



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 14, 2017

9:45 AM

Welcome!

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

I. CALL TO ORDER AND ROLL CALL

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VI. APPROVAL OF AGENDA

VII. DEVELOPMENT REVIEWS

A. Construction Management Agreements

1. Proposed Construction Management Agreement - Site Plan Review No. 13-2014 with Special Exceptions and Variances (Testa's)
John S. Page, Director of Planning, Zoning & Building
2. Proposed Construction Management Agreement- Special Exception No. 30-2017 with Site Plan Review and Variances (Town of Palm Beach Recreation Center)
John S. Page, Director of Planning, Zoning & Building

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **VARIANCE #1-2017** The application of Rosemin Stanoytchev; relative to property commonly known as **157 Peruvian Ave.**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant is requesting a variance to build a two-story, 3,911 square foot (including the garage) single-family residence on a lot with an area of 6,250 square feet, in lieu of the 10,000 square foot minimum required, and a lot width of 50 feet, in lieu of the 75 foot minimum required. [Attorney: David E. Klein, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject property. Carried 7-0] [Architectural Commission conditionally approved the project. Carried 5-2]
John S. Page, Director of Planning, Zoning & Building

2. New Business

- a. **VARIANCE #13-2017** The application of Kelly M. Williams; relative to property commonly known as **288 Sandpiper Dr.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to construct a two-story addition on the west side of the property with a second story street side yard setback of 27.0 feet in lieu of the 35 foot minimum. [Attorney: David E. Klein, Esq.] [Architectural Commission conditionally approved the project without variance. Carried 5-2. Staff is awaiting confirmation of project status from the attorney.]
John S. Page, Director of Planning, Zoning & Building
- b. **VARIANCE #17-2017** The application of Ben and Katie Alexander; relative to property commonly known as **214 Queens Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing the following additions onto the existing residence: 1) Construct a one story 660 square foot addition for a new kitchen and family room; 2)

Construct a one story 400 square foot addition for a new loggia. The following variance is being requested to accomplish the above additions: Lot coverage of 32.9% in lieu of the 19% existing and the 30% maximum allowed. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject property. Carried 6-1.]

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

- c. **VARIANCE #19-2017** The application of Jeanette Sublett and Langdon Neal; relative to property commonly known as **242 Cherry Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to demolish a portion of the house and add a one story 1,095 square foot addition for a master bedroom on the west side of the house that requires the following variance requests: 1) A west side yard setback of 9 feet in lieu of the 12.5 foot minimum required; 2) An angle of vision of 114 degrees in lieu of the 108 degrees maximum allowed. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject property. Carried 6-1.]

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

- d. **SPECIAL EXCEPTION #13-2017 WITH SITE PLAN REVIEW** The application of 305 Concepts Palm Beach, LLC ("Coyo Taco"); relative to property commonly known as **340 Royal Poinciana Way, Ste 337A**, described as lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting a special exception with site plan approval to allow 26 seats, of the previously approved 80 seats, to be shifted from inside Coyo Taco and relocated to the exterior for outdoor dining, when weather permits. The proposed restaurant is located in the southwest corner of the Plaza and outdoor dining will be adjacent to the restaurant in the newly created patio area around the west fountain. The outdoor dining will have the proposed hours of: Monday through Friday – Brunch, Lunch and Dinner – 10 a.m. to 10 p.m., Friday through Sunday – brunch, Lunch and Dinner – 10 a.m. to 10 p.m. A further request to revise the previously approved hours for the restaurant to accommodate breakfast service to be one hour earlier: Monday through Thursday – Brunch, Lunch and Dinner – 10 a.m. to 1:00 a.m., Friday through Sunday – Brunch, Lunch and Dinner – 10 a.m. to 1:00 a.m. A further request to allow the restaurant to have catering as an additional service of the restaurant. The catering service will utilize existing employee vehicles and will operate under the same hours of the restaurant. [Attorney: Maura Ziska, Esq.] [Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impacts to the subject landmarked property.]

Carried 7-0.]

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

e. **DECLARATION OF USE AGREEMENT**

SPECIAL EXCEPTION #5-2017 The application of 305 Concepts, LLC ("Coyo Taco"); relative to property commonly known as **340 Royal Poinciana Way**, Ste. 337A, described as lengthy legal description on file; located in the C-PC Zoning District. Special Exception was approved on March 15, 2017 with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. Deferred consideration of the Agreement at April 12th Town Council meeting to the June 14th meeting. [Attorney: Maura Ziska, Esq.]

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

f. **SPECIAL EXCEPTION #14 -2017 WITH SITE PLAN**

REVIEW The application of Brian Plewinski, Attorney for Wilson 150 Worth LLC (Starbucks); relative to property commonly known as **150 Worth Ave. #110**, described as lengthy legal description on file; located in the C-WA Zoning District. The applicant is requesting a special exception with site plan approval to modify condition #1 – Hours of Operation for Site Plan Review #12-2006. Current approved hours of operation shall be limited to between 8:00 a.m. and 10:00 p.m. Proposed hours of operation shall be limited to between 6:00 a.m. and 10:00 p.m. [Attorney: Brian Plewinski, Esq.]

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

g. **SPECIAL EXCEPTION #15 -2017 WITH SITE PLAN**

REVIEW AND VARIANCE The application of Gregory Fisher, Member of 316 Seabreeze LLC; relative to property commonly known as **316 Seabreeze Ave.**, 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 previous approval to allow the construction of a 2,700 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variance is being requested: to allow a 12.5 foot east side yard setback for the two story portion in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed special exception with site plan review and variances will not cause negative architectural impacts to the subject property. Carried 7-0.] [Architectural Commission approved the project as presented. Carried 7-0.]

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

h. **SITE PLAN REVIEW #4-2017 WITH VARIANCES**

The application of James M. Crowley, Esq., Attorney for The Palmbeacher Apartments Inc.; relative to property commonly

known as **3030 S. Ocean Blvd.**, described as lengthy legal description on file; located in the R-D (1) Zoning District. The applicant is requesting a site plan review to add additional paving in the eastern (pool) area and add an awning over the main building entrance on this nonconforming property. The following variances are requested: 1) a variance to increase lot coverage by adding a 360 square foot awning at the front entrance. This will increase lot coverage from 26.86% to 27.75% in a district that allows a maximum lot coverage of 20% for special exception buildings; 2) A variance to decrease landscaped open space from 14.0% to 12.6% by adding 573 square feet of additional paving in the pool area. This district required minimum landscaped open space of 35%; 3) A side (south) setback variance to allow a new trellis on top of the existing pool building to extend further into the side setback. The required side setback for the pool building, which is an enclosed 9.0' high accessory structure, is 30'. The existing pool building is 10.77' from the side property line. The proposed trellis would extend an additional 2.87' into the setback, creating a new side setback at that point of 7.9' in lieu of the 30' required; 4) a south (side) setback variance to allow the new awning at the front entrance to extend into the side setback. The required side setback for the building is 55.30', the height of the building. The building is 49.92' from the side property line. The proposed awning would extend an additional 12.0' into the setback, creating a new side setback at that point of 37.92' in lieu of the 55.30' required. [Attorney: James M. Crowley, Esq.] [Architectural Commission Recommendation: Deferred to the June 28, 2017 meeting at the request of the attorney. Carried 7-0.] **Request for Deferral to the July 12, 2017, Town Council Meeting Per Letter Dated May 31, 2017 from James M. Crowley**

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

- i. **SITE PLAN REVIEW #5-2017** The application of Parc Regent Condominium (Paula Gottlieb, Manager); relative to property commonly known as **184 Bradley Place**, described as lengthy legal description on file; located in the R-D (2) Zoning District. The applicant is requesting a site plan approval for a 400 KW generator and the construction of a required 540 sq. ft. building to house said generator. The building is proposed to be located on the north of the condominium building and immediately west of the tennis courts, which front Bradley Place. The building is designed and baffled so the intake air, exhaust air and engine exhaust all face the tennis courts. Two 3,000 gallon fuel tanks are proposed to be located on the west side of the property, beyond the setbacks. [Attorney: Maura Ziska, Esq.]

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

- j. **SUBDIVISION #1-2017** The application of 89 Middle Road LLC, relative to property commonly known as **89 Middle Rd.**,

described as lengthy legal description on file, located in the R-A Zoning District. The subject property is 135,907 square feet +/- of land, which calculates to 3.398 "Palm Beach acres." The applicant is requesting approval to replat 11 existing platted lots from the Singer Addition and El Bravo Park plats into a new subdivision called El Bravo-Singer Annex, comprised of six (6) lots, which meet all of the lot area, width and depth zoning requirements for the lots in the R-A (Estate Residential) Zoning District. [Attorney: Gregory E. Young, Esq.]
John S. Page, Director of Planning, Zoning & Building

3. Other

- a. **DECLARATION OF USE AGREEMENT
SPECIAL EXCEPTION #9-2017 WITH SITE PLAN REVIEW
AND VARIANCE** The application of Old Guard Society of Palm Beach; relative to property commonly known as **165 Bradley Place**, described as lengthy legal description on file; located in the C-TS Zoning District. Special Exception With Site Plan Review and Variance approval was granted at April 12, 2017 Town Council meeting, with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation.
[Attorney: Maura Ziska]
John S. Page, Director of Planning, Zoning & Building
- b. Presentation - William Bucklew, Certified Floodplain Manager, Upcoming FEMA Floodplain and Building Code Changes
John S. Page, Director of Planning, Zoning & Building

VIII. ORDINANCES

A. First Reading

1. **ORDINANCE NO.15-2017** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning As Follows: Article I, In General, Section 134-2 To Create A Definition For "Zero Datum", Modify The Definition Of "Building Height (Applicable Only To The R-B District)", To Clarify Where Zero Datum Is Taken From And To Modify All Definitions Of Building Height And The Definition Of Building Height Plane To Reference "Zero Datum" As The Point Of Measuring Building Height, Overall Height, Building Height Plane And Cubic Content Ratio; Section 134-2, "Building Height, Of Lot Abutting Low Streets", To Reference The Minimum Floodplain Elevation In Chapter 50, Floods, As Zero Datum Rather Than 7 ½ Feet Mean Sea Level NGVD; Article VII, District Regulations, Section 134-793 And 134-843 To Reference The Minimum Flood Elevation Rather Than 7.5 Feet For Measuring The Building Height Plane Requirement In The R-AA And R-A Zoning Districts, 134-893 By Eliminating The Maximum Height For Single-Family Homes On Lots Abutting Low Streets; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An

Effective Date.

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

2. ORDINANCE NO. 17-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 66, Natural Resource Protection As Follows: Article 1, In General, Section 66-2 To Create A Definition For "Pestilent Exotic/Invasive Species"; Article IIII, Vegetation, Subdivision IV, Conservation District, Sections 66-369 – 66-375 To Create A Permitting Process For Landscaping And Related Work To Be Done In The Conservation Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

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

IX. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 3:30 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 3:30 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 14, 2017

Section of Agenda

Construction Management Agreements

Agenda Title

Proposed Construction Management Agreement - Site Plan Review No. 13-2014
with Special Exceptions and Variances (Testa's)

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated June 1, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Proposed Construction Management Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Construction Management Agreement- Site Plan Review No. 13-2014 with
Special Exceptions and Variances (Testa's)

Date: June 1, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the proposed Construction Management Agreement with the modifications proposed by Staff in add/delete format (copy attached).

GENERAL INFORMATION

The Town Council conditionally approved the Special Exception with Variances portion of the subject zoning application at its April 15, 2015 meeting. As part of the approval, the Council included a condition that the applicant enter into a Construction Management Agreement with the Town outlining conditions for control of construction activity, a construction time line, and remedies for violation of the Agreement. On June 10, 2015, the Town Council approved the remaining Site Plan Review portion of the application. The Construction Management Agreement has been deferred several times due to a legal appeal of the project. That issue has been resolved and the owner is ready to move forward with the project.

As required by the Town Council, the Applicant held a neighborhood meeting with the property owners and tenants in the area on May 11, 2017, to explain the project and address concerns about the possible impacts of construction. Property owners and tenants within the entire area were notified of the meeting. The concerns raised at that meeting were: closure of sidewalks; the possibility of closing the median on Royal Poinciana Way; traffic disruption caused by deliveries; dust control; on-street parking; and rodent control. With the exception of the median cut issue, Staff believes all of these concerns have been addressed in the draft Agreement. The biggest concern for Staff and the neighbors is the Applicant's proposal to close the sidewalks on the north side of Royal Poinciana Way and south side of Sunset Avenue throughout the entire construction period.

The owner has provided Staff with a Draft Agreement for internal review. Staff proposed modifications to the proposed Agreement (copy attached) are in add/delete format. Staff changes

are intended to address issues related to the construction of the project that may be disruptive to the neighborhood. The draft Agreement includes construction schedule deadlines, required rodent extermination prior to demolition, lighting restrictions, provisions for erosion control, hours of construction, limitations on material and equipment deliveries, noise requirements, dust control, excavation procedures, dewatering, concrete pour requirements, construction parking requirements, and remedies for violation of those conditions. As part of the building permit, the Town will also require vibration monitoring during the excavation phase of the project.

The owner's proposed Summary Project Schedule and Site Logistics and Equipment Access Plan, which is part of the Agreement, are attached for your consideration. The proposed construction time line is forty-two months from beginning to completion, and if approved, cannot be extended without Council approval. The construction proposal in the Site Logistics and Equipment Access Plan includes a request for the closure of the sidewalk and on-street parking on the south side of Sunset Avenue and on the north side of Royal Poinciana Way.

Staff and the owner have not been able to resolve all differences in the proposed Agreement. The owner's points of discussion are highlighted in the proposed agreement. The Public Works and Planning, Zoning and Building Departments do not believe the sidewalks should be closed throughout the duration of the construction of the project. In addition, concern also remains concerning the logistics of deliveries; staging of construction material and equipment; and the possible negative impacts during construction. All of these issues need to be discussed and resolved by the Town Council.

If you have any questions regarding the proposed Agreement or its attachments, please contact Paul Castro, Zoning Administrator at 227-6406.

TOWN ATTORNEY REVIEW

The draft "Construction Management Agreement" with attachments have been reviewed by Town Attorney John C. Randolph for legal form and sufficiency.

