



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

WEDNESDAY, JULY 14, 2010

9:30 AM

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

The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and selecting "Your Government" and then selecting "Live Meeting Audio." 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 under "Agendas, Minutes, and Audio."

No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

- I. CALL TO ORDER AND ROLL CALL
- II. INVOCATION AND PLEDGE OF ALLEGIANCE
- III. COMMENTS OF MAYOR JACK McDONALD
- IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

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

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE
(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

VI. APPROVAL OF AGENDA

VII. RESOLUTIONS

- A. RESOLUTION NO. 70-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Resolution No. 4-05, The Breakers PUD, to Correct a Scriveners Error and Correctly Update the Deadline for Requesting the Relocation of Dwelling Units Within the Breakers PUD.
[John S. Page, Director of Planning, Zoning and Building]

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VIII. PUBLIC HEARINGS

- A. RESOLUTION NO. 48-10 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 290 South County Road 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.
Deferred from the May 12, 2010, Town Council Meeting.

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IX. DEVELOPMENT REVIEWS

A. Appeals

1. Appeal of ARCOM Recommendation No. B6/10, Addition, 1100 North Ocean Boulevard (Per Letter Dated May 5, 2010, From 1100 North Ocean Boulevard Trust).

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B. Time Extensions & Waivers

1. Request for Waiver of Section 42-199, Hours for Construction, at 214 Worth Avenue (Cartier) (Per Letter Dated June 3, 2010, From R & R Professional Services, Inc.)
Deferred from the June 22, 2010, Town Council Meeting.

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C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business – Less than 15 Minutes

- a. VARIANCE #4-2010 The application of Robert T. Tomsich, relative to property commonly known as **151 Via Bellaria**; described as lengthy legal description on file; located in the R-A Zoning District. Request a variance to permit the construction of a new larger two-story open loggia to replace the existing two-story loggia, which will result in a lot coverage of 25.8% in lieu of the 24.9% existing and 25% maximum allowed.
[Attorney: M. Timothy Hanlon]
[ARCOM Recommendation: Defer to the July 28, 2010, ARCOM Meeting. Request to Withdraw Application.]
Deferred from the May 12, 2010, and June 22, 2010, Town Council Meetings (Special Circumstances).
Request for Withdrawal Per Letter Dated July 1, 2010, From M. Timothy Hanlon.

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- b. MODIFIED SITE PLAN REVIEW #3-2010 WITH VARIANCE
The application of Mr. & Mrs. Adler, relative to property commonly known as **7 Sloan's Curve Drive**; described as lengthy legal description on file; located in the PUD-B Zoning District. Request for Site Plan Review to construct a 135 square foot infill addition on the front entry of an existing townhouse and a 49 square foot infill addition to the breakfast atrium and a 49 square foot infill addition to an upstairs bedroom. A Variance is requested to allow two small additions that will enclose the entry feature and an interior atrium thereby increasing the lot coverage to 42.1% in lieu of the 39.5% existing and the 35% maximum allowed in the PUD-B district. The proposed additions will modify a previously approved site plan in a PUD complying with Section 134-688 (b) of the Town's Zoning Code. [Attorney: Maura A. Ziska, Esq.]
[ARCOM Recommendation: Approval of the Variance Will Not Cause Negative Architectural Impacts. Carried 7-0.]
Deferred from the May 12, 2010, and June 22, 2010, Town Council Meetings.

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2. New Business – Less than 15 Minutes

- a. SPECIAL EXCEPTION #12-2010 The application of Everglades Club Inc., relative to property commonly known as **351 Worth Avenue and 405 Cocoanut Row**; described as lengthy legal

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description on file; located in the C-WA and C-TS Zoning District. Request for Special Exception to allow a 6,346 square foot single family residence in Via Parigi above a first floor retail store (Fiandaca). The previous tenant for all three floors was Mary Mahoney, a retail store. The applicant proposes to join the subject property (351 Worth Avenue) with the property owned by the Everglades Club at 405 Cocanut Row. This will allow one additional residential unit on the proposed combined property to meet the density requirement. The new residential dwelling unit would occupy Mary Mahoney's previous second and third floor retail space. Fiandaca retail store will occupy Mary Mahoney's previous first floor space. By combining both properties, the proposed residential unit would not exceed the maximum ten (10) dwelling units per acre allowed. [Attorney: Maura A. Ziska]

- b. SPECIAL EXCEPTION #13-2010 The application of Gunster, Yoakley & Stewart, PA, relative to property commonly known as **255 S. County Road a/k/a 151 Royal Palm Way**; described as ROYAL PARK ADD LT 22 TO 26 INC, LT 27 (less S 103.09 FT of E 208.15 ft & TH PT of nly 3 ft in D8972 P392) & Lt 59 Blk 8; located in the C-B Zoning District. Gunster, Yoakley & Stewart P.A. has had offices in the Town since 1942. In 1985, the firm relocated the vast majority of its office space to West Palm Beach, retaining only a small amount of space in the Town. In 1995, the Applicant applied for a special exception to exceed 2,000 sq. ft. in the Palm Beach office. Per Sec 134-226 (b), the Town Council imposed a condition of approval on Special Exception #2-95 which required the submittal of an annual affidavit indicating the percentage of clients served by the office which are Town persons. The applicant is requesting that this condition be deleted because it has proven to be unnecessary as evidenced by the past 15 years of Town-serving affidavits. [Attorney: Kenneth S. Beall, Esq.] Page 77
- c. SPECIAL EXCEPTION #14-2010 The application of Christian Angle Real Estate, Inc., relative to property commonly known as **179 Bradley Place**; described as Lots 18 and 19, JEANETTE COURT ADDITION TO PALM BEACH, according to the Plat thereof, recorded in Plat Book 10, Page 15, of the Public Records of Palm beach County, Florida; located in the C-TS Zoning District. Request for Special Exception to permit operation of a real estate brokerage office on the first and second floors containing 3,294 square feet. The subject space was approved as office by Special Exception prior to Code changing. [Attorney: M. Timothy Hanlon]

- d. VARIANCE #7-2010 The application of Tina Fanjul Associates, Inc., relative to property commonly known as **220 Sunrise Avenue, Suite 103, Chairman's Club Building**; described as Lots 81 to 88, less the East 10 feet of said Lots 87 and 88, SUNRISE AVENUE ADDITION NO 2 TO PALM BEACH, according to the Plat thereof on file in the Office of The Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 8, page 68, said lands situate, lying and being in Palm Beach County, Florida; located in the C-TS Zoning District. The Applicant requests a variance to allow an office use (real estate brokerage office) of approximately 842.6 square feet on the first floor of a building located in the Town-Serving Commercial District which is in contradiction of Sec 134-1107 (2), which permits such use only above the first floor.
[Attorney: Patricia Lebow, Esq.]

- e. VARIANCE #8-2010 WITH SUBDIVISION MODIFICATION
The application of Paul L. Maddock, Jr., and the Estate of Paul L. Maddock, relative to property commonly known as **301 - 306 Maddock Way**; described as Lots 1 - 6, LANDMARK ESTATE, Plat Book 111, Page 63; located in the R-B Zoning District. The applicant requests modification of a condition of approval for the Landmark Estates subdivision which requires the swimming pool on Lot 5 to be removed within 2 years of the plat being recorded. Applicant wants to allow the pool to remain until either Lot 1 or Lot 5 sells. Requests modification of a condition of approval for the Landmark Estates subdivision which requires a 2-car garage for the house on Lot 1. Applicant is requesting an additional 6 months to add the garage. The Applicant is also requesting to modify a condition of approval which requires a 2 car garage for the "Old Church" on Lot 2. Applicant is requesting to eliminate this condition and is requesting a variance for proposed Lot 2 to not construct a two car garage onto an existing landmarked house which is required by code. [Attorney: Peter S. Broberg, Esq.]
[Landmark Preservation Commission Recommendation: To allow the building to remain as it exists and eliminate the requirement for the two car garage on Lot 2. Carried 7-0.]

- f. VARIANCE #9-2010 WITH SUBDIVISION AMENDMENT
The application of Ronald S Kochman as Trustee if 1255 South Ocean Boulevard Realty Trust dated 12/16/2009; relative to property commonly known as **1255 South Ocean Boulevard**; described as Lots 7 and 8, less the south 7.5 feet of said Lot 8, THE BLOSSOM ESTATE, according to the Plat recorded in Plat Book 44, Page 122, and as re-platted in Plat Book 54, Page 127, of the Public Records of Palm Beach County, Florida; located in the

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R-AA Zoning District. The applicant requests a variance to allow an accessory structure (driveway) to be built on a parcel of land that has no principal structure; this request is in conjunction with a proposed amendment to the Blossom Estate Subdivision Agreement. The Second Amendment of the Blossom Estate Subdivision Amendment (executed in 1995) proposes a driveway configuration and certain improvements on Lot 7. The proposed (third) amendment would revise the driveway configuration and remove the specific improvements in the “Buildable Envelope” to allow the future owner to have flexibility in the design of a house on the subject property. [Attorney: Maura A. Ziska.]

- g. VARIANCE #11-2010 The application of Dean O’Hare; relative to property commonly known as **300 Dunbar Road**; described as Lot 4, Replat of Lots 56 and 57, Adams Addition, according to the plat thereof as recorded in Plat Book 26, Page 3, Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant requests a variance to permit the construction of an ornamental balustrade on the existing parapet wall, which will add additional height within the existing west side yard setback of 9.58 feet in lieu of 12.5 foot minimum required.
[Attorney: M. Timothy Hanlon]

- h. VARIANCE #12-2010 The application of Illustrated Properties Real Estate, Inc.; relative to property commonly known as **139 North County Road, Unit 15**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a variance to permit the operation of a real estate brokerage office containing approximately 1,008 square feet in the first floor of the Paramount Building which does not meet all the requirements to allow an office use on the first floor in this situation. The proposed use meets the special exception uses requirement in Section 134-1109 (18) that there are at least 50% existing office uses on all floors in the Paramount Building but does not meet the requirement that there are more than 50% existing office uses on the first floor within 300 feet of the proposed use within the same zoning district.
[Attorney: M. Timothy Hanlon]

3. Old Business – More than 15 Minutes

- a. SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCES The application of Publix Super Markets, Inc., relative to property commonly known as **265, 255, 235, 231 Sunset Avenue and 240 Sunrise Avenue**; described as lengthy legal description on file; located in the C-TS Zoning District.

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Request for a Site Plan Review and Special Exception to construct a 50,870 (43,360 gross leasable) square foot one story grocery store on 4.36 acres. The new store will provide 218 off street parking spaces. There is proposed to be an outdoor ATM and the grocery cart storage within the building. All of the proposed mechanical equipment will be contained within portions of the building and will not be seen on the roof. Part of the proposed design is to have two generators located within the southeast corner of the proposed store that will contain a 100 KW standby generator and a 500 KW main generator. There is proposed to be two loading areas within the loading dock on the east side of the building that will be screened. The proposed store will have a pharmacy, deli, bakery and a larger selection of food items and other products. Since the proposed grocery store is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is Town serving. A Special Exception is being requested to have two illuminated monument signs at the northwest and southwest entrances to the west parking lot and one illuminated business identification sign on the west entrance of the building. The following variances are being requested to construct the proposed one story grocery store: (a) to allow a building length of 245 feet in lieu of the 150-foot maximum allowed; (b) to allow a front yard setback at the northwest corner of the proposed building of 10 feet in lieu of the 14 foot minimum required based on building height; (c) to allow a side yard setback for the proposed towers to be 10 feet in lieu of the 19-foot minimum required; (d) to allow two loading spaces in lieu of the three spaces required by code; (e) to allow the proposed building to be a total square footage of 50,870 square feet in lieu of the 15,000 square foot maximum allowed; (f) to allow 8 towers in lieu of the two maximum allowed; (g) to allow the area of the 8 towers to be 12.2% of the gross floor area of the building in lieu of the 2% maximum allowed (h) to allow the parking lot light poles to be 23 feet in height in lieu of the 15-foot maximum allowed; (i) to allow the height of the proposed one story grocery store to be 22.66 feet in lieu of the 15-foot maximum allowed; (j) to allow the overall height of the proposed one story grocery store to be 37 feet in lieu of the 20-foot maximum allowed; (k) to allow a monument sign at the northwest entrance where no sign is allowed; (l) to allow a monument sign at the southwest entrance where no sign is allowed.

[Attorney: Maura A. Ziska, Esq.]

[ARCOM Recommendation: Defer to the July 28, 2010, ARCOM Meeting.]

Deferred from the May 12, 2010, and June 22, 2010, Town Council Meetings (Special Circumstances).

**Request for Deferral to the August 11, 2010, Town Council
Meeting Per Letter Dated June 8, 2010, From Maura A. Ziska.**

4. New Business – More than 15 Minutes

- a. VARIANCE #10-2010 The application of Gregory L. Wilson and Lisa C. Wilson; relative to property commonly known as **1480 North Lake Way**; described as lengthy legal description on file; located in the R-A Zoning District. The applicant requests a variance request to construct a dock and associate appurtenances a maximum of 178 feet west of land in lieu of the 150 foot maximum allowed. The proposed dock is 150 feet from land, however the mooring piles are 20 plus feet further out.
[Attorney: Maura A. Ziska]

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D. Other

None

X. ANY OTHER MATTERS

XI. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** 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 2:** 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 3:** 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 4:** A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 70-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Resolution No. 4-05, The Breakers PUD, to Correct a Scrivener's Error and Correctly Update the Deadline for Requesting the Relocation of Dwelling Units Within the Breakers PUD.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated June 30, 2010, from John Page, Director of Planning, Zoning, and Building
- Resolution No. 70-10
- Resolution No. 10-01
- Breakers PUD Master Plan
- Resolution No. 4-05

TOWN OF PALM BEACH

Information for Town Council Meeting on: July 14, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Resolution Correcting a Scrivener's Error in Resolution No. 4-05 and Updating the Deadline for the Relocation of Residential Units within the Breakers Planned Unit Development
Resolution No. 70-10

Date: June 30, 2010

STAFF RECOMMENDATION

Staff recommends approval of Resolution No. 70-10 (copy attached) which corrects a scrivener's error in Resolution No. 4-05 and updates the deadline in Resolution No. 10-01 for applying for the relocation of dwelling units within the Breakers Planned Unit Development (PUD).

GENERAL INFORMATION

In 2001, the Town approved Resolution No. 10-01 (copy attached) which modified the Breakers PUD to allow the relocation of up to 149 approved dwelling units from Priority Areas 1 (southeast corner of Royal Poinciana Way and Cocoanut row), 7 (Pasta House area), 8 (Pine Walk Transfer Station area), and 9 (golf course practice range) of the PUD located west of County Road to the portion of the PUD located east of County Road and/or within Priority Area 1 (See attached PUD Master Plan). A condition placed on the relocation of said dwelling units specifies, "that any proposed transfer of units within the PUD shall be evaluated by the Town to determine if the relocation is expected to result in a significant change in vehicle trip distribution on the road network from that previously contemplated in which case the units proposed for relocation shall be required to meet traffic concurrency requirements at the time of application(s)." The approval also requires the applicant to apply for the relocation(s) of residential units no later than the 2023-2024 Zoning Season. The exact location and height of said units are also be subject to Town Council approval pursuant to an application(s) to amend the PUD Master Plan.

Subsequently, in 2005, the Breakers Hotel, received another approval to modify the Breakers PUD through Resolution No. 4-05 (copy attached). That PUD amendment allowed for the demolition of 56 existing cabanas, the Reef Bar and cabana pool and their replacement with

20 new larger cabanas; a new larger Beach Bar and Grill; two new larger pools with spas; and a new pavilion, locker room/restroom building and laundry facility. However, that Resolution did not correctly reference Resolution No-10-01 and its modifications.

The purpose of Resolution No. 70-10 is to correct that scriveners's error by reincorporating the approved PUD modification language of 2001. In addition, since there is no longer a "zoning season", staff also recommends that the original modification language be updated to set the deadline for requesting the relocation of dwelling units within the PUD to 2024 rather than the 2023-2024 Zoning Season, as stated in the original language.

TOWN ATTORNEY REVIEW

Resolution No. 70-10 was approved by Town Attorney Randolph for legal form and sufficiency.

Attachments

cc: Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Joanna Cunningham, Town Clerk
Veronica B. Close, Assistant Director, Planning Zoning & Blding Department
Paul W. Castro, AICP, Zoning Administrator
James Brindell, Esquire
pf
zf

RESOLUTION NO. 70-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING RESOLUTION NO. 4-05, THE BREAKERS PUD, TO CORRECT A SCRIVENERS ERROR AND CORRECTLY UPDATE THE DEADLINE FOR REQUESTING THE RELOCATION OF DWELLING UNITS WITHIN THE BREAKERS PUD.

WHEREAS, The Breakers Palm Beach, Inc.'s "The Breakers" property is regulated by the Town with regard to land use issues as a Planned Unit Development ("PUD"); and

WHEREAS, the PUD was first approved in 1971 pursuant to Resolution 6-71, which has been amended on numerous occasions by Resolutions 9-72, 13-74, 10-81, 17-90, 6-92, 1-97, 1-98, 3-00, 10-01, and 4-05; and

WHEREAS, Section 1 of Resolution No. 10-01 amended PUD condition Modification #7 regarding the negotiation of the transfer of up to 149 dwelling units from the west side of County Road to the east side of County Road subject to certain terms (the "2001 Amendments"); and

WHEREAS, the Town and The Breakers Palm Beach, Inc. entered into a binding Agreement on April 19, 2001 memorializing and accepting the provisions of Resolution No. 10-01, the 2001 Amendments, which is recorded in the Public Records of Palm Beach County, Florida at ORB 12541 Pg. 94 and set forth in Exhibit "1" attached hereto and made a part hereof; and

WHEREAS, the PUD was further amended in regard to certain of The Breakers beach club facilities by Resolution No. 4-05 (the "2005 Amendments"); and

WHEREAS, the 2005 Amendments did not amend the 2001 Amendments, but did fail to include due to a scrivener's error the correct language in Modification #7 which was approved by the 2001 Amendments in Resolution No. 10-01. (the "Scrivener's Error"); and

WHEREAS, the Town Council desires to correct the Scrivener's Error.

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. Resolution No. 4-05 is hereby corrected to include the language in Modification #7 previously approved by Resolution No. 10-01 set forth in Exhibit "1" hereto, to wit:

- a. The applicant may relocate up to the 149 dwelling units from Priority Areas 1 (southeast corner of Royal Poinciana Way and Coconut

row), 7 (Pasta House area), 8 (Pine Walk Transfer Station area) and 9 (golf course practice range) of the PUD located west of County Road to the portion of the PUD located east of County Road and/or within Priority Area 1. Provided, however, that any proposed transfer of units within the PUD shall be evaluated by the Town to determine if the relocation is expected to result in a significant change in vehicle trip distribution on the road network from that previously contemplated in which case the units proposed for relocation shall be required to meet traffic concurrency requirements at the time of application(s). The applicant shall be permitted to apply for relocation(s) of residential units no later than 2024. The exact location and height of said units shall be subject to Town Council approval pursuant to an application(s) to amend the PUD Master Plan.

b. No Change

Section 3. Resolutions No. 9-72, 13-74, 10-81, 17-90, 6-92, 1-97, 1-98, 3-00, 10-01, and 4-05 shall remain in full force and effect except as modified by previous amendments and modifications and by the provisions of this resolution.

PASSED AND ADOPTED in regular, adjourned session assembled on this 14th day of July, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

RESOLUTION NO. 10-01

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING RESOLUTION 3-00, THE BREAKERS PUD, BY MODIFYING THE PUD MASTER PLAN TO ALLOW FOR THE OPPORTUNITY TO REQUEST THE REDISTRIBUTION OF RESIDENTIAL UNITS FROM THE WEST SIDE OF COUNTY ROAD TO OTHER LOCATIONS WITHIN THE PUD BY THE 2023-2024 ZONING SEASON.

WHEREAS, Flagler System, Inc. did submit an application for tentative approval together with supporting documentation for Planned Unit Development for the property commonly referred to as "The Breakers" on October 30, 1970; and

WHEREAS, The Zoning Commission and the Town Council of the Town of Palm Beach, subsequent to review and public hearing did by Resolution 6-71, as amended by Resolutions 9-72, 13-74, 10-81, 17-90, 6-92, 1-97, 1-98 and 3-00 grant tentative approval of said application, subject to certain conditions; and

WHEREAS, The Town and Flagler System, Inc., entered into a binding Agreement on September 8, 1983 wherein Flagler Systems, Inc., accepted the Town's conditions governing the development of "The Breakers" Planned Unit Development, and said Agreement was revised by the Town and Flagler System, Inc., on January 22, 1990, on February 19, 1992, on June 18, 1996 and on April 12, 2000; and,

WHEREAS, Flagler System, Inc. has been reorganized and the corporate name of the company now controlling "The Breakers" Planned Unit Development is The Breakers Palm Beach, Inc.; and,

WHEREAS, on November 20, 2000 and December 6, 2000, the Zoning Commission and on January 3, 2001, and February 5, 2001, the Town Council of the Town of Palm Beach, did review and hold public hearings on the application for tentative approval of the modifications of the Planned Unit Development; and,

WHEREAS, The Town Council, in accordance with Section 134-533 of Chapter 134, Zoning, of the Code of Ordinances, as amended, does make the following findings:

1. The Planned Unit Development Plan, as submitted with the modifications thereto, is consistent with the statement of general objectives of a Planned Unit Development as set forth in Section 134-476 of the Ordinance.
2. The Planned Unit Development, as submitted with the modifications thereto, is consistent with the Comprehensive Plan, as long as the conditions hereinafter set forth are met.

2. The Planned Unit Development, as submitted with the modifications thereto, is consistent with the Comprehensive Plan, as long as the conditions hereinafter set forth are met.
3. The Planned Unit Development, as submitted with modifications thereto, does include an adequate amount of open space located in a satisfactory manner, as long as the applicant meets the open space set forth in the Resolution.
4. The Planned Unit Development, as submitted with modifications thereto, makes adequate provisions for public services, provides adequate control over vehicular traffic and enhances the amenities of light and air, recreational and visual enjoyment, but is further subject to certain conditions hereinafter set forth.
5. The Planned Unit Development, as submitted with modifications thereto, is not adverse to the neighborhood in which it is located.
6. The Planned Unit Development, as submitted with modifications thereto, includes sufficient terms and conditions to protect the interests of the public in the development of the plan over a period of years.
7. The Breakers Hotel as referenced in the exhibits attached hereto is a historically and architecturally significant building and provision for its west facade preservation shall be subject to the control of the Landmarks Preservation Commission, the Town Council and any other commission or board of the Town having jurisdiction over same, such control not to be inconsistent with the Planned Unit Development Plan approval as evidenced by this Resolution.

WHEREAS, the Town Council, after deliberation and evaluation of the recommendations of the Zoning Commission and the comments received from interested parties at the aforementioned public hearings, does find the Planned Unit Development Plan, as amended with the modifications thereto, to be in the best interest of the Town subject to the conditions hereinafter set forth.

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

Section 1. That the amendments to the Planned Unit Development submitted by the Breakers Palm Beach, Inc., on August 1, 2000, be granted tentative approval subject to the conditions set forth therein not in conflict with this Resolution, in addition to those specified below:

A. AMENDMENTS TO PREVIOUS MODIFICATIONS

MODIFICATION #1

Coffee Shop
NO CHANGE

MODIFICATION #2

Tennis Court Lighting
NO CHANGE

MODIFICATION #3
Additional Retail Space
NO CHANGE

MODIFICATION #4
DELETED BY RESOLUTION NO. 3-00

MODIFICATION #5
Maintenance of Golf Course Green Space
NO CHANGE

MODIFICATION #6
Lease of Pine Walk Transfer Station
NO CHANGE

MODIFICATION #7
Requirement for Renegotiation is amended to read:

- a. ~~The applicant and the Town agree to negotiate the possible transfer to other areas in the Planned Unit Development (PUD), with increased building heights, the development rights pertaining to all of the undeveloped phases of development, as set forth in The Breakers, Proposed Planned Unit Development Revised June 9, 1981 (hereinafter the "Red Book"), at Drawing No. 5, during the 2000-2001 Zoning Season.~~

~~Phase 1a (Priority 1) Area may be used to temporarily locate 250 of the required permanent off-street parking spaces for employee parking at the northwest corner of the PUD in the Phase 1a (Priority 1) Area. If the Phase 1a (Priority 1) Area is developed, these 250 required off-street parking spaces shall be relocated to an area within the Breakers PUD that is acceptable to the Town.~~

- a. The applicant may relocate up to the 149 dwelling units from Priority Areas 1 (southeast corner of Royal Poinciana Way and Cocoanut Row), 7 (Pasta House area), 8 (Pine Walk Transfer Station area) and 9 (golf course practice range) of the PUD located west of County Road to the portion of the PUD located east of County Road and/or within Priority Area 1. Provided, however, that any proposed transfer of units within the PUD shall be evaluated by the Town to determine if the relocation is expected to result in a significant change in vehicle trip distribution on the road network from that previously contemplated in which case the units proposed for relocation shall be required to meet traffic concurrency requirements at the time of application(s). The applicant shall be permitted to apply for relocation(s) of residential units no later than the 2023-2024 Zoning Season. The exact location and height of said units shall be subject to Town Council approval pursuant to an application(s) to amend the PUD Master Plan.

b. NO CHANGE

MODIFICATION #8

Road and Parking Improvements

NO CHANGE

MODIFICATION #9

Starlight Ballroom Addition and Beach Club

NO CHANGE

MODIFICATION #10

Golf and Tennis Clubhouse with Related Facilities

NO CHANGE

MODIFICATION #11

Development Commencement Dates

NO CHANGE

B. RESOLUTIONS 9-72, 13-74, 10-81, 17-90, 6-92, 1-97, 1-98 AND 3-00 SHALL REMAIN IN FULL FORCE AND EFFECT EXCEPT AS MODIFIED BY PREVIOUS AMENDMENTS AND MODIFICATIONS AND BY THE PROVISIONS OF THIS RESOLUTION.

