official. The owner of a building, structure or service system, or duly authorized agent, may appeal a decision of the building official to the building board of adjustment and appeals whenever any one of the following conditions are claimed to exist:

1. The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
2. The provisions of this code do not apply to this specific case.
3. That an equally good or more desirable form of installation can be employed in any specific case.
4. The true intent and meaning of this code or any of the regulations hereunder have been misconstrued or incorrectly interpreted.

5.2 Variances. The building board of adjustments and appeals, when so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:

1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
2. That the special conditions and circumstances do not result from the action or inaction of the applicant.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system.
4. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.
5. That the grant of the variance will be in harmony with the general intent and purpose of this code and will not be detrimental to the public health, safety and general welfare.

5.2.1 Conditions of the variance. In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and

safeguards in conformity with this code. Violation of the conditions of a variance shall be deemed a violation of this code.

5.3 Notice of appeal. Notice of appeal shall be in writing and filed within 30 calendar days after the building official renders the decision. Appeals shall be in a form acceptable to the building official. A fee in accordance with the fee schedule adopted by the Town Council by resolution shall accompany such notice of appeal.

5.4 Unsafe or dangerous buildings or service systems. In the case of a building, structure or service system, which in the opinion of the building official, is unsafe, unsanitary or dangerous, the building official may, in the order, limit the time for such appeals to a shorter period.

6. Procedures of the board.

6.1 Rules and regulations. The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet on call of the chairman. The board shall meet within 30 calendar days after notice of appeal has been received.

6.2 Decisions. The building board of adjustment and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application of any provision of this code, the building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing. Every decision of the board shall be final; subject however to such remedy as any aggrieved party might have at law or in equity.

Sec. 18-242. - Severability.

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code.

Sec. 18-243. - Violations and penalties.

Any person, firm, corporation or agent who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, without full compliance with applicable codes, laws, ordinances, rules and regulations shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for every day or portion thereof during which any violation of any of the provisions of applicable cases, laws, ordinances, rules and regulations is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws. Nothing in this section shall prevent the authority having jurisdiction from imposing fines, liens, or seek injunctive relief, or exercising other enforcement powers as permitted by law.

If building work begins without payment of all required fees, all work must cease and the case will be referred to the code enforcement board for further action.

DIVISION 2. - FLORIDA BUILDING CODE TECHNICAL AMENDMENTS FOR FLOODING

Sec. 18-244. - Amendments.

The following sections of the Florida Building Code—Residential are hereby amended as follows:

R322.2.1 Elevation requirements.

1. Buildings and structures in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus six inches or the design flood elevation, whichever is higher.
2. Buildings and structures in flood hazard areas designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus one foot (305 mm), or to the design flood elevation, whichever is higher.
3. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus six inches, or at least 2.5 feet if a depth number is not specified.
4. Basement floors that are below grade on all sides shall be elevated to or above the base flood elevation plus six inches or the design flood elevation, whichever is higher.

Exception: Enclosed areas below the design flood elevation, including basements whose floors are not below grade on all sides, shall meet the requirements of Section R322.2.2.

R322.2.2 Enclosed areas below design flood elevation. Enclosed areas, including crawl spaces, that are below the design flood elevation shall:

1. Be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code. The limitation on partitions does not apply to load bearing walls interior to perimeter wall (crawl space) foundations. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).
2. Be provided with flood openings that meet the following criteria:
 - 2.1. There shall be a minimum of two openings on different sides of each enclosed area; if a building has more than one enclosed area below the design flood elevation, each area shall have openings on exterior walls.
 - 2.2. The total net area of all openings shall be at least one square inch (645 mm²) for each square foot (0.093 m²) of enclosed area, or the openings shall be designed and the

construction documents shall include a statement by a registered design professional that the design of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters as specified in Section 2.6.2.2 of ASCE 24.

2.3. The bottom of each opening shall be one foot (305 mm) or less above the adjacent ground level.

2.4. Openings shall be not less than three inches (76 mm) in any direction in the plane of the wall.

2.5. Any louvers, screens or other opening covers shall allow the automatic flow of floodwaters into and out of the enclosed area.

2.6. Openings installed in doors and windows, that meet requirements 2.1 through 2.5, are acceptable; however, doors and windows without installed openings do not meet the requirements of this section.

R322.3.2 Elevation requirements.

1. All buildings and structures erected within coastal high-hazard areas shall be elevated so that the lowest portion of all structural members supporting the lowest floor, with the exception of piling, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus six inches or the design flood elevation, whichever is higher.