Attachment

cc: Jay Boodheshwar, Deputy Town Manager
Veronica B. Close, Asst. Director, Planning, Zoning & Building
Paul Castro, Zoning Administrator
John C. Randolph, Town Attorney
Kirk Blouin, Director of Public Safety
H. Paul Brazil, Public Works Director
Bill Bucklew, Building Official
Martin DeLoach, Fire Marshal
Maura Ziska
zf & pf

**CONSTRUCTION MANAGEMENT AGREEMENT
FOR TESTA'S PROJECT**

THIS CONSTRUCTION MANAGEMENT AGREEMENT is made and entered into this _____ day of _____, 2017, by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 ("the Town") and T3 FAMILY INVESTMENTS, LLC, a Florida limited liability company, c/o Kochman & Ziska, PLC, 222 Lakeview Avenue, Suite 1500, West Palm Beach, Florida 33401 ("the Owner"), which terms will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH:

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

WHEREAS, the Property is zoned C-TS, Commercial Town Serving and commercial and residential uses are allowable uses within such zoning category; and

WHEREAS, the Town Council on May 13, 2015, conditionally approved Site Plan Review No. 13-2014 with Special Exceptions and Variances for the redevelopment of a two story mixed use project; and

WHEREAS, a condition of approval of the subject zoning application is that the Owner enter into a Construction Management Agreement; and

WHEREAS, the conditions in this Construction Management Agreement are imposed in order to mitigate any adverse impacts of the redevelopment of the Property, as well as to insure that said use demolition and construction shall not be adverse to the public interest and the surrounding property owners; and

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

ARTICLE I

RECITALS

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

ARTICLE II

CONSTRUCTION CONDITIONS

The Property is approved for a building of 106,642 gross square feet with two (2) stories above ground, containing 63,680 square feet, including first floor commercial space of 18,080 square feet and six (6) residential units on the second floor, one (1) level of underground parking containing 42,962 square feet including eighty-six (86) parking spaces and the square footages and configurations as shown on sheets 1 through 32 prepared by Dailey Janssen Architects, P.A., sheets L-1 through L-4 prepared by Parker-Yannette, sheets 1 of 2 and 2 of 2 prepared by Keshavarz & Associates and the boundary survey sheet 1 of 1 prepared by Keshavarz & Associates, all of which are part of a package date stamped June 26, 2015 and made part of the approval of this application. Attached are added sheets 12 and 13 prepared by Dailey Janssen Architects, P.A., stamp dated June 29, 2015. (hereinafter "the Project") and included as part of the application. No deviation of the approved plan package is allowed without previous approval of zoning application by the Town Council.

The Owner shall follow the Schedule of Construction as set forth in Exhibit B ("Schedule") attached hereto. The completion date in said Schedule may only be modified with the consent of the Town Council. The dates within the schedule may be modified with the consent of the Building Official provided that construction does not exceed the maximum number of days allowed by the Town Council as provided for in the attached Schedule. The Town shall use its best efforts to expedite review and issuing of the building permit and/or any modifications to the building permit. Such modifications shall be monitored and approved by the Building Official. The Owner's construction personnel shall provide to the Town's Building Official a progress report on the Schedule on the 1st business day of each month starting at the beginning of demolition of the Property.

The construction of the Project is ~~approved~~ subject to the following conditions:

1. The Owner's general contractor shall schedule and attend a pre-construction meeting **with all of the sub-contractors** and the Town Staff prior to the issuance of a demolition permit or a building permit.
2. The Owner's general contractor shall designate two project managers who can be contacted by the Town with respect to any issues involved with the construction. The Owner shall meet with the Town and all abutting property owners who wish to meet prior to beginning construction and provide the Town and abutting property owners with the contact information of the two project managers for the construction project. The contact information shall include the names, cell phone numbers and identification pictures of the two project managers. Should the project managers or their contact information change, the Owner shall provide the new contact information to the Town and abutting property owners. At least one of those project managers shall be on the Property **at all times** when construction work is being done on the Property.

3. Construction workers and project management personnel shall only be allowed to park within the boundaries of the Property. If parking is not possible on the Property, construction workers and project management personnel shall be transported by shuttle to the Property from an off-island location. Parking by said persons in the Town of Palm Beach is prohibited.
4. The Owner may be required to hire a resident inspector if deemed necessary by the Town Building Official per Section 109.3.7 of the Code of Ordinances.
5. A construction status report shall be delivered by the Owner's contractor to the Town Building Official or his designee on the first business day of each month starting subsequent to the commencement of ~~construction~~ demolition evidenced by the issuance of a building permit by Town, showing the anticipated completion times for each phase of construction and the current stage of completion for each phase. A monthly meeting shall be held with attendees from the Owner's contractor **and sub-contractors**, the Town's Public Works and the Town Planning, Zoning and Building Departments to review the status.
6. Rodent extermination shall be completed prior to the start of demolition by a Florida licensed and bonded exterminator. A written report shall be provided to the Town clarifying complete extermination.
7. **Removal of debris on an every other day basis shall be required of the contractor.** Prior to the issuance of a demolition or construction permit the contractor shall provide the Town with an acceptable plan that identifies the staging area for debris accumulated on the Property. Said plan shall provide detailed information on how the contractor will screen the debris staging area from the neighboring property owners and street.
8. Dust control shall be as prescribed by the Town Code of Ordinances as set forth in Section 42-164 . Water spray suppression shall be provided by the contractor, as deemed necessary by the Town Building Official.
9. Any security lighting shall be shielded so that it shines downward and does not produce any light or glare which would adversely affect surrounding property owners. Such lighting shall be the minimum necessary to allow security surveillance of the Property.
10. Occupancy of right-of-way for loading and unloading shall be governed and restricted by the approved Site Logistics and Equipment Plan as identified in Exhibit C
11. Erosion control of the Property shall be according to plans prepared by the Owner and approved by the Town.
12. Hours of construction shall be governed by Section 42-199 of the Town's Code of Ordinances. ~~No construction activity shall be allowed on Saturdays from December through April (except as allowed by the Town Code), on Sundays, or on town observed holidays.~~ Hours may be modified only by special approval by **the Town Council**.

13. The Schedule of Construction is as set forth in Exhibit B ("Schedule") attached hereto shall apply. The completion date in said Schedule may be modified only upon consent of the Town Council. The dates within the schedule may be modified with the consent of the Town Building Official provided that construction does not exceed the maximum number of days allowed by the Town Council as provided for in the attached Schedule
14. De-watering shall be accomplished by well point only to a point where it is discharged into the Town's storm sewer system. Turbidity shall be monitored at the discharge from the site to where it enters the Town storm sewer system and where it discharges from Town facilities to the Lake Worth Lagoon, on a weekly basis and reported in writing to the Town Public Works Department on a weekly basis. Fees for the de-water discharge to the Town storm sewer system shall be based on the total of \$0.21 per thousand gallons discharged plus a fee for clean out of the wet well to the pump station before and after completion of the de-watering activities plus any clean out of the Town storm sewer system between the site and the pump station which may be required upon the completion of the de-watering.

De-watering shall be allowed to occur until the necessary work to dry-in the site is complete or in cases of emergency as determined by the Town Building Official. The work hours on the Property during the de-watering phase are limited to the construction hours regulated in Section 42-199 of the Code unless otherwise approved by the Town Council. Emergency access to the de-watering pumps as may be required by Town personnel or by the Owner's contractor shall only be limited to purposes necessary to continue the operation **or discontinue the operation of the de-watering until such time as normal work hours resume.**

At such time as may be **required** directed by the Town, suspension of the de-watering operation may be required. Access shall be provided to de-watering facilities for the Town personnel on a 24-hour-a-day basis in the event that suspension of the de-watering is required. Suspension of the de-watering operation may be required under conditions, such as when the Town storm sewer system has reached capacity, turbidity limits have been exceeded at the point of discharge to the Lake Worth Lagoon, or for any other reason as so determined by the Town.

15. Excavated material shall be removed from the Property in a condition or in such a manner that water, soil, sediments or etc. are not tracked onto the Town or Florida Department of Transportation rights-of-way.
16. The Owner or its contractor shall develop a traffic plan for the removal of excavated material which minimizes impacts to the Town. **Excavated material shall only be removed from the Property Monday through Friday during the hours of 8 AM through 3 PM. No excavation shall to take place between December 1 and May 1.** The excavation traffic control plan shall be prepared by the Owner's contractor with approvals required from the Town of Palm Beach Police, Fire Rescue, Planning, Zoning and Building and Public Works Departments prior to commencement of work.

17. The Owner shall be required to obtain the Town Council approval for any concrete pours which exceed the hours allowed for construction or which require a continuous pour of more than six hours. Prior to being considered by the Town Council, the Owner shall provide a minimum 20 days written notice to all property owners and tenants within 300 feet of the Property and to those residential owners and tenants which either abut or are adjacent to the concrete truck route. The notice shall include the date(s) and time(s) of the proposed concrete pour(s). In addition, as part of any approval for the concrete pour, the contractor shall develop a traffic plan which is acceptable to the Town of Palm Beach Police, Fire Rescue, Planning, Zoning and Building and Public Works Departments prior to commencement of work.

In the event the date of the pour has not previously been provided in the notice to Council, the Owner shall provide written notice to all property owners and tenants within 300 feet of the Property, ten days prior to the commencement of any concrete pour outside the hours allowed for construction or which requires a continuous pour of more than six hours. ~~All residential property owners and tenants which either abut or are adjacent to the concrete truck route shall be provided written notice twenty days prior to commencement of the concrete pour.~~ The notice shall be approved by the Town Director of the Planning, Zoning and Building Department before it is mailed and shall state the date(s) and time(s) of the concrete pour(s), and any impact to traffic, traffic detours, parking, etc., which might occur during those periods.

On the immediate Sunday and Thursday prior to the concrete pour for the foundation mat, the Owner shall place a quarter page advertisement in the Palm Beach Daily News that provides notice of the dates and times of the proposed activity including the procedure, any impacts the Town determines may occur to traffic, and showing ~~any detour~~ truck routes which may be required. Said notice shall be reviewed and approved by the Town Planning, Zoning and Building Director prior to its publication. Storage and delivery area plans shall be submitted and approved by the Town prior to the issuance of a building permit.

18. The Property shall be fenced and screened from view by an eight-foot high green mesh fence. All construction deliveries shall be conducted on the Property and in the public rights-of-way as identified in the approved Site Logistics and Equipment Plan as identified in Exhibit C. Semi-truck and large deliveries shall not be permitted unless prior approval from the Town's Police and Public Works Departments is obtained. The Loading Access Area identified in Exhibit C shall be clear of debris and obstructions at all times and shall be used for deliveries only. ~~In addition,~~ ~~p~~Prior approval shall also be required from the Town Police Department to bring in large deliveries that may block the street or access into the Property.

19. Construction trailers shall only be for the Owner's general contractor and subcontractors. No trailers shall be allowed on the Property site for sales staff unless previously approved by the Town Council.
20. The Owner shall meet the requirements regarding noise in Sections 42-196 through 42-229 of the Code of Ordinances.

ARTICLE III

VOLUNTARY AGREEMENT

The terms and conditions set forth in ~~the Approval~~ and this Agreement are agreed to voluntarily by the Owner. The Owner agrees to be bound by them, and Owner waives any legal objection it might otherwise have to said terms and conditions or parts thereof.

ARTICLE IV

REMEDIES FOR VIOLATION

1. If the Owner fails to complete the construction of the Project in the Plan in the maximum number of days allowed by the Town Council as provided for in the Code of Ordinances and identified in Exhibit B of this Agreement, the Owner shall pay to the Town a liquidated amount of \$2,000.00 per day for each calendar day past the maximum number of days allowed. An extension of completion date shall be granted in the event of an act of terrorism or war or fire or other casualty, or act of God or nature, which would shut down the project for a period of time. An "act of God or nature" as defined in this Agreement is an unintentional fire, earthquake, tropical depression, named tropical storm, or a hurricane that impacts the Town of Palm Beach.
2. In addition to the above, for violations of any of the other conditions of this Agreement, Owner shall pay the Town a liquidated amount of \$2,000.00 for each day that any of the conditions of this Agreement are violated and which shall increase to \$5,000.00 per day after the fifth (5th) day of such violation.
3. If valid noise, odor, dust control or other complaints are reported to the Town, the Town may order a cessation or modification of construction activities of the Project, until such time as the Town is satisfied that such complaints have been resolved. Upon receipt of a noise, odor, dust or other complaint which the Director of the Planning, Zoning and Building Department believes may be valid, the Director shall notify Owner and obtain Owner's response to the complaint prior to making a determination on the complaint. Once received, the Owner shall have three business days to respond to the Director's notification. A final determination shall be made within 3 business days of the Owner's response to the Director's notification.

The Owner shall have the right to appeal the Director's determination in regard to the remedies described in this section to the Town Council at the next scheduled meeting of the Town Council, which is at least seven (7) days subsequent to the date of the notice of appeal for all outstanding amounts imposed by this provision. If the appeal is granted in favor of the Owner, any time lost by not allowing construction during the appeal will be added to the end of the construction schedule and will not count towards a violation of time to complete construction. In addition, if any substantiated unintended consequences of a detrimental nature should arise, the Town can take enforcement action to address the issue.

- 4.. All outstanding ~~amounts~~ fees imposed under this provision shall be paid by the Owner prior to the issuance of a Certificate of Occupancy for any building or structure on the Property.
5. **The Town and Owner** shall have all remedies available at law and equity in order to enforce the terms of this Agreement including, but not limited to: (a) the Town's code enforcement procedures in the Code of Ordinances through the Building Inspector, Code Enforcement Officer, and Code Enforcement Board; (b) Town may initiate action to revoke the business tax receipt pursuant to applicable provisions of Town Code; (c) all remedies otherwise offered in the Town's Code of Ordinances; and (d) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County or the State of Florida. In the event Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non-performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town, if it prevails, shall be entitled to recover its costs, expenses and reasonable attorneys' fees either before or as a result of litigation, including appeals.

ARTICLE V

ENTIRE AGREEMENT

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

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

Signed, sealed and delivered
in the presence of:

THE TOWN OF PALM BEACH

By: _____
GAIL CONIGLIO, Mayor

By: _____
RICHARD KLEID
President Town Council

By: _____
THOMAS G. BRADFORD
Town Manager

THE OWNER
(T3 FAMILY INVESTMENTS, LLC)

By: _____
DAVID FRISBIE, as Manager

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by GAIL CONIGLIO, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and did not take an oath.