Section 2. The modifications submitted on August 1, 2000 and revised by the Breakers Palm Beach, Inc., and reflected herein will become effective (i.e. not tentative) only if, as and when The Breakers Palm Beach, Inc., indicates its acceptance thereof and an agreement documenting that acceptance is entered into between the Town of Palm Beach and The Breakers Palm Beach, Inc. incorporating said conditions.

Section 3. The Town Clerk is hereby directed to furnish a certified copy of this Resolution, by certified mail to the applicant, and applicant shall within forty-five (45) days after receiving said certified copy notify the Town Council of the acceptance of, or refusal to accept all of said conditions as provided in Section 134-533(c) of Chapter 134, as amended, and further subject to the provisions of Section 134-533(d).

Section 4. PASSED AND ADOPTED in regular, adjourned session assembled on this 5th day of February, 2001.

Issy S. Smith
MAYOR

[Signature]

James McIndoo

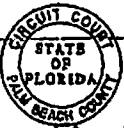
Harold [Signature]

ATTEST:

[Signature]

Mary A. Pollett
TOWN CLERK

William J. Brooke
TOWN COUNCIL



I certify this document to be a true copy of the record in my office.

This Day of

20

DOROTHY H. WILKEN, Clerk Circuit Court
Palm Beach County, FL

BY

WILLIAM J. BROOKE
TOWN COUNCIL

I, WILLIAM J. BROOKE, TOWN COUNCIL, CERTIFY THAT I am the duly qualified representative of the Town of Palm Beach, Florida, and that the foregoing is a true and correct copy of the original of the same as the same is on file in the office of the Town of Palm Beach, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Town this 5th day of February, 2001.

TOWN SEAL

Mary A. Pollett

MARY A. POLLETT
TOWN CLERK

Section 4. Corrections to Resolution No. 4-05 shall be further documented by an agreement entered into between the Town of Palm Beach and The Breakers Palm Beach, Inc. incorporating the conditions of Resolution No. 4-05, as corrected by this Resolution.

PASSED AND ADOPTED in regular, adjourned session assembled on this ____ day of _____, 2010.

Jack McDonald, Mayor

David A. Rosow

Richard M. Kleid

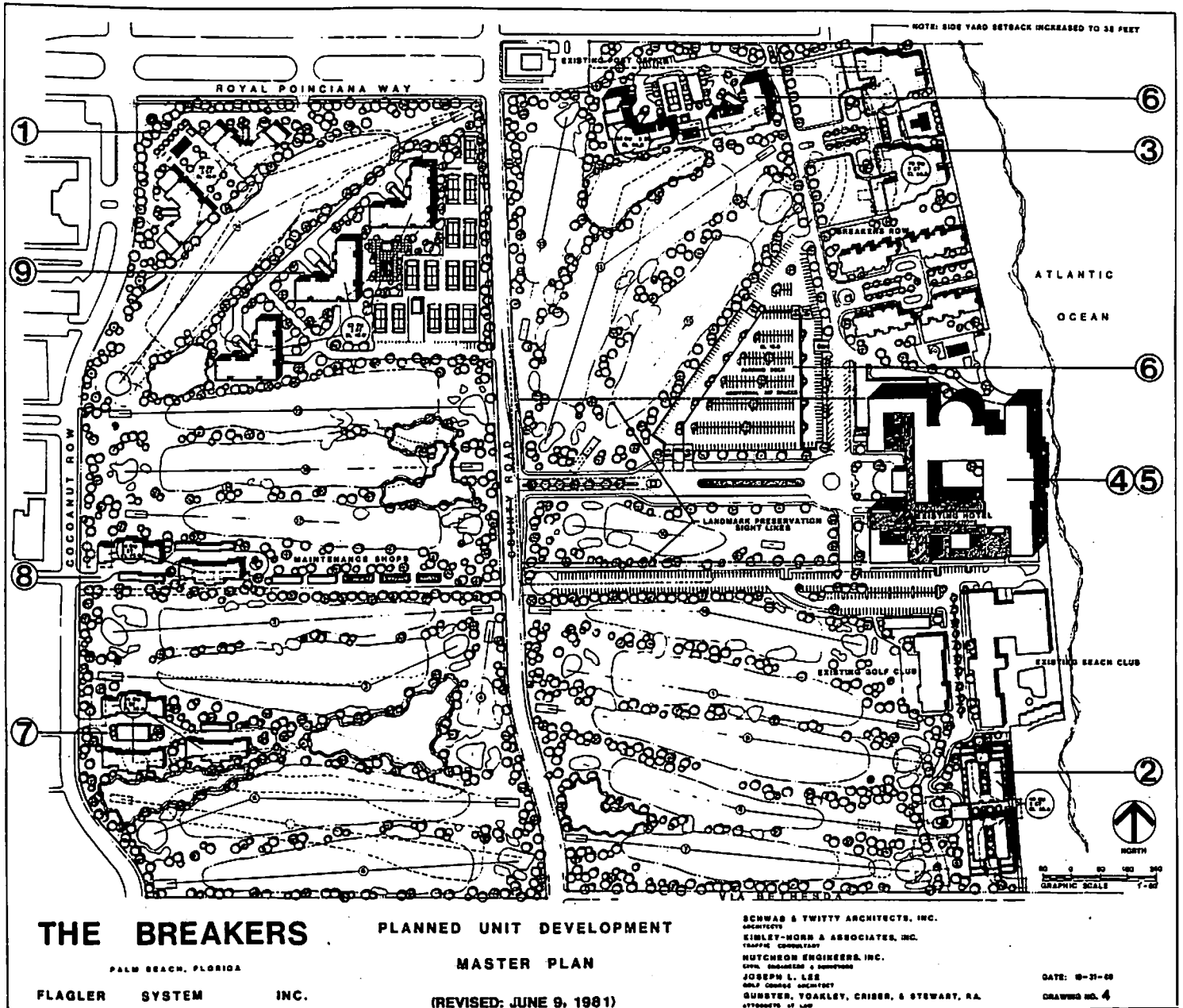
Gail Coniglio

Robert N. Wildrick

William J. Diamond

ATTEST:

Joanna Cunningham, Town Clerk



RESOLUTION NO. 4-05

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING RESOLUTION No. 3-00, THE BREAKERS PUD, BY MODIFYING THE PUD MASTER PLAN TO REDESIGN THE BEACH CLUB CABANAS AND RELATED FACILITIES, EAST OF SOUTH COUNTY ROAD.

WHEREAS, Flagler System, Inc. did submit an application for tentative approval together with supporting documentation for Planned Unit Development for the property commonly referred to as "The Breakers" on October 30, 1970; and

WHEREAS, The Zoning Commission and the Town Council of the Town of Palm Beach, subsequent to review and public hearing did by Resolution 6-71, as amended by Resolutions 9-72, 13-74, 10-81, 17-90, 6-92, 1-97, 1-98, and 3-00 grant tentative approval of said application, subject to certain conditions; and

WHEREAS, The Town and Flagler System, Inc., entered into a binding Agreement on September 8, 1983, wherein Flagler Systems, Inc., accepted the Town's conditions governing the development of "The Breakers" Planned Unit Development, and said Agreement was revised by the Town and Flagler System, Inc., on June 18, 1986, on January 22, 1990, on February 19, 1992, on April 12, 2000, and on February 15, 2005, pursuant to the terms of Resolution No. 4-05; and

WHEREAS, Flagler System, Inc. has been reorganized and the corporate name of the company now controlling "The Breakers" Planned Unit Development is The Breakers Palm Beach, Inc.; and

WHEREAS, on July 27, 2004, The Breakers Palm Beach, Inc., did submit an application for tentative approval of the modifications of the Planned Unit Development; and

WHEREAS, on December 1, 2004, the Planning and Zoning Commission and on January 5, 2005, and February 15, 2005 the Town Council of the Town of Palm Beach, did review and hold public hearings on the application for tentative approval of the modifications of the Planned Unit Development; and

WHEREAS, The Town Council; in accordance with Section 134-533 of Chapter 134, Zoning, of the Code of Ordinances, as amended, does make the following findings:

1. The Planned Unit Development Plan, as submitted with the modifications thereto, is consistent with the statement of general objectives of a Planned Unit Development as set forth in Section 134-476 of the Ordinance.

2. The Planned Unit Development, as submitted with the modifications thereto, is consistent with the Comprehensive Plan, as long as the conditions hereinafter set forth are met.
3. The Planned Unit Development, as submitted with modifications thereto, does include an adequate amount of open space located in a satisfactory manner, as long as the applicant meets the open space set forth in the Resolution.
4. The Planned Unit Development, as submitted with modifications thereto, makes adequate provisions for public services, provides adequate control over vehicular traffic and enhances the amenities of light and air, recreational and visual enjoyment, but is further subject to certain conditions hereinafter set forth.
5. The Planned Unit Development, as submitted with modifications thereto, is not adverse to the neighborhood in which it is located.
6. The Planned Unit Development, as submitted with modifications thereto, includes sufficient terms and conditions to protect the interests of the public in the development of the plan over a period of years.
7. The Breakers Hotel as referenced in the exhibits attached hereto is a historically and architecturally significant building and provision for its west facade preservation shall be subject to the control of the Landmarks Preservation Commission, the Town Council and any other commission or board of the Town having jurisdiction over same, such control not to be inconsistent with the Planned Unit Development Plan approval as evidenced by this Resolution.

WHEREAS, the Town Council, after deliberation and evaluation of the recommendations of the Planning and Zoning Commission and the comments received from interested parties at the aforementioned public hearings, does find the Planned Unit Development Plan, as amended with the modifications thereto, to be in the best interest of the Town subject to the conditions hereinafter set forth.

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. That the amendments to the Planned Unit Development submitted by the Breakers Palm Beach, Inc., on July 27, 2004, be granted tentative approval subject to the conditions set forth therein not in conflict with this Resolution, in addition to those specified below:

A. AMENDMENTS TO PREVIOUS MODIFICATIONS

MODIFICATION #1

Coffee Shop
NO CHANGE

MODIFICATION #2

Tennis Court Lighting
NO CHANGE

MODIFICATION #3

Additional Retail Space
NO CHANGE

MODIFICATION #4

New Tennis Facility
DELETE (to be replaced by Modification #10)

MODIFICATION #5

Maintenance of Golf Course Green Space is amended to read:

The applicant agrees to maintain the golf course as green space through the year 2025, or for so long as the property is zoned Planned Unit Development, whichever is greater.

NO CHANGE

MODIFICATION #6

Lease of Pine Walk Transfer Station is amended to read:

The Town and the Breakers Palm Beach, Inc. have agreed that the Town shall be given an extension of the existing lease from the Breakers Palm Beach, Inc. until December 31, 2025, for the Town's waste transfer station currently located on Development Priority No. 8 (Phase 5) within the Breakers PUD, as shown in the Red Book Drawing No. 5. The terms of said lease shall be the same as contained in the present lease, and further, said lease may not be canceled prior to December 31, 2025 without the approval of the Town of Palm Beach. The Town shall retain all debris within the transfer station site and shall consult with the Breakers for the purpose of developing and installing landscaping to screen the site and the equipment thereon completely from the adjacent golf course areas.

NO CHANGE

MODIFICATION #7

Requirement for Renegotiation is amended to read:

- a. The applicant and the Town agree to negotiate the possible transfer to other areas in the Planned Unit Development (PUD), with increased building heights, the development rights pertaining to all of the undeveloped phases of development, as set forth in The Breakers, Proposed Planned Unit Development Revised June 9,

1981 (hereinafter the "Red Book"), at Drawing No. 5. during the 2000-2001 Zoning Season.

Phase 1a (Priority 1) Area may be used to temporarily locate 250 of the required permanent off-street parking spaces for employee parking at the northwest corner of the PUD in the Phase 1a (Priority 1) Area. If the Phase 1a (Priority 1) Area is developed, these 250 required off-street parking spaces shall be relocated to an area within the Breakers PUD that is acceptable to the Town.

b. **THE FOLLOWING CONDITIONS RELATING TO THE DRAINAGE IMPROVEMENTS FOR THE BREAKERS PUD HAVE BEEN COMPLETED:**

The timing of construction and the fair apportionment of the costs of the drainage improvements at the main entrance to the Hotel on County Road specified in the Planning Criteria and the Appendices at Page 47 under Priority 4 (Phase 11) and the renegotiation of said timing in accordance with the schedule set forth in Exhibit A attached hereto have been completed. Provided, however, that no later than July 1, 1992, the applicant will commence construction of the interim drainage improvements reflected on Exhibit B attached hereto, and shall complete said improvements no later than October 31, 1992. It is recognized that this interim drainage improvement will accommodate runoff from the hotel property as well as other Town property. As a result, the costs associated with this interim improvement will be apportioned fairly between the Flagler System and the Town. The Flagler System, shall pay all interim drainage improvement costs provided, however, that a credit shall be given to the Flagler System by the Town toward the Flagler System's share of the costs of the long term drainage improvements. Provided, however, that no cost sharing of the costs of the interim improvements shall commence until the review and approval by the Town of the costs apportionment formula to be completed by the end of March, 1992 (see Exhibit A).

NO CHANGE - COMPLETED

MODIFICATION #8

Road and Parking Improvements

NO CHANGE

MODIFICATION #9

Starlight Ballroom Addition and Beach Club

NO CHANGE

MODIFICATION #10

Golf and Tennis Clubhouse with Related Facilities

The construction of the new Golf and Tennis Clubhouse, as depicted on the site plan drawing prepared by Blakely & Associates, sheet L-1, stamp dated February 4, 2000, and drawings prepared by Wimberly, Allison, Tong and Goo, entitled The Breakers Golf and Tennis Club, Sheet Nos. A2 through A11, stamp dated January 28, 2000, and the modification and re-ordering of the golf course holes as depicted on the plan prepared by Cornish, Silva & Mungeam, Inc., entitled The Breakers Golf Club *Palm Beach, Florida* Route Plan, dated January 28, 2000, are hereby approved as revised pursuant to the public hearings. Sheet Nos. A-2, A-3 and A-4 (Floor Plans) and the golf course drawing may be changed slightly to address final construction design and building code requirements.

The new Golf and Tennis Club facilities will consist of approximately 31,692 square feet of enclosed area, 7,682 square feet of covered terraces, 1,175 square feet of porte cochere with 150 dining seats, 10 tennis courts (including five lighted courts), an 18-hole golf course, other accessory facilities and 80 parking spaces. A special duty police officer shall be paid for by The Breakers at major events at the golf course for traffic control on County Road. Valet parking shall be provided between November 15 and April 30 of each year at the Golf and Tennis Club. The cart path for golf hole number 7 shall be routed along the north side of the hole.

ONLY CHANGES ARE THE REFERENCE FROM POLICE OFFICER TO SPECIAL DUTY POLICE OFFICER WORKING MAJOR EVENTS AND A CHANGE IN LANGUAGE FROM EMPLOYMENT BY THE BREAKERS TO PAID FOR BY THE BREAKERS

MODIFICATION #11

Development Commencement Dates

The commencement dates for undertaking the remaining development Phase (Priority) Areas are hereby made uniform at December 31, 2025: Phase 1 (Priority 1) - 38 units, Phase 3 (Priority 2) - 40 units, Phase 4 (Priority 7) - 24 units, Phase 5 (Priority 8) - 24 units, Phases 6 and 7 (Priority 9) - 63 units, and Phases 8 and 9 (Priority 6) - 62 units.

NO CHANGE

MODIFICATION #12

Cabanas and Related Facilities

The construction of the new cabanas, beach bar and grill, pools, jacuzzis, pavilion, lockers, restrooms, and laundry as depicted on the site plan prepared by WATG entitled "Site Plan", Sheet No. A-1.00 dated January 3, 2005, is hereby approved as revised pursuant to the public hearings. Sheet No. A-1.00 may be changed slightly to address final construction design and building code requirements.

The new cabana facilities shall consist of 20 cabanas, a beach bar and grill

with 136 seats, two pools, several jacuzzis, a pavilion with approximately 778 square feet, a locker and restroom building of approximately 2,535 square feet, a laundry of approximately 2,113 square feet, and a reduction of 16 parking spaces in cabana area. However, the ultimate development program for the cabana area as shown on the existing Master Plan remains unchanged; i.e., 80 hotel suites, or 40 multi-family units, and 40 cabanas.

The cabana pool equipment shall be enclosed and landscaped, and the sound from said equipment shall be minimized to comply with the Town's noise ordinance. No construction traffic shall use Flagler Drive. Construction traffic shall be permitted to use Via Bethesda only in the event that a piece of equipment or construction material cannot reasonably access the construction site through the County Road entrance to the Beach Club and then only as approved in advance on a case-by-case basis by the Town's Department of Planning, Zoning, and Building.

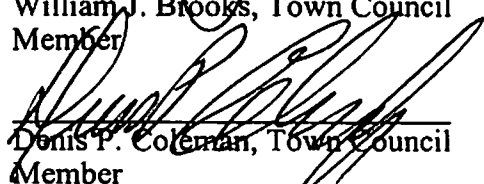
- B. RESOLUTIONS 9-72, 13-74, 10-81, 17-90, 6-92, 1-97, 1-98, AND 3-00 SHALL REMAIN IN FULL FORCE AND EFFECT EXCEPT AS MODIFIED BY PREVIOUS AMENDMENTS AND MODIFICATIONS AND BY THE PROVISIONS OF THIS RESOLUTION.

Section 3. The modifications submitted on July 27, 2004, by the Breakers Palm Beach, Inc., and reflected herein will become effective (i.e. not tentative) only if, as and when The Breakers Palm Beach, Inc., indicates its acceptance thereof and an agreement documenting that acceptance is entered into between the Town of Palm Beach and The Breakers Palm Beach, Inc. incorporating said conditions.

Section 4. The Town Clerk is hereby directed to furnish a certified copy of this Resolution, by certified mail to the applicant, and applicant shall within forty-five (45) days after receiving said certified copy notify the Town Council of the acceptance of, or refusal to accept all of said conditions as provided in Section 134-533(c) of Chapter 134, as amended, and further subject to the provisions of Section 134-533(d).

PASSED AND ADOPTED in regular, adjourned session assembled on this 15TH day of FEBRUARY, 2005.


Jack McDonald, Mayor


William J. Brooks, Town Council
Member

Denis P. Coleman, Town Council
Member



Mary A. Pollitt
Mary A. Pollitt, Town Clerk

Norman P. Goldblum
Norman P. Goldblum, Town Council
Member

Richard M. Kleid
Richard M. Kleid, Town Council
Member

Allen S. Wyett
Allen S. Wyett, Town Council
Member

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 48-10 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 290 South County Road 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 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach. *Deferred from the May 12, 2010, Town Council Meeting.*

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated June 29, 2010, from John Page
- Resolution No. 48-10
- Designation Report for 290 South County Road
- Excerpt from the April 21, 2010, LPC Minutes
- Applicable Code Section
- Undated letter from Thomas Campaniello
- Memorandum dated April 30, 2010 from John S. Page, Director of Planning, Zoning and Building
- Letter dated June 30, 2010, from Jane S. Day

TOWN OF PALM BEACH

Information for Town Council Meeting on: July 14, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Planning, Zoning & Building Director

Re: Landmarking Designation of 290 South County Road

Date: June 29, 2010

STAFF RECOMMENDATION

It is recommended that the Town Council revisit their May action to designate the Palm Way Building at 290 South County Road as a landmark, and to then reaffirm (which would require no action) or reverse their earlier action.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission considered the issue on April 21st, 2010, and voted unanimously to recommend landmark designation. The owner did not attend or send any representative, although a letter of objection from the owner was read into the record.

The Town Council designated the Palm Way Building at 290 South County Road as a Landmark on May 12, 2010. Owner Thomas Campaniello was not present at the meeting, but was represented by Kathy Elliot, his property manager, who reiterated the owner's objection. Following all discussion on May 12, 2010, the Council vote to landmark the property passed by a vote of 3 ayes, 2 nays.

GENERAL INFORMATION

Revisiting the landmark designation was prompted by Mayor McDonald during the Council meeting of May 12, following the vote. He noted that he felt the Council was sometimes inconsistent in its approach to landmark designations. Although owner consent is not required by Code or policy in order to landmark a property, he noted that Council members sometimes vote against landmarking when the owner objects. Upon noting his consistency concern, he asked 1) that the issue be revisited in July, and 2) that Town consultant Jane Day meet with the owner prior to July 14 in order to fully inform him of landmarking rules and ramifications.

In her quest to inform the owner of all landmarking consequences following Council action in May, Jane Day has accomplished the following:

- She contacted Kathy Elliot, Property Manager for Mr. Campaniello, to determine how best to reach the owner. She was provided with a cell phone number.
- She was able to speak to Mr. Campaniello via phone at his location in Miami. Although she offered to travel to Miami to explain the landmarking program in detail, Mr. Campaniello refused that offer.
- During their phone conversation, Mr. Campaniello continued to object to landmarking of the 290 South County Road property. Ms. Day attempted to clarify relevant concerns to the owner, including the possibility of property tax abatement.
- Ms. Day then offered to “overnight” pertinent information to the owner, including the recently completed Landmarks Manual and a listing of other landmarked properties and those that have successfully obtained tax abatement. The owner consented and the material was mailed.

As of this date, no further word has been received from Mr. Campaniello. As reported in the Palm Beach Daily News following the May Council meeting and as also relayed to Jane Day by the Property Manager, the owner is concerned that landmark status might interfere with plans to demolish all or part of the building, convert the former restaurant space to office use, and/or sell the building. Once landmarked, the local Ordinance protects the building’s exterior, but doesn’t govern interior use. Although it is unusual for a landmarked building to be demolished, the ordinance does contain provisions that allow for such to occur with approval of building replacement plans.

Staff will provide a verbal update to the Town Council at the July 14th meeting if any further word has been received by Mr. Campaniello.

xc: Jane Day, Research Atlantica
John Lindgren, Planning Administrator
Landmark Preservation Commissioners

RESOLUTION NO. 48-10

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 290 SOUTH COUNTY ROAD 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 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 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 public hearings 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 2-84, and the provisions of the Town Code described herein, is known as 290 South County Road and the property to be landmarked is legally described as follows:

**ROYAL PARK ADDITION, NORTH 125 FT OF LOT 35 & EAST 13 FT OF
NORTH 125 FEET OF LOT 36, BLOCK E**

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 2-84 and the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 14th day of July, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

290 SOUTH COUNTY ROAD



DESIGNATION REPORT

Wednesday, April 21, 2010

Landmarks Preservation Commission
Palm Beach, Florida

DESIGNATION REPORT

290 South County Road

Table of Contents

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Report produced by Jane S. Day, Research Atlantica, Inc.

I. GENERAL INFORMATION

Location: 290 South County Road
Palm Beach, Florida

Date of Construction: 1924

Principal Architect: Unknown

Present Owner: Thomas Campaniello

Present Use: Retail/Restaurant/ Residential

Present Zoning: CTS

**Palm Beach County
Tax Folio Number:** 50-43-43-23-05-025-0351

**Current Legal
Description:** Royal Park Addition N 125 FT OF LT 35 & E13 FT
OF N 125 FT OF LT 36 BLK E

Evaluation in the "Historic Building Survey of Palm Beach, 2004": This Mediterranean Revival style building is situated at a major intersection. Its elaborate cast stone architectural features and multi-level roof line gives it character. It is worthy of local designation.

III. ARCHITECTURAL INFORMATION

The commercial building at 290 South County Road is a Mediterranean Revival style structure that was constructed in 1924 for the Palm Way Finance Company. Wilcox Brothers was listed as the contractor for the \$46,500 project which was built of hollow clay tile. No architect is listed on the original permit.¹ The Mediterranean Revival style was popularized in Palm Beach in 1919 with the design and building of the Everglades Club by Addison Mizner. Based on details and forms that are derived from the countries that surround the Mediterranean Sea, during the 1920s Mediterranean Revival became the most popular architectural type in Palm Beach.

The Palm Way Building is a good example of this style in a commercial form. Situated at an important location on the southwest corner of Royal Palm Way and South County Road, the structure is two stories in height and covered with stucco. This two-part commercial block, which is characterized by a horizontal division between two distinct zones, was the most common type of small commercial building in the country during the early twentieth century. In this example, the zones are clearly differentiated by a belt course between the first and second floor. The top portion of the building is covered with rusticated stucco, the lower portion is smooth stucco scored to look like block. A repetitious motif of vertical cast stone details has been placed between store fronts on the first floor, giving the building a regular rhythm along the sidewalk.

Although the roof of the building is flat, barrel tiles line the roof's edge with exposed rafters below the tiles. This adds to the Mediterranean style. The varying height of this roof detail also adds interest to the design. Windows on the first floor vary between casement and fixed plate glass commercial windows. Windows on the second floor are shuttered and were not visible for this architectural description.

Besides the entrances into the individual restaurant and storefronts which are utilitarian, there are two other entrances worthy of mention. On the Royal Palm Way facade on the north side of the building, a small arched opening leads into a recessed space. Above this entrance the original name "Palm Way Building" is incised into the block. On the east facade along South County Road, a beautifully elaborated entrance leads into a stair hall that rises to apartments and spaces above the store fronts. This entrance has wide double doors with twisted columns on either side. Above is a cast stone scroll and cartouche design that pulls together the vertical elements lining the street. The roof line in this section of the building is a front facing gable emphasizing its importance to the design.

One of the most important design elements of the building anchors its placement within its urban setting. The usual rectangular footprint of the building is skewed in the northeast corner of the mass so that the corner faces the intersection of Royal Palm Way and South County Road. This

¹Building Permit #309, July 20, 1924. On file with the Town of Palm Beach. Please note that this building is also listed under the addresses 288-294 South County Road.

frontispiece of the structure is oriented outward toward the public and passing vehicles. Slightly higher than the rest of the building, the roof is punctuated with an elaborate scrolled parapet. Just below the parapet, a niche (now empty) is placed above the cast stone letters "Palm Way Bldg." A cantilevered balcony with a wrought iron railing is below the name. Although it is not certain, this may have been the original entrance to 290 South County Road.