2. Basement floors that are below grade on all sides are prohibited.

3. The use of fill for structural support is prohibited.

4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

Exception: Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.

R322.3.4 Walls below design flood elevation. Walls are permitted below the elevated floor, provided that such walls are not part of the structural support of the building or structure and:

1. Electrical, mechanical, and plumbing system components are not to be mounted on or penetrate through walls that are designed to break away under flood loads; and

2. Are constructed with insect screening or open lattice; or

3. Are designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than ten (470 Pa) and no more than 20 pounds per square foot (958 Pa); or

4. Where wind loading values of this code exceed 20 pounds per square foot (958 Pa), the construction documents shall include documentation prepared and sealed by a registered design professional that:

4.1. The walls below the design flood elevation have been designed to collapse from a water load less than that which would occur during the design flood.

4.2. The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the design flood. Wind loading values used shall be those required by this code.

R322.3.5 Enclosed areas below the design flood elevation. Enclosed areas below the design flood elevation shall be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the Fire Code. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

Secs. 18-245—18-275. - Reserved.

ARTICLE V. – RESERVED.

Secs. 18-284—18-300. - Reserved.

ARTICLE VI. - RESERVED

Secs. 18-301—18-350. - Reserved.

ARTICLE VII. – RESERVED

Secs. 18-351—18-400. - Reserved.

ARTICLE VIII. – RESERVED

Secs. 18-401—18-500. - Reserved.

ARTICLE IX. – RESERVED

Secs. 18-501—18-600. - Reserved.

ARTICLE X. – RESERVED

Secs. 18-601—18-700. - Reserved.

ARTICLE XI. - RESERVED

Secs. 18-701—18-805. - Reserved.

ARTICLE XII. – RESERVED

Secs. 18-806—18-840. - Reserved.

ARTICLE XIII. - RESERVED

Secs. 18-841—18-920. - Reserved.

Sec. 18-921. - Temporary removal of cloth part of canopies and stationary awnings regulated.

The cloth part of canopies and stationary awnings on commercial buildings shall remain installed and in place and may be removed only temporarily for repair or in preparation for an impending storm or hurricane. Temporary removal shall not exceed a period of 14 days unless a hurricane or tropical storm watch occurs during the 14-day period, at which point the 14-day period begins anew upon the posting of hurricane or tropical storm warnings. This section shall not apply to personal residences located within commercial buildings.

Secs. 18-922—18-960. - Reserved.

ARTICLE XIV. - NUMBERING OF PREMISES

Sec. 18-961. - System adopted.

The following system of numbering of premises within the town is hereby adopted: One number shall be allowed for each 25 feet of ground frontage on each of the streets, avenues and boulevards of the town, 25 feet shall be known as a unit of space. The numbering of the streets, avenues and boulevards running in a northerly direction from the pinewalk on the Breakers Hotel property, shall begin at the north line of such pinewalk, with the odd numbers on the east side and the even numbers on the west side. The numbering of all streets, avenues and boulevards running in a northerly direction south of such pinewalk shall begin at the south line of such pinewalk, with the odd numbers on the east side and the even numbers on the west side. The numbering of all streets, avenues and boulevards running east and west shall begin at the Atlantic Ocean, with the odd numbers on the north side and the even numbers on the south side.

Sec. 18-962. - Numbers assigned.

The first numbers on the first block to be numbered shall be 101 and 102; the first number on the second block shall be 201 and 202, and so on throughout the length of the streets,

avenues or boulevards, each successive block to begin with the next highest number in hundreds. For the purpose of corner lots, addresses shall be required to be assigned according to the front street line of a lot based on the orientation of the building as provided for in chapter 134, zoning, article VIII, supplementary district regulations, division 2, section 134-1576(a).

Sec. 18-963. - Allocation of numbers to premises; fractional numbers.

Each structure shall be entitled to a number and shall absorb all numbers covered by the property on which it stands, in excess of the unit space. Subdivisions of space less than a unit and separate apartments or units of one structure shall be identified by suite number or alphabetical lettering of each unit or apartment. This provision does not apply to an accessory structure where separate addresses are not permitted.

Sec. 18-964. - Duty to display number; type, location.

It shall be the duty of the owner and of the occupant of any property within the town on which any structure is located to place and display thereon the appropriate numbers, which shall be durable and shall be so placed of a size, type and location that they may be easily read from an adjacent street.

Sec. 18-965. - Failure to provide when required.

It shall be unlawful to fail to number any premises as required by this article.