NOTARY PUBLIC

My commission expires:

AFFIX NOTARY SEAL

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by RICHARD KLEID, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and did not take an oath.

NOTARY PUBLIC

My commission expires:

AFFIX NOTARY SEAL

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by THOMAS G. BRADFORD, the Town Manager of the Town of Palm Beach, a Florida

municipal corporation, on behalf of the corporation. He is personally known to me and did not take an oath.

NOTARY PUBLIC

My commission expires:

AFFIX NOTARY SEAL

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by DAVID FRISBIE, as Manager of T3 FAMILY INVESTMENTS, a Florida limited liability company, on behalf of the corporation, who is personally known to me or produced _____ as identification and did not take an oath.

NOTARY PUBLIC

My commission expires:

AFFIX NOTARY SEAL

RECOMMEND APPROVAL

APPROVED AS TO LEGAL FORM AND
SUFFICIENCY

By: _____
PAUL CASTRO
Zoning Administrator

By: _____
JOHN C. RANDOLPH
The Town Attorney

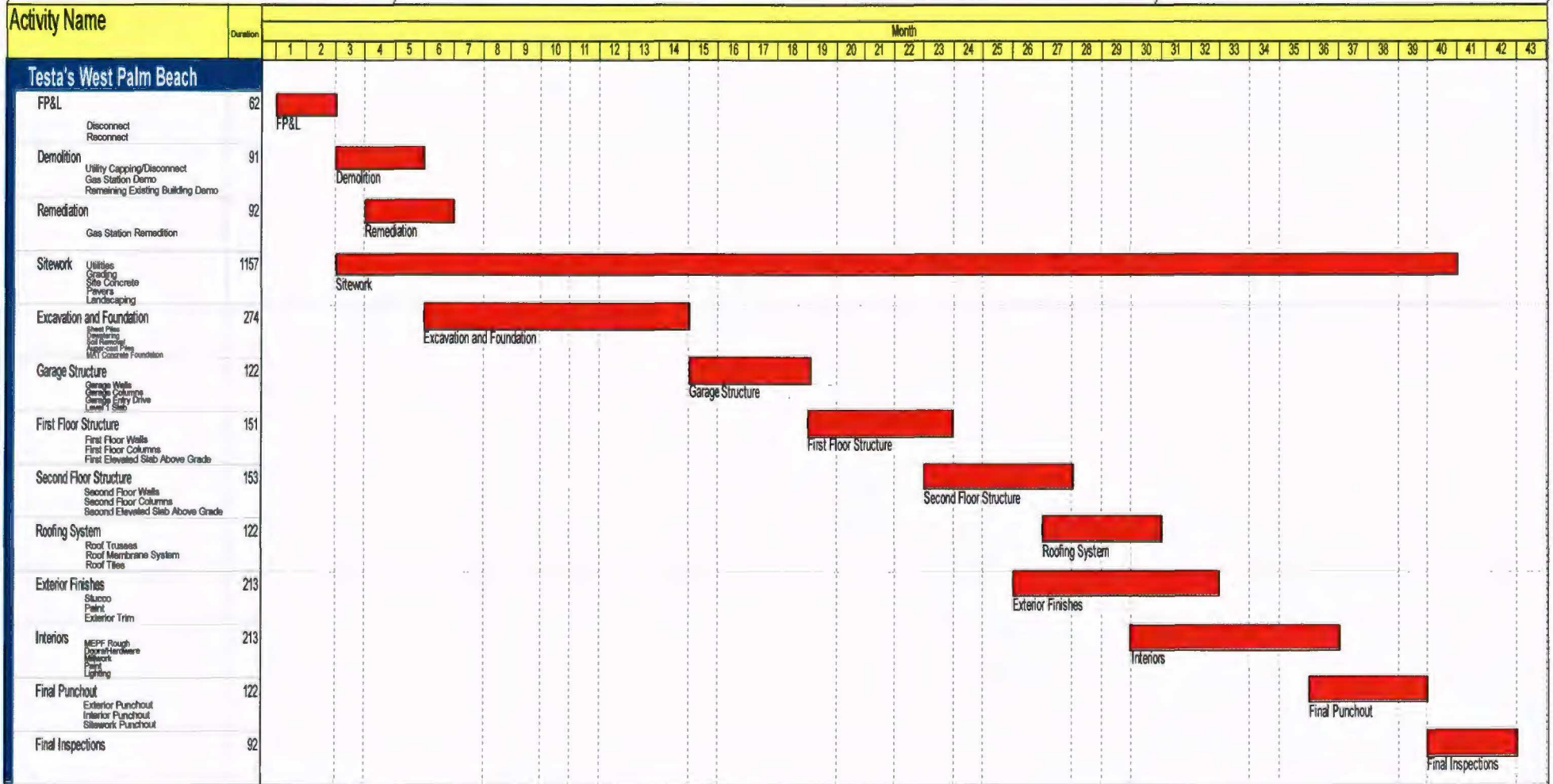
EXHIBIT A

LEGAL DESCRIPTION

Lots 52, 53, 54, 55, 56, 57, 58, 59, 60, 61 and 62, FLORAL PARK, according to the plat thereof recorded in Plat Book 2, Page 6, of the Public Records of Palm Beach County, Florida.

AND

Lots 23, 24, 25, 26, 27, 28, 29, 30, 31 and the West 7.1 feet of Lot 32, FLORAL PARK ADDITION NO. 1, according to the Plat thereof recorded in Plat Book 5, Page 28, of the Public Records of Palm Beach County, Florida.



1 of 1

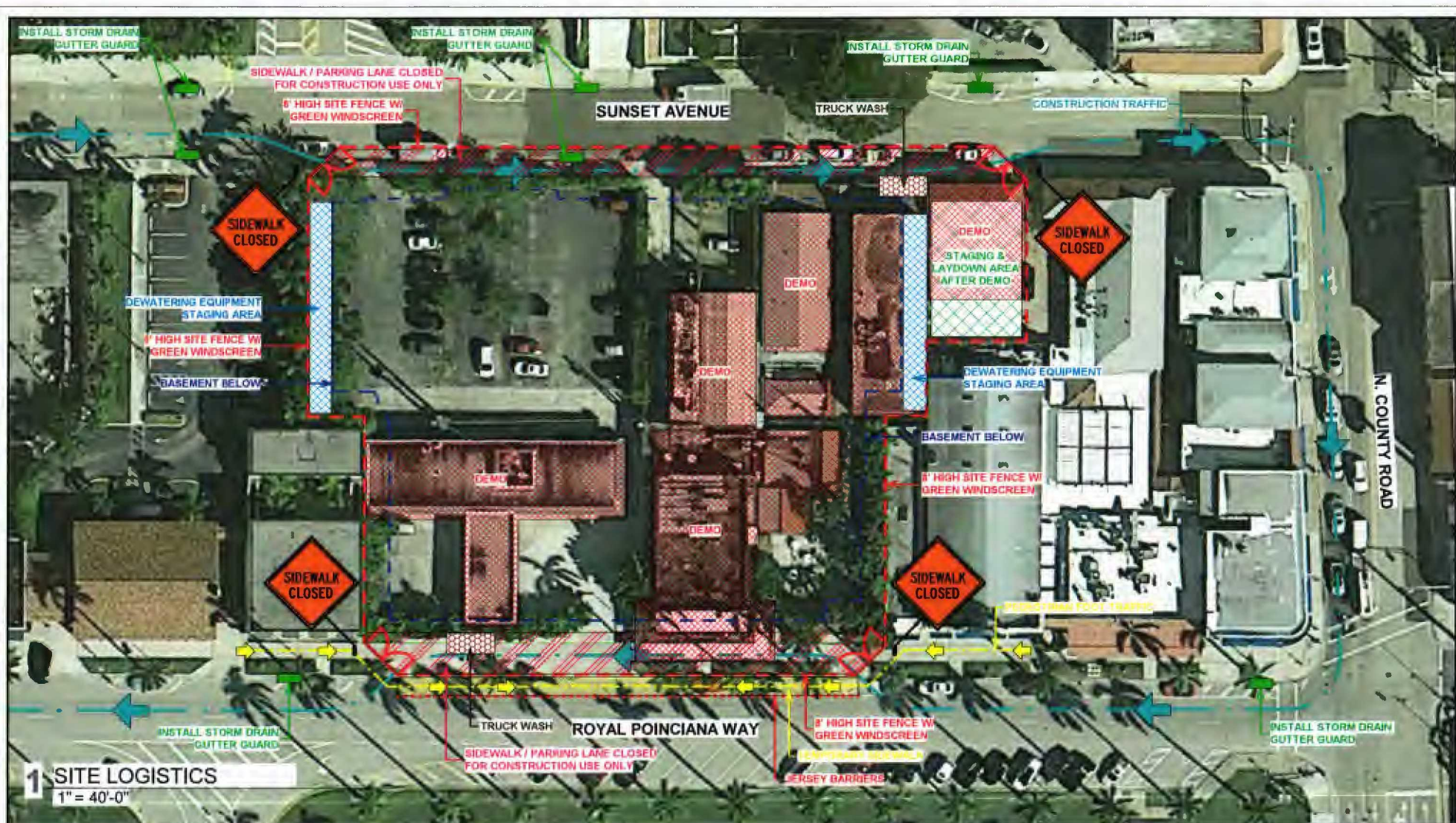
Testa's West Palm Beach

TASK filter: All Activities

Print Date: 16-May-17 11:52

EXHIBIT C

SITE LOGISTICS AND EQUIPMENT PLAN



5959 Blue Lagoon Dr. Suite 200 Miami, FL 33126
Phone: 305-559-4900
www.Coastalconstruction.com

Owner

Phase 1 Site Logistics Plan

This Logistics Plan will remain in place for Demolition, Excavation, and Structure through the completion of the Second Floor Structural Work per the Schedule.

Project

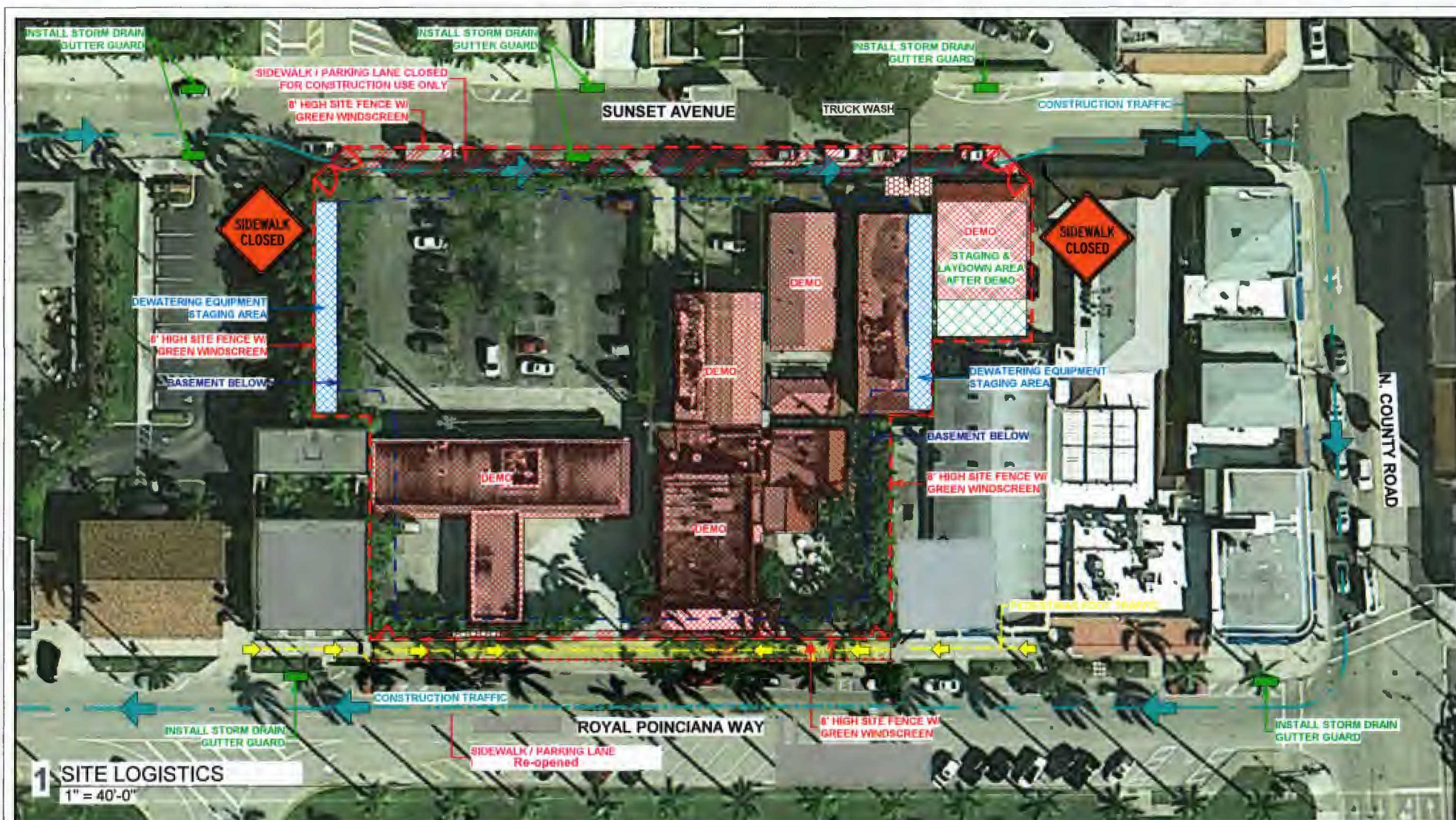
TESTAS PALM BEACH

SITE LOGISTICS

Date Printed 5/2/2017 8:45:06 AM
Project number 0000
Drawn by Author

LG4.01

Scale 1" = 40'-0"



5959 Blue Lagoon Dr. Suite 200 Miami, FL 33126
Phone: 305-559-4900
www.Coastalconstruction.com

Owner
- **Phase 2 Site Logistics Plan**
This Logistics Plan will begin once the second floor structure is complete and life safety concerns are no longer a factor for the Royal Poinciana parking/sidewalk.