Finally the west facade of the building has been recently exposed because of the demolition of the neighboring structure to the west. This facade is strictly utilitarian in function with no design details.

IV. HISTORICAL INFORMATION

The Palm Way Building at 290 South County Road is representative of the commercial development that took place along Royal Palm Way during the Boom Times of the 1920s. Built in 1924, it was originally home to a financing company and the J.B. McGinley Realty Organization which advertised in the Palm Beach Post.²

Originally swap land, this area of town was owned by pioneer "Cap" Dimick. It was not until the Royal Park Bridge was built, however, that business and other development began to spring up along the new road. In September of 1925 the headlines read, "Great Business Center Planned for Palm Beach."³ The article outlined plans for the area around Royal Palm Way and called it a "vast commercial artery."⁴ Specifically they described a new building called the Singer Building, designed by Addison Mizner that would house the Mizner Development Corporation. This building is now the Rovensky Building of the Society of the Four Arts. Interestingly, the article also anticipated a parking problem along the street and noted that "Property owners along the entire way have petitioned Mayor Cooper C. Lightbown to remove the center beautification of the street to make room for a parking lot."⁵ This plan, however, was not approved.

The building files for 290 South County Road indicate that the property has undergone numerous maintenance projects over the years. Tenants have come and gone, repairs have been made, and the building had been reroofed. No major design changes to the exterior, however, have taken place and the structure retains its architectural integrity.

²"J.B. McGinley Realty Organization," Palm Beach Post, January 4, 1925.

³"Great Business Center Planned for Palm Beach," Palm Beach Post, September 23, 1925.

⁴Ibid.

⁵Ibid.

V. STATEMENT OF SIGNIFICANCE

The building at 290 South County Road is an excellent example of a Mediterranean Revival style two-part commercial building constructed during the Boom years of the 1920s. It's location on a prominent corner at Royal Palm Way and South County Road makes it an important entrance way to the Town and the Town Hall Square Historic District. It is worthy of local designation and protection.

VI. CRITERIA FOR DESIGNATION

Chapter 54 of the Code of Ordinances of the Town of Palm Beach (Historic Preservation Ordinance) outlines the criteria for designation of historic structures and districts, 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:

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

With the opening of the Royal Park Bridge, and the success of both the "Royal Park" and "Poinciana Park" Subdivisions during the 1920s, commerce and government moved south in Palm Beach away from the Flagler Hotels and Royal Poinciana Way. The Palm Way Building at 290 South County Road is representative of this Boom Times development, as well as being a good example of the Mediterranean Revival style.

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 craftsmen."

The Palm Way Building is a good example of the Mediterranean Revival style of architecture as it was interpreted in a commercial building from the 1920s. Although the architect is not known at this time, the building has many details that represent a high caliber of thought and design making it worthy of local designation.

VII. ARCHITECT'S BIOGRAPHY

The architect of this building is not known at this time.

IX. SELECTED BIBLIOGRAPHY

"Great Business Center Planned for Palm Beach," Palm Beach Post. September 23, 1925.

"J.B. McGinley Realty Organization," Palm Beach Post. January 24, 1935.

Longstreth, Richard. The Building of Main Street: A Guide to American Commercial Architecture, Washington, D.C.: The National Trust for Historic Preservation, 1987.

Maddex, Diane, editor. Built in the U.S.A. Washington, D.C.: The National Trust for Historic Preservation, 1985.

McAlester, Virginia and Lee McAlester. A Field Guide to American Houses. New York: Alfred A. Knopf, 1984.

Oldfather, Susan. "Elisha Newton Dimick and His Influence on the Development of Palm Beach." Boca Raton, Florida: Florida Atlantic University, Master's Thesis, 1989.

Palm Beach County Property Appraiser

Town of Palm Beach Building and Zoning Department.



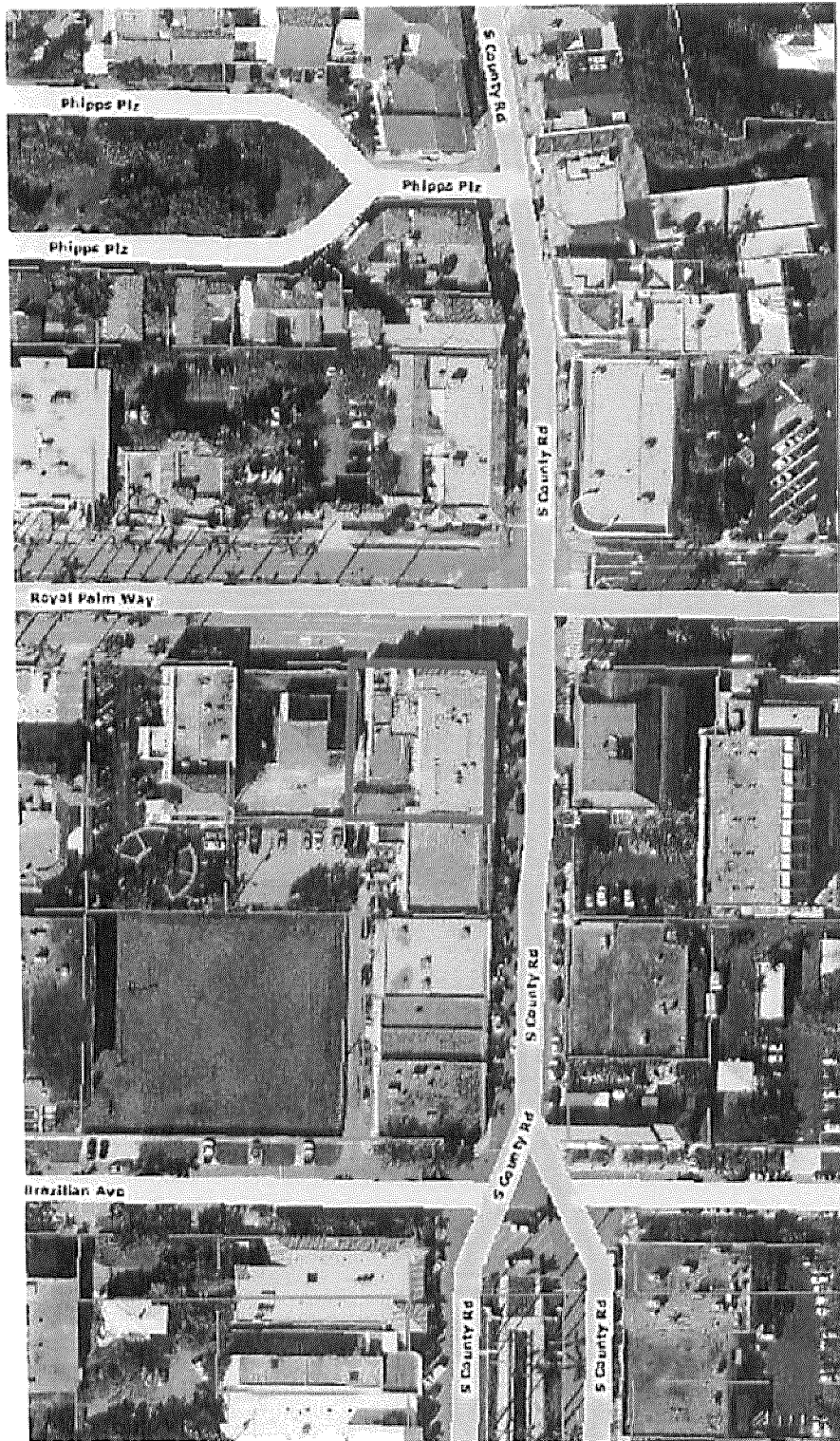
South County Road Entrance on the east facade.



The West facade



The entrance on the North facade



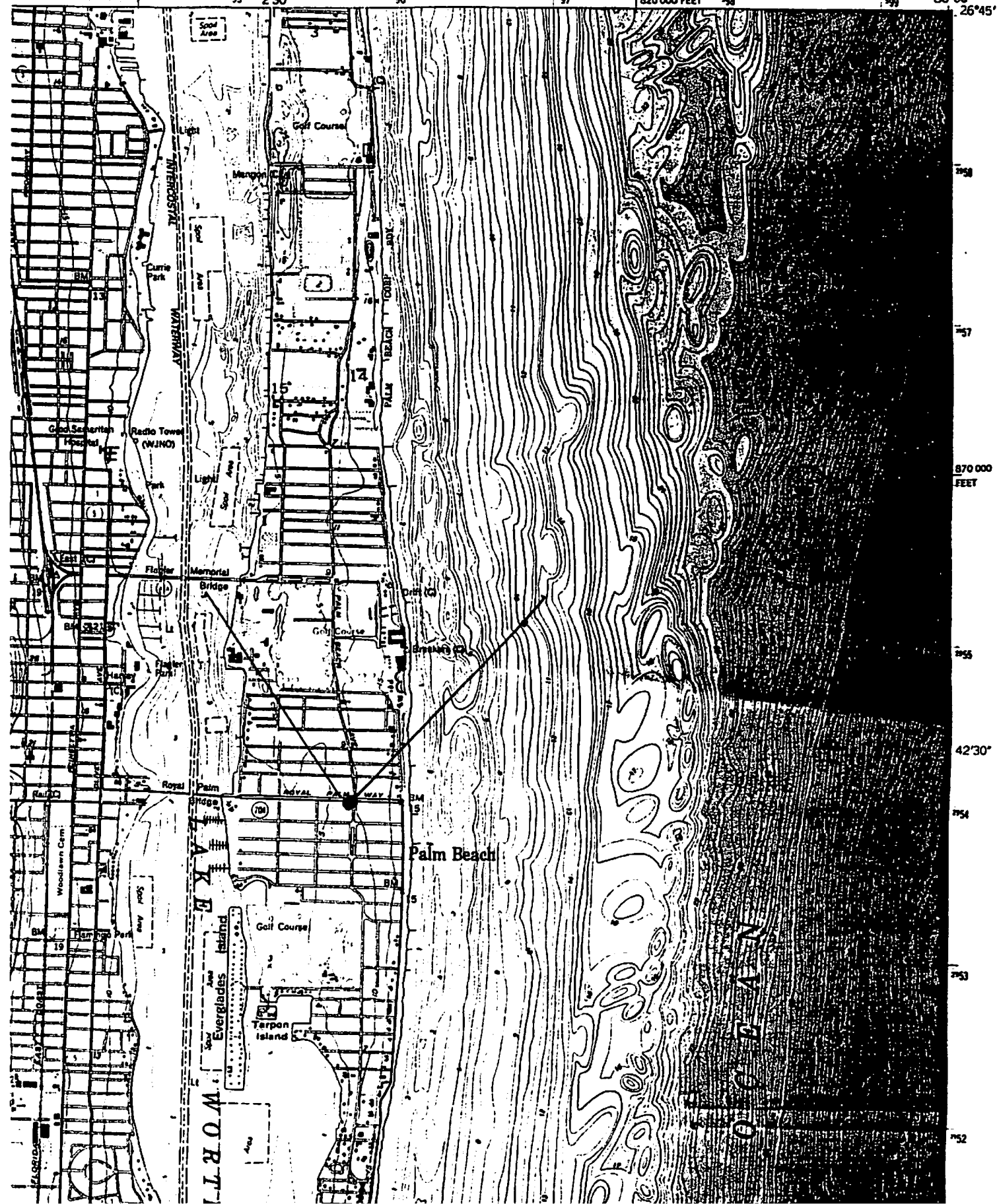
Location Map : 290 South County Road

290 South County Road
Palm Beach, Florida

PALM BEACH QUADRANGLE
FLORIDA-PALM BEACH CO.

7.5 MINUTE SERIES (TOPOGRAPHIC-BATHYMETRIC)

95 2°30' 96 97 820 000 FEET 98 99 80°00' 26°45'





HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB06474
Recorder # Jane S. Day
Field Date 11/26/2004
Form Date 11/26/2004
FormNo 200411
FormNo = Field Date (YYYYMM)

Is Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Palm Way Building Multiple Listing (DHR only)
Other Names Campello, Thomas >> 290 So County Rd, Building (legal)
Survey or Project Name Palm Beach Historic Sites Survey, Phase IV Survey#
National Register Category Building(s)

LOCATION & IDENTIFICATION

Address
Street No. 288-294 Direction South Street Name County Street Type Road Direction Suffix

Cross Streets (nearest) between: Royal Palm Way & Brazilian Ave
City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES
County Palm Beach Tax Parcel #(s) 50-43-43-23-05-025-0351
Subdivision Name Royal Park Block E Lot 35, 36
Ownership Private Individual
Name of Public Tract (e.g., park)
Route to (especially if no street address) On the southwest corner of Royal Palm Way & South County Rd

MAPPING

SGS 7.5' Map Name PALM BEACH Publication Date >> PALM BEACH; 1983
Township: 43S Range: 43E Section: 23 1/4 section: UNSP >> 43S ; 43E ; 23 ; UNSP
Irregular Section Name:
Landgrant
UTM: Zone Easting Northing
Plat or Other Map (map's name, location)

DESCRIPTION

Style Mediterranean Revival Other Style
Exterior Plan Irregular Other Exterior Plan
Number of Stories 2
Structural System(s) >> Hollow clay tile
Other Structural System(s)
Foundation Type(s) >> Continuous
Other Foundation Types
Foundation Material(s) >> Concrete Block
Other Foundation Material(s)
Exterior Fabric(s) >> Stucco
Other Exterior Fabric(s)
Roof Type(s) >> Hip
Other Roof Type(s)
Roof Material(s) >> Barrel tile
Other Roof Material(s)
Roof Secondary Structure(s) (dormers etc) >> Gable extension
Other Roof Secondary Structure(s)
Number of Chimneys 1
Chimney Material Brick
Other Chimney Material(s) stucco on exterior
Chimney Location(s) nw exterior

HISTORICAL STRUCTURE FORM

8PB06474

DESCRIPTION (continued)

Window Descriptions fixed, casement

Main Entrance Description (stylistic details) multiple

Porches: #open 4 #closed #incised Location(s) (4) 2nd floor balconies - n, sw, w

Porch Roof Types(s)

Exterior Ornament cast stone, parapet, pilasters, decorative metal railings, exposed rafters, attic vents

Interior Plan Irregular Other Interior Plan

Condition Excellent

Structure Surroundings

Commercial: ALL this category Residential: NONE of 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 1924

Architect (last name first): unknown

Builder (last name first): Wilcox Brothers

Changes in Locations or Conditions

Type of Change	Year of Change	Date Change Noted	Description of Changes
<u>Altered-not to standards</u>	<u> </u>	<u> </u>	<u> </u>
>> <u>Altered-not to standards; 1946; Gustav Maass</u>			

Structure Use History

Use Commercial unspecified Year Use Started Year Use Ended >> Commercial unspecified; 1924;

Other Structure Uses

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

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods

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 >> Commerce

Other Historical Associations

Explanation of Evaluation (required) This Mediterranean Revival style building is situated at a major intersection. Its elaborate cast stone architectural features and multi-level roof line give it characters. It is worthy of local designation.

HISTORICAL STRUCTURE FORM

8PB06474

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: _____

>> Photographs (archived); Research Atlantica;; Roll 32 # 30

RECORDER INFORMATION

Recorder Name (Last, First) Day, Jane S.

Recorder Address / Phone 728 Granada Drive, 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: 00

Electronic Form Used: 0000

Form Type Code: 0000

Form Quality Ranking: 0000

Form Status Code: 0000

Supplement Information Status: 00

Supplement File Status: 00

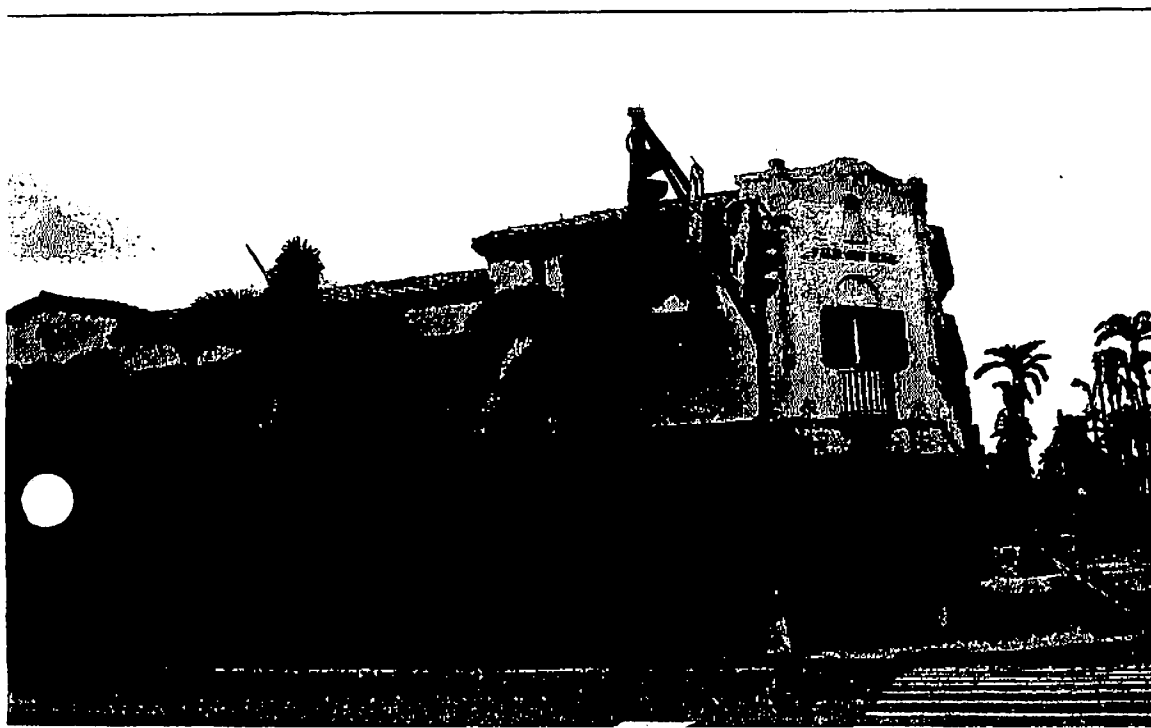
SHPO's Evaluation of Resource

Date

FMSF Staffer:

Computer Entry Date: 11/22/2001

Form Comments: _____



PRINTED IN RED

T 3"X5"

**EXCERPT FROM THE APRIL 21, 2010 MINUTES OF THE
LANDMARKS PRESERVATION COMMISSION**

X. DESIGNATION HEARINGS:(10:28:21 a.m.)

Item 1: 290 South County Road

Owner: Thomas Campaniello

Mrs. Delp verified that proof of publication and proper legal service were achieved with regard to this designation hearing.

Dr. Day submitted her resume for the record. She noted that her resume has been updated to reflect that she is now a Ph.D. for which she received a round of applause. Dr. Day testified to the architecture and history of this Mediterranean Revival building from the 1920's known as the Palm Way Building, and the fact that the architect is unknown. She noted that the west facade of the building is unattractive and needs to be cleaned up. Dr. Day testified that this 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; and

(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 craftsmen.

MOTION BY MR. ROBERTS THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MR. HANLEY.

MOTION CARRIED UNANIMOUSLY.

Mr. Lindgren read a letter into the record from Thomas Campaniello, the property owner, wherein he objected to the designation.

Though there was some discussion as to whether this might be a designation of just the north and east facades, Dr. Day advocated for landmarking the entire building, and the commission agreed.

MOTION BY MR. ROBERTS THAT THE ENTIRE BUILDING AT 290 SOUTH COUNTY ROAD BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MS. WILLIS.

MOTION CARRIED UNANIMOUSLY.

ARTICLE IV. DESIGNATION PROCEDURE**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 countyproperty appraiser of such covenant and the conditions thereof.

(Code 1982, § 16-48)

Secs. 54-166--54-195. Reserved.

THOMAS CAMPANIELLO REAL ESTATE
225 EAST 57TH STREET
NEW YORK, NY 10022
P 212.371.3700 F 212.688.6527

RECEIVED

APR 14 2010

TOWN OF PALM BEACH
PZB DEPT

Landmarks Preservation Commission
360 South County Road
Palm Beach, FL 33480

Via Federal Express

RE: 290 South County Road, Palm Beach, FL

Dear Commissioners:

I am the owner of the above referenced property that you will be considering for Landmark status at your meeting on April 12, 2010. Although I do support the historic preservation in the Town, I believe that landmarking this particular property is a mistake and I object the designation.

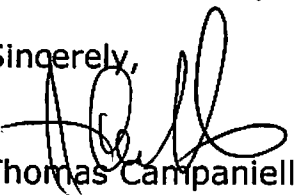
Contrary to a residence that is designated a landmark and will always be a residence whether it is a landmarked or not, a commercial building may or may not always be a office, or a restaurant, or a retail store etc. If you landmark my property, you are in essence preventing any other business but a restaurant. I would not be able to demolish or partially demolish to convert this space into an office or a store, which severely limits a tenant's options. I do not feel a restaurant in perpetuity is the best option for this space.

Further, I feel the criteria for landmarking has not been met. The architect is unknown and although it purports to be a Mediterranean revival style, it is not a very good example in my opinion and there are other, better options, in the Town.

If you feel that you must landmark this building, I would suggest that you only landmark the front façade, so if there is a prospective tenant other then a restaurant, they can do in and demolish the kitchen and turn it into a more functional use.

Please call me if you have any questions.

Sincerely,



Thomas Campaniello

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 12, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning and Building

Re: Landmark Designation of 290 South County Road
Resolution No. 48-10

Date: April 30, 2010

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 290 South County Road as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the April 21, 2010 meeting of the Landmarks Preservation Commission, the Commission voted to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (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 is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmen.

.

Landmark Designation of 290 South County Road
Resolution No. 48-10
April 30, 2010
Page 2

FUNDING/FISCAL IMPACT

No direct funding is needed for this action.

COMPREHENSIVE PLAN

The action proposed is consistent with the goals, objectives and policies contained in the Historic Preservation Element of the Town's Comprehensive Plan.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 48-10 relating to 290 South County Road, and has approved it as to legal form and sufficiency.

SPECIAL CONSIDERATIONS

Please note that the property owner is objecting to the designation of their property as a Town historical landmark. Correspondence from the property owner is attached with the back-up materials for this item.

attachments

JSP:cmd

cc: Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Joanna Cunningham, Town Clerk
John Lindgren, AICP, Planning Administrator
pf

Research Atlántica, Inc.

728 GRANADA DRIVE
BOCA RATON, FL 33432

(561) 362-4473
FAX (561) 362-8842

June 30, 2010

Thomas Campaniello
Design Campaniello
180 NE 39th Street
Suite 121
Miami, Florida 33137

Re: 290 South County Road, Palm Beach, Florida

Dear Mr. Campaniello,

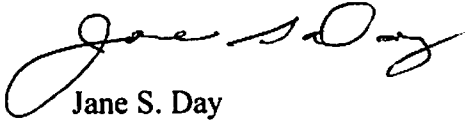
I was happy to talk to you today and discuss your concerns about landmarking your property at 290 South County Road, Palm Beach, Florida. Because Mayor McDonald and the Town Council noted your objections to the landmark designation, they decided to reconsider final action on the issue at the July 14, 2010 Town Council meeting. In the mean time, they asked me to provide you with information on the benefits of the landmarks program in the Town of Palm Beach and answer any questions you might have. In that regard, I am sending you a copy of the new "Landmark Manual" that was published in 2009.

This document outlines the landmark program in Palm Beach which was initiated by passing a Landmarks Preservation Ordinance in 1979, and also gives detailed information on the Tax Abatement program that was started in 1997. Of particular interest in the case of your commercial building at 290 South County Road are the "Effects of Landmaking" and the summary of the "Tax Abatement Program" which I have copied separately for easy reference. As you can see, landmarking does not effect use or interior changes to a building so the program would be easily adapted to any new tenants that zoning regulations allowed in your space.

Tax savings on both the Town and Palm Beach County portions of your property tax bill would also be available for the renovation or restoration of the building. Palm Beach property owners have saved substantial money while improving their buildings under this highly successful program that is only available for landmarks. So that you can review some of the current saving, I have enclosed a list entitled "Historic Exemptions, Town of Palm Beach 2009." This document comes from the Palm Beach County Property Appraiser's Office. It lists the address of the participating projects, the time frame for the exemption (10 years), the property control number, the amount of the exemption (per project) and the Town of Palm Beach tax savings for 2009 with the 2009 millage rate. The owners also enjoy a reduction of their County taxes. The other thing that is important to realize about the Tax Abatement program is that it is a developer friendly ordinance - the savings are conveyed with the building at the time of sale or transfer.

If I can answer any questions or help you in any way concerning the landmark program, please do not hesitate to call me at 561-362-4473. I would be happy to meet with you if that is more convenient. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane S. Day". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jane S. Day
Preservation Consultant, Town of Palm Beach

cc: John Page, Director of Planning, Zoning and Building
Eugene Pandula, Chairman, Landmarks Preservation Commission
John Lindgren, Planning Administrator

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

Appeals

Agenda Title

Appeal of ARCOM Recommendation No. B6/10, Addition, 1100 North Ocean Boulevard
(Per Letter Dated May 5, 2010, From 1100 North Ocean Boulevard Trust).

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated July 7, 2010, from John Page, Director of Planning, Zoning, and Building
- Letter dated May 5, 2010, from 1100 North Ocean Boulevard Trust
- Letter dated May 27, 2010, from G.E. Young, P.A.

TOWN OF PALM BEACH

Information for Town Council Meeting on: July 14, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Appeal of ARCOM Denial
Application No. B6/10 - Addition
1100 North Ocean Boulevard

Date: July 7, 2010

STAFF RECOMMENDATION

It is recommended that the Town Council consider and act upon the appeal filed by 1100 North Ocean Boulevard Trust (Steven & Jill Karp as beneficiaries), relative to Architectural Commission denial of a residential addition at 1100 North Ocean Boulevard in Palm Beach. Legal counsel for the applicant is Gregory E. Young and Ronald L. Weaver.