Sec. 18-966. - Tearing down, defacing.

It shall be unlawful to tear down or deface any number placed upon any property in accordance with this article.

Secs. 18-967—18-995. - Reserved.

ARTICLE XV. - TENTS

Sec. 18-996. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Tent means any freestanding structure of a temporary basis usually composed of canvas, plastic or other such material.

Sec. 18-997. - Permit—Required.

If any tent is to be erected on private property within the town, the owners or occupants or their authorized designee are required to file an application for a permit, receive a permit from the town's building division, and receive a final passed inspection in accordance with 109.3 of the Town of Palm Beach Amendments to Chapter 1 Administration of the Florida Building Code prior to use. Failure to follow the requirements herein may result in code enforcement action in accordance with chapter 2, article V, code enforcement.

Sec. 18-998. - Same—Fees.

(a) The application for permit must be submitted no less than five working days prior to the date the tent is to be erected. Before a permit is issued pursuant to this article there shall be paid to the planning, zoning and building department a building permit fee in accordance with the fees adopted by resolution of the town council, and in the event of a late filing, a late filing fee, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time

(b) Fifteen days or less. If the tent is to remain in place for a period of 15 days or less, the permit fee referenced in (a) above shall apply.

(c) More than 15 days. If the tent is to remain in place for a period of more than 15 days, in addition to the permit fee referenced in (a) above, an additional permit fee in accordance with the fees adopted by resolution of the town council, shall be required for each month or part thereof that the tent will remain in place.

Sec. 18-999. - Lot coverage and setback requirements.

If the tent is to remain in place for a period of more than 15 days, the tent must meet the lot coverage and setback requirements applicable to the property on which the tent is to be erected. In the beach area zoning district a temporary tent shall meet the setback requirements for that district.

Sec. 18-1000. - Length of time allowed to remain in place.

In all zoning districts except the beach area zoning district, no tent may remain in place for a cumulative period of time of more than six months during any calendar year.

In the beach area zoning district, no tent may remain in place for a cumulative period of time of more than 20 days during any calendar year. In addition, the tent may not exceed the dimensional maximums as provided for in sections 134-1472 or 134-1473, whichever is applicable.

Secs. 18-1001—18-1009. - Reserved.

ARTICLE XVI. - STORM SHUTTER REGULATIONS

Sec. 18-1010. - Periods during which storm shutters may remain in place.

(a) During the period from December 1 to May 31, no storm shutters or hurricane protection devices on commercial buildings shall remain in a closed/secured position so as to block windows or doors except in the event of storm conditions.

(b) During the period of June 1 to November 30, protection from windborne debris through the use of shutters and hurricane protection devices is encouraged for all structures certified for occupancy in the town. During said period, however, it is prohibited in commercial buildings to allow shutters or hurricane protection devices to remain in a closed/secured position except in preparation for an impending storm or hurricane for a period in excess of 14 days unless a hurricane or tropical storm watch occurs during the 14-day period at which point the 14-day

period begins anew upon the posting of hurricane or tropical storm warnings. This section shall not apply to personal residences located within commercial buildings.

Secs. 18-1011—18-1013. - Reserved.

ARTICLE XVII. - EMERGENCY MEASURES DURING STORM EVENTS

Sec. 18-1014. - Removal and securing of construction materials during tropical storm and hurricane warning or watch required.

(a) When the National Weather Service, National Hurricane Center or appropriate weather agency shall declare a tropical storm watch or warning or a hurricane watch or warning for any portion of Palm Beach County, Florida, all construction materials, including roof tiles, and debris on all building and construction sites within the town shall be secured, stored or removed so as not to create a safety hazard because of hurricane or tropical storm force winds.

(b) Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of a tropical storm watch or warning or a hurricane watch or warning shall be deemed sufficient notice to the owner of real property upon which construction is occurring or any contractor responsible for said construction to secure store or remove loose construction debris and loose construction materials against the effects of high winds.

(c) Materials stockpiled on top of any structure under construction shall be permanently installed by the property owner or contractor upon issuance of a tropical storm watch or warning or a hurricane watch or warning; provided, however, in the event such installation cannot be timely completed, then the property owner or contractor shall:

(1) Band together the construction materials and mechanically fasten them to the top of the structure in such a manner so as not to present a threat of their becoming airborne during a tropical storm or hurricane; or

(2) Remove the construction materials from the top of the structure and mechanically tie down to the ground; or

(3) Remove the construction materials from the job site; or

(4) Store the construction materials inside a protected structure.

