



**TENTATIVE:
SUBJECT TO
REVISION**

TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

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

AGENDA

JUNE 15, 2016

9:30 AM

Welcome!

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

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
Michael J. Pucillo, President
Richard M. Kleid, President Pro Tem
Bobbie Lindsay
Danielle H. Moore
Margaret A. Zeidman

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. RECOGNITIONS

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VII. APPROVAL OF AGENDA

VIII. RESOLUTIONS

- A. **RESOLUTION NO. 83-2016** A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Providing For The Vacation And Annulment of The Plat of Reef Estates, Plat Book 28, Page 55, Public Records of Palm Beach County, Florida; Providing An Effective Date.

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IX. DEVELOPMENT REVIEWS

A. Appeals

1. Appeal of Administrative Decision that MacKenzie Childs Cannot Operate a Subordinate Accessory Use to a Permitted Principal Use in a Separate and Distinct Commercial Tenant Space from the Principal Use

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

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B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

a. **MODIFIED SPECIAL EXCEPTION #08-2016 WITH SITE PLAN**

REVIEW AND VARIANCES The application of 280 N. County Road PB, LLC, a Florida limited liability company, Manager: Robert Shapiro; relative to property commonly known as **280 N. County Rd.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting to allow the construction of a 7,205 square foot two-story single family residence and detached one-story pool cabana and garage on a non-conforming lot, comprised of portions of platted lots, which has a width of 92.6 feet in lieu of the 100 foot minimum required. The original application has been modified such that the garage has been moved towards the rear (north end) of the property, as requested by ARCOM, and the main house has been moved towards the front (south end) of the property in order to accommodate the garage and pool cabana. In connection with the proposed construction, the following two variances are being requested: (a) a request for a variance to construct a two-story house with a second story street sideyard setback (east side of the property) of 25 feet in lieu of the 30 foot minimum required, (b) a request for a variance to construct a two-story house with a one story street sideyard setback (east side of the property) of 21.5 feet in lieu of the 25 foot minimum required. The original application included a variance request for an east side yard setback for the two-story portion. The plans have changes such that the request has been modified to a one-story portion. In addition, the angle of vision variance request on the original application is no longer necessary as per the change in plans. [Attorney: Guy Rabideau, Esq.]

[Architectural Commission Recommendation - Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 6-1. Approve the project as amended by eliminating the loggia off of the kitchen, expanding the loggia off of the family room, adding an entry to the loggia from the kitchen, moving the house back close to 10 feet, putting at least one large shade tree on the corner of the property, and adding a shade tree on the east elevation to punctuate the long wall. Carried 4-3]

Deferred from the March 9, 2016, April 13, 2016, and May 11, 2016, Town Council Meetings.

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

b. **SPECIAL EXCEPTION #09-2016 WITH SITE PLAN REVIEW** The

application of Patrick and Lisa McGowan; relative to property commonly known as **250 Esplanade Way**, described as lengthy legal description on file; located in the R-B Zoning District. The Applicant is requesting a Special Exception with Site Plan Review to allow the construction of a 3,700 sq.ft. two-story, single family residence on a portion of a platted lot which is 88 feet in width in lieu of the 100 foot minimum required. [Attorney: Maura Ziska, Esq.]
 [Architectural Commission Recommendation - Approve the project as presented with a changes to the garage and den roof lines. (Note: This approval included recommending approval of the Special Exception with Site Plan Review to Town Council.) Carried 7-0]
Deferred from the April 13, 2016, and May 11, 2016, Town Council Meetings.

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

- c. **SPECIAL EXCEPTION #013-2016 WITH SITE PLAN REVIEW** The application of Miradieu Auboura, PBC Capital Improvements Division; relative to property commonly known as **2882 S. Ocean Blvd.**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting approval of an amendment to the Special Exception with Site Plan Review to reflect the revised beach access improvements along the northern boundary of the park. The proposal is to move the sidewalk back into the five (5) foot easement and place a six (6) foot high chain link fence and landscape material between the sidewalk and remainder of the park, as shown on the plans on the file in the Planning, Zoning and Building Department. The beach access will remain an unsecured/non-gated access point. [Attorney: Denise M. Nieman, Esq. and Audrey Wolf]
Deferred from the May 11, 2016, Town Council Meeting.
Request for Deferral to the October 12, 2016, Town Council Meeting Per Letter Dated June 7, 2016, from Miradieu Aubourg.

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

2. New Business

- a. **SITE PLAN REVIEW #06-2016 WITH VARIANCES** The application of Craig Barreuther, Manager, Island House Condominium Association, Inc.; relative to property commonly known as **354 Chilean Ave.**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant is requesting a Site Plan Review to allow the construction of a 1,116 sq. ft. carport/awning to provide covered parking for 10 parking spaces on the south side of the existing parking lot. The following variances are being requested to construct the awning: a) to allow lot coverage of 42.5% in lieu of the 39% existing and the 30% maximum allowed, b) to allow a rear yard setback of 1.95 feet in lieu of the 30 foot minimum required for a multi-family building. [Attorney: Maura Ziska, Esq.]
 [Architectural Commission Recommendation - Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0]

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

- b. **SITE PLAN REVIEW #07-2016** The application of Jane Goldman;

relative to property commonly known as **1095 N. Ocean Blvd.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a Site Plan Review to install a 184 KW generator that is proposed to be located in a 279 sq. ft. accessory building on the southwest area of the property below the pool terrace deck. [Attorney: Maura Ziska, Esq.]

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

- c. **SPECIAL EXCEPTION #14-2016 WITH SITE PLAN REVIEW** The application of Everglades Club, Inc.; relative to property commonly known as **500 S. County Rd.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a Special Exception approval with Site Plan Review to modify the existing Everglades Club property to add a 2,064 square foot one story addition to the northeast side of the existing golf pro shop which is located on the north side of the property and south of Golfview Road. The existing cart path and adjacent tee box shall be reworked to accommodate the new addition. [Attorney: Maura Ziska, Esq.]

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

- d. **SPECIAL EXCEPTION #15-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Harvey E. Oyer, Esq., on behalf of the Society of the Four Arts, Inc.; relative to property commonly known as **2 Four Arts Plaza**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a Special Exception approval with Site Plan Review to reconfigure the northing parking lot to construct 26 additional surface parking spaces (24 perpendicular, 2 parallel). There are currently 66 surface parking spaces located within the northern parking lot (affected area). The redesign of the northern lot will add 26 additional parking spaces for a total of 92 surface parking spaces within the northern parking lot (affected area). If approved, the Four Arts campus (west of Four Arts Plaza) would provide 181 permanent off-street surface parking spaces. The applicant operates a non-profit cultural use in the R-B zoning district by an existing Special Exception. The existing fence will remain in place located along the northern property line. As proposed and shown on the revised landscape plan, new and upgraded plant, shrub, and hedge material will be planted to provide the required buffering and screening from the adjacent property owners. The following variances are being requested to redesign the north parking lot: 1. To allow the landscape open space area to be reduced from the existing 29.5% to the proposed 25.5% in lieu of 55% minimum landscape open space as required by code; 2. To reduce the driving isle width required for 90 degree parking spaces within the proposed redesigned northern parking lot to 24 feet in width in lieu of 25 feet in minimum width as required by code; 3. To reduce the street side yard setback for the redesigned northern parking lot to seven (7) feet in lieu of thirty-five (35) foot minimum as required by code; 4. To reduce the interior minimum parking area landscape open space for the redesigned northern parking lot to 5.2% in lieu of 10% minimum as required by code. [Attorney: Harvey E. Oyer, Esq.]

[Landmark Commission Recommendation - Implementation of the proposed variances will not cause negative architectural impact to the subject landmark property with the caveat that two parking spaces on the north and two parking spaces on the south are used for landscaping. Carried 7-0]

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

- e. **SPECIAL EXCEPTION #16-2016 WITH SITE PLAN REVIEW** The application of Beach Club, Inc. (David Shaw, General Manager); relative to property commonly known as **755 N. County Rd.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a Special Exception with Site Plan Review to modify the previously approved Special Exception #30-2015 with Site Plan Review as follows: 1) Global changes to the shape (design) of the landscape planter beds, resulting in an increase of overall landscape coverage. (previously approved 5,690 sq. ft., proposed 7,789 sq. ft.); 2) Global changes to the design of the Interactive Water Feature (no structure – as previously designed, water jets are now flush with the pool deck surface); 3) Reduction to area of circular pool entry (previously approved radius 18 feet, proposed radius 14 feet); 4) Decrease in covered dining area located on northeast side of the pool deck (previously approved 1,200 sq. ft., proposed 1,036 sq. ft.); 5) Increase in tiki bar area located on the northeast side of the pool deck (previously approved 745 sq. ft., proposed 799 sq. ft.); 6) Revision to site wall at south property line. Previously approved 6 ft tall privacy wall. Now proposed is a 10 ft tall retaining wall (7 ft tall on south neighbor's property) [Attorney: Maura Ziska, Esq.]

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

- f. **SPECIAL EXCEPTION #17-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Terry R. Taylor; relative to property commonly known as **780 S. Ocean Blvd.**, described as lengthy legal description on file; located in the B-A Zoning District. The applicant is requesting a Special Exception with Site Plan Review to modify an existing 500 sq. ft. beach cabana with a 500 sq. ft. addition (1,000 sq. ft. total) in the Beach Area Zoning District. The following Variances are being requested in order to expand and modify the existing beach cabana: 1) to allow a front yard setback of 22.5 feet in lieu of the 35 ft minimum setback required; 2) to allow a 16.25 ft roof height in lieu of 16 ft maximum allowed, 3) to retain the existing 43 inch wall in lieu of a wall at the required height of 30 inches in the beach vista area. The vista is required to be 75% of the lot width in this case. [Attorney: Peter S. Broberg, Esq.]

[Landmark Commission Recommendation - Implementation of the proposed variances will not cause negative architectural impact to the subject landmark property. Carried 7-0]

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

3. Other

- a. Resident Concerns Regarding Large Home Character Changes in North End:
Refer Chapter 18 ARCOM Application Submittal Requirements to

ORS

Refer Chapter 134 ZONING Potential Code Changes to Planning & Zoning Commission

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

- b. **RESOLUTION NO. 96-2016** A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Declaring Zoning In Progress In Regard To The Matter of Housing For The Disabled Pursuant To The Federal Fair Housing Act; Directing That While Zoning In Progress Is In Effect That No Permits Shall Be Granted For Such Housing Within Any Zoning District In The Town Unless An Application Is Made For Reasonable Accommodations Pursuant To The Terms of Ordinance No. _____ Which Is Currently Under Consideration By The Town Council; Providing An Effective Date.
- i. Refer Potential Zoning Code Revision to the Planning & Zoning Commission.

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

- c. Sea-Street Zoning Changes
Updated Draft Ordinance

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

- d. Authorization to Refer Proposed Residential and Commercial Lighting Standards to the Planning and Zoning Commission for Study and Recommendations to Town Council.

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

X. ORDINANCES

XI. ANY OTHER MATTERS

XII. ADJOURNMENT

PLEASE TAKE NOTE:

Note 1: 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.

Note 2: The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Note 3: If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Note 4: Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or

through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

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

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

PUBLIC HEARINGS:

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

COMMUNICATIONS FROM CITIZENS:

Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

OTHER AGENDA ITEMS:

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

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

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 15, 2016

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 83-2016 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Providing For The Vacation And Annulment of The Plat of Reef Estates, Plat Book 28, Page 55, Public Records of Palm Beach County, Florida; Providing An Effective Date.

Presenter

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

Supporting Documents

- [Memorandum Dated June 2, 2016 From John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 83-2016](#)
- [Letter Dated April 7, 2016 From Maura Ziska](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 15, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Request to Abandon the Reef Estates Plat, Plat Book 28, Page 55 in the Official Record of the Clerk of Palm Beach County, Florida
Resolution No. 83-2016

Date: June 2, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 83-2016, abandoning the Plat of Reef Estates.

GENERAL INFORMATION

On December 11, 1964, the Town of Palm Beach approved Mr. And Mrs. Wrightsman's request to subdivide 7.62 +/- Palm Beach acres (305,095 square feet) into the Reef Estates Plat. The property was platted into nine lots with an average lot size of approximately 32,843 square feet in area and a 30 foot wide, cul-de-sac street named Coral Reef Road. As part of the plat, utility easements were delineated on the front and back of the lots. In addition, there was a 10 foot wide easement delineated on one of the ocean lots (Lot 6) to provide for beach access to all of the residential lots within this subdivision and for salt water intake and discharge.

In 1985-1986, Abraham Gossman constructed a single-family estate over the platted lots, street right-of-way and easements of the entire Reef Estates Subdivision. It was determined by the Town administration (all departments) at that time that the development of the estate did not require the abandonment of the plat.

The property was purchased in December, 2004 by Trump Properties LLC. The Planning, Zoning and Building Department conditionally approved a Lot Split application on April 15, 2005. In addition, in 2005, the Town Council also authorized the abandonment of the Reef Estates plat. However, the property owner subsequently abandoned that request and neither the administrative lot split nor the plat abandonment was completed.

The proposed new request by Maura Ziska, the attorney who represents the current owner of the subject property, County Road Property, LLC, is to abandon the Reef Estates plat (Exhibit A). The property owner is also in the process of abandoning the lot split and related restrictive

covenants. The purpose of the subdivision abandonment is to eliminate all unnecessary platted lots, rights-of-way and easements. In addition, it would also ensure that the reversionary rights in the dedication language on the plat do not encumber the intended development/re-development of the subject property. The property owner is intending to subdivide the subject property into three single-family lots.

The lot sizes and density in the existing plat are inconsistent with the R-AA, Large Estate Residential (minimum 60,000 square foot lot area) zoning classification on the subject property. The abandonment of the existing plat makes the subject property consistent with the underlying zoning designation. Therefore, Staff recommends approval of Resolution No. 83-2016 which abandons the Reef Estates Plat.

This plat abandonment has been legally advertised, and staff supports the proposal in concept. The applicant is currently working on a new subdivision application. This will require the relocation or extension of utilities by the applicant, such as the Town's sanitary sewer main and/or the creation of new easements. This will be required at the time of new plat approval or development of the subject property.

If you have any questions or need additional information, please contact Paul Castro, Zoning Administrator at 227-6406.

TOWN ATTORNEY REVIEW

Resolution No. 83-2016 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachments

cc: Jay Boodheshwar, Deputy Town Manager
Veronica B. Close, Asst. Director, Planning, Zoning & Building
Paul Castro, Zoning Administrator
Susan A. Owens, Town Clerk
Kirk Blouin, Director of Public Safety
Paul Brazil, Director of Public Works
Maura Ziska
zf & pf

RESOLUTION NO. 83-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING FOR THE VACATION AND ANNULMENT OF THE PLAT OF REEF ESTATES, PLAT BOOK 28, PAGE 55, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Plat of Reef Estates was filed for public record on December 22, 1964, and was recorded in Plat Book 28, Page 55 of the Public Records of Palm Beach County, Florida; and,

WHEREAS, the property described in the Plat of Reef Estates is located solely in the Town of Palm Beach, Florida; and,

WHEREAS, the property described in the Reef Estates is owned by County Road Property, LLC, which has petitioned the Town of Palm Beach to vacate, annul and abandon such Plat; and,

WHEREAS, the Plat provided that the dedications on said Plat were conditioned upon the sale of one or more of the individual nine lots described in the Plat and none of such lots have ever been sold separately; and,

WHEREAS, the existence of the Plat constitutes an encumbrance to the title of the property and is inconsistent with the use of the property; and,

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

Section 1. All of the above recitations are true and correct and are adopted in and made a part of this resolution.

Section 2. The Town of Palm Beach does hereby vacate and annul the Plat of Reef Estates, Plat Book 28, Page 55, of the public records of Palm Beach County, Florida, and does hereby relinquish, release and quit claim any and all right, title and interest that it may have, if any, with regard to any dedications shown on such plat all in favor of the owner of the property, County Road Property, LLC.

Section 3. A certified copy of this Resolution shall be provided to the governing body of Palm Beach County, to the Clerk of the Circuit Court of Palm Beach County and duly recorded in the public records of the County.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 15th day of June, 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

Danielle H. Moore, Town Council Member

ATTEST:

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska
Marvin S. Rosen, *Counsel**

*Also admitted in New York
*Also admitted in Michigan

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

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

VIA HAND DELIVERY

April 7, 2016

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

RECEIVED

APR 07 2016

Town of Palm Beach
PZB Dept

Re: Request for abandonment of the Plat of Reef Estates, Plat Book 28, Page 55, Public Records of Palm Beach County, Florida – 515 North County Road

Dear Mr. Page and Mr. Castro,

I represent County Road Property LLC. My client is the fee simple owner of all of the property described on the Plat of Reef Estates. This letter is a request that the Town of Palm Beach vacate and annul the Plat of Reef Estates.

The Plat of Reef Estates was filed on December 22, 1964. The Plat divided the property into nine lots and provided for a street to service those lots. However, the street was not built and the lots not utilized as separate lots. The Plat provided that the dedication on the Plat would not become effective until conveyance of one or more lots separately from the entire tract. There was never a conveyance of any lot separate from the entire tract. Thus, the dedications did not become effective. Nevertheless, the Plat remains on the public record and constitutes a cloud on the title to the property.

Enclosed with this letter is proof that all taxes have been paid. Also enclosed is a resolution prepared by Town attorney, John C. Randolph for consideration and adoption by the Town of Palm Beach and twenty (20) copies of the Plat of Reef Estates.

Also enclosed are letters from utility companies who consent to the abandonment.

Please process this application and advise as to the hearing date. Hopefully, this matter can be heard at the May Town Council meeting.

Should you have any questions about this, please let me know. Thank you for your cooperation.

Sincerely yours,


Maura Ziska

MAZ/ch
Enclosures 00031657



ANNE M. GANNON
CONSTITUTIONAL TAX COLLECTOR
Serving Palm Beach County
Serving you.

Anne M. Gannon
Constitutional Tax Collector
Serving Palm Beach County
P.O. Box 3353
West Palm Beach, FL 33402-3353

Tax Account		
Property Control Number	Property Type	Status
50-43-43-14-16-000-0010	Real Property	Active
Mailing Address: COUNTY ROAD PROPERTY LLC 488 MADISON AVE FL 3 NEW YORK , NY 10022-5722 Geo CD:	Property Address: 515 N COUNTY RD PALM BEACH FL 33480 Deed Number: 0	
Legal Description		
REEF ESTATES ALL OF PL		

Tax & Assessment				
Ad Valorem	Gross Tax	Credit	Net Tax	Savings
TOWN OF PALM BEACH	\$264,373.30	\$0.00	\$264,373.30	\$0.00
COUNTY	\$385,669.29	\$0.00	\$385,669.29	\$0.00
SO FLA WATER MANAGEMENT DIST.	\$27,792.11	\$0.00	\$27,792.11	\$0.00
SCHOOL	\$614,347.68	\$0.00	\$614,347.68	\$0.00
CHILDRENS SERVICES COUNCIL	\$52,257.93	\$0.00	\$52,257.93	\$0.00
F.I.N.D.	\$2,504.50	\$0.00	\$2,504.50	\$0.00
PBC HEALTH CARE DISTRICT	\$81,599.69	\$0.00	\$81,599.69	\$0.00
Sub Total	\$1,428,544.50	\$0.00	\$1,428,544.50	\$0.00
Non Ad Valorem	Gross Tax	Credit	Net Tax	Savings
SOLID WASTE AUTHORITY OF PBC	\$704.00	\$0.00	\$704.00	\$0.00
Sub Total	\$704.00	\$0.00	\$704.00	\$0.00
Total Tax	\$1,429,248.50	\$0.00	\$1,429,248.50	\$0.00

Tax Installment								
Period	Bill Number	Due Date	Bill Year	Tax	Discount	Penalty/Fee	Interest	Total Due
INST 1	101471479	3/31/2016	2015	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Due:				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Notice to Tax Payer

Tax Certificates

Payments made between 5/31 – 6/7 of any year indicates the purchase of a Tax Certificate for delinquent taxes only. Tax Certificate purchase(s) ARE **NOT** a payment of taxes. "Paid By" information displays the name of the Tax Certificate purchaser.

Property Tax Help

If your bill number begins with a year (i.e. 2012-001234), a Tax Certificate was sold for delinquent property taxes. An additional collection fee of **\$6.25** must be added to the total amount due for each delinquent tax year once a tax certificate has been sold. The amount due is shown above in the "Tax Installment" section under the Total Due column. **If no other payments or receipt numbers display for that year in the Tax Payment section, delinquent taxes are due.**

** This Icon  indicates delinquent taxes and the tax bill cannot be paid on-line at this time. It may also indicate a recent TDA where additional fees are required. Contact our office at 561-355-2264 or email ClientAdvocate@taxcollectorpbc.com for additional details.

Tax Payment					
Bill Year	Bill Number	Receipt Number	Amount Paid	Last Paid	Paid By
2015	101471479	U16.155555	\$1,372,078.57	11/30/2015	

COUNTY OF PALM BEACH: NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS

PROPERTY CONTROL NO.	YEAR	BILL NO.	CMC	APPLIED EXEMPTION(S)	LEGAL DESCRIPTION
50-43-43-14-16-000-0010	2015	101471479	41		REEF ESTATES ALL OF PL



1017
R7 - 256379

COUNTY ROAD PROPERTY LLC
CROWE ATTN: D LIFSON, MGR C/O
488 MADISON AVE FL 3
NEW YORK NY 10022-5722



ANNE M. GANNON
CONSTITUTIONAL TAX COLLECTOR
Serving Palm Beach County
www.pbctax.com

2015 REAL ESTATE PROPERTY TAX BILL

READ REVERSE SIDE BEFORE CALLING

TAXING AUTHORITY
COUNTY
COUNTY DEBT
TOWN OF PALM BEACH
CHILDRENS SERVICES COUNCIL
F.I.N.D.
PBC HEALTH CARE DISTRICT
SCHOOL LOCAL
SCHOOL STATE
SFWM EVERGLADES CONST PROJECT
SO FLA WATER MANAGEMENT DIST.
SO FLA WATER MGMT - OKEE BASIN

AD VALOREM TAXES

TELEPHONE	ASSESSED
561-355-3996	78,265,578
561-355-3996	78,265,578
561-838-5444	78,265,578
561-740-7000	78,265,578
561-627-3386	78,265,578
561-659-1270	78,265,578
561-434-8837	81,782,172
561-434-8837	81,782,172
561-686-8800	78,265,578
561-686-8800	78,265,578
561-686-8800	78,265,578

EXEMPTION

78,265,578
78,265,578
78,265,578
78,265,578
78,265,578
78,265,578
78,265,578
81,782,172
81,782,172
78,265,578
78,265,578
78,265,578

READ REVERSE SIDE BEFORE CALLING

MILLAGE	TAX AMOUNT
4.7815	374,226.86
0.1462	11,442.43
3.3779	264,373.30
0.6677	52,257.93
0.0320	2,504.50
1.0426	81,599.69
2.4980	204,291.87
5.0140	410,055.81
0.0506	3,960.24
0.1459	11,418.95
0.1586	12,412.92

READ REVERSE SIDE BEFORE CALLING

LEVYING AUTHORITY
SOLID WASTE AUTHORITY OF PBC

NON-AD VALOREM ASSESSMENTS

TELEPHONE
561-640-4000

TOTAL AD VALOREM 1,428,544.50

READ REVERSE SIDE BEFORE CALLING

RATE
704.00

TOTAL NON-AD VALOREM 704.00

TOTAL AD VALOREM AND NON-AD VALOREM COMBINED 1,429,248.50

AMOUNT DUE WHEN RECEIVED BY					TAXES ARE DELINQUENT APRIL 1, 2016
NOV 30, 2015	DEC 31, 2015	JAN 31, 2016	FEB 29, 2016	MAR 31, 2016	
\$1,372,078.57	\$1,386,371.04	\$1,400,663.53	\$1,414,956.02	\$1,429,248.50	
4%	3%	2%	1%	NO DISCOUNT	

DETACH HERE

SEE REVERSE SIDE FOR INSTRUCTIONS AND INFORMATION

DETACH HERE

COUNTY OF PALM BEACH: NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS

PROPERTY CONTROL NO.	YEAR	BILL NO.
50-43-43-14-16-000-0010	2015	101471479

COUNTY ROAD PROPERTY LLC
CROWE ATTN: D LIFSON, MGR C/O
488 MADISON AVE FL 3
NEW YORK NY 10022-5722

20151014714791429248500

LEGAL DESCRIPTION

REEF ESTATES ALL OF PL

P.O. BOX 3353
WEST PALM BEACH, FL 33402-3353

MAKE PAYMENT TO:
TAX COLLECTOR, PALM BEACH COUNTY

AMOUNT DUE WHEN RECEIVED BY					TAXES ARE DELINQUENT APRIL 1, 2016
NOV 30, 2015	DEC 31, 2015	JAN 31, 2016	FEB 29, 2016	MAR 31, 2016	
\$1,372,078.57	\$1,386,371.04	\$1,400,663.53	\$1,414,956.02	\$1,429,248.50	
4%	3%	2%	1%	NO DISCOUNT	

RESOLUTION NO. 71-05

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING FOR THE VACATION AND ANNULMENT OF THE PLAT OF REEF ESTATES, PLAT BOOK 28, PAGE 55, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, THE Plat of Reef Estates was filed for public record on December 22, 1964, and was record in Plat Book 28, Page 55, of the Public Records of Palm beach County, Florida; and

WHEREAS, the property described in the Plat of Reef Estates is located solely in the Town of Palm Beach, Florida; and

WHEREAS, the property described in the Reef Estates is owned by County Road Property LLC, which has petitioned the Town of Palm Beach to vacate, annul and abandon such Plat; and

WHEREAS, the Plat provided that the dedications on said Plat were conditioned upon the sale of one or more of the individual nine lots described in the Plat and none of such lots have ever been sold separately; and

WHEREAS, the existence of the Plat constitutes an encumbrance to the title of the property and is inconsistent with the division of the property into two large lots as heretofore approved by the Town of Palm Beach.

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

Section 1. All of the above recitations are true and correct and are adopted in and made a part of this resolution.

Section 2. The Town of Palm Beach does hereby vacate and annul the Plat of Reef Estates, Plat Book 28, Page 55, of the public records of Palm Beach County, Florida, and does hereby relinquish, release and quit claim any and all right, title and interest that it may have, if any, with regard to any dedications show on such plat all in favor of the owner of the property, County Road Property LLC.

Section 3. A certified copy of this Resolution shall be provided to the governing body of Palm Beach County, to the Clerk of the Circuit Court of Pal Beach County and duly recorded in the public records of said County.

PASSED AND ADOPTED IN REGULAR, ADJOURNED SESSION OF THE TOWN COUNCIL OF
THE TOWN OF PALM BEACH THIS ____ DAY OF _____, 2016.

Gail Coniglio, Mayor

Michael J. Pucillo, Council President

Richard M. Kleid, President, Pro-Tem

Bobbie Linday , Councilman

Danielle H. Moore , Councilman

Margaret A. Zeidman , Councilman

ATTEST:

Susan Owens, Town Clerk

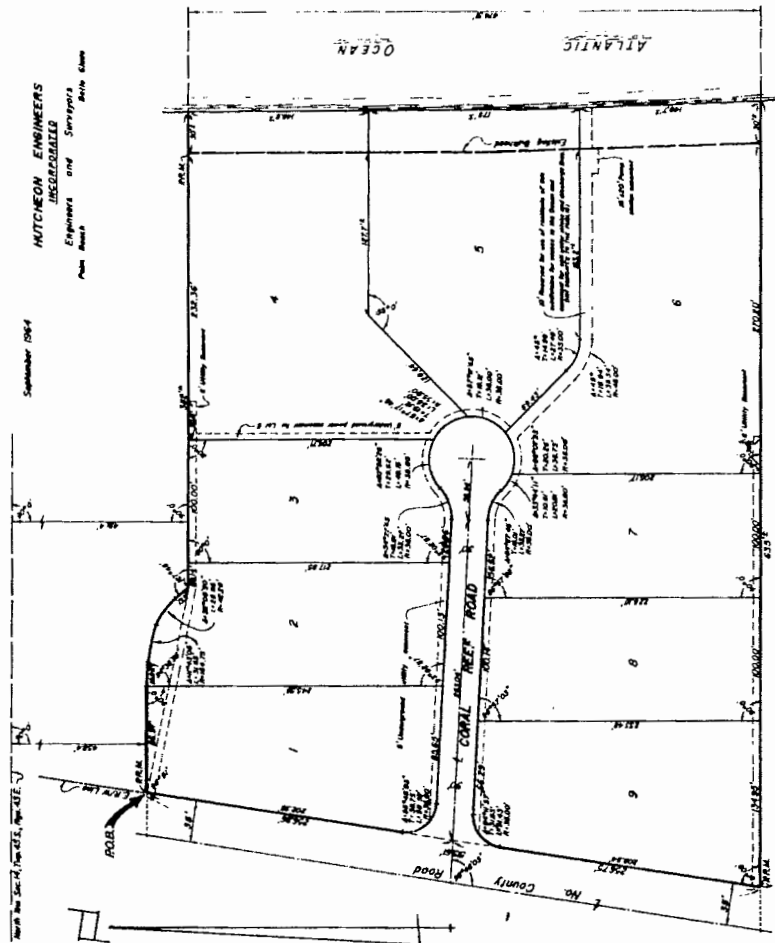
REEF ESTATES

Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

MUTCHNEN ENGINEERS
INCORPORATED
Engineers and Surveyors
Belle Meade, N. Y.

Score 10.50



NOT
PLATE

STATE OF FLORIDA
COUNTY OF PALM BEACH⁰²

INHERENT CERTAIN had the plot shown herein as "NEEF ESTATES", a love and service transmission of a service, made under my direction, of the foregoing described property, and that said being is amenable to the best of my knowledge and belief, and that phenomenal applications (P.R.M.) have been placed as required by law.

Date of Transfer: September 1964

✓ W. J. Sullivan
 Assistant Land Surveyor
 Florida Certificate No. 1413

Subscribed and sworn to before me this 1st day of December, A.D. 1946

Mildred J. Weaver

April 10, 1968

Approved: December 31, A.D. 1964.
Board of County Commissioners

Edmund Bancroft
Outman

Dr. J. M. W. C. J.

Approved: December 11, A.D. 1954.
 Town of Potosi, Bolivia

B. Arnold



Seal of the Department of Health and Human Services, United States of America

STATE OF FLORIDA

COUNTY OF PALM BEACH
KNOW ALL MEN BY THESE PRESENTS, that CHARLES R. WRIGHTSMAN and JAYNE WRIGHTSMAN, husband and wife, the owners in fee simple of the tract of land lying and being in Government Lot 1, Section 34, Township 43 South, Range 43 East, Town of Palm Beach, Palm Beach County, Florida, have herein set REEF ESTATES, INC. as the beneficiary of the above described property, to have full power and authority to sell the same as herein provided, to wit:

[illegible][illegible]

Witness, Chalk

William F. Clauser
as to each

Jayme Wrightman (Sov)

STATE OF FLORIDA

IN HUNTER CENTER that on this day personally appeared before me, an officer duly authorized in Hunter's office and duly sworn, CHARLES A. WRIGHTSMAN and JAYNE WRIGHTSMAN, husband and wife, in the said house and known to me to be the individuals described in and who executed the foregoing declaration, and they acknowledged before me that they executed the same voluntarily, for the purposes and consideration therein expressed.

[illegible]

WITNESSE my hand and seal at Delta, BOEY, County of Polk State of Florida, this 3rd day of December, A.D. 1964.

My Commission expires: Sept. 25, 1968

Lillian K. Delaney
Author

19

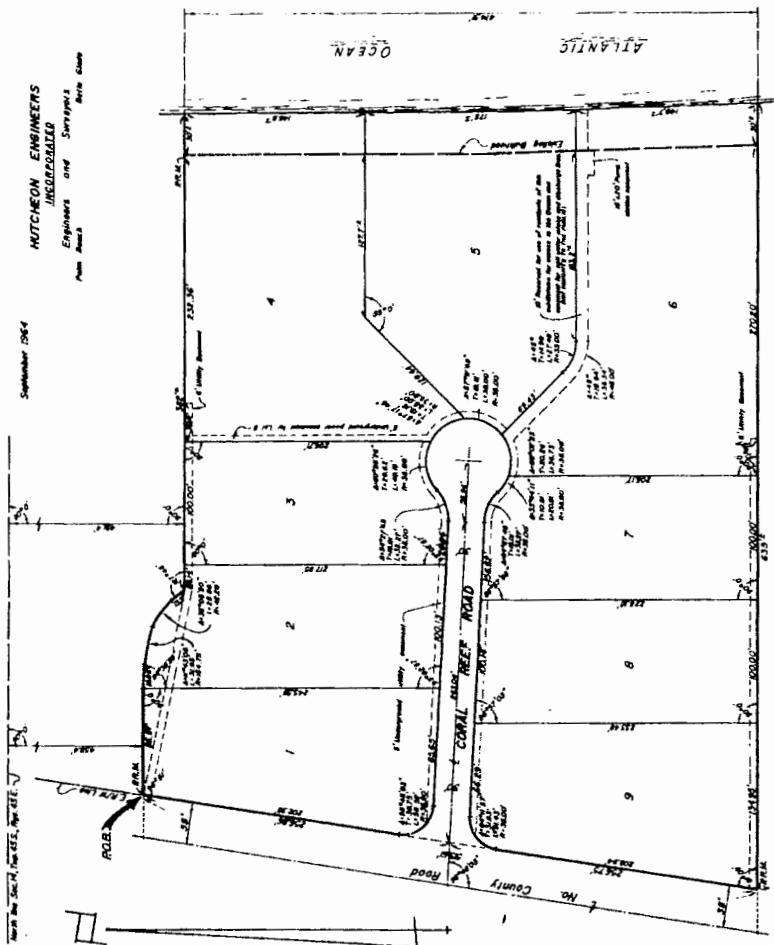
PLAT OF **REEF ESTATES** Government Lot 1, Section 14, Township 43 South, Range 43 East Town of Palm Beach, Palm Beach County, Florida

PLAT Book 28
 Page 55

55

Scale 1"=30'

HUTCHINSON ENGINEERS
 ENGINEERS AND SURVEYORS
 Palm Beach, Florida



NOT PLATTED

STATE OF FLORIDA
 COUNTY OF PALM BEACH

I, HENRY CERTIFY that the plat shown herein is a true and correct copy of the original plat as the same appears in the office of the County Clerk, and that the same is a true and correct copy of the original plat as the same appears in the office of the County Clerk, and that the same is a true and correct copy of the original plat as the same appears in the office of the County Clerk.

Date of Survey: September 1964

[Signature]
 County Clerk

Subscribed and sworn to before me this 1st day of December, A.D. 1964.

[Signature]
 Notary Public

My Commission Expires: April 16, 1968

Approved: December 31, A.D. 1964
 Board of County Commissioners

[Signature]
 Chairman

[Signature]
 Asst. County Engineer

STATE OF FLORIDA
 COUNTY OF PALM BEACH

I, HENRY CERTIFY that the plat shown herein is a true and correct copy of the original plat as the same appears in the office of the County Clerk, and that the same is a true and correct copy of the original plat as the same appears in the office of the County Clerk, and that the same is a true and correct copy of the original plat as the same appears in the office of the County Clerk.

I, HENRY CERTIFY that the plat shown herein is a true and correct copy of the original plat as the same appears in the office of the County Clerk, and that the same is a true and correct copy of the original plat as the same appears in the office of the County Clerk, and that the same is a true and correct copy of the original plat as the same appears in the office of the County Clerk.

[Signature]
 County Clerk

[Signature]
 Notary Public

[Signature]
 Chairman

[Signature]
 Asst. County Engineer

STATE OF FLORIDA
 COUNTY OF PALM BEACH

I, HENRY CERTIFY that the plat shown herein is a true and correct copy of the original plat as the same appears in the office of the County Clerk, and that the same is a true and correct copy of the original plat as the same appears in the office of the County Clerk, and that the same is a true and correct copy of the original plat as the same appears in the office of the County Clerk.

[Signature]
 County Clerk

Approved: September 15, 1968

Approved: December 11, A.D. 1964
 Board of County Commissioners

[Signature]
 Chairman

[Signature]
 Asst. County Engineer



Scale 1-50



Date of Transfer: September 1964

1890-1891

Mr. Commissioner Bureau: April 16, 1968

Dr. J. M. W. C. J.
Asst. Comdr. Engineer

Colonel Bantlow

Dr. J. M. W. C. J.
Asst. Comdr. Engineer

Jayme Leighton (son)

my land and soil of Blair County, County of Perry State, and State of Florida, this 3rd day of DECEMBER, A.D. 1964.

Lillian K. Pelouse

Approved: December 11, A.D. 1964.

 Name of Public Board

B. Enckes

21

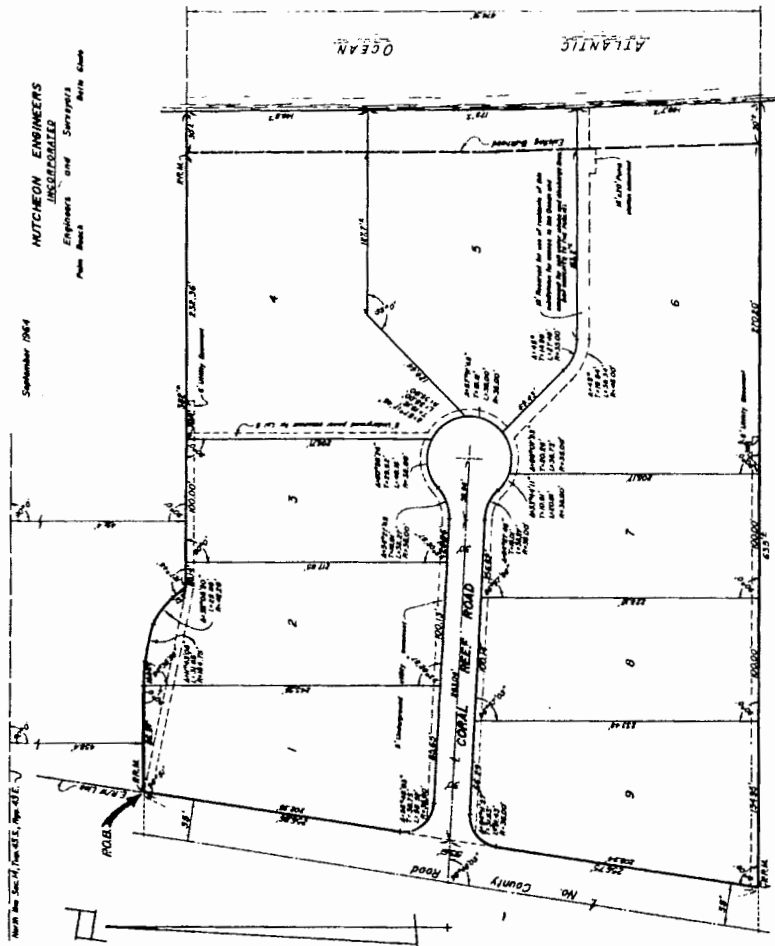
REEF ESTATES

Governor Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

MITCHAM ENGINEERS
Engineers and Surveyors
Palm Beach, Florida

Scale 1"=50'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, MICHAEL J. MITCHELL, a duly qualified and licensed Surveyor in the State of Florida, do hereby certify that the above plat is a true and correct copy of the original survey and that the same has been filed for record in the Public Records of the County of Palm Beach, Florida, in accordance with the provisions of Chapter 349, Florida Statutes, and that the same is subject to the provisions of Chapter 349, Florida Statutes, and that the same is subject to the provisions of Chapter 349, Florida Statutes.

Date of Survey: September 1964

Michael J. Mitchell
Surveyor
Palm Beach, Florida

Subscribed and sworn to before me this 1st day of September, 1964.

Michael J. Mitchell
Surveyor

My Commission expires: April 15, 1968

Approved: December 31, A.D. 1964
Board of County Commissioners

Edward C. Barclay
Chairman

John W. Mitchell
Asst. County Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, MICHAEL J. MITCHELL, a duly qualified and licensed Surveyor in the State of Florida, do hereby certify that the above plat is a true and correct copy of the original survey and that the same has been filed for record in the Public Records of the County of Palm Beach, Florida, in accordance with the provisions of Chapter 349, Florida Statutes, and that the same is subject to the provisions of Chapter 349, Florida Statutes.

Witness my hand and seal this 1st day of September, 1964.

Michael J. Mitchell
Surveyor

Edward C. Barclay
Chairman

John W. Mitchell
Asst. County Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, MICHAEL J. MITCHELL, a duly qualified and licensed Surveyor in the State of Florida, do hereby certify that the above plat is a true and correct copy of the original survey and that the same has been filed for record in the Public Records of the County of Palm Beach, Florida, in accordance with the provisions of Chapter 349, Florida Statutes, and that the same is subject to the provisions of Chapter 349, Florida Statutes.

Michael J. Mitchell
Surveyor

Edward C. Barclay
Chairman

Approved: December 31, A.D. 1964
Board of County Commissioners

John W. Mitchell
Asst. County Engineer

Subscribed and sworn to before me this 1st day of September, 1964.

Michael J. Mitchell
Surveyor

My Commission expires: April 15, 1968

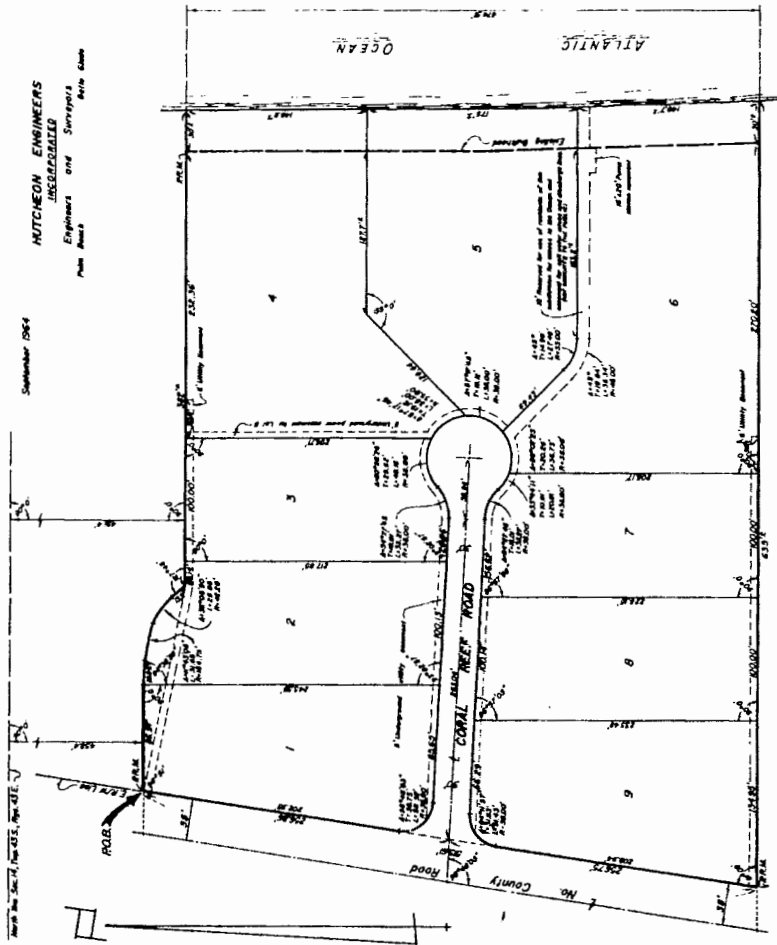
REEF ESTATES

Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

HUTCHESON ENGINEERS
INCORPORATED
Engineers and Surveyors
Palm Beach, Florida

Scale 1"=30'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HENRY C. CRYST, do hereby certify that the plat and subdivision shown on this plat and the same are in accordance with the laws of the State of Florida and the rules and regulations of the Board of County Commissioners of Palm Beach County, Florida, and that the same have been properly recorded in the public records of said county.

Date of Survey: September 1964

Henry C. Cryst
Surveyor

Subscribed and sworn to before me this 1st day of September, 1964.

William J. Delaney
Notary Public

My Commission expires: April 15, 1968

Approved: September 11, A.D. 1964
Board of County Commissioners

Richard B. Boudler
Chairman

James W. H. H. H.
Assistant County Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HENRY C. CRYST, do hereby certify that the plat and subdivision shown on this plat and the same are in accordance with the laws of the State of Florida and the rules and regulations of the Board of County Commissioners of Palm Beach County, Florida, and that the same have been properly recorded in the public records of said county.

Witness my hand and seal this 1st day of September, 1964.

Henry C. Cryst
Surveyor

William J. Delaney
Notary Public

My Commission expires: April 15, 1968

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HENRY C. CRYST, do hereby certify that the plat and subdivision shown on this plat and the same are in accordance with the laws of the State of Florida and the rules and regulations of the Board of County Commissioners of Palm Beach County, Florida, and that the same have been properly recorded in the public records of said county.

Witness my hand and seal this 1st day of September, 1964.

Henry C. Cryst
Surveyor

My Commission expires: April 15, 1968

Approved: September 11, A.D. 1964
Board of County Commissioners

Richard B. Boudler
Chairman

My Commission expires: April 15, 1968

REEF ESTATES

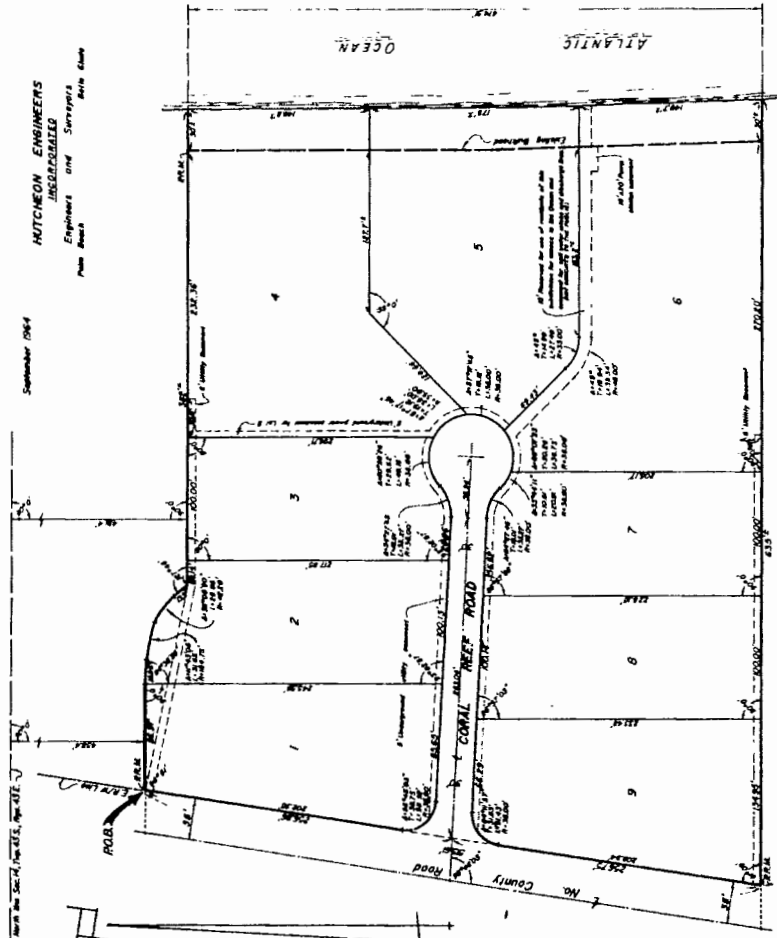
Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

HATCHERON ENGINEERS

Engineers and Surveyors
Palm Beach, Florida

Scale 1"=50'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HATCHERON ENGINEERS, do hereby certify that the plat herein is a true and correct copy of the original survey and that the same has been filed for record in the public records of the County of Palm Beach, Florida.

Date of Survey: September 1964

[Signature]
HATCHERON ENGINEERS
Palm Beach, Florida

Subscribed and sworn to before me this 1st day of September, A.D. 1964

[Signature]
Notary Public
Palm Beach, Florida

My Commission Expires: April 16, 1965

Approved: December 11, A.D. 1964
Board of County Commissioners

[Signature]
Chairman

[Signature]
Asst. County Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HATCHERON ENGINEERS, do hereby certify that the plat herein is a true and correct copy of the original survey and that the same has been filed for record in the public records of the County of Palm Beach, Florida.

Date of Survey: September 1964

[Signature]
HATCHERON ENGINEERS
Palm Beach, Florida

Subscribed and sworn to before me this 1st day of September, A.D. 1964

[Signature]
Notary Public
Palm Beach, Florida

My Commission Expires: April 16, 1965



ALL RIGHTS RESERVED
COPYRIGHT 1964
BY HATCHERON ENGINEERS
Palm Beach, Florida



[Signature]
Notary

My Commission Expires: September 25, 1965

Approved: December 11, A.D. 1964
Board of County Commissioners

[Signature]
Chairman



REEF ESTATES

Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

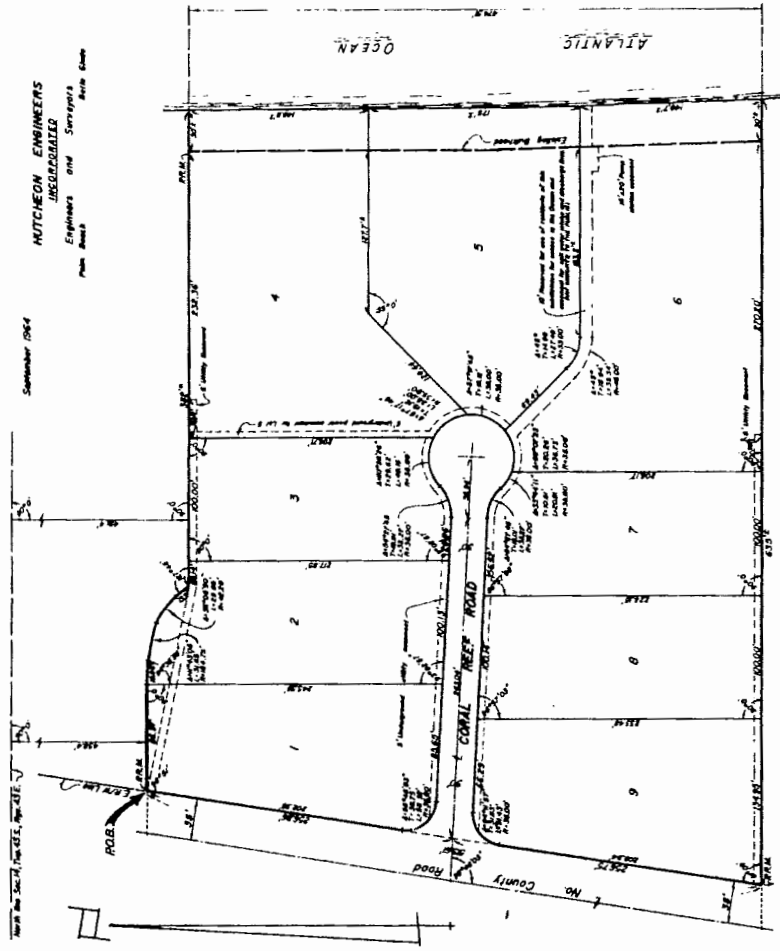
HUTCHESON ENGINEERS

REGISTERED

Engineers and Surveyors

Palm Beach

Scale 1"=50'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, JERRY C. SMITH, a duly qualified and licensed Surveyor in the State of Florida, do hereby certify that the plat above shown is a true and correct copy of the original survey and that the same has been filed for record in the Public Records of the County of Palm Beach, Florida, in accordance with the provisions of the Statutes of the State of Florida.

Date of Survey: September 1964

J. Edgar Smith
Surveyor

Subscriber and owner to be filed in Public Records of the County of Palm Beach, Florida, in accordance with the provisions of the Statutes of the State of Florida.

William J. Blum
Surveyor

My Commission Expires: April 15, 1968

Approved: September 31, A.D. 1964
Board of County Commissioners

Edmund Chandler
Chairman

J. Edgar Smith
Asst. County Engineer



ALL THIS BEING DONE, I, the Surveyor, do hereby certify that the same is a true and correct copy of the original survey and that the same has been filed for record in the Public Records of the County of Palm Beach, Florida, in accordance with the provisions of the Statutes of the State of Florida.

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, JERRY C. SMITH, a duly qualified and licensed Surveyor in the State of Florida, do hereby certify that the plat above shown is a true and correct copy of the original survey and that the same has been filed for record in the Public Records of the County of Palm Beach, Florida, in accordance with the provisions of the Statutes of the State of Florida.

REEF ESTATES, a subdivision of the land of the County of Palm Beach, Florida, is located in the Township of 43 South, Range of 43 East, and is bounded on the north by the Atlantic Ocean, on the south by the County Road, on the east by the land of the County of Palm Beach, Florida, and on the west by the land of the County of Palm Beach, Florida. The land is divided into ten (10) lots, numbered 1 through 10, and is shown on the plat above shown. The land is owned by the County of Palm Beach, Florida, and is being offered for sale by the County of Palm Beach, Florida. The land is being offered for sale by the County of Palm Beach, Florida, and is being offered for sale by the County of Palm Beach, Florida.

WITNESS my hand and seal of the County of Palm Beach, Florida, this 31st day of September, A.D. 1964.

J. Edgar Smith
Surveyor

William J. Blum
Surveyor

Jayne Wright
Surveyor

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, JERRY C. SMITH, a duly qualified and licensed Surveyor in the State of Florida, do hereby certify that the plat above shown is a true and correct copy of the original survey and that the same has been filed for record in the Public Records of the County of Palm Beach, Florida, in accordance with the provisions of the Statutes of the State of Florida.

REEF ESTATES, a subdivision of the land of the County of Palm Beach, Florida, is located in the Township of 43 South, Range of 43 East, and is bounded on the north by the Atlantic Ocean, on the south by the County Road, on the east by the land of the County of Palm Beach, Florida, and on the west by the land of the County of Palm Beach, Florida. The land is divided into ten (10) lots, numbered 1 through 10, and is shown on the plat above shown. The land is owned by the County of Palm Beach, Florida, and is being offered for sale by the County of Palm Beach, Florida. The land is being offered for sale by the County of Palm Beach, Florida, and is being offered for sale by the County of Palm Beach, Florida.

WITNESS my hand and seal of the County of Palm Beach, Florida, this 31st day of September, A.D. 1964.

J. Edgar Smith
Surveyor

My Commission Expires: September 15, 1968

Approved: September 31, A.D. 1964
Board of County Commissioners

J. Edgar Smith
Asst. County Engineer



PLAT OF **REEF ESTATES** Government Lot 1, Section 14, Township 43 South, Range 43 East Town of Palm Beach, Palm Beach County, Florida

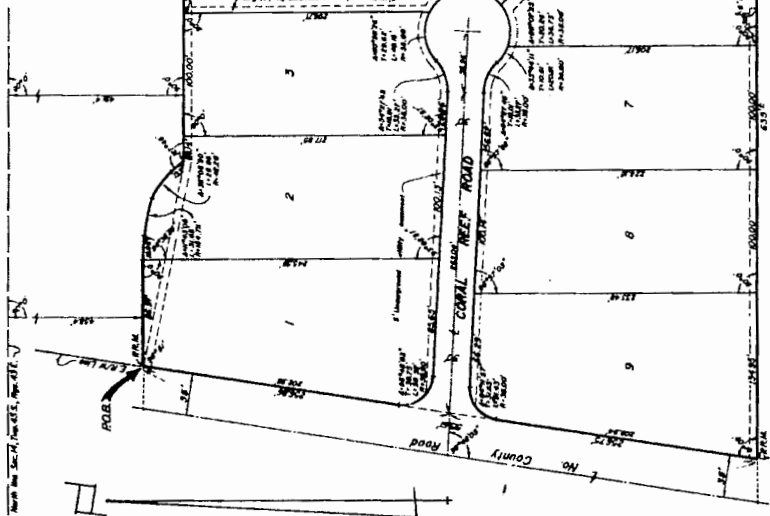
PLAT Book 28
Page 55

55

Scale 1"=30'

HUTCHESON ENGINEERS
DESIGNERS
Engineers and Surveyors
Palm Beach

September 1964



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat shows within the "REEF ESTATES" a true and correct representation of a survey made under my direction, of the foregoing described property, and that the same is in accordance with the laws of the State of Florida, and that I am a duly qualified and licensed Surveyor in and for the County of Palm Beach, State of Florida.

Date of Survey: September 1964

William J. Blum
Surveyor

Subscribed and sworn to before me this 17th day of December, A.D. 1964

William J. Blum
Surveyor

My Commission Expires: April 16, 1968

Approved: December 21, A.D. 1964
Board of County Commissioners

Edmund Chandler
Chairman

John W. Blum
Asst. County Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat shows within the "REEF ESTATES" a true and correct representation of a survey made under my direction, of the foregoing described property, and that the same is in accordance with the laws of the State of Florida, and that I am a duly qualified and licensed Surveyor in and for the County of Palm Beach, State of Florida.

Witness my hand and seal this 17th day of December, A.D. 1964.

William J. Blum
Surveyor

William J. Blum
Surveyor

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat shows within the "REEF ESTATES" a true and correct representation of a survey made under my direction, of the foregoing described property, and that the same is in accordance with the laws of the State of Florida, and that I am a duly qualified and licensed Surveyor in and for the County of Palm Beach, State of Florida.