BOARD OR COMMISSION RECOMMENDATION

Several iterations of a residential addition to the south side of an existing home at 1100 North Ocean Boulevard have been considered by ARCOM in the recent past. A recap of ARCOM actions appears below:

- December, 2009: ARCOM denied a proposed 4,553 sq. ft. addition.
- February, 2010: New application/design intended to address objections; project downsized to 4,146 sq. ft. Following presentation and consideration, the project was deferred by ARCOM.
- March, 2010: Architect request for an additional deferral until April; granted.
- April, 2010: ARCOM denied the application.

GENERAL INFORMATION

The appeal at hand was filed for the owners who were denied ARCOM approval on April 28, 2010. The project was advertised as follows:

“A two-story addition with garage space in the basement on the south side of the main house in similar architectural elements as the existing main house.”

Eugene Lawrence, project architect, reviewed the project and changes that had been made

following Commission discussion in February. The basic footprint was left intact (much as shown in February), but roof lines had been lowered, the chimney was lost, fenestration was altered, some balustrades on the west elevation had been eliminated, some arched transoms over doors were changed to flat transoms, a column was added on the first floor west elevation, and the “curve” was improved tying the existing home into the second floor of addition. Jeff Blakely presented landscaping plans.

Attorneys Paul Rampell and James Green, representing the Castles (abutting owners to the south at 1095 North Ocean Boulevard) spoke in opposition to the project. Their primary objections focused on loss of views, the physical and financial impact of the project on the neighbors, and an alleged understanding relative to the maintenance of open space on the south part of the property when the motion for approval of the original house was made at ARCOM in 1996. Mr. Rampell called upon four former ARCOM members serving in 1996 in support of the open space sentiment (Bruce Helander, Ethel Kinsella, Dr. Marvin Rosenberg, and Sally Gingras). Other witnesses speaking contrary to the project included Robert Moore (former Director of Planning, Zoning & Building), Morgan Wheelock (landscape architect), Thomas Kirchhoff (architect), and Phil Holden (appraiser). Gina Borman, neighbor at 1086 North Ocean Boulevard, also objected. A notebook full of exhibits was introduced into the record.

Mr. Young, attorney for the applicant, indicated that no Town record exists of any required open space as a condition of original home construction. He called one further witness. Robert Deziel, another former ARCOM member from 1996, testified that he was the maker of the motion to approve the original house. He indicated that he would not have placed a deed restriction, such as preserving open space, on an architectural element and has no recollection of doing so.

Following all public comment, Commissioners discussed the merits of the proposed addition. The Minutes reflect that the Commission generally disfavored the addition on aesthetic grounds. The record of project denial reads from the April 28, 2010 Minutes as follows:

“Motion by Mr. Vila recommending denial of the application for the addition on the grounds that the expansion of the house would be detrimental to the aesthetic standards of the Town and have a negative impact on the former Kennedy estate and other neighboring properties. Motion seconded by Ms. Diver. Mr. Randolph asked that the motion address a criterion for denial (per Town Code). Motion by Mr. Vila amended to include that the project is denied based on (1) the plan for the proposed building or structure is not in conformity with good taste and design and in general does not contribute to the image of the Town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.” Motion seconded by Ms. Diver. Motion carried 6-1 (Zukov opposing).

The appeal was filed in accordance with Code requirements on May 7, 2010, for hearing in June. A consenting letter from attorney Young consented to an extension of the required appeal hearing before the Town Council, which was reset for July 14, 2010. A notebook of exhibits has been submitted by the applicant’s attorney. A copy has been provided to each Town Council member under separate cover.

The appeal (including notebook of exhibits) prompted a response from attorneys Rampell and Green. Their response (32 pages) is titled The Castle's Response in Opposition to the Karps' "Justification Statement" submitted for the Notice of Appeal Regarding the Multiple Denials and Deferrals of ARCOM Application No. B6/10, received on July 2, 2010. A copy of said response was provided to each Town Council member under separate cover as well.

cc: Gregory E. Young, Esq.
Eugene Lawrence
Paul Rampell, Esq.
James Green, Esq
John C. Randolph, Town Attorney
John Lindgren, Planning Administrator
ARCOM members

**1100 NORTH OCEAN BOULEVARD TRUST
60 Colbert Road East
West Newton, Massachusetts 02465**

May 5, 2010

VIA HAND DELIVERY

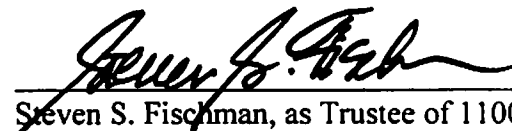
Town of Palm Beach
Town Hall
360 South County Road
Palm Beach, Florida 33480
Attention: Joanna Cunningham, Town Clerk

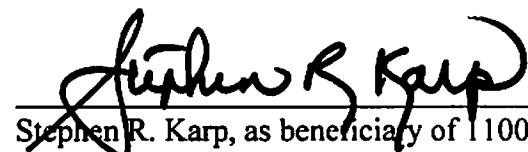
Re: 1100 North Ocean Boulevard, Palm Beach, Florida 33480 (the "Property") – Notice of Appeal regarding Action on ARCOM Application No. B6/10 Addition (the "Application") for Two (2) Story Addition with Garage Space in the Basement on the South Side of the Main House in Similar Architectural Elements as the Existing Main House

Madam:

The undersigned, as legal and beneficial ownership of the Property, hereby provide this Notice of Appeal for the action taken on the Application at the April 28, 2010 ARCOM meeting. This Notice of Appeal and the attached materials are provided pursuant to Section 18-177 of the Code of Ordinances for the Town of Palm Beach.

Sincerely,


Steven S. Fischman, as Trustee of 1100 North Ocean Boulevard Trust under agreement dated May 3, 2005, as amended


Stephen R. Karp, as beneficiary of 1100 North Ocean Boulevard Trust under agreement dated May 3, 2005, as amended


Jill Karp, as beneficiary of 1100 North Ocean Boulevard Trust under agreement dated May 3, 2005, as amended

cc: Mayor Jack McDonald
David A. Rosow, Town Council President
Gail Coniglio, Town Council President Pro Tem
William J. Diamond, Town Council Member
Richard M. Kleid, Town Council Member
Robert N. Wildrick, Town Council Member
John Page, Director of Planning, Zoning & Building
Paul Castro, Zoning Administrator
John Lindgren, Planning Administrator

EDWARDS ANGELL PALMER & DODGE LLP

525 Okeechobee Boulevard / Suite 1600 West Palm Beach, FL 33401 561.833.7700 / fax 561.655.8719 eapdlaw.com

G.E. Young, P.A.

561-820-0244

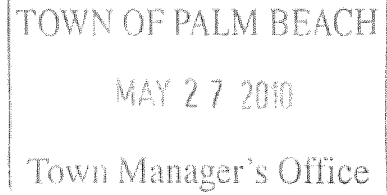
fax 888-325-9190

gyoung@eapdlaw.com

May 27, 2010

VIA HAND DELIVERY

Town of Palm Beach
Town Hall
360 South County Road
Palm Beach, Florida 33480
Attention: Joanna Cunningham, Town Clerk



VIA HAND DELIVERY

Mayor Jack McDonald & Town Council President David A. Rosow
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

VIA FACSIMILE: (561) 835-4638

John Page, Director of Planning, Zoning & Building
Paul Castro, Zoning Administrator
John Lindgren, Planning Administrator Planning, Zoning & Building Department
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Re: 1100 North Ocean Boulevard, Palm Beach, Florida 33480 (the "Property")
Appeal (the "Appeal") regarding Action on ARCOM Application No. B6/10 Addition
(the "Application")

Ladies & Gentlemen:

Edwards Angell Palmer & Dodge LLP and the undersigned and Ronald L. Weaver, Esq. of Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. are legal counsel to the ownership of the Property with respect to the Appeal. The Appeal was filed and delivered to the Town of Palm Beach on May 7, 2010.

In conversations with Mr. Lindgren since filing of the Appeal, he has indicated that the Appeal has been or will be scheduled for hearing by the Town Council on Monday, June 21, 2010. As I am required to be out of the Country on other, unrelated business on that date (which travel has been planned for several months) and with the understanding from Mr. Lindgren and the Town

EDWARDS ANGELL PALMER & DODGE LLP

Letter to Town Clerk, et al. – Town of Palm Beach
May 27, 2010
Page 2

that the Appeal will be rescheduled to the Town Council's regularly scheduled meeting and Development Review on Wednesday, July 14, 2010, waiver is provided on behalf of the ownership of the Property and its council that the Town Council be required to decide the Appeal within 45 days of its filing pursuant to Section 18-177 of the Code.

Based on the foregoing and my recent conversations with Mr. Lindgren, we are of the understanding that the Appeal will be heard on Wednesday, July 14, 2010 – at your first ability please confirm that to be the case. If the foregoing is in any way inaccurate, please let me know.

Please note that my office has moved and, as such, the office and mailing address for my firm and me has changed since filing of the Appeal. The current address follows:

G.E. Young, P.A.
Edwards Angell Palmer & Dodge LLP
525 Okeechobee Boulevard, Suite 1600
West Palm Beach, Florida 33401

Lastly and if it is of interest to the Town, we would be happy to meet and speak with Town Attorney Randolph and you to discuss timing (or time limitations), process and procedure relative to the July 14, 2010 hearing on the Appeal by the Town Council. We believe that it may benefit all relevant parties to address and agree to a variety of procedural considerations as we collectively prepare for the Town Council meeting.

Many thanks in advance for your consideration regarding the foregoing. With best regards, I am,

Sincerely yours,



G.E. Young, P.A.

GEY:jws

cc: Mr. & Mrs. Stephen R. Karp
Mr. Steven S. Fischman
John C. Randolph, Esq.
Mr. Eugene Lawrence
Ronald L. Weaver, Esq.

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

Time Extensions

Agenda Title

Request for Waiver of Section 42-199, Hours For Construction, at 214 Worth Avenue (Cartier) (Per Letter Dated June 3, 2010, From R & R Professional Services, Inc.).

Deferred from the June 22, 2010, Town Council Meeting.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated June 4, 2010, from John Page, Director of Planning, Zoning and Building
- Letter dated June 3, 2010 from Roberta Head

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 22, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Extension of Work Hours – Cartier, 214 Worth Avenue

Date: June 4, 2010

STAFF RECOMMENDATION

Staff recommends approval of an extension of the hours for construction work for one week, with the following conditions:

- No work allowed on Sundays or Town of Palm Beach legal holidays.
- Approval of the Worth Avenue Merchants Association.
- All work will be coordinated with the streetscape contractor, Burkhardt Construction, 561-659-1400.
- No construction related parking will be allowed on Worth Avenue.
- No workers shall congregate or loiter on Worth Avenue.
- No exterior work will be performed during this extension of working hours.
- Any verified complaints from neighbors may revoke this extension of hours.
- Subject to an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 300 foot radius of the subject property have been notified of this request prior to 10 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.

GENERAL INFORMATION

Staff has received a fax letter from R & R Professional Services requesting a waiver of construction working hours to perform interior remodeling/decorating work at Cartier. Work is minor interior remodeling consisting of electrical fixtures and wood work and will not require any heavy machinery or equipment. The contractor is requesting this waiver to prevent disruption of normal working hours.

Staff believes granting extended construction hours under the conditions listed will not be overly offensive to the residents or inhabitants of the town and qualifies for an exception as provided in Town Code 42-199(c).

Attachment

cc: Jeff Taylor, Building Official
Paul W. Castro, Zoning Administrator
Jay Boodheshwar, Acting Public Works Director
Raychel Houston, Parking/Code Enforcement Manager

R & R PROFESSIONAL SERVICES, INC.

7785 Oakmont Drive

Lake Worth, FL 33467-1219

office (561)966-7882** fax (561) 433-1223

CBC 1251053

Email: mrpro1@yahoo.com

* * * * *

WEB: www.rnrwedoitall.com

June 3, 2010

Town of Palm Beach

Attn: Jeff Taylor

360 South County Road

Palm Beach, FL 33480

Via Facsimile Transmission

Fax # 835-4621

RECEIVED

RE: Extended Construction Hours

Permit # B10-10209

Address: 214 Worth Avenue, Palm Beach (Cartier)

JUN 04 2010

TOWN OF PALM BEACH
PZB DEPT

Jeff:

Please include us in the Town Council meeting on the 22nd of June. We are interested in applying to the council to be granted special permission to extend the regular construction hours for one (1) week, Monday thru Saturday, to enable us to accomplish some interior remodeling/decorating of the showroom.

All equipment that will be used during the remodeling/decorating will be on the interior of the building. No equipment will be outside of the building, therefore there will be no noise on the avenue.

Should you have any questions, please contact me at the numbers referenced above.

Thank you in advance for your cooperation.

Sincerely,


Roberta Head for

R&R Professional Services, Inc.

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

Old Business - < 15 Minutes

Agenda Title

VARIANCE #4-2010 The application of Robert T. Tomsich, relative to property commonly known as **151 Via Bellaria**; described as lengthy legal description on file; located in the R-A Zoning District. Request a variance to permit the construction of a new larger two-story open loggia to replace the existing two-story loggia, which will result in a lot coverage of 25.8% in lieu of the 24.9% existing and 25% maximum allowed. [Attorney: M. Timothy Hanlon] [ARCOM Recommendation: Defer to the July 28, 2010, ARCOM Meeting. Request for Withdraw Application.] *Deferred from the May 12, 2010, and June 22, 2010, Town Council Meetings (Special Circumstances). **Request for Withdrawal Per Letter Dated July 1, 2010, From M. Timothy Hanlon.***

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated July 1, 2010, from M. Timothy Hanlon

LAW OFFICES
ALLEY, MAASS, ROGERS & LINDSAY, P.A.

340 ROYAL POINCIANA WAY, SUITE 321

POST OFFICE BOX 431

PALM BEACH, FLORIDA 33480-0431

(561) 659-1770

FACSIMILE (561) 833-2261

DOYLE ROGERS
ALAN LINDSAY
PAUL B. ERICKSON
DAVID H. BAKER
WILLIAM W. ATTERBURY III
LOUIS L. HAMBY III
ROBB R. MAASS
M. TIMOTHY HANLON
WARREN D. HAYES, SR.
STUART J. HAFT
DWIGHT A. MILLER
BRUCE A. McALLISTER

RAYMOND C. ALLEY (1893-1875)
HAROLD G. MAASS (1923-2006)
KAREN S. MARX (1984-1994)

EDWARD D. LEWIS (OF COUNSEL)

CAROL S. WAXLER
600 S.W. CAMDEN AVENUE
STUART, FLORIDA 34994-2026
P (772) 287-4404
F (772) 287-4044

July 1, 2010

RECEIVED

JUL - 1 2010

TOWN OF PALM BEACH
PZB DEPT

VIA FACSIMILE 835-4621 &

U.S. MAIL

Paul Castro, AICP
Zoning Administrator
Town of Palm Beach
360 So. County Road
Palm Beach, FL 33480

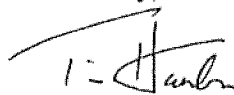
Re: Variance #4 -2010 151 Via Bellaria
Arcom Application B24/10 New Loggia

Dear Paul:

On behalf of the property owner, we hereby withdraw the above-referenced application.

Thank you for your assistance in this matter. If you have any questions, do not hesitate to contact me.

Sincerely,



M. Timothy Hanlon

MTH/cac

cc: John Lindgren
Robert J. Tomsich
Jonathan Moore

THANLO 328269



Fw: 151 Via Bellaria - Loggia Addition
John Lindgren to: Cindy Delp

07/02/2010 08:29 AM

fyi

John Lindgren, AICP
Planning Administrator
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480
phone: 561.227-6414
fax: 561.835-4638
e-mail: jlindgren@townofpalmbeach.com

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Town of Palm Beach officials and employees regarding public business are public records available to the public and media upon request. Under Florida law 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 this office by phone or in writing. If you have received this message in error, please notify us immediately by replying to this message, and please delete it from your computer. Thank you.

Please consider the environment before printing this e-mail.

----- Forwarded by John Lindgren/PalmBeach on 07/02/2010 08:29 AM -----

From: "Jonathan Moore" <JCMoore@smithmoorearchitects.com>
To: <JLindgren@TownofPalmBeach.com>
Date: 07/02/2010 08:27 AM
Subject: 151 Via Bellaria - Loggia Addition

John,

On behalf of the property owner, we have requested the above referenced project be removed from the Arcom agenda at this time. If you have any questions or comments, please do not hesitate to contact us.

Best regards,



Jonathan C. Moore

Vice-President
Smith and Moore Architects, Inc.



LEED AP

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

Old Business - < 15 Minutes

Agenda Title

MODIFIED SITE PLAN REVIEW #3-2010 WITH VARIANCE The application of Mr. & Mrs. Adler, relative to property commonly known as 7 Sloan's Curve Drive; described as lengthy legal description on file; located in the PUD-B Zoning District. Request for Site Plan Review to construct a 135 square foot infill addition on the front entry of an existing townhouse and a 49 square foot infill addition to the breakfast atrium and a 49 square foot infill addition to an upstairs bedroom. A Variance is requested to allow two small additions that will enclose the entry feature and an interior atrium thereby increasing the lot coverage to 42.1% in lieu of the 39.5% existing and the 35% maximum allowed in the PUD-B district. The proposed additions will modify a previously approved site plan in a PUD complying with Section 134-688 (b) of the Town's Zoning Code. [Attorney: Maura A. Ziska, Esq.] [ARCOM Recommendation: Approval of the Variance Will Not Cause Negative Architectural Impacts. Carried 7-0] *Deferred from the May 12, 2010, and June 22, 2010, Town Council Meetings (Special Circumstances).*

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated May 17, 2010, from H. Barry Gales
- Letter dated May 17, 2010, from Harold Peerenboom

H. Barry Gales
No. 6 Sloan's Curve Drive
Palm Beach, Florida 33480

VIA FACSIMILE: 561-838-5411

May 17, 2010

Mayor and Town Council and
Members of the Architectural Review Commission
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

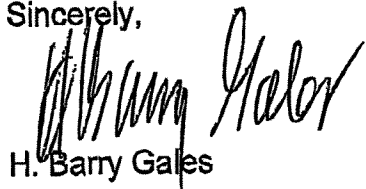
RE: Site Plan Review Number 3-2010
7 Sloan's Curve, Palm Beach, Florida

Dear Mr. Mayor, Town Council members and ARCOM members:

I reside at No. 6 Sloan's Curve Drive in Palm Beach. My neighbor to the south, Mr. and Mrs. Adler is planning to renovate their existing home at 7 Sloan's Curve. I have reviewed the plans for the proposed renovations and fully support their changes and any relief they might need from the Town in order to get their project approved. I believe that the newly renovated residence will be a fine improvement to both my neighbor's property and our neighborhood. Hopefully, you and your staff will agree with me and will approve the proposed project.

Thank you for your consideration and please call me if you have any questions.

Sincerely,



H. Barry Gales

cc: Maura A. Ziska, Esq. (Via facsimile : 561-802-8995)



Harold Peerenboom
c/o 401-55 St. Clair Avenue West
Toronto, ON M4V 2Y7

May 17, 2010

Mayor and Town Council and
Members of the Architectural Review Commission
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Dear Mr. Mayor, Town Council members and ARCOM members:

**RE: Site Plan Review Number 3-2010
7 Sloan's Curve Drive, Palm Beach, Florida**

I reside at 8 Sloan's Curve in Palm Beach. My neighbors to the north, Mr. and Mrs. Adler, are planning to renovate their existing home at 7 Sloan's Curve. I have reviewed the plans for the proposed renovations and fully support their changes and any relief they might need from the Town in order to get their project approved. I believe that the newly renovated residence will be a fine improvement to both my neighbors' property and our neighborhood. Further, both the board of the association on which I am a board member and the Architectural Committee unanimously support this application. Hopefully, you and your staff will agree with me and will approve the proposed project.

Thank you for your consideration and please call me if you have any questions.

Sincerely,

Harold Peerenboom
(416) 453-7234

cc: Maura A. Ziska, Esq., Kochman & Ziska PLC
cc: All board members for The Residences at Sloan's Curve
cc: Rena Damone, Chair, Architectural Committee

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

SPECIAL EXCEPTION #12-2010 The application of Everglades Club Inc., relative to property commonly known as **351 Worth Avenue and 405 Cocoanut Row**; described as lengthy legal description on file; located in the C-WA and C-TS Zoning District. Request for Special Exception to allow a 6,346 square foot single family residence in Via Parigi above a first floor retail store (Fiandaca). The previous tenant for all three floors was Mary Mahoney, a retail store. The applicant proposes to join the subject property (351 Worth Avenue) with the property owned by the Everglades Club at 405 Cocoanut Row. This will allow one additional residential unit on the proposed combined property to meet the density requirement. The new residential dwelling unit would occupy Mary Mahoney's previous second and third floor retail space. Fiandaca retail store will occupy Mary Mahoney's previous first floor space. By combining both properties, the proposed residential unit would not exceed the maximum ten (10) dwelling units per acre allowed. [Attorney: Maura A. Ziska]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated June 29, 2010, from Scott Lese



THE EVERGLADES CLUB

VIA FACSIMILE: 561-835-4621

June 29, 2010

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

RE: Special Exception #12-2010/ 347 Worth Avenue

Dear Mayor and Town Council:

You have before you on the July 14th, 2010 Town Council agenda the above referenced project for the Everglades Club ("Club"). The Club is requesting to convert the 2nd and 3rd floor of a three-story building to residential from the previous use of retail.

Please be advised that I am authorized to make the following statements on behalf of the Club with regard to the Worth Avenue improvements and assessments. If the Town Council approves the above referenced zoning application, the Club understands that switching from an assessable use (commercial) to a currently non-assessable use (residential) may be financially problematic for the Town and the other property owners in the Worth Avenue Commercial District Assessment Area. In order to safeguard the future of the Worth Avenue project, the Club will not seek a reduction in its assessment or a waiver of assessment for that portion of the proposal that will be converted to a residential use and will continue to pay the assessment as if the building, or any portion thereof, and the parcel of land applicable to the building, or any portion thereof, were a commercial use for assessment purposes.

Please let me know if you have any questions or comments with the foregoing. Thank you for your consideration.

Sincerely yours,

Scott Lesé

cc: Paul Castro
Maura Ziska, Esq.

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

SPECIAL EXCEPTION #13-2010 The application of Gunster, Yoakley & Stewart, PA, relative to property commonly known as **255 S. County Road a/k/a 151 Royal Palm Way**; described as ROYAL PARK ADD LT 22 TO 26 INC, LT 27 (less S 103.09 FT of E 208.15 ft & TH PT of nly 3 ft in D8972 P392) & Lt 59 Blk 8; located in the C-B Zoning District. Gunster, Yoakley & Stewart P.A. has had offices in the Town since 1942. In 1985, the firm relocated the vast majority of its office space to West Palm Beach, retaining only a small amount of space in the Town. In 1995, Gunster applied for a special exception to exceed 2,000 sq. ft. in the Palm Beach office. Per Sec 134-226 (b), the Town Council imposed a condition of approval on Special Exception #2-95 which required the submittal of an annual affidavit indicating the percentage of clients served by the office which are Town persons. The applicant is requesting that this condition be deleted because it has proven to be unnecessary as evidenced by the past 15 years of Town-serving affidavits. [Attorney: Kenneth S. Beall, Esq.]

Presenter

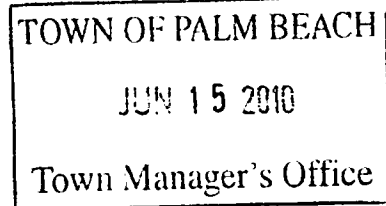
John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated June 14, 2010, from James G. Pressly, Jr.

JAMES G. PRESSLY, JR.

133 SEASPRAY AVENUE
PALM BEACH, FLORIDA 33480



June 14, 2010

Mayor and Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33460

Dear Mayor and Town Council:

We own property at 151 Royal Palm Way and received notice of Gunster, Yoakley & Stewart, P.A.'s Special Exemption application #13-2010. After reviewing that application, we believe that it should be granted.

Sincerely yours,

A handwritten signature in black ink, appearing to read "JG Pressly".

James G. Pressly, Jr.

JGP,jr/amb

cc: John Page
Paul Castro

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

VARIANCE #8-2010 WITH SUBDIVISION MODIFICATION The application of Paul L. Maddock, Jr., and the Estate of Paul L. Maddock, relative to property commonly known as **301 - 306 Maddock Way**; described as Lots 1 - 6, LANDMARK ESTATE, Plat Book 111, Page 63; located in the R-B Zoning District. The applicant requests modification of a condition of approval for the Landmark Estates subdivision which requires the swimming pool on Lot 5 to be removed within 2 years of the plat being recorded. Applicant wants to maintain the pool until either Lot 1 or Lot 5 sells. Requests modification of a condition of approval for the Landmark Estates subdivision which requires a 2-car garage for the house on Lot 1. Applicant is requesting an additional 6 months to add the garage. Request modification of a condition of approval for the Landmark Estates subdivision which requires a 2 car garage for the "Old Church" on Lot 2. Applicant is requesting to eliminate this condition. Applicant is requesting a variance for proposed Lot 2 to not construct a two car garage onto an existing landmarked house which is required by code. [Attorney: Peter S. Broberg, Esq.]

[Landmark Preservation Commission Recommendation: To allow the building to remain as it exists and eliminate the requirement for the two car garage on Lot 2. Carried 7-0.]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated June 30, 2010
- Letter from Paul Castro dated April 16, 2010
- Declaration of Covenants, Conditions and Restrictions for Landmark Estates

TOWN OF PALM BEACH

Information for Town Council Meeting on: July 14, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Subdivision Modification, Request of Paul Maddock, Jr. And the Estate of Paul L. Maddock for an Amendment to the Landmark Estates Subdivision Agreement

Date: June 30, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council grant the applicant time extensions to the conditions of approval of Variance #8-2010 with Subdivision Modification. If the conditions are not met by the deadlines, staff recommends that the Town Council set a specific fine amount on a daily basis until the conditions are met:

1. If the subject variance to eliminate the required two-car garage is not granted, the applicant shall obtain a building permit and obtain final inspection for the new garage on Lot 2, Landmark Estates, within one year of the previous deadline (May 9, 2011).
2. The applicant shall obtain a building permit and final inspection approval to reconvert the garage on Lot 1, Landmark Estates, within six months of the previous deadline (November 9, 2010).
3. The applicant shall obtain a building permit and obtain the final inspection on the demolition of the swimming pool on Lot 5, Landmark Estates, within six months of the previous deadline (November 9, 2010).