(d) Construction materials or debris shall remain secured, stored or removed from the property until the National Weather Service, National Hurricane Center or other appropriate weather agency has removed all portions of Palm Beach County from those areas included in a tropical storm watch or warning or a hurricane watch or warning.

(e) From June 1 to November 30 of each calendar year (the National Weather Service designated hurricane season), construction or roofing materials shall be loaded on a roof no earlier than ten working days prior to the permanent installation of the materials.

(f) It shall be the joint responsibility of the owner and general contractor to remove, secure or to see to the removal or securing of all construction materials and debris as set forth in this section.

(g) In the event of a violation of this section, in addition to all other remedies provided in the Code of Ordinances and otherwise by law, the town may take whatever emergency action it deems necessary to secure, store or remove all loose construction materials and debris including, but not limited to, roof tiles and roofing materials. In such circumstances, the town shall bill the property owner or his agent for all charges and expenses incurred whether incurred by the utilization of town personnel and materials or other outside contractors retained by the town for these purposes. The securing of an outside contractor to perform these services shall be deemed to be the securing of emergency services and shall not require the town to utilize a competitive bid process to select a contractor or contractors. Should the bill for such services remain unpaid for a period of 30 days or more, the town may record a claim of lien encumbering the property and thereafter proceed according to law to enforce said lien.

Secs. 18-1015—18-1019. - Reserved.

ARTICLE XVIII. - ARCHAEOLOGICAL REVIEW

Sec. 18-1020. - Requirements for known or potential archaeological sites.

Pursuant to the town's comprehensive plan and to maintain compliance with the requirements of state statutes (F.S. § 872.05 as amended), an archaeological assessment is required for known archaeological sites and/or potential archaeological sites (identified on the town's archaeological map, as amended). That assessment (phase I or reconnaissance level) will result in a report presented to the planning, zoning and building department prior to the issuance of any permits for demolition (below ground), excavations, tree removal, or other ground disturbing activities. Based on the assessment report, a determination will be made by the planning, zoning and building director, or the director's designee, as to whether monitoring and/or additional testing (phase II) needs to be done. In some cases a phase II assessment may be required based on a site's potential or known significance. A phase III assessment is required only if something highly significant is found, such as human remains. If human remains are uncovered, they are subject to Florida's Unmarked Human Graves Act, and should be avoided if possible. If that is not feasible, then they should be reinterred in a secure part of the property under the coordination of the consultant archaeologist and tribal representative.



EXHIBIT "B"

AMENDMENTS TO CHAPTER 1, SCOPE AND ADMINISTRATION OF THE FLORIDA BUILDING CODE

ADOPTED _____, 2019

The town's amendments to Chapter 1 of the Florida Building Code, Building, are hereby made and adopted by Ordinance of the Town Council of the Town of Palm Beach, and may be amended as needed by resolution, and are set forth in this document. The amendments are set forth with reference to and prefaced by the section number and title within the Florida Building Code. These amendments are supplementary only to the Florida Building Code, Building Chapter 1, Scope and Administration, and do not replace Chapter 1.

SECTION 101 GENERAL Reserved.

SECTION 102 APPLICABILITY Reserved.

SECTION 103 DEPARTMENT OF BUILDING SAFETY Reserved.

SECTION 104 DUTIES AND POWERS OF BUILDING OFFICIAL

104.12 Right of entry.

Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists in any building or

upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code. If such building or premises are occupied, he/she shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

104.12.1 When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

SECTION 105 PERMITS Reserved.

105.18 Pre-Work Conference. The building official may require a pre-work conference. The minutes of such pre-work conference shall become special conditions of the permit.

105.19 Construction Fence. The building official may require a screened chain link or a four (4) foot high wood fence painted in a color as specified by the building official to be placed at the construction site at designated location(s).

SECTION 106 FLOOR AND ROOF DESIGN LOADS Reserved.

SECTION 107 SUBMITTAL DOCUMENTS Reserved.

SECTION 108 TEMPORARY STRUCTURES AND USES Reserved.

SECTION 109 FEES Reserved.

SECTION 110 INSPECTIONS Reserved.

SECTION 111 CERTIFICATE OF OCCUPANCY Reserved.

SECTION 112 SERVICE UTILITIES Reserved.

SECTION 113 Reserved.

SECTION 114 VIOLATIONS Reserved.

SECTION 115 STOP WORK ORDER Reserved.

SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT Reserved.

SECTION 117 VARIANCES IN FLOOD HAZARD AREAS Reserved.