Project
TESTAS PALM BEACH

SITE LOGISTICS

PRELIMINARY DRAWING

Date Printed 5/2/2017 8:45:06 AM

Project number 0000

Drawn by Author

LG4.01

Scale 1" = 40'-0"

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Construction Management Agreements

Agenda Title

Proposed Construction Management Agreement- Special Exception No. 30-2017 with Site Plan Review and Variances (Town of Palm Beach Recreation Center)

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated June 1, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Recreation Center Construction Management Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Construction Management Agreement- Special Exception No. 30-2017 with Site Plan Review and Variances (Town of Palm Beach Recreation Center)

Date: June 1, 2017

STAFF RECOMMENDATION

Following the Council's direction in April, Staff recommends that the Town Council consider the proposed Construction Management Agreement (copy attached).

This Department has been notified by the Public Works Department that all Town-mandated conditions related to demolition and new construction of the Recreation Center will be included within a Construction Contract negotiated between the Town and the General Contractor. As such, a Construction Management Agreement becomes redundant. The Council may opt not to proceed forward with a separate Construction Management Agreement for this reason.

GENERAL INFORMATION

The Town Council conditionally approved the Recreation Center Special Exception with Site Plan Review and Variances at its April 12, 2017 meeting. As part of the approval, the Council included a condition that the applicant enter into a Construction Management Agreement outlining conditions for control of construction activity and a construction time line.

The draft Agreement is provided for your consideration. The Agreement is unlike other similar agreements as this is a Town Project. It includes the method for securing the construction area from other users of recreational areas that will remain active during construction, construction schedule deadlines, rodent extermination prior to demolition, lighting restrictions, provisions for erosion control, hours of construction, limitations on material and equipment deliveries, noise requirements, dust control, excavation procedures, dewatering, concrete pour requirements and construction parking requirements. Since this is a Town project, the proposed Agreement does not have any Remedies for Violation. There is a section regarding Complaints.

If you have any questions regarding the proposed Agreement or its attachments, please contact Paul Castro, Zoning Administrator at 227-6406.

TOWN ATTORNEY REVIEW

The draft “Construction Management Agreement” has been reviewed 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
John Randolph, Town Attorney
Kirk Blouin, Director of Public Safety
Paul Brazil, Public Works Director
Bill Bucklew, Building Official
Martin DeLoach, Fire Marshal
Maura Ziska
zf & pf

Construction Management Agreement
Town of Palm Beach Recreation Center
340 Seaview Avenue, Palm Beach, Florida

WHEREAS, Town owns property located at 340 Seaview Avenue in the Town of Palm Beach ("Property") as identified in the legal description (Exhibit A attached); and

WHEREAS, the Town Council approved Special Exception # 30-2016 with Site Plan Review and Variances on April 12, 2017, ("Approval") for the development of a new recreation center on the Property; and

WHEREAS, the Town Council has required as a condition of the approval that the Owners enter into this Construction Management Agreement ("Agreement") prior to issuing the building permit for the development of the property.

NOW THEREFORE, Owner and Town agree as follows:

RECITALS

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

CONDITIONS

1. The Owner shall follow the Schedule of Construction as set forth in Exhibit B ("Schedule") attached hereto. The completion date in said Schedule may only be modified with the consent of the Town Council. The dates within the schedule may be modified with the consent of the Building Official provided that construction does not exceed the maximum number of days allowed by the Town Council as provided for in the attached Schedule. The Town shall use its best efforts to expedite review and issuing of the building permit and/or any modifications to the building permit. Such modifications shall be monitored and approved by the Building Official. The Owner's construction personnel shall provide to the Town's Building Official a progress report on the Schedule on the 1st business day of each month commencing with time of demolition of the existing recreational building.
2. Rodent extermination shall be completed prior to the start of demolition by a Florida licensed and bonded exterminator. A written report shall be provided on the extermination to the Town.
3. Removal of debris at least every other day shall be required of the contractor. Prior to the issuance of a demolition or construction permit the contractor shall provide the Town with an acceptable plan that identifies the staging area for debris accumulated on the site. Said plan shall provide detailed information on how the contractor will screen the debris staging area from the neighboring property owners and street.

4. Dust control shall be as prescribed by the Town Code of Ordinances as set forth in Section 42-164. Water spray suppression shall be provided by the contractor, as deemed necessary by the Building Official.
5. Any security lighting shall be shielded so that it shines downward and does not produce any light or glare which would adversely affect surrounding property owners. Such lighting shall be the minimum necessary to allow security surveillance of the property.
6. Construction workers shall park on the Property at all times. Parking by all construction workers and management personnel in the public rights-of-way is prohibited.
7. Storage and delivery area plans shall be submitted and approved by the Town Planning, Zoning and Building Department prior to the issuance of a building permit. The Property construction area shall be fenced and screened from view as provided for in Exhibit C. All construction deliveries shall be on-site and be segregated from the outdoor recreation areas, unless prior approval from the Town's Recreation Department is obtained. In addition, prior approval shall also be required from the Town Police department to bring in large deliveries that may block the street or access into the site.
8. All concrete pours shall be limited to the allowed hours of construction as provided for in the Code of Ordinances.
9. The hours of all construction shall be the hours as allowed by Code, unless extended by the Town Council. The hours following the building shell completion to completion of the project shall be the hours allowed by Code for outside work. When the shell of the building is complete, inside building work shall be allowed continuously (24 hours a day) until the project is complete. These hours of construction do not preclude construction workers or management from coming to the site earlier for meetings or to prepare for the day, provided that no valid complaints are filed with the Town. No heavy equipment or deliveries shall be operated or made outside the allowed hours of construction as defined in the Code of Ordinances. The schedule is for work Monday through Saturday, excluding Sundays and national holidays, except for inside building work. Inside building work can occur seven days a week, including holidays. The completion date shall be as identified in Exhibit B, Schedule, unless otherwise modified by the Town Council.
10. The Owner's general contractor shall schedule and attend a pre-construction meeting with all of the subcontractors and Town Staff prior to the issuance of a building permit.
11. The Owner's general contractor shall designate two project managers who can be contacted by the Town with respect to any issues involved with the construction. The Owner shall meet with the Town and all abutting property owners who wish to meet on the Project prior to beginning construction and provide the Town and abutting property owners with the

contact information of the two project managers for the construction project. The contact information shall include the names, cell phone numbers and identification pictures of the two project managers. Should the project managers or their contact information change, the Owner shall provide the new contact information to the Town and abutting property owners. At least one of those project managers shall be on the Property at all times when construction work is being done on the Property.

12. Construction trailers shall only be for the general contractor and subcontractors and shall be located out of required setbacks.
13. De-watering shall be accomplished by wellpoint only to a point where it is discharged into the Town storm sewer system. Turbidity shall be monitored at the discharge from the site to where it enters the Town storm sewer system and where it discharges from Town facilities to the Lake Worth Lagoon, on a weekly basis and reported in writing to the Town Public Works Department on a weekly basis. Fees for the de-watering discharge to the Town storm sewer system shall be based on the total of \$0.21 per thousand gallons discharged plus a fee for clean out of the wet well to the pump station before and after completion of the de-watering activities plus any clean out of the Town storm sewer system between the site and the pump station which may be required upon the completion of the de-watering.

Emergency access to the de-watering pumps as may be required by Town personnel or by the Owner's contractor shall only be limited to purposes necessary to continue the operation or discontinue the operation of the de-watering until such time as normal work hours resume.

At such time as may be required by the Town, suspension of the de-watering operation may be required. Access shall be provided to de-watering facilities for Town personnel on a 24-hour-a-day basis in the event that suspension of the de-watering is required. Suspension of the de-watering operation may be required under conditions, such as when the Town storm sewer system has reached capacity, turbidity limits have been exceeded at the point of discharge to the Lake Worth Lagoon, or for any other reason as so determined by the Town. Any time delay due to the suspension of the de-watering will not be penalized against the construction time frame. Excavated material shall be removed from the site in a condition or in such a manner where that water, soil, sediments or etc. are not tracked onto the Town rights-of-way.

14. The Owner or its contractor shall develop a traffic plan for the removal of excavated material which minimizes impacts to the Town. Excavated material shall only be removed from the site from Monday through Saturday during the hours of 9 a.m. through 5 p.m. The excavation traffic control plan shall be prepared by the contractor with approvals required from the Town of Palm Beach Police Department, Fire Rescue, Planning Building and Zoning Department and Public Works Department prior to commencement of work.

15. If valid noise, odor, dust control or other complaints are reported to the Town, the Town may order a cessation or modification of construction activities on the Property (for that portion of the work only that caused the valid noise, odor, dust control or other complaints, allowing the rest of the work to continue), until such time as the Town is satisfied that such complaints have been resolved. Upon receipt of a complaint which the Director of Planning, Zoning, and Building believes may be valid and prior to making a determination on the complaint, the Director shall notify Owner's project manager in writing and Owner shall provide a written response to the complaint within three days of the project managers receiving the Director's notification. A final determination shall be made within three (3) days of Owner's response to the Director. Owner shall have the right to appeal the Director's determination to the Town Council at the next scheduled Council meeting and that portion of the work subject to the complaint shall continue to be prohibited during the pendency of the appeal. If the appeal is granted in favor of the Owner, any time lost by not allowing construction during the appeal will be added to the end of the Schedule and will not be counted towards a violation of the time to complete the construction.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above. Signed, sealed and delivered in the presence of:

By: _____
Gail Coniglio, Mayor

By: _____
Richard Kleid, President Town Council

By: _____
Thomas Bradford, Town Manager
Town of Palm Beach, a Florida municipal corporation

Approved as to Legal Form and Sufficiency:

John C. Randolph, Town Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Gail Coniglio, Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and he did not take an oath.

Signature of Notary Public
Printed Name of Notary Public
Commission No: _____
Commission Expires: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by Richard Kleid, President of the Town of Palm Beach Town Council, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public
Printed Name of Notary Public
Commission No: _____
Commission Expires: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Thomas Bradford, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public
Printed Name of Notary Public
Commission No: _____
Commission Expires: _____

EXHIBIT "A"

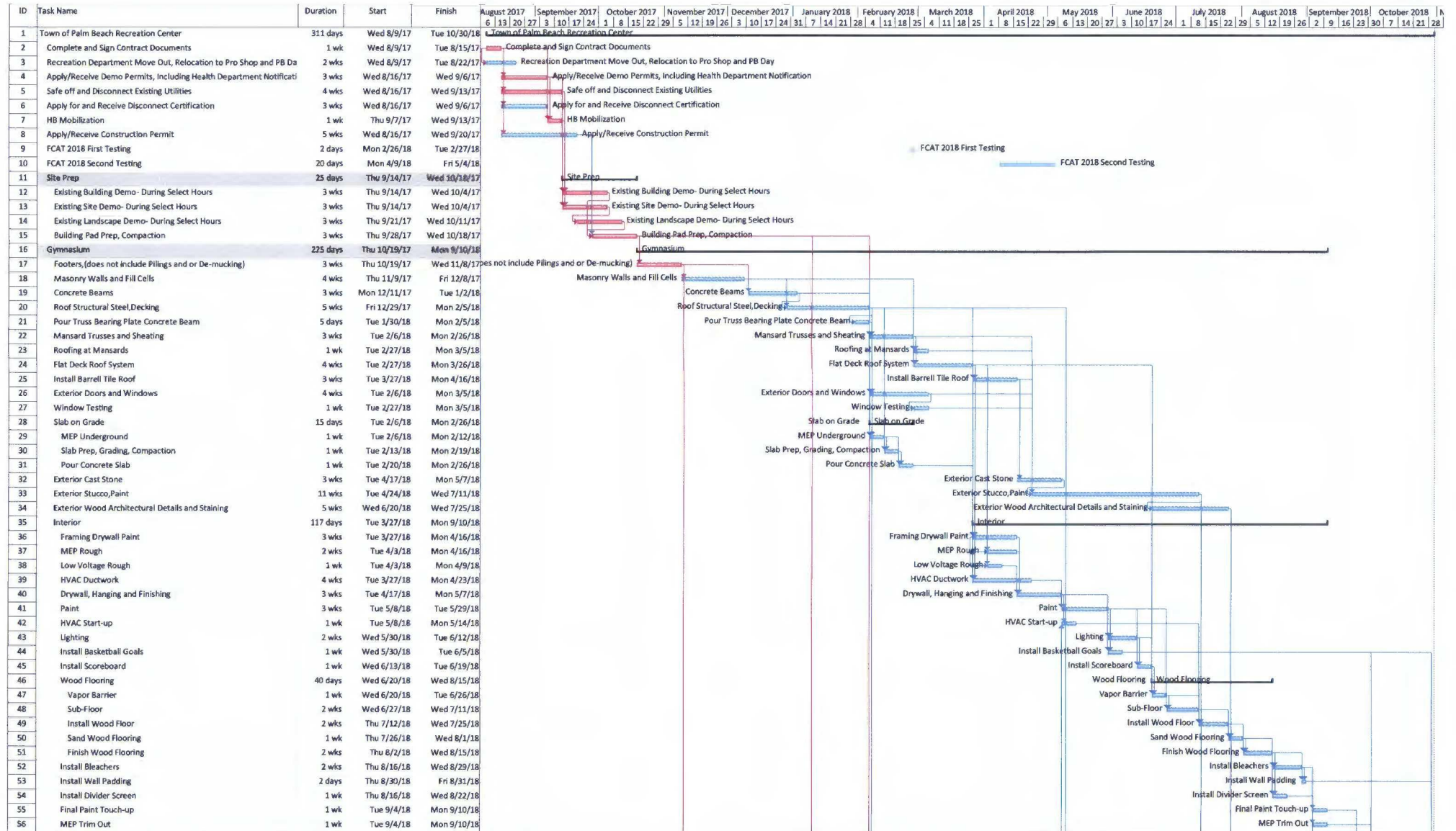
LEGAL DESCRIPTION:

A PARCEL OF LAND IN SECTION 22, TOWNSHIP 43 SOUTH, RANGE 43 EAST, TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS: LOTS 10, 11, 12, 13, AND 14, BLOCK A OF THE REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 1, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; AND PARCELS 2 AND 3 DESCRIBED AS FOLLOWS: BEING A TRACT OF LAND IN GOVERNMENT LOT 3, SECTION 22, TOWNSHIP 43 SOUTH, RANGE 43 EAST, TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AN MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 10, BLOCK "A"; OF THE REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 1, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE NORTH LINE OF SAID BLOCK "A", S88°43'31"E FOR 127.00 FEET TO THE POINT OF BEGINNING; THENCE N01°16'29"E FOR 147.81 FEET TO THE SOUTH RIGHT-OF-WAY OF SEA VIEW AVENUE; THENCE ALONG SAID SOUTH RIGHT-OF-WAY, S88°43'31"E FOR 365.03 FEET TO THE WEST BOUNDARY OF PALM BEACH DAY SCHOOL PARCEL 1, RECORDED IN OFFICIAL RECORD BOOK 11821, PAGE 837, OF SAID PUBLIC RECORDS; THENCE ALONG SAID WEST BOUNDARY, S01°16'29"W FOR 147.81 FEET TO THE SAID NORTH LINE OF BLOCK "A"; THENCE ALONG SAID NORTH LINE, N88°43'31"W FOR 365.03 FEET TO THE POINT OF BEGINNING. CONTAINING 4.57 ACRES, MORE OR LESS.