Witness my hand and seal this 17th day of December, A.D. 1964.

William J. Blum
Surveyor

My Commission Expires: April 16, 1968

Approved: December 21, A.D. 1964
Board of County Commissioners

William J. Blum
Surveyor

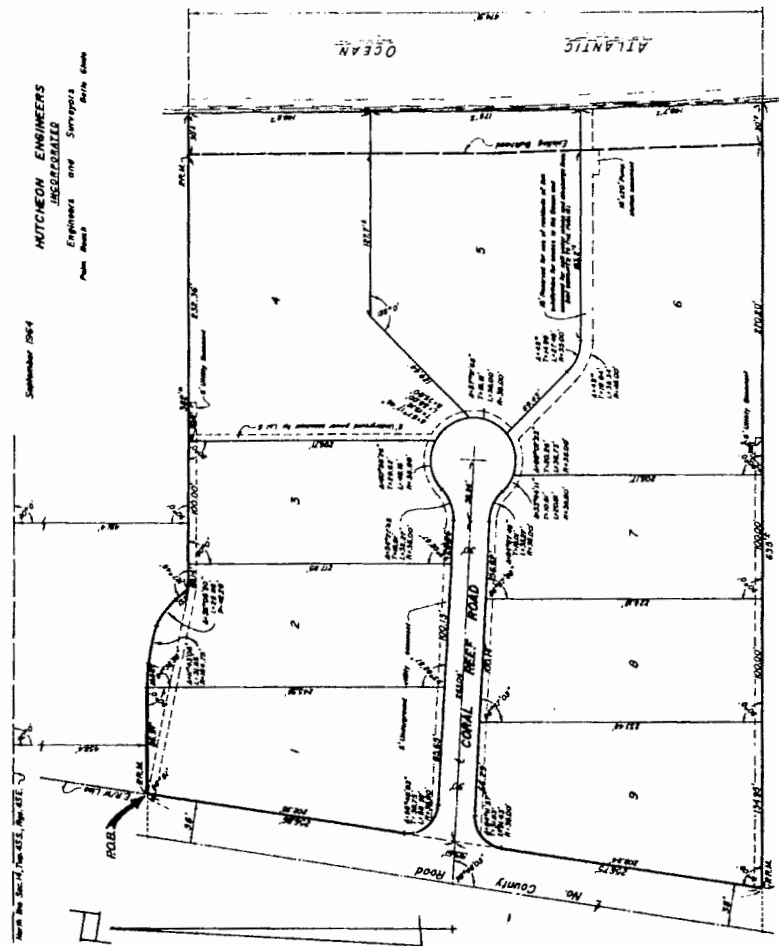
My Commission Expires: April 16, 1968

Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

HUTCHESON ENGINEERS
INCORPORATED
Engineers and Surveyors
Belle Mead, N.J.

1050



PLAAT 1

STATE OF FLORIDA
COUNTY OF PALM BEACH

THE VERY CERTAIN that the plot shows herein as "NEEF ESTATES" is a true and correct outline of a survey, made under my direction, of the foregoing described property, and that my fee is accurate to the best of my knowledge and belief, and that personal reference to the records (R.R.L.) have been placed as required by law.

Date of Survey: September 1964

[Signature]
Registered Land Surveyor
Florida Certificate No. 1413

Subsequent mail source to before was 81's /nd one of December A.D. 1964

Mildred J. Weaver
Nobles, LaSalle

April 19, 1968

Approved: December 31, A.D. 1964.
Board of County Commissioners

Col. Edward B. Bland

By: Paul McCord
Asst. County Engineer

STATE OF FLORIDA

COUNTY: 07 PALM BEACH

[illegible]

W. A. R. R.

Lilliana F. Delamater

Charles Bevington (Sond)

Jacques Deligdisman (Sov)

STATE OF FLORIDA
COUNTY OF PALM BEACH

[illegible]

Lillian F. Delaware

My Committee agrees. Last 25 1968

Approved: December 11, A.D. 1964,
 Town of Andover, Massachusetts

Dr. B. C. C. C.

31

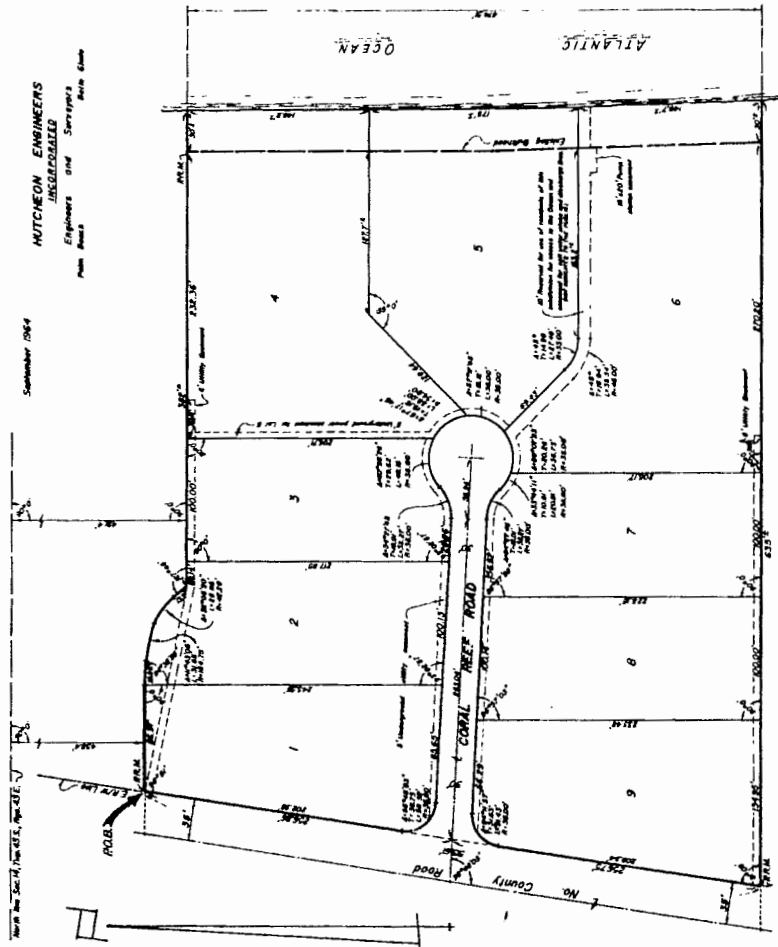
REEF ESTATES

Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

HUTCHINSON ENGINEERS
INCORPORATED
Engineers and Surveyors
Palm Beach, Florida

Scale 1"=50'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

HENRY CERTIFY that the plat shown herein is a true and correct representation of the same, and that the same has been duly recorded in the public records of this county, and that the same is subject to the provisions of the laws of this state relating to the recording of plats.

Date of Survey: September 1964

William J. Smith
Surveyor

Subscribed and sworn to before me this 1st day of September, 1964.

William J. Smith
Surveyor

My Commission expires: April 15, 1968

Approved: December 31, A.D. 1964
Board of County Commissioners

Edward Barclay
Chairman

James W. Smith
Assistant Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

KNOW ALL MEN BY THESE PRESENTS, that CHARLES B. HENRY, of the County of Palm Beach, State of Florida, do hereby certify that the plat shown herein is a true and correct representation of the same, and that the same has been duly recorded in the public records of this county, and that the same is subject to the provisions of the laws of this state relating to the recording of plats.

HENRY CERTIFY that the plat shown herein is a true and correct representation of the same, and that the same has been duly recorded in the public records of this county, and that the same is subject to the provisions of the laws of this state relating to the recording of plats.

William J. Smith
Surveyor

William J. Smith
Surveyor

STATE OF FLORIDA
COUNTY OF PALM BEACH

HENRY CERTIFY that the plat shown herein is a true and correct representation of the same, and that the same has been duly recorded in the public records of this county, and that the same is subject to the provisions of the laws of this state relating to the recording of plats.

William J. Smith
Surveyor

My Commission expires: April 15, 1968

William J. Smith
Surveyor

Approved: December 31, A.D. 1964
Board of County Commissioners

Subscribed and sworn to before me this 1st day of September, 1964.

William J. Smith
Surveyor

My Commission expires: April 15, 1968

REEF ESTATES

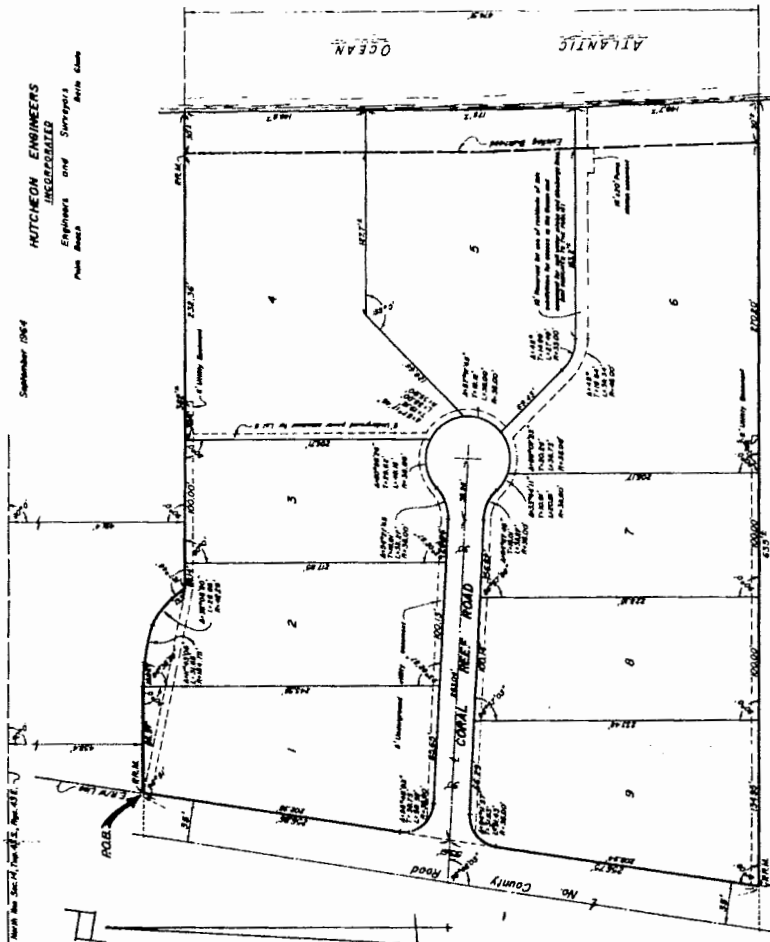
Governors Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

HITCHCOCK ENGINEERS
DESIGNED

Engineers and Surveyors
Palm Beach, Florida

Scale 1"=50'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat shows therein the "REEF ESTATES" is a true and correct representation of a survey made under the direction of the Surveying Department, and that the same has been approved by the Board of County Commissioners, and that the same is hereby recorded for the public use of the County of Palm Beach, Florida.

Date of Survey: September 1964

[Signature]
Recorder of Deeds
Palm Beach County, Florida

Subscribed and sworn to before me this 17th day of September, A.D. 1964.

[Signature]
Notary Public

My Commission Expires: April 18, 1968

Approved: _____
Board of County Commissioners

[Signature]
Chairman

[Signature]
Atty. Gen. Express

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat shows therein the "REEF ESTATES" is a true and correct representation of a survey made under the direction of the Surveying Department, and that the same has been approved by the Board of County Commissioners, and that the same is hereby recorded for the public use of the County of Palm Beach, Florida.

Date of Survey: September 1964

[Signature]
Recorder of Deeds
Palm Beach County, Florida

Subscribed and sworn to before me this 17th day of September, A.D. 1964.

[Signature]
Notary Public

My Commission Expires: April 18, 1968

Approved: _____
Board of County Commissioners

[Signature]
Chairman

[Signature]
Atty. Gen. Express

My Commission Expires: April 18, 1968

Approved: _____
Board of County Commissioners

[Signature]
Chairman

[Signature]
Atty. Gen. Express

My Commission Expires: April 18, 1968

Approved: _____
Board of County Commissioners

[Signature]
Chairman

[Signature]
Atty. Gen. Express

My Commission Expires: April 18, 1968

Approved: _____
Board of County Commissioners

[Signature]
Chairman

[Signature]
Atty. Gen. Express

My Commission Expires: April 18, 1968

Approved: _____
Board of County Commissioners

[Signature]
Chairman

[Signature]
Atty. Gen. Express

My Commission Expires: April 18, 1968

Approved: _____
Board of County Commissioners

[Signature]
Chairman

[Signature]
Atty. Gen. Express

My Commission Expires: April 18, 1968

REEF ESTATES

Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

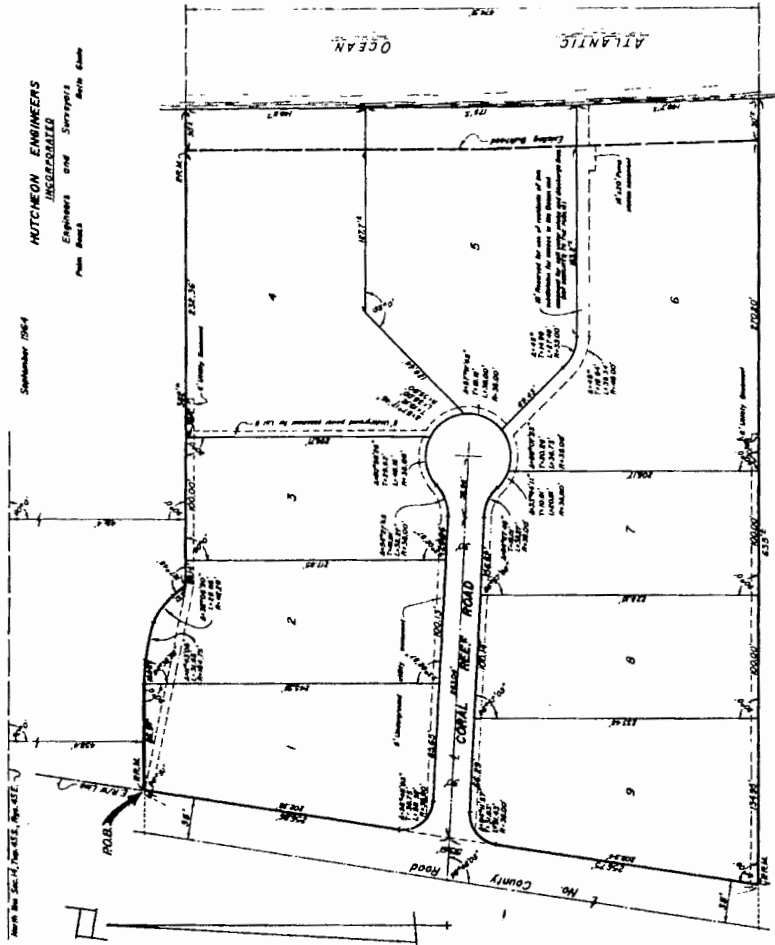
September 1964

HUTCHINSON ENGINEERS

DESIGNERS

Engineers and Surveyors
Palm Beach

Scale 1"=50'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat shown herein as "REEF ESTATES" is a true and correct representation of the same, and that the same has been duly recorded in the public records of the County of Palm Beach, Florida, and that the same is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats.

Date of Survey: September 1964

[Signature]
Registered Professional Engineer
Palm Beach County, Florida

Subscribed and sworn to before me this 1st day of December, A.D. 1964.

[Signature]
Notary Public

My Commission Expires: April 16, 1968

Approved: December 31, A.D. 1964
Board of County Commissioners

[Signature]
Chairman

[Signature]
Attest: County Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat shown herein as "REEF ESTATES" is a true and correct representation of the same, and that the same has been duly recorded in the public records of the County of Palm Beach, Florida, and that the same is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats.

Deposited in the County Clerk's Office for recording on September 15, 1964, at 1:00 PM. The plat is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats. The plat is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats. The plat is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats.

Witness my hand and seal of the County of Palm Beach, Florida, this 15th day of September, A.D. 1964.

[Signature]
County Clerk

[Signature]
Notary Public

[Signature]
Notary Public

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat shown herein as "REEF ESTATES" is a true and correct representation of the same, and that the same has been duly recorded in the public records of the County of Palm Beach, Florida, and that the same is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats.

Deposited in the County Clerk's Office for recording on September 15, 1964, at 1:00 PM. The plat is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats. The plat is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats. The plat is subject to the provisions of the Statute of the State of Florida, Chapter 218, F.S., relating to the recording of plats.

Witness my hand and seal of the County of Palm Beach, Florida, this 15th day of September, A.D. 1964.

[Signature]
County Clerk

My Commission Expires: September 15, 1968

Approved: December 31, A.D. 1964
Board of County Commissioners

[Signature]
Chairman

Attest: County Engineer

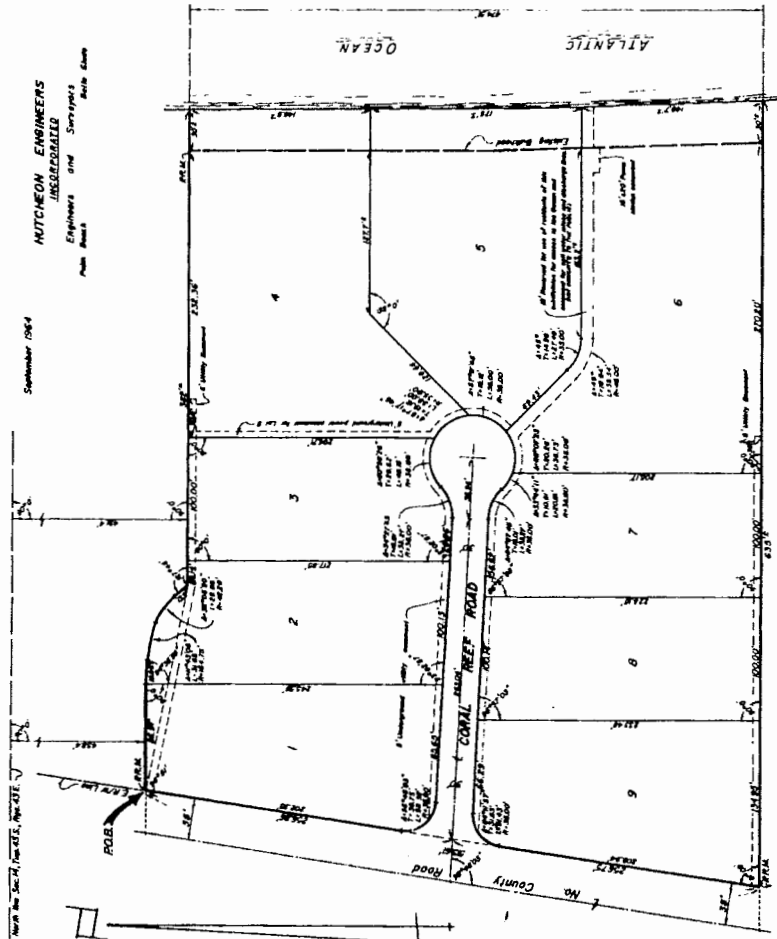
REEF ESTATES

Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

HITCHCOCK ENGINEERS
INGERSOLL
Engineers and Surveyors
Palm Beach

Scale 1"=50'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat herein is a true and correct representation of a survey made under my direction, of the foregoing described property, and that the same has been filed for record in the public records of the County of Palm Beach, Florida, and that the same is subject to the provisions of the Statute of the State of Florida, Chapter 34, Section 10, relating to the recording of surveys.

Date of Survey: September 1964

[Signature]
Registered Professional Engineer
Palm Beach County No. 1413

Subscribed and sworn to before me this 1st day of September, A.D. 1964

[Signature]
Notary Public

My Commission Expires: April 16, 1968

Approved: September 21, A.D. 1964
Board of County Commissioners

[Signature]
Chairman

[Signature]
Attest: County Engineer



ALL RIGHTS RESERVED
Copyright © 1964
HITCHCOCK ENGINEERS
INGERSOLL
Palm Beach, Florida

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat herein is a true and correct representation of a survey made under my direction, of the foregoing described property, and that the same has been filed for record in the public records of the County of Palm Beach, Florida, and that the same is subject to the provisions of the Statute of the State of Florida, Chapter 34, Section 10, relating to the recording of surveys.

Approved: September 21, A.D. 1964
Board of County Commissioners

[Signature]
Chairman

[Signature]
Attest: County Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that the plat herein is a true and correct representation of a survey made under my direction, of the foregoing described property, and that the same has been filed for record in the public records of the County of Palm Beach, Florida, and that the same is subject to the provisions of the Statute of the State of Florida, Chapter 34, Section 10, relating to the recording of surveys.

Approved: September 21, A.D. 1964
Board of County Commissioners

[Signature]
Chairman

My Commission Expires: April 25, 1968

Approved: September 21, A.D. 1964
Board of County Commissioners

[Signature]
Attest: County Engineer

REEF ESTATES

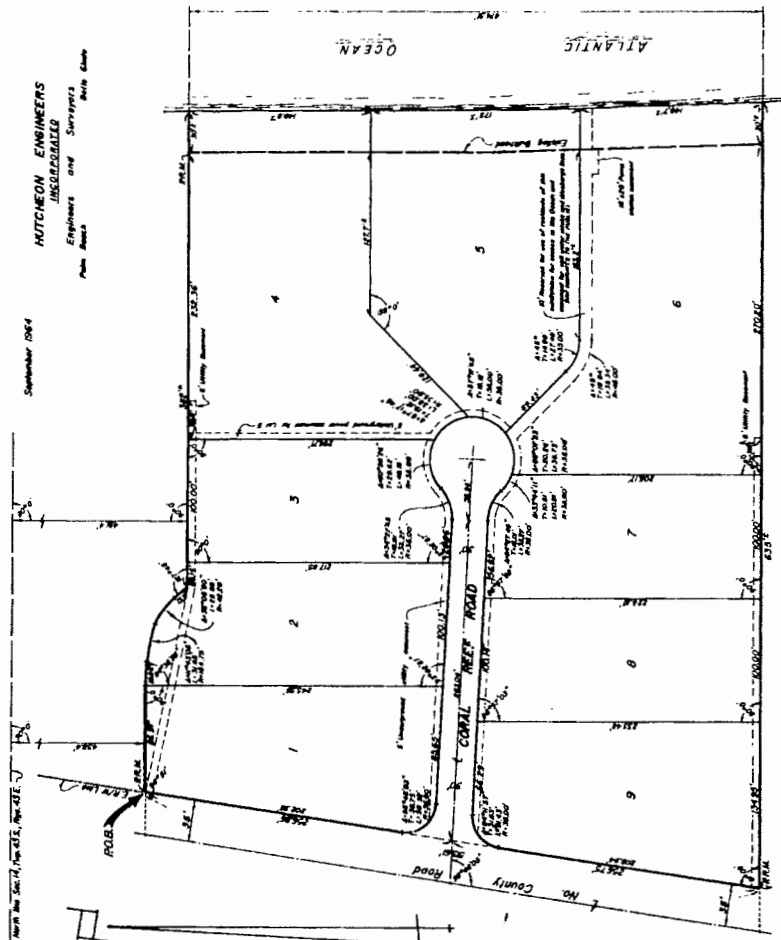
Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

September 1964

HATCHCOON ENGINEERS

Engineers and Surveyors
Palm Beach
Belle Glade

Scale 1"=50'



NOT PLATTED

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HATCHCOON ENGINEERS and Surveyors, do hereby certify that the above plat of Reef Estates is a true and correct representation of the land shown on the plat and that the same has been prepared in accordance with the laws of the State of Florida and the rules and regulations of the Board of County Commissioners.

Date of Survey: September 1964

[Signature]
Hatchcoon Engineers
Palm Beach, Florida

Subscribed and sworn to before me this 1st day of October, A.D. 1964.

[Signature]
Notary Public

My Commission Expires: April 16, 1965

Approved: December 31, A.D. 1964
Board of County Commissioners

[Signature]
Chairman

[Signature]
Notary Public

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HATCHCOON ENGINEERS and Surveyors, do hereby certify that the above plat of Reef Estates is a true and correct representation of the land shown on the plat and that the same has been prepared in accordance with the laws of the State of Florida and the rules and regulations of the Board of County Commissioners.

Witness my hand and seal this 1st day of October, A.D. 1964.

[Signature]
Hatchcoon Engineers
Palm Beach, Florida

[Signature]
Notary Public

[Signature]
Chairman

[Signature]
Notary Public

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HATCHCOON ENGINEERS and Surveyors, do hereby certify that the above plat of Reef Estates is a true and correct representation of the land shown on the plat and that the same has been prepared in accordance with the laws of the State of Florida and the rules and regulations of the Board of County Commissioners.

Witness my hand and seal this 1st day of October, A.D. 1964.

[Signature]
Hatchcoon Engineers
Palm Beach, Florida

[Signature]
Notary Public

[Signature]
Chairman

[Signature]
Notary Public

Approved: December 31, A.D. 1964
Board of County Commissioners

[Signature]
Chairman

Subscribed and sworn to before me this 1st day of October, A.D. 1964.

[Signature]
Notary Public

My Commission Expires: April 16, 1965

Study	Year	Study	Year
1990-1995	1990	1990-1995	1990



Date of Survey/ Submission 1984

For Mr. McCord
Capt. Cadogan Engineer

Approved: December 11, A.D. 1934.

Approved: December 11, A.D. 1964.

 President of the Board

By: A. Arnold
Treas. Manager.

Year	Revenue
1990	100
1991	100
1992	100
1993	100
1994	100
1995	100
1996	100
1997	100
1998	100
1999	100
2000	100
2001	100
2002	100
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2095	100
2096	100
2097	100
2098	100
2099	100
2100	100



38

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

January 27, 2016

Comcast Cable
Mark Milford
10435 Ironwood Rd.
Palm Beach Gardens, FL 33410

RE: Proposed Abandonment of Plat of Reef Estates and future Subdivision of 515 North County Road, Palm Beach, Florida ("Property")

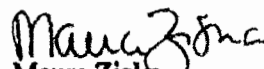
Dear Mark:

The property owner of the above Property is planning to demolish the existing improvements and subdivide the Property into three (3) vacant parcels. As part of this process, there is an obsolete plat of record that will need to be abandoned. The Plat is of Reef Estates and was recorded in Plat Book 28, Page 55 in 1964 (see attached). The individual lots were never developed and ultimately one residence was constructed and remains there today. I have also attached the proposed subdivision drawing for your review which proposes a 10 foot utility easement along the western border of the land and runs parallel to North County Road.

The Town of Palm Beach requires that the utility companies be notified of this request and sign off that they do not object to the abandonment of the Plat and all of the easements contained therein, nor the subdividing of the Property into three parcels. If you do not object, please sign and date at the bottom of this letter and return via email and U.S. Mail to the attention of Maura Ziska, Esquire, email is: mziska@floridawills.com, and address Kochman & Ziska PLC, 222 Lakeview Avenue, Suite 1500, West Palm Beach, FL 33401. Should you have any questions or concerns about this request or wish to meet on-site, please call me at 561-802-8960 at the earliest possible time.

Thank you for your assistance with is matter.

Sincerely,


Maura Ziska

Comcast cable has no objection to the abandonment of the Plat and Subdivision of 515 North County Road, Palm Beach into three (3) lots.

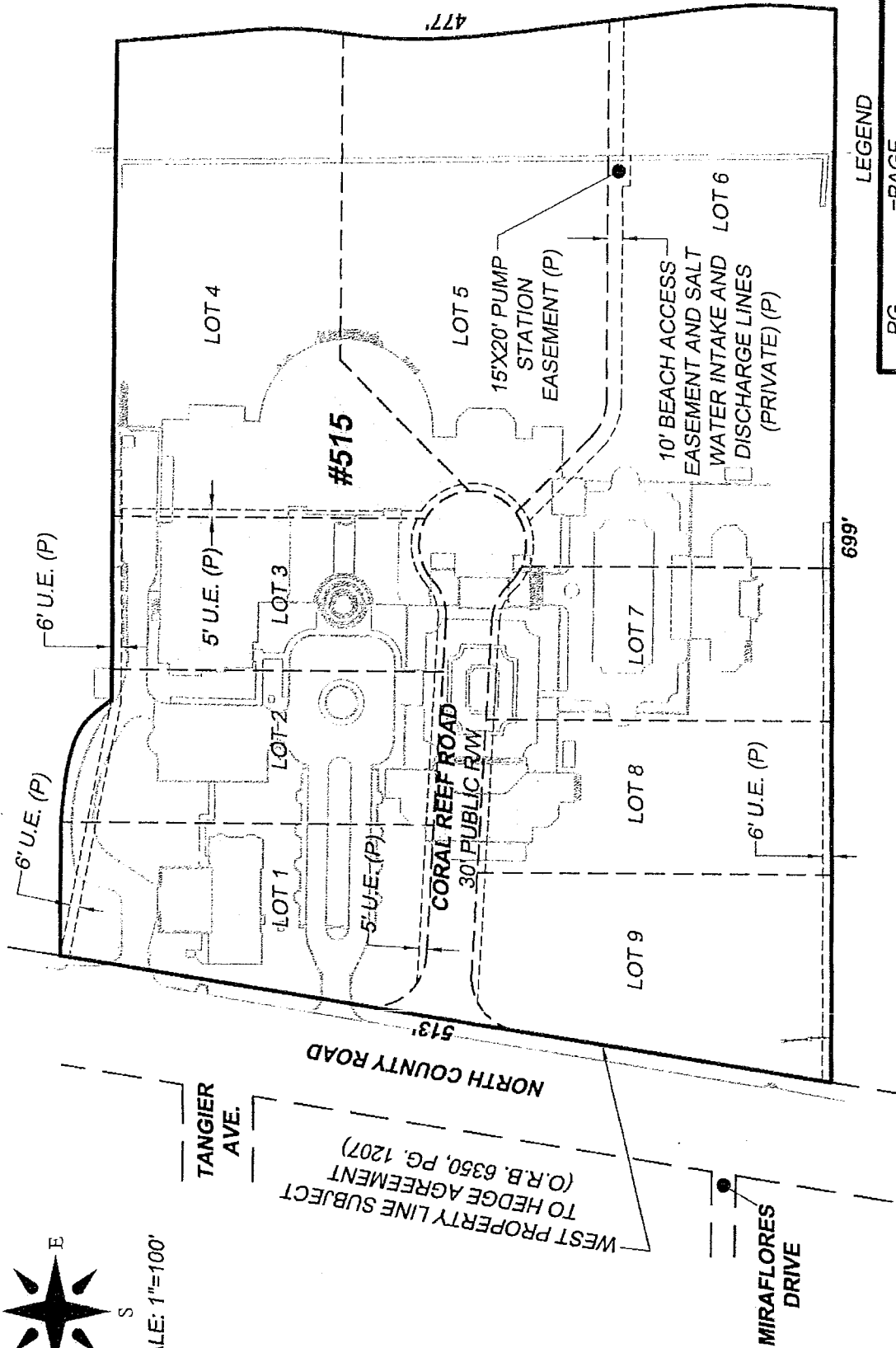
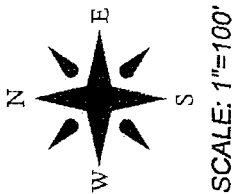

Mark Milford

COMCAST

Date 2/2/16

Attachment

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC

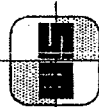


LEGEND

PG.	=PAGE
O.R.B.	=OFFICIAL RECORDS BOOK
P	=PLAT BOOK 28, PAGE 55
U.E.	=UTILITY EASEMENT

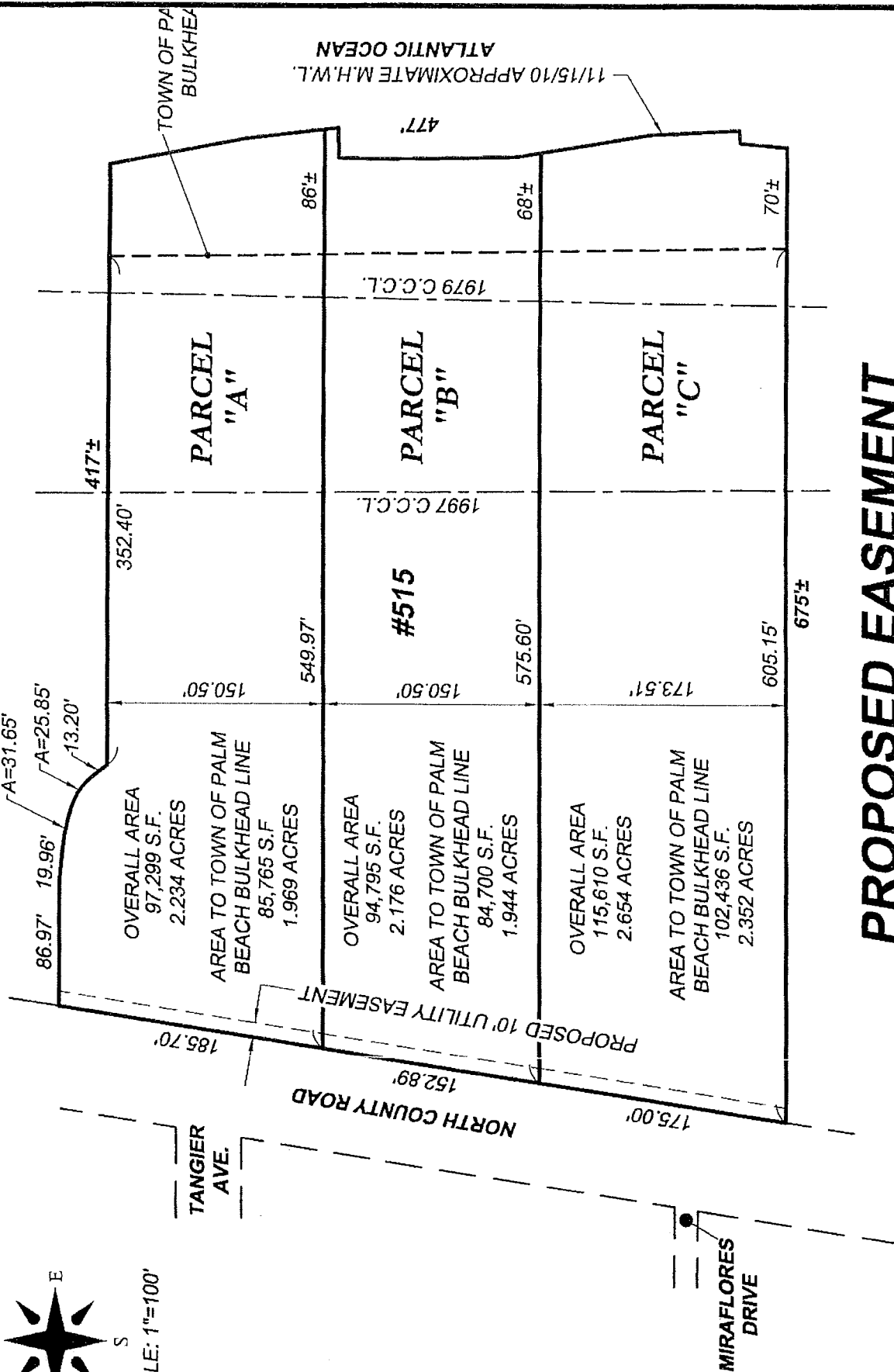
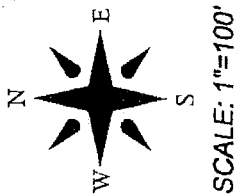
DATE: 1/25/16	DWG. No.: 04-1453-14
OFFICE: M.B.	SHEET: 1 OF 1
C'K'D.: C.W.	REF.: 04-1453-EXHIBIT-14.DWG

EXISTING CONDITIONS



WALLACE SURVEYING
CORP., LICENSED BUSINESS # 4509
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 • (561) 640-4551

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



PROPOSED EASEMENT

WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4568
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 • (561) 640-4551

DATE: 1/25/16
OFFICE: M.B.
C/K'D.: C.W.

DWG. No.: 04-1453-15
SHEET: 1 OF 1
REF.: 04-1453-EXHIBIT-15.DWG

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

January 27, 2016

Town of Palm Beach-Water Resources
Mr. Douglas Terry
951 Old Okeechobee Road
West Palm Beach, Fl 33401

RE: Proposed Abandonment of Plat of Reef Estates and future Subdivision of 515 North County Road, Palm Beach, Florida ("Property")

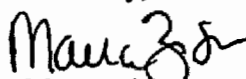
Dear Doug:

The property owner of the above Property is planning to demolish the existing improvements and subdivide the Property into three (3) vacant parcels. As part of this process, there is an obsolete plat of record that will need to be abandoned. The Plat is of Reef Estates and was recorded in Plat Book 28, Page 55 in 1964 (see attached). The individual lots were never developed and ultimately one residence was constructed and remains there today. I have also attached the proposed subdivision drawing for your review which proposes a 10 foot utility easement along the western border of the land and runs parallel to North County Road.

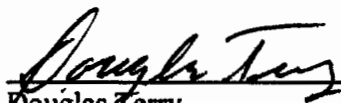
The Town of Palm Beach requires that the utility companies be notified of this request and sign off that they do not object to the abandonment of the Plat and all of the easements contained therein, nor the subdividing of the Property into three parcels. If you do not object, please sign and date at the bottom of this letter and return via email and U.S. Mail to the attention of Maura Ziska, Esquire, email is: mziska@floridawills.com, and address Kochman & Ziska PLC, 222 Lakeview Avenue, Suite 1500, West Palm Beach, FL 33401. Should you have any questions or concerns about this request or wish to meet on-site, please call me at 561-802-8960 at the earliest possible time.

Thank you for your assistance with is matter.

Sincerely,


Maura Ziska

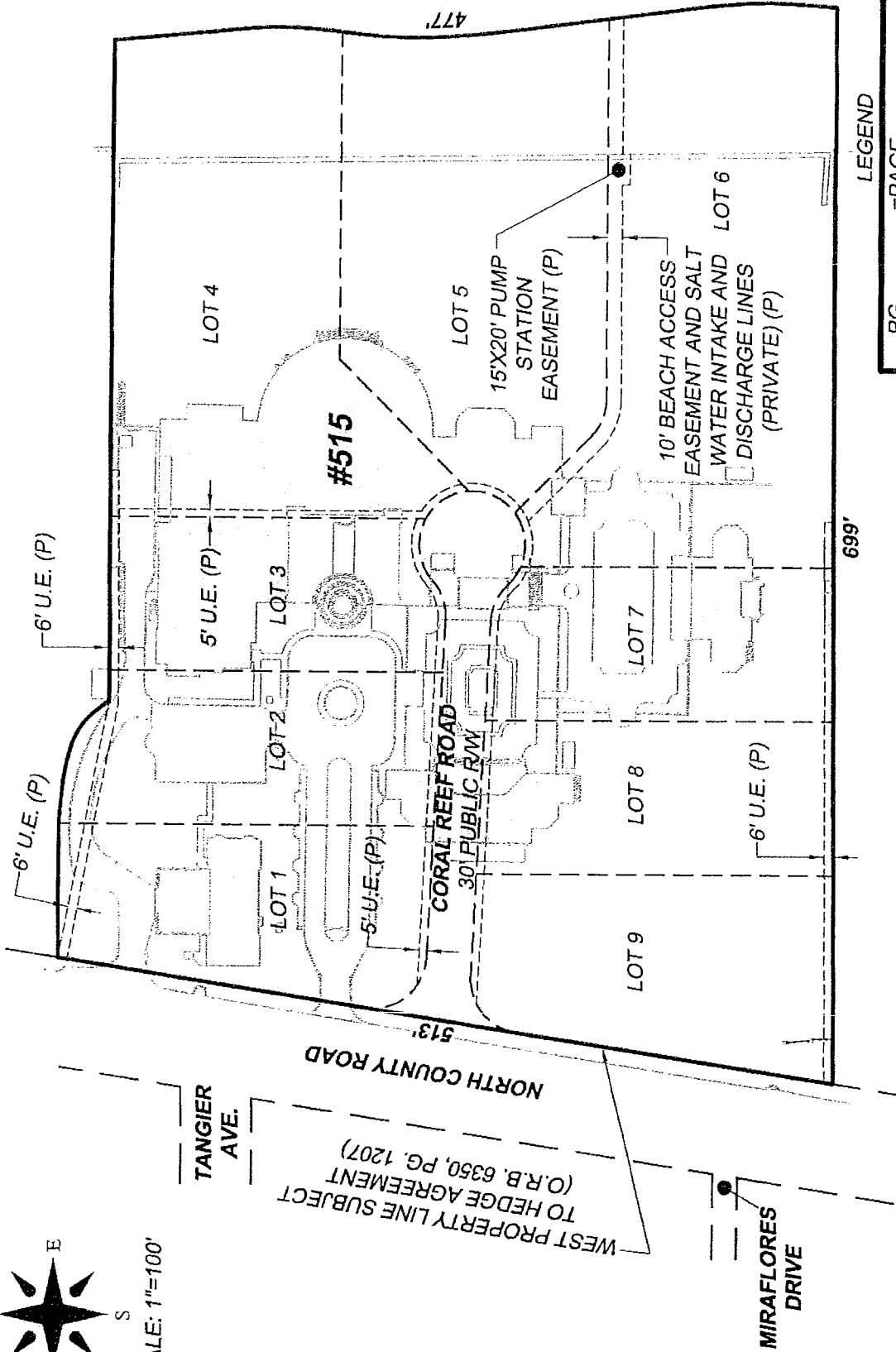
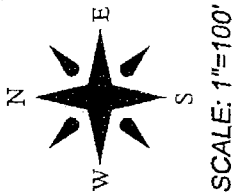
Town of P.B. Water Resources has no objection to the abandonment of the Plat and Subdivision of 515 North County Road, Palm Beach into three (3) lots.


Douglas Terry

Date 2/4/16

Attachment

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC

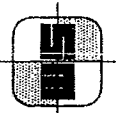


LEGEND

PG.	=PAGE
O.R.B.	=OFFICIAL RECORDS BOOK
P	=PLAT BOOK 28, PAGE 55
U.E.	=UTILITY EASEMENT

DATE: 1/25/16	DWG. No.: 04-1453-14
OFFICE: M.B.	SHEET: 1 OF 1
C/K'D.: C.W.	REF.: 04-1453-EXHIBIT-14.DWG

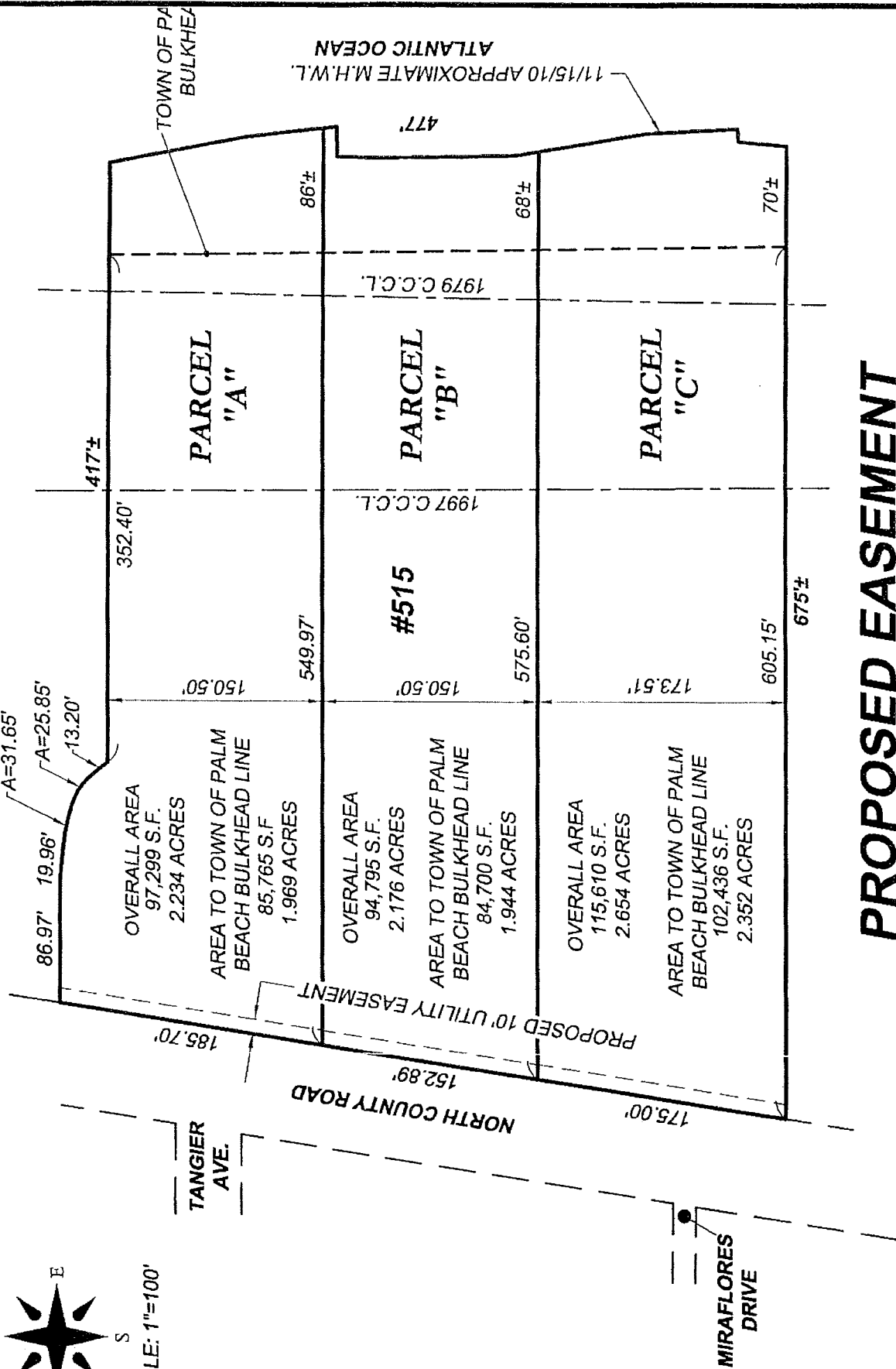
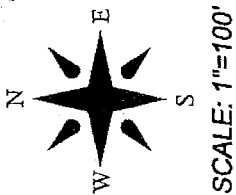
EXISTING CONDITIONS



WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4559

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



PROPOSED EASEMENT

WALLACE SURVEYING
CORP. LICENSED BUSINESS #4569
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 • (561) 840-4551

DATE: 1/25/16
OFFICE: M.B.
CK'D: C.W.
DWG. No.: 04-1453-15
SHEET: 1 OF 1
REF.: 04-1453-EXHIBIT-15.DWG

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

January 27, 2016

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

City of West Palm Beach
Mr. Vincent Noel
401 Clematis Street
West Palm Beach, FL 33401

RE: Proposed Abandonment of Plat of Reef Estates and future Subdivision of 515 North County Road, Palm Beach, Florida ("Property")

Dear Vincent:

The property owner of the above Property is planning to demolish the existing improvements and subdivide the Property into three (3) vacant parcels. As part of this process, there is an obsolete plat of record that will need to be abandoned. The Plat is of Reef Estates and was recorded in Plat Book 28, Page 55 in 1964 (see attached). The individual lots were never developed and ultimately one residence was constructed and remains there today. I have also attached the proposed subdivision drawing for your review which proposes a 10 foot utility easement along the western border of the land and runs parallel to North County Road.

The Town of Palm Beach requires that the utility companies be notified of this request and sign off that they do not object to the abandonment of the Plat and all of the easements contained therein, nor the subdividing of the Property into three parcels. If you do not object, please sign and date at the bottom of this letter and return via email and U.S. Mail to the attention of Maura Ziska, Esquire, email is: mziska@floridawills.com, and address Kochman & Ziska PLC, 222 Lakeview Avenue, Suite 1500, West Palm Beach, FL 33401. Should you have any questions or concerns about this request or wish to meet on-site, please call me at 561-802-8960 at the earliest possible time.

Thank you for your assistance with is matter.

Sincerely,


Maura Ziska

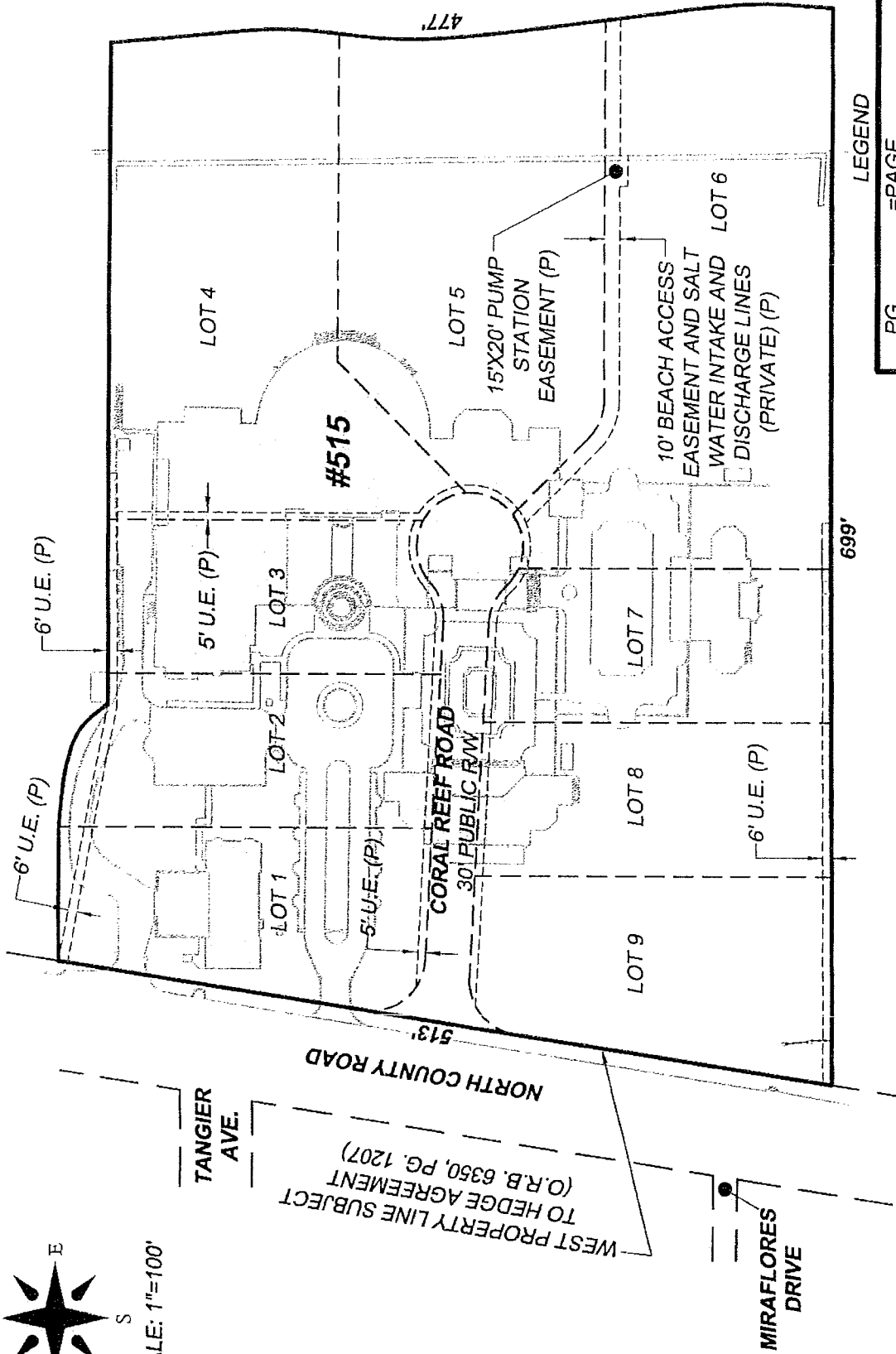
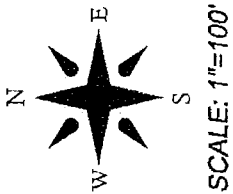
City of West Palm Beach ~~Company~~ has no objection to the abandonment of the Plat and Subdivision of 515 North County Road, Palm Beach into three (3) lots.



Vincent Noel
Attachment

Date 2/5/16

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC

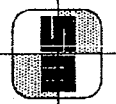


LEGEND

PG.	=PAGE
O.R.B.	=OFFICIAL RECORDS BOOK
P	=PLAT BOOK 28, PAGE 55
U.E.	=UTILITY EASEMENT

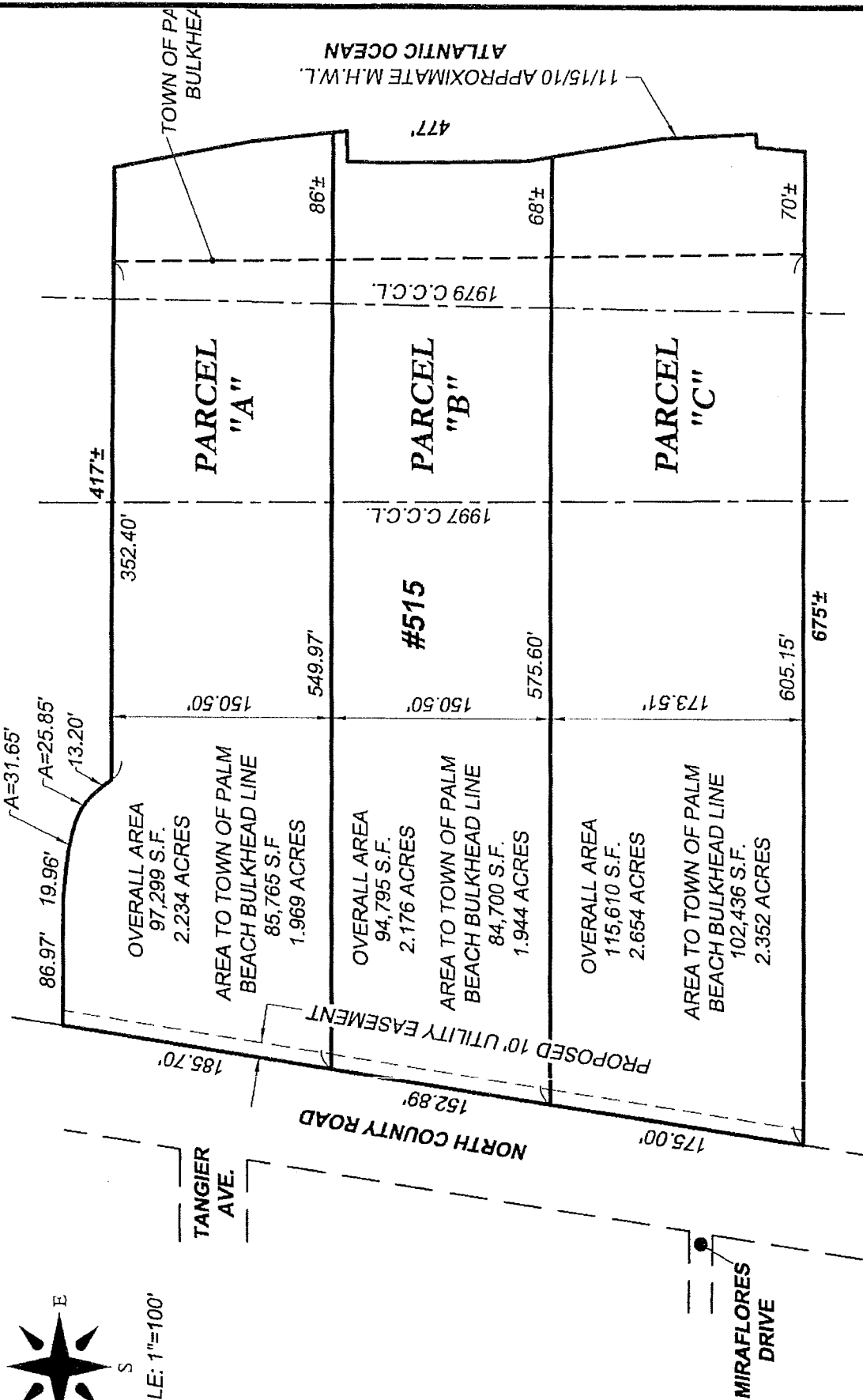
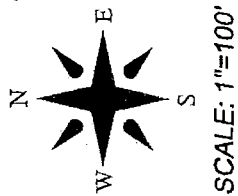
EXISTING CONDITIONS

DATE: 1/25/16	DWG. No.: 04-1453-14
OFFICE: M.B.	SHEET: 1 OF 1
C/K'D.: C.W.	REF.: 04-1453-EXHIBIT-14.DWG



WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4569
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 • (561) 640-4551

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



PROPOSED EASEMENT

WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 1/25/16

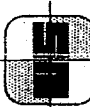
OFFICE: M.B.

C/K'D: C.W.

DWG. No.: 04-1453-15

SHEET: 1 OF 1

REF.: 04-1453-EXHIBIT-15.DWG



KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

January 27, 2016

Town of Palm Beach-Electric Bureau

Mr. Mark Loree

951 Old Okeechobee Road

West Palm Beach, FL 33401

RE: Proposed Abandonment of Plat of Reef Estates and future Subdivision of 515 North
County Road, Palm Beach, Florida ("Property")

Dear Mark:

The property owner of the above Property is planning to demolish the existing improvements and subdivide the Property into three (3) vacant parcels. As part of this process, there is an obsolete plat of record that will need to be abandoned. The Plat is of Reef Estates and was recorded in Plat Book 28, Page 55 in 1964 (see attached). The individual lots were never developed and ultimately one residence was constructed and remains there today. I have also attached the proposed subdivision drawing for your review which proposes a 10 foot utility easement along the western border of the land and runs parallel to North County Road.