GENERAL INFORMATION

On March 13, 2007, the Town Council conditionally approved a portion of the variances and subdivision application (Variance No. 6-2007 and Subdivision No. 1-2007) to plat six single-family lots in the R-B zoning district. Variances were conditionally granted for lot width, and side yard and building height plane setbacks for the newly created Landmark Estates subdivision. A variance was denied to eliminate the required two car garage on Lot 2, which is the location of the landmark church building now used as a single-family home. The conditions of approval of those applications are as follows:

1. The swimming pool on Lot 5 is required to be demolished within two years of recording the plat of the subdivision or when the lots sells, whichever comes first.
2. A two car garage is required to be built on Lot 2 within two years of recording the plat for the subdivision.
3. The garage which was converted into living space on Lot 1 is required to be converted back into a garage within two years of recording the plat for the subdivision.
4. The Song/Tea House on Lot 4 is required to be demolished within two years of recording the plat or the lot sells, whichever comes first.

The deadline for the first three conditions was May 9, 2010 (two years from the date the plat was recorded). The deadline for condition 4 was April 21, 2010 (the date Lot 4 sold). To date, none of the conditions have been met.

On April 16, 2010, staff sent Mr. Peter Broberg, attorney for the applicant, a courtesy letter reminding him that his client had not met any of the conditions of approval and that the deadline was approaching. Subsequently, Mr. Broberg met with staff on May 21, 2010, and thereafter filed the subject variance and subdivision modification application. The proposed variance is to eliminate the necessity for the two car garage on Lot 2. The other portion of the application is a proposal to change the completion dates for conditions 1 through 3 above. Mr. Broberg is requesting to leave the swimming pool on Lot 5 until either Lot 1 or 5 sells. He is also requesting a six month extension to complete conversion of the garage on Lot 1. It should be noted that the new property owner for Lot 4 (Jeffrey Fisher) has been cited by Code Enforcement for not meeting condition No. 4 above.

Staff is unsure why the applicant has failed to comply with any of conditions agreed to in 2007 in order to subdivide the subject property. Until staff sent the courtesy letter in April of this year, staff had not heard from the applicant or his attorney regarding this issue. However, staff does realize that in order to satisfy the conditions, the applicant will need more time to obtain approval from the Landmarks Preservation Commission and necessary building permits for demolition and construction.

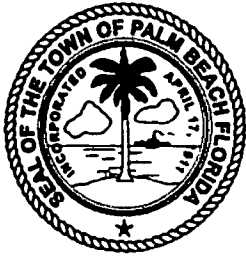
It is recommended that the applicant be granted a one year time extension to construct the two car garage on Lot 2 and a six month extension to demolish the swimming pool on Lot 5 and reconvert the garage on Lot 1. Staff also recommends that the Council require the applicant to enter into a recorded agreement with the Town that should he fail to meet the extended completion dates he shall pay a stipulated delinquent fee on a daily basis until the

Subdivision Modification, Request of Paul Maddock, Jr. And the Estate of Paul L. Maddock
for an Amendment to the Landmark Estates Subdivision Agreement
June 30, 2010
Page 3

work is finalized. Should the Council deny the variance or time extensions, the entire matter should be referred to the Code Enforcement for legal action.

Attachments

cc: Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Joanna Cunningham, Town Clerk
Paul W. Castro, AICP, Zoning Administrator
John Lindgren, AICP, Planning Administrator
Peter Broberg, Esquire
pf
zf



TOWN OF PALM BEACH

Planning, Zoning & Building Department

April 16, 2010

Mr. Peter Broberg, Esq.
Coe Broberg & Austin
223 Peruvian Avenue
Palm Beach, FL 33480

Subject: Subdivision #1-2007 and Variance #6-2007, 545 & 561 North Lake Trail and 549 North Lake Way

Dear Mr. Broberg:

As a courtesy, I am taking this opportunity to inform you of an issue regarding the Landmark Estates Plat. The Town Council, at the regularly scheduled meeting of May 8, 2007, clarified that a condition of approval of the Landmark Estates Subdivision, including the variance, was that the applicant enter into a recorded restrictive covenant which requires the applicant, successor or assigns to construct two car garages onto both existing homes on Lots 1 and 2, Landmark Estates, within two years of filing the Landmarks Estates plat (DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LANDMARK ESTATES, ORB 22630, page 1411).

In addition, another modified condition of approval of the subdivision which is addressed in the restrictive covenant allows the swimming pool on Lot 5 and the building known as the Tea House/Song House on Lot 4 to remain for a maximum of two years from the filing of the plat or when the lots are sold, whichever comes sooner.

The Landmark Estates plat was filed with the Palm Beach County Clerk and Comptroller on May 9, 2008 (Plat Book 111, Page 63-65). As such, the above conditions of approval are to be completed by May 9, 2010. Please be advised that as of today's date, your client has not complied with any of these required conditions of approval of the subdivision and variance. Failure to meet these conditions could jeopardize the approvals. Please advise your client as soon as possible in order to rectify these concerns.

If you have any further questions or if I can be of further assistance please contact me at your convenience.

Sincerely,

Paul Castro, AICP
Zoning Administrator

cc: Peter B. Elwell, Town Manager
John S. Page, Director of Planning, Zoning & Bldg.
Joanna Cunningham, Town Clerk
Jeff Taylor, Building Official
John Lindgren, Planning Administrator
zf & pf

COPY

CFN 20080178433
OR BK 22630 PG 1411
RECORDED 05/09/2008 13:46:20
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1411 - 1432; (22pgs)

PREPARED BY AND RETURN TO:
PETER S. BROBERG, ESQUIRE
COE BROBERG & AUSTIN LLP
223 Peruvian Avenue
Palm Beach, Florida 33480

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
LANDMARK ESTATES

THIS DECLARATION is made on the date hereinafter set forth by PAUL L. MADDOCK, JR., TRUSTEE OF THE MARITAL TRUST UNDER THE WILL OF PAUL L. MADDOCK DATED JUNE 7, 1985, the owner of certain property located in Palm Beach County, Florida and described below, (hereinafter sometimes called "Declarants");

W I T N E S S E T H

WHEREAS, Declarants are the owners of the real property described in Article II, Section 1, of this Declaration; and

WHEREAS, Declarants desire to subject the real property described in Article II, Section 1, hereof to the provisions of this Declaration to create a residential subdivision and to provide for the subjecting of other real property to the provisions of this Declaration;

NOW THEREFORE, Declarants hereby declare that the real property described in Article II, Section 1, of the Declaration, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby or hereafter made subject hereto, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

ARTICLE I

Definitions

Unless the context shall prohibit, certain words used in this Declaration shall have the definitional meaning set forth in Exhibit "A", attached hereto and by reference made a part hereof.

ARTICLE II

Property Subject To This Declaration

Section 1. Property Hereby Subjected To This Declaration. The real property which is, by the recording of this Declaration, subject to the covenants and restrictions set forth below and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is the real property described in Exhibit B, attached.

ARTICLE III

Association Membership and Voting Rights

Section 1. Membership. The Declarants and every Person who is the record owner of a fee or undivided fee interest in any Parcel that is subject to this Declaration shall be deemed to have a Membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's Membership. No Owner, whether one or more Persons, shall have more than one (1) Membership per Parcel. In the event of multiple Owners of a Parcel, votes and rights of use and enjoyment shall be as provided in this Declaration and in the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any Parcel. The rights and privileges of Membership, including the right to vote and to hold office, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Parcel owned.

Section 2. Voting. Each record owner of a fee or undivided fee interest in any Parcel shall be entitled to one (1) vote for each Parcel owned. When more than one Person holds an ownership interest in any Parcel, the vote for such Parcel shall be exercised as those owners themselves determine and advise the Secretary prior to any meeting. In the absence of such advice, the Parcel's vote shall be suspended in the event more than one person seeks to exercise it.

ARTICLE IV

Assessments

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Parcels, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors of the Landmarks Estates Homeowner's Association.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Parcel, by their signatures below or by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; (c) specific assessments against any particular Parcel which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration; and (d) prior maintenance and improvement assessments to cover any maintenance and improvements performed or constructed prior to the date of this Declaration, if the maintenance and improvements are ratified by two-thirds of the Members. All such assessments, together with late charges, interest not to exceed the maximum legal rate, costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the unit against which each assessment is made. Each such assessment, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the person who was the Owner of such Parcel at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Parcel, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgage holder taking title through foreclosure proceedings or deed in lieu of foreclosure.

Assessments shall be paid at a uniform rate per Parcel in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment for delinquents. Unless otherwise provided by a majority of the Members, the assessment shall be paid quarterly in advance.

Section 3. Computation. It shall be the duty of the Association to prepare a budget covering the estimated costs of operating the Association during the coming year, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and the assessments to be levied

against each Parcel for the following year to be delivered to each Member at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Members. Notwithstanding the foregoing, however, in the event the Membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

As soon as practicable after the end of the fiscal year, but in no event later than one hundred twenty (120) days after the end of the fiscal year, the Board shall deliver to the Members a reconciled budget for the previous year. If the reconciled budget shows a deficit, the statement by the Board shall include a notification of the percentage share of each Parcel Owner for such deficit and a demand that the unit Owner remit payment within thirty (30) days of the notice. If the reconciled budget shows a surplus, the Surplus will be applied to the then current year's budget and the remaining assessments for that year will be adjusted downward, accordingly.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments in any year. So long as the total amount of special assessments allocable to each Parcel does not exceed the greater of 1/3 of that year's annual assessment or \$1,000.00 in any one fiscal year, the Board may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Parcel to exceed this limitation shall be effective only if approved by a Majority of the Members. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. Lien for Assessments. All sums assessed against any Parcel pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein shall be secured by a lien on such Parcel in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Parcel, except for (a) liens of ad valorem taxes; or (b) liens for all sums unpaid on a first Mortgage, excluding purchase money mortgages duly recorded in the land records of Palm Beach County, Florida, prior to the recordation of a Claim of Lien by the Association, and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument. However, the subordination of the lien for assessment, shall apply only to the sums that have become due and payable prior to a sale or transfer of a parcel pursuant to a decree of foreclosure or other proceeding in lieu of a foreclosure. The sale, transfer, or conveyance of any kind shall relieve any Parcel owner from the liability for any fees, dues, charges or assessments thereafter becoming due or the lien for any such sums.

Section 6. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any Member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest, not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all cost of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. Each Owner, by their signature below, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of the Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Parcel at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same. No owner may waive or otherwise except liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Parcel. Nothing herein shall be construed as relieving a lender in possession or a mortgagee in foreclosure from paying all Assessments due after the lender or mortgage acquires title to the property. All payments shall be applied first to costs and attorney's fees, then to late charges, then interest and then to delinquent assessments.

Section 7. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to each Parcel upon transfer of the Parcel from the Declarants to an Owner. Parcels then existing and subject to assessment under this Declaration on the day of recordation of this Declaration. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year.

ARTICLE V

Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair and in accordance with the ordinances of the Town of Palm Beach, the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect of all landscaping and improvements situated on the Common Property. The Common Property shall consist of the landscaped island on Maddock Way; the sight triangles on either side of the entrance

to Maddock Way off of North Lake Way, the three (3') foot wall and landscape easement on the North property lines of Lots 1, 5 and 6, and the South property lines of Lots 3 and 4; ten (10') foot utility easement on the East property lines of Lots 4 and 6; the sight triangles as identified as Parcels "B" and "C" on the Plat at the intersection of Maddock Way with North Lake Way, Palm Beach, Florida; and the landscaped island as identified as Parcel "A" in the center of the cul-de-sac for Maddock Way on the Plat.

In the event the Association fails to maintain the Common Property to the satisfaction of and in accordance with all ordinances of the Town of Palm Beach, the Town may, upon thirty (30) days notice in writing to the Association, conduct the work necessary to make the required improvements in the Common Property and bill the Association for said work. In the event the Town is not reimbursed for said work conducted within thirty (30) days of presentation of a statement for said improvements, the Town may lien the parcels subject to this Declaration.

The Association shall have the right, but not the obligation, to maintain property not owned by the Association where the Board has determined that such maintenance would benefit all Owners.

Section 2. Owner's Responsibility. Except as provided in Section 1, above, all maintenance of the Parcel shall be the responsibility of the Owner thereof. In addition, the Owner shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the Parcel, whether located within or without a Parcel's boundaries (including all gas, electricity, water, sewer or air conditioning pipes, lines, ducts, conduits or other apparatus serving only the Parcel). Such maintenance shall be performed consistent with this Declaration and the Subdivision-Wide Standard established pursuant hereto. In the event that the Board of Directors of the Association determines that (a) any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or (b) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, whether or not covered or paid for by the insurance, in whole or in part, then, the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a reasonable time. If any owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Parcel.

Section 3. Town's Responsibility. A three (3') limited access easement on the North property lines of Lots 1, 5 and 6 and the East property lines of Lots 4 and 6, and the ten (10') foot easement for the Lake Trail on the West property lines of Lots 1, 2 and 3 are dedicated to the Town of Palm Beach, Florida, for the purposes of control and jurisdiction over access rights. Maintenance of the access easements identified herein shall be the responsibility of the underlying property owners.

ARTICLE VI

Use Restrictions and Rules

Section 1. General. The Board of Directors of the Association may, from time to time, promulgate, modify, or delete use restrictions and rules and regulations applicable to the Parcels and the Common Property.

Section 2. Unightly and Unkept Conditions. All Parcels shall be kept in a clean and sanitary manner and no rubbish, refuse or garbage allowed to accumulate or any fire hazard allowed to exist. No rubbish, refuse or garbage shall be placed on adjoining Parcels. Weeds and grass growth shall be kept to a maximum height of six inches (6"). No noxious vegetation, including, but not limited to, brazilian peppers, australian pines or melaleucas shall be planted on any Parcels. Debris from construction or other activities shall be contained at all times. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Subdivision.

Section 3. Maintenance Easement. Whenever the Association is permitted or required by the covenants to enter any Parcel for the purpose of correction, repair, cleaning, clearing, mowing, or any other required or permitted activity, such entrance shall not be deemed as trespass, but will be a permitted entry for maintenance purposes pursuant to non-exclusive maintenance easement reserved in favor of the Association, its successors and assigns over each Parcel.

Section 4. Parking and Garages. Each Parcel will have at least one (1) two-car garage. All commercial vehicles, tractors, mobile homes, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers must be parked within a garage, unless otherwise permitted by the Board and the Town of Palm Beach. No maintenance of any such vehicle or boat will take place, except within the enclosed garage. However, during the daytime, minor maintenance of such vehicles may be done if all work is confined to the driveway area, the area is kept tidy, and all work is completed prior to dusk. No garage may be altered in such a manner that the number of

→ automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have reasonably been parked in the garage as originally constructed. With respect to Lots 1 and 2, which have existing buildings with no garages, the Declarants shall construct a two (2) car garage for each lot within two (2) years of the execution of the Plat by all parties.

Section 5. Nuisance. It shall be the responsibility of each owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of his or her Parcel. No Parcel shall be used, in whole or in part, for the storage of any property or thing that will cause such Parcel to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Parcel that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Parcel, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Parcel. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Subdivision.

Section 6. Vehicle Access and Address. There shall be no other entrances to the Subdivision other than via Maddock Way. Specifically, the Owners of Lot 4 and Lot 6 shall not gain vehicle access to North Lake Way directly from their Parcels, nor shall the Owners of Lot 1, Lot 5 and Lot 6 gain vehicle access to South Woods Road directly from their Parcels. Such access shall only be via Maddock Way. Further, the address for each Parcel shall only reference Maddock Way.

→ Section 7. Demolition of Existing Structures. The Town of Palm Beach required all existing structures on the Property to be demolished prior to the Plat being executed; however, a modification to the subdivision approval was obtained on January 15, 2008, and now two (2) structures may remain as follows: (1) The swimming pool located on Lot 5 shall remain for a maximum of two (2) years from the filing of the Plat or the lot sells, whichever occurs sooner; and (2) the structure known as the "Tea House / Song House" on Lot 4 shall remain for a maximum of two (2) years from the filing of the Plat or the lot sells, whichever occurs sooner.

Section 8. Occupants Bound. All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against owners shall also apply to all occupants of any Parcel.

→ AGREEMENT TO DEMOLISH CERTAIN STRUCTURES IN THE SUBDIVISION TO BE
KNOWN AS LANDMARK ESTATES

THIS AGREEMENT made and entered into this 7th day of MAY,
2008, by and between PAUL L. MADDOCK, JR., TRUSTEE OF THE MARITAL TRUST
U/W PAUL L. MADDOCK DATED JUNE 7, 1985, hereinafter referred to as "Owner,"
and the TOWN OF PALM BEACH, hereinafter referred to as "Town;"

The Owner has submitted a proposed subdivision plat entitled LANDMARK
ESTATES being a plat of a portion of land in the Town and County of Palm Beach,
State of Florida, more particularly described as:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 15, ALSO BEING THE
SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 43 SOUTH, -RANGE 43 EAST,
PALM BEACH COUNTY, FLORIDA, SAID SECTION CORNER BEING LOCATED AS
SHOWN ON PLAT NO. 2 OF WOOD'S LANDING AS RECORDED IN PLAT BOOK 26,
PAGE 100, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE
NORTH 02 DEGREES 20' 10" EAST A DISTANCE OF 54.04 FEET TO A POINT
LYING ON THE SOUTH LINE OF SAID PLAT NO. 2 OF WOOD'S LANDING; THENCE
DUE WEST ALONG THE SAID SOUTH LINE, A DISTANCE OF 850.44 FEET TO A
POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF NORTH
LAKE WAY, AS NOW LAID OUT AND IN USE, ALSO BEING THE POINT OF
BEGINNING OF THE DESCRIBED PARCEL; THENCE CONTINUE DUE WEST
ALONG SAID SOUTH LINE, A DISTANCE OF 5-6.53 FEET TO THE WEST FACE OF
A CONCRETE SEA WALL; THENCE S. 04 DEGREES 24' 30" E. ALONG SAID WEST
FACE, A DISTANCE OF 42.26 FEET; THENCE S. 02 DEGREES 32' 46" E. ALONG
SAID WEST FACE, A DISTANCE OF 33.94 FEET; THENCE S. 02 DEGREES 09' 04"
E. ALONG SAID WEST FACE, A DISTANCE OF 43.99 FEET; THENCE S. 01
DEGREES 52' 24" W. ALONG SAID WEST FACE, A DISTANCE OF 54.65 FEET;
THENCE S. 04 DEGREES 10' 11" W. ALONG SAID WEST FACE, A DISTANCE OF
45.70 FEET; THENCE S. 01 DEGREES 45' 27" W. ALONG SAID WEST FACE, A
DISTANCE OF 20.20 FEET; THENCE S. 04 DEGREES 48' 12" E. ALONG SAID
WEST FACE, A DISTANCE OF 90.32 FEET; THENCE S. 01 DEGREES 54' 07" E.
ALONG SAID WEST FACE, A DISTANCE OF 42.27 FEET; THENCE S. 01 DEGREES
10' 47" W. ALONG SAID WEST FACE, A DISTANCE, OF 25.10 FEET; THENCE S. 06
DEGREES 26' 31" W. ALONG SAID WEST FACE, A DISTANCE OF 22.80 FEET TO A
POINT ON THE SOUTH LINE OF THE NORTH 366.4 FEET OF SAID SECTION 15;
THENCE DUE EAST ALONG THE SOUTH LINE OF THE NORTH 366.4 FEET OF
SAID SECTION 15, A DISTANCE OF 438.30 FEET TO A POINT OF INTERSECTION
WITH THE WEST RIGHT-OF-WAY LINE OF NORTH LAKE WAY, AS NOW LAID OUT
AND IN USE; THENCE N. 00 DEGREES 00' 49" W. ALONG SAID WEST RIGHT-OF-
WAY LINE, A DISTANCE OF 22.77 FEET TO A POINT OF CURVE CONCAVE TO
THE SOUTHEAST, HAVING A RADIUS OF 315 FEET AND A CENTRAL ANGLE OF
35 DEGREES 00' 49"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID

CURVE A DISTANCE OF 192.50 FEET TO A POINT OF TANGENT; THENCE N. 35 DEGREES E. ALONG SAID TANGENT, A DISTANCE OF 10.33 TO A POINT "OF CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 325 FEET AND A CENTRAL ANGLE OF 35 DEGREES; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 198.53 FEET TO A POINT OF TANGENT; THENCE DUE NORTH ALONG SAID TANGENT; A DISTANCE OF 22.01 FEET TO THE POINT OF BEGINNING.

and has requested that the Town approve said plat for the purpose of recording, conditioned upon the compliance by the Owner with the following terms and provisions:

1. The Owner agrees to demolish certain structures as described herein within two years of the recording of the plat (which will be recorded within thirty (30) days after the last signature has been applied to the plat) or upon sale of the affected lot, whichever comes first.

2. To secure the performance of this Agreement to demolish said structures, the Owner agrees to provide a concise unambiguous and irrevocable letter of credit or performance bond satisfactory to the Town in the amount of Eighty Thousand (\$80,000) Dollars to be approved by the Town Attorney and Town Manager, and to further provide for the payment of any engineering costs, any legal fees, and any and all appropriate and contingent costs incurred by the Town in the event of default of the performance by the Owner and his undertaking under this Agreement to the extent deemed necessary by the Town to fulfill the demolition work contemplated.

3. Prior to this Agreement becoming effective, the aforesaid letter of credit or performance bond shall be delivered to and approved by the Town.

STRUCTURES TO BE DEMOLISHED (Reference drawing number 0409DM01, entitled "Demolition Plan/ Material Removal Plan for the Development of Landmark Estates", prepared by Tom McCarthy Consulting Engineer, Inc.):

1. The Pool located on Lot 5, according to the proposed plat of Landmark Estates.
2. The residence located on Lot 4, according to the proposed plat of Landmark Estates.

4. Prior to this Agreement becoming effective, the aforesaid letter of credit or performance bond shall be delivered to and approved by the Town.

IN WITNESS WHEREFOR, the parties have executed this Agreement on the day and year first above written.

Signed, sealed, executed and acknowledged on this 17th day of April, 2008.

OWNER:

Anne M. Morgan
Witness

Anne M. Morgan
Print Name

Leslie M. Lieberman
Witness

LESLIE M. LIEBERMAN
Print Name

Paul L. Maddock, Jr., Trustee
Paul L. Maddock, Jr., Trustee
of the Marital Trust U/W Paul L. Maddock
dated June 7, 1985

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 17th day of April, 2008, by Paul L. Maddock, Jr., as Trustee of the Marital Trust U/W Paul L. Maddock dated June 7, 1985, who is personally known to me or who produced N/A as identification.

Signature of Notary Public:

Anne M. Morgan

Printed Name of Notary Public:

Anne M. Morgan

Commission Number:



WITNESSES:

Shane Kassoover
Witness

DIANE KASSOVER
Print Name

DC
Witness

Denise Carmona
Print Name

TOWN OF PALM BEACH, FLORIDA

Peter B. Elwell
By: Peter B. Elwell, Town Manager

STATE OF FLORIDA
COUNTY OF PALM BEACH

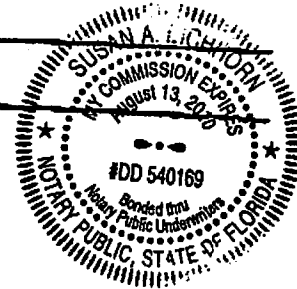
The foregoing instrument was acknowledged before me this 7th day of May, 2008, by Peter B. Elwell, Town Manager of the TOWN OF PALM BEACH, who is personally known to me.

Signature of Notary Public:

Printed Name of Notary Public:

Commission Number:

Susan A. Lichhorn



RECOMMEND APPROVAL:

H. Paul Brazil
H. Paul Brazil, Director of Public Works

5/7/08
Date

APPROVE AS TO LEGAL FORM AND SUFFICIENCY:

John C. Randolph
John C. Randolph, Town Attorney

5/5/08
Date





LYDIAN™
BANK & TRUST

RECEIVED

MAY 07 2008

**TOWN OF PALM BEACH
PZB DEPT.**

Irrevocable Standby Letter of Credit

BENEFICIARY:

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

APPLICANT:

PAUL L. MADDOCK AS TRUSTEE OF
THE TRUST CREATED UNDER ARTICLE
XIII OF THE LAST WILL AND
TESTAMENT OF PAUL L. MADDOCK
375 South County Road, Suite 205
Palm Beach, FL 33480

Letter of Credit Number: 1019-08
Issue date: May 6, 2008
PCN# 50-43-43-15-00-001-0040-002
Amount: \$80,000.00
Property Address: 545 N. Lake TR,
Palm Beach, FL 33480
Date of EXPIRY: June 1, 2010
Place of EXPIRY: Our counter

Gentlemen:

This Standby Letter of Credit is issued in your favor by order and for account of the above mentioned Applicant in the amount of Eighty Thousand and 00/100 Dollars (\$80,000.00) against the terms and conditions described below accompanied by drafts drawn on Lydian Private Bank at sight.

All Draft must be accompanied by a statement, signed by an authorized official of the town of Palm Beach, indicating name and title, and reading exactly as follows:

"Applicant has defaulted in its agreement to ensure that demolitions of the existing structures are completed."

Partial drawings are permitted.

180 Royal Palm Way
Palm Beach, Florida 33480

Telephone 561-514-4900
Facsimile 561-514-4908
www.lydianbank.com .96

Drawings are to be presented at our counters located at:
Lydian Private Bank, 180 Royal Palm Way, Palm Beach, FL 33480
on or before the expiration date of June 1, 2010.