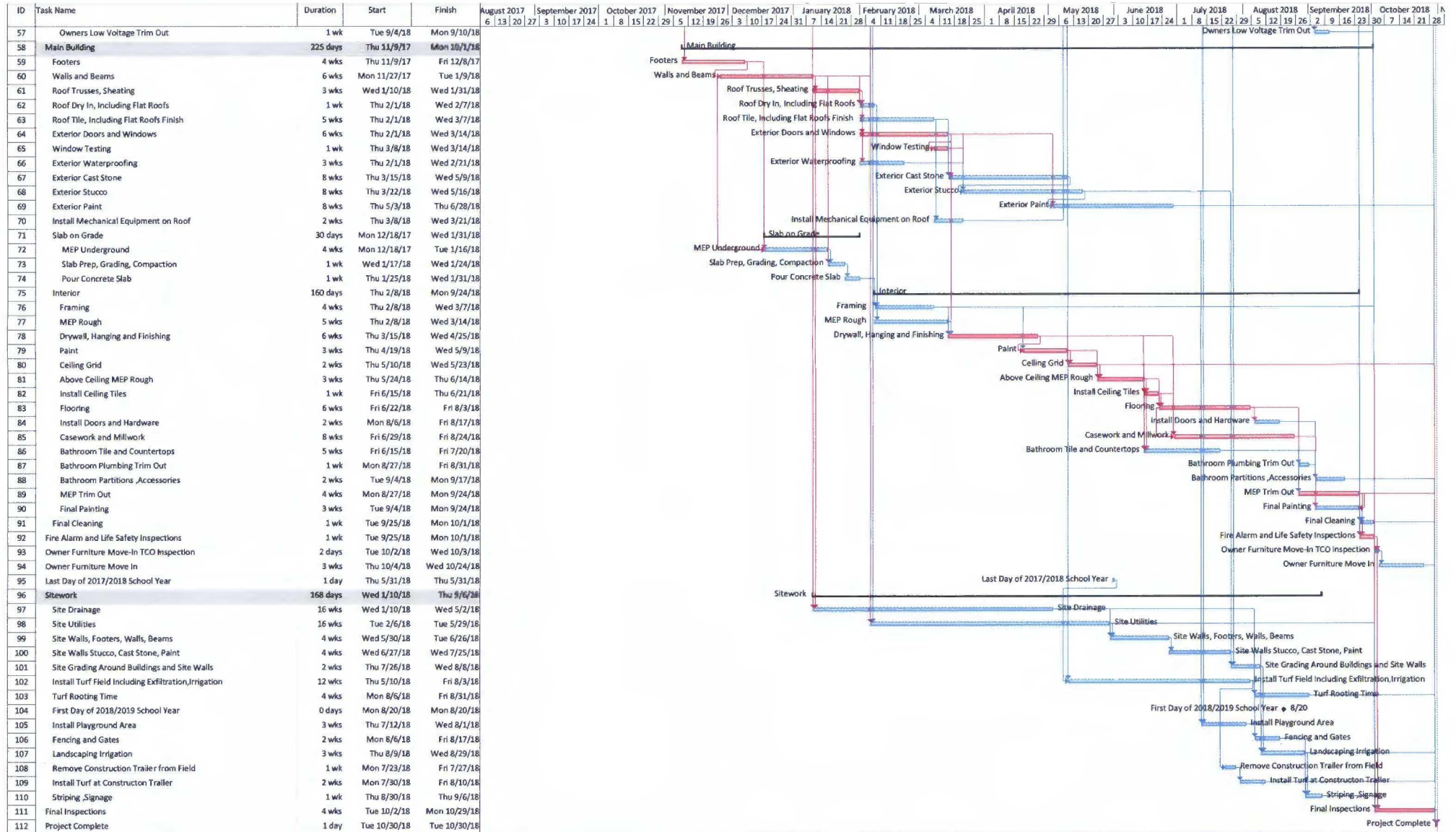
00033107
TPB Rec Center

EXHIBIT "B"
CONSTRUCTION SCHEDULE

Morton and Barbara Mandel Community Center Seaview Park Town of Palm Beach



**Morton and Barbara Mandel Community Center
Seaview Park Town of Palm Beach**



“EXHIBIT C”
SITE LAYOUT, MOBILIZATION AND FENCING PLAN



Google Earth

feet
meters

100

600

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

VARIANCE #1-2017 The application of Rosemin Stanoytchev; relative to property commonly known as **157 Peruvian Ave.**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant is requesting a variance to build a two-story, 3,911 square foot (including the garage) single-family residence on a lot with an area of 6,250 square feet, in lieu of the 10,000 square foot minimum required, and a lot width of 50 feet, in lieu of the 75 foot minimum required. [Attorney: David E. Klein, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject property. Carried 7-0] [Architectural Commission conditionally approved the project. Carried 5-2]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #13-2017 The application of Kelly M. Williams; relative to property commonly known as **288 Sandpiper Dr.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to construct a two-story addition on the west side of the property with a second story street side yard setback of 27.0 feet in lieu of the 35 foot minimum. [Attorney: David E. Klein, Esq.] [Architectural Commission conditionally approved the project without variance. Carried 5-2. Staff is awaiting confirmation of project status from the attorney.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #17-2017 The application of Ben and Katie Alexander; relative to property commonly known as **214 Queens Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing the following additions onto the existing residence: 1) Construct a one story 660 square foot addition for a new kitchen and family room; 2) Construct a one story 400 square foot addition for a new loggia. The following variance is being requested to accomplish the above additions: Lot coverage of 32.9% in lieu of the 19% existing and the 30% maximum allowed. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject property. Carried 6-1.]

Presenter

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

ATTACHMENTS:

- ▣ **Letter Dated May 13, 2017 From Stephan Segouin**

**Stephan B. Segouin
223 Colonial Lane
Palm Beach, FL 33480**

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

May 13, 2017

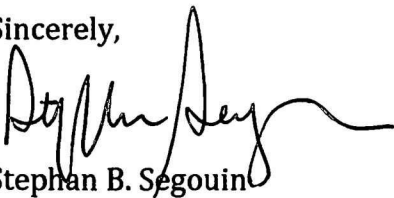
Re: 214 Queens Lane, Palm Beach, FL 33480
ARCOM# B-039-2017
Zoning #: VAR-17-2017

Dear Madam Mayor and Town Council Members:

I reside at 223 Colonial Lane in Palm Beach and am a neighbor of Ben and Katie Alexander who live behind my house at 214 Queens Lane. I had a chance to review the plans for the proposed rear yard addition to their beautiful home and wanted to express my support for their project. I think the addition is really tastefully designed and will enhance the esthetics of their family home. I encourage the Town to approve their project and to grant Ben and Katie the necessary variances needed for this project.

Thank you in advance for your thoughtful consideration of my support.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephan B. Segouin', with a long, sweeping horizontal line extending to the right.

Stephan B. Segouin

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #19-2017 The application of Jeanette Sublett and Langdon Neal; relative to property commonly known as **242 Cherry Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to demolish a portion of the house and add a one story 1,095 square foot addition for a master bedroom on the west side of the house that requires the following variance requests: 1) A west side yard setback of 9 feet in lieu of the 12.5 foot minimum required; 2) An angle of vision of 114 degrees in lieu of the 108 degrees maximum allowed. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject property. Carried 6-1.]

Presenter

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

ATTACHMENTS:

- ▣ **E-Mail Dated May 22, 2017 From Viator/Frakes**

From: [Kelly Churney](#)
To: [Gail Coniglio](#); [Richard Kleid](#); [Margaret Zeidman](#); [Danielle Hickox Moore](#); [Julie Araskog](#); [Bobbie Lindsay](#)
Cc: [Paul Castro](#); [Kathleen Ruderman](#)
Subject: VAR 19 2017 242 CHERRY LN
Date: Monday, May 22, 2017 2:36:04 PM

FYI

Kelly Churney
Office Assistant III

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

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

From: Haney Frakes [<mailto:hfrakes@gmail.com>]
Sent: Monday, May 22, 2017 1:38 PM
To: John Lindgren <JLindgren@TownofPalmBeach.com>
Cc: MZiska@floridawills.com; jpainej@bellsouth.net; Harold@smithmoorearchitects.com
Subject: ARCOM Agenda Item VIII B-001-2016 (242 Cherry Lane)

Mr Lindgren.

We are writing the Town in support of the two variance requests for
242 Cherry Lane on the May 24, 2017 ARCOM agenda (agenda Item VIII B-001-2016).

We reside at 262 Cherry Lane and believe that the proposed addition and architectural treatment is consistent with
other homes on Cherry Lane and that the proposed plan will enhance Cherry Lane.

Should you require any more information to properly register, or understand, our support please contact us.

Thank you,

Mary Viator
Haney Frakes

262 Cherry Lane
Palm Beach, FL 33480

hfrakes@gmail.com
561-762-7514

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #13-2017 WITH SITE PLAN REVIEW The application of 305 Concepts Palm Beach, LLC (“Coyo Taco”); relative to property commonly known as **340 Royal Poinciana Way, Ste 337A**, described as lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting a special exception with site plan approval to allow 26 seats, of the previously approved 80 seats, to be shifted from inside Coyo Taco and relocated to the exterior for outdoor dining, when weather permits. The proposed restaurant is located in the southwest corner of the Plaza and outdoor dining will be adjacent to the restaurant in the newly created patio area around the west fountain. The outdoor dining will have the proposed hours of: Monday through Friday – Brunch, Lunch and Dinner – 10 a.m. to 10 p.m., Friday through Sunday – brunch, Lunch and Dinner – 10 a.m. to 10 p.m. A further request to revise the previously approved hours for the restaurant to accommodate breakfast service to be one hour earlier: Monday through Thursday – Brunch, Lunch and Dinner – 10 a.m. to 1:00 a.m., Friday through Sunday – Brunch, Lunch and Dinner – 10 a.m. to 1:00 a.m. A further request to allow the restaurant to have catering as an additional service of the restaurant. The catering service will utilize existing employee vehicles and will operate under the same hours of the restaurant. [Attorney: Maura Ziska, Esq.] [Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impacts to the subject landmarked property. Carried 7-0.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

DECLARATION OF USE AGREEMENT

SPECIAL EXCEPTION #5-2017 The application of 305 Concepts, LLC (“Coyo Taco”); relative to property commonly known as **340 Royal Poinciana Way**, Ste. 337A, described as lengthy legal description on file; located in the C-PC Zoning District. Special Exception was approved on March 15, 2017 with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. Deferred consideration of the Agreement at April 12th Town Council meeting to the June 14th meeting. [Attorney: Maura Ziska, Esq.]

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated June 1, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Proposed Declaration of Use Agreement**
- ▣ **Letter Dated June 8, 2017 From Simon Taylor**

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Special Exception #5-2017, Proposed Declaration of Use Agreement for Coyo Taco, 304 Royal Poinciana Way, Suite 337A

Date: June 1, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the proposed Coyo Taco Declaration of Use Agreement (attached), with any modifications deemed necessary.

GENERAL INFORMATION

The Town Council conditionally approved a zoning application on March 15, 2017, allowing operation of a 3,260 square foot (196 square feet of open standing area, 2,103 square feet of dining and taqueria, and 961 square feet of support), 80 seat restaurant. The Special Exception conditionally allows the transfer of 59 seats grandfathered from the former McCarty's restaurant in the Plaza to this proposed restaurant. As a condition of approval, the applicant is required to enter into a Declaration of Use Agreement which incorporates the conditions of approval. The Agreement was deferred from the April 12th meeting so that another related Special Exception application could be considered concurrently at the June 14, 2017 Council meeting. If approved, this newly proposed zoning application will allow the transfer of approved indoor seats to outside dining. The Council may require additional conditions of approval to be incorporated into the Agreement.

Staff has been working with Maura Ziska, the restaurant's attorney, on the draft Agreement. Staff has made several proposed changes to the applicant's draft Declaration of Use Agreement which are identified in add/delete format (attached). While Ms. Ziska has agreed to most of the proposed Staff changes, there may still be issues related to hours of operation from Sunday through Thursday and music. Staff's recommended 11:00 p.m. closing time Sunday through Thursday is based on other restaurants' closing hours in the Plaza. Sant Ambreous closes at 10:00 p.m. and the Palm Beach Grill closes at 11:00 p.m. Sunday through Thursday. The condition related to music is consistent with recent conditions placed on other new restaurants (Sant Ambreous and The Honor Bar at Palm Beach Grill) in the Plaza. Staff believes that the type of music allowed within the restaurant should be described as background music.