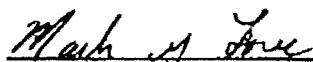
The Town of Palm Beach requires that the utility companies be notified of this request and sign off that they do not object to the abandonment of the Plat and all of the easements contained therein, nor the subdividing of the Property into three parcels. If you do not object, please sign and date at the bottom of this letter and return via email and U.S. Mail to the attention of Maura Ziska, Esquire, email is: mziska@floridavills.com, and address Kochman & Ziska PLC, 222 Lakeview Avenue, Suite 1500, West Palm Beach, FL 33401. Should you have any questions or concerns about this request or wish to meet on-site, please call me at 561-802-8960 at the earliest possible time.

Thank you for your assistance with is matter.

Sincerely,


Maura Ziska

Town of Palm Beach - Electric has no objection to the abandonment of the Plat and Subdivision of 515 North County Road, Palm Beach into three (3) lots.


Mark Loree

Date 2/26/16

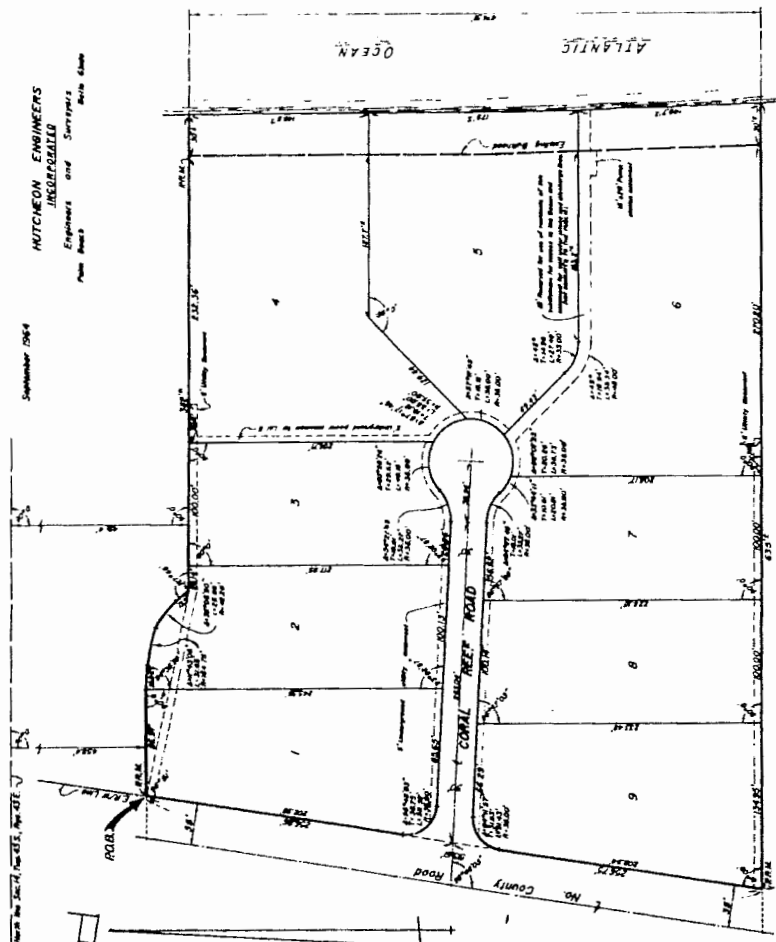
Attachment

September 1964

HUTCHEON ENGINEERS
INCORPORATED

Engineers and Surveyors
Pulse Book 2 Bells 6 June

Scott 1.907



NOT
PULLEY

STATE OF FLORIDA
COUNTY OF BAY COUNTY

INHERENT CERTAIN that the said above herein "NEEF STATES," is a true and correct representation of a survey, made under my direction, of the foregoing described property, and that said survey is accurately in the full of my knowledge and faith, and that pertinent references thereto have been placed as required by law.

Date of Survey: September 1964

Approved, _____, December 31, A.D. 1964
Board of County Commissioners

Kristen J. Sandoz
Appleton Land Surveyor
Florida Certified No. 0418

Charles G. Gifford, Jr. (1907-1984)

Subscribed and sworn to before me this 1st day of December, A.D. 1964

Mildred J. Coleman
Miss Coleman

100

My Commission expires: April 10, 1968

Edmund B. Banchow

22

[Signature]
Asstt. Comdr Engineer

Mrs. Mary E. Gibson

STATE OF FLORIDA
COUNTY OF PALM BEACH

MAJOR ALL MEN BY THESE AGENTS, MRS CHARLES B. WINDENSTADT, husband and wife, the power to be sample of the trust of land adjoining and lying in Reclamation Lot 1, Section 14, Township 43 South, Range 43 East, Town of Pulla Bates, Pulla Bates County, Florida, herein known as **IN RE: ESTATES,** and more particularly described as follows, to wit:

[illegible][illegible]

Classroom Improvement (SOP)

Lillian F. Lawrence

Jayme Leighton (son)

STATE OF FLORIDA

COUNTY OF PALM BEACH

[illegible]

WITNESS my hand and seal at Elkhart, Indiana, County of Elkhart, State of Indiana, this 3rd day of December, A.D. 1984.

Lillian F. Delamater

My Commission expires August 25, 1968

Approved: December 11, 1944.
 Director of Public Health

Date of Publication

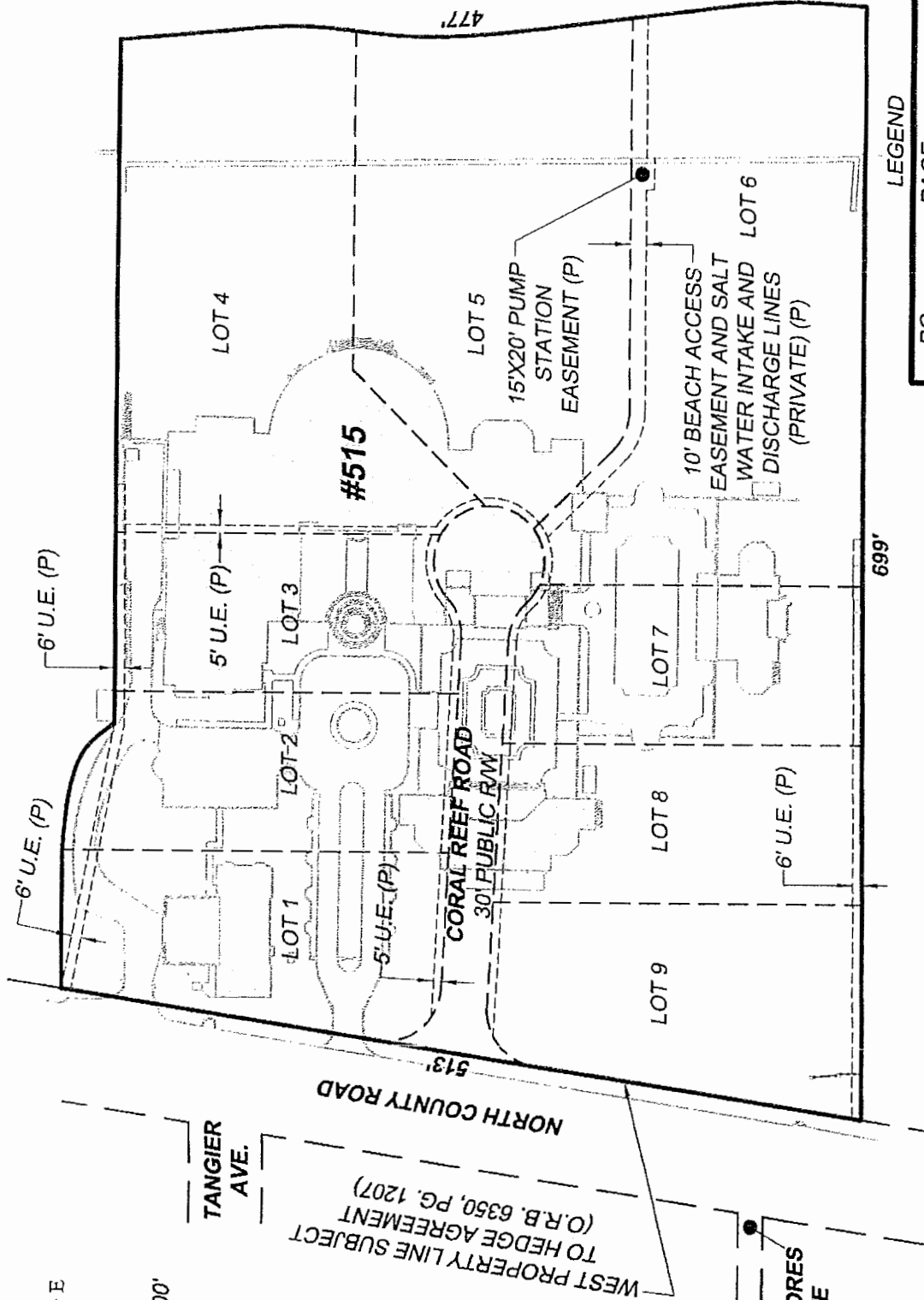
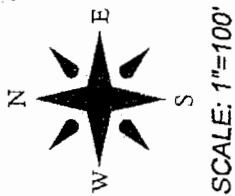
W. B. Cusack

100



1871-5-127

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



LEGEND

PG.	=PAGE
O.R.B.	=OFFICIAL RECORDS BOOK
P	=PLAT BOOK 28, PAGE 55
U.E.	=UTILITY EASEMENT

EXISTING CONDITIONS

DATE: 1/25/16	DWG. No.: 04-1453-14
OFFICE: M.B.	SHEET: 1 OF 1
CK'D.: C.W.	REF.: 04-1453-EXHIBIT-14.DWG

WALLACE SURVEYING
 CORP. LICENSED BUSINESS # 4529
 5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

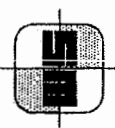
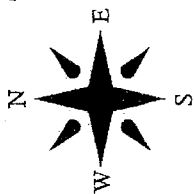
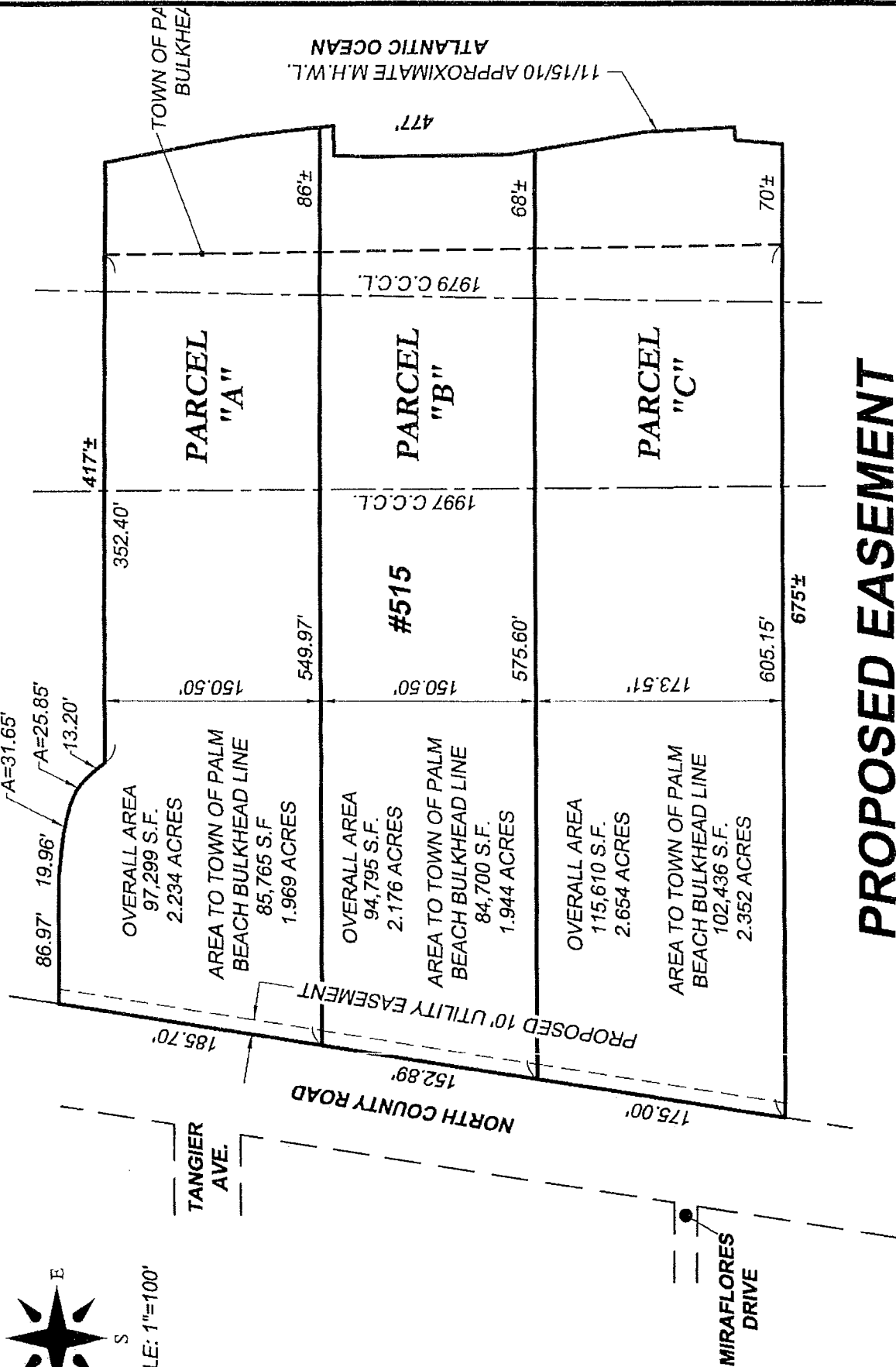


EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



SCALE: 1"=100'



PROPOSED EASEMENT

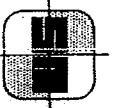
WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4669
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 840-4551

DATE: 1/25/16
OFFICE: M.B.
C.K.D.: C.W.

DWG. No.: 04-1453-15

SHEET: 1 OF 1

REF.: 04-1453-EXHIBIT-15.DWG



KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

January 27, 2016

Florida Public Utilities
Mr. Ivan Gibbs
POB 3395
West Palm Beach, FL 33401

RE: Proposed Abandonment of Plat of Reef Estates and future Subdivision of 515 North
County Road, Palm Beach, Florida ("Property")

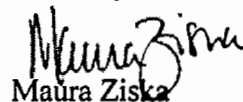
Dear Ivan:

The property owner of the above Property is planning to demolish the existing improvements and subdivide the Property into three (3) vacant parcels. As part of this process, there is an obsolete plat of record that will need to be abandoned. The Plat is of Reef Estates and was recorded in Plat Book 28, Page 55 in 1964 (see attached). The individual lots were never developed and ultimately one residence was constructed and remains there today. I have also attached the proposed subdivision drawing for your review which proposes a 10 foot utility easement along the western border of the land and runs parallel to North County Road.

The Town of Palm Beach requires that the utility companies be notified of this request and sign off that they do not object to the abandonment of the Plat and all of the easements contained therein, nor the subdividing of the Property into three parcels. If you do not object, please sign and date at the bottom of this letter and return via email and U.S. Mail to the attention of Maura Ziska, Esquire, email is: mziska@floridawills.com, and address Kochman & Ziska PLC, 222 Lakeview Avenue, Suite 1500, West Palm Beach, FL 33401. Should you have any questions or concerns about this request or wish to meet on-site, please call me at 561-802-8960 at the earliest possible time.

Thank you for your assistance with is matter.

Sincerely,


Maura Ziska

Florida Public Utilities has no objection to the abandonment of the Plat and Subdivision of 515 North County Road, Palm Beach into three (3) lots.

 Digitally signed by Ivan
Gibbs
Date: 2016.02.26 14:35:32
-05'00'

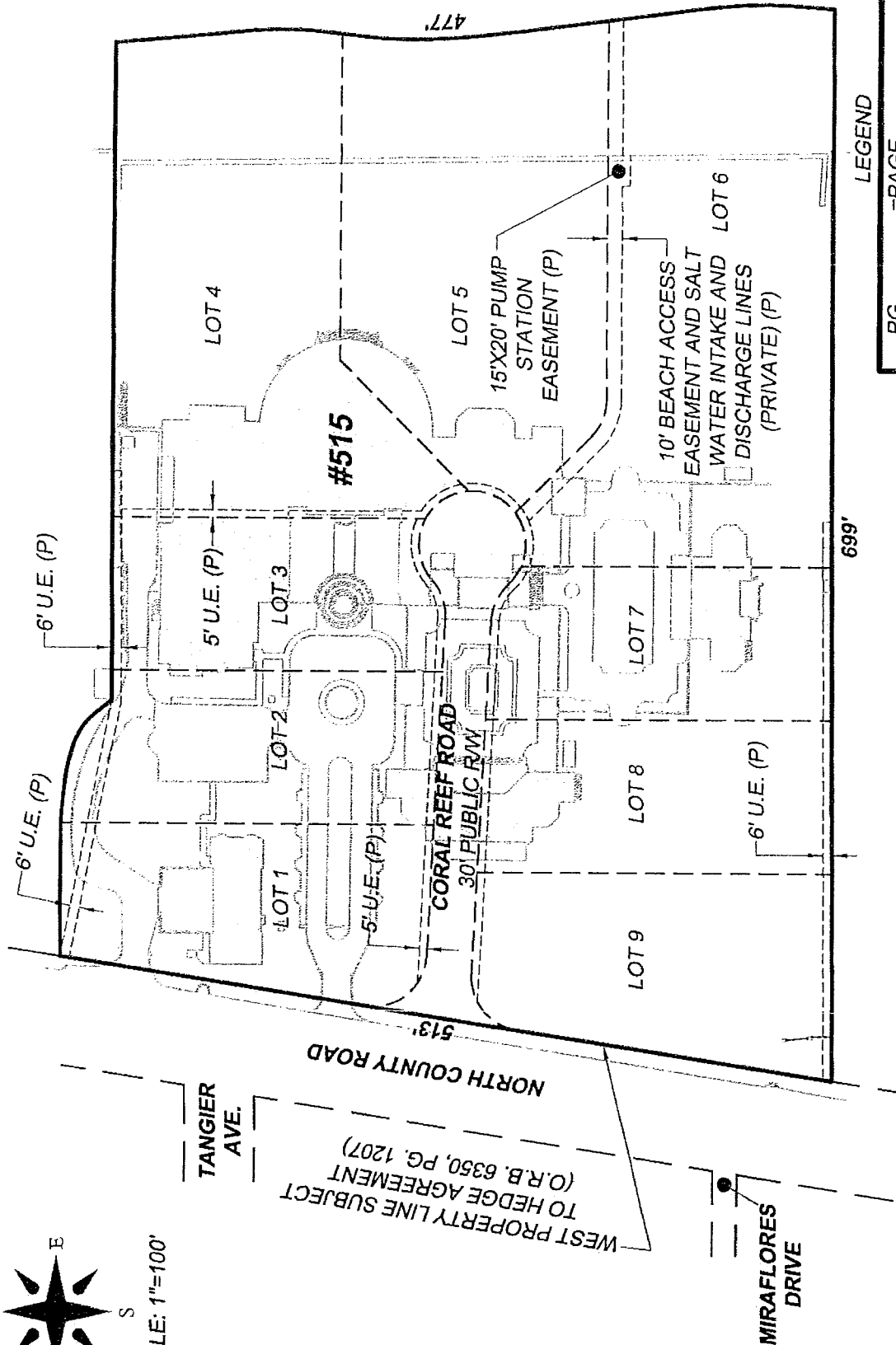
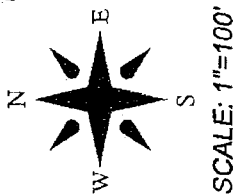
Ivan Gibbs

Date 2/26/2016

Attachment



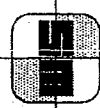
EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



LEGEND

PG.	=PAGE
O.R.B.	=OFFICIAL RECORDS BOOK
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U.E.	=UTILITY EASEMENT

EXISTING CONDITIONS



WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4509
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 • (561) 640-4551

DATE: 1/25/16	DWG. No.: 04-1453-14
OFFICE: M.B.	SHEET: 1 OF 1
C/K'D: C.W.	REF.: 04-1453-EXHIBIT-14.DWG

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

January 27, 2016

Florida Power & Light Company
Mr. Michael Fetto
810 Charlotte Avenue
West Palm Beach, FL 33401

RE: Proposed Abandonment of Plat of Reef Estates and future Subdivision of 515 North County Road, Palm Beach, Florida ("Property")

Dear Mike:

The property owner of the above Property is planning to demolish the existing improvements and subdivide the Property into three (3) vacant parcels. As part of this process, there is an obsolete plat of record that will need to be abandoned. The Plat is of Reef Estates and was recorded in Plat Book 28, Page 55 in 1964 (see attached). The individual lots were never developed and ultimately one residence was constructed and remains there today. I have also attached the proposed subdivision drawing for your review which proposes a 10 foot utility easement along the western border of the land and runs parallel to North County Road.

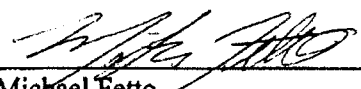
The Town of Palm Beach requires that the utility companies be notified of this request and sign off that they do not object to the abandonment of the Plat and all of the easements contained therein, nor the subdividing of the Property into three parcels. If you do not object, please sign and date at the bottom of this letter and return via email and U.S. Mail to the attention of Maura Ziska, Esquire, email is: mziska@floridawills.com, and address Kochman & Ziska PLC, 222 Lakeview Avenue, Suite 1500, West Palm Beach, FL 33401. Should you have any questions or concerns about this request or wish to meet on-site, please call me at 561-802-8960 at the earliest possible time.

Thank you for your assistance with is matter.

Sincerely,


Maura Ziska

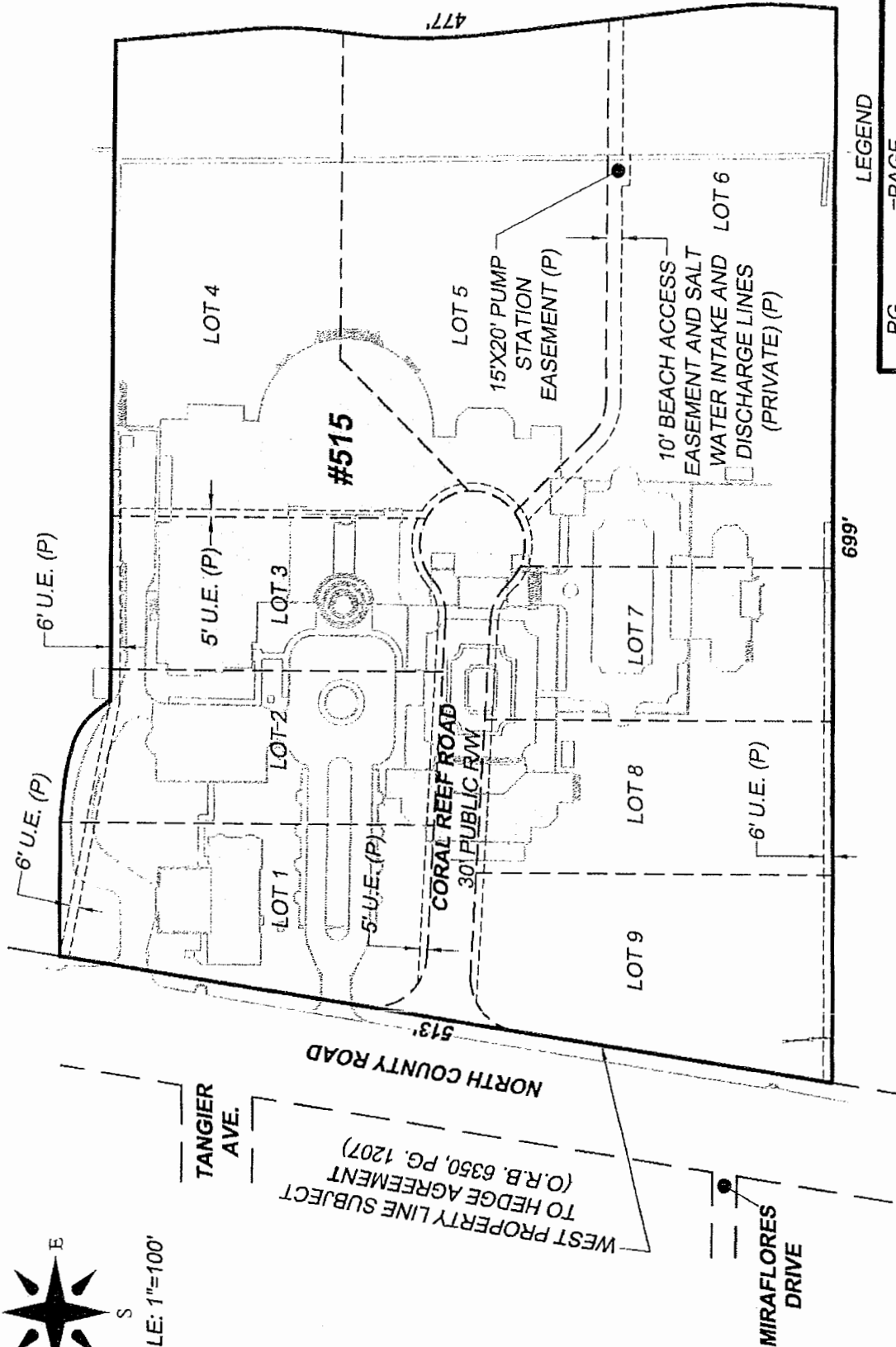
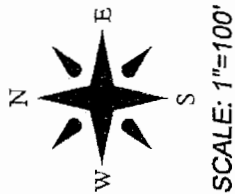
Florida Power & Light Company has no objection to the abandonment of the Plat and Subdivision of 515 North County Road, Palm Beach into three (3) lots.


Michael Fetto

Date 3/21/16

Attachment

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



LEGEND

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O.R.B.	=OFFICIAL RECORDS BOOK
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U.E.	=UTILITY EASEMENT

EXISTING CONDITIONS

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C/K'D.: C.W.	REF.: 04-1453-EXHIBIT-14.DWG

WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4569
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

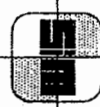
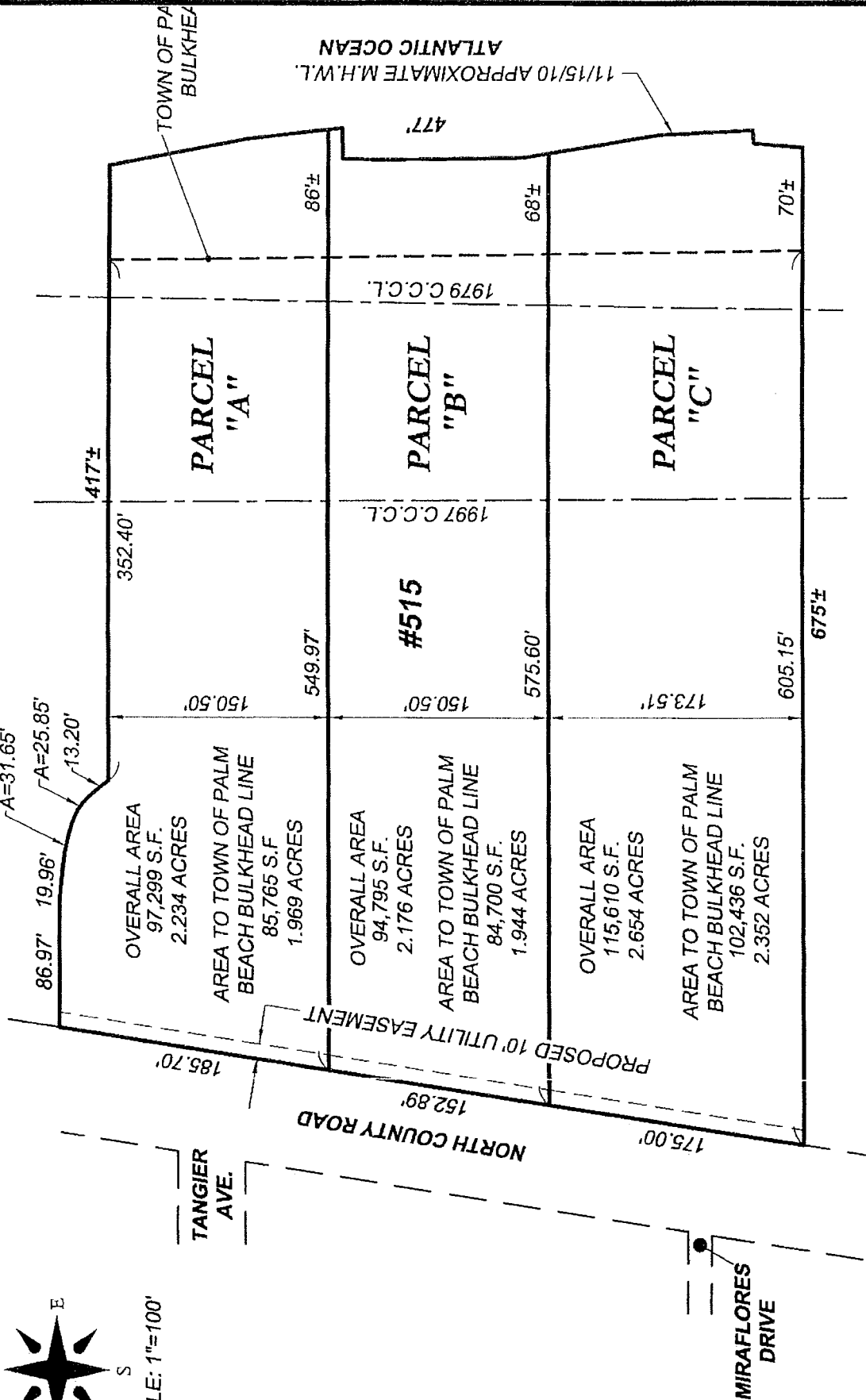
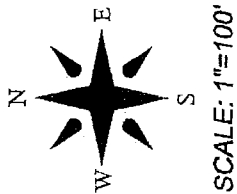


EXHIBIT FOR: COUNTY ROAD PROPERTY LLC

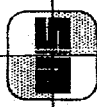


PROPOSED EASEMENT

WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 • (561) 640-4551

DATE: 1/25/16	DWG. No.: 04-1453-15
OFFICE: M.B.	SHEET: 1 OF 1
C/K'D.: C.W.	REF.: 04-1453-EXHIBIT-15.DWG





Garth Bedward
Utility Coordinator
Palm Beach County

AT&T Florida
120 North K Street,
Room 3D-05I
Lake Worth, FL 33460

T: 561-540-9263
M: 561-329-5451
GB7410@att.com

February 2, 2016

Maura Ziska, Esq.
Kochman & Ziska PLC
222 Lakeview Avenue, Ste. 1500
West Palm Beach, FL 33401

Re: Proposed Abandonment of Plat of Reef Estates and future Subdivision
Located on 515 North County Road
Palm Beach, Florida

Dear Maura Ziska:

In response to your inquiry dated January 27, 2016, this letter shall serve as notice that AT&T Florida has no objection to the above mentioned abandonment and future subdivision of 515 North County Road. The proposed project does not encroach into AT&T easements and does not interfere with the provisioning of our service. The owner/ developer must assume any cost associated with the adjustment, removal or relocation of utilities, if required. No "as-built" are currently available for these facilities.

Cordially,

Garth Bedward
Manager OSP Planning & Engineering Design
AT&T Utility Coordinator (Palm Beach County)

CC:P Eddie Herron



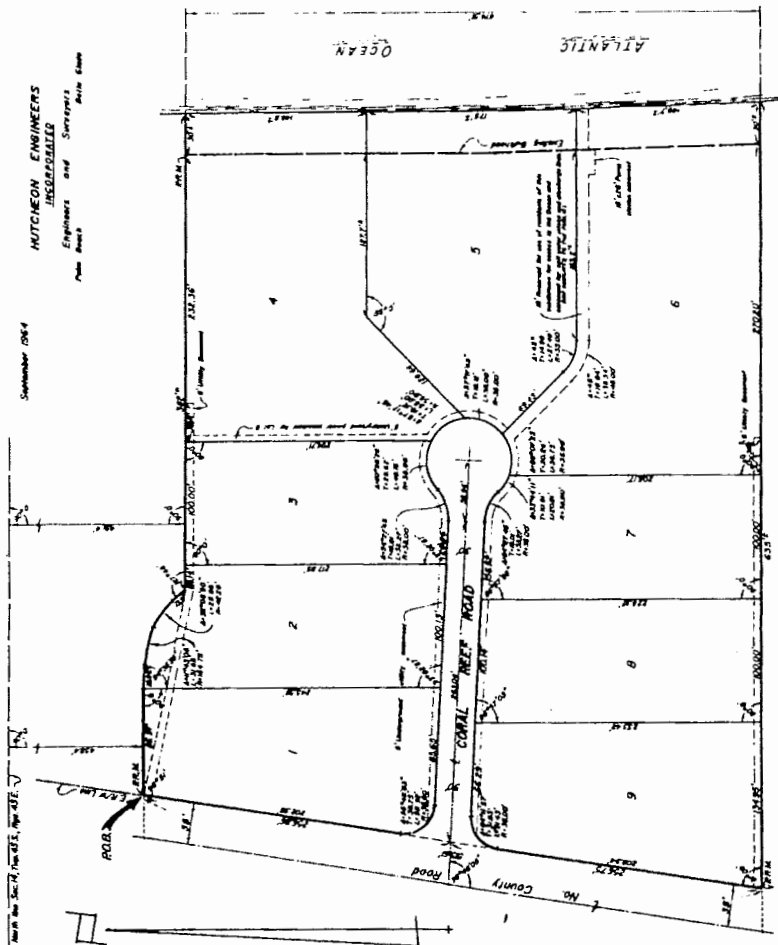
REEF ESTATES

Government Lot 1, Section 14, Township 43 South, Range 43 East
Town of Palm Beach, Palm Beach County, Florida

Scale 1"=50'

HUTCHISON ENGINEERS
INCORPORATED
Engineers and Surveyors
Palm Beach

September 1964



STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HENRY CERRY, do hereby certify that the plat shown herein is a true and correct representation of a survey made under my direction, of the foregoing described property, and that said survey is in accordance with the laws of the State of Florida, and that I am a duly qualified and licensed Surveyor in the State of Florida.

Date of Survey September 1964

Henry Cerry
Surveyor

Subscribed and sworn to before me this 1st day of September, A.D. 1964

Richard J. Blum
Notary Public

My Commission expires April 14, 1968

Approved: September 21, A.D. 1964
Board of County Commissioners

Richard J. Blum
Chairman

John W. Blum
Asst. County Engineer

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, HENRY CERRY, do hereby certify that the plat shown herein is a true and correct representation of a survey made under my direction, of the foregoing described property, and that said survey is in accordance with the laws of the State of Florida, and that I am a duly qualified and licensed Surveyor in the State of Florida.

Witness my hand and seal of office this 1st day of September, A.D. 1964.

Henry Cerry
Surveyor

Richard J. Blum
Notary Public

My Commission expires April 14, 1968

John W. Blum
Asst. County Engineer

Subscribed and sworn to before me this 1st day of September, A.D. 1964

Richard J. Blum
Notary Public

My Commission expires April 14, 1968

John W. Blum
Asst. County Engineer

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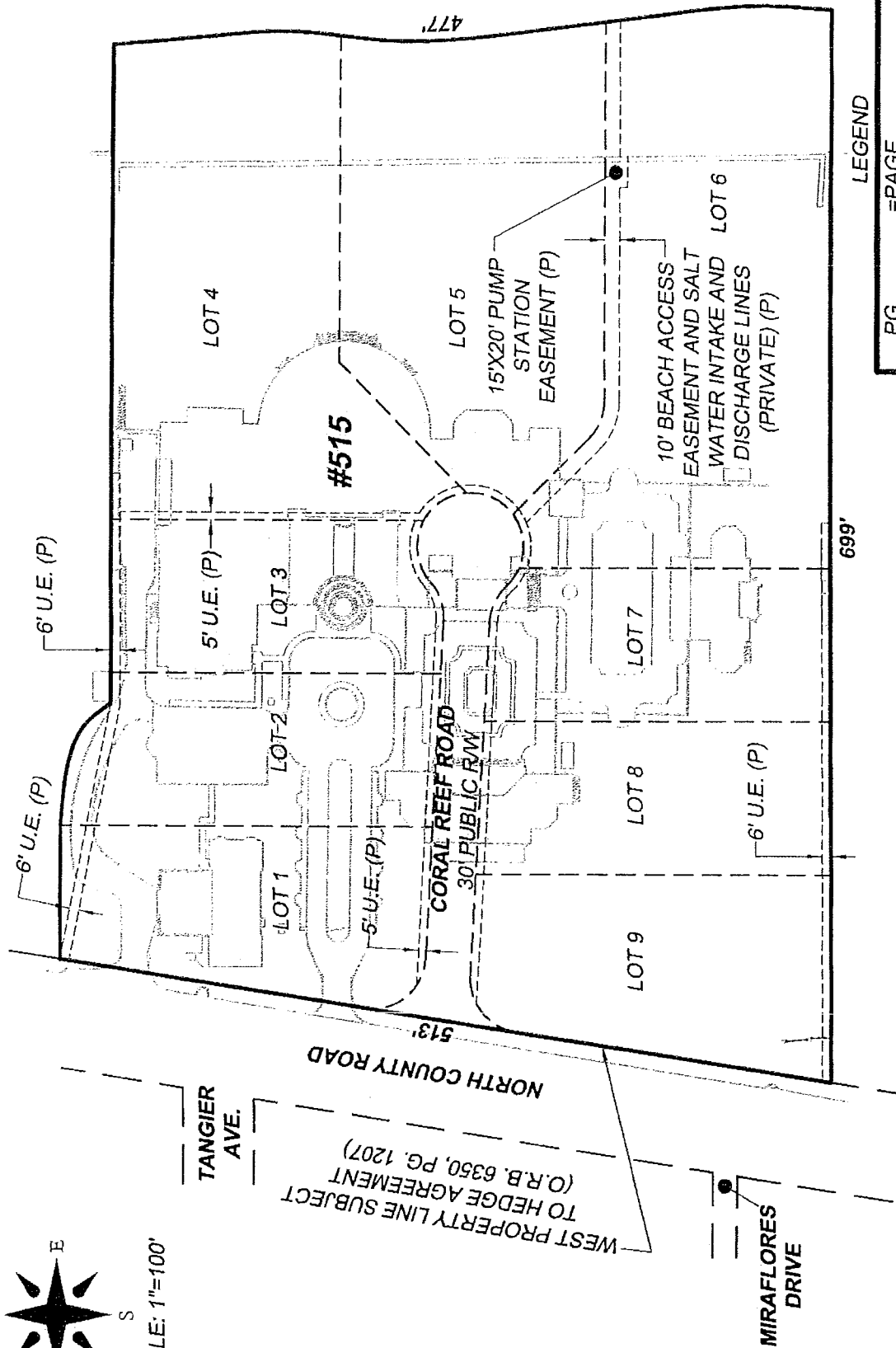
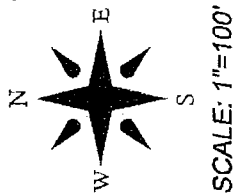
Subscribed and sworn to before me this 1st day of September, A.D. 1964

Richard J. Blum
Notary Public

My Commission expires April 14, 1968

John W. Blum
Asst. County Engineer

EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



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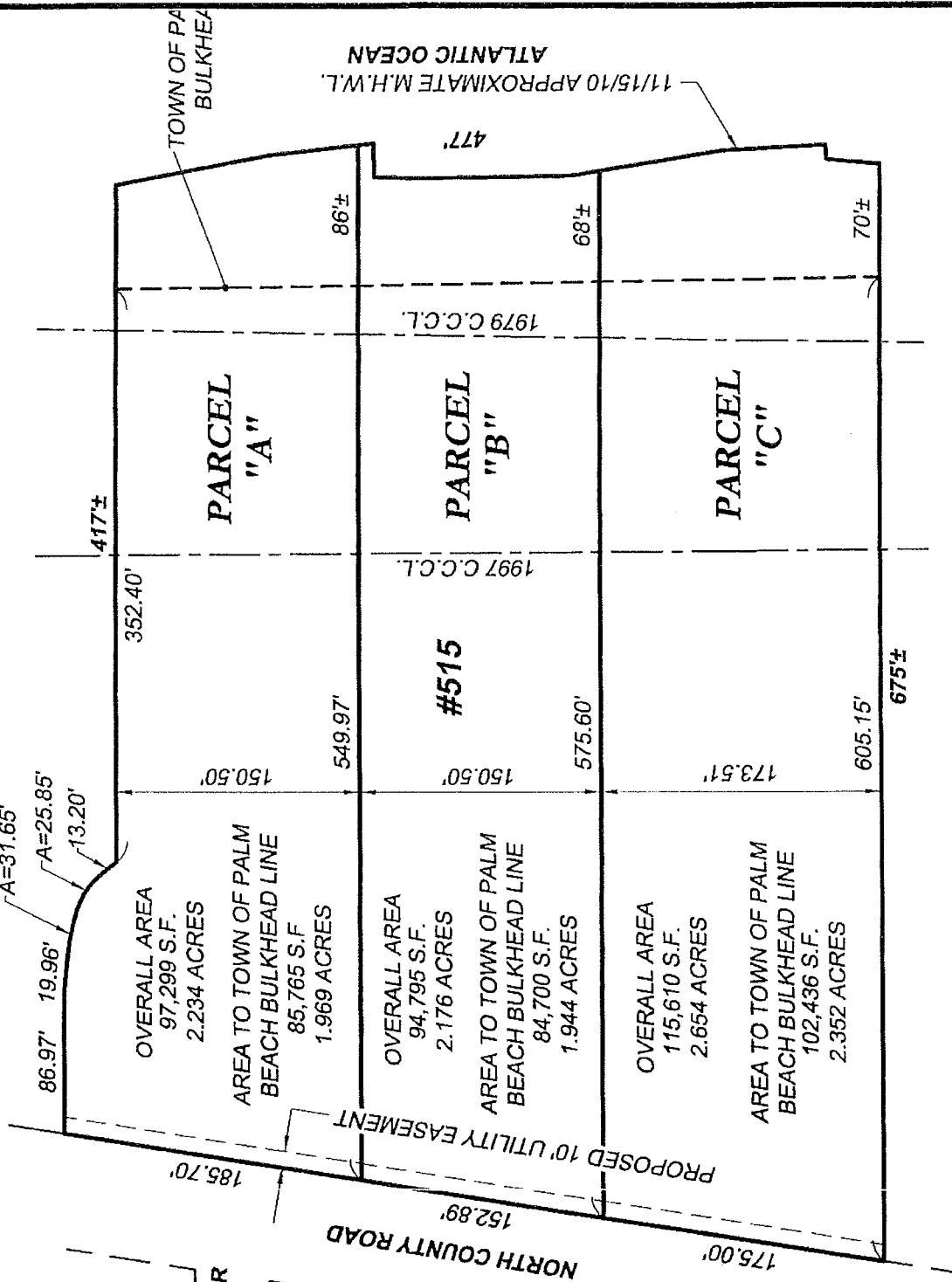
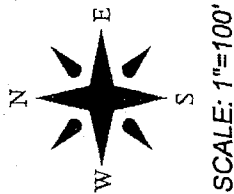
EXISTING CONDITIONS

WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4569
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 • (561) 640-4551

DATE: 1/25/16	DWG. No.: 04-1453-14
OFFICE: M.B.	SHEET: 1 OF 1
C/K'D.: C.W.	REF.: 04-1453-EXHIBIT-14.DWG



EXHIBIT FOR: COUNTY ROAD PROPERTY LLC



PROPOSED EASEMENT

WALLACE SURVEYING
 CORP. LICENSED BUSINESS # 4569
 5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 1/25/16	DWG. No.: 04-1453-15
OFFICE: M.B.	SHEET: 1 OF 1
C'D.: C.W.	REF.: 04-1453-EXHIBIT-15.DWG

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 15, 2016

Section of Agenda

Appeals

Agenda Title

Appeal of Administrative Decision that MacKenzie Childs Cannot Operate a Subordinate Accessory Use to a Permitted Principal Use in a Separate and Distinct Commercial Tenant Space from the Principal Use

Presenter

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

Supporting Documents

- [Memorandum Dated June 2, 2016 From John S. Page, Director of Planning, Zoning and Building](#)
- [Exhibit A](#)
- [Exhibit B](#)
- [Exhibit C, Part 1](#)
- [Exhibit C, Part 2](#)
- [Exhibit D](#)
- [Exhibit E](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 15, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Appeal of Administrative Decision that MacKenzie Childs Cannot Operate a Subordinate Accessory Use to a Permitted Principal Use in a Separate and Distinct Commercial Tenant Space from the Principal Use

Date: June 2, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council uphold Staff's decision that accessory uses that are subordinate to a principal use (such as storage, and shipping and handling) cannot be located in a separate and distinct tenant space from the principal use.

BACKGROUND

The subject property which is located at 240 Worth Avenue is in the Commercial Worth Avenue (C-WA) zoning district. On April 8, 2016, Fire Inspection reported to the Planning, Zoning and Building Department that MacKenzie Childs, a retail store that sells household goods on Worth Avenue (238 Worth Avenue), was using Suite M, 240 Worth Avenue for storage of its products. Suite M is a separate tenant space on the property. Storage is neither a permitted or special exception use in the C-WA district (Exhibit A).

On April 8, 2016, the Department reported that code violation to Code Enforcement. On April 27, 2016 and April 29, 2016, Staff advised Ms. Jane Rankin, attorney for Palm V Associates, via email that the Zoning Code does not permit MacKenzie Childs to use the space for the principal use of storage (See Exhibit B).

On May 24, 2016, both MacKenzie Childs and the property owner, Palm V Associates, was issued a notice of violation and hearing by Code Enforcement for operating a storage use which is not a permitted use in the Commercial Worth Avenue (C-WA) zoning district (Exhibit C).

On May 26, 2016, Town Staff visited the subject property and walked through Suite M with the store manager. The tenant space is being substantially used for storage and shipping on the second floor, back side of the via on the subject property. The subject space has no retail sales component; is not connected to the retail store by a door or opening; and has other tenant spaces and a hallway separating it from the store. Any MacKenzie Childs employee wishing to access the "accessory space" must exit the store on Worth Avenue and walk into the via, then into an open hallway, unlock the tenant space door directly into a flight of internal stairs, thereafter walking up to the second floor where the tenant space is located. Exhibit D identifies the retail store tenant space and the storage and handling/back-of-the-house tenant space.

Mr. John Eubanks, the attorney for the property owner (Palm V Associates), is appealing the administrative decision. His appeal is attached as Exhibit E. He basically asserts that a permitted principal use can occupy other separate and distinct tenant spaces for customarily subordinate accessory uses such as storage, shipping, handling and other traditional back of the house activities.

Staff strongly disagrees. An accessory use is a subordinate use which is customarily incidental to a permitted principal use in a zoning district. While it is permitted to have a retail use with subordinate accessory uses such as storage, breakroom, bathroom and/or office uses, it is not permitted to have those “subordinate uses” in a separate tenant space or building on the same property. Storage and shipping are not a permitted or special exception use allowed in the C-WA district. To allow commercial tenants to use other separate tenant spaces for back-of-the-house activities would set a bad precedent. If the appeal is upheld, commercial store fronts, and all other commercial tenant spaces in the Town’s commercial districts, could be used for all types of customary “subordinate” accessory uses to permitted principal uses in commercial districts.

Staff recommends that the Council uphold the administrative decision that accessory uses that are subordinate to a principal use cannot be in separate and distinct tenant space from the principal permitted use unless they are permitted uses in the zoning district. If you have any questions, please do not hesitate to contact Paul Castro, Zoning Administrator, at 227-6406.

Attachments

cc: Jay Boodheshwar, Deputy Town Manager
Veronica B. Close, Asst. Director, Planning, Zoning & Building
Paul Castro, Zoning Administrator
Susan A. Owens, Town Clerk
Kirk Blouin, Director of Public Safety
John C. Randolph, Town Attorney
John Eubanks, Esquire
zf & pf

Sec. 134-1120. Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00)

Secs. 134-1121—134-1155. Reserved.

DIVISION 9. C-WA WORTH AVENUE
DISTRICT*

Sec. 134-1156. Purpose.

The purpose of the C-WA Worth Avenue district is to preserve and enhance an area of unique quality and character oriented to pedestrian comparison shopping and providing a wide range of retail and service establishments, to be developed whether as a unit or as individual parcels, serving the shortterm and longterm needs of townpersons. Drive-in retail facilities are not permitted. Further it shall be the intent of this district to enhance the town-serving character of the area through use of limitations on maximum gross leasable area (GLA), thereby reducing the problems of parking and traffic congestion determined to result from establishments of a region-serving scale.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i),

2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-05, § 1, 3-8-05)

Sec. 134-1157. Permitted uses.

(a) *Enumeration; maximum gross leasable area.* The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 square feet of gross leasable area (GLA), are as follows:

- (1) Antiques.
- (2) Apparel and accessories.
- (3) Art galleries.
- (4) Art services.
- (5) Bed and bath boutiques.
- (6) Cards/gifts.
- (7) Crafts.
- (8) Drugstore/pharmacy.
- (9) Fabrics.
- (10) Flowers/florist.
- (11) Furniture.
- (12) Hair styling/beauty salon.
- (13) Interior decorating sales/services.
- (14) Jewelry.
- (15) Kitchenwares.
- (16) Luggage/leather goods.
- (17) News/books.
- (18) Optical goods.
- (19) Perfumery.
- (20) Photographic services/studios.
- (21) Shoes.
- (22) Retail specialty foods, including incidental sale of prepared foods for takeout.
- (23) Stationery.
- (24) Essential services.
- (25) Tobacconist.
- (26) Toys.
- (27) TV and electronic items.

*Cross reference—Businesses, ch. 22.

- (28) Offices and professional and business services, including banks and financial institutions, and executive office suites located above the first floor.
- (29) Combinations of the uses in subsections (a)(1) through (28) of this section.

(b) *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 4,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 4,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 4,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 4,000 square feet, in a district with a 4,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 10,000 square feet exists in the C-WA district and the owner wishes to change to an antique store of the same size or subdivide into two 5,000 square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 4,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 4,000 square feet.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord.

No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-02, § 11, 3-12-02; Ord. No. 1-04, §§ 18, 23, 3-9-04; Ord. No. 1-05, § 3, 3-8-05; Ord. No. 2-2011, § 5, 7-13-11)

Sec. 134-1158. Accessory uses.

The accessory uses in the C-WA Worth Avenue district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Accessory uses customarily incident to the permitted or approved special exception uses.
- (4) Administrative approval of outdoor seating for dining purposes, subject to the standards and criteria contained in sections 134-2104 through 134-2108, supplemental district regulations.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 8, 4-15-09)

Sec. 134-1159. Special exception uses.

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

- (1) Pay parking.

- (2) Public or private parking or storage garages.
- (3) Private social, swimming, tennis or yacht clubs.
- (4) Public structures/uses.
- (5) Supplemental parking.
- (6) Restaurants, nightclubs, lounges/bars, excluding formula restaurants as defined in section 134-2.
- (7) Museums and nonprofit cultural centers.
- (8) Retail and service activities, cited under permitted uses in section 134-1157, which contain greater than 4,000 square feet GLA.
- (9) Uses not specifically enumerated under permitted uses in section 134-1157 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein.
- (10) Reserved.
- (11) Any commercial establishment with greater than 4,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.
- (12) Roof-deck automobile parking.
- (13) Outdoor seating in conjunction with permitted restaurants where administrative approval is not being requested. See section 134-1161 for additional conditions.
- (14) Public structures.

(b) An owner or tenant of a property, located within the C-WA district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing business tax receipt.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-

81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(5), 2-7-94; Ord. No. 1-96, § 17, 2-5-96; Ord. No. 2-98, § 3, 2-27-98; Ord. No. 1-02, § 10, 3-12-02; Ord. No. 1-03, § 3, 3-11-03; Ord. No. 1-04, § 29, 3-9-04; Ord. No. 4-08, § 9, 4-7-08; Ord. No. 5-09, § 9, 4-15-09; Ord. No. 2-2011, § 6, 7-13-11; Ord. No. 10-2012, § 4, 9-11-12)

Sec. 134-1160. Accessory structures.

(a) *Generally.* Enclosed accessory structures in the C-WA Worth Avenue district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.

(b) *Dish antennas.* A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade; shall be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this commercial zoning district shall be screened from public view,

EXHIBIT "B"

Jane Rankin

From: PCastro@TownofPalmBeach.com [mailto:PCastro@TownofPalmBeach.com]
Sent: Wednesday, April 27, 2016 2:37 PM
To: Jane C. Rankin
Cc: Randolph, John C.; JPage@TownofPalmBeach.com; DMorakis@TownofPalmBeach.com
Subject: 240 Worth Avenue, Suite M

Dear Ms. Rankin,

Based on the Code Enforcement citation of MacKenzie Childs, please be advised that the Town cannot issue a business tax receipt for said business to use any commercial tenant space for storage use. Staff has made an administrative determination that storage is not a permitted or special exception principal use in the Worth Avenue (C-WA) Zoning District. While some storage is customarily accessory to a permitted or special exception use within the C-WA District, it is not permitted as the principal use of a commercial tenant space in that District.

If you have any further questions, please contact me at 227-6406.

Regards,

Paul Castro
Zoning Administrator

LAW OFFICES



Professional Association
Founded 1963

www.kubickidraper.com

Jane C. Rankin

Shareholder

Direct (954) 713-2324

Fax (954) 768-0514

jcr@kubickidraper.com

One East Broward Blvd, Suite 1600

Fort Lauderdale Florida 33301

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RE: 240 Worth Avenue, Suite M

Paul Castro to: Jane C. Rankin

04/29/2016 03:23 PM

Cc: "Randolph, John C.", "JPage@TownofPalmBeach.com",
"DMorakis@TownofPalmBeach.com"

Ms. Rankin,

Please look at Sec. 134-1157(a) of the Code of Ordinances. I cannot find a permitted use category in the District where the subject tenant space is located (C-WA District) that resembles your description of what is already in that space. As such, as I have already determined, I cannot sign-off on this use in that District. However, if you still insist on meeting, I am not available until mid-week, next week. I am available at 11:30 a.m. or noon on Wednesday, or 9, 10 or 11 a.m. on Thursday. As far as code enforcement action, I have no control over code enforcement and can't advise you on that issue. You will need to contact the number on the citation and discuss that issue with them.

Regards,

Paul Castro,
Zoning Administrator t

"Jane C. Rankin"

[Mr. Castro, In response to the information below...](#)

04/29/2016 01:02:10 PM

From: "Jane C. Rankin" <jcr@kubickidraper.com>
To: "PCastro@TownofPalmBeach.com" <PCastro@TownofPalmBeach.com>
Cc: Randolph, John C. <JRandolph@jonesfoster.com>, "JPage@TownofPalmBeach.com" <JPage@TownofPalmBeach.com>, "DMorakis@TownofPalmBeach.com" <DMorakis@TownofPalmBeach.com>, "Burt Handelsman (Burt@loverealtywalkingstreets.com)" <Burt@loverealtywalkingstreets.com>
Date: 04/29/2016 01:02 PM
Subject: RE: 240 Worth Avenue, Suite M

Mr. Castro,

In response to the information below, yesterday afternoon Mr. Handelsman and I visited the rear unit for the MacKenzie Childs store to inspect the site. We can confirm that it has a staff office (desk, compute, etc.), staff kitchen, merchandise packing area, daily stock replacement/sales materials area (viz: shopping bags, etc.) and the premises is used daily for the receipt and unpacking of goods (vs. on the street which is a visible activity with many of the other retailers), outbound shipping of goods and transit area for goods going in and out of the store. We are advised by the tenant and Mr. Handelsman confirms that the premises has been used in this matter since his company's purchase of the building in the early 1980's. In any event, the premises is not a storage unit and it is manned by staff during retail hours.

We would request that there be a meeting on site to view the premises with the appropriate parties from the Town such that a reassessment can be made and also, until the on site meeting can be accomplished, that all enforcement actions by the Town be stayed.

Thank you in advance for your review of this matter. We would suggest Monday afternoon or at 10 on Tuesday morning for the site meeting if that would meet with your schedule.

Regards,

The Law Offices of

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

Peter L. Breton
Francis X. J. Lynch
John R. Eubanks, Jr.
Marta M. Suarez-Murias
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Facsimile: (561) 721-4001

May 19, 2016

Via Hand Delivery

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

**Re: Appeal by Palm V Associates, Ltd. of Administrative Decision and
Determination that Accessory Use Which Is Customarily Incident to a
Permitted Use in C-WA Worth Avenue District Constitutes Improper
Primary Use as "Storage"**

Dear Mayor and Town Council:

Our office represents, Palm V Associates, Ltd., the owner and landlord ("Landlord") of that real property located at 224 to 246 Worth Avenue ("Property")¹ along with the building ("Building")² thereon.³ The present appeal arises from what the Landlord believes (hopefully) is a just a misunderstanding over the use of a portion of the Building by one of its tenants, MacKenzie Childs of Florida LLC ("Tenant").