Drafts drawn under this credit must bear the following clause:
"Drawn under Letter of Credit No. 1019-08 of Lydian Private
Bank dated May 6, 2008"

We hereby engage with you that drafts drawn under and
presented in conformity with the terms of this credit will be
duly honored.

This credit is subject to the "Uniform Customs and Practices
for Documentary Credits (1993 Revision) International Chamber
of Commerce Publication No. 500" or by subsequent Uniform
Customs and Practices fixed by subsequent Congresses of the
International Chamber of Commerce.

Sincerely,
Lydian Private Bank

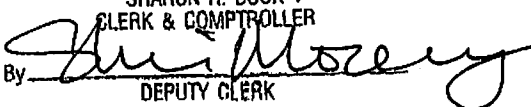
By: 
Debra L. Vasilopoulos,
It's: Executive Vice President



STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the
foregoing is a true copy
of the record in my office.

THIS 9 DAY OF MAY, 2008
SHARON R. BOCK
CLERK & COMPTROLLER

By: 
DEPUTY CLERK

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

VARIANCE #9-2010 WITH SUBDIVISION AMENDMENT The application of Ronald S Kochman as Trustee of 1255 South Ocean Boulevard Realty Trust dated 12/16/2009; relative to property commonly known as **1255 South Ocean Boulevard**; described as Lots 7 and 8, less the south 7.5 feet of said Lot 8, THE BLOSSOM ESTATE, according to the Plat recorded in Plat Book 44, Page 122, and as re-platted in Plat Book 54, Page 127, of the Public Records of Palm Beach County, Florida; located in the R-AA Zoning District. The applicant requests a variance to allow an accessory structure (driveway) to be built on a parcel of land that has no principal structure; this request is in conjunction with a proposed amendment to the Blossom Estate Subdivision Agreement. The Second Amendment of the Blossom Estate Subdivision Amendment (executed in 1995) proposes a driveway configuration and certain improvements on Lot 7, The proposed (third) amendment would revise the driveway configuration and remove the specific improvements in the "Buildable Envelope" to allow the future owner to have flexibility in their design. [Attorney: Maura A. Ziska.]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated June 30, 2010
- Third Amendment to the Blossom Estate Subdivision Agreement
- Blossom Estate Subdivision Agreement
- First Amendment to the Blossom Estate Subdivision Agreement
- Second Amendment to the Blossom Estate Subdivision Agreement
- Letter from Maura Ziska dated May 21, 2010

TOWN OF PALM BEACH

Information for Town Council Meeting on: July 14, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Subdivision Modification-Request of 1255 South Ocean Boulevard Realty Trust for a Third Amendment to the Blossom Estates Subdivision Agreement

Date: June 30, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the proposed Third Amendment to the Blossom Estates Subdivision Agreement subject to the following conditions:

1. The applicant shall modify the proposed Third Amendment to provide language to ensure that the two specimen trees dissected by the proposed driveway identified in proposed EXHIBIT "A" are protected from the impacts of the construction over the root systems of the trees.
2. The applicant shall modify proposed EXHIBIT "A" to create a view easement with dedication language for that easement, from South Ocean Boulevard to the Mangrove Area which would preclude any elevated structures, other than the Mangrove Setback fence, grade level driveways, sidewalks or decks in the northern upland area of Lot 7.
3. Prior to executing and recording the Third Amendment to of the Subdivision Agreement, the applicant shall obtain required jurisdictional approval; survey the Mangrove Area Setback; remove the temporary barricade and construct a five foot high, protective green vinyl coated chain link fence along the Mangrove Setback line; and cover the dirt piles with fabric.

GENERAL INFORMATION

The Blossom Estates subdivision plat and subdivision agreement (copy attached) were executed by the Town on July 1, 1982. At that time, the Town's major concern was the preservation of an existing mangrove area on the northwest portion of proposed Lot 7 of the proposed plat. As a result, the property was subdivided into nine buildable lots and one lot (#7) which could not be built upon. In addition, there was a mangrove area created to preserve the native vegetation abutting Lake Worth on Lot 7.

On August 22, 1986, the Blossom Estates Subdivision was re-platted and the subdivision agreement was amended to create a building envelope area on Lot 7. This included maintaining the mangrove easement and the creation of 25 foot wide mangrove setback area on Lot 7. The language in the FIRST AMENDMENT TO BLOSSOM ESTATE SUBDIVISION AGREEMENT (copy attached) provided that no more than 7% lot coverage could occur on Lot 7. In addition, it also provided that no structures or construction activity could occur on Lot 7, lakeward of the mangrove setback line; and that the mangrove setback area be protected by fencing prior to any site work. The first amendment to the Agreement also required the owner to provide a recorded unity of title joining both Lots 7 and 8 to ensure that only one house could be built on the combination of both lots.

On November 3, 1995, the Town entered into the SECOND AMENDMENT TO THE BLOSSOM ESTATE SUBDIVISION AGREEMENT. That amendment further defined and restricted the building envelope and what could be built outside of that envelope on Lots 7 and 8. The Agreement incorporated a very definitive exhibit (Exhibit A) which reflected a site plan of the actual footprint of the house, driveway and tennis court improvements proposed by a previous owner (see the 1995 attachment). The attached Exhibit is of the same quality as the original Exhibit A and is difficult to read.

The applicant's proposal is to modify the Subdivision Agreement to create a flexible building envelope and a modified driveway which conflicts with the existing approved plan (see attached request). Staff does believe that the Exhibit in the subdivision agreement should be less specific. There should be enough flexibility to allow the property owner and ARCOM to work together in the placement of the house and accessory structures on the property. The building envelope in the proposed exhibit meets the setbacks and all lot, yard and bulk requirements for the underlying zoning designation (R-AA, Large Estate Residential) for the subject property. The proposed Agreement and Exhibit also meet the 25 foot Mangrove Setback and the requirement for only 7% lot coverage on Lot 7.

The new Exhibit A in the proposed THIRD AMENDMENT TO THE BLOSSOM ESTATES SUBDIVISION AGREEMENT (see attached copy), also identifies a proposed driveway to be constructed under the drip edge and between two specimen trees. If not treated appropriately, the placement of the driveway could damage or kill those trees. Therefore, language should be included in the proposed Agreement which ensures that those trees are protected and should they die, be replaced with similar specimen trees.

In addition, in contradiction to the existing Agreement, as amended, and the Town's Code, the property owner (applicant) has illegally trimmed in the designated Mangrove Area. He has also illegally dumped and/or graded dirt fill on the subject property. The Mangrove

Setback has also not been fenced as required by the Agreement to prevent this site work encroachment. While the property owner has been working with the jurisdictional authorities, the Town's Code Enforcement and Public Works Departments to mitigate the damage, the work has not been completed. The Mangrove Area should be fenced and the dirt piles covered with fabric prior to the Third Amendment being executed and recorded. Covering the piles of dirt will prevent wind blown sand from spreading to neighboring property until a permit is issued to move the fill. In addition, a view easement should be provided between the mangrove preserve area and South Ocean Boulevard to ensure that a view is provided to that naturally preserved mangrove area from the road.

Staff recommends approval of the proposed Third Amendment, as proposed by the applicant subject to the following conditions:

1. The proposed Agreement shall have a provision to adequately protect and replace the two specimen trees dissected by the proposed driveway should they die.
2. The applicant should delineate a view easement with dedication language for that easement to ensure the Mangrove Area on proposed EXHIBIT "B" can be viewed from South Ocean Boulevard. The language should preclude any elevated structures, other than the Mangrove setback fence, grade level driveways, sidewalks or decks in the northern upland area of Lot 7, between the designated "MANGROVE AREA" and South Ocean Boulevard.
3. The applicant should be required to have the Mangrove Setback Line surveyed, the temporary barricade removed, and a protective five foot high green vinyl coated chain link fence constructed along the Mangrove setback line.
4. The applicant should be required to cover the dirt piles with fabric until a permit is issued to move the dirt fill.

COMPREHENSIVE PLAN

COASTAL MANAGEMENT/CONSERVATION ELEMENT

OBJECTIVE 2

The Town shall protect native vegetational communities and their associated wildlife. The measurement of this objective is the extent to which native vegetation is protected and restored, and degree to which the following policies are implemented.

OBJECTIVE 4

Protect and restore wetland habitat and estuary water quality in the Town, thereby protecting fisheries and marine habitat. The measurement of this objective is the extent to which wetland habitat and estuary quality are protected, and the degree to which the following policies are implemented.

STRATEGIC PLAN

Community Enhancement/Quality of Life Actions

Open Space and Beautification: Continue Town policy of preserving existing open spaces and pursue opportunities for parks, beautification and open space enhancements including:

...

- b) Seek opportunities to retain open spaces during redevelopment of large estates.
- c) Whenever possible, take action to preserve large open green spaces that are privately owned (e.g. the three private golf courses).

Timeframe: Ongoing, as opportunities arise.

Attachments

cc: Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Jay Boodheshwar, Acting Public Works Director
Joanna Cunningham, Town Clerk
Veronica B. Close, Assistant Director, Planning Zoning & Blding Department
Paul W. Castro, AICP, Zoning Administrator
Maura Ziska, Esquire
pf
zf

Prepared by and return to:
Maura Ziska, Esquire
Kochman & Ziska, PLC
222 Lakeview Ave., Ste. 1500
West Palm Beach, FL 33401

**THIRD AMENDMENT TO THE BLOSSOM
ESTATE SUBDIVISION AGREEMENT**

THIS AGREEMENT made this ____ of _____, 2010 between the TOWN OF PALM BEACH, a Municipal Corporation, Post Office Box 2029, Palm Beach, Florida 33480 ("TOWN") and Ronald S. Kochman as Trustee of the 1255 SOUTH OCEAN BOULEVARD REALTY TRUST DATED DECEMBER 16, 2009, 222 Lakeview Avenue, Suite 1500, West Palm Beach, Florida 33401 ("OWNER").

WITNESSETH:

WHEREAS, the TOWN and the Developer's predecessor in interest, Dean Vegosen, Trustee, entered into an Agreement dated July 1, 1982 titled "Blossom Estate Subdivision Agreement" ("Agreement") which was recorded in Official Record Book 3765, Page 1004, Public Records of Palm Beach County, Florida and this Agreement refers to the Plat of the Blossom Estate that is recorded in Plat Book 44, Page 121, Public Records of the Palm Beach County, Florida;

WHEREAS, the TOWN approved certain requests by the Developer, George E. Straub, Trustee, to amend the Agreement and entered into a First Amendment to the Blossom Estate Subdivision Agreement ("First Amendment") on August 22, 1986, which First Amendment is recorded in Official Record Book 5022, Page 514, Public Records of Palm Beach County, Florida;

WHEREAS, the TOWN approved certain requests by the then owner, American Farm Investment Corporation, to further amend the Agreement and entered into a Second Amendment to the Blossom Estate Subdivision Agreement ("Second Amendment") on November 3, 1995, which Second Amendment is recorded in Official Records Book 9000, Page 646, Public Records of Palm Beach County, Florida;

WHEREAS, upon application for a Third Amendment to the Blossom Estate Subdivision Agreement ("Third Amendment"), the TOWN, upon motion made and duly adopted, approved certain requests by OWNER, the owner of Lots 7 and 8, to further amend the Agreement as provided herein;

WHEREAS, the TOWN found that all residents living in the Blossom Estate Subdivision had no objection to the Third Amendment as provided herein;

NOW THEREFORE, for good and valuable consideration, a receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Paragraph 2B(vi) of the Agreement is amended to read in its entirety as follows:

The Setback Exhibit indicates the "Buildable Envelope" upon which improvements may be constructed. The Developer or any future owner agrees no improvements of any kind will be built on any portion of Lot 7 not contained within the Buildable Envelope on Lot 7, except for the driveway and privacy shown on Exhibit "A" attached hereto and made a part hereof.

2. The Agreement as amended by the First Amendment, Second Amendment and this Third Amendment is hereby ratified and reaffirmed and shall remain in full force and effect according to its terms and all provisions thereof shall run with the lands known as The Blossom Estate and described on Exhibit "B" attached hereto and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

Witnesses:

TOWN OF PALM BEACH

Sign _____
Print _____
Sign _____
Print _____

By: _____

RONALD S. KOCHMAN, Trustee of the
1255 SOUTH OCEAN BOULEVARD
REALTY TRUST DATED DECEMBER
16, 2009

Sign _____
Print _____
Sign _____
Print _____

By: _____

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____ as _____ for the TOWN OF PALM BEACH, to me known to be the person described in or who produced _____ as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2010.

Notary Public

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Ronald S. Kochman, as Trustee of the 1255 SOUTH OCEAN BOULEVARD REALTY TRUST DATED DECEMBER 16, 2009, to me known to be the person described in or who produced _____ as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2010.

Notary Public

Approved as to Legal Form and Sufficiency

John C. Randolph, Town Attorney

EXHIBIT "B" - LEGAL DESCRIPTION

Lots 1-10, THE BLOSSOM ESTATE, according to the plat recorded in Plat Book 44, Page 122, and as re-platted in Plat Book 54, Page 127, of the Public Records of Palm Beach County, Florida.

82 117898

1982 JUL 27 AM 10:07

3360

B3765 P1004

This Instrument Prepared By:
Dean Vegosen, Esq.
Lewis, Vegosen and Rosenbach, P.A.
251 Royal Palm Way
P.O. Box 2437
Palm Beach, Florida 33480

BLOSSOM ESTATE
SUBDIVISION
AGREEMENT

THIS AGREEMENT, made as of the 1 day of July,
1982 by and between THE TOWN OF PALM BEACH, a municipal corporation
with an address at P.O. Box 2029, Palm Beach, Florida 33480 (herein
called "the Town"), and DEAN VEGOSEN, Trustee with full powers under
Florida Statute 689.071, with an address c/o Michael C. Burrows, 125
Worth Avenue, Palm Beach, Florida 33480 (herein called Developer);

W I T N E S S E T H:

WHEREAS, DEVELOPER owns the real property located in the Town
of Palm Beach, Florida commonly known as the Blossom Estate and legally
described on Exhibit "A" attached hereto and made a part hereof (herein
called "the Property");

WHEREAS, Developer has asked the Town to approve Developer's
proposed Plat of BLOSSOM ESTATE subdividing the Property into nine (9)
single family residential lots plus one (1) undevelopable lot (herein
called "the Plat");

WHEREAS, the imposition of the conditions and restrictions
contained herein upon the Property, Developer and future owners of the
Property are for the protection of the public health, safety and
environment of the inhabitants of the Town of Palm Beach;

NOW, THEREFORE, for good and valuable consideration, the
receipt and sufficiency of which is hereby acknowledged, the parties
agree:

1. Plat Approval.

A. The application for approval of the Plat of BLOSSOM
ESTATE is approved, subject however to all matters contained herein.

B. The Plat of BLOSSOM ESTATE prepared by Hutcheon Engi-
neers, Incorporated dated July 1, 1982 and consisting
of two (2) pages is hereby approved by the Town. The Plat will be

ROBERT DONEY
P.O. BOX 2029
PALM BEACH, FL.

recorded in the Palm Beach County, Florida public records, as will this Agreement.

C. Approval of the Plat is subject to all laws of the Town and of all other governmental bodies having jurisdiction over the Property or the use thereof, including, without limitation, Town Ordinance No. 2-73, commonly known as the Tree Ordinance.

2. Zoning; Construction Requirements.

void

A. The Town acknowledges and agrees that under the current zoning ordinance that one (1) single family residence and appurtenances (as defined and permitted under R-AA zoning in Town Zoning Ordinance No. 2-74, as amended, through and including Ordinance No. 6-81) may be constructed upon each lot in BLOSSOM ESTATE, except as to Lot 7 as provided in Paragraph 2B(iii) below.

B. In addition to compliance with non-conflicting laws of all governmental bodies having jurisdiction (including the Town), the following guidelines and restrictions must be met:

(i) A line parallel with and 50 feet west of the Coastal Construction Control Line presently designated by the State of Florida shall be the building line which demarcates the eastern permissible limits of building improvements which may be constructed on Lots 1, 2 and 3 and no such improvements may extend beyond such building line. There shall be no substantial change in the general ground elevation east of said line. However, construction of swimming pools, garden walls, patios and other such improvements are permissible beyond such eastern permissible limits and the eastern setback line for such improvements will be the Coastal Construction Control Line presently designated.

(ii) Notwithstanding that the actual lot boundary lines of Lots 8, 9 and 10 extend westerly beyond the Bulkhead Line which is established at the line of mean high water or ordinary high water by Section 253.1221 Florida Statutes, the Bulkhead Line shall be deemed to be the western boundary line from which set backs are measured for each

B3765 P1005

of such lots and no improvements, other than docks upon jurisdictional approval, may be permitted west of the Bulkhead line.

(iii) No structure or construction (including, without limitation, tennis courts, vehicular parking, etc.) shall be permitted on any portion of Lot 7 by Developer, the owner of Lot 7 of Blossom Estate or any third party so that it shall remain and be maintained in its existing natural state. This provision shall run in perpetuity with the land to which it refers and shall be referenced specifically in the Plat and shall be made a deed restriction in any transfer of Lot 7.

3. Trees.

A. All trees designated on the development plans (in 12 sheets) for "The Blossom Estate", dated November 1979 (with latest revision dated May 18, 1982) as rare species are to be preserved and none may be removed, destroyed, cut (other than ordinary maintenance and care) or molested unless application for such action is made to the Town and approved by the Town. The trees shown on the development plans are demarcated for preservation under Town laws and will be cared for accordingly.

B. In the development of BLOSSOM ESTATE the protection of as many of the trees and as much of the vegetation (whether or not specifically required to be preserved hereunder) as possible will be an objective of the Developer in order to keep as much of the natural character of BLOSSOM ESTATE as is possible in development of the residential community.

4. Access.

Blossom Way, the private road on the Plat, shall remain private and shall be maintained by a homeowners association (in accordance with a Declaration of Covenants, Conditions and Restrictions of Blossom Estate to be recorded by Developer). Blossom Way will, however, be constructed by Developer in conformance with the same construction standards as if Blossom Way were to be dedicated to the Public. There will be no ingress or egress to or from Lots 1, 2, 3, 4,

B3765 P1006

5 or 6 to or from Ocean Boulevard (State Road A1A) except by way of Blossom Way.

5. Bond.

Prior to construction of Blossom Way and/or any utility lines or systems to be installed to service the lots within the Property, Developer shall cause a bond to be posted naming the Town as obligee in an amount equal to 135% of the contract price for such improvements in order to secure completion thereof. A performance bond posted by a licensed contractor and naming Developer and the Town as obligees will satisfy the requirement of this paragraph. All bonds must be issued by surety or bonding companies licensed in Florida.

6. Miscellaneous.

A. 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.

B. This Agreement may not be amended except by written instrument signed by all parties hereto.

C. 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.

D. This Agreement shall be binding upon the parties hereto and upon their successors, assigns, heirs and personal representatives.

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

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

B3765 P1007

G. The detached garage or shed which is located on Lot 6 of Blossom Estate (but not shown on the Plat) will be demolished or removed by Developer at Developer's cost and expense. The existing house on Lot 6 may, subject to other applicable laws, either remain, be renovated or demolished or removed; however, if at some future time the existing single-family dwelling should become an accessory building to a new principal building, then at that time the kitchen in the existing house shall be removed.

H. Developer, and then Blossom Estate Homeowner's Association when it is formed, shall maintain a periodic (at least annual) cleaning of the siltation trap and French drains which will be checked routinely by the Town. The cost of such cleaning shall be borne by the Developer or the Homeowner's Association, as the case may be. The Town shall have a lien on each Lot in Blossom Estate on a prorata basis to secure the cost of such cleaning if not timely performed by the Developer or the Homeowner's Association.

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

TOWN:
TOWN OF PALM BEACH

7/26/82

By Robert J. Doney
Ass't. Town Manager

Attest Grace T. Doney
(Corporate Seal)

DEVELOPER:

Dean Vegosen
DEAN VEGOSEN, not individually
but as Trustee

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

Before me personally appeared Robert J. Doney and Grace T. Doney to me well known and known to me to be the individuals described in and who executed the foregoing instrument as Asst. Town Manager and Town Clerk, respectively

B3765 P1008

of the above named Town of Palm Beach, A municipal corporation, and severally acknowledged to and before me that they executed such instrument as such Don't know him and himself, respectively of said Corporation and that the seal affixed to the foregoing instrument is the corporate seal of the corporation and that it was affixed to the foregoing instrument by due and regular corporate authority after appropriate resolution duly adopted by such Corporation, and that said instrument is the free act and deed of said corporation.

Witness my hand and seal this 16 day of July

1982

J. L. Sanchez
Notary Public,
State of Florida at Large

My commission expires: NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JAN 2 1984
STATE OF FLORIDA) BONDED THRU GENERAL INS. UNDERWRITERS
COUNTY OF PALM BEACH)

Before me personally came and appeared DEAN VEGOSEN, Trustee, to me well known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and seal this 1 day of JULY,

1982.

Christy Mail
Notary Public
State of Florida at Large

My commission expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES OCT 23 1983
BONDED THRU GENERAL INS. UNDERWRITERS

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

July 2 1982
[Signature]
Town Attorney's Office

B3765 P1009

FIRST AMENDMENT TO
BLOSSOM ESTATE
SUBDIVISION AGREEMENT

THIS AGREEMENT, made as of the 12nd day of August, 1986, by and between THE TOWN OF PALM BEACH, a municipal corporation with an address of Post Office Box 2029, Palm Beach, Florida 33480 (the "Town") and GEORGE E. STRAUB, Trustee with full powers under Florida Statute 689.071, with an address of 125 Worth Avenue, Suite 314, Palm Beach, Florida 33480 (the "Developer");

WITNESSETH:

RECITALS

A. The Town and Developer's predecessor in interest Dean Vegosen, Trustee, entered into an agreement dated July 1, 1982 titled "Blossom Estate Subdivision Agreement" recorded in Official Record Book 3765, Page 1004, Public Records of Palm Beach County, Florida (the "Agreement"), which Agreement refers to the Plat of the Blossom Estate that is recorded in Plat Book 44, Page 121 of the Public Records of Palm Beach County, Florida.

B. By motion duly made, adopted and approved, the Town approved certain requests to amend the Agreement as provided herein; however, all other language in Agreement not specifically amended herein shall remain in full force and effect.

C. Developer desires to amend the Agreement in accordance with request of its predecessor in interest, as approved by the Town.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree:

1. Paragraph 2A of the Agreement is amended to read in its entirety as follows:

29.60
The Town acknowledges and agrees that under the current zoning ordinance that one (1) single family residence and appurtenances (as defined and permitted under R-AA zoning in Town Zoning Ordinance No. 2-74, as amended, through and including Ordinance No. 1-86, herein called "the Ordinance") may be constructed upon each lot in BLOSSOM ESTATE, except that only one single family residence and appurtenances may be constructed upon Lots 7 and 8 as provided in Paragraph 2B (iii) below.

2. Paragraph 2B (iii) of the Agreement is amended to read in its entirety as follows:

B5022 P0514
As a part and parcel of this Agreement, Developer has submitted to the Town a document called "Setback Exhibit - The Blossom Estate", attached to and a part of the Replat, prepared by Hutcheon Engineers and identified as file and drawing number 85-3-7052, dated June 16, 1986, consisting of one page (the "Setback Exhibit"). The Town and Developer have initialed the Setback Exhibit which is incorporated by reference herein. Developer or any future owner agrees that no residence shall be constructed in any area outside of the shaded areas which are shown on the Setback Exhibit. Developer or any future owner further agrees that only one residence may be constructed upon Lots 7 and 8 which

Lots shall be deemed and treated as a single Lot and which shall remain under single ownership at all times. With respect to Lot 7, the upland limit of the Mangrove area referred to in subparagraph (iv) below has been determined by the Palm Beach County Health Department and the Department of Environmental Regulation as shown on the Replat of Blossom Estate submitted to the Town for approval. The allowable setback from the line so established shall be twenty-five (25) feet (the "Mangrove Setback"). No construction shall occur lakeward of the Mangrove Setback and all construction machinery shall be required to stay landward of the Mangrove Setback. Prior to commencement of any site work on Lot 7, the Mangrove Setback shall be fenced off. A separate Unity of Title as to Lots 7 and 8 will be recorded simultaneously with recording of this Agreement.

3. Subparagraph (iv) is hereby added to Paragraph 2B of the Agreement as follows:

(iv) Lot 7 is comprised, in part, of a Mangrove area, as reflected on the plat of BLOSSOM ESTATE recorded in Plat Book 44, Page 121 of the Public Records of Palm Beach County, Florida (as same is being replatted). The upland boundary of the Mangrove area shall be the most easterly of the upland line reflected on the Replat of Blossom Estate or the line determined by the Palm Beach County Health Department and Department of Environmental Regulation in accordance with Paragraph 2B (iii) above. Developer agrees for himself, his heirs, personal representatives, successors and assigns that Developer shall have no right of the use of or access to or upon any portion of the Mangrove area (a) for construction or improvements of any kind or (b) for any other purpose unless (i) Developer has first contacted and received the written approval of the Town of Palm Beach, and appropriate representatives of all governmental bodies and agencies who may have jurisdiction over the Mangrove area including, without limitation, the Florida Department of Natural Resources, Florida Department of Environmental Regulation, Palm Beach County Health Department, and U.S. Army Corps of Engineers; and (ii) all of such departments, agencies and bodies have concurred in and approved, in writing, the entry into the Mangrove area and the purpose thereof. Such departments, agencies and bodies shall have the right to impose any conditions or limitations upon entry into the Mangrove area. No third party, including the departments, agencies and bodies listed above, shall have the right of access to, over, through or upon the Mangrove area without first notifying Developer and coordinating a time for such access with the Developer (or future owner of Lots 7 and 8, as the case may be). At the times when access is given to the Mangrove area, Developer (or the then owner of Lots 7 and 8) shall grant pedestrian access to the Mangrove area across a portion of Lot 7 or Lot 8 to be designated by Developer or the then owner. The owner of Lots 7 and 8 shall have

B5022 P0515

the right to refuse such access at times that are not convenient but may not continuously and unreasonably withhold permission for access which is necessary to preserve the Mangrove area in its natural state. Prior to commencement of any construction of a residence or appurtenances on Lot 7 or Lot 8, Developer or the then owner of Lots 7 and 8 shall erect a temporary protective fence or structure to protect against encroachment upon or damage to the Mangrove area. The fence or structure shall be subject to the approval of the Building and Zoning Department of Town and it shall be continuously maintained by Developer (or the then owner) during construction. It is the intention of this paragraph that the Mangrove area remain inviolate and that it not be encroached upon by debris from construction upon Lots 7 or 8 or by any persons such that all of the Mangrove trees and other vegetation that are contained within the Mangrove area may live and thrive without hindrance or molestation from any act by Developer, Developer's contractors, guests, invitees or agents, or any third parties.