Both Staff and the Applicant are prepared to address the Agreement at the meeting. If you have any questions about the proposed Agreement please contact Paul Castro, Zoning Administrator, at 227-6406.

cc: Jay Boodeshwar, Deputy Town Manager
Paul Castro, Zoning Administrator
Benjamin Alma, Code Enforcement
Maura Ziska
zf & pf

DECLARATION OF USE AGREEMENT

between

THE TOWN OF PALM BEACH

and

~~RPP PALM BEACH PROPERTY LP~~

AND

305 CONCEPTS PALM BEACH, LLC
(COYO TACO)

June 2017

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

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DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ____ day of _____, 2017 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called "the Town"); and 305 CONCEPTS PALM BEACH, LLC (COYO TACO) ~~and RPP PALM BEACH PROPERTY LP, 340 Royal Palm Way, Palm Beach, Florida 33480~~ 5355 Town Center Road, Suite 801, Boca Raton, FL 33486 (hereinafter called "RPP" "the Restaurant") which terms "Town", and "RPP" "the Restaurant" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH :

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

~~WHEREAS, RPP is the entity who has the authority to make the changes to the Royal Poinciana Plaza as identified in this Agreement pursuant to the Power of Attorney from Sidney Spiegel, Trustee, under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371, and Island Properties of Palm Beach, Inc. dated September 9, 2014 and attached hereto as Exhibit "B".~~

WHEREAS, the Coyo Taco Restaurant is a restaurant which is a permitted Special Exception use in the C-PC Zoning District ~~with Special Exception approval~~; and

WHEREAS, the Town Council approved Special Exception Number # 5-2017 on March 15, 2017 which ~~approved Coyo Taco as a restaurant~~ authorized the Restaurant at the above referenced location; and

WHEREAS, Special Exception Number # 5-2017 was approved, subject to the conditions set forth herein and the approval of this Agreement, on the basis of the Coyo Tacos' Restaurant's application, the testimony on behalf of Coyo Taco the Restaurant, and the specific finding of the Town Council that the proposed restaurant be beneficial and compatible with the neighborhood, and upon a finding by the Town Council that the applicable provisions of the Town Code governing the use of the ~~Land~~ Property and Special Exception criteria have been met; and

WHEREAS, should the Restaurant RPP fail to comply with the conditions set forth by the Town Council on March 15, 2017 (as further set forth in Paragraph 2 of Article IV below), the approval of the Special Exception may be revoked and the restaurant operation may cease; and

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

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

ARTICLE I

RECITALS

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

ARTICLE II

REPRESENTATION OF AUTHORITY

The Restaurant has the full right to enter into this Agreement and to bind ~~the Land and itself themselves~~ to the terms of this Agreement. ~~hereof pursuant to the Power of Attorney from Sidney Spiegel, Trustee, under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371, and Island Properties of Palm Beach, Inc. dated September 9, 2014 and attached hereto as Exhibit "B".~~ There are no covenants, restrictions or reservations of record that will prevent the use of the Land Property in accordance with the terms and conditions of this Agreement and the Agreement between the Town and Poinciana Properties, Ltd. dated March 6, 1979, as amended. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will violate any restriction, court order or agreement to which the Land Property are subject.

ARTICLE III

THE RESTAURANT USE

~~The use that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number # 5-2017 and approved by Town Council on March 15, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval").~~

The use of Property shall be for the operation of a restaurant in compliance with all of the information and exhibits, not inconsistent with the terms and conditions set forth herein, as set forth in the application submitted to the Town for Special Exception No. 5-2017 (hereinafter referred to as the "Approval"). The Approval is subject to that provision of the Town Code which provides that no subsequent deviation may be made from the application as approved by the Town Council except upon an application to and approval by the Town Council. This includes the seating/floor plans identified on sheet drawings SP-1, A-1.0, A-1.1 and A-2.0 prepared by Glidden Spina & Partners, stamp dated January 23, 2017, and made part of the approval of this application.

ARTICLE IV

CONDITIONS

The approval to operate the Restaurant Coyo Taco is conditioned upon the following:

- 1) The hours of operation will be 11:00 a.m. until ~~1:00 a.m.~~ 11:00 p.m., Sunday through Thursday and 11:00 a.m. until 1:00 a.m. Friday and Saturday.
- 2) There shall be no live music or Disc Jockey ("DJ"). For the purposes of this Agreement, a DJ is defined as an individual who plays recorded music or actively entertains an audience while playing recorded music. This restriction shall not be construed to prohibit recorded background music being played for the enjoyment of dining patrons, provided no ~~active~~ DJ is involved
- 3) ~~Coyo Taco shall come back to the Town Council after being open for one (1) year to provide the Town Council with evidence that the restaurant is "Town Serving" under the definition of the Code.~~

Town-serving documentation shall be provided by the Restaurant for Town Council consideration one year from the date of Restaurant opening at which time the Town Council may reconsider the application to determine whether the Restaurant meets the Town-serving requirements of the Code.

- 4) There shall be no deviation from the approved seating/floor plans, including the removal or relocation of seating.

ARTICLE V

VOLUNTARY AGREEMENT AND HOLD HARMLESS

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

ARTICLE VI

REMEDIES FOR VIOLATION

~~1. Upon determination by the Town Council of a violation of any of the terms or conditions of this agreement that is based on competent substantial evidence, RPP shall pay to the Town a liquidated amount of \$5,000 for the first violation and \$10,000 for the second violation. On the occurrence and finding by the Town Council of a third violation that is based on competent substantial evidence, the Town Council at a future meeting may rescind the approval of the use.~~

~~———— In the event RPP disputes the determination of the Town Council that a violation of this Agreement has occurred, RPP may appeal their decision to the Circuit Court in and for Palm Beach County, Florida.~~

1. Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this Agreement or any other provision in the Town Code of Ordinances, and upon notice in writing from the Town to the Restaurant and the Restaurant's representative of said violation(s) and the date upon which said violations(s) shall be corrected, the Restaurant shall pay to the TOWN a liquidated amount of \$2,000 per violation. Said liquidated amount shall accrue on a per day basis for each day a violation of this Agreement exists. In addition, in the event a violation remains uncorrected beyond the date noticed for correction by the Director of the Planning, Zoning and Building Department, this Agreement may be reconsidered by the Town Council at a future meeting upon thirty days notification to the owner. The Town Council may, upon a finding of violation, alter this Agreement or rescind the approval of the use.

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

2. The Town shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered in the Town's Code of Ordinances; and (c) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County for the State of Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non-performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

ARTICLE VII

PROVISIONS TO RUN WITH THE RESTAURANT LAND/RECORDING

This Agreement shall run with the Land Restaurant and shall be binding upon RPP and the Restaurant only and shall terminate upon the termination of Coyo Taos' Lease ownership or the business tax receipt for the Restaurant or rescission of approval by the Town Council. This Agreement shall be recorded by RPP the Restaurant in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto.

ARTICLE VIII

ENTIRE AGREEMENT

This Agreement and Special Exception Permit #5-2017 represent the entire Agreement between the parties as to its subject matter and it may not be amended except by written agreement executed by ~~both~~ all parties.

ARTICLE IX

EFFECTIVE DATE

The Effective Date of this Agreement shall be the day upon which this Agreement is executed by the last party to sign the Agreement.

ARTICLE X

MISCELLANEOUS

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

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

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

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

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

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

Signed, sealed and delivered
In the presence of:

THE TOWN OF PALM BEACH

Print Name: _____

By: _____
Gail Coniglio, Mayor

Print Name: _____

Print Name: _____

By: _____
Richard Kleid, President

Print Name: _____

Print Name: _____

By: _____
Thomas Bradford, Town Manager

Print Name: _____

THE RESAURANT
(305 Concepts Palm Beach, LLC,
Coyo Taco)

Print Name: _____

By: _____,

Print Name: _____

By: _____
Its: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by Richard Kleid, the President of the Town Council of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by Thomas Bradford, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by _____, on behalf of Coyo Taco.
He/She is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

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

By: _____
John C. Randolph, Esquire

EXHIBIT "A"
LEGAL DESCRIPTION OF REAL PROPERTY

PARCEL A:

A parcel of land in Section 22, Township 43 South, Range 43 East, Palm Beach County, Florida, bounded as follows:

On the north by the southerly right-of-way line of Royal Poinciana Way; on the east by the westerly right-of-way line of Cocoanut Row; on the west by the Waters of Lake Worth; on the south by the following described line:

Commencing at the intersection of the northerly right-of-way line of White Hall Way with the westerly right-of-way line of Cocoanut Row, as said streets are described in deed recorded in Deed Book 814, Page 477, and subsequent pages, public records of Palm Beach County, Florida; thence northerly along the said westerly right-of-way line of Cocoanut Row, a distance of 444.76 feet to the beginning of a curve concave to the east having a radius of 329.60 feet and a central angle of $23^{\circ}53'30''$; hence northerly along the arc of said curve, a distance of 137.44 feet, to the tangent to said curve; thence northerly along said tangent, a distance of 59.62 feet to the point of beginning of the herein described south line; thence westerly making an angle from southwest to west of $66^{\circ}14'30''$, a distance of 227.26 feet; thence northerly at right angles, a distance of 25 feet; thence westerly at right angles, a distance of 293.43 feet to the beginning of a curve to the northeast, having a radius of 65.03 feet and a central angle of $85^{\circ}42'43''$, a distance of 97.28 feet; thence northwesterly a distance of 33.90 feet, more or less, to the southeast corner of a parcel of land described in Deed Book 1011, Page 226, public records of Palm Beach County, Florida, said southeast corner is located on the arc of a curve concentric with the last herein described curve, and having a radius of 90.03 feet and a central angle of $102.55'30''$ and is 4.19 feet southerly from a point of reverse curve; thence northerly along the arc of the just described curve, a distance of 4.19 feet to the point of reverse curvature of a curve concave to the west, having a radius of 513.29 feet and a central angle of $15^{\circ}35'22''$; thence northerly along the arc of said reverse curvature a distance of 97.62 feet to a point in a line parallel with and 461.20 feet southerly from (measured at right angles to) the southerly right-of-way line of Royal Poinciana Way, said line also being described in Deed Book 1011, Page 226, public records of Palm Beach County, Florida; thence westerly along said parallel line, a distance of 191.06 feet, more or less, to the Waters of Lake Worth and the end of herein described southerly line.

Excepting, however, so much of a nearly rectangular area of land, together with riparian or littoral rights appurtenant or incident thereto, as is included in the foregoing described parcel of land, and which nearly rectangular area of land has a southerly boundary of 208.44 feet, an easterly boundary of 71.20 feet, a northerly boundary of 190.74 feet plus 12.08 feet, on two different courses coinciding with the south line of the east approach of Flagler Memorial Bridge, and having a westerly boundary of 71.38 feet coinciding with the west face of an existing concrete bulkhead within the Waters of Lake Worth, and all as such nearly rectangular area of land m riparian and littoral rights appurtenant or incident thereto are more particularly described and were conveyed in deed of Florida East Coast Hotel Company to Town of Palm Beach, dated September 11, 1939, and recorded in Deed Book 592, Page 478, of the public records of Palm Beach County, Florida.

ALSO EXCEPTING, HOWEVER, ROYAL POINCIANA WAY ADDITIONAL RIGHT-OF-WAY DESCRIBED IN ORDER OF TAKING, AS RECORDED IN OFFICIAL RECORDS BOOK 23661, PAGE 787, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

PARCEL B:

A parcel of land in Section 22, Township 43 South, Range 43 East, Palm Beach County, Florida, and more particularly described as follows:

Beginning at a point on the Westerly right of way line of Cocoanut Row as laid out and in use, at a distance of 173.9 feet South of the intersection of said West line of the right of way of Cocoanut Row and the Southerly right of way line of Royal Poinciana Way, thence Westerly parallel to the Southerly right of way line of said Royal Poinciana Way a distance of 868.33 feet; thence Southerly at right angles to the preceding course a distance of 245.3 feet to the beginning of a curve concave to the West having a radius of 513.29 feet and a central angle of 15°35'22"; thence Southerly along the arc of said curve a distance of 42.04 feet to the Point of Beginning and the Northeast corner of the parcel of land herein described; thence continue Southerly along the arc of said curve a distance of 97.62 feet to a point of reverse curvature; thence Southerly along the arc of a curve to the East and having a radius of 599.29 feet, a distance of 4.06 feet to a point in the South line of the herein described parcel; thence Westerly, parallel to and 561.2 feet Southerly (measured at right angles) from the Southerly right of way line of said Royal Poinciana Way, a distance of 180 feet, more or less, to the waters of Lake Worth; thence Northerly along the waters of Lake Worth to a point in a line parallel to and 100 feet Northerly (measured at right angles) from the Southerly line of the herein described parcel; thence Easterly along said Parallel line a distance of 185 feet more or less to the Point of Beginning.

TOGETHER WITH the non-exclusive easement for ingress and egress as set forth in Deed dated March 31, 1955, recorded April 19, 1955, in Deed Book 1090, page 264, of the Public Records of Palm Beach County, Florida.

POWER OF ATTORNEY

SIMON TAYLOR
777 South Flagler Drive
Suite 800 West Tower
West Palm Beach, Florida 33401
(561) 818-0170

June 8, 2017

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

Subject: Special Exception #5-2017
Declaration of Use Agreement for Coyo Taco

Honorable Mayor and Council Members:

As a Town resident, I believe that the Town Council should defer any action on a proposed Declaration of Use Agreement for a Coyo Taco restaurant at the Poinciana Plaza until the Plaza owner-managers have reported that they have signed credible agreements to reopen the Poinciana Playhouse. Rather than entrench piecemeal actions taking parking, seats and millions in revenue from the theater and adjoining club, the Town Council should return to the approach of previous Councils and decline to reduce the Playhouse and club without a responsible, comprehensive plan for the Plaza, with the Playhouse open as required by law. At least three main reasons outlined below compel this conclusion that action on any Declaration of Use Agreement in connection with the Coyo Taco Special Exception Application #5-2017, submitted by 305 Concepts, LLC (the restaurant business and such legal entity and its affiliates, "Coyo Taco"), should not be approved and should be deferred.

My prior letters of March 9 and May 4, 2017 also presented reasons for the Town Council to avoid approving private agreements with Coyo Taco and other restaurants that entrench unlawful taking of parking, seating and revenues from the Poinciana Playhouse and club. Copies of those letters are attached because they are also relevant and applicable to Coyo Taco's Special Exception Application #5-2017. My May 4 letter discusses at greater length the three reasons below not to approve a Declaration of Use Agreement for Coyo Taco at this time.

1. The last "update" by the manager on April 13 regarding leasing of the Playhouse was ambiguous and may conceal a long-running, alternative goal of leaving the theater and club empty and eventually demanding to tear them down.

2. The 135 theater seats and parking that were unlawfully taken away for the Sant Ambroeus restaurant daytime dining in 2016 will have to be returned to the Playhouse and club.

since that taking is void for illegality and misrepresentation. Any Declaration of Use Agreement with Coyo Taco would also be void. The Council should defer any Declaration of Use Agreement until the problems created by the prior improper Sant Ambroeus and Coyo Taco actions are solved.

As I have pointed out to the Town Council previously, the taking of 135 theater seats to accommodate daytime dining for Sant Ambroeus, and the related Declaration of Use agreement between the Town and the Plaza manager, are void, in no small part because the actions were illegal and were procured by misrepresentation. The illegality of the attempted “transfer” of daytime parking to Sant Ambroeus and Coyo Taco, without any variance based on a showing of hardship, was exhaustively shown and documented when Del Frisco’s Grille and the Plaza owner/managers made the same plea to transfer parking to Del Frisco’s in 2012. The Town Council then rightly voted unanimously to reject that unlawful transfer and the related intensification of use.