I. Background

A. Tenant Operates Permitted Use Retail Store

The Tenant operates a retail store ("Store") specializing in an eclectic assortment of household accessories including, but not limited to, tableware, kitchenware, furniture, bed and bath items, home decor, garden accessories, children's gifts, toys, jewelry, fabric products and interior decorating sales and services, all of which are specifically enumerated as permitted uses

¹ A true and correct copy of the Trustee's Deed dated February 20, 1986 and recorded in ORB 4799, page 612 of the Public Records of Palm Beach County demonstrating the Landlord's ownership of the Property along with the legal description of the Property is attached hereto as Exhibit "A."

² The Building itself covers twelve lots (Lots 5 to 16 of Block 18) in the Plat Book for Worth Avenue which include the street addresses of 224 to 246 Worth Avenue. A copy of the most recent Survey for the Property is attached hereto as Exhibit "B." Due to the fact that there is only one large sprawling, interconnected Building on the Property, the Property has only one Parcel Control Number (50-43-43-23-05-018-0050) as reflected within the Property Appraiser's Website, a printout of which is attached hereto as Exhibit "C."

³ As the owner and Landlord of the Property directly involved in the present case, Palm V Associates Limited Partnership is clearly an aggrieved person "affected by any decision of an administrative official under any section of this chapter" and as such has standing under Section 134-143 of the Town Code of Ordinances ("Code") as a person "authorized to appeal."

within the C-WA Worth Avenue Commercial District under Section 134-1157 of the Code of Ordinances ("Code") of the Town of Palm Beach ("Town").⁴ In operating its Store, the Tenant (as is true of virtually every other retail tenant along the south side of Worth Avenue) does not have enough room solely within its limited (2,000 s.f.) storefront for the day-to-day inventory and stock required to operate a successful retail business. As a result, as part of its lease, the Tenant also occupies an additional area located on the second floor in the rear of the Building (the "Back of the Store").⁵

**B. Back of the Store Operates as Permitted Accessory Use
And Receives Annual Fire Inspection and Business Licenses for Five Years**

The Back of the Store is actively used throughout the business day for the receiving and unpacking of goods (as opposed to unloading items on the street as is often the case with other retailers along Worth Avenue) in the morning, the tracking and fulfilling of online orders, the constant pulling of new stock and inventory items off the shelves to fulfill or replace purchases within made within the Store throughout the day, and the shipping of gifts and merchandise to customers homes and friends at the end of the day which are then entered into the Store's computer system in the upstairs office space. In addition, the Back of the Store contains an employee office/break area and kitchen as well as an employee bathroom. As such, the Back of the Store does not operate independently as a "primary" or "principal use," but instead functions as a subordinate, accessory use for those activities customarily incident to the principal operation of the Store. As such the Back of the Store is by definition a permitted accessory use under Section 134-1158 of the Town Code.

As detailed further within the Affidavit of Renee Bakarian, the Store Manager (a copy of which is attached hereto as Exhibit "D"), since opening its doors in early 2011, the Tenant has continuously operated with the use of both the Store and Back of the Store in the manner set forth above. Each year in February from 2011 to 2016 the Fire Department performed its Annual Fire and Life Safety Inspection ("Fire Inspection") under Section 46-68 of the Town Code for both the Store and the Back of the Store (identified under the main address of the Store)⁶ and each year the Store has applied for, paid for, and received its annual Business Tax Receipt.⁷ At no time did either the Tenant or the Landlord ever receive any notification at all from the Town that the Tenant was purportedly "improperly" operating either the Store or the

⁴ The retail operation of MacKenzie Childs is best demonstrated by a review of its website at <http://www.mackenzie-childs.com>

⁵ Again, the Building itself takes up the entire Property (Lots 5 to 16 of Block 8 of the Worth Avenue Plat) and includes the street addresses of 224 to 246 Worth Avenue. As such, although seemingly separated by a via, the Store and Back of the Store are physically connected to and part of the same Building. Furthermore, as detailed below, under Section 134-2 of the Town Code a primary and accessory use need not be physically connected if they are in located on the same "lot" defined under the Code to include "any number of contiguous lots of records" which include platted lots. As such, the Store and the Back of the Store are located on the same "lot."

⁶ A copy of the Annual Fire Inspections for the Store and Back of the Store from February 2011 to February 2016 are attached to Ms. Bakarian's Affidavit as Composite Exhibit "1."

⁷ A copy of the Annual Business Tax Receipts for the Store and Back of the Store are attached hereto to Ms. Bakarian's Affidavit as Composite Exhibit "2."

Back of the Store (as "storage" or otherwise) for over five (5) years. As a result, in reliance on the course of performance created through its relationship with the Town, the Tenant has continued to operate the Store and the Back of the Store in the same manner as it has since its opening.

C. Code Enforcement Violation and Administrative Determination

After operating in the same manner for over five (5) years, recently on April 3, 2016 the Tenant was visited for a second time in one year for a Fire Inspection by the Fire Department.⁸ The Tenant walked the Fire Inspector through the Back of the Store. In its second inspection, however, while not noted in the February inspection, the Fire Department indicated that the Exit lights in the Back of the Store needed to be fixed. Such replacement was quickly completed, as demonstrated by the "Compliance With Notice" executed and returned by the Tenant (as reflected in Exhibit "3" to Ms. Bakarian's Affidavit) demonstrating that the repairs were made prior to April 18, 2016. No other issues were raised or identified by the Fire Department within the April 2016 inspection.

As a result, the Tenant and the Landlord were surprised (on or about April 22, 2016) to receive a Code Violation Warning dated April 19, 2016 indicating that the Back of the Store was being operated as an unpermitted "storage unit" for which the Tenant needed to "come into compliance" by May 3, 2016.⁹ Upon inquiry to the Code Enforcement Department, the Landlord was informed that the Code Violation Warning was not the result of any Fire Code violations, but instead was instigated by the Business Tax Receipts Office based upon the characterization by the Fire Inspector that the Back of the Store was used primarily as a "storage area," which was not a permitted use. Upon inquiry by its counsel, Jane C. Rankin, Esq., the Landlord was informed for the first time through an e-mail dated April 27, 2016 by Paul Castro, the Zoning Administrator of the Town, that the Town Staff had made an "administrative determination" (the "Staff Determination") that the Back of the Store was being operated with the "principal use" as a storage area.¹⁰ More specifically, Mr. Castro asserted in his e-mail that:

*Staff has made an administrative determination that storage is not a permitted or special exception principal use in the Worth Avenue (C-WA) Zoning District. While some storage is customarily accessory to a permitted or special exception use within the C-WA District, it is not permitted as the principal use of a commercial tenant space in that District.*¹¹

⁸ The fact that the Fire Department visited the Store and Back of the Store for a second time in one year is legally troubling given that a second visit (without any apparent reason or probable cause of a violation) is outside the scope or the parameters of Section 46-68 of the Town Code, under which there is only to be one Annual Fire and Life Safety Inspection each year, for which the Tenant is responsible for paying.

⁹ A copy of the Code Violation Warning dated April 19, 2016 is attached hereto as Exhibit "E." Because the Code Violation Warning was sent not to the Landlord but to the owner of the adjacent building to the west, a second Code Violation Warning was sent on May 3, 2016 ("Amended Code Violation Warning") to the Landlord. A copy of the Amended Code Violation Warning is attached hereto as Exhibit "F."

¹⁰ The Affidavit of Ms. Rankin is attached hereto as Exhibit "G."

¹¹ A copy of from Mr. Castro's email of April 27th is attached to Ms. Rankin's Affidavit as Exhibit "3."

In response, via e-mail dated April 29, 2016 counsel for the Landlord attempted to explain the fact that the Back of the Store did not operate separately and independently from the Store and was not a "storage area" at all but an integral permitted accessory use of the Store as detailed above.¹² Nevertheless, in his reply e-mail Mr. Castro indicated that the Back of the Store could no longer operate as it had been for by the Tenant for over five (5) years and in the same manner as the Landlord indicated it had been used since the early 1980s.¹³ In addition, Mr. Castro made it clear that in light of the Staff Determination (which was incorporated into the Code Enforcement Code Violation Warning) "the Town cannot issue a business tax receipt for said business to use any commercial space for storage use." Absent a business tax receipt, the Tenant will no longer be able to legally operate the Store or the Back of the Store. Given that the Tenant has been operating in the same manner for over five (5) years (as well as virtually every retail space on the south side of Worth Avenue for an even longer time period) with the direct knowledge and consent of the Town, coupled with the fact that without the Back of the Store neither the present Tenant nor any future tenant will be able to operate its business, much less pay rent to the Landlord,¹⁴ the Landlord was compelled to file the present appeal.

As detailed below, the Landlord believes there are a series of both legal and factual issues which demonstrate that the Staff Determination was in error and should be reversed so that the Tenant (and/or any future Tenant) may continue to utilize the Back of the Store in the future in the same manner it has been used since "the early 1980s." As such, the Landlord respectfully requests that the Town Council overrule the Staff Determination in this matter for the reasons set forth below.

II. Basis for Appeal

A. Back of the Store is an Accessory Use not a Principal Use

As a preliminary matter, again, there appears to be a misunderstanding as to the use of the Back of the Store by the Tenant. The Back of the Store is an accessory use of the Store (which clearly meets the criteria set forth within Section 134-1157 of the Town Code) and as such is a permitted accessory use under Section 134-1158 of the Town Code. Both the Store and the Back of the Store are located on one lot as defined by the Town Code and are also physically connected by the one sprawling Building occupying the Property.¹⁵

¹² A copy of the e-mail on April 29th from Ms. Rankin to Mr. Castro is attached as Exhibit "4" to her Affidavit.

¹³ A copy of Mr. Castro's reply e-mail of April 29th to Ms. Rankin is attached as Exhibit "5" to her Affidavit.

¹⁴ As the Council can imagine, the Landlord is concerned that unless the Back of the Store issue is resolved in short order the Tenant may attempt to terminate and/or not renew its lease. While the Landlord hopes this will not be the case, if it turns out that it is the path taken by the Tenant, it will cost the Landlord a substantial amount of lost rents and revenues based upon what the Landlord believes is an improper Staff Determination.

¹⁵ Under Section 134-2, a "lot" is defined as a parcel of land whether vacant or occupied and "shall be taken to mean any number of contiguous lots of record." A "lot of record" in turn "means a parcel of land as originally subdivided ...and properly recorded as a lot within a subdivision or plat." Given that the lots under the Deed for the Property are "lots of record" the Building, including the Store and Back of the Store are located on one lot.

The Back of the Store does not operate independently, but instead is subordinate to the primary retail use of the Store in that it provides an office for receiving, the tracking and fulfilling of online orders, the constant delivery of new stock and inventory off the shelves to fulfill or replace purchases within the Store, and the shipping of gifts and merchandise for customers of the Store at the end of the day. It also contains an employee kitchen, break area and bathrooms which are solely for the employees of the Store.

By contrast the Staff Determination is focused only on an improper *principal* use as a storage. For example, on its face, the Staff Determination indicates that “*storage is not a permitted or special exception principal use in the Worth Avenue (C-WA) Zoning District*” and that while Staff admits that “*storage is customarily accessory to a permitted use*,” which as demonstrated is how the Back of the Store is used, the Staff Determination concludes that storage “*is not permitted as the principal use of a commercial tenant space in that District*.” Therefore, Mr. Castro concludes the Tenant will no longer be permitted to obtain its required Business Tax Receipt.

As a result, it appears clear that there is a disconnect between the actual use of the Back of the Store and Staff’s misunderstanding of its use primarily for “storage.” Consequently, the Staff Determination should be reversed so that the Back of the Store can continue to be used by the Tenant (and any future tenant) in the manner in which it has been used for years.

B. Lack of Competent Substantial Evidence to Support Staff Determination

Part of the problem which the Landlord and Tenant are having in dealing with Staff is that the Staff Determination, which has the potential to close the Tenant’s business and leave the Landlord with an empty space, is not based upon competent, substantial evidence. As set forth within the Affidavit of Ms. Bakarian, the manager of the Store, the only inspection of the Store and the Back of the Store was by the Fire Inspector, which identified one single issue (regarding the Exit sign lighting) which has since been corrected.

At no time has the Tenant ever been visited by anyone from the Code Enforcement Division (including Officer Burgoon who signed the Code Violation Warning), the Business Tax Receipts Office, or the Planning and Zoning Department in order to interview the Tenant as to the actual operation of the Store and the Back of the Store as an accessory use to the Store, or to physically inspect the Back of the Store to see how it operates in subordination to the primary retail use of the Store. Instead, the decision by Code Enforcement, the Business Tax Receipts Department and Planning and Zoning all seem to be based upon a characterization by the Fire Department Inspector and/or a notation on the most recent Fire Inspection Report that the Back of the Store was “storage” coupled with the fact that in the past a separate stand alone retail space may have once operated on the first floor of the Building with the same suite number.¹⁶

¹⁶ While Suite 240(M) had once been used in conjunction with ground floor retail, there has long since been a wall between the first floor retail space (which is presently vacant) and the stairway to the Back of the Store. In addition, much of which is known as Suite 240 (M) is actually located above Suite 240(H).

Competent, substantial evidence “has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred.” *DeeGroot v. Sheffield*, 95 So. 2d 912,916 (Fla. 1957). As such, “it is evidence a reasonable mind would accept to support a conclusion.” *Id.* In the present case there is no factual evidence at all (much less competent substantial evidence) which would support the Staff Determination that the Back of the Store is operating separately and independently in a manner in which its “principal use” is as “storage.” To the contrary, the only competent substantial evidence from Ms. Bakarian and Ms. Rankin’s Affidavit is that the Back of the Store has been operating as an accessory use to the Store by this Tenant with the Town’s knowledge and agreement for over five (5) years, and with prior tenants reaching back into the 1980s. As such, the Staff Determination should be overruled and reversed.

C. Town is Estopped from Claiming Use of Back of Store is Suddenly Not Permitted

Outside of the apparent lack of competent substantial evidence to support the Staff Determination, the Town and its Staff are estopped from attempting to claim that the Back of the Store has a “principal use” as storage and/or that “the Town cannot issue a business tax receipt for said business to use any commercial tenant space for storage use” thereby essentially forcing the Tenant to close its Store. As detailed above, based upon the Town’s prior representations and course of conduct, including, but not limited to, its annual Fire Inspections and issuance of Business Tax Receipts under which the Tenant was permitted to operate both the Store and Back of the Store, all of which were reasonably relied upon by the Tenant and Landlord in changing their legal positions, the Town cannot now suddenly change its prior position in a manner which would put the Tenant out of business and leave the Landlord without a tenant (and/or future tenant) for both the Store and the Back of the Store.

In such situations, the courts have consistently found that the doctrine of equitable estoppel may be invoked against a municipality as if it were an individual for purposes of protecting property owners when there has been a representation as to a material fact that is contrary to a later asserted position. *See, e.g., Sun Cruz Casinos v. City of Hollywood*, 844 So.2d 681 (Fla. 4th DCA 2003)(evidence supported finding that city was equitably estopped from enforcing zoning code to prohibit two gaming boats from operating as accessory use); *Dolphin Outdoor Advertising v. Dept. of Trans.*, 582 So.2d 709 (Fla. 1st DCA 1991)(DOT was estopped from revoking permit for outdoor advertising after official told that application and location were “fine.”); *Franklin County v. Leisure Properties Ltd.*, 430 So.2d 475 (Fla. 1st DCA 1983)(county equitably estopped to deny building permits for multifamily development after substantial expense on water system); *City of North Miami v. Margulies*, 289 So.2d 424 (Fla. 3d DCA 1974)(City was equitably estopped from denying building permit once plaintiff incurred extensive financial obligations in reliance on zoning of property); *City of Lauderdale Lakes v. Corn*, 427 So.2d 239 (Fla. 4th DCA 1983)(City was equitably estopped to deny owner’s rights in original zoning classification when used as representation to induce annexation).

Similarly, in the present case, the Town should be equitably estopped from denying the issuance of any Business Tax Receipt (which is a mandatory, ministerial act under the Town Code) to the Tenant after the Town has established a course of conduct permitting the use of the Store and Back of the Store to operate together and issuing Business Tax Receipts for the same. Therefore, the Staff Determination should be overruled and reversed.

D. Staff Determination Would Result in Unintended Loss of Businesses on Worth Avenue

Outside of the above factual and legal arguments, the Staff Determination should be reversed as it will necessarily result in the unintended consequences of a loss of businesses along Worth Avenue. As set forth within Section 134-1156 of the Town Code, "[t]he purpose of the C-WA Worth Avenue district *is to preserve and enhance a wide range of retail and service establishments.*" (emphasis added). To do so, "it shall be the intent of this district to enhance the town-serving character of the area through the use of *limitations on maximum gross leasable area* (GLA)." (emphasis added). Unfortunately, the Staff Determination runs directly afoul of the express purposes of the C-WA Worth Avenue District.

In order to entice and keep world class businesses on Worth Avenue, while at the same time limiting the gross leasable area of the stores in which they can operate, each and every store on Worth Avenue is necessarily forced to create (in one way or another) a "back of the house" area in which it can receive inventory, utilize that inventory throughout the day within their stores, and then ship items requested to customers homes and properties throughout the world. Under the Staff Determination, each one and every one of those "back of the house" operations would be deemed to have a principal use as "storage" and therefore would not be permitted, leaving the related stores in the position of not receiving the Business Tax Receipts which they need to operate. This is exactly the case reflected in Ms. Bakarian's Affidavit in which she indicates that without the both the Store and Back of the Store operating together MacKenzie Childs would not be able to continue to operate. In order to avoid even the possibility of the loss of multiple businesses along Worth Avenue the Staff Determination should be reversed.

E. Arguments Recently Raised by Staff are Not Supported by Town Code

While neither the Landlord nor the Tenant in this case were given a detailed explanation as to the basis for the Staff Determination (as reflected in the Affidavits of Ms. Bakarain and Ms. Rankin) in following up with the Planning and Zoning Department, the undersigned was informed that (in the absence of Mr. Castro)¹⁷ it appeared that the Staff Determination was based at least in part upon on the arguments that:

1. We have a record of several stand-alone retail businesses that have occupied the subject "storage site" in years past.
2. PZB recognizes that it would be customary for a retail business to have a "back-of-house" area for misc. support services. However, the "storage site" is not physically tied to

¹⁷ One of the difficulties in dealing with several issues in the present case is the clearly understandable absence of Mr. Castro due to the death of his mother. In Mr. Castro's absence it has been difficult to determine both the basis for the Staff Determination as well as the date on which the Staff Determination was "rendered" under Section 134-145 of the Town Code. As a result, the present appeal was filed at the earliest possible date in order to avoid any argument that the Landlord has not filed its appeal within the required 30 day period. While it remains the Landlord's desire to resolve the issues herein upon Mr. Castro's return, to the extent Mr. Castro has any additional basis for the Staff Determination the Landlord will address them in a Supplement to this appeal.

McKenzie Childs. McKenzie Childs is accessed from Worth. The subject "storage" site is accessed off the Via.

3. It appears as though the land use has changed. "Storage, warehousing, office," etc. is not a permitted use in the zoning district.¹⁸

After reviewing the above arguments, however, they do not appear to be well taken. Instead, as confirmed in Ms. Rankin's Affidavit:

1. While in the past there may have been one or more "stand-alone" businesses located in Suite 240 #M which included ground floor retail, there has long since been a wall between the first floor retail space (which is vacant) and the stairway to second floor MacKenzie Childs Back of the Store. As such, there is no connection between the Back of the Store and the first floor retail area in Suite 240#M.¹⁹
2. There is no requirement for MacKenzie Childs' Store and Back of the Store to be physically connected under the Town Code in order for the Back of the Store to operate as an accessory use to the Store. Again, if this were the case most of the south side of Worth Avenue would be put out of business as the bulk of the store require a "back of the house" area in order to operate. However, in this case, as reflected in the Survey both the Store and the Back of the Store *are* physically connected by the sprawling Building located on the Property.

Again, even if this were not the case, under Section 134-2 of the Town Code an accessory use is defined as "a subordinate use or structure incident to the principal use or structure located on a lot..." As detailed above, the MacKenzie Childs Back of the Store is subordinate to the principal use of the Store both of which are located on the same lot under the applicable definitions of the Town Code. Therefore the Back of the Store should by definition be a permitted accessory use.

3. The Landlord has been unable to find any such change in land use under the Town Code. Even if the fact that the Back of the Store is a permitted accessory use could be overlooked (which it cannot), there do not appear to be any recent changes in the past 10 years which address the areas described by the Town. In the last ten years: a) Ordinance 1-05 deleted office and professional use from the first floor in C-WA as reflected in 134-1156(28); b) Ordinance 2-2011 increased the Town Serving square footage threshold in the C-WA District; and c) Ordinance No. 7-2014 which prohibited a veterinarian office in the C-WA district (also as reflected in 134-1168 (28)).²⁰

¹⁸ A copy of an e-mail from John Page dated May 17, 2016 setting for the above issues along with the undersigned response thereto is attached hereto as Exhibit "H."

¹⁹ The Back of the Store also includes an office area which in and of itself should be a permitted use in the C-WA district under 134-1156(28).

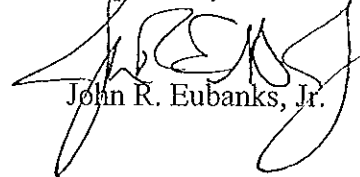
²⁰ Copies of the Ordinances, along with copies of all of the sections of the Town Code referenced herein are included and attached hereto as an Appendix.

In the meantime, MacKenzie Childs has been permitted by the Town to operate in the same manner as it is doing so now for over 5 years through its annual fire inspections and issuance of Business Tax Receipts, leaving the Town equitably estopped from suddenly altering its position. Again, the Landlord remains concerned that unless the issue is resolved, it may be used to terminate and/or fail to renew the Tenant's Lease which will cost the Landlord a substantial sum of money for what the Landlord believes is an incorrect Staff Determination.

4. As reflected in her Affidavit, Ms. Rankin was not provided with or have any of the above arguments by the Town raised or explained to her. Instead she only receive the cursory e-mails from Mr. Castro indicating that there had been a "staff determination" that the space was being operated with "principal use" as storage and therefore the Tenant would not be entitled to renew its Business Tax Receipt.

In light of the arguments and responses, once again, it appear that the Landlord and Town (hopefully) merely have a misunderstanding as to the nature and operation of the Back of the Store which operates as a subordinate, accessory use for those activities customarily incident to the principal operation of the retail Store. As a result, to the extent the issues herein cannot be resolved before this appeal is brought before the Town Council, the Landlord would respectfully request that the Town Council overrule and reverse the Staff Determination and return the parties to the status quo of the operation of the Store and Back of the Store in the same manner in which the Tenant has operated for years.

Respectfully Submitted,



John R. Eubanks, Jr.

Enclosures

cc: Palm V Associates, Ltd.
Tom Bradford, Town Manager
John Page, Director of Planning Zoning and Building
Paul Castro, Zoning Administrator
John C. "Skip" Randolph, Esq., Town Attorney

EXHIBIT “A”

5965R
022086

Documentary Tax \$ 78.28.00

Intangible Tax \$ 0.00
Clark, Palm Beach County, Florida

TRUSTEE'S DEED

KNOW ALL MEN BY THESE PRESENTS, that A. OBIE STEWART and DARRAH M. OPDAHL, as Co-Trustees of the Emile L. Schmidt Trust Agreement dated April 16, 1982, as to an undivided seventy percent (70%) interest and FIRST NATIONAL BANK IN PALM BEACH, as Trustee of the Residuary Trust established under the Last Will and Testament of Flora D. Schmidt, deceased, as to an undivided thirty percent (30%) interest (collectively, "Grantor"), acting in pursuance and by virtue of the powers in them vested by a deed dated the 2nd day of July, 1985, recorded in Official Records Book 4698, Page 908, Public Records of Palm Beach County, Florida, and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, have remised, released and conveyed and do remise, release and forever convey to PALM V ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership ("Grantee"), that certain land situate and being in Palm Beach County, Florida (the "Property"), more particularly described as follows:
with an address at Suite 300, 1045 West Atlantic Avenue, Delray Beach, Florida 33444,

Lots 5 through 16, inclusive, Block 18, Royal Park-Addition, Town of Palm Beach, according to the Plat thereof as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida.

SUBJECT TO restrictions, reservations, limitations, conditions, easements and agreements of record, taxes for the year 1986 and all subsequent years; all applicable environmental, zoning and land use ordinances; all assessments whether or not of record; all other conditions imposed by governmental authority; the interests of all tenants under leases with respect to the Property; any matters which would be disclosed by an accurate survey and inspection of the Property.

TO HAVE AND TO HOLD, the same in fee simple forever.

This instrument was prepared by and should be returned to:
Lewis F. Crippen, Esquire
Gunster, Yoakley, Criser & Stewart, P.A.
777 South Flagler Drive
West Palm Beach, FL 33401-6194

86 044772

1986 FEB 24 AM 10:00

14,072.00.00

2.00 1P

136C

76,125.60

B4799 P0612

THIS
AND Grantor does hereby covenant with Grantee that, except as noted above, at the time of delivery of this Trustee's Deed the Property was free from all encumbrances made by Grantor, and that Grantor will warrant and defend the same against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, WE, A. OBIE STEWART, DARRAH M. OPDAHL and FIRST NATIONAL BANK IN PALM BEACH, as Trustees, here set our hands and seals this 20TH day of February, 1986.

Signed, Sealed and Delivered
in the Presence of:

James J. Crisp
H. R. [Signature]

(As to A. Obie Stewart)

James J. Crisp
H. R. [Signature]

(As to Darrah M. Opdahl)

A. Obie Stewart

A. Obie Stewart
as Co-Trustee of the Emile L.
Schmidt Trust Agreement dated
April 16, 1982

Darrah M. Opdahl

Darrah M. Opdahl
as Co-Trustee of the Emile L.
Schmidt Trust Agreement dated
April 16, 1982

James J. Crisp
H. R. [Signature]

(As to First National Bank
in Palm Beach)

FIRST NATIONAL BANK IN PALM BEACH

By:

McParland Skelly
T. McParland Skelly, Vice President
as Trustee of the Residuary Trust
Established under the last Will and
Testament of Flora D. Schmidt,
deceased

B4799 P0613

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me
this 20th day of February, 1986, by A. Obie Stewart, as Co-Trustee
of the Emile L. Schmidt Trust Agreement dated April 16, 1982.

My Commission Expires:

Notary Public State of Florida at Large
My Commission Expires October 8, 1989
Bonded Thru Cornelius, Johnson & Clark, Inc.

Lynn J. Crippen
NOTARY PUBLIC

(Notarial Seal)

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me
this 20th day of February, 1986, by Darrah M. Opdahl, as Co-Trustee
of the Emile L. Schmidt Trust Agreement dated April 16, 1982.

My Commission Expires:

Notary Public State of Florida at Large
My Commission Expires October 8, 1989
Bonded Thru Cornelius, Johnson & Clark, Inc.

Lynn J. Crippen
NOTARY PUBLIC

(Notarial Seal)

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me
this 20th day of February, 1986, by T. McFarland Skelly, the Vice
President of FIRST NATIONAL BANK IN PALM BEACH, as Trustee of the
Residuary Trust established under the Last Will and Testament of
Flora D. Schmidt, deceased.

My Commission Expires:

Notary Public State of Florida at Large
My Commission Expires October 8, 1989
Bonded Thru Cornelius, Johnson & Clark, Inc.

Lynn J. Crippen
NOTARY PUBLIC

(Notarial Seal)

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

84799 P0614

EXHIBIT “B”

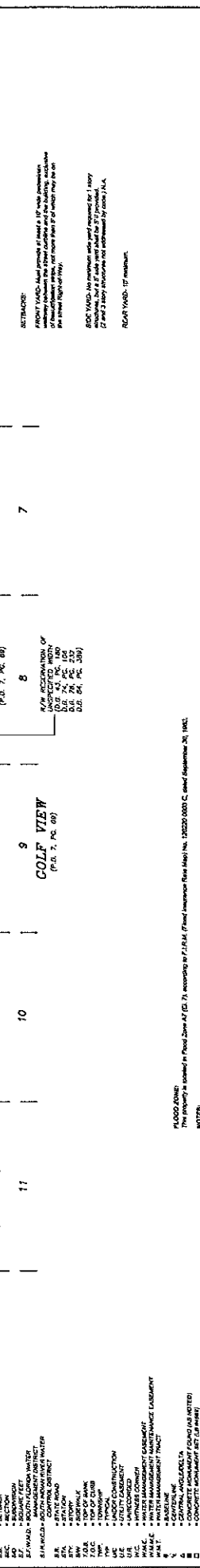
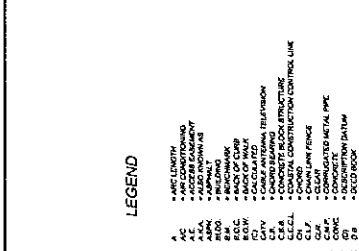


EXHIBIT “C”



Gary R. Nikolits, CFA
Property Appraiser
 Palm Beach County

Homestead Exemption **E-file**



Location Address 224 WORTH AVE

Municipality PALM BEACH

Parcel Control Number 50-43-43-23-05-018-0050

Subdivision ROYAL PARK ADD TO P B IN

Official Records Book 04799

Page 0612

Sale Date FEB-1986

Legal Description ROYAL PARK ADD LTS 5 TO 16 INC BLK 18

Owners

PALM V ASSOC LTD

Mailing address

LOVE REALTY C/O PO BOX 28
 WHITE PLAINS NY 10605 0028

Sales Date	Price	OR Book/Page	Sale Type	Owner
FEB-1986	\$14,025,600	04799 / 0612	DEED OF TRUST	
JUL-1985	\$100	04598 / 0908	DEED OF TRUST	

No Exemption Information Available.

Number of Units 0 *Total Square Feet 43711 Acres 0.9986
 Use Code 1200 - STORE/OFFICE/RESIDENTIAL Zoning CWA - (50-PALM BEACH)

Tax Year	2015	2014	2013
Improvement Value	\$9,550,647	\$7,665,747	\$3,307,647
Land Value	\$15,183,240	\$15,183,284	\$13,771,665
Total Market Value	\$24,733,887	\$22,849,031	\$17,079,312

All values are as of January 1st each year

Tax Year	2015	2014	2013
Assessed Value	\$20,665,967	\$18,787,243	\$17,079,312
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$20,665,967	\$18,787,243	\$17,079,312

Tax Year	2015	2014	2013
Ad Valorem	\$400,789	\$371,757	\$308,213
Non Ad Valorem	\$102,778	\$102,448	\$100,074
Total tax	\$503,567	\$474,205	\$408,287

EXHIBIT “D”

AFFIDAVIT OF RENEE BAKARIAN

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared RENEE BAKARIAN, who being first duly sworn, deposes and says.

1. My name is RENEE BAKARIAN, I am over the age of eighteen and otherwise competent to testify to the matters presented herein.

2. This Affidavit is based upon my personal knowledge in my capacity as the Manager of the Palm Beach Store ("Store") of Mackenzie Childs located in the 224 to 246 Building ("Building") on Worth Avenue, which is owned by Palm V Associates, Limited Partnership ("Landlord"). MacKenzie Childs opened its Palm Beach Store in February of 2011.

3. Under its Lease with the Landlord, MacKenzie Childs rents two separate areas of the Building consisting of its retail Store (of approximately 2,000 square feet), along with additional space behind the Store (identified as Suite 240 (M))¹ which is utilized for the day-to-day inventory and stock required to operate a successful retail business (the "Back of the Store"). Without the use of the Back of the Store, the Store by itself would be able to continue to operate and/or survive financially.

4. Within its Store, MacKenzie Childs sells an eclectic assortment of household accessories including, but not limited to, tableware, kitchenware, furniture, bed and bath items, home decor, garden accessories, children's gifts, toys, jewelry, fabric products and interior decorating sales and services,

¹ While I am told that Suite 240(M) had once been used in conjunction with ground floor retail store, there has been a wall between the first floor retail space (which is presently vacant) and the stairway to the Back of the Store since MacKenzie Childs took possession of the Back of the Store. In addition, much of which is known as Suite 240 (M) is actually located above Suite 240(H).

all of which I understood to be enumerated permitted uses within the C-WA Worth Avenue Commercial District under the applicable Code of Ordinances (“Code”) of the Town of Palm Beach (“Town”).

5. The Back of the Store is actively used throughout the business day in support of the Store’s operation, including, but not limited to, the receiving and unpacking of goods in the morning, the tracking and fulfilling of online orders, the constant pulling of new stock and items off the shelves to fulfill or replace purchases within made within the Store during the day, and the shipping and processing of gifts and merchandise to customers’ homes and friends at the end of the day which get entered into the store’s computer system in the upstairs office space. In addition, the Back of the Store contains an employee office/break area and kitchen as well as an employee bathroom.

6. As such, the Back of the Store does not operate independently as a primary or principal use, but instead functions as a subordinate, accessory use for those activities which are customarily incidental to the operation of the Store in a manner which has been approved by the Town. Since opening its doors in 2011, MacKenzie Childs has always operated in the manner set forth herein.

7. Each year in February from 2011 to 2016 the Town Fire Inspector performed an Annual Fire and Life Safety Inspection (“Fire Inspection”) on both the Store and the Back of the Store. During each Fire Inspection I would walk the Fire Inspector through both the Store and the Back of the Store in order to allow him to see the operation of each area. A true and correct copy of the Fire Inspection Reports which were issued as a result of these inspections is attached hereto as Composite Exhibit “1.”

8. Likewise, each year since the Store opened in 2011 MacKenzie Childs would apply for, pay for, and receive an annual Business Tax Receipt from the Town. A true and correct copy of the Business Tax Receipts received from the Town are attached hereto as Composite Exhibit “2.”

9. At no point during this time period did I ever receive any notification at all from the Town that MacKenzie Childs was purportedly “improperly” operating either the Store or the Back of the Store for over five (5) years. Instead, as the manager of the Store, I relied on the Town’s consent to MacKenzie Childs continued operation of the Store and the Back of the Store in the same manner it has always operated in ordering merchandise and authorizing the continued payment of rent to the Landlord.

10. Recently on or about April 3, 2016, I was visited a second time in one year by the Fire Department by a new Fire Inspector, Charles Colson. I walked the Fire Inspector through the Back of the Store.

11. As reflected in the Fire Inspection Report of the second inspection, however, while not noted in the February inspection, the Fire Inspector indicated that the Exit Lights in the Back of the Store needed to be repaired. A true and correct copy of the Second Fire Inspection Report is attached hereto as Exhibit “3.”

12. In response to the same, I authorized and obtained the requested repairs on or before April 18, 2016. As a result, I executed and returned the required documentation certifying that the requested repairs had been made, a true and correct copy of which is included within Exhibit “3.”

13. As a result, I was surprised to receive a call from the MacKenzie Childs corporate office in New York on my day off on April 22, 2016 that they had received a Code Violation Warning (“Warning”) dated April 19, 2016 for the Palm Beach Store. A true and correct copy of the Warning is attached hereto as Exhibit “4.”

14. Upon receipt of a copy of the Warning it made no sense to me as the Warning had nothing to do with the second Fire Inspection, but instead was a warning that the Back of the Store was

being cited as being used for the “principal” use as an unpermitted “a storage unit” and that MacKenzie Childs needed to come into compliance by May 3, 2016.

15. I had no idea the basis for the Warning since the Back of the Store was not a “storage area” but instead is integral to the support of the primary operation of the Store. In addition, MacKenzie Childs is operating the Store and the Back of the Store in the exact same manner it had been operating for over five (5) years.

16. As a result, I contacted the Landlord’s representative and described to him the contents of the Warning. Thereafter, it is my understanding that the Landlord and its counsel have been following up on the issue with the Town.

17. At no time since receiving the Warning have I ever been visited by or even received a phone call from anyone from: a) the Code Enforcement Division of the Town (including Officer Burgoon who signed the Warning); b) the Business Tax Receipts Office; and/or c) the Planning and Zoning Department in order to explain the Warning, discuss the operation of the Store and the Back of the Store, or even to come and inspect the Back of the Store to see how it operates.

18. Instead, I have been informed by the Landlord’s counsel that the Town has taken the position that there has been “an administrative determination” that the Back of the Store is being improperly used as a “storage area” which is not the case. I have also been informed by the Landlord’s counsel, as no notice was provided to MacKenzie Childs, that the Town is taking the position that unless MacKenzie Childs discontinues using the Back of the Store in the same manner in which it had been for five (5) years it will not be permitted to renew its Business Tax Receipt which would be needed for the continued operation of the Store.

19. While I have recently received a second Warning letter from the Code Enforcement Department of the Town dated May 3, 2016 which includes the correct Landlord, I have never received anything in writing at all from the Town or any of its departments setting forth any "administrative determination" regarding the Back of the Store or how any conclusion thereunder were made without even contacting me.

FURTHER AFFIANT SAYETH NAUGHT.

Dated this 18th day of May, 2016.

Renee Bakarian
RENEE BAKARIAN

STATE OF FLORIDA
COUNTY OF PALM BEACH

Sworn to and subscribed before me this 18th day of May, 2016, by RENEE BAKARIAN, as Store Manager of Mackenzie Childs, who is:

 personally known to me, **OR**
✓ has produced Fla DR License as identification.

(NOTARY STAMP)

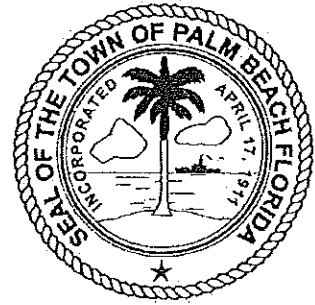
Mary Ann Rodriguez
Notary Name: _____
Serial (Commission) Number _____
(if any) _____



EXHIBIT “1”



Palm Beach Fire Rescue
Standard Inspection
300 North County Road
Palm Beach, Florida 33480
Office 561-227-6440
Fax 561-838-5408



Occupant Name:	Mackenzie-Childs	InspectionType:	Business / Mercantile / Professional
Address:	238 Worth Avenue	Inspected By:	Shift *
City:	Palm Beach		561-227-6440

Congratulations! You have passed your inspection. Thank you for maintaining a safe occupancy. There were no fire code violations identified during your inspection. We appreciate your time and effort in keeping the public safe. If you have any questions, please call our office at (561) 227-6440.

Inspector Comments: INSPECTION CONDUCTED 02.08.2016

Palm Beach Fire Rescue
Office of Fire Prevention and Life Safety
300 North County Rd.
Palm Beach, FL 33480
561-227-6440

Invoice #	16021815513
Invoice Date	2/18/2016
Balance Due	\$100.00
Due Date	3/19/2016

Please remit payment by due date above. Please make checks payable to Palm Beach Fire Rescue.

PLEASE INCLUDE YOUR INVOICE NUMBER WITH PAYMENT.

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

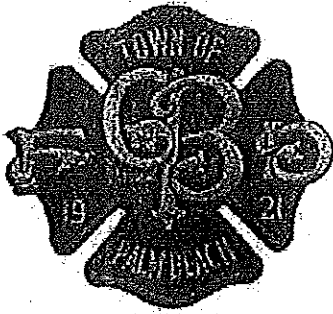
Invoice

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

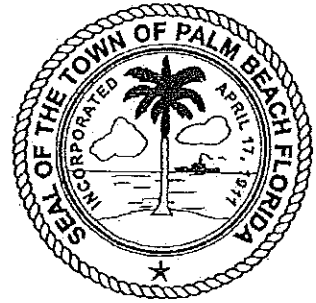
Invoice #16021815513
2/18/2016

Description	Amount Owed	Amount Paid	Date Paid
Business / Mercantile / Professional Inspection	\$100.00	\$0.00	
<i>JB 2-22-16 GL 6069579</i>			
Subtotal:	\$100.00	\$0.00	
Balance Due:	\$100.00		

Fire Prevention Tip of the Month:
Make sure to create a safety plan to deal with all sorts of emergencies. The main thing is get out, get low and roll.



Palm Beach Fire Rescue
Standard Inspection
300 North County Road
Palm Beach, Florida 33480
Office 561-227-6440
Fax 561-838-5408



Occupant Name:	Mackenzie-Childs	InspectionType:	Business / Mercantile / Professional
Address:	238 Worth Avenue	Inspected By:	Shift *
City:	Palm Beach		561-227-6440

Congratulations! You have passed your inspection. Thank you for maintaining a safe occupancy. There were no fire code violations identified during your inspection. We appreciate your time and effort in keeping the public safe. If you have any questions, please call our office at (561) 227-6440.

Palm Beach Fire Rescue
Office of Fire Prevention and Life Safety
300 North County Rd.
Palm Beach, FL 33480
561-227-6440

Invoice #	15021815520
Invoice Date	2/18/2015
Balance Due	\$100.00
Due Date	3/20/2015

Please remit payment by due date above. Please make checks payable to Palm Beach Fire Rescue.

PLEASE INCLUDE YOUR INVOICE NUMBER WITH PAYMENT.

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

Invoice

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

Invoice #15021815520
2/18/2015

Description	Amount Owed	Amount Paid	Date Paid
Business / Mercantile / Professional Inspection	\$100.00	\$0.00	
<i>Handwritten:</i> 0-2-15 <i>Handwritten:</i> GL Code 6069579			
Subtotal:	\$100.00	\$0.00	
Balance Due:	\$100.00		

Fire Prevention Tip of the Month:

Make sure to create a safety plan to deal with all sorts of emergencies. The main thing is get out, get low and roll.

TOWN OF PALM BEACH FIRE RESCUE DEPARTMENT - FIRE COMPANY INSPECTION CHECKLIST

300 North County Rd. Palm Beach, FL 33480

Telephone #561-227-6440 Fax#561-838-5427

www.townofpalmbeach.com

OCCUPANT NAME:

ADDRESS:

EST.

DATE OF INSPECTION:

OFFICER NAME:

SHIFT:

COMPANY:

REVIEWED BY:

Certified Fly Inspector Signature

Date _____

A: REQUIRED MEANS OF EGRESS: NFPA 101	YES	NO	NA
1. Are exits unobstructed?			
2. Are approved exit signs used? (Min. 6" letters)			
3. Are required exit sign bulbs lit?			
4. Are exit aisles unobstructed? (Min. 36" in clear-width)			
5. Does panic hardware operate properly?			
6. Are exit stairways unobstructed and marked properly?			

B. BUILDING SERVICES: NFPA 101	YES	NO	NA
1. Are the emergency keys accessible?			
2. Are required elevator keys present and tested?			
3. Are there maintenance records for generator?			

C. KNOX BOX:	YES	NO	NA
1. Is the Knox box readily accessible?			
2. Are the keys clearly marked and current?			

D. EXTINGUISHERS: NFPA 10, 101	YES	NO	NA
1. Are extinguishers properly mounted? (>4 in. - <5 ft.)			
2. Are extinguishers fully charged?			
3. Are extinguishers accessible? (Within 75ft travel distance)			
4. Are the required # of extinguishers present?			
5. Do extinguishers have a current annual inspection?			

E. MECHANICAL/SERVICE/STORAGE ROOMS: NFPA 1	YES	NO	NA
1. Are combustibles stored properly?			
2. Are flammable liquids stored properly?			
3. Are rated doors in closed position and there are no door stop devices installed?			
4. Are mechanical rooms clear of combustible storage?			

F. SPRINKLER/STANDPIPES: NFPA 13, 14, 25	YES	NO	NA
1. Are sprinkler/standpipe systems inspected quarterly? (Date ____/____/____)			
2. Are OS&Y valves secured in an open position?			
3. Are all sprinkler heads clear & unobstructed?			
4. Are the F.D.C.'s accessible?			
5. Are the F.D.C.'s in good working condition and capped?			

G. FIRE ALARM SYSTEMS: NFPA 72	YES	NO	NA
1. Is the fire alarm system(s) inspected quarterly? (Date <u> </u> / <u> </u> / <u> </u>)			
2. Are all pull boxes in good condition?			
3. Is F.A.C.P. supervisory signal tested quarterly? (Date <u> </u> / <u> </u> / <u> </u>)			
4. Are all smoke/heat detectors in good condition?			
5. Is the annunciator panel in trouble free condition?			
6. Is the battery back-up present and connected?			
7. Name of Alarm Company:			
8. Alarm Company Phone #:			

H. ELECTRICAL: NFPA 70:	YES	NO	NA
1. Are panel covers mounted and secured?			
2. Is all wiring properly enclosed & protected?			
3. Extension cords are not used in place of permanent wiring.			
4. Are the use power strips UL/FM listed?			
5. Do the emergency lights operate?			
6. Are breaker spaces enclosed?			

I. FEATURES OF FIRE PROTECTION; NFPA 101	YES	NO	NA
1. Are all pipe chases sealed?			
2. Are all vertical openings protected/enclosed?			
3. Self-closing doors are operational and do not have hold open devices installed.			

J. COOK EQUIPMENT: NFPA 96	YES	NO	NA
1. Are the hood systems free of excess grease?			
2. Are the fire suppression systems serviced semi-annually? (Date <u> </u> / <u> </u> / <u> </u>)			
3. Are the grease cooking appliances protected?			
4. Are all cooking appliances under hood system?			
5. Is a Class K fire extinguisher located near cooking area?			

K. SPECIAL HAZARDS: NFPA 58, 101	YES	NO	NA
1. Are compressed gases stored and secured properly?			
2. Are hazardous materials stored properly?			

L. CLEANLINESS AND ORDER: NFPA 101	YES	NO	NA
1. Are ceiling tiles present and in good condition?			
2. Are trash chutes operating properly?			
3. Do the trash chute doors close?			

M. SIGNAGE: NFPA 101	YES	NO	NA
1. Are proper address numbers used (Min. 6" lettering)			
2. Are units and rooms properly marked? (Min. 2" lettering)			
3. Are occupant load limit signs posted?			
4. Is there stair signage for buildings 5 or more stories?			

N. HYDRANTS: NFPA 24	YES	NO	NA
1. Are hydrants visible and accessible?			
2. Are hydrant markers in place?			
3. Is hydrant operable?			

TOTAL NUMBER OF VIOLATIONS: _____

REINSPECTION REQUIRED: Y N

APPROXIMATE DATE OF REINSPECTION: _____

OUTSTANDING VIOLATIONS REMAINING: _____

AED ON SITE: Y N IF AED ONSIGHT, IS IT REGISTERED: Y N

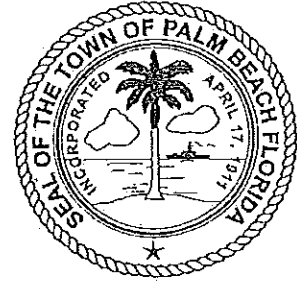
AED FLYER PROVIDED AND BENEFITS DISCUSSED: Y N

SAFETY INSTRUCTIONS PROVIDED: (List) _____

COMMENTS:



Palm Beach Fire Rescue
Standard Inspection
300 North County Road
Palm Beach, Florida 33480
Office 561-227-6440
Fax 561-838-5408



Occupant Name:	Mackenzie-Childs	InspectionType:	Business / Mercantile / Professional
Address:	238 Worth Avenue	Inspected By:	Shift *
City:	Palm Beach		561-227-6440

Congratulations! You have passed your inspection. Thank you for maintaining a safe occupancy. There were no fire code violations identified during your inspection. We appreciate your time and effort in keeping the public safe. If you have any questions, please call our office at (561) 227-6440.

Palm Beach Fire Rescue
Office of Fire Prevention and Life Safety
300 North County Rd.
Palm Beach, FL 33480
561-227-6440

Invoice #	14022515502
Invoice Date	2/25/2014
Balance Due	\$100.00
Due Date	3/27/2014

Please remit payment by due date
above. Please make checks payable
to Palm Beach Fire Rescue.

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

**PLEASE INCLUDE YOUR INVOICE
NUMBER WITH PAYMENT.**

Invoice

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

Invoice #14022515502
2/25/2014

Description	Amount Owed	Amount Paid	Date Paid
Business / Mercantile / Professional Inspection <i>Code 6069579</i> <i>LB 3/3/14</i>	\$100.00	\$0.00	
Subtotal:	\$100.00	\$0.00	
Balance Due:	\$100.00		

Fire Prevention Tip of the Month:

Make sure to create a safety plan to deal with all sorts of emergencies. The main thing is **get out, get low and roll.**

Invoice #	13022715504
Invoice Date	2/27/2013
Balance Due	\$100.00
Due Date	3/29/2013

PLEASE INCLUDE YOUR INVOICE
NUMBER WITH PAYMENT.

Invoice

Invoice #13022715504
2/27/2013

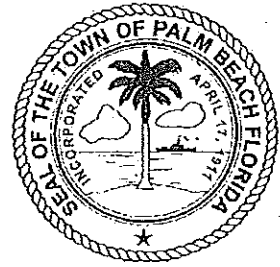
Description	Amount Owed	Amount Paid	Date Paid
Business / Mercantile / Professional Inspection	\$100.00	\$0.00	
Subtotal:	\$100.00	\$0.00	
Balance Due:	\$100.00		

Fire Prevention Tip of the Month:
Make sure to create a safety plan to deal with all sorts of emergencies. The main thing is **get out, get low and roll**.

63 3/4/13 GL code 6069 570



Palm Beach Fire Rescue
Standard Inspection
300 North County Road
Palm Beach, Florida 33480
Office 561-227-6440
Fax 561-838-5408



Occupant Name:	Mackenzie-Childs	InspectionType:	Business / Mercantile / Professional
Address:	238 Worth Avenue	Inspected By:	Shift *
City:	Palm Beach		561-227-6440

Pass Fail N/A

FL NFPA 101 07

Floor 1

Chapter 7 Means of Egress

- ☐ ☒ ☐ 7.9.2.1 Emergency lights, when required, shall be repaired or replaced as needed.

Emergency illumination shall be provided for not less than 1½ hours in the event of failure of normal lighting. Emergency lighting facilities shall be arranged to provide initial illumination that is not less than an average of 1 ft-candle.

Check and repair all emergency lighting.

Inspector Comments: Inspection completed on 2/6/12

Inspector will return on or after 3/6/2012

By order of the Fire Marshal of the Town of Palm Beach Fire Rescue Department, the life safety hazards listed above must be corrected by the date indicated or this report will be forwarded to the Code Enforcement Board of the Town of Palm Beach for further action and you will be subject to additional reinspection fees.

Warning: Fire or injury resulting from delay or failure to comply with this notice will be attributed to negligence on the part of the responsible parties.

Compliance with this Notice: The undersigned hereby represents that by signing this certificate and returning it to the Palm Beach Fire Rescue within 30 days from the date of the inspection via mail or fax, the code violations listed above have been corrected. The undersigned acknowledges that the Palm Beach Fire Rescue may determine not to conduct a reinspection, and may fully rely upon the representation that the code violations have been corrected.

Owner/Occupant

Signature: _____ Date: _____
(Attesting that all violations have been corrected)

Palm Beach Fire Rescue
Office of Fire Prevention and Life Safety
300 North County Rd.
Palm Beach, FL 33480
561-227-6440

Invoice #	12020715509
Invoice Date	2/7/2012
Balance Due	\$100.00
Due Date	3/8/2012

Please remit payment by due date above. Please make checks payable to Palm Beach Fire Rescue.

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

**PLEASE INCLUDE YOUR INVOICE
NUMBER WITH PAYMENT.**

Invoice

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

Invoice #12020715509
2/7/2012

Description	Amount Owed	Amount Paid	Date Paid
Business / Mercantile / Professional Inspection <i>JB 2/15/12 GR code 6569079</i>	\$100.00	\$0.00	
Subtotal:	\$100.00	\$0.00	
Balance Due:	\$100.00		

Fire Prevention Tip of the Month:

Make sure to create a safety plan to deal with all sorts of emergencies. The main thing is get out, get low and roll.



TOWN OF PALM BEACH FIRE RESCUE DEPARTMENT - FIRE COMPANY INSPECTION CHECKLIST

300 North County Rd. Palm Beach, FL 33480

Telephone #561-227-6440 Fax#561-838-5427

www.townofpalmbeach.com

OCCUPANT NAME: Mockingbird ChildADDRESS: 2300 Palm Beach STE. 1DATE OF INSPECTION: 2-6-12OFFICER NAME: LT. DwyerSHIFT: ACOMPANY: 51REVIEWED BY: 1

Certified Fire Inspector Signature

Date

A. REQUIRED MEANS OF EGRESS: NFPA 101	YES	NO	NA
1. Are exits unobstructed?	☒	☐	☐
2. Are approved exit signs used? (Min. 6" letters)	☒	☐	☐
3. Are required exit sign bulbs lit?	☒	☐	☐
4. Are exit aisles unobstructed? (Min. 36" in clear width)	☒	☐	☐
5. Does panic hardware operate properly?	☒	☐	☐
6. Are exit stairways unobstructed and marked properly?	☒	☐	☐

B. BUILDING SERVICES: NFPA 101	YES	NO	NA
1. Are the emergency keys accessible?	☐	☐	☒
2. Are required elevator keys present and tested?	☐	☐	☒
3. Are there maintenance records for generator?	☐	☐	☒

C. KNOX BOX:	YES	NO	NA
1. Is the Knox box readily accessible?	☐	☐	☒
2. Are the keys clearly marked and current?	☐	☐	☒

D. EXTINGUISHERS: NFPA 10, 101	YES	NO	NA
1. Are extinguishers properly mounted? (>4 in. - <5 ft.)	☒	☐	☐
2. Are extinguishers fully charged?	☒	☐	☐
3. Are extinguishers accessible? (Within 75ft travel distance)	☒	☐	☐
4. Are the required # of extinguishers present?	☒	☐	☐
5. Do extinguishers have a current annual inspection?	☒	☐	☐

E. MECHANICAL/SERVICE/STORAGE ROOMS: NFPA 1	YES	NO	NA
1. Are combustibles stored properly?	☒	☐	☐
2. Are flammable liquids stored properly?	☐	☐	☒
3. Are rated doors in closed position and there are no door stop devices installed?	☐	☐	☒
4. Are combustibles stored in mechanical rooms?	☐	☒	☐

F. SPRINKLER/STANDPIPES: NFPA 13,14,25	YES	NO	NA
1. Are sprinkler/standpipe systems inspected quarterly? (Date <u>1/1/12</u>)	☐	☐	☒
2. Are OS&Y valves secured in an open position?	☐	☐	☒
3. Are all sprinkler heads clear & unobstructed?	☐	☐	☒
4. Are the F.D.C.'s accessible?	☐	☐	☒
5. Are the F.D.C.'s in good working condition and capped?	☐	☐	☒

G. FIRE ALARM SYSTEMS: NFPA 72	YES	NO	NA
1. Is the fire alarm system(s) inspected quarterly? (Date <u>1/1/12</u>)	☐	☐	☒
2. Are all pull boxes in good condition?	☐	☐	☒
3. Is F.A.C.P. supervisory signal tested quarterly? (Date <u>1/1/12</u>)	☐	☐	☒
4. Are all smoke/heat detectors in good condition?	☐	☐	☒
5. Is the annunciator panel in trouble free condition?	☐	☐	☒
6. Is the batter back-up present and connected?	☐	☐	☒
7. Name of Alarm Company:			
8. Alarm Company Phone #:			

H. ELECTRICAL: NFPA 70	YES	NO	NA
1. Are panel covers mounted and secured?	☒	☐	☐
2. Is all wiring properly enclosed & protected?	☒	☐	☐
3. Is there use of extension cords in place of permanent wiring? If so, note as a violation.	☐	☒	☐
4. Are the use power strips UL/FM listed?	☐	☐	☒
5. Do the emergency lights operate?	☐	☒	☐
6. Are breaker spaces enclosed?	☐	☐	☒

I. FEATURES OF FIRE PROTECTION: NFPA 101	YES	NO	NA
1. Are all pipe chases sealed?	☒	☐	☐
2. Are all vertical openings protected/enclosed?	☒	☐	☐
3. Self closing doors shall not be secured in open position.	☒	☐	☐

J. COOK EQUIPMENT: NFPA 96	YES	NO	NA
1. Are the hood systems free of excess grease?	☐	☐	☒
2. Are the fire suppression systems serviced semi-annually? (Date <u>1/1/12</u>)	☐	☐	☒
3. Are the grease cooking appliances protected?	☐	☐	☒
4. Are all cooking appliances under hood system?	☐	☐	☒
5. Is a Class K fire extinguisher located near cooking area?	☐	☐	☒

K. SPECIAL HAZARDS: NFPA 58, 101	YES	NO	NA
1. Are compressed gases stored and secured properly?	☐	☐	☒
2. Are hazardous materials stored properly?	☐	☐	☒

L. CLEANLINESS AND ORDER: NFPA 101	YES	NO	NA
1. Are ceiling tiles present and in good condition?	☐	☐	☒
2. Are trash chutes operating properly?	☐	☐	☒
3. Do the trash chute doors close?	☐	☐	☒

M. SIGNAGE: NFPA 101	YES	NO	NA
1. Are proper address numbers used (Min. 6" lettering)	☒	☐	☐
2. Are units and rooms properly marked? (Min. 2" lettering)	☒	☐	☐
3. Are occupant load limit signs posted?	☐	☐	☒
4. Is there stair signage for buildings 5 or more stories?	☐	☐	☒

N. HYDRANTS: NFPA 24	YES	NO	NA
1. Are hydrants visible and accessible?	☒	☐	☐
2. Are hydrant markers in place?	☒	☐	☐
3. Is hydrant operable?	☒	☐	☐

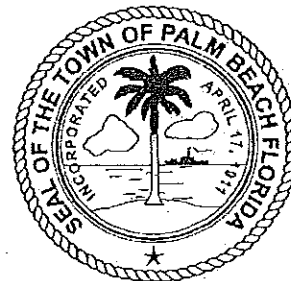
TOTAL NUMBER OF VIOLATIONS:	<u>1</u>
REINSPECTION REQUIRED:	<u>Y</u> <u>N</u>
APPROXIMATE DATE OF REINSPECTION:	<u>3-6-12</u>
OUTSTANDING VIOLATIONS REMAINING:	
AED ON SITE:	<u>Y</u> <u>N</u>
SAFETY INSTRUCTIONS PROVIDED:	

COMMENTS:

Remove emergency lights



Palm Beach Fire Rescue
Standard Inspection
300 North County Road
Palm Beach, Florida 33480
Office 561-227-6440
Fax 561-838-5408



Occupant Name:	Mackenzie-Childs	Inspection Date:	2/1/2011
Address:	238 Worth Avenue	Inspection Type:	Business / Mercantile / Professional
City:	Palm Beach	Inspected By:	Michael Curcio 561-227-6440

Congratulations! You have passed your inspection. Thank you for maintaining a safe occupancy. There were no fire code violations identified during your inspection. We appreciate your time and effort in keeping the public safe. If you have any questions, please call our office at (561) 227-6440.