4. Subparagraph (v) is hereby added to Paragraph 2B of the Agreement as follows:

(v) All drainage from Lot 7 shall be approved, in writing, by the Palm Beach County Health Department and the Department of Environmental Regulation.

5. Subparagraph (vi) is hereby added to Paragraph 2B of the Agreement as follows:

(vi) The Setback Exhibit indicates by darkened areas the "Buildable Envelope" upon which improvements may be constructed. Developer or any future owner agrees no improvements of any kind will be built upon any portion of Lot 7 not contained within the Buildable Envelope on Lot 7.

6. In consideration of Town entering into this Agreement, Developer agrees, notwithstanding anything to the contrary contained in the Setback Exhibit, to limit the allowable "lot coverage", as currently defined in the Ordinance, of Lot 7 to no more than seven percent (7%) of the total square footage of Lot 7 as shown on the Setback Exhibit.

7. The Agreement, as amended, is hereby ratified and reaffirmed and shall remain in full force and effect according to its terms and all provisions thereof and hereof shall run with the lands known as the BLOSSOM ESTATE and described on Exhibit "A" attached hereto and made a part hereof.

B5022 P051b

1986 SEP 30 PM 3:07 86-256635

B5022 P0521

ACKNOWLEDGMENT AND CONSENT TO
THE REPLAT OF THE BLOSSOM ESTATE

I, ROBERT M. FOMAN, do hereby acknowledge the dedication by George E. Straub, Trustee, dated April 22, 1986, as set forth on sheet 1 of the Replat of The Blossom Estate and shown on sheet 2 of the Replat of The Blossom Estate.

I further acknowledge that a conveyance to me of Lots 7 and 8; The Blossom Estate, according to the Plat recorded in Plat Book 44, Pages 121 and 122, as recorded in the Public Records of Palm Beach County, Florida, by George E. Straub, as Trustee, was made subject to the rights and obligations set forth in the Replat of The Blossom Estate and do hereby consent to the Replat of The Blossom Estate.

I, Robert M. Foman, do hereby set my hand and seal this 18th day of July, 1986.

WITNESSES:

James F. Brooks

Robert M. Foman
Robert M. Foman

Elizabeth A. Kelly

STATE OF NEW YORK)
COUNTY OF NEW YORK) : ss

I HEREBY CERTIFY that on this 18th day of July, 1986, before me personally appeared ROBERT M. FOMAN, the person described in and who executed the foregoing Acknowledgment and Consent to the Replat of The Blossom Estate, and acknowledged to me the execution thereof to be his free act and deed for the uses and purposes therein mentioned.

WITNESS my signature and official seal at the County and State aforesaid, this 18th day of July, 1986.

Madeline T. Couton
Notary Public

My Commission Expires:
MADELINE T. COUTON
NOTARY PUBLIC, State of New York
No. 31-5837878
Qualified in New York County
Commission Expires Oct. 31, 1988

RECORD VERIFIED
PALM BEACH COUNTY FLA
JOHN B. DUNKLE
CLERK CIRCUIT COURT

This Instrument Prepared By
DAVID M. SHAW
FLEMING, HAILE & SHAW
50 COCONUT ROW
PALM BEACH, FLA. 33480

STATE OF FLORIDA

COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared GEORGE E. STRAUB, Not individually, but as Trustee, to me known to be the individual named in the foregoing instrument, and he acknowledged to and before me that he executed the same, for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid, this 23rd day of July, 1986.

Maryann Vulturera
NOTARY PUBLIC
State of Florida at Large
Notary Public, State of Florida
My Commission Expires July 30, 1988
Bonded Thru Troy Fain - Insurance, Inc.

My Commission Expires:

B5022 P0518

EXHIBIT "A"

Lots 1 through 10 of BLOSSOM ESTATE per the Plat thereof recorded July 27, 1982 in Plat Book 44, page 121, of the Public Records of Palm Beach County, Florida.

85022 P0519

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

IN THE PRESENCE OF:

TOWN:

TOWN OF PALM BEACH

By:

(CORPORATE SEAL)

IN THE PRESENCE OF:

DEVELOPER:

George E. Straub,
Not individually, but as
Trustee

STATE OF FLORIDA

COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared Bouglas C. Delano as Town Manager of the TOWN OF PALM BEACH, to be known to be the individual named in the foregoing instrument, and he acknowledged to and before me that he executed the same as such officer of the TOWN OF PALM BEACH, duly authorized, and affixed thereto the corporate seal, for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid, this 22 day of August, 1989.

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: 10-5-89

Notary Public, State of Florida

My Commission Expires Oct. 5, 1989

Bonded Thru Fidelity Insurance Co.

STATE OF FLORIDA

COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared RONALD A. SOVINSKI, as authorized agent for George E. Straub, Trustee, to me known to be the individual named in the foregoing instrument, and he acknowledged to and before me that he executed the same, for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid, this ___ day of ___, 1986.

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: _____

B5022 P0517

Witnesses:

088 9000 Pg 647

Sign Linda George
Print LINDA D. GEORGE
Sign Cindy Cousins
Print CINDY COUSINS

TOWN OF PALM BEACH

By: Robert J. Doney

Sign Susan Wellington
Print SUSAN WELLINGTON
Sign M.P. Backon
Print M.P. BACKON

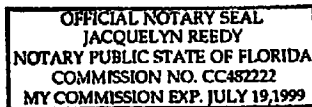
AMERICAN FARM INVESTMENT CORPORATION

By: [Signature]

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared ROBERT J. DONEY as TOWN MANAGER for the TOWN OF PALM BEACH, to me known to be the person described in or who produced PERSONALLY KNOWN as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of July, 1995.



Jacquelyn Reedy
Notary Public

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Gerald Schwartz as President of AMERICAN FARM INVESTMENT CORPORATION, to me known to be the person described in or who produced a driver's license as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 30th day of July, 1995.

Diana DiGrato
Notary Public

My Commission Expires: there is no expiry - held at pleasure of corporation

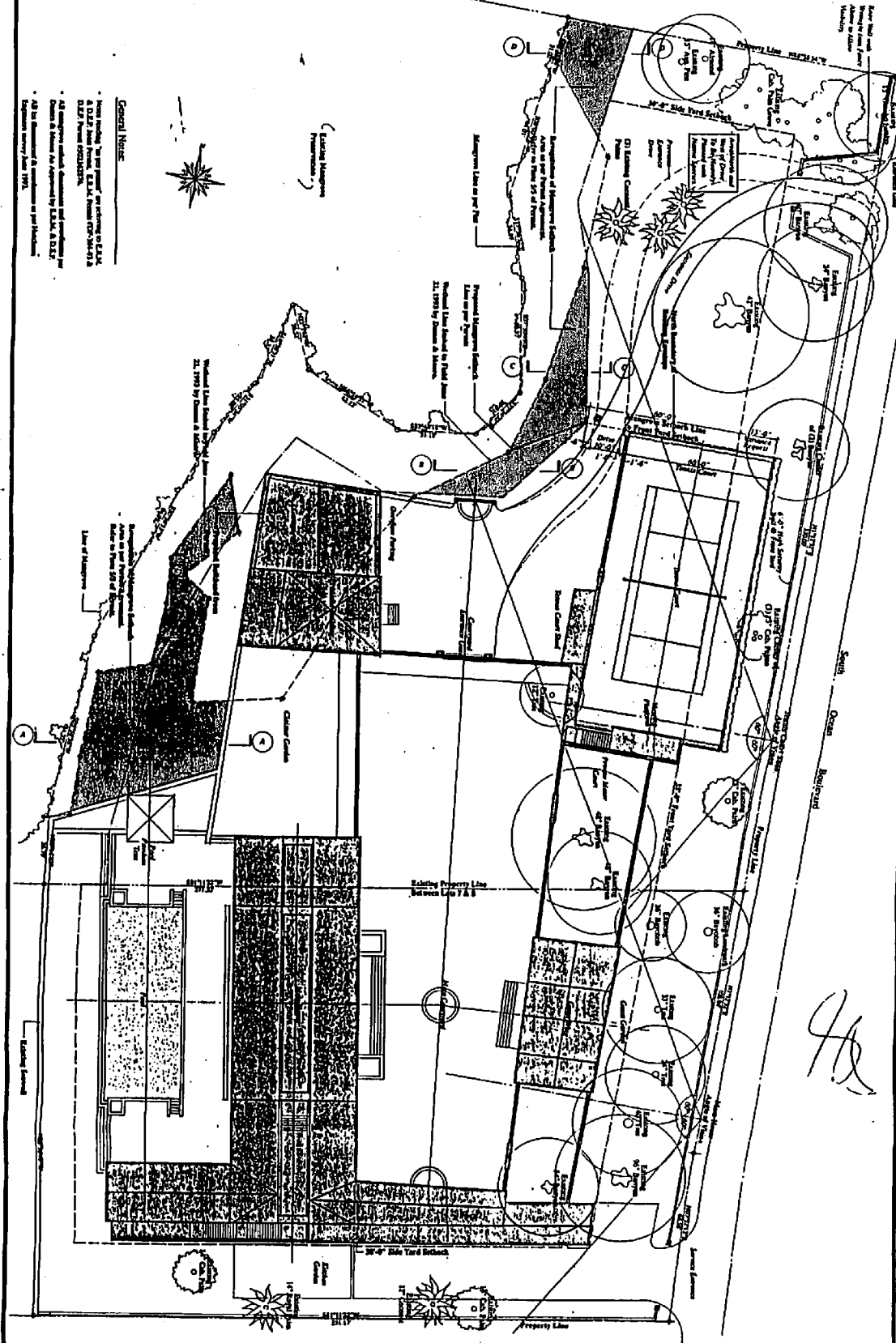
psb/schwartz/sgiam1

APPROVED AS TO LEGAL FORM AND SUFFICIENCY

[Signature]
John C. Randolph, Town Attorney

RECOMMEND APPROVAL:

10/12, 1995
[Signature]
Robert L. Moore, Director of
Planning, Zoning & Building
Zoning Administrator



General Notes:

- 1. This plan is for the purpose of showing the location of the proposed building footprint on the site.
- 2. All dimensions are in feet and inches.
- 3. All dimensions are to the centerline of the building footprint.
- 4. All dimensions are to the centerline of the building footprint.
- 5. All dimensions are to the centerline of the building footprint.

RECORDING OFFICE OF THE COUNTY OF LOS ANGELES

[Handwritten signature]

ORB 9000 Pg 649
DOROTHY H. WILKEN, CLERK PB COUNTY, FL

LEGAL DESCRIPTION

Lots 1 - 10, Blossom Estate per the plat thereof recorded July 22, 1982 in Plat
Book 44, Page 121, Public Records of Palm Beach County, Florida.

JS

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

*Also admitted in New York

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA HAND DELIVERY

May 21, 2010

John Page, Director
Planning Zoning & Building
360 South County Road
Palm Beach, FL 33480

RE: Amendment to Blossom Estates Subdivision

Dear Mr. Page:

I represent Ronald S. Kochman, as Trustee of The 1255 South Ocean Boulevard Realty Trust dated December 16, 2009 ("Owner") who owns 1255 South Ocean Boulevard, Palm Beach, Florida, a/k/a Lots 7 and 8 the Blossom Estates Subdivision. The Owner is requesting a modification to the Subdivision and any modifications require Town approval. I am requesting this matter be placed on the June 22, 2010 Town Council Agenda. I have enclosed a check in the amount of \$1000.00 for the filing fee for the Subdivision Modification.

To give a brief history, The Blossom Estates Subdivision was originally platted in 1982 dividing the property into ten (10) parcels for future development. As part of the approval, the Town required the Developer to enter into the Blossom Estate Subdivision Agreement (dated July 1, 1982 and recorded in ORB 3765 PG 1004). This agreement set forth certain requirements for the Developer with regard to future development.

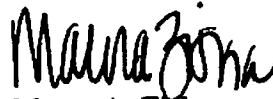
In 1986, there was a Re-Plat of Blossom Estates and a First Amendment to the Blossom Estates Subdivision Agreement (dated July 18, 1986 and recorded in ORB 5022 PG 515). With regard to my client's property, Lot 7 and 8, it was agreed upon that the two lots shall be treated as a single lot and only one single family residence shall be allowed. It also established a "Mangrove Setback" to protect the mangroves in this area and a "Buildable Envelope" for Lots 7 and 8. Further, the Developer agreed to limit lot coverage on Lot 7 to 7% of the total square footage on Lot 7. In 1995, the Second Amendment to the Blossom Estate Subdivision Agreement (dated November 3, 1995 and recorded in ORB 9000 PG 646) was filed specifically amending Paragraph 2B(vi) regarding the Setback Exhibit to allow a driveway and privacy to be built on Lot 7. An Exhibit was attached to the Second Amendment that contained a very detailed site plan, presumably reflecting the proposed plan of the owner at the time (see attached Exhibit "A").

The property has since been sold and it remains vacant land. The Owner would now like to further amend the Subdivision Agreement by submitting an amended exhibit showing a different driveway configuration and a clean "Buildable Envelope" which will remove the prior

owner's specific plan and give the current owner and future owners more flexibility in design (see attached Exhibit "B"). I have attached a proposed Third Amendment to the Blossom Estate Subdivision Agreement for your review (see attached Exhibit "C").

Please call me if you have any questions with the foregoing or require any additional information.

Sincerely yours,


Maura A. Ziska

/maz

Attachments

cc: Client
Paul Castro
John C. Randolph, Esq.

PETER S. BROBERG
223 Peruvian Avenue
Palm Beach, Florida 33480

DATE - 08-19-06 TIME - 11am 95-367817
 ORR 9000 Pg 646

EXHIBIT "A"

Witnesses:

Sign Linda George
Print LINDA GEORGE
Sign Cindy Cousins
Print CINDY COUSINS

TOWN OF PALM BEACH

By: Robert J. Doney

Sign Susan Wellington
Print SUSAN WELLINGTON
Sign M. P. Backer
Print M. P. BACKER

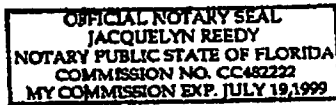
AMERICAN FARM INVESTMENT CORPORATION

By: [Signature]

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared ROBERT J. DONEY as TOWN MANAGER for the TOWN OF PALM BEACH, to me known to be the person described in or who produced PERSONALLY KNOWN as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this day of July, 1995.



Jacquelyn Reedy
Notary Public

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Gerald Schwartz as President of AMERICAN FARM INVESTMENT CORPORATION, to me known to be the person described in or who produced a driver's license as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 31st day of July, 1995.

[Signature]
Notary Public

My Commission Expires: there is no expiry - held at pleasure of notary

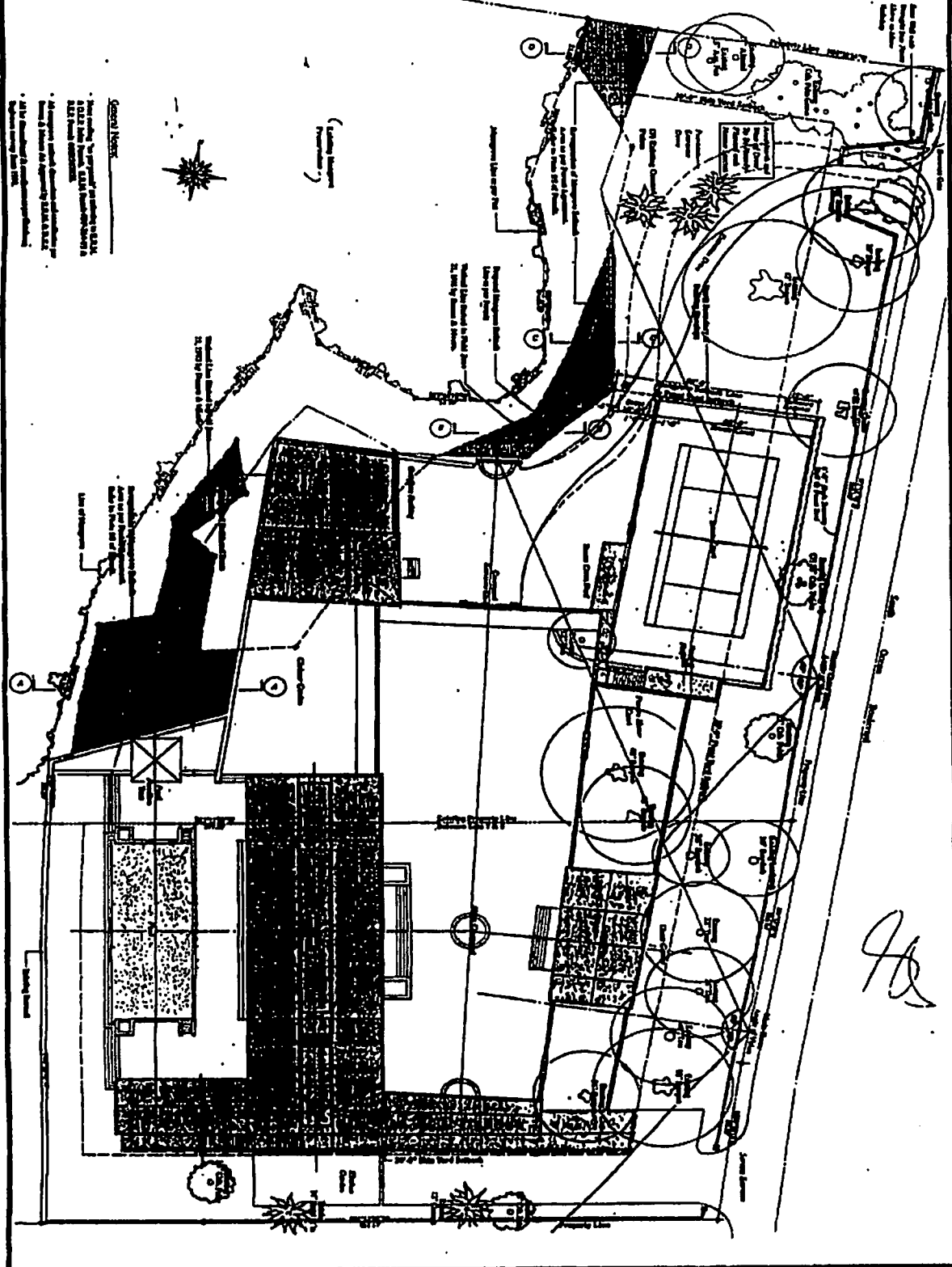
APPROVED AS TO LEGAL FORM AND SUFFICIENCY

[Signature]
John C. Randolph, Town Attorney

RECOMMEND APPROVAL:

10/12, 1995
[Signature]
Robert L. Moore, Director of
Planning, Zoning & Building
Zoning Administrator

0RB 910107 05 6445



General Notes:
1. This map is for general information only.
2. All dimensions are approximate.
3. All measurements are in feet.
4. All measurements are to the center of the building.
5. All measurements are to the center of the lot.
6. All measurements are to the center of the street.

RECORDED
INDEXED

72

LE MAS
RECORDED
INDEXED
EXHIBIT A

APR 9:00 PM 549
MILLEN, CLERK OF COUNTY: FL

LEGAL DESCRIPTION

Lots 1 - 10, Blossom Estate per the plat thereof recorded July 22, 1982 in Plat Book 44, Page 121, Public Records of Palm Beach County, Florida.

JS

EXHIBIT B

Prepared by and return to:
Maura Ziska, Esquire
Kochman & Ziska, PLC
222 Lakeview Ave., Ste. 1500
West Palm Beach, FL 33401

**THIRD AMENDMENT TO THE BLOSSOM
ESTATE SUBDIVISION AGREEMENT**

THIS AGREEMENT made this ____ of _____, 2010 between the TOWN OF PALM BEACH, a Municipal Corporation, Post Office Box 2029, Palm Beach, Florida 33480 ("TOWN") and Ronald S. Kochman as Trustee of the 1255 SOUTH OCEAN BOULEVARD REALTY TRUST DATED DECEMBER 16, 2009, 222 Lakeview Avenue, Suite 1500, West Palm Beach, Florida 33401 ("OWNER").

WITNESSETH:

WHEREAS, the TOWN and the Developer's predecessor in interest, Dean Vegosen, Trustee, entered into an Agreement dated July 1, 1982 titled "Blossom Estate Subdivision Agreement" ("Agreement") which was recorded in Official Record Book 3765, Page 1004, Public Records of Palm Beach County, Florida and this Agreement refers to the Plat of the Blossom Estate that is recorded in Plat Book 44, Page 121, Public Records of the Palm Beach County, Florida;

WHEREAS, the TOWN approved certain requests by the Developer, George E. Straub, Trustee, to amend the Agreement and entered into a First Amendment to the Blossom Estate Subdivision Agreement ("First Amendment") on August 22, 1986, which First Amendment is recorded in Official Record Book 5022, Page 514, Public Records of Palm Beach County, Florida;

WHEREAS, the TOWN approved certain requests by the then owner, American Farm Investment Corporation, to further amend the Agreement and entered into a Second Amendment to the Blossom Estate Subdivision Agreement ("Second Amendment") on November 3, 1995, which Second Amendment is recorded in Official Records Book 9000, Page 646, Public Records of Palm Beach County, Florida;

WHEREAS, upon application for a Third Amendment to the Blossom Estate Subdivision Agreement ("Third Amendment"), the TOWN, upon motion made and duly adopted, approved certain requests by OWNER, the owner of Lots 7 and 8, to further amend the Agreement as provided herein;

WHEREAS, the TOWN found that all residents living in the Blossom Estate Subdivision had no objection to the Third Amendment as provided herein;

NOW THEREFORE, for good and valuable consideration, a receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Paragraph 2B(vi) of the Agreement is amended to read in its entirety as follows:

The Setback Exhibit indicates the "Buildable Envelope" upon which improvements may be constructed. The Developer or any future owner agrees no improvements of any kind will be built on any portion of Lot 7 not contained within the Buildable Envelope on Lot 7, except for the driveway and privacy shown on Exhibit "A" attached hereto and made a part hereof.

2. The Agreement as amended by the First Amendment, Second Amendment and this Third Amendment is hereby ratified and reaffirmed and shall remain in full force and effect according to its terms and all provisions thereof shall run with the lands known as The Blossom Estate and described on Exhibit "B" attached hereto and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

Witnesses:

TOWN OF PALM BEACH

Sign _____
Print _____
Sign _____
Print _____

By: _____

RONALD S. KOCHMAN, Trustee of the
1255 SOUTH OCEAN BOULEVARD
REALTY TRUST DATED DECEMBER
16, 2009

Sign _____
Print _____
Sign _____
Print _____

By: _____

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____ as _____ for the TOWN OF PALM BEACH, to me known to be the person described in or who produced _____ as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2010.

Notary Public

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Ronald S. Kochman, as Trustee of the 1255 SOUTH OCEAN BOULEVARD REALTY TRUST DATED DECEMBER 16, 2009, to me known to be the person described in or who produced _____ as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2010.

Notary Public

Approved as to Legal Form and Sufficiency

John C. Randolph, Town Attorney

EXHIBIT "B" - LEGAL DESCRIPTION

Lots 1-10, THE BLOSSOM ESTATE, according to the plat recorded in Plat Book 44, Page 122, and as re-platted in Plat Book 54, Page 127, of the Public Records of Palm Beach County, Florida.

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

Old Business - > 15 Minutes

Agenda Title

SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCES The application of Publix Super Markets, Inc., relative to property commonly known as **265, 255, 235, 231 Sunset Avenue and 240 Sunrise Avenue**; described as lengthy legal description on file; located in the C-TS Zoning District. Request for a Site Plan Review and Special Exception to construct a 50,870 (43,360 gross leasable) square foot one story grocery store on 4.36 acres. The new store will provide 218 off street parking spaces. There is proposed to be an outdoor ATM and the grocery cart storage within the building. All of the proposed mechanical equipment will be contained within portions of the building and will not be seen on the roof. Part of the proposed design is to have two generators located within the southeast corner of the proposed store that will contain a 100 KW standby generator and a 500 KW main generator. There is proposed to be two loading areas within the loading dock on the east side of the building that will be screened. The proposed store will have a pharmacy, deli, bakery and a larger selection of food items and other products. Since the propose grocery store is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is Town serving. A Special Exception is being requested to have two illuminated monument signs at the northwest and southwest entrances to the west parking lot and one illuminated business identification sign on the west entrance of the building. The following variances are being requested to construct the proposed one story grocery store: (a) to allow a building length of 245 feet in lieu of the 150 foot maximum allowed; (b) to allow a front yard setback at the northwest corner of the proposed building of 10 feet in lieu of the 14 foot minimum required based on building height; (c) to allow a side yard setback for the proposed towers to be 10 feet in lieu of the 19 foot minimum required; (d) to allow two loading spaces in lieu of the three spaces required by code; (e) to allow the proposed building to be a total square footage of 50,870 square feet in lieu of the 15,000 square foot maximum allowed; (f) to allow 8 towers in lieu of the two maximum allowed; (g) to allow the area of the 8 towers to be 12.2% of the gross floor area of the building in lieu of the 2% maximum allowed (h) to allow the parking lot light poles to be 23 feet in height in lieu of the 15 foot maximum allowed; (I) to allow the height of the proposed one story grocery store to be 22.66 feet in lieu of the 15 foot maximum allowed; (j) to allow the overall height of the proposed one story grocery store to be 37 feet in lieu of the 20 foot maximum allowed; (k) to allow a monument sign at the northwest entrance where no sign is allowed; (l) to allow a monument sign at the southwest entrance where no sign is allowed. [Attorney: Maura A. Ziska, Esq.] [ARCOM Recommendation: Defer to the June 23, 2010, ARCOM Meeting] *Deferred from the May 12, 2010, and June 22, 2010, Town Council Meetings (Special Circumstances).* **Request for Deferral to the August 11, 2010, Town Council Meeting Per Letter Dated June 8, 2010, From Maura A. Ziska.**

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated June 8, 2010, from Maura A. Ziska
- Email dated July 4, 2010, from Timothy Moore

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska
*Also admitted in New York

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

Telephone: (561) 802-8960
Facsimile: (561) 802-8995

June 8, 2010

VIA FACSIMILE: 561-835-4621

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

***RE: Site Plan Review #4-2010 w/Special Exception and Variance/265, 255, 235, 231
Sunset Ave. and 240 Sunrise Ave.***

Dear Mayor and Town Council:

On behalf of the property owner, I would like to request a deferral of the above-referenced matter from the **July 14, 2010** until the **August 11, 2010** Town Council meeting. The reason for the deferral is so the architects can have time to redesign the project.