SECTION 118 SEVERABILITY

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: February 13, 2019

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 05-2019 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Town Code Of Ordinances, At Article XI, Signs, Section 134 – 2372, General Regulations Applicable To Permitted Signs, By Adding New Subsections (12) And (13) Relating To The Nailing And Posting Of Signage And Blocking Ingress And Ingress With Signage; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Presenter

ATTACHMENTS:

- **Memorandum Dated January 23, 2019 from Wayne Bergman, Assistant Director of Planning, Zoning & Building**
- **Ordinance No. 5.2019**

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2019

To: Mayor and Town Council

Via: Josh Martin, Director of Planning, Zoning & Building

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

Re: Proposed Changes to Chapter 18 - Buildings & Building Regulations; Chapter 106 - Streets, Sidewalks, and Other Public Places; Chapter 134 – Zoning; and Administrative Amendments to the Florida Building Code
First Readings – Ordinances No. 03-2019 (Chapter 106), No. 04-2019 (Chapter 18), and No. 05-2019 (Chapter 134)

Date: January 23, 2019

STAFF REQUEST & RECOMMENDATION

Staff requests that the Town Council review the proposed changes to Chapter 18 (which includes moving sections out of Chapter 18 and into Chapter 106 and Chapter 134) and to the Town's Administrative Amendments to the Florida Building Code. Staff further recommends that the Town Council approve Ordinances No. 03-2019 (Chapter 106), No. 04-2019 (Chapter 18), and No. 05-2019 (Chapter 134) on First Reading.

GENERAL INFORMATION

Several changes are underway and proposed to improve efficiency and to provide a higher level of customer service in the Planning, Zoning & Building Department, and more specifically, the Building Division.

Phase I - Since December 18, 2018, staff has rolled out some simple changes relating to contractor self-certifications for minor A/C replacements, water heater replacements, and reroofing projects. We issued a revised interpretation on the applicability of the Florida Energy Conservation Code on window and door replacement projects, which should immediately benefit property owners. In addition, we created a simple Certificate of Occupancy checklist that can be used by owners, contractors, and staff in closing out new construction projects.

Phase II - The next phase of changes to improve efficiency and customer service will come in the form of simplifying and consolidating the numerous permits required on any construction project to just one permit per project. This is a bit more time consuming proposition, as the current EDEN software system was designed and set up to require a myriad of permits and sub-permits for any type of project. Example – a new swimming pool may necessitate seven (7)

different permits – site plan, building, electrical, plumbing, gas, mechanical, and right-of-way. We are currently dismantling this existing bureaucracy and we should be ready to roll out the one permit per project in about a month or so. This consolidated solution will free up staff and contractor time and allow a very easy “snap shot” view of a project at any time for anyone interested [without the need to review multiple independent permits].

Neither of Phase I or Phase II changes required any change in Town code. The changes were easily implemented with minor changes in department policies, code interpretations, and the creation of a few new forms.

Phase III - Other proposed changes will require code changes. Chapter 18 – Buildings and Building Regulations, was thoroughly reviewed over the last month. Several sections of Chapter 18 are actually redundant repetitions of code language found elsewhere, such as in the Florida Statutes and the Florida Building Code (FBC). Chapter 18 has been updated throughout with the redundant sections removed or modified. The more significant changes are the proposal to return the Building Board of Adjustment and Appeals to this Chapter and the proposed moving of sections relating to temporary podiums into Chapter 106 – Streets, Sidewalks, and Other Places, and relating to signage into Chapter 134 Zoning.

Another major proposal, part of the proposed Chapter 18 changes, is to address the Town’s restrictive Administrative Amendments to the Florida Building Code. Administrative Amendments (“Amendments”) are local revisions made to the administrative chapters of the Florida Building Code. This is a process that is done throughout the state and is actually very common, as many building officials over time have developed their own unique administration of the building departments that usually exceeds state law. The Amendments are popular to certain building officials [and municipalities] as it increases their abilities to regulate staff, impose staff qualifications, control contractors and owners, limit “owner / builders”, access to private properties, mandate additional steps and procedures for the issuance of permits, create new inspections, mandate testing and product evaluations, regulate certificates of occupancy, etc. The Amendments, at one time, helped building departments deal with former weak building codes [CABO and SBCC]. However, with the adoption of the Florida Building Code in 2001, and with the periodic code updates to the Florida building Code prepared by the International Code Council (ICC), the administrative sections found in today’s code books are sufficient. The Amendments are no longer needed for the department to do its job in administering and enforcing the provisions of the building code. The current Town Administrative Amendments are 60 pages long and completely replace and over-ride Chapter 1 of the Florida Building Code.