Inspector Comments: Update fire extinguishers.

Invoice #	1102014001
Invoice Date	2/1/2011
Balance Due	\$100.00
Due Date	3/3/2011

Mackenzie-Childs
238 Worth Avenue
Palm Beach FL 33480

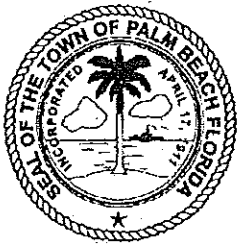
Invoice

Invoice #1102014001
2/1/2011

Description	Amount Owed	Amount Paid	Date Paid
Business / Mercantile / Professional Inspection	\$100.00	\$0.00	
Subtotal:	\$100.00	\$0.00	
Balance Due:	\$100.00		

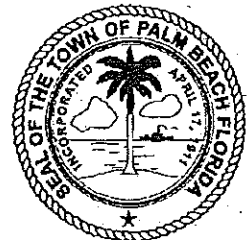
Make sure to create a safety plan to deal with all sorts of emergencies. The main thing is **get out, get low and roll**.

EXHIBIT “2”



Town of Palm Beach

Planning, Zoning & Building Department



BUSINESS TAX RECEIPT

Attached hereto is your Town of Palm Beach Business Tax Receipt
for the business tax year: 2015/2016

PLEASE NOTE THAT THIS BUSINESS TAX RECEIPT WILL EXPIRE ON
September 30, 2016

Pursuant to the Town of Palm Beach Code of Ordinances, Section 114-40, "All business tax receipts shall be posted at the designated place of business so that they may be visible to patrons of such place of business"

Town of Palm Beach, P.O. Box 2029, Palm Beach, FL 33480 Business Tax Office (561) 227-6411

10% PENALTY DUE OCTOBER 1
15% PENALTY DUE NOVEMBER 1
20% PENALTY DUE DECEMBER 1
25% PENALTY DUE JANUARY 1

Town of Palm Beach

BUSINESS TAX RECEIPT
FISCAL YEAR: 2015/2016
RECEIPT EXPIRES SEPTEMBER 30, 2016

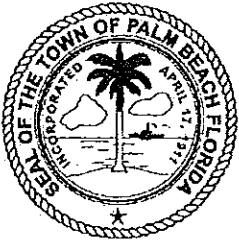
FOR BUSINESS LOCATED AT: 238 WORTH AVE
CLASSIFICATION: Merchant, 401-2,000 sq ft
SQ.FT. OCCUPIED: 1800 # UNITS:
CONDITION:

UNIT TYPE:

TOWN RECEIPTS #: 00040234
BUSINESS TAX: \$ 402.00
ISSUE DATE: 10/1/15
COMMENTS:

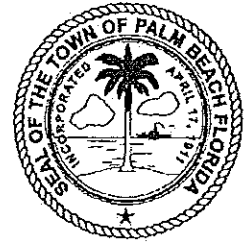
BUSINESS TAX PAYER: RENEE BAKARIAN
BUSINESS NAME: MACKENZIE-CHILDS
CORPORATE NAME: MACKENZIE-CHILDS OF FLORIDA LLC
MAILING ADDRESS: 238 WORTH AVE
PALM BEACH, FL 33480

THIS RECEIPT MUST BE CONSPICUOUSLY DISPLAYED AT BUSINESS LOCATION
Business Tax Payer is required to comply with all applicable laws of the Town or other government agencies



Town of Palm Beach

Planning, Zoning & Building Department



BUSINESS TAX RECEIPT

Attached hereto is your Town of Palm Beach Business Tax Receipt
for the business tax year: 2014/2015

PLEASE NOTE THAT THIS BUSINESS TAX RECEIPT WILL EXPIRE ON
September 30, 2015

Pursuant to the Town of Palm Beach Code of Ordinances, Section 114-40, "All business tax receipts shall be posted at the designated place of business so that they may be visible to patrons of such place of business"

Town of Palm Beach, P.O. Box 2029, Palm Beach, FL 33480 Business Tax Office (561) 227-6411

10% PENALTY DUE OCTOBER 1
15% PENALTY DUE NOVEMBER 1
20% PENALTY DUE DECEMBER 1
25% PENALTY DUE JANUARY 1

Town of Palm Beach

BUSINESS TAX RECEIPT
FISCAL YEAR: 2014/2015

RECEIPT EXPIRES SEPTEMBER 30, 2015

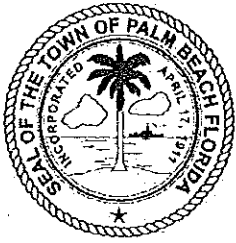
FOR BUSINESS LOCATED AT: 238 WORTH AVE
CLASSIFICATION: Merchant, 401-2,000 sq ft
SQ.FT. OCCUPIED: 1800 # UNITS:
CONDITION:

UNIT TYPE:

TOWN RECEIPTS #: 00040234
BUSINESS TAX: \$ 383.00
ISSUE DATE: 10/1/14
COMMENTS:

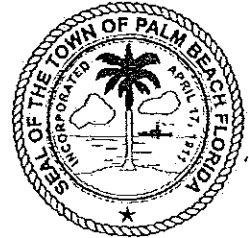
BUSINESS TAX PAYER: RENEE BAKARIAN
BUSINESS NAME: MACKENZIE-CHILDS
CORPORATE NAME: MACKENZIE-CHILDS OF FLORIDA LLC
MAILING ADDRESS: 238 WORTH AVE
PALM BEACH, FL 33480

THIS RECEIPT MUST BE CONSPICUOUSLY DISPLAYED AT BUSINESS LOCATION
Business Tax Payer is required to comply with all applicable laws of the Town or other government agencies



Town of Palm Beach

Planning, Zoning & Building Department



BUSINESS TAX RECEIPT

Attached hereto is your Town of Palm Beach Business Tax Receipt
for the business tax year: 2013/2014

PLEASE NOTE THAT THIS BUSINESS TAX RECEIPT WILL EXPIRE ON
September 30, 2014

Pursuant to the Town of Palm Beach Code of Ordinances, Section 114-40, "All business tax receipts shall be posted at the designated place of business so that they may be visible to patrons of such place of business"

Town of Palm Beach, P.O. Box 2029, Palm Beach, FL 33480 Business Tax Office (561) 227-6411

10% PENALTY DUE OCTOBER 1
15% PENALTY DUE NOVEMBER 1
20% PENALTY DUE DECEMBER 1
25% PENALTY DUE JANUARY 1

Town of Palm Beach

BUSINESS TAX RECEIPT
FISCAL YEAR: 2013/2014
RECEIPT EXPIRES SEPTEMBER 30, 2014

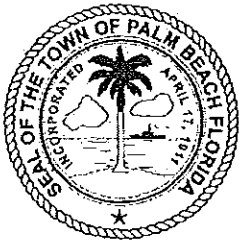
FOR BUSINESS LOCATED AT: 238 WORTH AVE
CLASSIFICATION: Merchant, 401-2,000 sq ft
SQ.FT. OCCUPIED: 1800 # UNITS:
CONDITION:

UNIT TYPE:

TOWN RECEIPTS #: 00040234
BUSINESS TAX: \$ 383.00
ISSUE DATE : 10/1/13
COMMENTS:

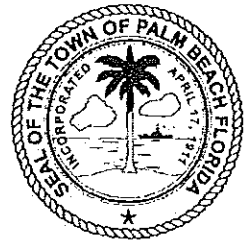
BUSINESS TAX PAYER: RENEE BAKARIAN
BUSINESS NAME: MACKENZIE-CHILDS
CORPORATE NAME: MACKENZIE-CHILDS OF FLORIDA LLC
MAILING ADDRESS: 238 WORTH AVE
PALM BEACH, FL 33480

THIS RECEIPT MUST BE CONSPICUOUSLY DISPLAYED AT BUSINESS LOCATION
Business Tax Payer is required to comply with all applicable laws of the Town or other government agencies



Town of Palm Beach

Planning, Zoning & Building Department



BUSINESS TAX RECEIPT

Attached hereto is your Town of Palm Beach Business Tax Receipt
for the business tax year: 2012/2013

PLEASE NOTE THAT THIS BUSINESS TAX RECEIPT WILL EXPIRE ON
September 30, 2013

Pursuant to the Town of Palm Beach Code of Ordinances, Section 114-40, "All business tax receipts shall be posted at the designated place of business so that they may be visible to patrons of such place of business"

Town of Palm Beach, P.O. Box 2029, Palm Beach, FL 33480 Business Tax Office (561) 227-6411

10% PENALTY DUE OCTOBER 1
15% PENALTY DUE NOVEMBER 1
20% PENALTY DUE DECEMBER 1
25% PENALTY DUE JANUARY 1

9/26/12

Town of Palm Beach

BUSINESS TAX RECEIPT
FISCAL YEAR: 2012/2013
RECEIPT EXPIRES SEPTEMBER 30, 2013

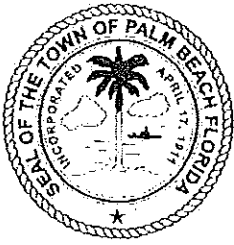
FOR BUSINESS LOCATED AT: 238 WORTH AVE
CLASSIFICATION: Merchant, 401-2,000 sq ft
SQ.FT. OCCUPIED: 1800 # UNITS:
CONDITION:

UNIT TYPE:

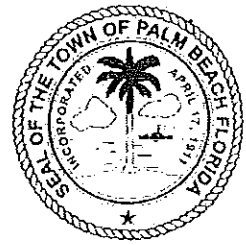
TOWN RECEIPTS #: 00040234
BUSINESS TAX: \$ 365.00
ISSUE DATE : 10/1/12
COMMENTS:

BUSINESS TAX PAYER: RENEE BAKARIAN
BUSINESS NAME: MACKENZIE-CHILDS
CORPORATE NAME: MACKENZIE-CHILDS OF FLORIDA LLC
MAILING ADDRESS: 238 WORTH AVE
PALM BEACH, FL 33480

THIS RECEIPT MUST BE CONSPICUOUSLY DISPLAYED AT BUSINESS LOCATION
Business Tax Payer is required to comply with all applicable laws of the Town or other government agencies



Town of Palm Beach
Planning, Zoning & Building Department



BUSINESS TAX RECEIPT

Attached hereto is your Town of Palm Beach Business Tax Receipt
for the business tax year: 2010/2011

PLEASE NOTE THAT THIS BUSINESS TAX RECEIPT WILL EXPIRE ON
September 30, 2011

Pursuant to the Town of Palm Beach Code of Ordinances, Section 114-40, "All business tax receipts shall be posted at the designated place of business so that they may be visible to patrons of such place of business"

Town of Palm Beach, P.O. Box 2029, Palm Beach, FL 33480 Business Tax Office (561) 227-6411

10% PENALTY DUE OCTOBER 1
15% PENALTY DUE NOVEMBER 1
20% PENALTY DUE DECEMBER 1
25% PENALTY DUE JANUARY 1

Town of Palm Beach
BUSINESS TAX RECEIPT
FISCAL YEAR: 2010/2011
RECEIPT EXPIRES SEPTEMBER 30, 2011

FOR BUSINESS LOCATED AT: 238 WORTH AVE

CLASSIFICATION: Merchant, 401-2,000 sq ft

SQ.FT. OCCUPIED: # UNITS: UNIT TYPE:

CONDITION:

TOWN RECEIPTS #: 00040234

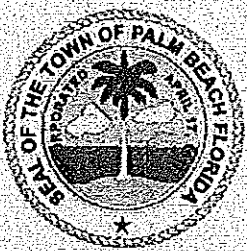
BUSINESS TAX: \$ 25.00

ISSUE DATE : 10/1/10

COMMENTS:

BUSINESS TAX PAYER: RENEE BAKARIAN
BUSINESS NAME: MACKENZIE-CHILDS
CORPORATE NAME: MACKENZIE-CHILDS OF FLORIDA LLC
MAILING ADDRESS: 238 WORTH AVE
PALM BEACH, FL 33480

THIS RECEIPT MUST BE CONSPICUOUSLY DISPLAYED AT BUSINESS LOCATION
Business Tax Payer is required to comply with all applicable laws of the Town or other government agencies



Please return this renewal notice, required documentation
(see below) and payment to:
TOWN OF PALM BEACH
PLANNING, ZONING & BUILDING DEPT
Business Tax Receipts
PO Box 2029
Palm Beach, FL 33480
(561) 227-6411

RENEWAL NOTICE # 00040234
ACTIVITY# 00020065

RENEE BAKARIAN
MACKENZIE-CHILDS OF FLORIDA LLC
MACKENZIE-CHILDS
238 WORTH AVE
PALM BEACH, FL 33480



License No.	Business Type	License Expiration Date
00040234	Merchant, 401-2,000 sq ft	09/30/2014

Primary Address: 238 WORTH AVE, PALM BEACH, FL 33480

Phone Number: (561) 832-9877

Mailing Address: 238 WORTH AVE, PALM BEACH, FL 33480

Phone Number: (561) 832-9877

Approval #:

Approval Code:

Approval Comments:

Payment Due Date: 9/30/2014

Fee Amount: \$383.00

Credit Balance: \$0.00

Amount Due: \$383.00

Square Footage: 1800

Floor: 1

of Units:

Unit Type:

Primary Contact:

Name:	Role/Title:	Address:	Phone:
RENEE BAKARIAN	Manager	1500 BAY RD, 438, MIAMI BEACH, FL 33139	(786) 512-9237

Documents required for processing of your renewal:

- Proof of licensure for any profession, business, or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency (per FS 205.194).

- Town serving documentation if applicable

- Pay by check or cash (please do not send cash by mail)

PENALTY FOR LATE PAYMENT:

10% DUE OCTOBER 1

15% DUE NOVEMBER 1

20% DUE DECEMBER 1

25% DUE JANUARY 1

ADDITIONAL \$250 PENALTY DUE MARCH 1

CERTIFICATION:

☒ I certify that the above information is correct.

8/11/14
Date

Renee Bakarian
Signature

Store Manager
Officer/Title

IF THIS INFORMATION IS NOT CORRECT, OR CHANGES OCCUR AT ANY TIME, PLEASE CONTACT THE PLANNING, ZONING & BUILDING DEPARTMENT IMMEDIATELY AT (561) 227-6411 OR BY E-MAIL AT btr@townofpalmbeach.com

AFFIDAVIT IF BUSINESS CLOSED:

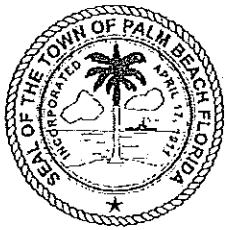
☐ I am no longer conducting business in the Town as of

Date

Signature

Officer/Title

GL code 6069579



Please return this renewal notice, required documentation
(see below) and payment to:
TOWN OF PALM BEACH
PLANNING, ZONING & BUILDING DEPT
Business Tax Receipts
PO Box 2029
Palm Beach, FL 33480
(561) 227-6411

RENEWAL NOTICE # 00040234
ACTIVITY# 00015700

RENEE BAKARIAN
MACKENZIE-CHILDS OF FLORIDA LLC
MACKENZIE-CHILDS
238 WORTH AVE
PALM BEACH, FL 33480



<u>License No.</u>	<u>License Description</u>	<u>License Expiration Date</u>
00040234	Business Tax Receipt	09/30/2012
Business Type: Merchant, 401-2,000 sq ft		Payment Due Date : 9/30/2012
Primary Address: 238 WORTH AVE, PALM BEACH, FL 33480		Fee Amount : \$365.00
Phone Number: (561) 832-9877		Credit Balance: \$0.00
Mailing Address: 238 WORTH AVE, PALM BEACH, FL 33480		Amount Due: \$365.00
Phone Number: (561) 832-9877		Square Footage: 1800
Approval #:		Floor: 1
Approval Code:		# of Units:
Approval Comments:		Unit Type:
<i>8/13/12</i> <i>GL code</i> <i>61069079</i>		
Primary Contact:		
<u>Name:</u>	<u>Role/Title:</u>	<u>Address:</u>
RENEE BAKARIAN	Manager	1500 BAY RD, 438, MIAMI BEACH, FL 33139
		<u>Phone:</u>
		(786) 512-9237

Documents required for processing of your renewal:

- Proof of licensure for any profession, business, or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency (per FS 205.194).
- Town serving documentation if applicable
- Applicable Renewal Fees

10% Penalty due Oct. 1, 15% Penalty due Nov. 1, 20% Penalty due Dec. 1, 25% Penalty due Jan. 1

IF THIS INFORMATION IS NOT CORRECT, OR CHANGES OCCUR AT ANY TIME, PLEASE CONTACT THE PLANNING,
ZONING & BUILDING DEPARTMENT IMMEDIATELY.

AFFIDAVIT IF BUSINESS CLOSED:

☐ I am no longer conducting business in the Town as of

Date

Signed by X _____

Officer/Title X _____

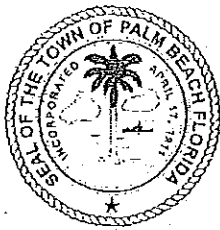
CERTIFICATION:

☐ I certify that the above information is correct.

Date

Signed by X _____

Officer/Title X _____



2/15/11
6269000
Cody

Town of Palm Beach
360 S County Road
Palm Beach, FL 33480
(561) 227-6411

RENEWAL NOTICE # 00040234
ACTIVITY# 00013694

RENEE BAKARIAN
MACKENZIE-CHILDS OF FLORIDA LLC
MACKENZIE-CHILDS
238 WORTH AVE
PALM BEACH, FL 33480



License No.	License Description	License Expiration Date
00040234	Business Tax Receipt	09/30/2011

Business Type: Merchant, 401-2,000 sq ft
Approval #:
Approval Code:
Approval Comments:

Payment Due Date : 9/30/2011
Fee Amount : \$365.00
Credit Balance: \$0.00
Amount Due: \$365.00

of Units: Unit Type:
Square Footage: Floor: 1

Primary Address: 238 WORTH AVE, PALM BEACH, FL 33480
Phone Number: (561) 832-9877
Mailing Address: 238 WORTH AVE, PALM BEACH, FL 33480
Phone Number: (561) 832-9877

Please return this renewal notice,
required documentation (see below)
and payment to:

TOWN OF PALM BEACH
PLANNING, ZONING & BUILDING DEPT
Business Tax Receipts
PO Box 2029
Palm Beach, FL 33480

IF THIS INFORMATION IS NOT CORRECT, OR CHANGES OCCUR AT ANY TIME, PLEASE CONTACT THE PLANNING,
ZONING & BUILDING DEPARTMENT IMMEDIATELY.

Primary Contact:

Name:	Role/Title:	Address:	Phone:
RENEE BAKARIAN	Manager	1500 BAY RD, 438, MIAMI BEACH, FL 33139	(786) 512-9237

Documents required for processing of your renewal:

- Proof of licensure for any profession, business, or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency (per recently-adopted changes to FS 205.194).
- Town serving documentation if applicable
- Applicable Renewal Fees

10% Penalty due Oct. 1, 15% Penalty due Nov. 1, 20% Penalty due Dec. 1, 25% Penalty due Jan. 1

AFFIDAVIT IF BUSINESS CLOSED:

☐ I am no longer conducting business in the Town as of

Date

Signed by X

Officer/Title X

CERTIFICATION:

☐ I certify that the above information is correct.

Date

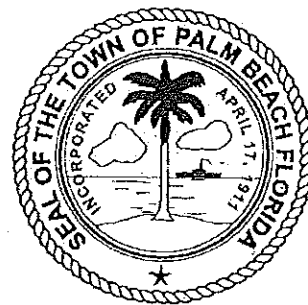
Signed by X

Officer/Title X

EXHIBIT “3”



Palm Beach Fire Rescue
 Standard Inspection
 300 North County Road
 Palm Beach, Florida 33480
 Office 561-227-6440
 Fax 561-838-5408



Occupant Name: MacKenzie Childs Storage
 Address: 240 Worth Avenue
 City: Palm Beach
 Inspection Type: Business / Mercantile / Professional
 Inspected By: Shift *
 561-227-6440

Pass Fail N/A

FL NFPA 101 13

Floor 1

Chapter 7 Means of Egress

- ☐ ☒ ☐ 7.10.1.2.1 Excerpt: Exits, other than main exterior exit doors that obviously... *exit light not lighting up*
- ☐ ☒ ☐ 7.10.5.2.1 Excerpt: Every sign required to be illuminated by 7.10.6.3, 7.10.7... *no exit on the fixture or lights*

Inspector Comments: INSPECTION CONDUCTED 04.03.2016

Inspector will return on or after 5/3/2016

By order of the Fire Marshal of the Town of Palm Beach Fire Rescue Department, the life safety hazards listed above must be corrected by the date indicated or this report will be forwarded to the Code Enforcement Board of the Town of Palm Beach for further action and you will be subject to additional reinspection fees.

Warning: Fire or injury resulting from delay or failure to comply with this notice will be attributed to negligence on the part of the responsible parties.

Compliance with this Notice: The undersigned hereby represents that by signing this certificate and returning it to the Palm Beach Fire Rescue within 30 days from the date of the inspection via mail or fax, the code violations listed above have been corrected. The undersigned acknowledges that the Palm Beach Fire Rescue may determine not to conduct a reinspection, and may fully rely upon the representation that the code violations have been corrected.

Owner/Occupant

Signature: _____

Renee Baharian
 (Attesting that all violations have been corrected)

Date: 4/18/16

Palm Beach Fire Rescue
Office of Fire Prevention and Life Safety
300 North County Rd.
Palm Beach, FL 33480
561-227-6440

Invoice #	16040615500
Invoice Date	4/6/2016
Balance Due	\$100.00
Due Date	5/6/2016

Please remit payment by due date
above. Please make checks payable to
Palm Beach Fire Rescue.

**PLEASE INCLUDE YOUR INVOICE
NUMBER WITH PAYMENT.**

MacKenzie Childs Storage
240 Worth Avenue
Suite M
Palm Beach FL 33480

Invoice

MacKenzie Childs Storage
240 Worth Avenue
Suite M
Palm Beach FL 33480

Invoice #16040615500
4/6/2016

Description	Amount Owed	Amount Paid	Date Paid
Business / Mercantile / Professional Inspection <i>LD. 4-18-16 GL. 6069579</i>	\$100.00	\$0.00	
Subtotal:	\$100.00	\$0.00	
Balance Due:	\$100.00		

Fire Prevention Tip of the Month:

Make sure to create a safety plan to deal with all sorts of emergencies. The main thing is get out, get low and roll.



TOWN OF PALM BEACH FIRE RESCUE DEPARTMENT - FIRE COMPANY INSPECTION CHECKLIST

300 North County Rd. Palm Beach, FL 33480

Telephone #561-227-6440 Fax#561-838-5427

www.townofpalmbeach.com

OCCUPANT NAME: 121 Kenzian Club, StorageADDRESS: 240 North AveSTE. MDATE OF INSPECTION: 4/3/16OFFICER NAME: Mossman

SHIFT: _____

COMPANY: _____

REVIEWED BY: _____

Certified Fire Inspector Signature _____

Date _____

A. REQUIRED MEANS OF EGRESS: NFPA 101

	YES	NO	NA
1. Are exits unobstructed?	☒	☐	☐
2. Are approved exit signs used? (Min. 6" letters)	☒	☐	☐
3. Are required exit sign bulbs lit?	☒	☐	☐
4. Are exit aisles unobstructed? (Min. 36" in clear width)	☒	☐	☐
5. Does panic hardware operate properly?	☒	☐	☐
6. Are exit stairways unobstructed and marked properly?	☒	☐	☐

B. BUILDING SERVICES: NFPA 101

	YES	NO	NA
1. Are the emergency keys accessible?	☒	☐	☐
2. Are required elevator keys present and tested?	☒	☐	☐
3. Are there maintenance records for generator?	☒	☐	☐

C. KNOX BOX:

	YES	NO	NA
1. Is the Knox box readily accessible?	☒	☐	☐
2. Are the keys clearly marked and current?	☒	☐	☐

D. EXTINGUISHERS: NFPA 10, 101

	YES	NO	NA
1. Are extinguishers properly mounted? (>4 in. - <5 ft.)	☒	☐	☐
2. Are extinguishers fully charged?	☒	☐	☐
3. Are extinguishers accessible? (Within 75ft travel distance)	☒	☐	☐
4. Are the required # of extinguishers present?	☒	☐	☐
5. Do extinguishers have a current annual inspection?	☒	☐	☐

E. MECHANICAL/SERVICE/STORAGE ROOMS: NFPA 1

	YES	NO	NA
1. Are combustibles stored properly?	☒	☐	☐
2. Are flammable liquids stored properly?	☒	☐	☐
3. Are rated doors in closed position and there are no door stop devices installed?	☒	☐	☐
4. Are mechanical rooms clear of combustible storage?	☒	☐	☐

F. SPRINKLER/STANDPIPES: NFPA 13,14,25

	YES	NO	NA
1. Are sprinkler/standpipe systems inspected quarterly? (Date <u>3/1/16</u>)	☒	☐	☐
2. Are OS&Y valves secured in an open position?	☒	☐	☐
3. Are all sprinkler heads clear & unobstructed?	☒	☐	☐
4. Are the F.D.C.'s accessible?	☒	☐	☐
5. Are the F.D.C.'s in good working condition and capped?	☒	☐	☐

G. FIRE ALARM SYSTEMS: NFPA 72

	YES	NO	NA
1. Is the fire alarm system(s) inspected quarterly? (Date <u>3/1/16</u>)	☒	☐	☐
2. Are all pull boxes in good condition?	☒	☐	☐
3. Is F.A.C.P. supervisory signal tested quarterly? (Date <u>3/1/16</u>)	☒	☐	☐
4. Are all smoke/heat detectors in good condition?	☒	☐	☐
5. Is the annunciator panel in trouble free condition?	☒	☐	☐
6. Is the battery back-up present and connected?	☒	☐	☐
7. Name of Alarm Company:			
8. Alarm Company Phone #:			

H. ELECTRICAL: NFPA 70

	YES	NO	NA
1. Are panel covers mounted and secured?	☒	☐	☐
2. Is all wiring properly enclosed & protected?	☒	☐	☐
3. Extension cords are not used in place of permanent wiring.	☒	☐	☐
4. Are the use power strips UL/FM listed?	☒	☐	☐
5. Do the emergency lights operate?	☒	☐	☐
6. Are breaker spaces enclosed?	☒	☐	☐

I. FEATURES OF FIRE PROTECTION: NFPA 101

	YES	NO	NA
1. Are all pipe chases sealed?	☒	☐	☐
2. Are all vertical openings protected/enclosed?	☒	☐	☐
3. Self-closing doors are operational and do not have hold open devices installed.	☒	☐	☐

J. COOK EQUIPMENT: NFPA 96

	YES	NO	NA
1. Are the hood systems free of excess grease?	☒	☐	☐
2. Are the fire suppression systems serviced semi-annually? (Date <u>3/1/16</u>)	☒	☐	☐
3. Are the grease cooking appliances protected?	☒	☐	☐
4. Are all cooking appliances under hood system?	☒	☐	☐
5. Is a Class K fire extinguisher located near cooking area?	☒	☐	☐

K. SPECIAL HAZARDS: NFPA 58, 101

	YES	NO	NA
1. Are compressed gases stored and secured properly?	☒	☐	☐
2. Are hazardous materials stored properly?	☒	☐	☐

L. CLEANLINESS AND ORDER: NFPA 101

	YES	NO	NA
1. Are ceiling tiles present and in good condition?	☒	☐	☐
2. Are trash chutes operating properly?	☒	☐	☐
3. Do the trash chute doors close?	☒	☐	☐

M. SIGNAGE: NFPA 101

	YES	NO	NA
1. Are proper address numbers used (Min. 6" lettering)	☒	☐	☐
2. Are units and rooms properly marked? (Min. 2" lettering)	☒	☐	☐
3. Are occupant load limit signs posted?	☒	☐	☐
4. Is there stair signage for buildings 5 or more stories?	☒	☐	☐

N. HYDRANTS: NFPA 24

	YES	NO	NA
1. Are hydrants visible and accessible?	☒	☐	☐
2. Are hydrant markers in place?	☒	☐	☐
3. Is hydrant operable?	☒	☐	☐

TOTAL NUMBER OF VIOLATIONS: (2)REINSPECTION REQUIRED Y NAPPROXIMATE DATE OF REINSPECTION: 5/3/16

OUTSTANDING VIOLATIONS REMAINING:

AED ON SITE: Y N IF AED ON SIGHT, IS IT REGISTERED: Y N

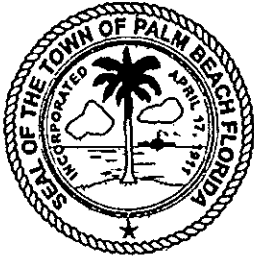
AED FLYER PROVIDED AND BENEFITS DISCUSSED: Y N

SAFETY INSTRUCTIONS PROVIDED: (List)

COMMENTS:

2nd floor storage
Exit signs not lighting up needs repair

EXHIBIT “E”



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



April 19, 2016

MacKenzie Childs
238 Worth Ave.
Palm Beach, FL 33480

MacKenzie Childs
3260 State Route 90
Aurora, NY 13026

Power Love Assoc.
c/o Love Realty
18 Hotel Dr.
White Plains, NY 10605

CODE VIOLATION WARNING

240 Worth Ave., #M AKA 256 Worth Ave., Palm Beach

Case # CE 16-218

Property Control Number: 50-43-43-23-05-018-0010

Dear Business/Property Owner,

This office has become aware that the unit located at 240 Worth Ave., #M is being used for storage by your business "MacKenzie Childs."

Chapter 134, Section 134-1157 of the Town of Palm Beach Code of Ordinances designates the permitted uses in the C-WA Commercial Worth Avenue District. Storage units are not a permitted use in this district.

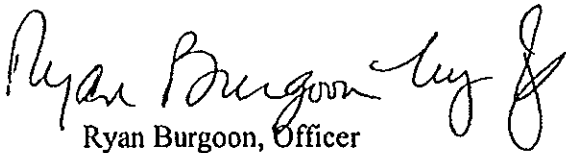
Please discontinue using this unit as a storage unit by **May 3, 2016**.

Should compliance with the Town Ordinances not be met within this time frame, you will be issued a **Notice of Code Violation and Hearing**, requiring you to come into compliance.

MacKenzie Childs
Power Love Assoc.
April 19, 2016
Page 2

If you have any questions, please do not hesitate to call me at (561) 227-7080. Your immediate attention to this matter is appreciated.

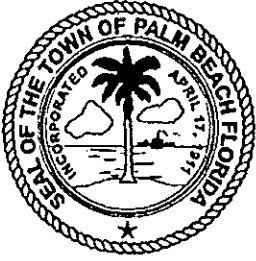
Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Burgoon". The signature is fluid and cursive, with a large, stylized "R" and "B".

Ryan Burgoon, Officer
Palm Beach Police Department

cc: Code Enforcement File
Property File

EXHIBIT “F”



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



May 3, 2016

MacKenzie Childs
238 Worth Ave.
Palm Beach, FL 33480

MacKenzie Childs
3260 State Route 90
Aurora, NY 13026

Palm V Assoc. Ltd.
c/o Love Realty
P.O. Box 28
White Plains, NY 10605

REVISED CODE VIOLATION WARNING

240 Worth Ave., #M AKA 224 Worth Ave., Palm Beach

Case # CE 16-218

Property Control Number: 50-43-43-23-05-018-0050

Dear Business/Property Owner,

This office has become aware that the unit located at 240 Worth Ave., #M is being used for storage by your business "MacKenzie Childs."

Chapter 134, Section 134-1157 of the Town of Palm Beach Code of Ordinances designates the permitted uses in the C-WA Commercial Worth Avenue District. Storage units are not a permitted use in this district.

Please discontinue using this unit as a storage unit by **May 17, 2016**.

Should compliance with the Town Ordinances not be met within this time frame, you will be issued a **Notice of Code Violation and Hearing**, requiring you to come into compliance.

MacKenzie Childs
Palm V Assoc. LTD
May 3, 2016
Page 2

If you have any questions, please do not hesitate to call me at (561) 227-7080. Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Ryan Burgoon" followed by a stylized flourish.

Ryan Burgoon, Officer
Palm Beach Police Department

cc: Code Enforcement File
Property File

EXHIBIT “G”

AFFIDAVIT OF JANE C. RANKIN ESQ.

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared JANE C. RANKIN, ESQ., who being first duly sworn, deposes and says.

1. My name is JANE C. RANKIN, ESQ. I am over the age of eighteen and otherwise competent to testify to the matters presented herein. I am a practicing lawyer in the state of Florida as well as a shareholder in the firm of Kubicki Draper PA.

2. This Affidavit is based upon my personal knowledge in my capacity as counsel for Palm V Associates, Limited Partnership ("Landlord") which is the owner of the 224 to 246 Building ("Building") on Worth Avenue. The Building spans all of Lot 5 to 16 of Block 8 of Worth Avenue (the "Property") as set forth more completely within the legal descriptions of that Warranty Deed for the Property, a true and correct copy of which is attached hereto as Exhibit "1" as well as the most recent survey of the Property, a true and copy of which is attached hereto as Exhibit "2."

3. Despite covering 12 individual lots, the Property has only one Building thereon and has only one Property Control Number (#50-43-43-23-05-018-0050). As a result, each and every space leased by the Landlord within the Building is connected in one way or another.

4. Presently, a portion of the Building is leased to MacKenzie Childs of Florida, LLC ("MacKenzie Childs") for its Palm Beach retail store ("Store"). MacKenzie Childs opened its Store in February of 2011.

5. Under its lease with the Landlord, MacKenzie Childs rents two separate areas of the Building consisting of its retail Store (of approximately 2,000 square feet), along with additional

space behind the Store (in Suite 240 (M))¹ which is utilized for the day-to-day inventory and stock required to operate a successful retail business (the “Back of the Store”). It is my understanding from the manager of the Store, Renee Bakarian (“Manager”) that without the use of the Back of the Store, the Store by itself would not be able to continue to survive financially, including but not limited to, being able to pay its rent to the Landlord.

6. Within its Store, MacKenzie Childs sells an eclectic assortment of household accessories including, but not limited to, tableware, kitchenware, furniture, bed and bath items, home decor, garden accessories, children’s gifts, toys, jewelry, fabrics and interior decorating sales and services, all of which are enumerated permitted uses within the C-WA Worth Avenue Commercial District under the applicable Code of Ordinances (“Code”) of the Town of Palm Beach (“Town”).

7. In visiting the Store and Back of the Store it is clear that the Back of the Store is actively used throughout the business day in support of the Store’s operation, including, but not limited to the receiving and unpacking of goods in the morning, the entry of that inventory into the Store’s computer system in the upstairs office space, the tracking and fulfilling of online orders, the constant pulling of new stock and items off the shelves to fulfill or replace purchases within made within the Store during the day, and the shipping of gifts and merchandise to customers homes and friends at the end of the day. In addition, the Back of the Store contains an employee break area and kitchen as well as an employee bathroom.

8. As such, the Back of the Store does not operate independently as a primary or principal use, but instead functions as a subordinate, accessory use for those activities which are

¹ While Suite 240(M) had once been used in conjunction with ground floor retail store (most recently a jewelry store), there has been a wall between the first floor retail space (which now vacant) and the stairway to the Back of the Store since well before MacKenzie Childs took possession of the Back of the Store. In addition, much of which is known as Suite 240 (M) is actually located above Suite 240(H).

customarily incidental to the operation of the Store in a manner approved by the Town. Since opening its doors in 2011 from the Landlord's records MacKenzie Childs has always operated in the manner set forth herein.

9. It is further the Landlord's understanding that (as with all of the Landlord's tenants) each year from 2011 to 2016 the Town Fire Inspector performed an Annual Fire and Life Safety Inspection ("Fire Inspection") on both the Store and the Back of the Store.

10. Likewise, each year since the Store opened in 2011 MacKenzie Childs applied for, paid for, and received an annual Business Tax Receipt from the Town in order to continue operating.

11. At no point during this time period did the Landlord ever receive any notification at all from the Town that MacKenzie Childs was purportedly "improperly" operating either the Store or the Back of the Store in the last five (5) years.

12. Recently, I was informed that on or about April 3, 2016, MacKenzie Childs was visited a second time in one year for some reason by the Fire Department by a new Fire Inspector, at which time the Manager walked the Fire Inspector through both the Store and the Back of the Store.

13. As counsel for the Landlord I was notified that while MacKenzie Childs was required under its Second Fire Inspection Report to repair its Exit lights in the Back of the Store, I was also informed that the Manager of the Store had arranged for and completed such repairs on or before April 18, 2016 and provided the Town with a certification of those repairs.

14. As a result, I was surprised to have been forwarded a copy of a Code Violation Warning ("Warning") dated April 19, 2016 from the Manager of the Tenant. 2

2 The initial Warning was actually originally sent to the landlord of the adjacent property to the west, not to the Landlord, but has since been re-sent to the Landlord on May 3, 2016.

15. Upon receipt of the Warning on or about April 23, 2016, I called the Code Enforcement Office of the Town and was informed by a Joan Dunn that the issue and Warning came not from the Code Enforcement at all, but from Debbie Morakis in the Business Tax Receipts Office. As a result, I contacted Debbie Morakis in the Business Tax Receipt Office and was informed the Code Enforcement Warning was issued by their office in response to a report by the Fire Inspector that the Back of the Office was being used for the "principal use" as storage and to contact Paul Castro should I have any questions.

16. In response, I contacted Mr. Castro. In reply to my inquiry I received an e-mail from Mr. Castro dated April 27, 2016 (a true and correct copy of which is attached hereto as Exhibit "3").

17. Within his e-mail Mr. Castro indicated that:

Staff has made an administrative determination that storage is not a permitted or special exception principal use in the Worth Avenue (C-WA) Zoning District. While some storage is customarily accessory to a permitted or special exception use within the C-WA District, it is not permitted as the principal use of a commercial tenant space in that District.

18. Mr. Castro also made it quite clear that absent compliance by MacKenzie Childs, the Town would not issue a Business Tax Receipt for the Store which would mean the Store would no longer be able to operate and the Landlord would not longer be paid under its Lease with MacKenzie Childs.

19. Outside of that e-mail dated April 27, 2016 I received no further explanation from Mr. Castro as to the basis for the purported "administrative decision" that storage is not a permitted primary use in the C-WA Worth Avenue Zoning District and/or how that applied at all to MacKenzie Childs who utilized the Back of the Store as an accessory use which was subordinate to and in support of the primary use of the Store.

20. In light of such accusations, I contacted the Manager of the Store and set up a meeting to view the Store and the Back of the Store for myself. At the meeting I observed that (as had been previously explained by the Manager) far from being used as "storage" the Back of the Store was being utilized as an integral part of the operation of the retail Store as described above. As a result, I e-mailed Mr. Castro back again on April 29, 2016 and informed him of my findings and asked that he set up a time to view the Back of the Store with me. A true and correct copy of that e-mail is attached hereto as Exhibit "4."

21. In response, Mr. Castro informed me that: a) the description of the use of the Back of the Store was not a permitted use category in the C-WA District; b) his schedule did not allow him time to meet that week to view the Back of the Store; and that c) "I have already determined, I cannot sign-off on this use in that District." A true and correct copy of the e-mail response from Mr. Castro is attached hereto as Exhibit "5." As a result, MacKenzie Childs would not be issued a new Business Tax Receipt.

22. Faced with the potential of the Town to essentially put MacKenzie Childs (as well as virtually any and all other businesses on the south side of Worth Avenue out of business, as they all utilize similar "back of the house" areas for inventory) the Landlord hired John R. Eubanks, Jr. as separate counsel to address the issue with the Town.

23. While the Landlord continues to prefer to pursue an amicable resolution to this matter, and has filed the present appeal out of an abundance of caution, the Landlord believes that under the facts, circumstances and applicable law the Staff Determination should be overruled in this matter.

FURTHER AFFIANT SAYETH NAUGHT.

Dated this 19 day of May, 2016.



JANE C. RANKIN, ESQ.

STATE OF FLORIDA
COUNTY OF PALM BEACH

Sworn to and subscribed before me this 19th day of May, 2016, by JANE C. RANKIN as
counsel for Palm V Associates, Limited Partnership, who is:

 personally known to me, **OR**
✓ has produced FLA DR-LICENSE as identification.

(NOTARY STAMP)

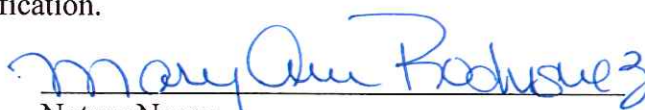

Notary Name: _____
Serial (Commission) Number _____
(if any) _____



EXHIBIT “1”

5965R
022086

Documentary Tax \$ 70.2800
Intangible Tax \$ 0.00
County, Palm Beach County, Florida
J. B. Crippen

TRUSTEE'S DEED

KNOW ALL MEN BY THESE PRESENTS, that A. OBIE STEWART and DARRAH M. OPDAHL, as Co-Trustees of the Emile L. Schmidt Trust Agreement dated April 16, 1982, as to an undivided seventy percent (70%) interest and FIRST NATIONAL BANK IN PALM BEACH, as Trustee of the Residuary Trust established under the Last Will and Testament of Flora D. Schmidt, deceased, as to an undivided thirty percent (30%) interest (collectively, "Grantor"), acting in pursuance and by virtue of the powers in them vested by a deed dated the 2nd day of July, 1985, recorded in Official Records Book 1598, Page 908, Public Records of Palm Beach County, Florida, and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, have remised, released and conveyed and do remise, release and forever convey to PALM V ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership ("Grantee"), that certain land situate and being in Palm Beach County, Florida (the "Property"), more particularly described as follows:

with an address at Suite 300, 1045 West Atlantic Avenue, Delray Beach, Florida 33444.

Lots 5 through 16, inclusive, Block 18, Royal Park Addition, Town of Palm Beach, according to the Plat thereof as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida.

SUBJECT TO restrictions, reservations, limitations, conditions, easements and agreements of record, taxes for the year 1986 and all subsequent years; all applicable environmental, zoning and land use ordinances; all assessments whether or not of record; all other conditions imposed by governmental authority; the interests of all tenants under leases with respect to the Property; any matters which would be disclosed by an accurate survey and inspection of the Property.

TO HAVE AND TO HOLD, the same in fee simple forever.

This instrument was prepared by and should be returned to:
Lewis F. Crippen, Esquire
Gunster, Yoakley, Criser & Stewart, P.A.
777 South Flagler Drive
West Palm Beach, FL 33401-6194

86 044772

1985 FEB 24 AM 10:00

14,072,600.00

2,000.00

1360

11,125.00

84799 P0612

This

AND Grantor does hereby covenant with Grantee that, except as noted above, at the time of delivery of this Trustee's Deed, the Property was free from all encumbrances made by Grantor, and that Grantor will warrant and defend the same against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, WE, A. OBIE STEWART, DARRAH M. OPDAHL and FIRST NATIONAL BANK IN PALM BEACH, as Trustees, here set our hands and seals this 20TH day of February, 1986.

Signed, Sealed and Delivered
in the Presence of:

[Signature]
H. R. [unclear]
(As to A. Obie Stewart)

[Signature]
H. R. [unclear]
(As to Darrah M. Opdahl)

[Signature]
A. Obie Stewart
as Co-Trustee of the Emile L.
Schmidt Trust Agreement dated
April 16, 1982

[Signature]
Darrah M. Opdahl
as Co-Trustee of the Emile L.
Schmidt Trust Agreement dated
April 16, 1982

[Signature]
H. R. [unclear]
(As to First National Bank
in Palm Beach)

FIRST NATIONAL BANK IN PALM BEACH
By: [Signature]
T. McFarland Skelly, Vice President
as Trustee of the Residuary Trust
Established under the last Will and
Testament of Flora D. Schmidt,
deceased

B4799 P0613

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me
this 20th day of February, 1986, by A. Obie Stewart, as Co-Trustee
of the Emile L. Schmidt Trust Agreement dated April 16, 1982.

My Commission Expires:

Notary Public State of Florida at Large
My Commission Expires October 8, 1989
Bonded Thru Cornilus, Johnson & Clark, Inc.

James J. Crippen
NOTARY PUBLIC

(Notarial Seal)

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me
this 20th day of February, 1986, by Darrah M. Opdahl, as Co-Trustee
of the Emile L. Schmidt Trust Agreement dated April 16, 1982.

My Commission Expires:

Notary Public State of Florida at Large
My Commission Expires October 8, 1989
Bonded Thru Cornilus, Johnson & Clark, Inc.

James J. Crippen
NOTARY PUBLIC

(Notarial Seal)

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me
this 20th day of February, 1986, by T. McFarland Skelly, the Vice
President of FIRST NATIONAL BANK IN PALM BEACH, as Trustee of the
Residuary Trust established under the Last Will and Testament of
Flora D. Schmidt, deceased.

My Commission Expires:

Notary Public State of Florida at Large
My Commission Expires October 8, 1989
Bonded Thru Cornilus, Johnson & Clark, Inc.

James J. Crippen
NOTARY PUBLIC

(Notarial Seal)

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

84799 P0614

EXHIBIT “2”

EXHIBIT “3”

From: PCastro@TownofPalmBeach.com [<mailto:PCastro@TownofPalmBeach.com>]
Sent: Wednesday, April 27, 2016 2:37 PM
To: Jane C. Rankin
Cc: Randolph, John C.; JPage@TownofPalmBeach.com; DMorakis@TownofPalmBeach.com
Subject: 240 Worth Avenue, Suite M

Dear Ms. Rankin,

Based on the Code Enforcement citation of MacKenzie Childs, please be advised that the Town cannot issue a business tax receipt for said business to use any commercial tenant space for storage use. Staff has made an administrative determination that storage is not a permitted or special exception principal use in the Worth Avenue (C-WA) Zoning District. While some storage is customarily accessory to a permitted or special exception use within the C-WA District, it is not permitted as the principal use of a commercial tenant space in that District.

If you have any further questions, please contact me at 227-6406.

Regards,

Paul Castro
Zoning Administrator

EXHIBIT “4”

From: "Jane C. Rankin" <jcr@kubickidrapeer.com>
To: "PCastro@TownofPalmBeach.com" <PCastro@TownofPalmBeach.com>
Cc: Randolph, John C. <JRandolph@jonesfoster.com>, "JPage@TownofPalmBeach.com" <JPage@TownofPalmBeach.com>, "DMorakis@TownofPalmBeach.com" <DMorakis@TownofPalmBeach.com>, "Burt Handelsman (Burt@lovereallywalkingstreets.com)" <Burt@lovereallywalkingstreets.com>
Date: 04/29/2016 01:02 PM
Subject: RE: 240 Worth Avenue, Suite M

Mr. Castro,

In response to the information below, yesterday afternoon Mr. Handelsman and I visited the rear unit for the MacKenzie Childs store to inspect the site. We can confirm that it has a staff office (desk, compute, etc.), staff kitchen, merchandise packing area, daily stock replacement/sales materials area (viz: shopping bags, etc.) and the premises is used daily for the receipt and unpacking of goods (vs. on the street which is a visible activity with many of the other retailers), outbound shipping of goods and transit area for goods going in and out of the store. We are advised by the tenant and Mr. Handelsman confirms that the premises has been used in this matter since his company's purchase of the building in the early 1980's. In any event, the premises is not a storage unit and it is manned by staff during retail hours.

We would request that there be a meeting on site to view the premises with the appropriate parties from the Town such that a reassessment can be made and also, until the on site meeting can be accomplished, that all enforcement actions by the Town be stayed.

Thank you in advance for your review of this matter. We would suggest Monday afternoon or at 10 on Tuesday morning for the site meeting if that would meet with your schedule.

Regards,
Jane Rankin



Jane C. Rankin
Shareholder

Direct (954) 713-2324
Fax (954) 768-0514
jcr@kubickidrapeer.com

One East Broward Blvd, Suite 1600
Fort Lauderdale, Florida 33301

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EXHIBIT “5”

From: PCastro@TownofPalmBeach.com [mailto:PCastro@TownofPalmBeach.com]

Sent: Friday, April 29, 2016 3:23 PM

To: Jane C. Rankin

Cc: Randolph, John C.; JPage "@TownofPalmBeach.com@TownofPalmBeach.com, " DMorakis@TownofPalmBeach.com " <DMorakis@TownofPalmBeach.com>"

Subject: RE: 240 Worth Avenue, Suite M

Ms. Rankin,

Please look at Sec. 134-1157(a) of the Code of Ordinances. I cannot find a permitted use category in the District where the subject tenant space is located (C-WA District) that resembles your description of what is already in that space. As such, as I have already determined, I cannot sign-off on this use in that District. However, if you still insist on meeting, I am not available until mid-week, next week. I am available at 11:30 a.m. or noon on Wednesday, or 9, 10 or 11 a.m. on Thursday. As far as code enforcement action, I have no control over code enforcement and can't advise you on that issue. You will need to contact the number on the citation and discuss that issue with them.

Regards,

Paul Castro,
Zoning Administrator t

EXHIBIT “H”

From: John Eubanks
Sent: Tuesday, May 17, 2016 1:20 PM
To: 'JPage@TownofPalmBeach.com' <JPage@TownofPalmBeach.com>
Subject: RE: FW: Notice of Intent to Appeal of Administrative Determination

John:

As per our prior conversation, I would ideally like to work this out without filing an Appeal (but may have to do so as a place marker if nothing else). My concern with the information you have relayed is as follows:

- a. While in the past there may have been one or more stand-alone businesses located at 240 #M which included ground floor retail, there has long since been a wall between the first floor retail space (which is vacant) and the stairway to the MacKenzie Childs "back of the house" area. As such, there is no connection between the "back of the house" area and the first floor retail area. The "back of the house" also includes an office area which would be a permitted use in and of itself in the C-WA district under 134-1156(28).
- b. There is no requirement for MacKenzie Childs store and "back of the house" to be physically connected under the Town Code, otherwise most of Worth Avenue would be put out of business. Under 134-2 – an accessory use is defined as "a subordinate use or structure incident to the principal use or structure located on a lot..." The MacKenzie Childs "back of the house" is subordinate to the principal use of the store and located on the same lot – which is defined under the Code to include "any number of contiguous lots of record ..." As you may know, all of 224 to 246 Worth Avenue is occupied by one large sprawling building (which actually makes the store and the "back of the house" physically connected in the first place) which is located on Lots 5 to 16 of Block 8 of the Town plat. As a result, all of the lots and the entire building have only one PCN # with the Property Appraiser (#50-43-43-23-05-018-0050). Therefore the "back of the house" should be by definition a permitted accessory use.
- c. Please let me know what land use has changed. Outside of the fact that the "back of the house" should be a permitted accessory use, I cannot find any recent changes in the past 10 years which address the areas you have described or we have discussed. I have looked at Ordinance 1-05 which deleted office and professional from the first floor in C-WA as reflected in 134-1156(28); Ordinance 2-2011 which increased the Town Serving square footage threshold in the C-WA District, and Ordinance No. 7-2014 which prohibited a veterinarian office in the C-WA district (also as reflected in 134-1168 (28)). In the meantime, MacKenzie Childs has been permitted by the Town to operate in the same manner as it is doing so now for over 5 years through its annual fire inspections and issuance of BTRs. My client's concern, is that unless this issue is resolved, MacKenzie Childs may use it to terminate and/or not renew its lease. While the Landlord hopes this will not be the case, if it turns out that is the path taken by MacKenzie Childs it will cost the Landlord a substantial sum of money for what the Landlord believes is a misplaced staff determination.
- d. In speaking to Jane Rankin it does not appear that any details of the above were ever explained to her. Instead she appears to have only had one or two cursory e-mails from Paul Castro indicating that there had been a "staff determination" that the space was being "principally used" as a storage area, which is not accurate. Regardless, under the Code it would seem that the "back of the house" is simply a permitted accessory use.

In light of the above, again it would seem that the MacKenzie-Childs "back of the house" has been and continues to be simply a permitted accessory use. Let me know if I am missing any additional details. In the meantime, I will (reluctantly) move forward with the appeal in order to make sure the time period does not expire. Feel free to call me if you have any questions.

John R. Eubanks, Jr.
Breton, Lynch, Eubanks & Suarez-Murias, P.A.
605 N. Olive Avenue, 2d Floor
West Palm Beach, FL 33401
Telephone: 561-721-4000
Facsimile: 561-721-4001
Direct Dial: 561-721-4002
Email: jeubanks@blesmlaw.com

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

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From: JPage@TownofPalmBeach.com [<mailto:JPage@TownofPalmBeach.com>]
Sent: Tuesday, May 17, 2016 10:57 AM
To: John Eubanks <jeubanks@blesmlaw.com>
Cc: PCastro@TownofPalmBeach.com; DMorakis@TownofPalmBeach.com
Subject: Re: FW: Notice of Intent to Appeal of Administrative Determination

John:

I had a chance to speak with Debby Morakis (BTR records) in our office this morning. Here's what I have learned in Paul's absence this week:

1. We have a record of several stand-alone retail businesses that have occupied the subject "storage site" in years past.
2. PZB recognizes that it would be customary for a retail business to have a "back-of-house" area for misc. support services. However, the "storage site" is not physically tied to McKenzie Childs. McKenzie Childs is accessed from Worth. The subject "storage" site is accessed off the Via.
3. It appears as though the land use has changed. "Storage, warehousing, office," etc. is not a permitted use in the zoning district.
4. Apparently, Paul did convey this information to Jane Rankin (I cannot absolutely confirm in Paul's absence).
- 5.

Absent a thorough discussion with Paul, I believe these were the principal factors leading him to the conclusion that the "storage site" is no permissible at this location.

John Page
Director, Planning, Zoning & Building Department
Phone: 561-227-6405
e-mail: jpage@townofpalmbeach.com

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from Town of Palm Beach officials and employees regarding municipal business are open 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 telephone 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.

**Appeal by Palm V Associates Ltd. of that Administrative
Decision and Determination that an Accessory Use Which Is
Customarily Incident to a Permitted Use in C-WA Worth Avenue District
Constitutes Improper Primary Use as "Storage"**

APPENDIX

John R. Eubanks, Jr
Florida Bar No. 0897485
E-mail: jeubanks@blesmlaw.com
BRETON, LYNCH, EUBANKS &
SUAREZ, MURIAS, P.A.
605 N. Olive Avenue, Second Floor
West Palm Beach, Florida 33401
Telephone: (561) 721-4000
Facsimile: (561) 721-4001
Attorneys for Palm V Associates, Ltd.

APPENDIX KEY DOCUMENTS

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	<u>No.</u>
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Section 134-2	2
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Ordinance No. 7-2014	10

APP “1”

Sec. 46-68. - Annual fire and life safety inspections.

(a) Annual fire and life safety inspections shall be conducted pursuant to the provisions of section 46-66. An inspection fee shall be levied on all of the uses and occupancies described below.

- (1) Non-residential (includes all retail, mercantile, business office, storage occupancies, assembly, healthcare and institutional, but not including restaurants, cafes, and public eating places.)
- (2) Multi-family building (includes hotels, apartments, cooperatives, condominiums, and boarding houses renting furnished or unfurnished rooms or apartments).
- (3) Restaurants, cafes and public eating places.
- (4) Educational.
- (5) Businesses or professional individuals sharing one office suite shall be charged only one fire inspection fee.

(b) A reinspection fee may be charged due to violations, incompleteness, lack of accessibility or deviation from approved plans. Following the initial inspection, one reinspection for compliance will be included in the original fee. If additional reinspections are necessary due to the above criteria, reinspection fees will be required.