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

Sincerely yours,



Maura A. Ziska

MAZ/mr
cc: Paul Castro
Hank Porcher
Harold Smith

1009

Fw: Publix

From: Timothy Moore <tmoore67@comcast.net>
To: townmanager@townofpalmbeach.com
Date: 07/04/2010 03:37 PM
Subject: Publix

My family came here in the early thirties and has contributed to the community in many ways. The idea to build a suburban style mega super market on an island with a classic small town and architecturally significant structures is all wrong and well outside present day preservation thinking.

I give my full support to ARCOM in its efforts to reduce significantly the footprint of the proposed Publix and its efforts to arrive at a design worthy of the town and not to accept the insipid warehouse style of the current plan.

Sincerely,

Timothy Moore
170 N Ocean Blvd
Apt 203
Palm Beach., FL

TOWN OF PALM BEACH

Town Council Meeting on: July 14, 2010

Section of Agenda

New Business - > 15 Minutes

Agenda Title

VARIANCE #10-2010 The application of Gregory L. Wilson and Lisa C. Wilson; relative to property commonly known as **1480 North Lake Way**; described as lengthy legal description on file; located in the R-A Zoning District. The applicant requests a variance request to construct a dock and associate appurtenances a maximum of 178 feet west of land in lieu of the 150 foot maximum allowed. The proposed dock is 150 feet from land, however the mooring piles are 20 plus feet further out. [Attorney: Maura A. Ziska]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated June 25, 2010, from Wayne Ducote

V 10-2010

Wayne Ducote
245 Everglades Ave.
Palm Beach, Florida 33480

TOWN OF PALM BEACH**JUN 28 2010****Town Manager's Office**

VIA FACSIMILE: 561-838-5411

June 25, 2010

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

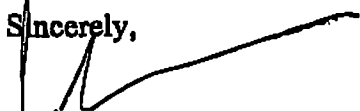
RE: Wilson Residence/Variance Number 10-2010
1480 North Lake Way, Palm Beach, Florida

Dear Mr. Mayor and Town Council members:

The above referenced project is currently scheduled to be heard at the July 14th Town Council meeting. I own the property at 1470 North Lake Way, which is directly south of Mr. and Mrs. Wilson's property. The Wilsons are planning to construct a dock and appurtenances on their property that exceeds the allowable length. I have reviewed the plans for the proposed dock and fully support their project and any relief they might need from the Town in order to get their dock approved. Hopefully, you and your staff will agree with me and will approve the proposed dock.

Thank you for your consideration and please call me if you have any questions.

Sincerely,


Wayne Ducote

cc: Maura A. Ziska, Esq. (Via facsimile: 561-802-8995)

EDWARDS ANGELL PALMER & DODGE LLP

525 Okeechobee Boulevard / Suite 1600 West Palm Beach, FL 33401 561.833.7700 fax 561.655.8719 capdlaw.com

G.E. Young, P.A.
561-820-0244
fax 888-325-9190
gyoung@capdlaw.com

July 13, 2010

VIA EMAIL

Mayor, Town Council Members and Town Clerk
Town of Palm Beach
Town Hall
360 South County Road
Palm Beach, Florida 33480

Re: 1100 North Ocean Boulevard, Palm Beach, Florida 33480 (the "Property")

Ladies & Gentlemen:

The undersigned is co-counsel for the legal and beneficial ownership of the Property – respectively, Steven S. Fischman and Stephen R. and Jill Karp (collectively, the "Karps"), in this proceeding (the "Appeal") on ARCOM Application No. B6/10 Addition (the "Application"). This letter is written in response to the letter dated July 12, 2010, from Paul Rampell, Esq. (the "Rampell Letter"), who serves as counsel for John and Marianne Castle (collectively, the "Castles").

A. Judicial Notice is the Proper Mechanism for the Town Council to Consider the Materials Cited in the "Reply of Appellant to Filing of John K. Castle & Marianne Castle" (the "Reply")

The Rampell Letter is sent, in part, in response to the Karps' prior letter dated July 7, 2010, wherein the Karps requested that the Town Council take judicial notice of certain items. If consideration of the merits of the Rampell Letter's objections becomes necessary, reliance upon the authority cited therein is misplaced. Florida appellate courts may take judicial notice of "official records of administrative agencies without more." *Freimuth v. State*, 272 So. 2d 473, 475-76 (Fla. 1972); *see also Cherry Lake Farms, Inc. v. Love*, 176 So. 2d 486, 487 (Fla. 1937) (Florida Supreme Court holding that it could take judicial notice of the public records held by the Florida Secretary of State in resolving factual issues necessary to resolve an appeal); *Fla. Accountants Ass'n v. Dandelake*, 98 So. 2d 323, 327 (Fla. 1957) (en banc) (Florida Supreme Court holding that it could take judicial notice of the public records held by the state in resolving factual issues necessary to resolve an appeal). Thus, the Town Council surely may take judicial notice as to the existence of its own publicly available records and publicly maintained agreements to which the Town is a party.

Additionally, consideration of the Karps' request for the Town Council to take judicial notice of such public records requires application of a balancing test. The necessity for the Karps' request that certain materials be judicially noticed is only a result of the Castles' prejudicial presentation of items not disclosed until during the ARCOM hearing held in April 2010. If the Castles had previously disclosed their intent to rely upon such materials, or disclosed the items that they

EDWARDS ANGELL PALMER & DODGE LLP

Letter to Mayor, Town Council Members and Town Clerk
July 13, 2010
Page 2

referenced, there would be no need for the Karps' request that the Town Council take judicial notice of such publicly available items. Further, ARCOM's focus upon the items presented to the Town Council was not evident until *after* the Karps had made their presentation and were without the ability to speak again. Moreover, the documents to which request has been made for the Town Council to take judicial notice are offered to reflect their existence and straightforward terms. The Karps do not suggest, for example, that the 1995 landmarking agreement relative to the Castles' property should be modified; rather, the Karps only bring it to the Town Council's attention because the Castles failed to do so, presumably because they have failed to comply with its provisions. The obvious prejudice that would result if the Town Council were not permitted to take judicial notice of the materials cited in the Reply is incalculable. Conversely, no "party" or interested person can claim any prejudice that would result in the Town Council's consideration of those materials. Thus, the Town Council should take judicial notice of its own publicly available records cited in the Reply.

B. There is No Conflict

The Castles also lodge a shameless attack upon Mr. Brindell and his firm regarding conflicts of interest that do not exist. Mr. Brindell and Gunster Yoakley & Stewart have addressed and responded to these baseless allegations by letter of today's date delivered to Mr. Rampell and copied to the Mayor, Town Council Members, Town Attorney and others. In short, it is not proper for the Castles to seek to "disqualify" Mr. Brindell from serving as co-counsel for the Karps for the purposes of this Appeal or for other matters relating to it. Allegations as to violations of the professional rules of conduct are simply not for the Town Council to consider or dispose of. Given that there are no conflicts, there is likewise no impact on due process or related considerations by Mr. Brindell's representation of the Karps past, present or future.

C. The Rampell Letter is Merely a Distraction, Further Demonstrating that the Castles Have Failed to Adhere to the Proper Process and Procedure

The timing of Mr. Rampell's Letter also cannot be overlooked. Although the Karps requested that the Town take judicial notice of certain materials on July 7, 2010, the Castles did not send the Rampell Letter until the late afternoon of July 12, 2010. Their motive could not be more clear. Through the Rampell Letter, the Castles simply wish to present two red herrings on the eve of oral argument, in an effort to distract the Town Council. Request is made that the Town Council focus its analysis on whether ARCOM's decision is supported by competent, substantial evidence that satisfies the criterion contained in Code Section 18-205(a)(1). Indeed, both the objections could have been made earlier, especially considering that, as early as July 2, 2010, the Karps formally disclosed that Mr. Brindell would be acting as co-counsel for the Karps concerning the Appeal. Instead of timely raising any objections concerning Mr. Brindell's representation, the Castles simply chose to raise another diversion from the merits of the Appeal two (2) days before oral argument. Accordingly, the objections contained in the Rampell Letter are merely distractions, not proper for the Town Council's consideration in resolving the Appeal.

EDWARDS ANGELL PALMER & DODGE LLP

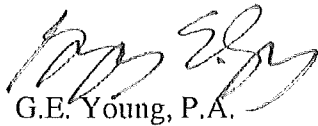
Letter to Mayor, Town Council Members and Town Clerk
July 13, 2010
Page 3

The Karps have repeatedly objected to Town's dissimilar adherence to the process and procedures implemented for this Appeal. Specifically, the Town continues to treat the Castles as if they were a "party" to this Appeal. They are not. Moreover, the Town gave unambiguous instructions concerning submissions to the Town Council concerning the Appeal. The final submission was to be the Karps' Reply. The Rampell Letter blatantly ignored the Town's explicit instructions and the Town Council should not consider it as part of the Appeal.

In sum, the Rampell Letter should be barred from the Town Council's consideration as improperly filed. But even if presented to the council members, neither argument contained in the Rampell Letter affects the analysis required for resolution of this Appeal. ARCOM's decision to reject the Application should be reversed for the reasons stated in the Karps' Justification Statement and Reply.

Please feel free to contact me ahead of this Wednesday's hearing if you have any questions or concerns.

Sincerely yours,



G.E. Young, P.A.

GEY:jws

cc: Mr. & Mrs. Stephen R. Karp
Mr. Steven S. Fischman
John Page, Director of Planning, Zoning & Building
Paul Castro, Zoning Administrator
John Lindgren, Planning Administrator
John C. Randolph, Esq.
Mr. Eugene Lawrence
Ronald L. Weaver, Esq.
James R. Brindell, Esq.
James K. Green, Esq.
Paul Rampell, Esq.

PAUL RAMPPELL

Attorney

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

E-mail
paul@rampell-law.com

July 12, 2010

By Hand Delivery and
E-Mail to jrandolph@jones-foster.com

Mayor Jack McDonald
Honorable David A. Rosow
Honorable Gail Coniglio
Honorable William J. Diamond
Honorable Richard M. Kleid
Honorable Robert N. Wildrick

c/o John C. Randolph, Esq.
Jones Foster Johnston & Stubbs
505 South Flagler Drive
Suite 1100
West Palm Beach, FL 33402-3475

Re: Karp v. ARCOM
1100 North Ocean Boulevard

Dear Mayor and Honorable Town Councilmembers:

As you know, I represent John and Marianne Castle, the owners of the Kennedy Estate.

We regret adding to the abundant materials already filed in support of or against ARCOM's decision to twice reject Stephen Karp's three-story addition next door, but we must object to a few matters based on Mr. Karp's papers before you.

First, the Karp lawyers are introducing new, unauthenticated evidence to you which was not part of the record in the ARCOM proceedings. As you know, their appeal is not de novo, but rather your determination of whether ARCOM made any material mistakes with procedures or criteria under the Town's Code. The Karps do not have a second bite at the apple with evidence that they failed to show ARCOM, and cannot now on appeal request judicial notice of various matters they could have placed in

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the record before ARCOM. *Hill v. State*, 471 So. 2d 567, 568 (Fla. 1st DCA 1985) ("Counsel for appellee should not have to be told that the appellate courts do not create records, nor do statements of counsel serve to create a record. While the documents may have been subject to judicial notice below, the place for securing such notice is in the trial court.") (emphasis added); *Hayes v. State*, 488 So. 2d 77, 81 n.3 (Fla. 2d DCA 1986) (Appellate court refused to notice that the Punta Gorda police had fingerprints of the defendant in their possession: "We decline to take such judicial notice in rendering this decision since we must rely upon the record of the facts as they were revealed to trial court.") (emphasis added); *see also Bull v. Jacksonville Federal Sav. and Loan Ass'n*, 576 So. 2d 755, 756 (Fla. 1st DCA 1991) (A reviewing body cannot judicially notice "publicly recorded documents, such as deeds and mortgages.").

Second, we object to James R. Brindell's and Gunster Yoakley's recent appearance as counsel for the Karpis in this matter. Gunster Yoakley represented Mrs. Castle in her estate planning, so we believe this firm has a conflict of interest if they received sensitive information from Mrs. Castle which they may use to her disadvantage and if such information is not generally known. Even more troubling, Mr. Brindell represented both the Kennedy Estate and the Castles in the 1995 landmarking proceedings as reflected in the Town Council's May 16, 1995 Minutes.

A lawyer who has formerly represented a client in a matter shall not thereafter:

- (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent; or
- (b) use information relating to the representation to the disadvantage of the former client except as rule 4-1.6 would permit with respect to a client or when the information has become generally known.

Rule Regulating Fla. Bar 4-1.9.

Bar Rule 4-1.9 applies where a direct attorney-client relationship exists and the subject matter is the same or substantially related. Where there is an attorney-client relationship, Florida law creates an "irrefutable presumption that confidences were disclosed." *Bochese v. Town of Ponce Inlet*, 267 F. Supp. 2d 1240 (M.D. Fla. 2003); *Nissan Motor Corp. in U.S.A. v. Orozco*, 595 So.2d 240, 242 (Fla. 4th DCA), rev. denied, 605 So.2d 1265 (Fla.1992).

The presumption is irrebuttable because it is difficult to establish that confidences were actually disclosed to an opponent, and because such a situation is rife with the possibility of discredit to the bar and the administration of justice. *Gaton v. Health Coal.*,

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Inc., 745 So.2d 510, 511 (Fla. 3d DCA 1999); *see also Solomon v. Dickison*, 916 So.2d 943, 945 (Fla. 1st DCA 2005) (quoting *Gaton*); *Key Largo Rest., Inc. v. T.H. Old Town Assocs., Ltd.*, 759 So.2d 690, 693 (Fla. 5th DCA 2000) ("[O]nce an attorney-client relationship is shown, an irrefutable presumption arises that confidences were disclosed to the attorney, and the only remaining requirement is a showing that the current case involves the same subject matter or is substantially related to the matter in which the lawyer represented the moving party.").

The reason for the presumption is obvious. "The presumption avoids compelling the former client to prove the very things that he seeks to keep confidential." *In re Corrugated Container Antitrust Litigation*, 659 F.2d 1341, 1347 (5th Cir.1981); *State Farm Mutual Automobile Ins. Co. v. K.A.W.*, 575 So.2d 630, 633 (Fla.1991)("The presumption acknowledges the difficulty of proving that confidential information useful to the attorney's current client was given to the attorney.").

In determining which matters are "substantially related," a comment to the rule which the Supreme Court adopted in 2006 provides as follows:

Matters are "substantially related" for purposes of this rule if they involve the same transaction or legal dispute, or if the current matter would involve the lawyer attacking work that the lawyer performed for the former client. **For example, a lawyer who has previously represented a client in securing environmental permits to build a shopping center would be precluded from representing neighbors seeking to oppose rezoning of the property on the basis of environmental considerations;** however, the lawyer would not be precluded, on the grounds of substantial relationship, from defending a tenant of the completed shopping center in resisting eviction for nonpayment of rent.

In re Amendments to the Rules Regulating the Florida Bar, 933 So.2d 417, 445 (Fla.2006)(emphasis added).

In determining which matters are "substantially related," courts examine the relationship between the subject matters, issues, and causes of action of both the present and previous representations. *McPartland v. ISI Inv. Services, Inc.*, 890 F. Supp. 1029, 1031 (M.D. Fla. 1995)("To be 'substantially related' the matters 'need only be akin to the present action in a way reasonable persons would understand as important to the issues involved.'")(citations omitted).

Cases in which Florida courts have determined that current and previous matters handled by the same attorney are "substantially related" include *The Florida Bar v. Dunagan*, 731 So. 2d 1237 (Fla. 1999), where the Supreme Court of Florida found a substantial relationship between a current action for dissolution and previous

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representation of both spouses in the formation of their business and in preparing bill of sale transferring business assets to their joint ownership, where the business was a marital asset and thus inherently at issue in the divorce, *Campbell v. American Pioneer Savings Bank*, 565 So. 2d 417 (Fla. 4th DCA 1990), where the Fourth District Court of Appeal found a substantial relationship between a current mortgage foreclosure action and prior matters concerning the same piece of property and conveyance thereof, which was relevant and related to the issue in current litigation, and *Lane v. Sarfati*, 676 So. 2d 475 (Fla. 3d DCA 1996) where the lawyer drafted the same contract provision drafted for previous client manager that was at issue in present lawsuit for employees.

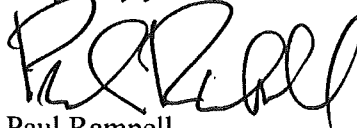
"[A]ny doubt is to be resolved in favor of disqualification." *Contant v. Kawasaki Motors Corp., U.S.A., Inc.*, 826 F. Supp. 427,429 (M.D. Fla. 1993).

Further, if Mr. Brindell does not withdraw voluntarily, and if the Town Council does not require his withdrawal, we will continue to challenge his representation of the Karps both before the Town Council and in the Circuit Court as a violation of the Castles' right to due process.

I realize that Mr. and Mrs. Castle do not have the right to a rebuttal brief to the reply brief filed by Mr. Karp, so I am delivering this letter in care of your attorney so he may determine whether it is permissible to circulate to you prior to this week's hearing or otherwise advise you of our objections.

Kind regards.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Paul Rampell', written over a horizontal line.

Paul Rampell

Enclosures

Cc: Mr. John K. Castle
James K. Green, Esq.
Bruce Rogow, Esq.
Gregory E. Young, Esq.
Ronald L. Weaver, Esq.
James R. Brindell, Esq.



GUNSTER

ATTORNEYS AT LAW

OUR REFERENCE NUMBER: 00032655.00001
WRITER'S DIRECT DIAL NUMBER: (561) 650-0511
WRITER'S E-MAIL ADDRESS: jbrindell@gunster.com

July 13, 2010

By U.S. Mail and Email to: paul@rampell-law.com

Paul Rampell, Esq.
400 Royal Palm Way, Suite 410
Palm Beach, FL 33480

Dear Paul:

We are in receipt of your letter of July 12, 2010. Mr. and Mrs. Castle were represented throughout the deliberations with the Town regarding the 1995 Landmarking Agreement by Ronald Kochman, Esq. and not by our firm. Our firm represented only the Kennedy family. The Kennedys' interests, as the owners of the subject property and as would-be sellers to Mr. and Mrs. Castle, were clearly adverse to the Castles.

The portion of the May 16, 1995 Town Council Minutes you quoted are not accurate. The transcript of those proceedings show that my statement did not refer to the Castles as "my clients". The actual statement is as follows:

"Mr. Brindell: We and the Castles, assuming they close on this property, are having to rely in essence on the good faith of the Town over the next five years, too." (TR p.10 May 16, 1995)"

The "we" refers to our client, the Kennedys, and is clearly distinguished from "the Castles", who were represented by Mr. Kochman.

Earlier in that Council meeting, the transcript of the May 16, 1995 Town Council meeting reports an exchange between Council President Lesly Smith and me:

"Mrs. Smith: I am on record, Mr. Brindell, as saying I'd like to see it landmarked in this century. What do you think the chances are of that?"

"Mr. Brindell: I can only give you my personal opinion."

Paul Rampell, Esq.
July 13, 2010

“Mrs. Smith: No, I’d rather hear what you think the Castles think.”

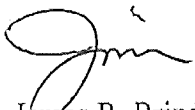
“Mr. Brindell: I really can’t speak for the Castles.” (TR p.4 May 16, 1995)”

Furthermore, at the May 9, 1995 Town Council meeting, I introduced Ronald Kochman as the Castle’s attorney, as I also did at the April 19, 1995 Landmarks Preservation Commission hearing.

We responded previously to your July 7, 2010 claim that our firm “...has represented and may continue to represent Mrs. Castle in her estate planning.” Although a member of our firm (who departed the firm in 2005) prepared a will for Mrs. Castle nearly 13 years ago in 1997, no further work was done thereafter by our firm on that matter. As I indicated, Mrs. Castle did approach our firm in late 2007 about providing her with legal advice on her estate plan, but she then chose to go elsewhere for that advice.

Your letter of July 12, 2010 to the Mayor and Town Council asks the Town Council to take action to disqualify our firm from representing Mr. and Mrs. Karp (based on your erroneous allegations), when you know that they have no authority to take such action. Your attempt is clearly an effort to deny Mr. and Mrs. Karp their choice of legal counsel. In light of your continued and baseless efforts to deny Mr. and Mrs. Karp their choice of legal counsel, we suggest that you carefully review the controlling authority in this District which I previously referenced to you in my letter of July 7, 2010, Health Care v. Bradley 961 So. 2^d 1071, 1073 (Fla. DCA4 2007) and Waldrop v. Waldrop, 985 So. 2d 700, 702 (Fla. DCA4 2008).

Very truly yours,



James R. Brindell
For the Firm

JRB/gvt

cc: Mayor Jack McDonald
Councilwoman Gail Coniglio
Councilman William Diamond
Councilman Richard Kleid
Councilman David Rosow
Councilman Robert Wildrick
John C. Randolph, Esq.
Mr. Stephen Karp
Greg Young, Esq.
Ronald Weaver, Esq.

THOMAS CAMPANIELLO REAL ESTATE
225 EAST 57th STREET
NEW YORK, NY 10022
P 212.371.3700 F 212.688.6527

July 8, 2010

Ms. Jane S. Day
Research Atlantica, Inc
728 Granada Drive
Boca Raton, FL 33432

Via Facsimile: (561) 362-8842 and U.S. Mail

Dear Ms. Day:

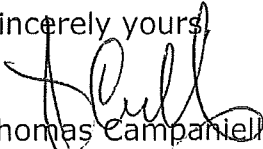
Thank you for your letter of June 30 and for the accompanying information on Landmarking.

My opposition to Landmarking my Palmway Building is based in part on the substantial investment I made in its restoration. When I purchased Palmway in 1985, I was impressed by the beauty of its exterior and its prominent location. The interior, however, was quite another matter. It was termite infested and dilapidated. Over the next ten years, I had each residential unit gutted, rebuilt, equipped with modern plumbing and fixtures, and fitted with anti- hurricane windows. All the stores were renovated. The restaurant, which was painted black and had an unsanitary kitchen with broken appliances, was rebuilt and equipped to Code. The cost of the renovation exceeded the purchase price of the building. For me, the tax abatement came too late.

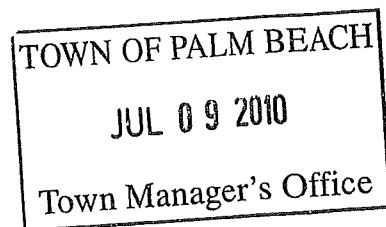
The reality is that business in the Town of Palm Beach is plummeting. West Palm is alive with people and activity. I think it is fair to question how far you can go with Landmarking in this critical economic time. Palmway is, after all not an Indigo Jones creation. It is only an attractive building with no pedigree. The Town needs commerce, not another museum.

I have spent over forty years pursuing my hobby of acquiring real property, and I predict that both residential and commercial property values in the Town will decline further unless the Town takes dramatic steps to bring back retail businesses.

Sincerely yours,


Thomas Campaniello

Jeffrey H. Fisher



July 7, 2010

Mr. Jay Maddock
375 S. County Road
Suite 205
Palm Beach, FL 33480

Dear Jay:

Let this letter confirm that I have no objections to:

- 1) The old church not having a two-car garage
- 2) The swimming pool opposite Duck's Nest not being removed
- 3) Garage doors not being placed on the playroom at the east end of Duck's Nest

Hope you are having a nice summer.

Sincerely,

A handwritten signature in black ink, appearing to be "Jeffrey H. Fisher".

TO: Mayor and Town Council

RE: Procedure during Landmark Designation Ratification Hearings

For each property for designation:

- Verify that we have proof of notification
- Ask the Town Clerk to swear in all witnesses
- Request Staff's recommendations
- Request the Expert Witness's recommendations

At this point, it is necessary that a Town Council member

“Move that the Designation Report be made a part of the record.”

Town Council President will then:

- Call for any other witnesses (The Public) to testify
- Request comments from Town Council members

When it appears that all testimony and comments have been completed, and **if the Town Council supports landmark ratification**, it would be appropriate for a Town Council member to:

“Move that Resolution # _____ be adopted designating the property at (Property address) as a landmark of the Town of Palm Beach on the basis that it meets criteria (criteria identified in Designation Report) of Section 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance #2-84.”

Alternatively, **if a property owner has requested a deferral, and/or if a Town Council member feels such deferral is warranted**, then a Town Council member should:

“Move that landmarking ratification of (property address) be deferred to the next scheduled ratification meeting, with the understanding that the owner has waived any rights that may have accrued by Ordinance requiring the Town Council to act within 90 days.”

Alternatively, **if the Town Council does not choose to ratify the landmark designation**, it would be appropriate for a Town Council member to:

“Move to deny landmark ratification of (property address).”