By entrenching and exacerbating the unlawful taking of theater seats, parking and daytime dining opportunities from the Playhouse and club, any Declaration of Use Agreement with Coyo Taco will improperly, adversely affect the theater and club, as well as other nearby properties. The negative effects are illustrated in the attached letters, one letter from a Town resident, which projects \$4.36 million or more in annual losses from the taking of seats and revenue, and three letters from a former lessee of the Playhouse, which describes the “potentially devastating effect” of taking the theater and club seating and revenue streams. Those letters also refute the false claim that the Americans with Disabilities Act (ADA) “requires” the removal of 135 seats from the Playhouse. The potential effect of the ADA on reducing or increasing the number of seats will depend on the configuration of the theater when it is reopened.

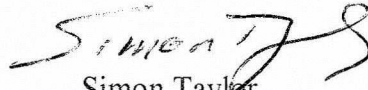
3. The restricted vision of the Plaza as a shopping destination with restaurant food as its “differentiator” and “magnet” fails to consider the negative impacts on existing neighbors and businesses in Palm Beach, fails to show how the Plaza shopping mall will survive in the face of online shopping and competition with existing stores and restaurants and fails to implement the better, pragmatic and sustainable vision of the Playhouse and club as “magnets” and drivers for social, cultural and community life and for prosperous, town-serving establishments at the Plaza and throughout Palm Beach.

The restricted vision of the Poinciana Plaza as a shopping destination that “differentiates” itself from competitors and attracts visitors with “great food” runs the risk of diminishing Palm Beach, not enhancing it. The problem that the unlawful closing of the Poinciana Playhouse has created for the Town can only be productively addressed by reopening the Playhouse as required by law, not by piecemeal taking of parking, seating and revenues from the Playhouse and club. In our larger, pragmatic and sustainable vision, the Playhouse will drive prosperity, business, culture and community in Palm Beach and will help the Plaza owner-managers overcome the very daunting challenges of operating a shopping mall in an age of electronic shopping and intense competition with Worth Avenue and other shopping and dining locations.

If and when any narrow vision for the Poinciana Plaza stumbles, the Town Council will have to clean up the mess left by piecemeal actions taken without responsible, comprehensive review and planning, which has to include the inevitable but too-long-delayed reopening of the Playhouse. For reasons including the three noted above and those in my prior letters, the Declaration of Use Agreement requested by Coyo Taco under Zoning Application Special Exception #5-2017 should not be approved by the Town Council at its June meeting. Consideration of any such Declaration of Use should be deferred until credible measures to reopen the Poinciana Playhouse and club are in place.

The Town Council should follow the responsible approach of prior Town Councils and defer action on any Coyo Taco Declaration of Use Agreement until there is clarity on the reopening of the Playhouse, including a solution for the unlawful taking of 135 theater seats in 2016 to accommodate daytime dining and parking for Sant Ambroeus and the subsequent unlawful "transfer" of parking and seats to Coyo Taco.

Sincerely,



Simon Taylor

SIMON TAYLOR
777 South Flagler Drive
Suite 800 West Tower
West Palm Beach, Florida 33401
(561) 818-0170

March 9, 2017

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

Honorable Mayor and Council Members:

As a Town resident concerned with cultural and community life on the island and the fate of the prized Poinciana Playhouse, I am writing to you to object to a Special Exception Application for a "Coyo Taco" chain restaurant and late-night bar at the Poinciana Plaza, which will adversely affect parking and seating for the landmarked Poinciana Playhouse and club. The Application is scheduled to be heard by the Town Council on March 15, 2017. It was submitted under the Applicant Name "305 Concepts, LLC ('Coyo Taco')," with Zoning Application Case Number Special Exception #5-2017. This Application by Coyo Taco, with the participation of the owner and the manager of the Plaza, Up Markets, is objectionable and should be rejected by the Council for a host of reasons, including the following.

- The Application demands to "transfer" parking spaces from the empty Michael McCarty's restaurant space to Coyo Taco. "Transfer" of such spaces at the Plaza is unlawful. The illegality of an attempted transfer, without any variance based on a showing of hardship, was exhaustively shown and documented when Del Frisco's Grille and the Plaza owner/managers made the same plea to transfer parking to Del Frisco's in 2012. The Town Council rightly voted unanimously to reject that unlawful transfer and the related intensification of use.

- The chain Coyo Taco taqueria and bar, open from 11 a.m. to 1 a.m. during the week and until 2 a.m. on Friday and Saturday is highly unlikely to be "Town serving," as required.

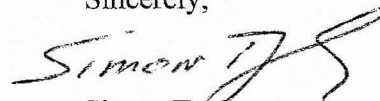
- Misrepresentations by the Plaza owner/manager induced the Town Council to unlawfully take 135 seats away from the Playhouse in March and April 2016 in order to transfer parking to Sant Ambroeus for daytime dining. That improperly induced and illegal action and arrangement for Sant Ambroeus is void. No further unlawful "transfers" of parking spaces from McCarty's should be allowed until the improper taking of parking spaces and seating from the Poinciana Playhouse has been remedied and the 135 seats have been returned to the theater.

The continued efforts by the Plaza owner/managers to impair the Playhouse by taking away its parking and revenue streams, while leaving it vacant in defiance of the law, are not acceptable. An administrative appeal I filed on April 8, 2016 to challenge the unlawful taking of 135 seats from the Playhouse is still pending. The Town attorney attempted to "reject" that appeal, but he has no authority to do so. I will be renewing my call for the Town Council to hear my administrative appeal of the improper taking of Playhouse seating. At the same time, I will be requesting that the Town, the Plaza owner/managers and Sant Ambroeus enter into voluntary mediation to come to a resolution of the problem of the Plaza. That problem for the Town, I believe, can only be productively addressed by reopening the Playhouse as required by law, not by piecemeal taking of parking, seating and dining revenues from the Playhouse and club. The Playhouse will drive prosperity, business, culture and community in Palm Beach and will help the Plaza owner/managers overcome the very daunting challenges of operating a shopping mall in an age of electronic shopping and other intense competition. The attached letters from a Town resident and the former lessee of the Playhouse make clear that the theater should retain its seating and that \$4.3 million or more in annual revenue for the Playhouse and club was siphoned off by the unlawful arrangement for daytime parking for Sant Ambroeus. I clearly have standing to raise these issues, as shown in the attached summary of my background and the examples of performances and gatherings that I have presented in Palm Beach.

The Coyo Taco Zoning Application also fails to satisfy the applicable standards under the Town Code, including the requirements (i) that the use requested will not cause substantial injury to the value of the Playhouse and other properties in the neighborhood, (ii) that the use will be compatible with the district and adjoining development and (iii) that the use will not result in substantial economic impacts on adjoining properties and properties generally within the district. In addition, the requested concessions for the new chain Coyo Taco restaurant may jeopardize and violate the 1979 Agreement between the Town and the Plaza manager and intensify use in the area. Further, it is not clear from the Application that appropriate studies, reports and other background support and information have been adequately completed, reviewed or verified.

For reasons including the foregoing, I submit that the Town Council should not grant the above Zoning Application at this time.

Sincerely,



Simon Taylor

SIMON TAYLOR
777 South Flagler Drive
Suite 800 West Tower
West Palm Beach, Florida 33401
(561) 818-0170

May 4, 2017

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

Subject: Special Exception #6-2017
Declaration of Use Agreement for Sant Ambroeus

Honorable Mayor and Council Members:

As a Town resident, I believe that the Town Council should defer any action on a proposed Declaration of Use Agreement for outdoor dining for the Sant Ambroeus at the Poinciana Plaza until the Plaza owner-managers have reported that they have signed credible agreements to reopen the Poinciana Playhouse. Rather than entrench piecemeal actions taking parking, seats and millions in revenue from the theater and adjoining club, the Town Council should return to the approach of previous Councils and decline to reduce the Playhouse without a responsible, comprehensive plan for the Plaza, with the Playhouse open as required by law. At least three main reasons compel this conclusion that action on Sant Ambroeus and other restaurant seating and parking should be deferred.

1. The last "update" by the manager on leasing of the Playhouse was ambiguous and may conceal a long-running, alternative goal of leaving the theater and club empty and eventually demanding to tear them down.

2. The 135 theater seats and parking that were unlawfully taken away for Sant Ambroeus daytime dining in 2016 will have to be returned to the Playhouse and club, since the taking is void for illegality and misrepresentation.

3. The restricted vision of the Plaza as a shopping destination with restaurant food as its "differentiator" and "magnet" fails to consider the negative impacts on existing neighbors and businesses in Palm Beach, fails to show how the Plaza shopping mall will survive in the face of online shopping and competition with existing stores and restaurants and fails to implement the better, pragmatic and sustainable vision of the Playhouse and club as "magnets" and drivers for

social, cultural and community life and for prosperous, town-serving establishments at the Plaza and throughout Palm Beach.

If and when any narrow vision for the Poinciana Plaza stumbles, the Town Council will have to clean up the mess left by piecemeal actions taken without responsible, comprehensive review and planning, which has to include the inevitable but too-long-delayed reopening of the Playhouse. The three reasons that demand deferral of the Declaration of Use requested by Sant Ambroeus under Zoning Application Special Exception #6-2017 are discussed in greater detail below.

1. The April 13 “update” by the Plaza manager on leasing of the Playhouse was ambiguous and may conceal a long-running, alternative goal of leaving the theater and club empty and eventually demanding to tear them down. At the April 13, 2017 Town Council meeting, a representative of the Plaza manager, Up Markets, reported that the manager was negotiating a lease with a potential operator for the Playhouse but declined to give any information about the one candidate that the manager was claiming to have. When asked how long the announced “negotiation” would take to conclude a lease, the Up Markets representative said it might take “months” or “years.” This evasive update in April was exactly parallel to the announcement made by the prior manager, the Sterling group, in 2012, which led only to a suspect and failed “lease,” while procuring three plus years of delay for the owner-managers to leave the Playhouse vacant in defiance of their obligations to reopen it. At the April 12, 2017 Town Council meeting, the Plaza manager’s representative made the disturbing assertion that “great food” would be the “differentiator” that would attract people to the Plaza. This narrow vision for competition with Worth Avenue and other food and shopping destinations could be taken as a change from previous statements by the Plaza manager that the reopened Playhouse would be a primary “magnet” for visitors to the Plaza.

The Town Council should follow the responsible approach of prior Town Councils and defer action on the Sant Ambroeus outdoor dining Declaration of Use until there is clarity on the reopening of the Playhouse, including a solution for the unlawful taking of 135 theater seats in 2016 to accommodate daytime dining and parking for Sant Ambroeus.

2. The 135 theater seats and parking that were unlawfully taken away for Sant Ambroeus daytime dining in 2016 will have to be returned to the Playhouse and club, since the taking is void for illegality and misrepresentation.

A Declaration of Use Agreement between the Town and Sant Ambroeus regarding outdoor seating would be void and would merely seek to entrench the unlawful taking of 135 theater seats, parking and millions in revenue from the Playhouse and club in 2016 to give Sant Ambroeus daytime dining and parking. As I have pointed out to the Town Council previously, the taking of 135 theater seats to accommodate daytime dining for Sant Ambroeus, and the related Declaration of Use agreement between the Town and the Plaza manager, are void, in no small part because the actions were illegal and were procured by misrepresentation. The

illegality of the attempted “transfer” of daytime parking to Sant Ambroeus, without any variance based on a showing of hardship, was exhaustively shown and documented when Del Frisco’s Grille and the Plaza owner/managers made the same plea to transfer parking to Del Frisco’s in 2012. The Town Council then rightly voted unanimously to reject that unlawful transfer and the related intensification of use.

Misrepresentations by the Plaza owner-manager induced the Town Council to unlawfully take 135 seats away from the Playhouse in March and April 2016 in order to “transfer” parking to Sant Ambroeus for daytime dining. That improperly induced and illegal action and arrangement for Sant Ambroeus is void. No further action to implement the unlawful giveaway of parking and seating to Sant Ambroeus should be permitted by the Town Council until the taking of theater seating has been remedied and agreements to reopen the Playhouse and club have been signed. The misrepresentations that were used to induce the void taking and Declaration of Use for the San Ambroeus taking in 2016 include the following: (a) the falsehood that the Americans with Disabilities Act (ADA) “requires” removing the 135 seats; (b) the failure to disclose to the Council that the 2013 lessee of the Playhouse, the National Arts Institute, planned for 1,000 to 1,200 seats and viewed daytime dining as a vital revenue stream for the Playhouse; and (c) the removal of a Power of Attorney from the copy of the application that was sent to nearby residents, prior to the taking of theater seating by Sant Ambroeus in 2016, which concealed that Power of Attorney’s authorization of Plaza managers to seek to amend or terminate the 1979 Agreement protecting the Playhouse and submit documents to build condominiums on the site. See the attached letters regarding the lack of any ADA requirement to remove Playhouse seats, plans to expand seating and the loss of millions in revenue by taking parking, seating and daytime dining opportunities from the Playhouse and club.

By entrenching and exacerbating the unlawful taking of theater seats, parking and daytime dining opportunities from the Playhouse and club, any Declaration of Use Agreement with Sant Ambroeus will improperly, adversely affect the theater and club, as well as other nearby properties. The negative effects are illustrated in the attached letters, one letter from a Town resident, which projects \$4.36 million or more in annual losses from the taking of seats and revenue, and three letters from a former lessee of the Playhouse, which describes the “potentially devastating effect” of taking the theater and club seating and revenue streams. Those letters also refute the false claim that the Americans with Disabilities Act (ADA) “requires” the removal of 135 seats from the Playhouse. The potential effect of the ADA on reducing or increasing the number of seats will depend on the configuration of the theater when it is reopened.

3. The restricted vision of the Plaza as a shopping destination with restaurant food as its “differentiator” and “magnet” fails to consider the negative impacts on existing neighbors and businesses in Palm Beach, fails to show how the Plaza shopping mall will survive in the face of online shopping and competition with existing stores and restaurants and fails to implement the winning, pragmatic and sustainable vision of the Playhouse and club as “magnets” and drivers

for social, cultural and community life and for prosperous, town-serving establishments at the Plaza and throughout Palm Beach.