In staff’s opinion, the Amendments are not as relevant as they once were and are unfriendly and restrictive to business. Now all of the regulations that were once found only in Administrative Amendments are actually provided in the Chapter 1’s of the Florida Building Code, the FBC Residential Code, and the FBC Existing Building Code. Staff has found most of the current Town Amendments to be irrelevant, redundant, repetitious, and restricting. The proposed Amendments to the Florida Building Code Chapter 1’s strike out more than 95% of the current Amendments, thereby shortening the length to about 3 pages, return the Annual Facility Permit section [which would be helpful to many commercial building owners], and place the activities of the building division in full compliance with Florida Statutes and the Florida Building Code.

Collectively three (3) ordinances are required to enact the proposed changes to Chapter 18. One to amend Chapter 18 and to adopt the proposed [greatly reduced] Administrative Amendments to the Florida Building Code – Ordinance 04-2019; Two to adopt the sections moving from Chapter 18 into Chapter 106 – Ordinance 03-2019; and Three to adopt the sections moving from Chapter 18 into Chapter 134 – Ordinance 05-2019.

FUNDING/FISCAL IMPACT

No anticipated Impact to the General Fund, although it will be necessary to return to the Town Council with a revised Master Fee Schedule amendment to deal with the consolidation of multiple permits into one permit (sub-permits currently generate \$79 each). The goal would be to remain revenue-neutral with this change, or to possibly increase revenue.

STRATEGIC PLAN

The changes to the Building Division, both those underway at this time and those proposed, are consistent with the Town's Strategic Plan, as the changes will help the Department become part of a more Responsive Town Government and will improve the Resident's Quality of Life by streamlining the Department, reducing bureaucracy and simplifying the building process.

COMPREHENSIVE PLAN

Consistent with the Town's Comprehensive Plan and with Florida Statute 163 (Florida's Community Planning Act).

SPECIAL CONSIDERATIONS

It is acknowledged that the proposed ordinances could follow a more typical path and first be reviewed by the Ordinance, Rules and Standards Committee and the Chapter 134 changes may be reviewed by the Planning and Zoning Board prior to Town Council consideration. However, since the changes are non-substantive and are intended to eliminate self-imposed bureaucracies, staff believes it is in the community's best interest to expedite the proposed changes.

Ordinance No. 03-2019 (Chapter 106), Ordinance No. 04-2019 (Chapter 18), and Ordinance No. 05-2019 (Chapter 134) are ready to be approved on First Reading.

Attachments
WRB

ORDINANCE NO. 5-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, TOWN CODE OF ORDINANCES, AT ARTICLE XI, SIGNS, SECTION 134 – 2372, GENERAL REGULATIONS APPLICABLE TO PERMITTED SIGNS, BY ADDING NEW SUBSECTIONS (12) AND (13) RELATING TO THE NAILING AND POSTING OF SIGNAGE AND BLOCKING INGRESS AND EGRESS WITH SIGNAGE; 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, of the Town Code of Ordinances, is hereby amended at Article XI, Signs, Section 134 – 2372, General Regulations Applicable to Permitted Signs, by adding new subsections (12) and (13), as follows:

Chapter 134 – 2372 (12) - No person shall paint, paste, print or nail any paper sign or any advertisement or notice of any kind whatsoever, or cause the same to be done, on any curbstone, flagstone or other portion of any sidewalk or street or upon any tree, lamppost, hitching post, telephone or telegraph pole, hydrant, bridge, workshop or tool shed, or upon any other structure within the limits of the town except by resolution of the town council. No person shall paint, paste, print or nail any banner, sign, handbill, advertisement or notice of any kind, or cause the same to be done, upon any private pole, advertising board or sign or upon any other private structure or building unless he is the owner or lessee of such wall, window, door, fence, gate, advertising board or sign, or other private building or structure. This subsection shall not apply to legal notices required by law.

Chapter 134 – 2372 (13) - No sign shall be attached to or placed against a building in such a manner as to prevent ingress or egress through any door of any building, or any opening that is to be used in event of fire, or other emergency; nor shall any sign be attached to or obstruct in any manner a fire escape.

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, Florida.

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 13th day of February, 2019; and for the Second and Final Reading on this ____ day of _____, 2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kathleen Dominguez, Town Clerk

Bobbie Lindsay, Town Council Member