The following inspection fees shall be required:

(1) Assembly:

- 50—299 seating capacity\$100.00
- 300—1,000 seating capacity125.00
- 1,001—5,000 seating capacity250.00
- 5,001 and over seating capacity350.00

(2) Educational schools or day care:

- 0—10,000 sq. ft.75.00
- 10,001—20,000 sq. ft.100.00
- 20,001—50,000 sq. ft.250.00
- 50,001—100,000 sq. ft.300.00
- 100,001—200,000 sq. ft.350.00
- 200,001 and over400.00

(3) Health care, hospital, nursing home, ambulatory health care, etc.

- 5,000 sq. ft. and under100.00
- 5,001—15,000 sq. ft.150.00
- 15,001—30,000 sq. ft.200.00
- 30,001—100,000 sq. ft.250.00
- 100,001—200,000 sq. ft.300.00

- 200,001—500,000 sq. ft.350.00
- 500,001 and over400.00
- (4) Lodging/rooming houses/hotel/dormitories and condominiums:
- 0—16 units100.00
- 17—100 units150.00
- 101—500 units/rooms250.00
- 501 and over300.00
- (4) Mercantile, business and storage:
- 5,000 sq. ft. and under100.00
- 5,001—15,000 sq. ft.125.00
- 15,001—30,000 sq. ft.200.00
- 30,001—100,000 sq. ft.225.00
- 100,001—200,000 sq. ft.250.00
- 200,001—500,000 sq. ft.300.00
- 500,001 and over350.00
- (6) Temporary structures:
- All75.00
- (7) Commercial LP gas facilities:
- All100.00
- (8) Occupational licensing inspections:
- All residential75.00
- All commercial100.00
- (9) Hazardous materials facilities:
- 5,000 sq. ft. and under125.00
- 5,001—15,000 sq. ft.175.00
- 15,001—30,000 sq. ft.275.00
- 30,001—100,000 sq. ft.325.00
- 100,001—200,000 sq. ft.425.00
- 200,001—500,000 sq. ft.475.00
- 500,001 and over525.00
- (10) Restaurants, cafes, and public eating places90.00
- (11) Marinas and docks75.00

(12) Re-inspection fee75.00

(13) Second re-inspection fee125.00

Said fees may be modified by resolution as determined necessary by the town council from time to time.

(Code 1982, § 7-18; Ord. No. 13-05, § 2, 9-13-05; Ord. No. 24-08, § 1, 10-13-08)

APP “2”

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

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

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

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

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

Accessory use or building or structure means a subordinate use or structure customarily incident to the principal use or structure located on the lot or located on a contiguous lot when a unity of title has been provided.

Acre means, for the purpose of calculating dwelling units, an area or parcel of land containing 40,000 square feet.

Alley means a facility which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Attic means non-habitable, unfinished space within the roof system of a building or structure with less than seven feet of head room, access by only pull down, non-mechanical stairs and used only for storage, mechanical or machinery use.

Auto rental lot means a lot or parcel of land on which passenger automobiles for active rental purposes only are stored or parked.

Awning means an accessory structure either temporary or permanent which is supported by an open framework and is covered by cloth material.

Awning, sidewalk means an awning that projects over a public sidewalk or walkway.

Banks and financial institutions means establishments providing saving, lending, trust, and other financial services to the public. Banks and financial institutions shall include, but not necessarily be limited to, banks, brokers and brokerage firms, savings and loan associations, mortgage companies, loan offices, credit unions, and trust companies.

Bar/lounge means an establishment dispensing alcoholic beverages for on-site consumption.

Basement means floor area situated under a building, such floor area having exterior perimeter walls and having a floor level two or more feet below the level of the contiguous exterior ground outside of the building and having one-half or more of its floor-to ceiling height below the average level of all of the exterior ground of the lot comprising the subject building development site. For additional regulations and the exceptions to the regulations of basements see sections 134-1608, 134-1609 and 134-1611. See also *sub-basement*.

Beach house means a permanent structure which may contain a bathroom and other rooms, but not a kitchen or any sleeping rooms, and not used as a dwelling unit.

Building. See *Structure*.

Building angle of vision means a line drawn from the front yard property line as determined in section 134-1636(2) 50 degrees either side of a line drawn perpendicular or radial to the front yard property line.

Building, height of (applicable only in the R-B districts) means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in nonhabitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. To raise the floor more than the typical 18 inches above the highest street elevation pursuant to sections 134-797, 134-847, 134-898, 134-953, 134-1009 and 134-1064, the building height shall be measured from a point 18 inches above the street. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Building height of (applicable to all districts except the R-B districts) means the vertical distance from the grade established by the town for the crown of the public or private street or road at its highest elevation abutting the lot to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in nonhabitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The grade, as identified in this definition, is defined as the zero datum for a lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R-AA district and having a natural ground level lower than that of the roadway on which the lot fronts) means the vertical distance from the point of measurement for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height is to the point where the ceiling meets the exterior wall. The point of measurement for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior

wall meets the minimum flood elevation or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of the floor slab of the existing structure.

Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height to the point where the ceiling meets the exterior wall. The point of measurement for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided the following conditions are met:

- (1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;
- (2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and
- (3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

Building, height of, corner lot. In those cases involving a corner lot as defined in this section, the zero datum for the lot set forth in the definition of the term "building, height of (applicable to all districts except the R-B districts)" and the definition of the term "building, height of (applicable only in the R-B district)" shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Building, height of, lot abutting low streets, means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the lot, and if such street elevation is below plus 7½ feet mean sea level, National Geodetic Vertical Datum, such lot grade shall be measured from plus 7½ feet mean sea level NGVD.

Building, height of, through lot. In those cases involving a through lot as defined in this section, the zero datum for the lot grade as set forth in the definition of the term "building height of (applicable to all districts except in the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" and the definition of the term "building, height of, corner lot" of the portion of the building fronting on the front street to one-half of the mean lot depth shall measure its height from the grade established by the town for the crown of the public street at its highest elevation abutting the front of the lot, and the portion of the building fronting on the rear street shall measure its height from the grade established by the town for the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing structure.

Building, height of, (applicable to R-B lots abutting Lake Trail), means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for structures may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. To raise the floor more than the typical 18 inches above the highest street elevation pursuant to 134-898, the structure height shall be measured from a point 18 inches above the street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing structure.

Building, height of, (applicable to all other lots abutting Lake Trail), means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for structures shall be either the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing structure.

Building height plane means a height limiting plane extending at an inclined angle from the intersection of the front yard property line as determined in section 134-1636(2) and the zero datum grade for a lot, or seven and one-half feet mean sea level, whichever is higher, as defined in "height of building" and "overall height of building".

Building line means the line, established by law, beyond which a building shall not extend, except as specifically provided by law.

Building, overall height of includes the height of a building, as defined in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; the definition of "building, height of, through lot"; and the definition of "building, height of, lot abutting low streets," plus the vertical distance from the building height to the highest point of the building's roof system.

Business services means establishments providing support services to other business concerns. Business services would include, but not necessarily be limited to, print shops, secretarial services, travel agents, drafting services, and advertising agencies, etc.

Cabana (pool house) means an accessory structure usually used in connection with outdoor bathing, providing enclosed space for showering or changing clothes, with recreational cooking and/or bar facilities, but no sleeping rooms.

Carport means an unenclosed accessory structure for the sheltering of an automobile(s).

Change in generic use means the change in the use of a parcel or structure thereon or portion thereof from one generic category of use to another, but not including a change of activity within a generic use category.

Club, private means buildings and/or facilities, not open to the general public, owned and operated by a corporation or association of persons for social or recreational purposes for members and their bona fide guests and which may render, as an accessory use, services that are customarily carried on as a business. Within residential zoning districts, a private club may provide living quarters for its bona fide employees only.

Commercial use means use of land or structures thereon or portions thereof, for the purpose of conducting business, including the provision of goods and/or services, not otherwise identified under the definition of other generic uses, to the general public or segments thereof. For the purposes of this definition, timesharing, motel and/or hotel uses and occupancy of residential properties for periods of less than three months more frequently than three times per calendar year shall be considered commercial uses.

Common open space means that area of a development site which is unencumbered by buildings, other structures, driveways for vehicular access, or automobile parking areas and storage. This area shall include all yard areas as well as those other open land areas located within the planned unit development site.

Cubic content ratio (CCR) means a measure of land use intensity, expressing the mathematical relationship between the cubic content of a building and the unit of land. It is arrived at by dividing the gross cubic content, as calculated by multiplying building height as stated in the definition of the term "building, height of (applicable only in the R-B district)" in this section times exterior building width times exterior building depth of all structures by the gross area of the lot.

Declaration of use means a town agreement signed under oath and recorded against the title of land in order to provide notice that the use of the land or structure is subject to certain limitations and/or conditions of approval, which unless otherwise determined by the town council, shall include

provisions for remedies for violation of said limitations, conditions of approval and/or the Code of Ordinances and that the use will remain in compliance with the limitations in the Code of Ordinances and conditions of approval by the submittal of a certificate of compliance each year.

Dining room means any building or part thereof or any room or part thereof in which food is dispensed or served for profit or gratis to a restricted and limited clientele consisting of tenants and residents of the same premises and their bona fide guests, and private club members and their bona fide guests.

Dish antenna, television and communication means an accessory structure consisting of a satellite earth station designed to receive television or other broadcasts relayed by microwave signals from earth-orbiting communications satellites.

Distribution electric substation means an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

Dock means an unenclosed accessory structure built on piling over the water, which is designed or used to provide dockage for and access to one or more boats and which may have davits, vertical lifts, gates, water and electrical service, other similar public utility services and additional accessory uses customarily incident to a dock, such as but not limited to storage chests and low-intensity lighting approved by the town and installed in a manner as to not have an adverse effect upon adjacent properties.

Drive-in use means an establishment that, by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive goods or services in their motor vehicles.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy, but not including trailers, campers, mobile homes, hotels, motels, motor lodges, boardinghouses and lodginghouses, tents, tourist courts or tourist homes.

Dwelling, multiple or multifamily, commonly known as an apartment house, means a building or portion thereof used or designed as a residence for three or more families living independently of each other, having individual living units with each unit having cooking facilities and containing a living room and/or one or more bedrooms.

Dwelling, single-family means a detached building designed and used exclusively for residential purposes by one family.

Dwelling, townhouse means an attached building, not over two stories in height, which is designed for or occupied exclusively by one individual or family and attached to two or more other buildings of similar design and in which each dwelling unit is separated from adjacent dwelling units by party walls extending vertically from the ground upward through the roof in a manner so that there shall be no interconnection of or overlapping between any part of individual dwelling unit walls, floors, roofs, basements or other portions of the building structure, and in which each dwelling unit shall have separate and individual sewer, water and public utilities connections. Townhouses may or may not be located on land belonging exclusively to the individual dwelling unit owner.

Dwelling, two-family means a detached building designed and used exclusively for residential purposes by two families living independently of each other.

Dwelling unit (D.U.) means a room or group of rooms designed, used exclusively or occupied as separate living quarters by a single family.

Employee means any person generally working on site for the establishment and includes sole proprietors, partners, limited partners, corporate officers and the like.

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

Executive/employee/group vacation retreat means simultaneous use or occupancy of a dwelling unit by a group of individuals other than a family.

Executive office suites means a tenant space shared by separate office and professional services, each of which has a fixed desk. The executive office suite and each office and professional service business within said suite is licensed and has a fixed desk for each employee.

Family means an individual; or two or more persons related by legal adoption, blood, or a licit marriage; or a group of not more than three persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Floor area total means the sum of the gross horizontal area of all the floors of a building, except a basement or subbasement as defined, measured from the exterior faces of exterior walls and/or supporting columns.

Formula restaurant means a restaurant that is one of a chain or group of three or more restaurants in the nation, and which satisfies at least two of the following three descriptions:

- (1) It has the same or similar name, trade name, or trademark as others in the chain or group;
- (2) It has standardized and limited menus, ingredients, food and beverage preparation;
- (3) It offers any of the following characteristics in a style that is distinctive to and standardized among the chain or group:
 - a. Exterior design or architecture;
 - b. Interior design; or
 - c. Uniforms, except that a personal identification or simple logo will not render the clothing a uniform.

Foster care facility means a facility, licensed or funded by the state department of children and family services, housing foster residents and providing a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents and serving either children or adult foster residents.

Frontage means all the property on one side of a street or place between two intersecting streets or places measured along the line of the street or place, or, if the street or place is dead-ended, all of the property abutting on one side between an intersecting street or place and the dead end of the street or place.

Garage, private means a building or space used as an accessory to or part of a main building permitted in any residence district and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

Garage, storage means any building or premises, other than a private garage, used exclusively for the parking or storage of motor vehicles.

Generic use is the broad description for the use of a parcel or structure or portion thereof. There are but three generic uses in the town: residential, commercial and public/private group use.

Gross leasable area (GLA) means the sum of the gross horizontal area of all floors on one building, which are leased, rented or owned areas within a building, measured from the interior faces of exterior walls and from the interior faces of common interior walls, exclusive of common areas. For the purposes of this definition, the gross leasable area of a given use shall include all floor areas being used, advertised or operated under a single commercial use name which are adjacent to one another; or all floor areas being used, advertised or operated under a single commercial use name which are within 1,500 feet of one another; or all floor areas being used or operated under different commercial use names, but for which interior access between/among them is provided.

Group home means a facility, licensed or funded by the state department of children and family services, providing a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents.

Habitable space means space in or on a structure used or intended to be used for occupancy, for living, sleeping, lounging, eating, cooking or recreation. Finished or unfinished floors above the maximum number of stories allowed containing an elevator, permanent or mechanically operated stairs and seven feet or more of head room shall be considered habitable space. Closets, hallways, storage rooms, attics, machinery rooms, mechanical equipment rooms, utility space and similar areas shall not be considered habitable space.

Historically or architecturally significant multifamily structure means a structure designated by the town council as an historic or architecturally significant structure and which is proposed for conversion to a multifamily structure under a PUD-4 application.

Hotel/motel means an establishment which provides, for pay, lodging and other services to transient and semipermanent residents. A hotel provides meals, convenience shops, entertainment, lounges and recreational facilities as well as maid, laundry, valet, telephone, desk, limousine and other personal services. A hotel may consist of one or more buildings and/or accessory buildings.

House of worship means a structure owned and/or utilized by a religious organization for worship, religious training or education. A house of worship, for the purposes of this chapter, may include, in addition to the principal structure, accessory structures and/or dwelling units for religious organization personnel located within an accessory structure which is utilized primarily for religious training or educational purposes.

Institutions means public and public/private group use of a nonprofit nature typically engaged in public service, e.g., houses of worship, nonprofit cultural centers, charitable organizations.

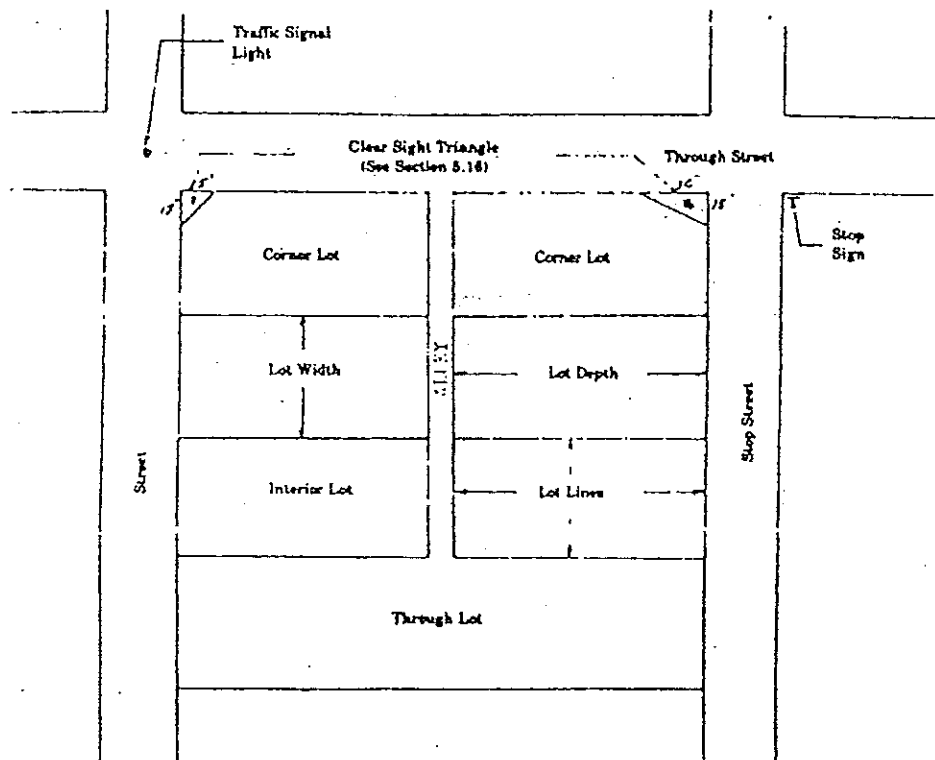
Landscaped open space means open space which is covered and maintained with natural growth in a permeable soil.

Landscaping, required means landscaping that shall consist of those plantings required by this chapter, including beautification strips, hedges, trees, planted ground cover, sodded and grassed areas and planted floral installations, all of which must be composed of natural plantings only as distinguished from artificial manufactured planting reproductions.

Logo means a graphic representation, letter, character, symbol, trademark, design or crest or combinations thereof used to identify a business or organization.

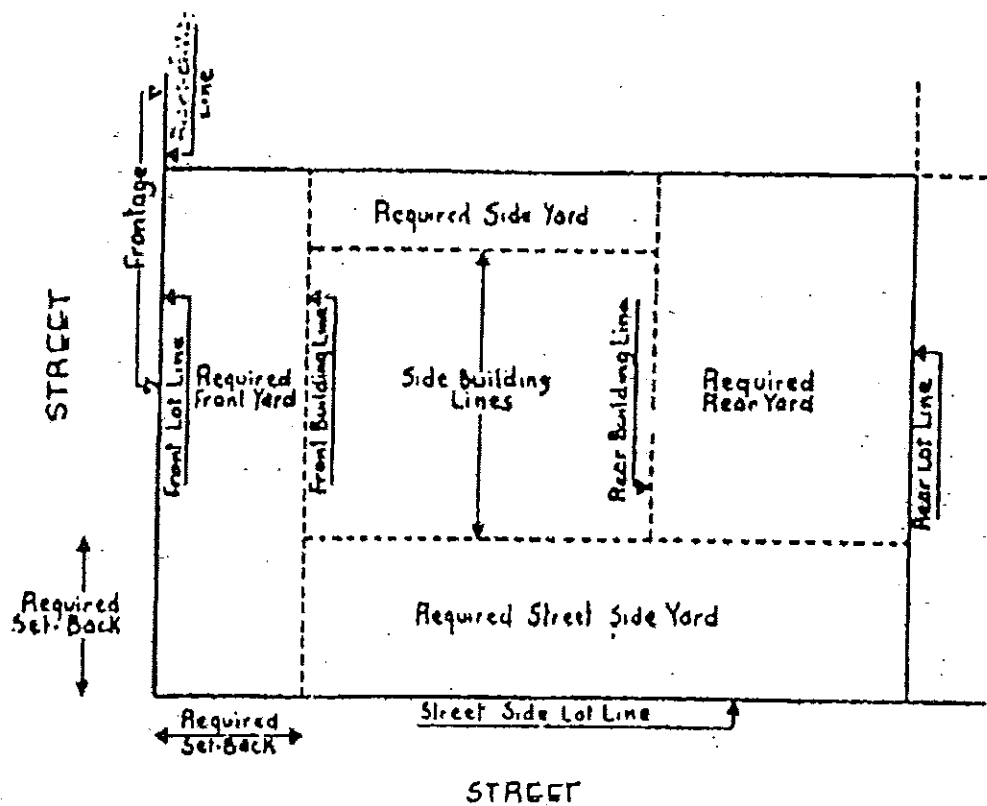
Lot means a parcel of land, vacant or occupied. For the purpose of this chapter, the word "lot" shall be taken to mean any number of contiguous lots of record or unplatted parcels of land or portions thereof not separated by a street or public way, upon which one or more principal structures for a single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

Lot Definitions—General



Lot, corner means a lot abutting upon two or more streets at their intersection which is illustrated as follows:

Yard Definitions—Corner Lot

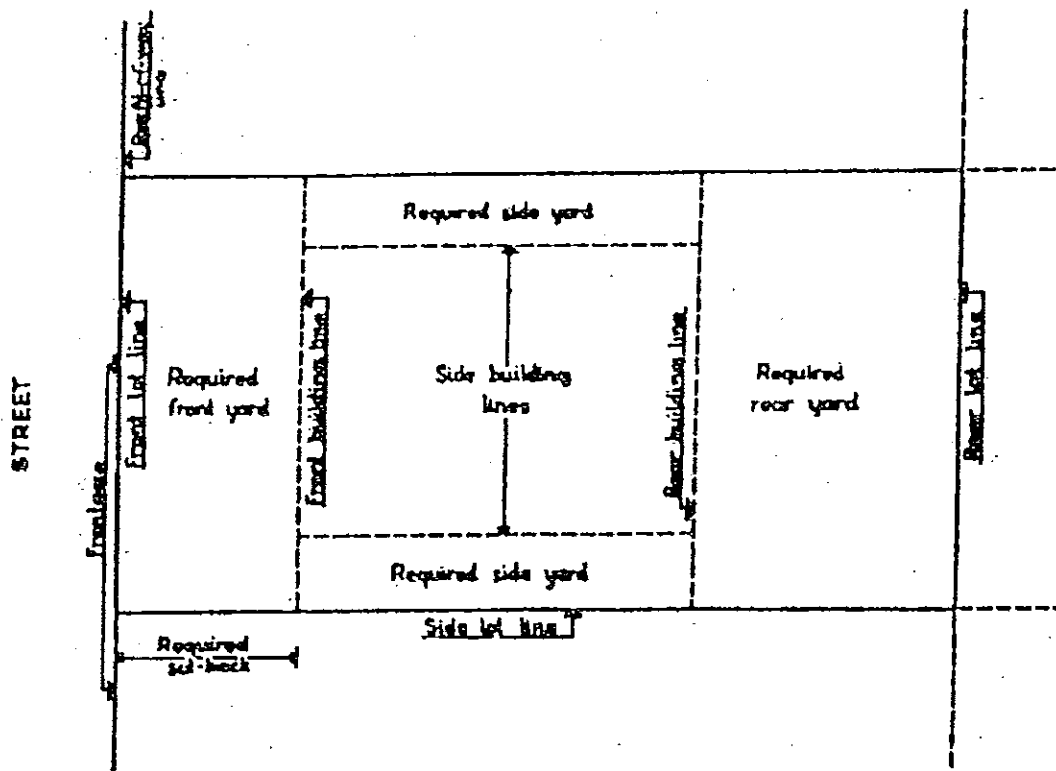


Lot coverage means that percentage of the lot area covered or occupied by the buildings or any part of the buildings, excluding therefrom any projections permitted to extend into yard areas elsewhere by this chapter.

Lot depth means the distance from the midpoint of the front lot line to the midpoint of the mean rear lot line.

Lot, interior means a lot other than a corner lot having frontage on one street, illustrated as follows:

Yard Definitions—Interior Lot

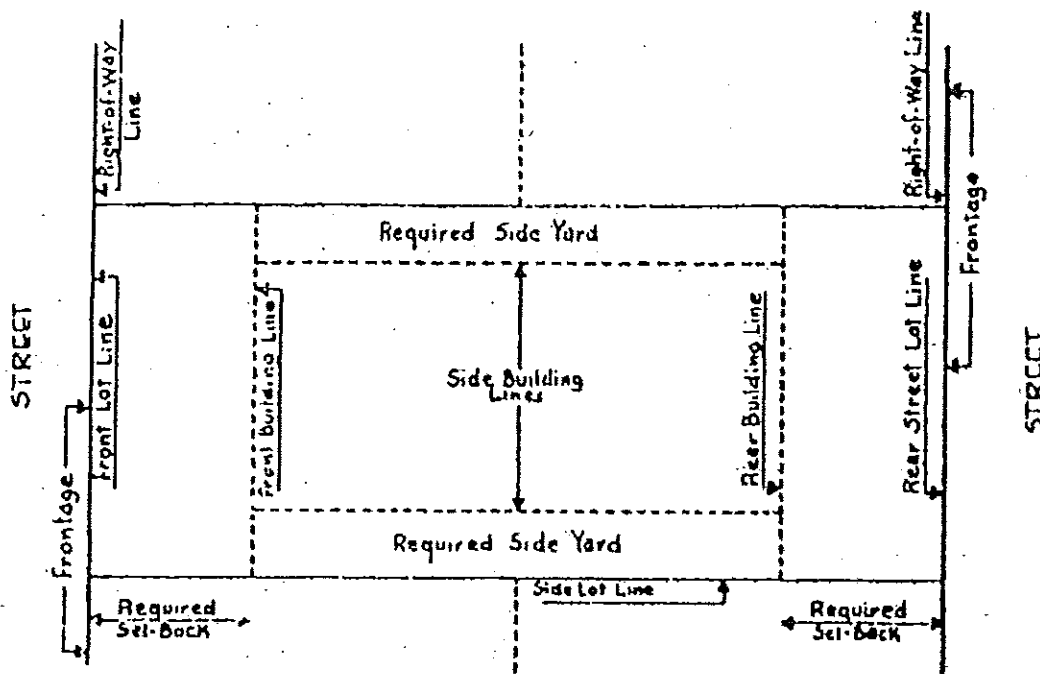


Lot lines means the lines bounding a lot as established by ownership.

Lot of record means a parcel of land as originally subdivided or subsequently resubdivided and properly recorded as a lot within a subdivision or plat.

Lot, street lot line means the front street lot line, side street lot line or rear street lot line of any lot, which shall be the right-of-way line of the abutting street. For public streets this shall consist of the dedicated right-of-way line of public streets plus any additional street widths as required by section 134-1636; for private streets, such right-of-way line shall consist of the platted or unplatted right-of-way line of such private streets plus any additional street width as required by section 134-1636. Note: Refer to section 134-1636 for street lot lines.

Lot, through means an interior lot having frontage on two streets, other than a corner lot, illustrated as follows:



Lot width means the distance measured along the front building line between the side lot lines of a lot.

Manufactured housing means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or panels, and which is built on a frame and designed to be used as a dwelling with a permanent foundation and connected to all required utilities and may include plumbing, heating, air conditioning, and electrical systems contained therein. If fabricated after June 15, 1976, each section shall bear a U.S. Department of Housing and Urban Development label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards.

Municipally owned or operated refers to the town.

Museum means an institution for collecting, preparing, and exhibiting rare, interesting, or typical specimens of works of art, science, invention, manufacturers, etc., or of antiquities, curiosities; or objects of natural history; also, the collection of such articles or their repository.

Nightclub means an establishment dispensing alcoholic beverages for on-site consumption, whether or not food is served, and which is a place of entertainment that is usually open late at night, offering live music, dancing, drinks, and a floorshow:

- (1) By one or more performing artists;
- (2) By one or more live entertainers singing to prerecorded music or
- (3) A deejay playing recorded music;

provided, however, that a restaurant that provides only background dinner music, or entertainment, or where dancing is conducted to live or recorded music does not constitute a nightclub.

Nonconforming building or structure means a building or structure lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the building or structure is situated.

Nonconforming land means a parcel of land lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the land is situated.

Nonconforming use means a use lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the use is situated.

Nonprofit cultural center means an institution for promoting education and the refinement of taste, intellectual and/or aesthetic matters, not including museum uses, operated without profit.

Office and professional services means administrative offices and establishments providing professional services such as lawyers, doctors, insurance agents, real estate brokers, consultants, interior designers, architects, and engineers.

Office, veterinarian means an establishment which provides medical and surgical care for animals, and may provide overnight facilities.

Open space means that area of a lot which is unencumbered by buildings, other structures, driveways, or automobile parking areas, except for garden walls and fences as provided in this chapter.

Parapet wall means a low wall to protect the edge of a roof.

Parking lot, public or private means an open area or plot of land used for the storage or parking of motor vehicles to provide off-street parking, either for profit or gratis, for commercial or residential uses, other than single-family.

Parking, principle of equivalency, as it relates to a method of establishing an inventory of required off-street parking spaces for a conforming or nonconforming use of an existing building, or structure for the purpose of determining the net off-street parking requirement for the establishment of a proposed new use to be permitted in the existing building or structure, is based on the "schedule" in section 134-2176.

Parking, required means those parking facilities determined as the minimum facilities necessary to comply with this chapter as set forth in the schedule of off-street parking requirements.

Parking, supplemental means those parking facilities provided as an administrative approval or special exception use and which are in addition to existing on-site required parking or property that has deficient parking as set forth in the schedule of off-street parking requirements. Supplemental parking cannot be used in the calculation of required off-street parking to develop or redevelop property, or to expand or intensify an existing or proposed use. This definition shall sunset on December 13, 2017, and revert back to the previous definition of supplemental parking if the town council does not extend this provision.

Pergola means an open, accessory structure comprised of a structural framework over an outdoor area usually covered with climbing shrubs or vines.

Personal service establishments means establishments primarily engaged in the provision of services to individuals dealing with their personal or immediate effects. Personal services would include, but not necessarily be limited to, hairstyling or beauty services, tailor/dressmaker, travel agent, cleaning services, interior decorator services, dance studio or similar personal instruction services.

Public/private group use means use of land or structures thereon or portions thereof for public structures, governmental operations, education, essential services, recreation and cultural amenities generally beneficial to the public health, safety and general welfare of the town's residents.

Public structures means municipally owned and/or operated structures used for public purposes such as, but not limited to, administrative offices, recreational buildings, police and/or fire stations and other public safety facilities.

Quasi-commercial means any activity that would seemingly or to some degree be normally considered commercial in nature.

Rear height plane means a height limit of a building in the R-B district as measured by the maximum overall height permitted on the abutting lot to the rear. When a lot abuts more than one lot to the rear, an average maximum overall height will be used to establish the rear height plane.

Residential use means use of land or structures thereon or portions thereof for residential occupancy of a permanent or semipermanent nature with an intended occupancy period, by any one individual or family, with or without bona fide nonpaying guests, of not less than three months; except that residential uses may be occupied by any one individual or family for periods of less than three months not more frequently than three times per calendar year; and except that this definition does not include occupancy of a transient nature such as in hotel, motel or timesharing uses.

Restaurant means every building or part thereof and all accessory buildings used in connection therewith or any place or location kept, used or maintained as, advertised as or held out to the public to be a place where meals and foodstuffs are prepared and served.

Retail establishments means establishments selling commodities or goods to ultimate consumers.

School, academic means a structure or portions thereof designed or used for instructing one or more persons, either children or adults, in either general or specialized education, and including accessory uses such as administrative offices, physical education facilities and group housing facilities for students or staff; provided, however, that instruction received by children or adults in their place of residence shall not constitute a school.

School, professional or studio-type means a structure or portion thereof designed and used for the business of instructing one or more persons, either children or adults, in a specialized subject such as voice, language, dancing or modeling.

Service station means a building or lot where gasoline, oil, greases, batteries and tires are supplied and dispensed to the motor vehicle trade and where repair services other than body work and painting are rendered and where motor vehicles are washed and/or polished manually but not by machinery.

Shade tree means a tree having a height of not less than 12 feet and a spread of not less than ten feet at the time of planting.

Sign means signs and/or lettering, pictures, illustrations or trademarks, logograms, posters or characters, visible from a public or private roadway and/or sidewalk, which shall be classified as signs regardless of whether they are freestanding or attached or painted to or on a building, structure, display board, screen surface or wall or are projected thereon by artificial lighting.

Sign, artisan means a temporary sign of mechanics, painters or other artisans or artisan concerns erected and maintained only during the period such persons or concerns are actively performing work on the premises on which such signs are erected or placed.

Sign, awning. See *Sign, banner*.

Sign, banner means a sign possessing characters, letters, illustrations, ornamentations, or that is designed so as to attract attention by a scenic effect, including pennants, balloons, and flags with or without lettering or characters, including streamers and wind-driven whirligigs, propellers or other devices, and applied to cloth, paper, fabric or like kind of material, either with or without frame, and which sign is not of permanent construction.

Sign, building identification means a sign designed and intended readily to indicate the location of a certain and specific multifamily or commercial building.

Sign, business directory means a wall mounted sign which identifies only the names of the businesses located in a via or building in a via. Said directory sign at the entrance to a via or building in a via may include the name of the via and the via address.

Sign, development means a temporary sign advertising the sale, rental or development of the premises as a whole upon which it is placed or erected.

Sign, illuminated means a sign which is lighted by electrical lighting installed thereon or therein or lighted by remotely located lights or that is produced and/or displayed by means of artificial projected light or lighted by reflected light.

Sign, individual business means a flat wall-mounted identification sign permitted for each individually town-licensed business with street or parking lot frontage and having direct ground level walk-in access from a public or private roadway, sidewalk, or parking lot in a commercially zoned district.

Sign, institutional means a sign for building identification of schools, colleges, churches, sanatoria or other institutions of a similar public or semipublic nature.

Sign, menu means a restaurant or take-out food establishment wall, pedestal or window mounted sign which identifies the menu and prices within said establishment.

Sign, official traffic means a sign placed or erected by a governmental agency as a regulatory, aid-to-traffic or informational sign, in connection with control of vehicular or pedestrian traffic over a bridge, roadway, pathway or sidewalk.

Sign, sale or rental means a temporary sign advertising the sale or rental of the premises upon which it is placed or erected by the owner or broker or any other person interested in the sale or rental of the premises.

Sign, yard means a detached and freestanding identification sign supported on a pole or similar supporting structure.

Special exception. Special exception uses are allowable as conditional uses authorized in a zone only under the specific conditions specified in sections 134-227 through 134-233 and article III of this chapter and pursuant to the procedures in divisions 3 and 4 of article II of this chapter, but which use cannot be located in a zone as a matter of right and which may be revoked if any of the required conditions to approval and operation are violated.

Special exception structure means a structure approved as a special exception subject to sections 134-227 through 134-233, 134-897, 134-952, 134-1008, 134-1063, 134-1115, 134-1165 and 134-1214.

Statue or sculpture means an object which is fashioned, shaped and formed by hand or machine into a work of art, including but not limited to contemporary, modern, classical and/or abstract design, and that may or may not be a likeness of a person or thing.

Story means that portion of a building, other than an attic, included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the ceiling next above it. Habitable space, open patios, accessible roof decks not used exclusively for mechanical equipment, observation decks and/or similar areas located above the first or second story shall be considered a story for the purpose of this definition.

Street means a facility, either public or private, that affords the primary access to abutting property and that is intended for general traffic circulation. A street includes the entire area between street lines (right-of-way lines), including provisions for culs-de-sac.

Street line means the line between the street and abutting property. Also referred to as right-of-way line.

Structural alteration means any change, except the repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, or the rearrangement of any interior partitions affecting more than 50 percent of the floor area of the building.

Structure means anything constructed, placed or erected on land, submerged land or over water, the use of which requires permanent or temporary location on the land, submerged land or over water, or attachment to something having permanent or temporary location on or over the land, submerged land, or water.

Structure, principal means a main and foremost building or structure located on a lot and in which is conducted the main and foremost use of the lot on which the building or structure is situated.

Sub-basement means a facility that is located underground and does not exceed in height the lowest point of the public sidewalk abutting the property or, alternately, the lowest point of the public street if there is no public sidewalk and no portion which is located beyond the confines of the outer walls of the main building located above ground level. For additional regulations and the exceptions to the regulations of sub-basements see sections 134-1610, 134-1611 and 134-2179.

Timesharing use means the use of any unit under which the exclusive right of use or occupancy of the unit for a period of less than three months circulates among various occupants in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by such schedule. Such a use is permitted in the town only by special exception in the C-OPI, C-PC, C-B and R-D (2) zoning districts.

Townpersons means all full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the town.

Town-serving means establishments principally oriented to serving the needs of townpersons which would not substantially rely upon the patronage of persons not defined as townpersons. Town-serving establishments, by definition, would typically contain 4,000 or less square feet of interior gross leasable area (GLA) in the C-WA district, 3,000 or less square feet of interior GLA in the C-TS and C-B districts and 2,000 or less square feet interior GLA in the C-PC district. Establishment would also not engage in advertising designed to attract other than townpersons.

Trellis means an ornamental accessory structure of lattice work over which vines are trained, usually made of narrow strips of wood which cross each other at regular intervals.

Use, principal means a main and foremost use of improved or unimproved property, such use established on the property and which may be within or without any building on the property.

Vacant land means any lot or parcel of land which is completely open, has no use associated with it or upon it and is not utilized as the required yard area for any adjoining uses.

Variance means a modification from the literal interpretation of this chapter, other than those sections relating to use requirements, subject to the procedures of divisions 3 and 4 of article II of this chapter.

Yard means an open space on the same lot with a building, such space unoccupied by structures and unobstructed from the ground upward except by trees or shrubbery or as otherwise provided in this chapter. The term "yard" may also apply to that area of the lot required to remain in open space by percentage of lot coverage regulations contained in this chapter in addition to the required front, required side or required rear yard open spaces.

Yard, front means a yard across the full width of the lot, extended from the front building line, including open porches, to the front street line of the lot.

Yard, rear means a yard extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building. For corner lots, the rear yard shall be the yard opposite the front street line of the lot. For through lots, the rear yard fronting on the street opposite the front street line of the lot shall be the rear street yard. (Note: Refer to section 134-1636 for street lot lines.)

Yard, side means an open unoccupied space on the same lot with a building between the building line and the sideline of the lot extending through from the front building line to the rear yard or to the rear line of the lot, where no rear yard is required.

Zoning in progress means a period of time during the zoning procedures which begins with active and documented efforts by those authorized to do the zoning work which, in the normal course of municipal action, may culminate in the requisite zoning change.

(Ord. No. 2-74, § 2.10, 3-26-74; Ord. No. 3-77, § 1, 3-29-77; Ord. No. 5-78, § 1, 3-31-78; Ord. No. 7-79, §§ 1, 4, 3-30-79; Ord. No. 4-80, § 1, 3-31-80; Ord. No. 6-81, § 1(a), 3-31-81; Ord. No. 7-82, § 1(a), (b), 3-31-82; Ord. No. 2-83, § 1(a), (b), 2-23-83; Ord. No. 1-84, § 1(a), (b), (d)—(i), 3-1-84; Ord. No. 2-84, § 1(c), 3-1-84; Ord. No. 1-85, § 1(a)—(i), 2-11-85; Ord. No. 1-86, § 1(a), (c)—(e), 2-10-86; Ord. No. 1-87, § 1(a)—(d), 2-9-87; Ord. No. 1-89, § 1(a)—(i), 2-6-89; Ord. No. 1-90, § 1(a), (b), 2-5-90; Ord. No. 1-91, § 1(a), (b), 4-23-91; Ord. No. 1-92, § 1(a), 2-3-92; Ord. No. 1-93, § 1(a)—(c), 2-8-93; Ord. No. 9-93, § 1(a)—(h), 6-8-93; Ord. No. 1-94, § 1(a), 2-7-94; Ord. No. 1-96, §§ 2, 18, 19, 2-5-96; Ord. No. 1-98, § 1, 2-9-98; Ord. No. 1-99, §§ 1, 2, 4-5-99; Ord. No. 1-01, §§ 3, 5, 2-19-01; Ord. No. 1-02, §§ 3, 4, 3-12-02; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 1-03, § 1, 3-11-03; Ord. No. 1-04, §§ 7, 21, 3-9-04; Ord. No. 1-06, § 1, 3-14-06; Ord. No. 1-07, § 1, 4-10-07; Ord. No. 4-08, §§ 1, 4, 7, 4-7-08; Ord. No. 11-08, §§ 1, 2, 5-12-08; Ord. No. 5-09, § 29, 4-15-09; Ord. No. 26-10, § 1, 12-15-10; Ord. No. 14-2011, § 1, 6-15-11; Ord. No. 2-2011, § 1, 7-13-11; Ord. No. 3-2012, § 1, 4-11-12; Ord. No. 10-2012, § 1, 9-11-12; Ord. No. 7-2014, § 1, 5-14-14; Ord. No. 25-2015, § 1, 11-12-15)

Cross reference— Definitions generally, § 1-2.

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

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

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

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

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

Accessory use or building or structure means a subordinate use or structure customarily incident to the principal use or structure located on the lot or located on a contiguous lot when a unity of title has been provided.

Acre means, for the purpose of calculating dwelling units, an area or parcel of land containing 40,000 square feet.

Alley means a facility which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Attic means non-habitable, unfinished space within the roof system of a building or structure with less than seven feet of head room, access by only pull down, non-mechanical stairs and used only for storage, mechanical or machinery use.

Auto rental lot means a lot or parcel of land on which passenger automobiles for active rental purposes only are stored or parked.

Awning means an accessory structure either temporary or permanent which is supported by an open framework and is covered by cloth material.

Awning, sidewalk means an awning that projects over a public sidewalk or walkway.

Banks and financial institutions means establishments providing saving, lending, trust, and other financial services to the public. Banks and financial institutions shall include, but not necessarily be limited to, banks, brokers and brokerage firms, savings and loan associations, mortgage companies, loan offices, credit unions, and trust companies.

Bar/lounge means an establishment dispensing alcoholic beverages for on-site consumption.

Basement means floor area situated under a building, such floor area having exterior perimeter walls and having a floor level two or more feet below the level of the contiguous exterior ground outside of the building and having one-half or more of its floor-to ceiling height below the average level of all of the exterior ground of the lot comprising the subject building development site. For additional regulations and the exceptions to the regulations of basements see sections 134-1608, 134-1609 and 134-1611. See also *sub-basement*.

Beach house means a permanent structure which may contain a bathroom and other rooms, but not a kitchen or any sleeping rooms, and not used as a dwelling unit.

Building. See *Structure*.

Building angle of vision means a line drawn from the front yard property line as determined in section 134-1636(2) 50 degrees either side of a line drawn perpendicular or radial to the front yard property line.

Building, height of (applicable only in the R-B districts) means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in nonhabitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. To raise the floor more than the typical 18 inches above the highest street elevation pursuant to sections 134-797, 134-847, 134-898, 134-953, 134-1009 and 134-1064, the building height shall be measured from a point 18 inches above the street. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Building height of (applicable to all districts except the R-B districts) means the vertical distance from the grade established by the town for the crown of the public or private street or road at its highest elevation abutting the lot to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in nonhabitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The grade, as identified in this definition, is defined as the zero datum for a lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R-AA district and having a natural ground level lower than that of the roadway on which the lot fronts) means the vertical distance from the point of measurement for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height is to the point where the ceiling meets the exterior wall. The point of measurement for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior

wall meets the minimum flood elevation or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of the floor slab of the existing structure.

Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height to the point where the ceiling meets the exterior wall. The point of measurement for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided the following conditions are met:

- (1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;
- (2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and
- (3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

Building, height of, corner lot. In those cases involving a corner lot as defined in this section, the zero datum for the lot set forth in the definition of the term "building, height of (applicable to all districts except the R-B districts)" and the definition of the term "building, height of (applicable only in the R-B district)" shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Building, height of, lot abutting low streets, means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the lot, and if such street elevation is below plus 7½ feet mean sea level, National Geodetic Vertical Datum, such lot grade shall be measured from plus 7½ feet mean sea level NGVD.

Building, height of, through lot. In those cases involving a through lot as defined in this section, the zero datum for the lot grade as set forth in the definition of the term "building height of (applicable to all districts except in the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" and the definition of the term "building, height of, corner lot" of the portion of the building fronting on the front street to one-half of the mean lot depth shall measure its height from the grade established by the town for the crown of the public street at its highest elevation abutting the front of the lot, and the portion of the building fronting on the rear street shall measure its height from the grade established by the town for the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing structure.

Building, height of, (applicable to R-B lots abutting Lake Trail), means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for structures may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. To raise the floor more than the typical 18 inches above the highest street elevation pursuant to 134-898, the structure height shall be measured from a point 18 inches above the street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing structure.

Building, height of, (applicable to all other lots abutting Lake Trail), means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for structures shall be either the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing structure.

Building height plane means a height limiting plane extending at an inclined angle from the intersection of the front yard property line as determined in section 134-1636(2) and the zero datum grade for a lot, or seven and one-half feet mean sea level, whichever is higher, as defined in "height of building" and "overall height of building".

Building line means the line, established by law, beyond which a building shall not extend, except as specifically provided by law.

Building, overall height of includes the height of a building, as defined in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; the definition of "building, height of, through lot"; and the definition of "building, height of, lot abutting low streets," plus the vertical distance from the building height to the highest point of the building's roof system.

Business services means establishments providing support services to other business concerns. Business services would include, but not necessarily be limited to, print shops, secretarial services, travel agents, drafting services, and advertising agencies, etc.

Cabana (pool house) means an accessory structure usually used in connection with outdoor bathing, providing enclosed space for showering or changing clothes, with recreational cooking and/or bar facilities, but no sleeping rooms.

Carport means an unenclosed accessory structure for the sheltering of an automobile(s).

Change in generic use means the change in the use of a parcel or structure thereon or portion thereof from one generic category of use to another, but not including a change of activity within a generic use category.

Club, private means buildings and/or facilities, not open to the general public, owned and operated by a corporation or association of persons for social or recreational purposes for members and their bona fide guests and which may render, as an accessory use, services that are customarily carried on as a business. Within residential zoning districts, a private club may provide living quarters for its bona fide employees only.

Commercial use means use of land or structures thereon or portions thereof, for the purpose of conducting business, including the provision of goods and/or services, not otherwise identified under the definition of other generic uses, to the general public or segments thereof. For the purposes of this definition, timesharing, motel and/or hotel uses and occupancy of residential properties for periods of less than three months more frequently than three times per calendar year shall be considered commercial uses.

Common open space means that area of a development site which is unencumbered by buildings, other structures, driveways for vehicular access, or automobile parking areas and storage. This area shall include all yard areas as well as those other open land areas located within the planned unit development site.

Cubic content ratio (CCR) means a measure of land use intensity, expressing the mathematical relationship between the cubic content of a building and the unit of land. It is arrived at by dividing the gross cubic content, as calculated by multiplying building height as stated in the definition of the term "building, height of (applicable only in the R-B district)" in this section times exterior building width times exterior building depth of all structures by the gross area of the lot.

Declaration of use means a town agreement signed under oath and recorded against the title of land in order to provide notice that the use of the land or structure is subject to certain limitations and/or conditions of approval, which unless otherwise determined by the town council, shall include

provisions for remedies for violation of said limitations, conditions of approval and/or the Code of Ordinances and that the use will remain in compliance with the limitations in the Code of Ordinances and conditions of approval by the submittal of a certificate of compliance each year.

Dining room means any building or part thereof or any room or part thereof in which food is dispensed or served for profit or gratis to a restricted and limited clientele consisting of tenants and residents of the same premises and their bona fide guests, and private club members and their bona fide guests.

Dish antenna, television and communication means an accessory structure consisting of a satellite earth station designed to receive television or other broadcasts relayed by microwave signals from earth-orbiting communications satellites.

Distribution electric substation means an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

Dock means an unenclosed accessory structure built on piling over the water, which is designed or used to provide dockage for and access to one or more boats and which may have davits, vertical lifts, gates, water and electrical service, other similar public utility services and additional accessory uses customarily incident to a dock, such as but not limited to storage chests and low-intensity lighting approved by the town and installed in a manner as to not have an adverse effect upon adjacent properties.

Drive-in use means an establishment that, by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive goods or services in their motor vehicles.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy, but not including trailers, campers, mobile homes, hotels, motels, motor lodges, boardinghouses and lodginghouses, tents, tourist courts or tourist homes.

Dwelling, multiple or multifamily, commonly known as an apartment house, means a building or portion thereof used or designed as a residence for three or more families living independently of each other, having individual living units with each unit having cooking facilities and containing a living room and/or one or more bedrooms.

Dwelling, single-family means a detached building designed and used exclusively for residential purposes by one family.

Dwelling, townhouse means an attached building, not over two stories in height, which is designed for or occupied exclusively by one individual or family and attached to two or more other buildings of similar design and in which each dwelling unit is separated from adjacent dwelling units by party walls extending vertically from the ground upward through the roof in a manner so that there shall be no interconnection of or overlapping between any part of individual dwelling unit walls, floors, roofs, basements or other portions of the building structure, and in which each dwelling unit shall have separate and individual sewer, water and public utilities connections. Townhouses may or may not be located on land belonging exclusively to the individual dwelling unit owner.

Dwelling, two-family means a detached building designed and used exclusively for residential purposes by two families living independently of each other.

Dwelling unit (D.U.) means a room or group of rooms designed, used exclusively or occupied as separate living quarters by a single family.

Employee means any person generally working on site for the establishment and includes sole proprietors, partners, limited partners, corporate officers and the like.

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

Executive/employee/group vacation retreat means simultaneous use or occupancy of a dwelling unit by a group of individuals other than a family.

Executive office suites means a tenant space shared by separate office and professional services, each of which has a fixed desk. The executive office suite and each office and professional service business within said suite is licensed and has a fixed desk for each employee.

Family means an individual; or two or more persons related by legal adoption, blood, or a licit marriage; or a group of not more than three persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Floor area total means the sum of the gross horizontal area of all the floors of a building, except a basement or subbasement as defined, measured from the exterior faces of exterior walls and/or supporting columns.

Formula restaurant means a restaurant that is one of a chain or group of three or more restaurants in the nation, and which satisfies at least two of the following three descriptions:

- (1) It has the same or similar name, trade name, or trademark as others in the chain or group;
- (2) It has standardized and limited menus, ingredients, food and beverage preparation;
- (3) It offers any of the following characteristics in a style that is distinctive to and standardized among the chain or group:
 - a. Exterior design or architecture;
 - b. Interior design; or
 - c. Uniforms, except that a personal identification or simple logo will not render the clothing a uniform.

Foster care facility means a facility, licensed or funded by the state department of children and family services, housing foster residents and providing a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents and serving either children or adult foster residents.

Frontage means all the property on one side of a street or place between two intersecting streets or places measured along the line of the street or place, or, if the street or place is dead-ended, all of the property abutting on one side between an intersecting street or place and the dead end of the street or place.

Garage, private means a building or space used as an accessory to or part of a main building permitted in any residence district and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

Garage, storage means any building or premises, other than a private garage, used exclusively for the parking or storage of motor vehicles.

Generic use is the broad description for the use of a parcel or structure or portion thereof. There are but three generic uses in the town: residential, commercial and public/private group use.

Gross leasable area (GLA) means the sum of the gross horizontal area of all floors on one building, which are leased, rented or owned areas within a building, measured from the interior faces of exterior walls and from the interior faces of common interior walls, exclusive of common areas. For the purposes of this definition, the gross leasable area of a given use shall include all floor areas being used, advertised or operated under a single commercial use name which are adjacent to one another; or all floor areas being used, advertised or operated under a single commercial use name which are within 1,500 feet of one another; or all floor areas being used or operated under different commercial use names, but for which interior access between/among them is provided.

Group home means a facility, licensed or funded by the state department of children and family services, providing a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents.

Habitable space means space in or on a structure used or intended to be used for occupancy, for living, sleeping, lounging, eating, cooking or recreation. Finished or unfinished floors above the maximum number of stories allowed containing an elevator, permanent or mechanically operated stairs and seven feet or more of head room shall be considered habitable space. Closets, hallways, storage rooms, attics, machinery rooms, mechanical equipment rooms, utility space and similar areas shall not be considered habitable space.

Historically or architecturally significant multifamily structure means a structure designated by the town council as an historic or architecturally significant structure and which is proposed for conversion to a multifamily structure under a PUD-4 application.

Hotel/motel means an establishment which provides, for pay, lodging and other services to transient and semipermanent residents. A hotel provides meals, convenience shops, entertainment, lounges and recreational facilities as well as maid, laundry, valet, telephone, desk, limousine and other personal services. A hotel may consist of one or more buildings and/or accessory buildings.

House of worship means a structure owned and/or utilized by a religious organization for worship, religious training or education. A house of worship, for the purposes of this chapter, may include, in addition to the principal structure, accessory structures and/or dwelling units for religious organization personnel located within an accessory structure which is utilized primarily for religious training or educational purposes.

Institutions means public and public/private group use of a nonprofit nature typically engaged in public service, e.g., houses of worship, nonprofit cultural centers, charitable organizations.

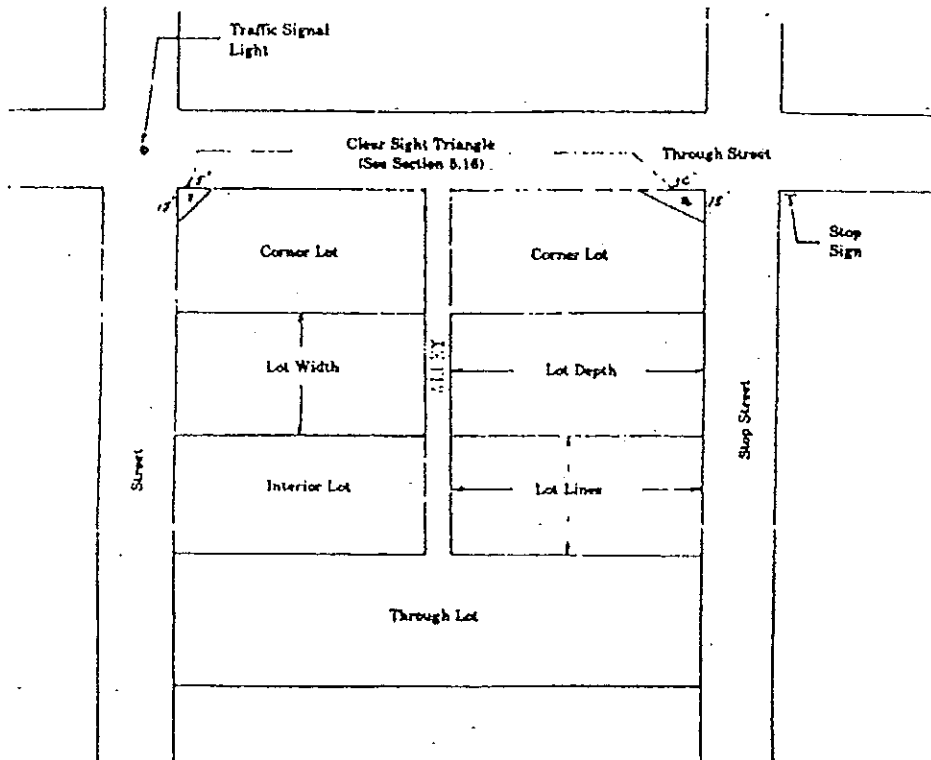
Landscaped open space means open space which is covered and maintained with natural growth in a permeable soil.

Landscaping, required means landscaping that shall consist of those plantings required by this chapter, including beautification strips, hedges, trees, planted ground cover, sodded and grassed areas and planted floral installations, all of which must be composed of natural plantings only as distinguished from artificial manufactured planting reproductions.

Logo means a graphic representation, letter, character, symbol, trademark, design or crest or combinations thereof used to identify a business or organization.

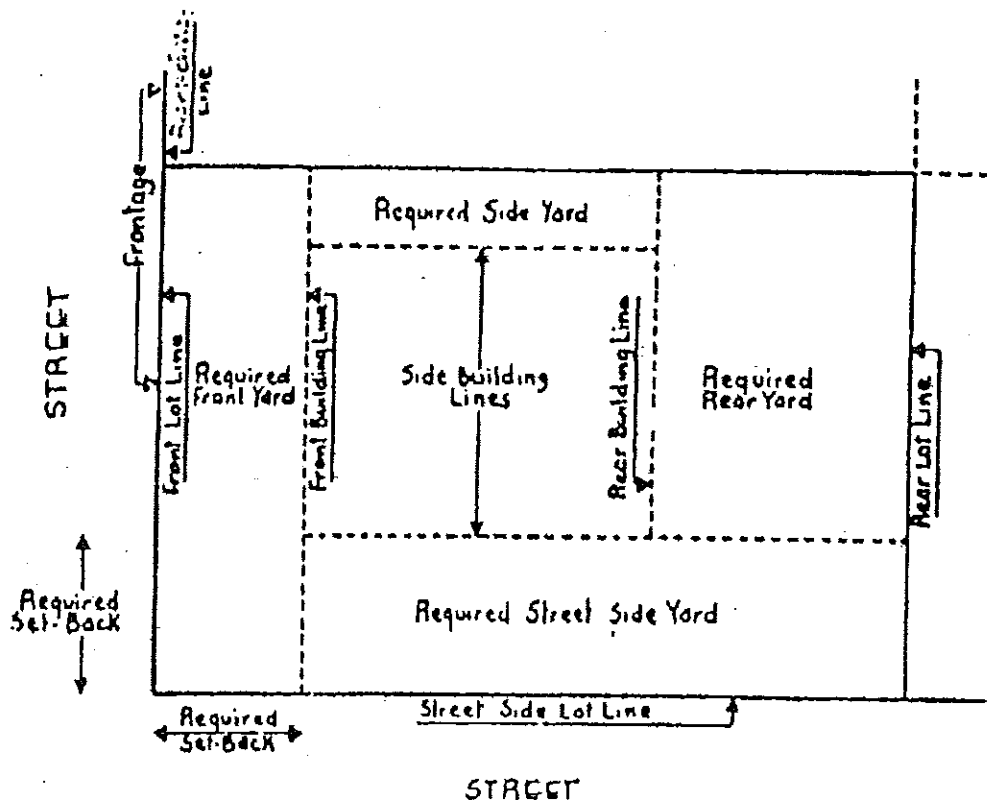
Lot means a parcel of land, vacant or occupied. For the purpose of this chapter, the word "lot" shall be taken to mean any number of contiguous lots of record or unplatted parcels of land or portions thereof not separated by a street or public way, upon which one or more principal structures for a single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

Lot Definitions—General



Lot, corner means a lot abutting upon two or more streets at their intersection which is illustrated as follows:

Yard Definitions—Corner Lot

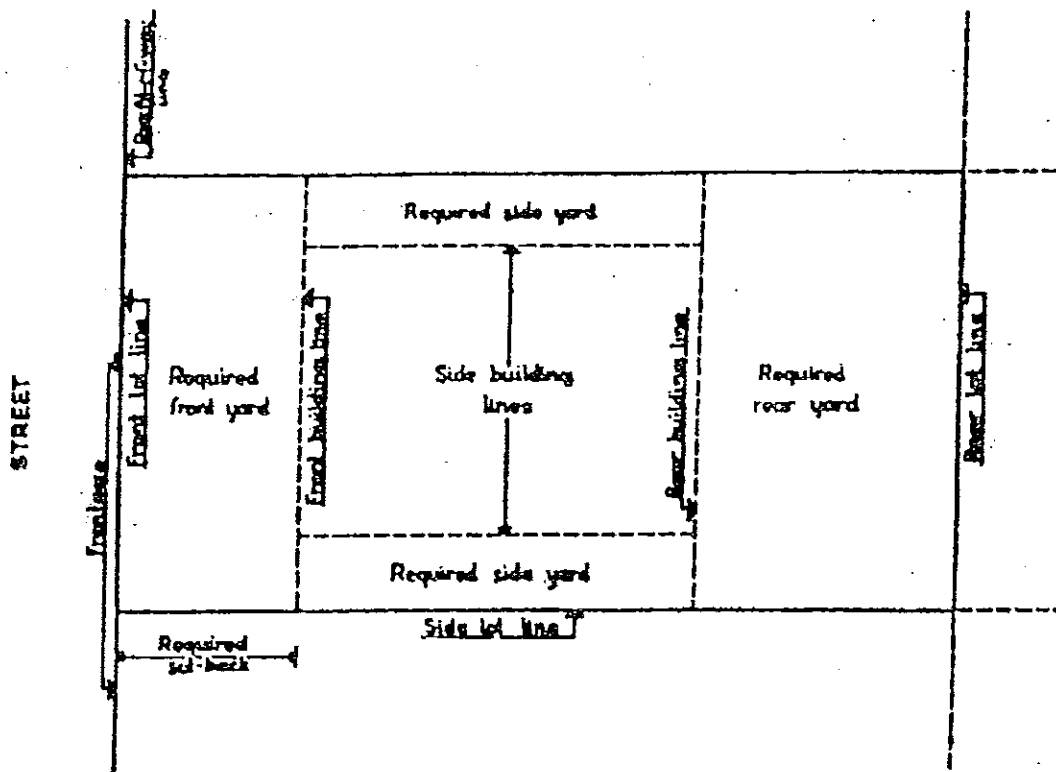


Lot coverage means that percentage of the lot area covered or occupied by the buildings or any part of the buildings, excluding therefrom any projections permitted to extend into yard areas elsewhere by this chapter.

Lot depth means the distance from the midpoint of the front lot line to the midpoint of the mean rear lot line.

Lot, interior means a lot other than a corner lot having frontage on one street, illustrated as follows:

Yard Definitions—Interior Lot

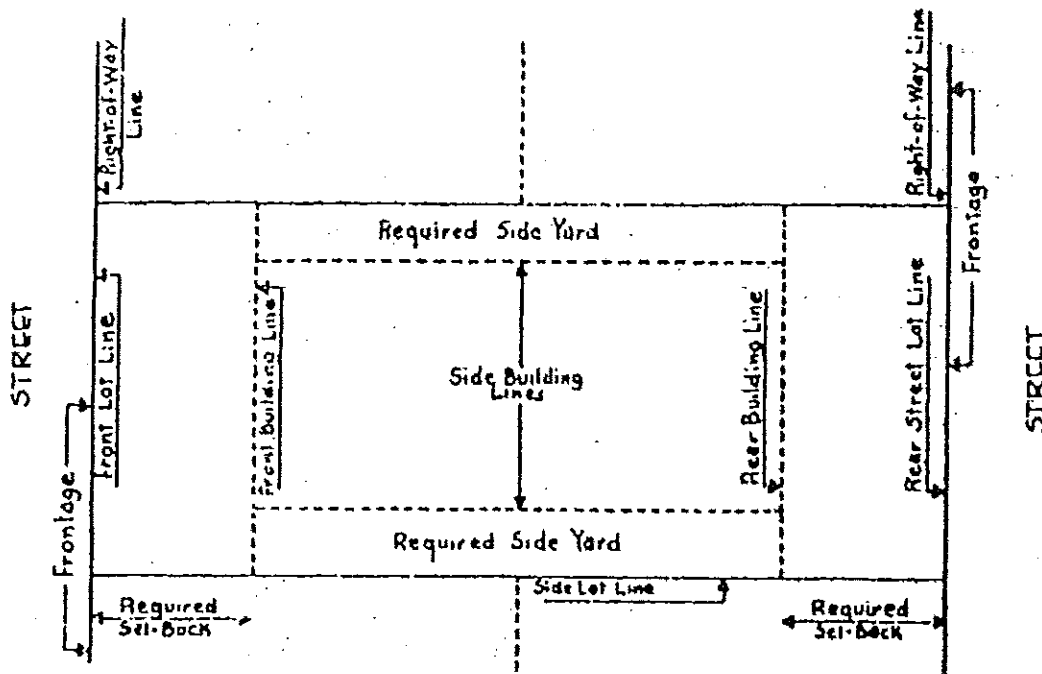


Lot lines means the lines bounding a lot as established by ownership.

Lot of record means a parcel of land as originally subdivided or subsequently resubdivided and properly recorded as a lot within a subdivision or plat.

Lot, street lot line means the front street lot line, side street lot line or rear street lot line of any lot, which shall be the right-of-way line of the abutting street. For public streets this shall consist of the dedicated right-of-way line of public streets plus any additional street widths as required by section 134-1636; for private streets, such right-of-way line shall consist of the platted or unplatted right-of-way line of such private streets plus any additional street width as required by section 134-1636. Note: Refer to section 134-1636 for street lot lines.

Lot, through means an interior lot having frontage on two streets, other than a corner lot, illustrated as follows:



Lot width means the distance measured along the front building line between the side lot lines of a lot.

Manufactured housing means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or panels, and which is built on a frame and designed to be used as a dwelling with a permanent foundation and connected to all required utilities and may include plumbing, heating, air conditioning, and electrical systems contained therein. If fabricated after June 15, 1976, each section shall bear a U.S. Department of Housing and Urban Development label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards.

Municipally owned or operated refers to the town.

Museum means an institution for collecting, preparing, and exhibiting rare, interesting, or typical specimens of works of art, science, invention, manufacturers, etc., or of antiquities, curiosities; or objects of natural history; also, the collection of such articles or their repository.

Nightclub means an establishment dispensing alcoholic beverages for on-site consumption, whether or not food is served, and which is a place of entertainment that is usually open late at night, offering live music, dancing, drinks, and a floorshow:

- (1) By one or more performing artists;
- (2) By one or more live entertainers singing to prerecorded music or
- (3) A deejay playing recorded music;

provided, however, that a restaurant that provides only background dinner music, or entertainment, or where dancing is conducted to live or recorded music does not constitute a nightclub.

Nonconforming building or structure means a building or structure lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the building or structure is situated.

Nonconforming land means a parcel of land lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the land is situated.

Nonconforming use means a use lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the use is situated.

Nonprofit cultural center means an institution for promoting education and the refinement of taste, intellectual and/or aesthetic matters, not including museum uses, operated without profit.

Office and professional services means administrative offices and establishments providing professional services such as lawyers, doctors, insurance agents, real estate brokers, consultants, interior designers, architects, and engineers.

Office, veterinarian means an establishment which provides medical and surgical care for animals, and may provide overnight facilities.

Open space means that area of a lot which is unencumbered by buildings, other structures, driveways, or automobile parking areas, except for garden walls and fences as provided in this chapter.

Parapet wall means a low wall to protect the edge of a roof.

Parking lot, public or private means an open area or plot of land used for the storage or parking of motor vehicles to provide off-street parking, either for profit or gratis, for commercial or residential uses, other than single-family.

Parking, principle of equivalency, as it relates to a method of establishing an inventory of required off-street parking spaces for a conforming or nonconforming use of an existing building, or structure for the purpose of determining the net off-street parking requirement for the establishment of a proposed new use to be permitted in the existing building or structure, is based on the "schedule" in section 134-2176.

Parking, required means those parking facilities determined as the minimum facilities necessary to comply with this chapter as set forth in the schedule of off-street parking requirements.

Parking, supplemental means those parking facilities provided as an administrative approval or special exception use and which are in addition to existing on-site required parking or property that has deficient parking as set forth in the schedule of off-street parking requirements. Supplemental parking cannot be used in the calculation of required off-street parking to develop or redevelop property, or to expand or intensify an existing or proposed use. This definition shall sunset on December 13, 2017, and revert back to the previous definition of supplemental parking if the town council does not extend this provision.

Pergola means an open, accessory structure comprised of a structural framework over an outdoor area usually covered with climbing shrubs or vines.

Personal service establishments means establishments primarily engaged in the provision of services to individuals dealing with their personal or immediate effects. Personal services would include, but not necessarily be limited to, hairstyling or beauty services, tailor/dressmaker, travel agent, cleaning services, interior decorator services, dance studio or similar personal instruction services.

Public/private group use means use of land or structures thereon or portions thereof for public structures, governmental operations, education, essential services, recreation and cultural amenities generally beneficial to the public health, safety and general welfare of the town's residents.

Public structures means municipally owned and/or operated structures used for public purposes such as, but not limited to, administrative offices, recreational buildings, police and/or fire stations and other public safety facilities.

Quasi-commercial means any activity that would seemingly or to some degree be normally considered commercial in nature.

Rear height plane means a height limit of a building in the R-B district as measured by the maximum overall height permitted on the abutting lot to the rear. When a lot abuts more than one lot to the rear, an average maximum overall height will be used to establish the rear height plane.

Residential use means use of land or structures thereon or portions thereof for residential occupancy of a permanent or semipermanent nature with an intended occupancy period, by any one individual or family, with or without bona fide nonpaying guests, of not less than three months; except that residential uses may be occupied by any one individual or family for periods of less than three months not more frequently than three times per calendar year; and except that this definition does not include occupancy of a transient nature such as in hotel, motel or timesharing uses.

Restaurant means every building or part thereof and all accessory buildings used in connection therewith or any place or location kept, used or maintained as, advertised as or held out to the public to be a place where meals and foodstuffs are prepared and served.

Retail establishments means establishments selling commodities or goods to ultimate consumers.

School, academic means a structure or portions thereof designed or used for instructing one or more persons, either children or adults, in either general or specialized education, and including accessory uses such as administrative offices, physical education facilities and group housing facilities for students or staff; provided, however, that instruction received by children or adults in their place of residence shall not constitute a school.

School, professional or studio-type means a structure or portion thereof designed and used for the business of instructing one or more persons, either children or adults, in a specialized subject such as voice, language, dancing or modeling.

Service station means a building or lot where gasoline, oil, greases, batteries and tires are supplied and dispensed to the motor vehicle trade and where repair services other than body work and painting are rendered and where motor vehicles are washed and/or polished manually but not by machinery.

Shade tree means a tree having a height of not less than 12 feet and a spread of not less than ten feet at the time of planting.

Sign means signs and/or lettering, pictures, illustrations or trademarks, logograms, posters or characters, visible from a public or private roadway and/or sidewalk, which shall be classified as signs regardless of whether they are freestanding or attached or painted to or on a building, structure, display board, screen surface or wall or are projected thereon by artificial lighting.

Sign, artisan means a temporary sign of mechanics, painters or other artisans or artisan concerns erected and maintained only during the period such persons or concerns are actively performing work on the premises on which such signs are erected or placed.

Sign, awning. See Sign, banner.

Sign, banner means a sign possessing characters, letters, illustrations, ornamentations, or that is designed so as to attract attention by a scenic effect, including pennants, balloons, and flags with or without lettering or characters, including streamers and wind-driven whirligigs, propellers or other devices, and applied to cloth, paper, fabric or like kind of material, either with or without frame, and which sign is not of permanent construction.

Sign, building identification means a sign designed and intended readily to indicate the location of a certain and specific multifamily or commercial building.

Sign, business directory means a wall mounted sign which identifies only the names of the businesses located in a via or building in a via. Said directory sign at the entrance to a via or building in a via may include the name of the via and the via address.

Sign, development means a temporary sign advertising the sale, rental or development of the premises as a whole upon which it is placed or erected.

Sign, illuminated means a sign which is lighted by electrical lighting installed thereon or therein or lighted by remotely located lights or that is produced and/or displayed by means of artificial projected light or lighted by reflected light.

Sign, individual business means a flat wall-mounted identification sign permitted for each individually town-licensed business with street or parking lot frontage and having direct ground level walk-in access from a public or private roadway, sidewalk, or parking lot in a commercially zoned district.

Sign, institutional means a sign for building identification of schools, colleges, churches, sanitoria or other institutions of a similar public or semipublic nature.

Sign, menu means a restaurant or take-out food establishment wall, pedestal or window mounted sign which identifies the menu and prices within said establishment.

Sign, official traffic means a sign placed or erected by a governmental agency as a regulatory, aid-to-traffic or informational sign, in connection with control of vehicular or pedestrian traffic over a bridge, roadway, pathway or sidewalk.

Sign, sale or rental means a temporary sign advertising the sale or rental of the premises upon which it is placed or erected by the owner or broker or any other person interested in the sale or rental of the premises.

Sign, yard means a detached and freestanding identification sign supported on a pole or similar supporting structure.

Special exception. Special exception uses are allowable as conditional uses authorized in a zone only under the specific conditions specified in sections 134-227 through 134-233 and article III of this chapter and pursuant to the procedures in divisions 3 and 4 of article II of this chapter, but which use cannot be located in a zone as a matter of right and which may be revoked if any of the required conditions to approval and operation are violated.

Special exception structure means a structure approved as a special exception subject to sections 134-227 through 134-233, 134-897, 134-952, 134-1008, 134-1063, 134-1115, 134-1165 and 134-1214.

Statue or sculpture means an object which is fashioned, shaped and formed by hand or machine into a work of art, including but not limited to contemporary, modern, classical and/or abstract design, and that may or may not be a likeness of a person or thing.

Story means that portion of a building, other than an attic, included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the ceiling next above it. Habitable space, open patios, accessible roof decks not used exclusively for mechanical equipment, observation decks and/or similar areas located above the first or second story shall be considered a story for the purpose of this definition.

Street means a facility, either public or private, that affords the primary access to abutting property and that is intended for general traffic circulation. A street includes the entire area between street lines (right-of-way lines), including provisions for culs-de-sac.

Street line means the line between the street and abutting property. Also referred to as right-of-way line.

Structural alteration means any change, except the repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, or the rearrangement of any interior partitions affecting more than 50 percent of the floor area of the building.

Structure means anything constructed, placed or erected on land, submerged land or over water, the use of which requires permanent or temporary location on the land, submerged land or over water, or attachment to something having permanent or temporary location on or over the land, submerged land, or water.

Structure, principal means a main and foremost building or structure located on a lot and in which is conducted the main and foremost use of the lot on which the building or structure is situated.

Sub-basement means a facility that is located underground and does not exceed in height the lowest point of the public sidewalk abutting the property or, alternately, the lowest point of the public street if there is no public sidewalk and no portion which is located beyond the confines of the outer walls of the main building located above ground level. For additional regulations and the exceptions to the regulations of sub-basements see sections 134-1610, 134-1611 and 134-2179.

Timesharing use means the use of any unit under which the exclusive right of use or occupancy of the unit for a period of less than three months circulates among various occupants in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by such schedule. Such a use is permitted in the town only by special exception in the C-OPI, C-PC, C-B and R-D (2) zoning districts.

Townpersons means all full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the town.

Town-serving means establishments principally oriented to serving the needs of townpersons which would not substantially rely upon the patronage of persons not defined as townpersons. Town-serving establishments, by definition, would typically contain 4,000 or less square feet of interior gross leasable area (GLA) in the C-WA district, 3,000 or less square feet of interior GLA in the C-TS and C-B districts and 2,000 or less square feet interior GLA in the C-PC district. Establishment would also not engage in advertising designed to attract other than townpersons.

Trellis means an ornamental accessory structure of lattice work over which vines are trained, usually made of narrow strips of wood which cross each other at regular intervals.

Use, principal means a main and foremost use of improved or unimproved property, such use established on the property and which may be within or without any building on the property.

Vacant land means any lot or parcel of land which is completely open, has no use associated with it or upon it and is not utilized as the required yard area for any adjoining uses.

Variance means a modification from the literal interpretation of this chapter, other than those sections relating to use requirements, subject to the procedures of divisions 3 and 4 of article II of this chapter.

Yard means an open space on the same lot with a building, such space unoccupied by structures and unobstructed from the ground upward except by trees or shrubbery or as otherwise provided in this chapter. The term "yard" may also apply to that area of the lot required to remain in open space by percentage of lot coverage regulations contained in this chapter in addition to the required front, required side or required rear yard open spaces.

Yard, front means a yard across the full width of the lot, extended from the front building line, including open porches, to the front street line of the lot.

Yard, rear means a yard extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building. For corner lots, the rear yard shall be the yard opposite the front street line of the lot. For through lots, the rear yard fronting on the street opposite the front street line of the lot shall be the rear street yard. (Note: Refer to section 134-1636 for street lot lines.)

Yard, side means an open unoccupied space on the same lot with a building between the building line and the sideline of the lot extending through from the front building line to the rear yard or to the rear line of the lot, where no rear yard is required.

Zoning in progress means a period of time during the zoning procedures which begins with active and documented efforts by those authorized to do the zoning work which, in the normal course of municipal action, may culminate in the requisite zoning change.

(Ord. No. 2-74, § 2.10, 3-26-74; Ord. No. 3-77, § 1, 3-29-77; Ord. No. 5-78, § 1, 3-31-78; Ord. No. 7-79, §§ 1, 4, 3-30-79; Ord. No. 4-80, § 1, 3-31-80; Ord. No. 6-81, § 1(a), 3-31-81; Ord. No. 7-82, § 1(a), (b), 3-31-82; Ord. No. 2-83, § 1(a), (b), 2-23-83; Ord. No. 1-84, § 1(a), (b), (d)—(i), 3-1-84; Ord. No. 2-84, § 1(c), 3-1-84; Ord. No. 1-85, § 1(a)—(i), 2-11-85; Ord. No. 1-86, § 1(a), (c)—(e), 2-10-86; Ord. No. 1-87, § 1(a)—(d), 2-9-87; Ord. No. 1-89, § 1(a)—(i), 2-6-89; Ord. No. 1-90, § 1(a), (b), 2-5-90; Ord. No. 1-91, § 1(a), (b), 4-23-91; Ord. No. 1-92, § 1(a), 2-3-92; Ord. No. 1-93, § 1(a)—(c), 2-8-93; Ord. No. 9-93, § 1(a)—(h), 6-8-93; Ord. No. 1-94, § 1(a), 2-7-94; Ord. No. 1-96, §§ 2, 18, 19, 2-5-96; Ord. No. 1-98, § 1, 2-9-98; Ord. No. 1-99, §§ 1, 2, 4-5-99; Ord. No. 1-01, §§ 3, 5, 2-19-01; Ord. No. 1-02, §§ 3, 4, 3-12-02; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 1-03, § 1, 3-11-03; Ord. No. 1-04, §§ 7, 21, 3-9-04; Ord. No. 1-06, § 1, 3-14-06; Ord. No. 1-07, § 1, 4-10-07; Ord. No. 4-08, §§ 1, 4, 7, 4-7-08; Ord. No. 11-08, §§ 1, 2, 5-12-08; Ord. No. 5-09, § 29, 4-15-09; Ord. No. 26-10, § 1, 12-15-10; Ord. No. 14-2011, § 1, 6-15-11; Ord. No. 2-2011, § 1, 7-13-11; Ord. No. 3-2012, § 1, 4-11-12; Ord. No. 10-2012, § 1, 9-11-12; Ord. No. 7-2014, § 1, 5-14-14; Ord. No. 25-2015, § 1, 11-12-15)

Cross reference— Definitions generally, § 1-2.

APP “3”

Sec. 134-143. - Persons authorized to appeal.

Appeals to the town council may be taken by any person aggrieved or by any officer, board or bureau of the town affected by any decision of an administrative official under any section of this chapter.

(Ord. No. 2-74, § 10.30, 3-26-74; Ord. No. 5-78, § 7, 3-31-78; Ord. No. 7-82, § 8(a), 3-31-82)

APP “4”

Sec. 134-145. - Hearing procedure.

Any person appealing any decision of an administrative official made under this chapter shall make such appeal within 30 days after rendition of the order, requirement, decision, or determination from which such appeal is taken, or the right to appeal shall be barred. Such appeal shall be in writing to the town council with ten copies thereof filed with supporting facts and data with the director of planning, zoning and building. Appeals shall be accompanied by proper exhibits, which shall be timely filed, and shall include plans, documents and other materials to adequately depict and support the appeal. Upon receipt of the appeal, the following procedures shall be undertaken:

- (1) The director of planning, zoning and building shall forthwith examine such appeal and endorse his recommendation thereon together with all documents, plans, papers or other materials constituting the record upon which the action appealed from was taken.
- (2) All appeals will be heard at regular meetings of the town council unless otherwise ordered by the town council and in accordance with sections 134-141, 134-142, 134-201 and 134-226.
- (3) Postponement requests for deferred action on any appeal will be granted for one month only or the next succeeding regular town council meeting, if that should occur on a different date, except for good cause shown.
- (4) When an appeal is deferred or postponed because the town council determines that additional professional advice is necessary, the expense of obtaining such additional professional advice shall be borne by the appellant. The person to render or give such additional professional advice shall be selected by mutual agreement of the town and appellant.

(Ord. No. 2-74, § 10.32, 3-26-74; Ord. No. 3-76, § 5, 3-23-76; Ord. No. 3-77, § 16, 3-29-77; Ord. No. 5-78, § 8, 3-31-78; Ord. No. 7-82, § 8(c), 3-31-82; Ord. No. 26-10, § 3, 12-15-10)

APP “5”

Sec. 134-1156. - Purpose.

The purpose of the C-WA Worth Avenue district is to preserve and enhance an area of unique quality and character oriented to pedestrian comparison shopping and providing a wide range of retail and service establishments, to be developed whether as a unit or as individual parcels, serving the shortterm and longterm needs of townpersons. Drive-in retail facilities are not permitted. Further it shall be the intent of this district to enhance the town-serving character of the area through use of limitations on maximum gross leasable area (GLA), thereby reducing the problems of parking and traffic congestion determined to result from establishments of a region-serving scale.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-05, § 1, 3-8-05)

APP “6”

Sec. 134-1157. - Permitted uses.

- (a) *Enumeration; maximum gross leasable area.* The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 square feet of gross leasable area (GLA), are as follows:
- (1) Antiques.
 - (2) Apparel and accessories.
 - (3) Art galleries.
 - (4) Art services.
 - (5) Bed and bath boutiques.
 - (6) Cards/gifts.
 - (7) Crafts.
 - (8) Drugstore/pharmacy.
 - (9) Fabrics.
 - (10) Flowers/florist.
 - (11) Furniture.
 - (12) Hair styling/beauty salon.
 - (13) Interior decorating sales/services.
 - (14) Jewelry.
 - (15) Kitchenwares.
 - (16) Luggage/leather goods.
 - (17) News/books.
 - (18) Optical goods.
 - (19) Perfumery.
 - (20) Photographic services/studios.
 - (21) Shoes.
 - (22) Retail specialty foods, including incidental sale of prepared foods for takeout.
 - (23) Stationery.
 - (24) Essential services.
 - (25) Tobacconist.
 - (26) Toys.
 - (27) TV and electronic items.
 - (28) Offices and professional and business services, including banks and financial institutions, and executive offices above the first floor, excluding veterinarian offices.
 - (29) Combinations of the uses in subsections (a)(1) through (28) of this section.
- (b) *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 4,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited

to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 4,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 4,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 4,000 square feet, in a district with a 4,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 10,000 square feet exists in the C-WA district and the owner wishes to change to an antique store of the same size or subdivide into two 5,000 square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 4,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 4,000 square feet.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-02, § 11, 3-12-02; Ord. No. 1-04, §§ 18, 23, 3-9-04; Ord. No. 1-05, § 3, 3-8-05; Ord. No. 2-2011, § 5, 7-13-11; Ord. No. 7-2014, § 6, 5-14-14)

APP “7”

Sec. 134-1158. - Accessory uses.

The accessory uses in the C-WA Worth Avenue district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Accessory uses customarily incident to the permitted or approved special exception uses.
- (4) Administrative approval of outdoor seating for dining purposes, subject to the standards and criteria contained in sections 134-2104 through 134-2108, supplemental district regulations.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 8, 4-15-09)

APP “8”

1/23/05

ORDINANCE 1-05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, OF THE CODE OF ORDINANCES AS FOLLOWS: SECTION 134-1156, BY PROHIBITING DRIVE THROUGH FACILITIES IN THE C-WA ZONING DISTRICTS; SECTION 134-1107, BY DELETING OFFICES, PROFESSIONAL SERVICE, BUSINESS SERVICES AND SECURITIES AND FINANCIAL BROKERAGE AND TRUST COMPANIES ON THE FIRST FLOOR IN THE C-TS ZONING DISTRICT; SECTION 134-2176, BY DELETING OFFICES AND PROFESSIONAL AND BUSINESS SERVICES, INCLUDING BANKS AND FINANCIAL INSTITUTION ON THE FIRST FLOOR IN THE C-WA ZONING DISTRICT; SECTION 134-893 AND 134-948, LOT, YARD AND AREA REQUIREMENT-GENERALLY BY INCREASING THE LANDSCAPE OPEN SPACE REQUIREMENTS IN THE R-B ZONING DISTRICT AND LANDSCAPE OPEN SPACE FOR SINGLE-FAMILY DEVELOPMENT IN THE R-C ZONING DISTRICT; AMEND SECTION 134-2029, PERMITTED AND SPECIAL EXCEPTION USES BY ALLOWING ANTENNAS IN THE PUD-A DISTRICT PROVIDED CERTAIN CONDITIONS ARE MET; PROVIDING FOR SEVERABILITY, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Chapter 134, Zoning, of the Code of Ordinances, be amended as hereinafter set forth.

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

Section 1. Amend Article VI, DISTRICT REGULATIONS, DIVISION 9, C-WA WORTH AVENUE DISTRICT, Section 134-1156, Purpose, to read as follows:

The purpose of the C-WA (Worth Avenue) district is to preserve and enhance an area of unique quality and character oriented to pedestrian comparison shopping and providing a wide range of retail and service establishments, to be developed whether as a unit or as individual parcels, serving the short-term and long-term needs of townpersons. Drive-in retail facilities are not permitted. Further, it shall be the intent of this district to enhance the town-serving character of the area through the use of limitations on maximum gross leasable area (GLA), thereby reducing the problems of parking and traffic congestion determined to result from establishments of a region-serving scale.

Section 2. Amend Article VI, DISTRICT REGULATIONS, DIVISION 8, C-TS TOWN-SERVING COMMERCIAL DISTRICT, Section 134-1107, Permitted uses by deleting subsection (a)(3) which reads as follows and renumbering items (4) – (6) as appropriate.

~~(3) Office, professional services, business services, and securities or financial brokerage and trust companies on the first floor, provided such use has no frontage on, or entrance directly onto, a sidewalk fronting on a roadway.~~

Section 3. Amend Article VI, DISTRICT REGULATIONS, DIVISION 9, C-WA WORTH AVENUE DISTRICT, Section 134-1157, Permitted uses by deleting subsection (a)(29) and modifying (a)(30) to read as follows:

~~(29) Offices and professional and business services, including banks and financial institutions, on the first floor, provided such use has no frontage on, or entrance directly onto, a sidewalk fronting a roadway.~~

(30) (29) Combinations of the uses in subsections (a)(1) through ~~(29)~~ (28) of this section.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Division 4, R-B LOW DENSITY RESIDENTIAL DISTRICT, Section 134-893, Lot, yard and area requirements-Generally(a) *schedule of regulations*, (12) *Landscaped open space* to read as follows:

- a. The minimum landscaped open space is 40 45 percent, of which 50% of that percentage is required to be perimeter landscaping within 10 feet of the property line.
- b. Additionally, not less than 40% of the required front yard must be landscaped open space in the R-B zoning district.

Section 5. Amend Article VI, DISTRICT REGULATIONS, Division 5, R-C MEDIUM DENSITY RESIDENTIAL DISTRICT, Section 134-948, Lot, yard and area requirements-Generally, (11) *Landscaped open space* to read as follows:

- a. For single-family uses the landscaped open space is 40 45 percent, of which 50 percent of that percentage is required to be perimeter landscaping within 10 feet of the property line.

Section 6. Amend Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Division 12. TELECOMMUNICATION TOWERS AND ANTENNAS*, Section 134-2029, Permitted or special exception use to read as follows:

Sec. 134-2029. Permitted or special exception use.

Antennas and towers shall be either a permitted use on the town owned property or a special exception use in the town's commercial zoning districts. Antennas (excluding towers) shall be a special exception use in the PUD-A zoning district.

Section 7. Severability

If any provision of this ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are hereby declared severable.

Section 8. Repeal of Ordinance in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or portions thereof which conflict with this or any part of this ordinance are hereby repealed.

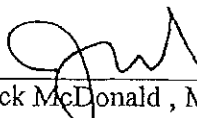
Section 9. Codification

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

Section 10. Effective date

This ordinance shall take effect 31 days subsequent to its enactment on second and final reading and approval, as provided by law.

PASSED AND ADOPTED in regular, adjourned session assembled on first reading this 15th day of February, 2005, on 2nd reading this 8th day of March, 2005.



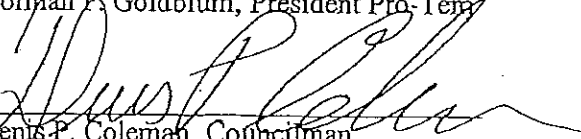
Jack McDonald, Mayor



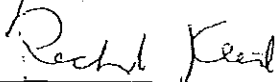
William J. Brooks, Council President



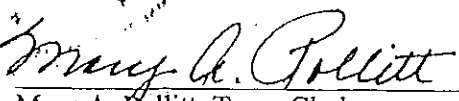
Norman P. Goldblum, President Pro-Tem



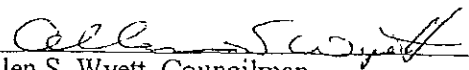
Denis P. Coleman, Councilman



Richard Kleid, Councilman



Mary A. Pollitt, Town Clerk



Allen S. Wyett, Councilman

Ord 1-05



APP “9”

ORDINANCE NO. 2-2011

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY FLORIDA, AMENDING CHAPTER 134, ZONING, AT SECTION 134-2 BY AMENDING THE DEFINITION OF TOWN-SERVING BY INCREASING THE SQUARE FOOT THRESHOLD IN CERTAIN COMMERCIAL ZONING DISTRICTS; SECTION 134-229 BY EXEMPTING HOTEL, MOTEL AND TIMESHARE USES AND THE C-OPI ZONING DISTRICT FROM THE TOWN-SERVING REQUIREMENTS; SECTIONS 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 AND 134-1304 BY INCREASING THE TOWN-SERVING SQUARE FOOT THRESHOLD AND CHANGING THE TERM OCCUPATIONAL LICENSE TO BUSINESS TAX RECEIPT IN THE C-TS, C-WA AND C-B ZONING DISTRICTS; SECTION 134-1259 BY CHANGING THE TERM OCCUPATIONAL LICENSE TO BUSINESS TAX RECEIPT IN THE C-PC ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

WHEREAS, after considering the data in the Report from LaRue Planning and Management Services, Inc., the Local Planning Agency and the Town Council have determined that there should be a change in the Town-serving threshold in different commercial zoning districts;

WHEREAS, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Chapter 134, Zoning, of the Code of Ordinances, be amended as hereinafter set forth.

Section 1. Amend ARTICLE I, IN GENERAL, Section 134-2, Definitions and rules of construction, to read rules of construction, to read as follows:

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

Townpersons means all full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the town.

Town-serving means establishments principally oriented to serving the needs of townpersons which would not substantially rely upon the patronage of persons not defined as townpersons. Town-serving establishments, by definition, would typically contain

4,000 or less square feet of interior gross leasable area (GLA) in the C-WA district, 3,000 or less square feet of interior GLA in the C-TS and C-B districts and 2,000 or less square feet interior GLA in the C-PC district. Establishment would also not engage in advertising designed to attract other than townpersons.

Section 2. Amend Article II, ADMINISTRATION, Sec. 134-229. Requirements for granting, to read as follows:

Sec. 134-229. Requirements for granting.

The requirements of granting a special exception use under this chapter are as follows:

...
(12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

Section 3. Amend Article VI, DISTRICT REGULATIONS, Commercial Town-serving district, Sec. 134-1107, Permitted uses, at subsection (a) and (b) to read as follows:

Sec. 134-1107 Permitted Uses.

(a) *Enumeration; maximum gross leasable area.*

The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:

- (1) Antiques.
- (2) Apparel and accessories.

b. *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses.

However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 8,000 square feet exists in the C-TS district and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Commercial Town-serving district, Sec. 134-1109, Special exception uses, at subsection (a)(11) and subsection (b) to read as follows:

Sec. 134-1109. Special exception uses.

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

(11) Any commercial establishment with greater than 3,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

(b) An owner or tenant of a property, located within the C-TS district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing business tax receipt.

Section 5. Amend Article VI, DISTRICT REGULATIONS, Commercial Worth Avenue district, Sec. 134-1157, Permitted uses, at subsection (a) and (b) to read as follows:

Sec. 134-1157 Permitted uses.

(a) Enumeration; maximum gross leasable area.

The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 square feet gross leasable area (GLA), are as follows:

(b). Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 4,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 4,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 4,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 4,000 square feet, in a district with a 4,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 10,000 square feet exists in the C-WA districts and the owner wishes to change to an antique store of the same size or subdivide into two 5,000 square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 4,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 4,000 square feet.

Section 6. Amend Article VI, DISTRICT REGULATIONS, Commercial Worth Avenue district, Sec. 134-1159, Special exception uses, (a)(11) and (b) to read as follows:

Sec. 134-1159. Special exception uses.

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

(11) Any commercial establishment with greater than 4,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

(b) An owner or tenant of a property, located within the C-WA district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being

granted a new occupational license. This subsection shall not apply to renewal of an existing business tax receipt.

Section 7. Amend Article VI, DISTRICT REGULATIONS, C-PC Planned Center district, Sec. 134-1259, Special exception uses, at subsection (b), to read as follows:

Sec. 134-1259. Special exception uses.

(b) An owner or tenant of a property, located within the C-PC district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing business tax receipt.

Section 8. Amend Article VI, DISTRICT REGULATIONS, C-B Commercial district, Sec. 134-1302, Permitted uses, at subsection (c) and (d), to read as follows:

Sec. 134-1302. Permitted uses.

(c) There is a maximum gross leasable area. There is a maximum of 3,000 square feet of gross leasable area (GLA)

(d) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 8,000 square feet exists in C-B district and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the

existing businesses, which distance shall be measured along the public sidewalk; if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

Section 9. Amend Article VI, DISTRICT REGULATIONS, C-B Commercial district, Sec. 134-1304, Special exception uses, at subsection (a)(8) and subsection (b) to read as follows:

Sec. 134-1304. Special exception uses.

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

(8) Any commercial establishment with greater than 3,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

(b) An owner or tenant of a property, located within the C-B district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing business tax receipt.

Section 10. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 11. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 12. Codification.

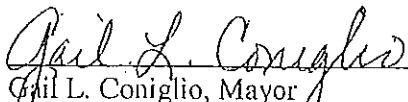
This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

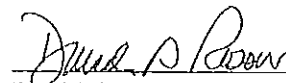
Section 13. Effective Date.

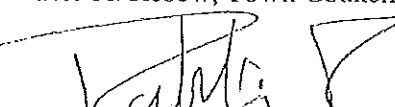
This Ordinance shall take effect 31 days subsequent to its passage on second and final reading.

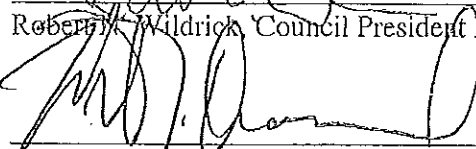
PASSED ON FIRST READING in a regular, adjourned session of the Town Council on the 13th day of April 2011.

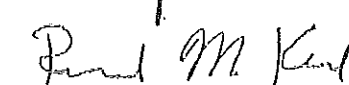
PASSED AND ADOPTED in a regular, adjourned session of the Town Council on the 13th day of July 2011.

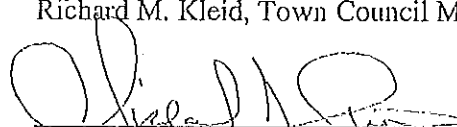

Gail L. Coniglio, Mayor


David A. Rosow, Town Council President

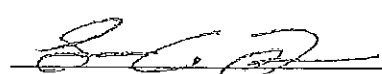

Robert Wildrick, Council President Pro Tem

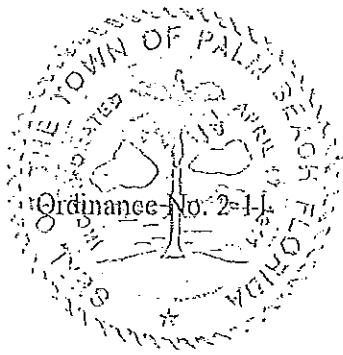

William J. Diamond, Town Council Member


Richard M. Kleid, Town Council Member


Michael V. Pucillo, Town Council Member

ATTEST:


Susan A. Owens, Town Clerk



APP “10”

Ordinance No. 7-2014

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-2 By Creating Definitions For Attic And Veterinarian Office; Section 134-2 By Modifying The Definitions For Building, Height Of, (Applicable To Lots Or Portions Of Lots East Of The State Of Florida Coastal Construction Control Line (CCCL), Individual Business Sign, Habitable Space And Story; Section 134-172 By Creating A One Thousand Foot Property Owner Notice Requirement For Variances That Exceed The Maximum Density Allowed In The Zoning District But Do Not Exceed The Maximum Density Allowed By The Underlying Future Land Use Designation On A Property; Section 134-261 By Adding 1,000 Foot Property Owner Notice Requirement In The Appropriate Location For A Comprehensive Plan Amendment, Zoning Text Amendment Or Zoning Change That Increases The Allowable Density Or Intensity; Sections 134-1108, 134-1109, 134-1257 and 134-1259 By Allowing Veterinarian Office Uses In The C-TS And C-PC Zoning Districts As A Special Exception Use; Sections 134-1157, 134-1207 And 134-1302 By Prohibiting A Veterinarian Office Use In The C-WA, C-OPI And C-B Zoning Districts; Sections 134-2436 And 134-2437 By Modifying The Individual Business Sign Regulations To Allow Said Signs On The Back Of Buildings In Certain Situations; Section 134-2439 By Clarifying That An Individual Business Sign Is Allowed Only To Advertise The Legal Business Name And The Nature Of The Business; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

WHEREAS, after public hearing pursuant to notice required by law, the Local Planning Agency considered all testimony and recommended that the Town Council adopt the subject Ordinance; and,

Whereas, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Chapter 134, Zoning, of the Code of Ordinances, be amended as hereinafter set forth.

Section 1. Amend ARTICLE I, IN GENERAL, Section 134-2, Definitions and rules of construction, to read as follows:

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

Attic means non-habitable, unfinished space within the roof system of a building or structure with less than seven (7) feet of head room, access by only pull down, non-mechanical stairs and used only for storage, mechanical or machinery use.

...
Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height to the point where the ceiling meets the exterior wall. The point of measurement for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as

as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided the following conditions are met:

- (1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;
- (2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and
- (3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

...

Habitable space means space in or on a structure used or intended to be used for occupancy, for living, sleeping, lounging, eating, cooking or recreation. Finished or unfinished floors above the maximum number of stories allowed containing an elevator, permanent or mechanically operated stairs and seven feet or more of head room shall be considered habitable space. Closets, hallways, storage rooms, attics, machinery rooms, mechanical equipment rooms, utility space and similar areas shall not be considered habitable space.

...

Office, veterinarian means an establishment which provides medical and surgical care for animals, and may provide overnight facilities.

Sign, individual business means a flat wall-mounted identification sign permitted for each individually town-licensed business with street or parking lot frontage and having direct ground level walk-in access from a public or private roadway, or sidewalk, or parking lot in a commercially zoned district.

...

Story means that portion of a building, other than an attic, included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the ceiling next above it. Habitable space, open patios, accessible roof decks not used exclusively for mechanical equipment, observation decks and/or similar areas located above the first or second story shall be considered a story for the purpose of this definition.

Section 2. Amend ARTICLE II, ADMINISTRATION, Section 134-172, Hearing procedure, to read as follows:

Sec. 134-172. - Hearing procedure.

(a) Applications for special exceptions or variances shall be accompanied by proper exhibits, which shall be timely filed and shall include plans, documents and other materials to adequately depict and support the request. At a minimum, all applications for a variance shall include a plot plan identifying the following information: Location of structure(s), lot size, setbacks, percent of lot coverage, percent landscaped open space (front yard and total lot), and finished topographical elevations. In addition, if historic/specimen trees are located on the subject property, a signed and sealed survey with all pertinent information including the location of historic/specimen trees is required and a detailed written explanation of how said trees shall be protected by barricading shall accompany said application. Upon receipt of the application for a special exception or variance, the procedures in this section shall be undertaken.

(b) The director of planning, zoning and building or designee shall examine all applications requesting rezoning, special exception uses, dimensional variances or other matters requiring a public hearing to determine if they meet the requirements of this chapter, and that the action or approval requested is properly allowable by the town council under this chapter and if so shall prepare a report setting forth his recommendations. If the director or designee determines the application fails to meet the provisions of this chapter, he may schedule a pre-application conference and request modifications as may be required to bring the application within the provisions of this chapter.

(c) After completion of subsection (b), a copy of such application shall be mailed to the owners of the property and the property immediately adjacent thereto and across the street therefrom and to all property owners within 300 feet from any part of the subject property at the address shown on the county property appraiser's tax records, together with a notice from the director or designee advising the time of the hearing on such application before the town council. If a variance is being requested that exceeds the maximum density allowed in the zoning district based on the maximum density allowed by the Future Land Use designation on the property, the notification distance shall increase to 1,000 feet. Such list of property owners, together with a notification map, shall be provided by the applicant along with addressed and properly stamped envelopes and shall be certified by the applicant as being true and accurate.

(d) The director or designee shall also cause to be published in a newspaper of general circulation in Palm Beach or West Palm Beach a brief summary of such application and the date of the hearing, directed "to all to whom it may concern"; such notice to be published on two separate days not less than seven days apart, the first to be at least ten days before the meeting of the town council to consider such application. The cost of such publication shall be borne by the applicant.

(e) No application shall be heard less than ten days after the first publication of the notice and 15 days after the mailing to property owners directly affected as provided in this section, and all applications will be heard at regular meetings of the town council unless otherwise ordered by the town council in accordance with sections 134-141, 134-142, 134-201 and 134-226.

(f) An initial deferral requests received by the town more than seven days prior to scheduled town council hearing date may be granted for one month only or the next succeeding regular town council meeting, if that should occur on a different date. Any deferred action request received seven days or less from the scheduled meeting date shall be made in person at the town council meeting at the time the action item appears on the agenda. The applicant must explain or justify the request, which the town council may approve or deny. A second request for deferral shall be made in person at the town

council meeting at the time the item appears on the agenda. The applicant must explain or justify the request, which the town council may approve or deny. A third request for deferral shall be denied unless the applicant can demonstrate to the town council that a compelling reason exists. Any deferral which is required due to a case being deferred by the architectural commission or landmark preservation commission shall be an exception to the regulation above. In no case shall a deferral exceed six months.

(g) An application request seeking substantially the same relief cannot be accepted for consideration after it has been denied by the town council until after 12 months have elapsed from the date of denial.

(h) The work or use authorized under an approved variance or special exception application must be commenced within 12 months from the date of the town council approval thereof, and if not so commenced the special exception or variance shall be null and void. Commencement shall be considered as either landmarks preservation commission or architectural commission application approval, whichever is appropriate, or the submission of a building permit application if said commission's approval is not required.

A building permit, if required, must be issued within one year of the date of commencement or said special exception or variance approval shall expire. In addition, all authorized work under the building permit for said approved special exception or variance must be completed within the time frame set forth in section 105.4.1.6. of the Florida Building Code as amended in section 18-242 of this Code or said special exception or variance shall expire.

(i) A request for a time extension from any of the requirements in subsection (h) may be granted or denied by the town council for just cause. Said time extension request shall be submitted in writing to the planning, zoning and building department at least one month prior to the expiration date or said special exception or variance approval shall expire.

Section 3. Amend ARTICLE II, ADMINISTRATION, Section 134-261, Town council actions; submission to planning and zoning commission for recommendations and report; to read as follows:

Sec. 134-261. Town council actions; submission to planning and zoning commission for recommendations and report; hearings.

(a) The town council may from time to time on its own motion or on petition, signed by the fee simple property owner of the property involved or authorized designee, agent or representative of the owner by power of attorney filed with the director of the planning, zoning and building department or designee, amend, supplement, change, modify or repeal the regulations, restrictions or district boundaries established in this chapter.

(b) Any proposed amendment, supplement, change, modification or repeal shall first be submitted to the director of planning, zoning and building or his designee, who shall submit it to the planning and zoning commission for its recommendations and report. Upon the filing of the recommendations and report by the planning and zoning commission, the town council shall proceed to hold a public hearing in relation thereto, giving at least 15 days' notice of the time and place of such hearing in a newspaper having a general circulation in the town, and by posting the notice on the official bulletin board of the town hall. If a proposed comprehensive plan amendment, zoning text amendment or zoning change increases the allowable density or intensity, a notice identifying such amendments or changes shall be mailed to all property owners within 1,000 feet from any part of the subject property at the address shown on the county property appraiser's tax records, advising of the day and time of the hearing on such application before the town council. Said notice shall be mailed at least fifteen

Ordinance No. 7-2014 Page 4 of 9

days prior to the date for town council consideration of the proposed amendment(s) or zoning change(s).

(c) If an adverse report is given by the planning and zoning commission or if a protest against such proposed amendment, supplement, change, modification or repeal shall be presented in writing to the town clerk, duly signed and acknowledged by the owners of 20 percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the area thereof extending 500 feet therefrom, such amendment shall not become effective except by the favorable vote of three-fifths of all the members of the town council. In the event of a tie vote, the mayor shall cast the deciding vote, which shall constitute the three-fifth's requirement of the town council stated herein.

(d) The planning and zoning commission shall hear applications to rezone property and/or to amend, supplement, change, modify or repeal any article, division or section of this chapter within 60 days of the application being deemed complete by the director of the planning, zoning and building department or designee. Any proposed amendment to change property from one zoning district to another zoning district shall require the favorable vote of at least four members of the town council. A public hearing on the application shall then be held by the town council after public notice of the hearing is given in accordance with law.

Section 4. Amend ARTICLE II, ADMINISTRATION, Section 134-2436, Town council actions; submission to planning and zoning commission for recommendations and report; to read as follows:

Sec. 134-2436. Building identification and business signs.

One building identification sign may be provided on the front of each wall of a building which fronts onto a street, provided the building identification sign is installed flat against such wall and does not exceed 20 square feet in area. Additionally, individual business signs which are installed flat against the street front, or street side wall or street rear wall of a building are permitted for each licensed business in a building in accordance with this division. In addition, if a ground floor licensed business's parking and main entrance is on the back or side of a building, said business shall be allowed one business identification sign installed flat against the face of the building's wall where the business is located. Said sign shall not exceed 15 feet in height nor situated above the first floor ceiling of the building, whichever is lower. A licensed business within a building arcade or via shall be allowed one hanging business identification sign within the arcade and perpendicular to the building. If the hanging sign is within a via said sign shall be mounted on the wall of the building fronting the via. A hanging business identification sign shall not be above the first floor of the building it is attached to, shall have a minimum of eight feet of clearance, and shall be calculated as part of the maximum business identification sign area allowed. In addition said hanging business identification sign shall have only the name of the business and shall require either architectural commission or landmark preservation commission approval, whichever is pertinent.

Section 5. Amend ARTICLE VI, DISTRICT REGULATIONS, Section 134-1108 in the C-TS Commercial Town-Serving District, to read as follows:

Sec. 134-1108. Permitted Uses.

Enumerated maximum gross leasable area. The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:

(2) Offices, executive office suites, professional services, business services, excluding veterinarian offices, and securities and financial brokerage and trust companies above the first floor,

Sec. 134-1109. Special exception uses.

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

...

(15) Veterinarian offices above the first floor.

Section 6. Amend ARTICLE VI, DISTRICT REGULATIONS, Section 134-1157 in the C-WA Commercial Worth Avenue District, to read as follows:

Sec. 134-1157. Permitted uses.

Enumerated maximum gross leasable area. The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 square feet gross leasable area (GLA), are as follows:

...

(28) Offices and professional and business services, including banks and financial institutions, and executive offices above the first floor, excluding veterinarian offices.

Section 7. Amend ARTICLE VI, DISTRICT REGULATIONS, Section 134-1207 in the C-OPI Office, Professional and Institutional District, to read as follows:

Sec. 134-1207. Permitted uses.

The permitted uses in the C-OPI office, professional and institutional district are as follows:

(1) Offices and professional and business services and executive offices, excluding veterinarian offices.

Section 8. Amend ARTICLE VI, DISTRICT REGULATIONS, Section 134-1257 and 134-1259 in the C-PC, Planned Center District to read as follows:

Sec. 134-1257. Permitted uses.

(a) The permitted uses in the C-PC planned center district are as follows:

...

c. Business and professional offices/services and executive office suites, excluding veterinarian offices.

Sec. 134-1259. Special exception uses.

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

...

(14) Veterinarian offices.

Section 9. Amend ARTICLE VI, DISTRICT REGULATIONS, Section 134-1302, in the C-B, Commercial District to read as follows:

Sec. 134-1302. Permitted Uses.

(b) The permitted uses in the C-B commercial district are as follows:

(1) Business and professional offices/services and executive office suites, excluding veterinarians.

Sec. 134-229. Requirements for granting.

The requirements for granting a special exception use under this chapter are as follows:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.
- (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.
- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
- (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
- (6) The use will comply with all elements of the comprehensive plan.
- (7) The use not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.
- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.
- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.
- (13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/ specimen trees shall be demonstrated to be provided as required in this chapter.

(14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

Section 10. Amend ARTICLE XI, SIGNS, Section 134-2437, Size of sign; to read as follows:

Sec. 134-2437. Size of sign.

The gross surface area of all business signs on a building shall not exceed the following schedule:

Building Street Frontage or Building first floor tenant main entrance and parking frontage Per Ground Floor Individual Business Sign Space (in feet)	Maximum Gross Surface Area for Business Signs (in feet)
Less than 18	10
18 and over	20

Note: This permitted gross surface sign area per individual business may be in the form of one sign or composed of a group of smaller signs that advertise any licensed individual business with the building, provided their aggregate area does not exceed that area contained in the schedule. The gross surface area of any signs on a building shall not, however, exceed 20 square feet. In addition, any hanging sign, as allowed in section 134-2436, shall not exceed two square feet in area.

Section 11. Amend ARTICLE XI, SIGNS, Section 134-2438, Size of sign; Permitted lettering, logos, to read as follows:

Sec. 134-2438. Permitted lettering, logos.

Signs permitted under this division shall consist of lettering which specifies only the name of the establishment as identified in the business tax receipt and State registration, a logo as provided for below and/or the nature of the business. Logos shall be allowed, provided that such logo will fit within a box no more than 12 inches square. Not more than one such logo shall be permitted on the street frontage of each business establishment, and the area of such logo shall be counted toward the maximum allowable gross area of sign.

Section 12. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 13. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

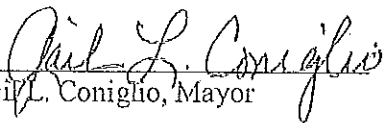
Section 14. Codification.

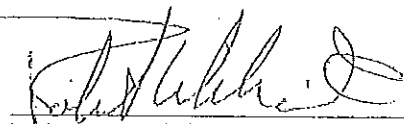
This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

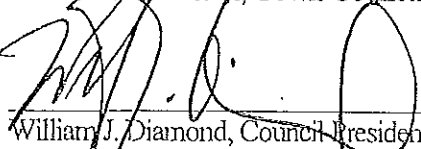
Section 15. Effective Date.

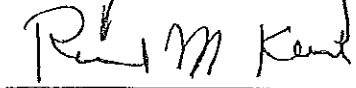
This Ordinance shall take effect 31 days subsequent to its passage on second and final reading.

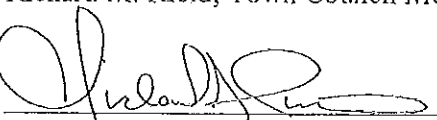
PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 9th day of April 2014, and for second and final reading on this 14th day of May, 2014.

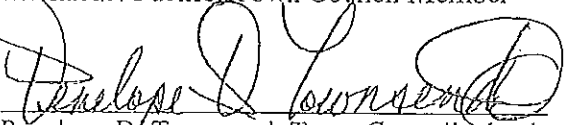

Gail L. Coniglio, Mayor


Robert M. Wildrick, Town Council President


William J. Diamond, Council President Pro Tem


Richard M. Kleid, Town Council Member


Michael J. Pucillo, Town Council Member


Penelope D. Townsend, Town Council Member



ATTEST:

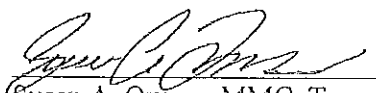

Susan A. Owens, MMC, Town Clerk

EXHIBIT "D"



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



May 24, 2016

MacKenzie Childs
238 Worth Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
9314 8699 0430 0023 4556 69

MacKenzie Childs
3260 State Route 90
Aurora, NY 13026

CERTIFIED MAIL
9314 8699 0430 0023 4556 76

Palm V Assoc. Ltd.
c/o Love Realty
P.O. Box 28
White Plains, NY 10605

CERTIFIED MAIL
9314 8699 0430 0023 4557 06

NOTICE OF CODE VIOLATION AND HEARING

240 Worth Ave., #M AKA 224 Worth Ave., Palm Beach

Case # CE 16-218

Property Control Number: 50-43-43-23-05-018-0050

Dear Business/Property Owner,

This office has not been notified by Debby Morakis of Planning, Zoning and Building that you have complied with the code violation written warning issued on May 3, 2016 in reference to the unit located at 240 Worth Ave., #M being used for storage by your business "MacKenzie Childs."

Chapter 134, Section 134-1157 of the Town of Palm Beach Code of Ordinances designates the permitted uses in the C-WA Commercial Worth Avenue District. Storage units are not a permitted use in this district.

Please discontinue using this unit as a storage unit by **June 8, 2016**.

Should compliance with the Town Ordinances not be met within this time frame, you are hereby notified there will be a public hearing before the Code Enforcement Board on **July 21, 2016 at 2:00 p.m.** in the second floor Town Council Chambers at City Hall, 360 S. County Road, Palm Beach.

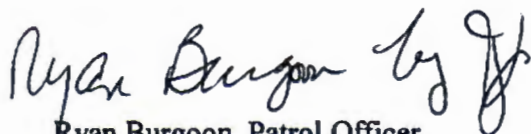
MacKenzie Childs
Palm V Assoc. Ltd.
May 24, 2016
Page 2

If you decide not to be present, the hearing will be held in your absence. If you are found in violation of the Town Code, the Code Enforcement Board has the power by law to levy fines up to Two Hundred Fifty (\$250.00) Dollars a day against you and your property for every day any violation continues beyond the date set in the order for compliance. An administrative fee of One Hundred Fifty (\$150.00) Dollars for the cost of the hearing may be assessed to you should your case be heard.

Debby Morakis can be reached at (561) 227-6411.

If you have any questions, please do not hesitate to contact me at (561) 227-7080. Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Burgoon" followed by a stylized flourish.

Ryan Burgoon, Patrol Officer
Palm Beach Police Department

cc: Code Enforcement File
Property File

EXHIBIT "E"



TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 15, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #013-2016 WITH SITE PLAN REVIEW

The application of Miradieu Auboura, PBC Capital Improvements Division; relative to property commonly known as **2882 S. Ocean Blvd.**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting approval of an amendment to the Special Exception with Site Plan Review to reflect the revised beach access improvements along the northern boundary of the park. The proposal is to move the sidewalk back into the five (5) foot easement and place a six (6) foot high chain link fence and landscape material between the sidewalk and remainder of the park, as shown on the plans on the file in the Planning, Zoning and Building Department. The beach access will remain an unsecured/non-gated access point. [Attorney: Denise M. Nieman, Esq. and Audrey Wolf]

Deferred from the May 11, 2016, Town Council Meeting.

**Request for Deferral to the October 12, 2016, Town Council Meeting
Per Letter Dated June 7, 2016, from Miradieu Aubourg.**

Presenter

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

Supporting Documents

- [Letter Dated May 21, 2016, from Jim Apostolico](#)
- [Letter Dated May 24, 2016, from MaryLane Cairns](#)
- [E-mail Dated May 24, 2016, from Kathryn R. Fitzgerald](#)
- [Letter Received on May 27, 2016, from Sandra Moran](#)
- [Letter Dated May 27, 2016, from Mildred Grimm](#)
- [Letter Dated May 28, 2016, from Marian Day](#)
- [Letter Dated May 31, 2016, from James Morton and Jeanne Castillo](#)

- [Letter Dated June 1, 2016, from Donna Whitlock](#)
- [E-mail Dated June 2, 2016, from David Brooks et al](#)
- [Letter Dated June 2, 2016, from Jenny Duffy](#)
- [Letter Dated June 2, 2016, from Barbara H. Koehl](#)
- [Letter Dated June 7, 2016, from Miradieu Aubourg](#)

May 21, 2016

City Council Of Palm Beach
360 S. County Road

Palm Beach, FL 33480

Gail Coniglio Michael Pucillo, Richjard Kleid, Bobby Lindsay, Danielle Moore, Margret Zeidman

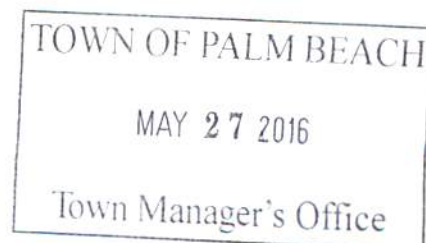
I am writing to express my opposition to the blocking of access to the county park south of our property at PalmWorth. All we originally wanted to do was find a solution to the problem at the northern access to the beach from the parking lot. We requested a gate at that access, not the proposed fence along the entire north side of the park. That said, we would not object to the fence if it includes a gate that gives us access to the park, but a fence without access would create significant problems for us.

1. Palm Worth has had unfettered access to the park and the Lake Worth Casino from the North for over 15 years and it is a significant contribution to the value of our property.
2. Because we have had direct access to the park I feel that parties claiming now to cut us off, gave up those rights by not doing something about it many years ago.
3. If Palm Worth is denied access to the park by not allowing a gate, our only route to the park would be to walk on the east shoulder of A1A which is very narrow and at the point where A1A reduces from two lanes to one lane. This is very dangerous as many cars try to squeeze in and often ride on that shoulder.
4. Palm Worth has many older owners and constituents, some in wheel chairs, so going on the beach to get to the park and casino area is not an option.
5. Walking on the shoulder of A1A for our older residents is also not an option as they walk slow and are not agile enough to get out of the way of on coming traffic. They then would need to proceed up a very steep incline to reach the park and or Casino.

To recap, Palm Worth would be fine with a fence on the North boundary of the park if it had a gate access to the park for its residents to use, otherwise we strongly oppose such a fence.

Sincerely,


Jim Apostolico
Vice President
PalmWorth B.O.D.



TO: Gail Coniglio, Mayor

Michael Pucillo, President of the City Council of Palm Beach.

Richard Kleid, President Pro Tem.; Bobby Lindsay, Danielle Moore, Margaret Ziedman, Council Members

**From: Mary Lane Cairns: Palm Worth, 2850 South Ocean Blvd, Palm Beach, Fl.
And: 5 West Cottage St., Marblehead, MA 01945**

RE: Proposed fence

On North side of Kruesler Park submitted by the County .

Date: May 24, 2016

Dear Mayor and Council Members:

I am honestly shocked that it is proposed to have no access to the Park by a gate on the North side fencing. It seems to be completely shutting off access for Palm Worth residents, who have been good neighbors for 50 years, to the park, restaurants and shops. As a 55 and older cooperative many of us are in our 80's and we do have handicapped residents who would find it impossible to walk out the driveway to A1A, walk on the grass or highway to the sidewalk that goes up to the Casino Area.

Please reconsider and insist that there be a gate that we can use from our parking lot. I strongly oppose the Proposed Fencing Project on the North end of Kruesler Park submitted by the County at this time.

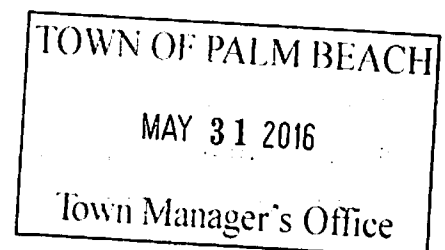
Thank you,

Sincerely,

Mary Lane Cairns

MaryLane Cairns

(Mrs. Walter J.) cell: 781-799-8371



From: <ritaandkathy@ameritech.net>
To: "mayor@townofpalmbeach.com" <mayor@townofpalmbeach.com>
Date: 05/27/2016 05:35 PM
Subject: ADA-Americans with Disabilities Act

05/24/16

Good afternoon,

my name is Kathryn R Fitzgerald and I am an owner, jointly with my partner at 2850 S. Ocean Blvd., The Palm Worth. I recently discovered that there is an issue with access from two places from our building to the public park on the south side of the building. The issue being that myself and any other American with a Disability will be denied passage safely from which any other individual is currently now allowed.

I have been severely disabled for nearly 30 years, and am classified as a quadriplegic and use a power wheelchair, as well as, voice recognition software in order to type.. In the late '80's, myself and my partner were very active in the implementation of the ADA-Americans with Disabilities Act. This law was passed in 1990. My father bought our unit in 1997 and worked tirelessly in ensuring access via the gates which are now installed.

In fact, the county actually extended the pathway (outside of our fence area) 1 foot in order to ramp it up from the grass. My understanding is that the county intends to not only remove the gates forcing me and anyone else in a wheelchair or physical disability to ambulate on the unpaved passageway to the curb cut approximately 2 blocks away.

I sincerely hope that this most important law or the The Civil Rights Act of 1964 is not being reversed and sincerely hope that someone in the county will respond to this letter explaining to me what and why this is going on. It should not be important to delineate each and every person's need for access anywhere in our country.

Thank you so much for your time. I am currently at my Chicago address attending doctors appointments and therapy but plan on not only being at The Palm Worth this summer but plan on being a full-time resident in the near future.

Sincerely
Kathryn R Fitzgerald
10526 S. Ave. J
Chicago, IL 60617

Only those who will risk going too far can possibly find out how far one can go.
T. S. Eliot

Always looking forward...

Dear Council members,

Last year I bought an apartment at Palm Worth. One of the attractions of this particular building was the easy access to the park and restaurants thru the gate to the sidewalk. I understand that you plan to deny us this access that the building has enjoyed for many years.

We were surprised at the amount of illegal activity at access 12 in the park. Apparently your lifeguards and beach patrol do not cover that access to the park. People constantly use that access to bring dogs to our beach as well as beer containers that they thoughtfully leave behind with the rest of their garbage. I do not think you should provide a beach access that you do not properly watch.

Have you given any thought to the safety of the people who will use what will be a tunnel without a roof to reach the beach at access 12 once the 10 foot fence is built? From my windows looking down at the current sidewalk, I see many people bringing their unleashed dogs to access 12. Even leashed dogs can be unpredictable in an enclosed space with strangers. Access 12 has been the choice entry for the intoxicated, the vandals and the homeless as well as the dog owners.

If you are not going to gate this "tunnel" you plan to build, then you need to station a lifeguard or beach patrol at access 12.

I understand that the reason you do not want to "gate" the tunnel is that it would deny access to the park that people have enjoyed for many years, and yet, you plan to deny us that same access that Palm Worth has had for many years.

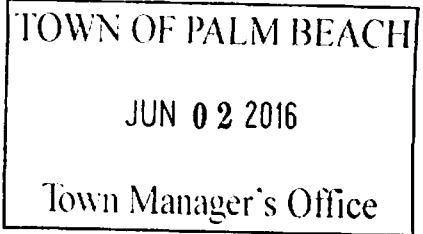
Please take some more time to consider your plan for this project.

Sincerely yours,
Sandra Moran

TOWN OF PALM BEACH

MAY 27 2016

Town Manager's Office



May 27, 2016

To: Gail Coniglio, Mayor
Michael Pucillo, President of the City Council of Palm Beach
Richard Kleid, President ProTem
Bobby Lindsay, Danielle Moore, Margaret Liedman, Council Members

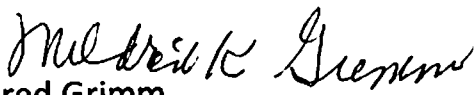
From: Mildred Grimm
Palm Worth
2850 South Ocean Blvd
Palm Beach, Fl 33480

Subject: Proposed fence on North side of Kruesler Park

Dear Mayor and Council members:

Palm Worth is an over 55 residence and I am one of several visually and physically handicapped residents. I have lived here since Palm Worth was built. I am legally blind, unable to drive and have had spinal surgery. Like others here, I need access to the park and Casino areas and also the bank, drug store and physical therapy next door. I am unable to walk on spongy surfaces such as sand and grass. Please do not allow us to be fenced in.

Thank you,


Mildred Grimm

May 28, 2016

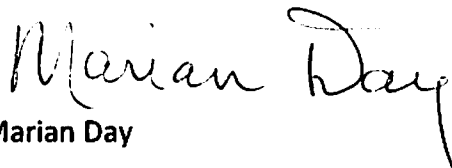
To: Gail Coniglio, Mayor; Michael Pucilio, President of the City Council of Palm Beach; Richard Kleid, President Pro Tem. Bpbby Lindsay, Danielle Moore, Margaret Liedman, Council members

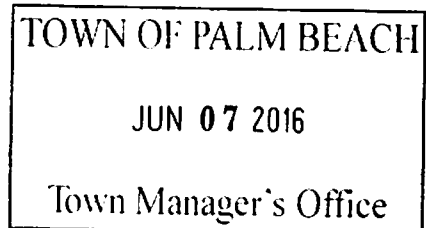
From: Marian Day: Secretary Board of Directors Palm Worth Cooperative,
2850 S. Ocean Blvd., Palm Beach, FL 3340

Subject: Proposed fence on north side of Kruesler Park

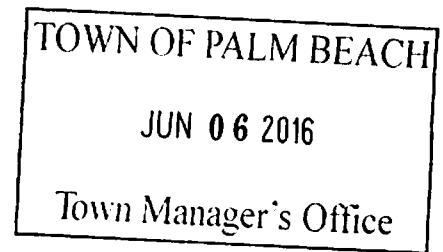
I am a year-round resident at Palm Worth and live on the 5th floor, south side, overlooking the proposed fence. I also look down on Access 12, the source of our problems. You have already been given all the pictures and descriptions of the activities that take place at this Access to the beach. My brother lives next door to me, looking down on the same scene. Six generations of our family have lived at, and/or enjoyed visiting Palm Worth since 1962. One of the greatest advantages of our being here has been our easy access to Kruesler Park, the fishing pier, the shops and food available at the Casino building. Our residents also use the bank next door, the physical therapy facility, the doctor's office and the drug store. The proposed fence makes no provisions for our access to these important facilities that we have used for over 50 years, and, to add insult to injury, it will do little or nothing to address the problems at Access 12.

Sincerely,


Marian Day



Subject: Letter For Jim Morton and Jeanne
From: juanita leary (juanitaleary@msn.com)
To: ezntavel@yahoo.com; juanitaleary@msn.com;
Date: Monday, May 30, 2016 9:38 AM



31 May 2016

TO: Gail Coniglio, Mayor of Palm Beach
Town of Palm Beach City Council

RE: Kruesler Park Proposed Fencing

I am writing you as a Shareholder at Palm Worth who will be directly affected by the County's Proposed Plan that will produce a fenced-in 5 ft. asphalt run directly behind my first floor apartment. Not only will this enclosure provide an area where any and all type of activities can take place without the ability of visual supervision by the police but also causes a hardship for myself and my partner. We are both handicapped and rely on the access to the park through our fence gate to be able to walk to the restaurants, bank, and other Lake Worth Casino and Pier areas.

I strongly oppose the present proposed plan for fencing in the north area of Kruesler Park. Surely the County should be able to produce a plan that serves a few but doesn't cause immeasurable hardship to the shareholders and elderly of Palm Worth!

Thank You,

James Morton
Jeanne Castillo
Apt. 103, Palm Worth

Handwritten signatures of James Morton and Jeanne Castillo. The signature of James Morton is written above the signature of Jeanne Castillo.

Sent from my iPad

June 1, 2016

Mayor Gail Coniglio
360 S. County Road
Palm Beach, FL 33480

Re: Proposed Fencing Project on the North end of Kruesler Park

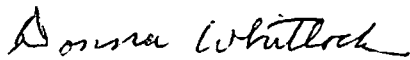
Dear Mayor Coniglio,

Thank you for taking the time to read my letter. I am 81 years old and have lived at Palm Worth for over 25 years. I have had access to the park for almost that long and now as I am aging, I find out that the access may be taken away. Please give consideration to someone who at times needs to use a cane and not force me to go through our parking lot, walk along A1A on its shoulder or in the grass to gain access to the park and beautifully renovated Casino area! If the fence is erected the only other option for me, would be to access the park by walking a great distance on the beach. I assure you I can not do this.

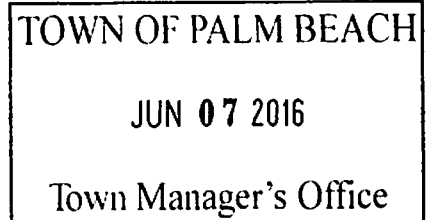
Of even greater concern, are the other residents that have worse disabilities and handicaps than me! The gate has been there for them for so long! Why take it away now?

Any consideration you can give Palm Worth, the 50 year old adjoining park property and its need for the gate access would be so appreciated.

Sincerely,



Donna Whitlock
2850 So. Ocean Blvd #501
Palm Beach, FL 33480





Fw: Special Exception - #13-2016 -Scheduled for Zoning Hearing -June 15, 2016

Cheryl Kleen to: Thomas G. Bradford, John Page, Paul Castro,
Susan Owens, jrandolph
Cc: Patricia Gayle-Gordon

06/03/2016 12:09 PM

----- Forwarded by Cheryl Kleen/PalmBeach on 06/03/2016 12:09 PM -----

From: Gail Coniglio/PalmBeach
To: Cheryl Kleen/PalmBeach@PalmBeach
Date: 06/02/2016 05:04 PM
Subject: Fw: Special Exception - #13-2016 -Scheduled for Zoning Hearing -June 15, 2016
Sent by: Cheryl Kleen

----- Forwarded by Cheryl Kleen/PalmBeach on 06/02/2016 05:04 PM -----

From: "J.C. Lanier" <jclanier@mac.com>
To: "council@townofpalmbeach.com" <council@townofpalmbeach.com>, "
mayor@townofpalmbeach.com" <mayor@townofpalmbeach.com>
Cc: Palm Worth <palmworth2850@aol.com>
Date: 06/02/2016 02:19 PM
Subject: Special Exception - #13-2016 -Scheduled for Zoning Hearing -June 15, 2016

To the Attention of the Palm Beach Town Council:

Michael Pucillo -President

Richard Kleid -President Pro Tem.

Bobby Lindsay -Council Member

Danielle Moore -Council Member

Margaret Ziedman -Council Member

Cc: To the Mayor of Palm Beach: The Honorable Gail Coniglio

Cc: Palm Worth Board of Directors

In Reference to the Zoning Application presented to the Town of Palm Beach Council on May 11, 2016: **Special Exception #13-2016.**

I would bring your urgent attention to several of the following articles contained in the documents of **Special Exception #13-2016** presented to the Town Council on May 11, 2016 and to be heard again on June 15, 2016:

EXHIBIT B- REQUEST FOR SITE PLAN REVIEW

-art. 2: Intensity of use/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon.

STATEMENT OF COMPLIANCE: "...This request to revise the Site Plan to relocate the existing beach access is a result of agreements reached with the adjacent property owners."

Note: There has been no final agreement with the adjacent property owners of the Palm Worth Cooperative at 2850 South Ocean Blvd. The Palm Worth is a 55 and older community which is situated directly bordering the entire north side of Kreusler Park.

-art. 3: Ingress and egress to the property and the proposed structure thereof, with particular

reference to... pedestrian safety;

STATEMENT OF COMPLIANCE: "... This request to revise the Site Plan to relocate the existing beach access is a result of agreements reached with the adjacent property owners..."

Note: This Statement of Compliance does not represent the position of Palm Worth as the adjacent property owner. From the beginning the Palm Worth has maintained that their current and more than twenty (20) year access to the Kreusler Park, which is accessed directly from the Palm Worth property, had to remain an integral part of this proposed variance. Now, we are informed that Palm Worth will lose their long standing access to the Park. That this Special Exception #13-2016 would effectively prohibit all Palm Worth owners from continuing to be able to use their current keyed gate system to access the park and all other amenities, i.e. bank, pharmacy, eateries and shops that are accessible from the park. In reference to the "safety" mentioned in the art.3, all residents of the Palm Worth will now be forced to navigate a treacherous A1A with no side walk and to make matters worse the road goes from two lanes to a one lane road right at the beginning of this proposed easement and the Palm Worth property. There are no cross walks for pedestrians at that level of the road to be able to even cross over to a side walk as precarious as that would be. This will gravely burden the more elderly and the handicapped owners of Palm Worth. This situation could develop into a tragedy.

-**art. 5:** Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.

STATEMENT OF COMPLIANCE: "...The applicant is proposing to enhance the existing landscape screening/buffer at the access easement with the addition of a six (6) foot Silver Buttonwood hedge along the south edge of the access pathway."

Note: This proposed six (6) foot chain-link fence on the north side of the park bordered by a six (6) foot hedge on the south of this easement will obstruct the ocean and park views for all Palm Worth's first floor owners of the south building that flanks Kreusler Park where the variance is to be installed resulting in a loss of property value.

EXHIBIT C - REQUEST FOR SPECIAL EXCEPTION

art. 3: The use will not cause substantial injury to the value of other property in the neighbor.

STATEMENT OF COMPLIANCE: "...The request to revise the configuration of the northern most beach access is the result of agreements reached with the adjacent property owners."

Note: There can be no agreement when the Palm Worth, as adjacent property owner, is obligated to lose ocean and park views for its first floor residents resulting in a loss of property value. With additional injury for all Palm Worth owners being forced to lose their long standing direct access to the park from the Palm Worth property compromising their access to restaurants, shops, pharmacy, bank and ATM that afforded the elderly and the handicapped a safe and secure entrance to these areas. Many elderly seniors and the physically disadvantaged, as well as all owners, will be forced to forgo a life style that was guaranteed to them at the purchase of their residence and therefore will remain diminished by this variance.

In conclusion, there can be no agreement between Palm Worth Cooperative and the Kreusler Park management as has been presented in the **Special Exception #13-2016**. We ask the Town Council to refuse to go forward with this variance, as presented by the Palm Beach County Kreusler Park Management, until possible alternatives can be considered that would be acceptable to all parties involved.

Very Truly Yours,

Palm Worth

David Brooks

Unit 412 and 413

-J.C. Lanier

Unit 511

-Jim Curtis

Unit 101 and 201

-David Roth

Unit 411

-Len and Carol Lilyholm

Unit 113

-Tracy Luther

Unit 312 and 313

-Eric Johansen

Unit 311

-Mike Pfeiffer

Unit 413

-Linda and Ken Johnson

Unit 310

-Bill Bohn

Unit 210

-Michael Mellquist

Unit 405

June 2, 2016

Mayor Gail Coniglio
360 S. County Rd.
Palm Beach, Fl. 33480

Re: Proposed Fencing Project on the North end of Kruesler Park

Dear Mayor Coniglio,

Thank you for all your time and effort in the above proposal!

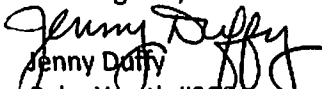
I want to express my concerns as a shareholder of the Palm Worth cooperative, which is adjacent to the park. I have been coming here for 25 plus years with my husband and children, to visit their grandmother. I loved the ability to access the park safely and easily with my children, because of the access gate. I did not have to take a stroller onto the beach and walk a fair distance through the sand or take it and the children that could walk through a parking lot and out onto A1A.

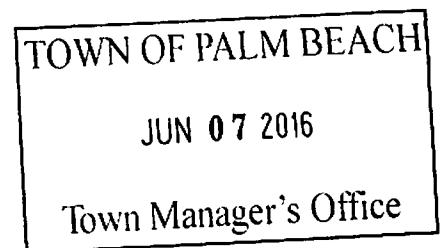
Now that we own a place here I want to continue to offer that same safe environment to my children and grandchildren. I want them to continue to have access to the park to play, use the boardwalk, see the newly renovated Casino, and visit the pier, through the access gate. I want the vandalism, vagrancy, and illegal activities occurring around Access 12 entrance to be resolved, so that we all feel safe.

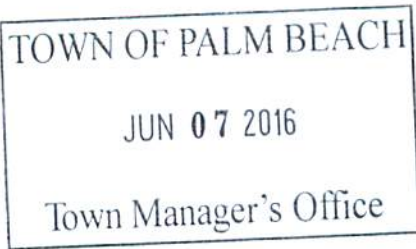
I appreciate additionally, the needs of our elderly shareholders and what the access gate provides for them!

In the end though, it is the safety of the children that most concerns my husband and me.

Best Regards,


Jenny Duffy
Palm Worth #308





Barbara H. Koch
735 The Greens
Newberry Estate
Dallas, Pennsylvania 18612
June 2, 2016

Gail Coniglio, Mayor
and City Council Members
360 South County Rd.
Palm Beach, Florida 33480

Dear Mayor Coniglio and City Council Members:

It is with great concern that I send you this letter regarding the Access 12 gate that, at present, joins our Palm North Condominium at 2850 South Ocean Boulevard in Palm Beach to the Park and Curcio area. These gates lead to doctors, physical therapy, a pharmacy a bank and eating establishments.

We are a Senior Condo Residence and the removal of these gates will affect all who reside at Palm North. In addition we have several residents who have to use wheel chairs. Having to go out on South Ocean Blvd. to get to these various establishments will be very difficult and dangerous if these gates are removed.

I have wintered for over 60 years at this location and this will cause a real loss for our people and affect our property values. We cannot let this happen.

2.

Most of our residents have returned north for the summer and will be unable to attend the next Council meeting. Our President, Inanita Leary will be flying in tomorrow and will personally answer your queries you may have about the situation.

Please share this request and information with your Council members. I thank you for your time and hope we will receive a positive consideration at your next Council Meeting.

Sincerely,

Barbara H. Koehl

Barbara H. Koehl
735 The Greens
Newberry Estate
Dallas, Pennsylvania 18612

and

Barbara H. Koehl
2850 S. Ocean Blvd
Palmer Worth Apt 407
Palmer Beach, Florida, 33480



**Facilities Development &
Operations Department**

Capital Improvements Division

2633 Vista Parkway

West Palm Beach, FL 33411-5604

(561) 233-0260

www.pbcgov.com/fdo/cid

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**Palm Beach County
Board of County
Commissioners**

Mary Lou Berger, Mayor

Hal R. Valeche, Vice Mayor

Paulette Burdick

Shelley Vana

Steven L. Abrams

Melissa McKinlay

Priscilla A. Taylor

County Administrator

Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*

Official Electronic Letterhead

June 7, 2016

Mr. John S. Page, Director of Planning, Zoning & Building
Town of Palm Beach
P.O. Box 2029
Palm Beach, FL 33480

Re: R.G. Kreusler Park
2nd Postponement of Application SE 13-2016

Dear Mr. Page:

Please accept this letter as a request to postpone the above referenced application from the June 15, 2016 Town Council agenda to the October 12, 2016 agenda. A meeting/conference call was held on June 3, 2016 with Town of Palm Beach, Palm Beach County staff and La Palma and Palm Worth Condominium representatives to discuss the proposed site plan application to re-align the beach access to within the establish 5' easement. This postponement will allow additional time for all parties involved to provide their input prior to the re-submittal for the October 12, 2016 meeting.

Please contact myself, Bob Hamilton (Palm Beach County Parks), or Collene Water (UDKS) if you have any questions or require further information. Thank you.

Sincerely,


Miradieu Aubourg, Senior Planner
Capital Improvements Division

cc: Bob Hamilton, Palm Beach County Parks
Anil Patel, Palm Beach County CID
Collene Walter, Urban Design Kilday Studios
File: 14204 D

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 15, 2016

Section of Agenda

Development Review - Other

Agenda Title

Resident Concerns Regarding Large Home Character Changes in North End:

Refer Chapter 18 ARCOM Application Submittal Requirements to ORS

Refer Chapter 134 ZONING Potential Code Changes to Planning & Zoning Commission

Presenter

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

Supporting Documents

- [Memorandum Dated June 3, 2016 From John S. Page, Director of Planning, Zoning and Building](#)
- [E-Mail Dated June 1, 2016 From Tony Dowell](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 15, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Resident Concerns Regarding Large Home Character Changes in North End:
Refer Chapter 18 ARCOM Application Submittal Requirements to ORS
Refer Chapter 134 ZONING Potential Code Changes to Planning & Zoning Commission

Date: June 3, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider responding to concerns from North End residents regarding the size of new homes by: 1) referring ARCOM application submittal timeframes as currently contained in Chapter 18 (Building) to ORS for review and recommendation; and also 2) referring potential zoning code revisions governing the size/bulk of new homes to the Planning & Zoning Commission for review and recommendation.

GENERAL INFORMATION

Residents Julie Araskog and John Dotterer have begun to publicly advocate for careful review of newly proposed homes at the Island's north end, in order to prevent overly-large homes from being placed in neighborhoods populated by smaller homes. These two residents have collected data highlighting the trend toward tear-downs followed by larger replacement homes. It is their hope that the Town will take a more proactive role in curbing this phenomenon.

The possibility of curbing the size of new structures is not new. Historically, there have been "waves" of similar interest that generated very strong opinion on both sides. Staff suspects that renewed discussion of regulations that would ultimately limit the size/bulk of new homes will eventually generate strong sentiment from residents opposed to the idea (see attached email).

If referred to ORS, future discussion about ARCOM application timelines should also include members from the architectural profession that must abide by Town regulations. If referred to the Planning & Zoning Commission, future discussion about potential tools to limit size and bulk should be well advertised in order to inform members of the public that will be most directed affected.

cc: Planning & Zoning Commissioners

----- Forwarded by John Page/PalmBeach on 06/03/2016 11:27 AM -----

From: "W. Anthony Dowell" <adowell936@gmail.com>
To: P & Z Townofpb <jpage@townofpalmbeach.com>
Cc: Dept's Townofpb <council@townofpalmbeach.com>
Date: 06/01/2016 02:45 PM
Subject: Downsizing house footprints

JP:

I will strongly object to any move by our Town to shrink the size of existing 40% structural footprint on interior lots in the North End. This issue was strongly defeated several years ago and will go nowhere if it comes up again. There are hundreds of my neighbors who are against this and will raise their voices as before.

Please contact me if you need more information.

Sincerely, Tony Dowell

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 15, 2016

Section of Agenda

Development Review - Other

Agenda Title

RESOLUTION NO. 96-2016 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Declaring Zoning In Progress In Regard To The Matter of Housing For The Disabled Pursuant To The Federal Fair Housing Act; Directing That While Zoning In Progress Is In Effect That No Permits Shall Be Granted For Such Housing Within Any Zoning District In The Town Unless An Application Is Made For Reasonable Accommodations Pursuant To The Terms of Ordinance No. _____ Which Is Currently Under Consideration By The Town Council; Providing An Effective Date.

i. Refer Potential Zoning Code Revision to the Planning & Zoning Commission.

Presenter

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

Supporting Documents

- [Memorandum Dated May 31, 2016 From John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 96-2016](#)
- [Draft Ordinance](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 15, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Reasonable Accommodation Procedures
Zoning in Progress
Resolution No. 96-2016

Date: May 31, 2016

STAFF RECOMMENDATION

It is recommended that the Town Council declare “Zoning in Progress” commencing immediately, and extending until such future time that the Town Council formally adopts or disapproves a Zoning Ordinance change relative to adopting reasonable accommodation procedures. Further, it is recommended that the attached Ordinance be referred to the Planning & Zoning Commission for its review and return recommendation.

GENERAL INFORMATION

The federal Fair Housing Act bars housing discrimination against the disabled, essentially trumping local zoning laws that might otherwise ban certain housing in residential neighborhoods. Facilities protected under the law include facilities commonly known as “sober homes,” as well as other rehabilitation facilities for the treatment of disabled persons.

A municipality may not prohibit such housing and may not require that said housing be located in commercial districts, as opposed to residential zoning districts, but can establish procedures for reasonable accommodation of persons who meet the definition of “disabled” under federal law. Town Attorney Randolph has provided staff with a draft Ordinance patterned after ordinances in other local municipalities. It would regulate how an owner or operator demonstrates and provides for the reasonable accommodation under the law. The applicant must, under this ordinance, make an application to the Town and detail the reasonable accommodation request. The Town can approve, approve with conditions, or deny the request. If denied, the applicant has the ability to appeal.

Per the Town’s Zoning Ordinance... “Zoning in Progress means a period of time during the zoning procedures which begins with active and documented efforts by those authorized to do the zoning work which, in the normal course of municipal action, may culminate in the requisite

zoning change.” Any attempt to establish housing for the disabled in contravention with the reasonable accommodation procedures contained within the draft ordinance would be temporarily stayed until such time that the Town decides upon a course of action.

TOWN ATTORNEY REVIEW

Mr. Randolph provided staff with the attached Ordinance for review and public consideration.

Attachments

cc: John C. Randolph, Town Attorney
Planning & Zoning Commissioners

RESOLUTION NO. 96-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, DECLARING ZONING IN PROGRESS IN REGARD TO THE MATTER OF HOUSING FOR THE DISABLED PURSUANT TO THE FEDERAL FAIR HOUSING ACT; DIRECTING THAT WHILE ZONING IN PROGRESS IS IN EFFECT THAT NO PERMITS SHALL BE GRANTED FOR SUCH HOUSING WITHIN ANY ZONING DISTRICT IN THE TOWN UNLESS AN APPLICATION IS MADE FOR REASONABLE ACCOMMODATIONS PURSUANT TO THE TERMS OF ORDINANCE NO. _____ WHICH IS CURRENTLY UNDER CONSIDERATION BY THE TOWN COUNCIL; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town has placed on first reading Ordinance No. _____, which Ordinance, if passed, will provide for reasonable accommodation procedures that will permit disabled individuals (or qualified entities) to request reasonable accommodations and, where appropriate, based on the facts and the law, to receive reasonable accommodations; and

WHEREAS, the Town intends these reasonable accommodation procedures to be applicable to the Town's ordinances, rules, policies, practices, and services so as to afford a disabled person an equal opportunity to use and enjoy a dwelling; and

WHEREAS, it is undetermined at this point in time what final provisions will result from the consideration of this Ordinance; and

WHEREAS, so as not to frustrate the purposes of the terms of the Ordinance now under consideration by the Town, the Town Council hereby declares zoning in progress directing that the Town's Building Department not grant any permits during the period of the consideration of this matter unless the application for said permits are in full compliance with the reasonable accommodation procedures contained within Ordinance No. _____.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. Zoning in progress is hereby declared for all zoning districts in the Town which are affected by the provisions of Ordinance No. _____, which Ordinance provides for reasonable accommodation procedures pursuant to the Fair Housing Amendments Act and Title II of the Americans with Disabilities Act.

Section 2. This declaration of zoning in progress provides that no building permit or other approval shall be granted for accommodations for disable persons within any zoning district in the Town unless said application has met the provisions currently under consideration under the terms of Ordinance No. _____.

Section 3. Zoning in progress will be in effect for the duration of the consideration of the matters included within Ordinance No. _____, which consideration is intended to be concluded no later than October 1, 2016. Nothing shall preclude the Town Council from extending the period of zoning in progress in consideration of this matter if determined necessary by the Town. This declaration of zoning in progress is of a temporary nature so as to allow the consideration of Ordinance No. ____ to be completed in a careful but expeditious manner and may be concluded prior to the October 1, 2016 date when, and if, Ordinance No. _____ is approved on final reading.

Section 4. This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the
Town of Palm Beach assembled this ____ day of _____, 2016

Gail L. Coniglio, Mayor

Michael J Pucillo, Town Council President

Richard M. Kleid, President Pro Tem

Bobbie Lindsay, Town Council Member

Danielle H. Moore, Town Council Member

Margaret A. Zeidman, Town Council Member

Susan A. Owens, MMC, Town Clerk

ORDINANCE NO.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING; ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS, TO CREATE A NEW DIVISION 16 TITLED “REASONABLE ACCOMMODATION PROCEDURES”; PROVIDING FOR REASONABLE ACCOMMODATION PROCEDURES PURSUANT TO THE FAIR HOUSING AMENDMENTS ACT AND TITLE II OF THE AMERICAN’S WITH DISABILITIES ACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, “reasonable accommodation” is a statutorily established method by which an individual who is disabled and/or handicapped (as those terms are defined in the Americans with Disabilities Act and/or the Fair Housing Amendments Act, hereafter “disabled”), or a provider of services to the disabled qualifying for reasonable accommodations under the referenced statutes, can request a modification or alteration in the application of a specific Code provision, rule, policy, or practice, to them. The proposed accommodation sought by the disabled individual must be reasonable and necessary to afford such person an equal opportunity to use and enjoy housing; and

WHEREAS, the Town hereby desires to adopt within the Town’s Code of Ordinances reasonable accommodation procedures that will permit disabled individuals (or qualifying entities) to request reasonable accommodations and, where appropriate based on the facts and law, to receive reasonable accommodations; and

WHEREAS, the Town intends these reasonable accommodation procedures to be applicable to the Town’s ordinances, rules, policies, practices, and services so as to afford a disabled person an equal opportunity to use and enjoy a dwelling.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 134, Zoning; at Article VIII, Supplementary District Regulations, to create a new Division 16 titled “Reasonable Accommodation Procedures” to read as follows:

CHAPTER 134 – ZONING

ARTICLE VIII - Supplementary District Regulations

“Division 16. Reasonable Accommodation Procedures Sec.

134-2145. Reasonable Accommodation Procedures.

- (1) This section implements the policy of the Town of Palm Beach for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the federal Fair Housing Amendments Act ("FHAA") and the Americans with Disabilities Act ("ADA"). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHAA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the Town's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHAA and the ADA pursuant to the procedures set out in this section.
- (2) A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the Town Clerk. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in subsection (10) below.
- (3) Should the information provided by the disabled individual to the Town include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the Town, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The Town shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the Town for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the Town. The Town will cooperate with the disabled individual, to the extent allowed by law, in actions initiated

by such individual to oppose the disclosure of such medical information or documentation, but the Town shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.

- (4) The Town Manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation, after notice and public hearing to receive comments, input and information from the public (provided, however, the Town Manager or designee shall not be required to render their decision at said public hearing). When a reasonable accommodation request form has been completed and submitted to the Town Clerk it will be referred to the Town Manager, or designee, for review and consideration. The Town Manager, or designee, shall issue a written determination within 45 days of the date of receipt of a completed application and may, in accordance with federal law: (a) grant the accommodation request; (b) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or (c) deny the request, in accordance with federal law. Any such denial shall be in writing and shall state the grounds therefor. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Town Manager, or designee, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the Town Manager, or designee, shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the Town Manager, or designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and, therefore, the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the Town with regard to said reasonable accommodation request shall be required. The

deadlines referenced herein may be extended by mutual agreement between the Town and the applicant.

- (5) In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they, or the party they represent, are handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this section the disabled individual must show: (i) a physical or mental impairment which substantially limits one or more major life activities; (ii) a record of having such impairment; or (iii) that they are regarded as having such impairment. Next, the requesting party will have to demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled persons equal opportunity to use and enjoy housing. The foregoing (as interpreted by the Courts) shall be the basis for a decision upon a reasonable accommodation request made by the Town Manager, or designee, or by the Town Council in the event of an appeal.
- (6) Within 30 days after the Town Manager's, or designee's, determination on a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the Town Council who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed.
- (7) There shall be no fee imposed by the Town in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the Town Council, and the Town shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.
- (8) While an application for reasonable accommodation, or appeal of a determination of same, is pending before the Town, the Town will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.
- (9) The following general provisions shall be applicable:

- (a) The Town shall display a notice in the Town's public notice bulletin board (and shall maintain copies available for review in the Town Clerk's office), advising the public disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
- (b) A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.
- (c) The Town shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing etc. to ensure the process is accessible.

(10) Reasonable accommodation request form:

- 1. Name of Applicant:
- 2. Telephone Number:
- 3. Address:
- 4. Address of housing or other location at which accommodation is requested:
- 5. Describe qualifying disability or handicap:
- 6. Describe the accommodation and the specific regulation(s) and or procedure(s) from which accommodation is sought:
- 7. Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service:
- 8. Name address and telephone number of representative if applicable:
- 9. Other information:

10. Signature of Disabled Individual or Representative, if applicable, or Qualifying Entity:

_____ Date: ”

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

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

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this _____ day of _____, 2016, and for second and final reading on this _____ day of _____, 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 15, 2016

Section of Agenda

Development Review - Other

Agenda Title

Sea-Street Zoning Changes
Updated Draft Ordinance

Presenter

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

Supporting Documents

- [Memorandum Dated June 2, 2016 From John S. Page, Director of Planning, Zoning and Building](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 15, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Sea-Street Zoning Changes
Updated Draft Ordinance

Date: June 2, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the attached verbiage changes to potential Sea-Street zoning changes, per feedback and direction provided at the May 11, 2016 Town Council meeting. No immediate action is necessary.

GENERAL INFORMATION

Time prevented the entire Planning & Zoning Commission Record & Report from being considered during the Council's recent meeting of May 11. Considerable discussion and feedback, however, was provided to staff in regard to the Sea-Streets. It was requested by Council that staff provide an updated draft of Sea-Street changes during the June Developmental Review meeting, and that the remainder of study items be deferred until the month of July. The verbiage that follows reflects the changes that were approved by consensus on May 11, 2016.

Section 134-893. – Lot, yard and area requirements – Generally.

- (a) In order to protect the unique, residential character of Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets), partial or complete demolition and reconstruction of a single-family dwelling on a lot 75 feet or less in width is exempt from the lot, yard, and area requirements as set forth in this Section if redeveloped **substantially** on the same footprint, or at greater setbacks, as existed prior to demolition provided the following conditions are met:
 - 1. The proposed single-family dwelling is of an architectural style consistent with the architecture of the single-family dwellings within the R-B zoning district on both sides of the subject street, between the intersecting streets in both directions, where the dwelling is situated, as determined by the Architectural Commission.

2. The proposed single-family dwelling shall meet the requirements in Section 134-893(c).
3. **If the existing footprint of the home lies within 5 feet of a side or rear lot line, the replacement footprint must be shifted such that an absolute minimum 5 foot side and rear lot line setback is created, and further the redeveloped home must be situated at least 10 feet apart from any structure on a neighboring lot.**
4. The height and overall height from the point of measurement of the proposed single-family dwelling is no higher than the dwelling being demolished.
5. Square footage added to the proposed single-family dwelling shall meet all lot, yard and bulk zoning requirements in the Code.

Although substantial direction was provided to staff regarding “footprint replacement” and setbacks, there was no agreement regarding the notion of limiting the size of homes on adjacent, combined lots. Staff was encouraged to give further thought to potential options. See summary statements that follow:

- Increasing side yard setbacks on combined lots to contain mass does not in itself prevent homes that are larger than those that presently exist. The result may be large homes on large lots (contrary to the goal of preserving existing character).
- A more direct approach to containing the size of dwellings on combined lots would be to consider the use of one or more of the following zoning tools: further limiting cubic content ratio (CCR); requiring more landscaped open space; reducing lot coverage; and/or reducing the angle of vision. Revising these tools to reduce the size of homes on adjacent lots may give rise to “Bert Harris” claims. See additional cautionary note below.
- Staff is concerned that the tools identified just above to limit dwelling size, even if implemented, might not produce the intended result. Any combination of lots (which could drastically differ in total area from block to block) if large enough, may produce overly-large homes regardless of more restrictive lot, yard, and bulk requirements.

The notion of establishing and implementing new rules for homes on combined lots is not used elsewhere in the Code, and could present legal challenges. It may be wise to keep this notion in “abeyance” until or unless the practice of combining lots becomes pronounced.

cc: John C. Randolph, Town Attorney
Planning & Zoning Commissioners

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 15, 2016

Section of Agenda

Development Review - Other

Agenda Title

Authorization to Refer Proposed Residential and Commercial Lighting Standards to the Planning and Zoning Commission for Study and Recommendations to Town Council.

Presenter

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

Supporting Documents

- [Memorandum Dated June 2, 2016, from John S. Page, Director of Planning, Zoning and Building](#)
- [Ordinance No. 10-2016](#)
- [Draft Ordinance](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 15, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Exterior Lighting Standards
Refer Potential Zoning Ordinance Change to the Planning & Zoning Commission
Ordinance No. 10-2016

Date: June 2, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council refer the attached draft Ordinance relative to exterior lighting standards for residential and commercial properties throughout Town to the Planning & Zoning Commission for review and return recommendation.

GENERAL INFORMATION

Existing exterior lighting standards currently enforced in the Town are vaguely defined and are scattered throughout Town Code. No specific reference is made to "nuisance" lighting that can affect neighboring property owners. Staff in the Planning, Zoning & Building Department have long relied on exterior lighting requirements, found acceptable to ARCOM, for regulating landscape lighting at individual project sites, yet those requirements have never been formally adopted by the Town. Several instances involving exterior lighting, perceived as too intense (overly bright) have emerged in the past year. Although each instance was resolved with owner-cooperation, it has become apparent that lighting standards should be created to protect homeowners from offensive lighting that can disturb adjacent properties.

This item was recently reviewed by the Council's ORS Committee (April 7). As requested, staff forwarded a copy of the proposed standards to a company belonging to the Illuminating Engineering Society of North America for review and comment. The feedback was positive. Subsequent to ORS action, staff worked with Attorney Randolph to draft an Ordinance (with the original intent of inserting same into Chapter 42, Environment). Upon further reflection, however, Attorney Randolph believes it would be best to include lighting standards within the text of the Zoning Ordinance. Because all changes to the Zoning Code must be reviewed by the Planning & Zoning Commission, it is requested that the Town Council formally refer the draft Ordinance to the Commission for review and return recommendation.

TOWN ATTORNEY REVIEW

The attached draft Ordinance has been reviewed and approved for form and sufficiency. It will accompany any related materials provided by staff to the Commission.

Attachments

cc: Jay Boodheshwar, Deputy Town Manager
William C. Bucklew, Building Official
Planning & Zoning Commissioners

ORDINANCE NO. 10-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, TO CREATE A NEW ARTICLE XII, TITLED “EXTERIOR LIGHTING”, AND A NEW DIVISION I, TITLED “STANDARDS AND REQUIREMENTS”; PROVIDING FOR PURPOSE AND INTENT; DEFINITIONS; PERMITS REQUIRED; REQUIREMENTS FOR PERMIT SUBMISSION; DESIGN REQUIREMENTS FOR EXTERNAL LIGHTING; PROHIBITED LIGHTING; AND LIGHT TRESPASS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the intensity of exterior lighting has the potential for trespass onto adjacent properties in a fashion that is intrusive and offensive; and

WHEREAS, overly bright lights can become disturbing to the peaceful enjoyment of neighboring lot owners; and

WHEREAS, there is a general lack of regulatory controls elsewhere in Town Code that specifically addresses the issue of exterior lighting;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 134, Zoning, to create a new Article XII titled “Exterior Lighting,” and a new Division I titled “Standards and Requirements” to read as follows:

CHAPTER 134 – ZONING ARTICLE XII – Exterior Lighting “Division 1. Standards and Requirements”

Sec. 134-2450. Purpose and Intent.

It is the intent of this section to establish requirements for and provide guidance for design professionals regarding exterior lighting on private property.

Sec. 134-2451. Definitions.

Permanent Exterior Lighting – For the purposes herein stated, this term shall mean lighting that is installed at a location that is intended to remain in place all year and be illuminated at any and all times required to meet the purpose of its function.

Seasonal Exterior Lighting – For the purposes herein stated, shall mean lighting which is installed on a temporary basis surrounding legal and other holidays or for special events. Such lighting shall be removed within 30 days following the holiday or special event.

Sec. 134-2452. Permits Required.

(1) All permanent exterior lighting installations on private property require a permit issued by the Town's Planning, Zoning and Building Department. This includes low voltage and high voltage electrical installations.

1.1 – Requirements for permit submission.

The following items shall be required to be submitted with the application for an exterior lighting permit:

For Permanent Exterior Lighting:

- 1) Cut sheets depicting lighting details for all of the different types of light fixtures to be used.
- 2) Color coded schematic plan showing areas that will be illuminated, i.e., up and down lighting.
- 3) A site or plot plan that shows the location of each fixture along with the type, maximum wattage, and wiring method.
- 4) A completed Town of Palm Beach Exterior Lighting Requirements checklist form, signed and sealed by the design professional, if applicable, or signed and notarized by the designer if other than a licensed design professional.
- 5) If the permit application is for a commercial use or occupancy, a photometric plan, signed and sealed by a design professional shall be included.

Sec. 134-2453. Design Requirements for Exterior Lighting.

The following items shall be incorporated into the design of permanent exterior and landscape lighting layouts:

- 1) No light bulb or source of illumination shall be visible while standing at or outside the property line. Wall sconces or column top fixtures are excluded. The light bulbs in eave fixtures must be shielded so that the lamp is not visible from off the property line. Decorative wall sconces that are visible from the street are allowed but shall be lamped with bulbs not exceeding 60 watts per bulb if single lamp fixtures, and not more than 15 watts per bulb for up to 4 bulbs per fixture. In no case shall exterior wall sconce lighting exceed 60 watts per fixture. If LED lamps/fixtures are used, the 60 watt incandescent equivalent shall be met.

- 2) No high-pressure or low-pressure sodium light bulbs can be used for landscape lighting.
- 3) Bulbs or sources of illumination in fixtures mounted in trees or above eye level on structures shall not be visible off property. Down lighting shall not exceed 2 ft. candles on residential property and 8 ft. candles on commercial properties as measured at ground level directly below the source of illumination. Down lighting scheme must be approved by Town Staff through Architectural Commission or Landmarks Preservation Commission administrative approval. The maximum wattage per acre for down lighting schemes shall not exceed 3,750 watts; however, shall not be counted as contributing to the total landscape (vertical illumination quantity) lighting system. The use of baffling, shielding techniques, internal louvers and screening should reduce the total output to 3,000 watts. Baffling, shielding, internal hex louvers and screening is required.
- 4) Maximum cumulative wattage of light fixtures using LED and/or fluorescent light bulbs supplied at 120 volts, 220 volts, 208 volts, and 277 volts is 5,000 watts per acre. The use of baffling, shielding techniques, internal hex louvers and screening is required.
- 5) For LED lighting the maximum number of Lumens per watt shall not exceed 60.
- 6) Maximum number of landscape lighting fixtures per acre is 150 regardless of wattage.
- 7) Illumination on the elevation of a residence or commercial building is discouraged unless architectural features and anchor points are the purpose of the illumination. Visible security flood lighting is prohibited unless approved directly by the Architectural Commission.
- 8) No more than one-half foot-candle of light may be reflected off of the property. No light shall be unshielded where the lighting element is visible in any fashion, such as wall packs and any approved security fixtures. Any light that egresses its property of installation must be shielded and directed to reduce light trespass to the satisfaction of the Architectural Commission, Project Coordinator or assigned staff.
- 9) Red, yellow, blue and green incandescent light bulbs that are visible from the street or public right-of-way are prohibited except during Town approved holiday intervals.
- 10) Mixture of Kelvin ratings by lamp types is discouraged where the difference is more than 25% (5,500 Kelvin and 4,100 Kelvin is permissible). Exceptions may be allowed in circumstances such as where incandescent lamps are used to illuminate sculptures or fountains.

- 11) Light fixtures mounted on the ground, unless decorative types, path lights or other approved ground type fixture, are to be hidden in landscape material and not visible from outside the property line.

Sec. 134-2454. Prohibited Lighting.

The following types of permanent exterior lighting fixtures and lamps are prohibited:

- 1) Mercury Vapor and Metal Halide lamps except those installed prior to this code revision.
- 2) Blinking, flashing, moving, revolving, flickering, changing color or intensity and chase lighting unless it is part of a seasonal display for temporary use.
- 3) Any fixture that may be confused with or construed as a traffic control device.
- 4) Any upward-oriented lighting unless otherwise approved.
- 5) Searchlights, beacons, and laser-source light fixtures.
- 6) Any lamp or bulb not within a fixture (except seasonal lighting).
- 7) Exposed or visible neon light tubing.

Sec. 134-2455. Light Trespass.

Light Trespass shall be defined as the poor control of exterior lighting that crosses property lines and detracts from property values and our quality of life.

Any exterior or landscape lighting that creates the following conditions shall be deemed in violation of this section and is subject to action by the Code Enforcement Board.

- 1) Lighting or fixtures that allow more than one half foot-candle to spill off the property.
- 2) Lighting that is directed or aimed in such a manner as to create a nuisance or glare to any abutting property.
- 3) Lighting that is installed and/or aimed in such a manner as to create a nuisance or glare to passers-by, either by foot or in a moving vehicle.

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the provisions or applications of this Ordinance which can be given effect without the

invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

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

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this ____ day of June 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Town Council President Pro
Tem

Danielle H. Moore, Town Council Member

Bobbie Lindsay, Town Council Member

ATTEST:

Margaret A. Zeidman, Town Council Member

Susan Owens, MMC, Town Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENT; TO CREATE A NEW ARTICLE IX, TITLED EXTERIOR LIGHTING, AND A NEW DIVISION I TITLED "STANDARDS AND REQUIREMENTS"; PROVIDING FOR PURPOSE AND INTENT; DEFINITIONS; PERMITS REQUIRED; REQUIREMENTS FOR PERMIT SUBMISSION; DESIGN REQUIREMENTS FOR EXTERNAL LIGHTING; PROHIBITED LIGHTING; AND LIGHT TRESPASS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the intensity of exterior lighting has the potential for trespass onto adjacent properties in a fashion that is intrusive and offensive; and

WHEREAS, overly bright lights can become disturbing to the peaceful enjoyment of neighboring lot owners; and

WHEREAS, there is a general lack of regulatory controls elsewhere in Town Code that specifically addresses the issue of exterior lighting;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 42, Environment; to create a new Article IX titled "Exterior Lighting," and a new Division I titled "Standards and Requirements" to read as follows:

CHAPTER 42 – ENVIRONMENT

ARTICLE IX – Exterior Lighting

"Division 1. Standards and Requirements"

Sec. 42 – 370. Purpose and Intent.

(1) It is the intent of this section to establish requirements for and provide guidance for design professionals regarding exterior lighting on private property.

Sec. 42 – 371. Definitions.

Permanent Exterior Lighting – For the purposes herein stated, this term shall mean lighting that is installed at a location that is intended to remain in place all year and be illuminated at any and all times required to meet the purpose of its function.

Seasonal Exterior Lighting – For the purposes herein stated, shall mean lighting which is installed on a temporary basis surrounding legal and other holidays or for special events. Such lighting shall be removed within 30 days following the holiday or special event.

Sec. 42 – 372. Permits Required.

(1) All permanent exterior lighting installations on private property require a permit issued by the Town's Planning, Zoning and Building Department. This includes low voltage and high voltage electrical installations.

1.1 – Requirements for permit submission.

The following items shall be required to be submitted with the application for an exterior lighting permit:

For Permanent Exterior Lighting:

- 1) Cut sheets depicting lighting details for all of the different types of light fixtures to be used.
- 2) Color coded schematic plan showing areas that will be illuminated, i.e., up and down lighting.
- 3) A site or plot plan that shows the location of each fixture along with the type, maximum wattage, and wiring method.
- 4) A completed Town of Palm Beach Exterior Lighting Requirements checklist form, signed and sealed by the design professional, if applicable, or signed and notarized by the designer if other than a licensed design professional.
- 5) If the permit application is for a commercial use or occupancy, a photometric plan, signed and sealed by a design professional shall be included.

Sec. 42 – 373. Design Requirements for Exterior Lighting.

The following items shall be incorporated into the design of permanent exterior and landscape lighting layouts:

- 1) No light bulb or source of illumination shall be visible while standing at or outside the property line. Wall sconces or column top fixtures are excluded. The light bulbs in eave fixtures must be shielded so that the lamp is not visible from off the property line. Decorative wall sconces that are visible from the street are allowed but shall be lamped with bulbs not exceeding 60 watts per bulb if single lamp fixtures, and not more than 15 watts per bulb for up to 4 bulbs per fixture. In no case shall exterior wall

sconce lighting exceed 60 watts per fixture. If LED lamps/fixtures are used, the 60 watt incandescent equivalent shall be met.

- 2) No high-pressure or low-pressure sodium light bulbs can be used for landscape lighting.
- 3) Bulbs or sources of illumination in fixtures mounted in trees or above eye level on structures shall not be visible off property. Down lighting shall not exceed 2 ft. candles on residential property and 8 ft. candles on commercial properties as measured at ground level directly below the source of illumination. Down lighting scheme must be approved by Town Staff through Architectural Commission or Landmarks Preservation Commission administrative approval. The maximum wattage per acre for down lighting schemes shall not exceed 3,750 watts; however, shall not be counted as contributing to the total landscape (vertical illumination quantity) lighting system. The use of baffling, shielding techniques, internal louvers and screening should reduce the total output to 3,000 watts. Baffling, shielding, internal hex louvers and screening is required.
- 4) Maximum cumulative wattage of light fixtures using LED and/or fluorescent light bulbs supplied at 120 volts, 220 volts, 208 volts, and 277 volts is 5,000 watts per acre. The use of baffling, shielding techniques, internal hex louvers and screening is required.
- 5) For LED lighting the maximum number of Lumens per watt shall not exceed 60.
- 6) Maximum number of landscape lighting fixtures per acre is 150 regardless of wattage.
- 7) Illumination on the elevation of a residence or commercial building is discouraged unless architectural features and anchor points are the purpose of the illumination. Visible security flood lighting is prohibited unless approved directly by the Architectural Commission.
- 8) No more than one-half foot-candle of light may be reflected off of the property. No light shall be unshielded where the lighting element is visible in any fashion, such as wall packs and any approved security fixtures. Any light that egresses its property of installation must be shielded and directed to reduce light trespass to the satisfaction of the Architectural Commission, Project Coordinator or assigned staff.
- 9) Red, yellow, blue and green incandescent light bulbs that are visible from the street or public right-of-way are prohibited except during Town approved holiday intervals.
- 10) Mixture of Kelvin ratings by lamp types is discouraged where the difference is more than 25% (5,500 Kelvin and 4,100 Kelvin is permissible). Exceptions may be allowed in circumstances such as where incandescent lamps are used to illuminate sculptures or fountains.
- 11) Light fixtures mounted on the ground, unless decorative types, path lights or other approved ground type fixture, are to be hidden in landscape material and not visible from outside the property line.

Sec. 42- 374. Prohibited Lighting.

The following types of permanent exterior lighting fixtures and lamps are prohibited:

- 1) Mercury Vapor and Metal Halide lamps except those installed prior to this code revision.
- 2) Blinking, flashing, moving, revolving, flickering, changing color or intensity and chase lighting unless it is part of a seasonal display for temporary use.
- 3) Any fixture that may be confused with or construed as a traffic control device.
- 4) Any upward-oriented lighting unless otherwise approved.
- 5) Searchlights, beacons, and laser-source light fixtures.
- 6) Any lamp or bulb not within a fixture (except seasonal lighting).
- 7) Exposed or visible neon light tubing.

Sec. 42 – 375. Light Trespass.

Light Trespass shall be defined as the poor control of exterior lighting that crosses property lines and detracts from property values and our quality of life.

Any exterior or landscape lighting that creates the following conditions shall be deemed in violation of this section and is subject to action by the Code Enforcement Board.

- 1) Lighting or fixtures that allow more than one half foot-candle to spill off the property.
- 2) Lighting that is directed or aimed in such a manner as to create a nuisance or glare to any abutting property.
- 3) Lighting that is installed and/or aimed in such a manner as to create a nuisance or glare to passers-by, either by foot or in a moving vehicle.

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

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

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

Section 1. The Town wishes to adopt formal exterior lighting standards to be applied to residential and commercial properties throughout the Town.

Section 2. The Town wishes to adopt these standards by resolution to facilitate any future updates as technology changes.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this ____ day of June 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Town Council President Pro Tem

Danielle H. Moore, Town Council Member

Bobbie Lindsay, Town Council Member

ATTEST:

Susan Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member