The restricted vision of the Poinciana Plaza as a shopping destination that “differentiates” itself from competitors and attracts visitors with “great food” runs the risk of diminishing Palm Beach, not enhancing it. The problem that the unlawful closing of the Poinciana Playhouse has created for the Town can only be productively addressed by reopening the Playhouse as required by law, not by piecemeal taking of parking, seating and revenues from the Playhouse and club. In our larger, pragmatic and sustainable vision, the Playhouse will drive prosperity, business, culture and community in Palm Beach and will help the Plaza owner-managers overcome the very daunting challenges of operating a shopping mall in an age of electronic shopping and intense competition with Worth Avenue and other shopping and dining locations.

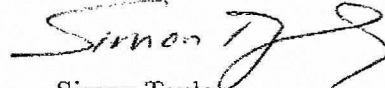
The continued efforts by the Plaza owner/managers to impair the Playhouse by taking away its parking and revenue streams, while leaving it vacant in defiance of the law, are not acceptable. An administrative appeal I filed on April 8, 2016 to challenge the unlawful taking of 135 seats, parking and revenue from the Playhouse is still pending. The Town attorney attempted to unilaterally “reject” that appeal without a required hearing by the Town Council, but he has no authority to do so. I will be renewing my call for the Town Council to hear the administrative appeal. I also request that the Town, the Plaza owner/managers, Sant Ambroeus and other restaurants implicated in the improper taking from the Playhouse enter into voluntary mediation to come to a resolution of the problem of the Plaza.

I clearly have standing to raise these issues, as shown in the attached summary of my background and the examples of performances and gatherings that I have presented in Palm Beach.

Like the prior Zoning Applications by Sant Ambroeus to unlawfully transfer seating and parking from the Playhouse and adjoining club, the proposed Declaration of Use Agreement with Sant Ambroeus also fails to satisfy the applicable standards under the Town Code, including the requirements (i) that the use requested will not cause substantial injury to the value of the Playhouse and other properties in the neighborhood; (ii) that the use will be compatible with the district and adjoining development; (iii) that the use will not result in substantial economic impacts on adjoining properties and properties generally within the district; (iv) that the requested use be demonstrated to be Town-serving; and (v) that the Application should seek a variance, with a showing of hardship, rather than a Special Exception. In addition, the requested concessions for Sant Ambroeus may jeopardize and violate the 1979 Agreement between the Town and the Plaza owner regarding the Poinciana Playhouse and intensify use in the area. Further, it is not clear from the proposal on the Declaration of Use that appropriate studies, reports and other background support and information have been adequately completed, reviewed or verified.

For reasons including the foregoing, I submit that the Town Council should not authorize the above Declaration of Use Agreement with Sant Ambroeus at this time.

Sincerely,


Simon Taylor



"MAINTAIN AND OPERATE" THE PLAYHOUSE

In 2007 the Palm Beach County Circuit Court

"ORDERED AND ADJUDGED" that the 1979 Agreement between the Town of Palm Beach and the owner of the Poinciana Plaza "requires that the Poinciana Theater, located in the Plaza, be maintained and operated as a theater". Final Judgment of Judge David Crow, July 10, 2007

The owner of the Plaza had closed the Poinciana Playhouse Theater in 2004. The Town's attorney delivered a letter to the owner on May 18, 2005 demanding that the owner comply with its "continuing obligation" to lease the Playhouse as a theater and "continue the theater operation".

The Plaza owner sued the Town in June 2005 asking the Circuit Court for permission to demolish the Playhouse. The Town countersued explicitly asking for an order from the Court that the 1979 Agreement requires that the Poinciana Theater "be maintained and operated as a theatre". In that September 2005 Answer and countersuit contesting the owner's lawsuit, the Town's attorneys clearly stated that the 1979 Agreement requires the owner "to continue the operation of the Theatre" and that "it was the intention of the parties to the 1979 agreement that the Poinciana Theatre continue to remain in existence and continue to be operated as a theater".

On July 10, 2007, Judge Crow granted exactly the binding Court order that the Town requested requiring that the Playhouse "be maintained and operated as a theater".

When the Plaza owner appealed the July 2007 Circuit Court order, the Town's attorneys stated in their answering appeal brief that "the court held that the 1979 Agreement, in paragraph 2E and F specifically, requires that the Poinciana Theater, located in the Plaza, be maintained and operated as a theater....Clearly, the Theater must be used as a Theater, which appellant recognizes (In.Br. at 36), and further, it is to continue in use as a theater." The owner dropped its appeal.

KAREN POINDEXTER
National Arts Institute
P.O. Box 2457
Palm Beach, Florida 33480

June 8, 2016

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

Honorable Mayor and Council Members:

As a producer and artistic director who has worked to reopen the Poinciana Playhouse in Palm Beach, I was very surprised and alarmed that the Town Council recently voted to take away 135 seats and vital parking and dining revenue streams from this historic gem of a theater and its club and restaurant. Any elimination of theater seats and critical revenue sources in order to grant parking and daytime dining to a new restaurant, Sant Ambroeus, could be very damaging to the economic viability of the Playhouse and violate the Poinciana Plaza owner's 1979 Agreement protecting the Playhouse. The Town Council's approval for this questionable course seems to have been based on misleading information. The exhaustive studies that we conducted for the National Arts Institute, when NAI had its lease of the Playhouse from October 2013 to October 2015, led us to the following conclusions, which belie the incorrect information and arguments that seem to have been relied on to support the ill-advised reduction of the Playhouse from a current level of 860 seats to only 725.

- 1,000 to 1,200 Seats Preferable. Our business plans and projections called for 1,000 to 1,200 seats in the Playhouse to maximize flexibility, viability and revenue. We shared these seating plans and numbers with the new manager of the Poinciana Plaza, Up Markets, before NAI made a presentation of our vision for the Playhouse to the Town Council in October 2014.

- Americans with Disabilities Act (ADA) Does Not "Require" Reducing Seats. At no time did we or our expert advisors conclude that the Americans with Disabilities Act would "require" that the number of seats in the Playhouse had to be reduced. ADA was considered by our team as one factor affecting Playhouse renovation and design. Without considering all the possibilities for the space, it is not possible to determine that ADA will mandate that the Playhouse will have to lose seats. Any assertion that seating in the Playhouse has to be reduced to comply with the Americans with Disabilities Act is pure guess work. We understand that the number of seats could even be increased while still complying with any ADA requirements.

- Playhouse Parking Should Not Be Reduced. The business plans and projections that we shared with the Poinciana Plaza managers assumed that parking for the Playhouse and its restaurant and club could not be reduced. That parking is vital for the theater, club and restaurant and their revenues and viability.

- Daytime Dining Revenues Are Critical for the Playhouse and Club. The business plan and projections that we presented to the Poinciana Plaza managers showed that daytime and evening dining revenues are a vital component of the ability of the Playhouse and its club and restaurant to be economically viable. I am surprised and disturbed that the Plaza owner/managers would attempt to take away theater seats and parking in order to accommodate expanded parking and daytime dining for a new restaurant in the Plaza, Sant Ambroeus, that would drain away daytime dining revenue from the Playhouse club and restaurant.

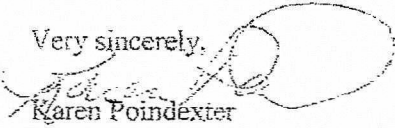
The economic damage to the Playhouse and its club and restaurant from the elimination of theater seating and parking and the impairment of daytime dining opportunities could amount to millions of dollars in lost revenue.

In addition to this potentially devastating effect, I have also been disturbed by other information that I have learned. When I was working hard on the artistic and business plans for the Playhouse under the NAI lease, for example, I was not aware that the Plaza owner was simultaneously granting to the new Plaza manager a Power of Attorney authorizing her to seek to amend or terminate the 1979 agreement protecting the Playhouse and submit condominium applications for the site. I am also concerned that the Playhouse and its beautiful interior and beloved murals have not had any adequate air conditioning for more than a year, ever since the copper wiring was stolen and power was lost from the unsecured building in February 2015.

As a producer and artistic director, I know that the cultural opportunity presented by the Playhouse can be one of the most exciting in the country. If handled right, it will give us a leading performing arts venue that will be a mainstay of the cultural and social life of Palm Beach for generations to come. I am sure that the Playhouse and its restaurant and club will also be a vibrant center for community and social events and activities and will be a key driver for the revival of the Poinciana Plaza, just as other theater venues have contributed to thriving performing arts centers and communities around the country and the world.

The Palm Beach Town Council should not allow itself to be misdirected into allowing the impairment and destruction of the Playhouse and its supporting dining and social venues. I urge the Council to take all action necessary to stop any taking of theater seats and vital restaurant revenues from the Poinciana Playhouse and its restaurant and club.

Very sincerely,


Karen Poindexter

Producing Artistic Director



National Arts Institute

A 501(c)(3) charitable corporation dedicated to Performing Arts, Education & Youth-throughout-Life with career-based, self-sustaining programs and professional performances. GOAL: Establish a world-class life-enriching Palm Beach Performing Arts Center. Arts work!

Post Office Box 2457 | Palm Beach, FL 33480 | (561) 351-5012 | www.PB-PAC.org

March 12, 2017

Town of Palm Beach Mayor and Members of the Town Council:

The National Arts Institute, Inc. (NAI) continues its fervent educational efforts regarding the importance of Performing Arts. NAI's mission includes to preserve and regenerate the iconic Royal Poinciana Playhouse and club as a Palm Beach cornerstone for performing arts including locally-mounted star-studded Broadway Musicals, opera, symphony, ballet and more. Accordingly, the further taking of parking spots away from those previously designated to the Playhouse to give to a new taco restaurant chain and late-night bar at the Poinciana Plaza is of grave concern. The continuing efforts of the Poinciana Plaza owner and managers to strip parking, seating and revenue from the Playhouse calls into question whether the owner-managers have ever in good faith intended to comply with their legally required mandates and agreements to reopen and maintain the Poinciana Playhouse and club.

Relative to those legal obligations in place, NAI calls on the Town Council to immediately take measures to return to the Playhouse *all* of the parking and the associated 135 theater seats that were imprudently taken from the Playhouse last spring to make way for daytime parking and dining for the Plaza's new Sant Ambroeus restaurant. Our studies have concluded that removing the theater seats [associated with these parking spaces] will have a very negative effect on vital revenues for the Playhouse, and that reducing the number of seats is not required by the Americans with Disabilities Act (ADA).

NAI questions whether Palm Beach residents are aware of the judge's ruling in 2007 and continuing forward that the Royal Poinciana Playhouse MUST be maintained and operated as a theater for performing arts. It is baffling that members of the Town Council, or anyone else, might further critically disrupt the financial viability of the Playhouse. This is, in fact, a repeat move by the Plaza manager UpMarkets, to take parking that should be for the Playhouse to instead allocate it to a new Mexican restaurant in the Plaza. These parking spots legally should be reserved for the Playhouse. UpMarket's request is in direct conflict with preserving the Playhouse in compliance with the 1979 Agreement between the Plaza owner and the Town. Just last year, the Town Council of Palm Beach bowed to UpMarket's request to take away the parking allocated for 135 theater seats at the Playhouse to instead transfer the parking to Sant Ambroeus restaurant for daytime dining. Are residents aware, and will they now allow, a repeat negative allocation of Playhouse parking to the Coyo Taco chain and bar? NAI expresses deep concern should the Town *again* allow UpMarkets' further deliberate dismantling of the Playhouse's economic viability.

Comparably, which will our Town leaders choose in response to residents' consistently-stated desire for renowned performing arts at the Royal Poinciana Playhouse? Will Palm Beach's key decision-makers respect residents' desires and uphold our forebears' sound efforts in the Town's '79 Agreement requiring the Playhouse be preserved specifically for performing arts? Will Palm Beach's Town Council respect and uphold the judge's specific rulings in 2007 to preserve Palm Beach's Playhouse, which is not only central to the arts, but central to the economic well-being of *all* of Palm Beach? Or, will Town of Palm Beach leaders choose to ignore its forebears' requirements – and the judges' rulings – and its residents by *again* bowing to UpMarkets' sabotage of Playhouse parking spots to instead award them to a fast-food Mexican restaurant? Which is of greater importance to Palm Beach, an iconic performing arts cornerstone or a chain taco restaurant and bar?

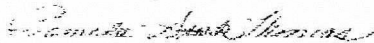
National Arts Institute, Inc. (continued)

Palm Beach Tower residents next door to the Royal Poinciana Plaza have repeatedly expressed major concerns over the potential of noise, traffic or intensified use stemming from the Plaza. One would be intrigued how a chain Mexican restaurant and late-night bar might prove to be absent of those concerns.

NAI provides strong documentation supporting the direct significant, wide-ranging benefits tied to its mission providing top performing arts offering arts and cultural exposure and immersion to Palm Beach. Higher academic achievement; a magnet for intellectually involved audiences; attracting and retaining the desired employee pool; increasing empathy, compassion, problem solving, perseverance, confidence and self-expression; decreasing depression and sense of isolation; and equalizing social-economic participants - lists just a few of performing arts' powerfully positive effects.

NAI's efforts directly respond to the needs, interests and requests of Palm Beach's residents, serves Palm Beach's businesses and drives the economy of *all of Palm Beach*. On behalf of the National Arts Institute, Inc., we ask our important town leaders to exercise special wisdom in support of preserving its legendary "Royal Playhouse". Further dismantling of its allotted parking spaces lowers the curtain on an enriched quality of life for Palm Beach.

Respectfully,



Pamela Stark Thomas, CEO
National Arts Institute, Inc.

KAREN POINDEXTER
National Arts Institute
P.O. Box 2457
Palm Beach, Florida 33480

August 11, 2016

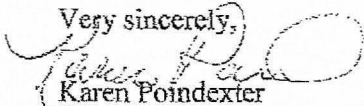
Mayor and Town Council of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Honorable Mayor and Council Members:

I understand that the manager of the Poinciana Plaza in Palm Beach, Up Markets, may come to the Town Council again next week with proposals that may impact the size of stores and daytime dining at the Plaza. It is unclear to me and other advocates for the historic Poinciana Playhouse whether such bit-by-bit changes to Town Code requirements will affect the outlook for the Playhouse and its revenues and economic vitality. My June 8 letter to the Town Council (attached) pointed out that millions of dollars in lost revenue would result from the manager's shocking taking of 135 seats and daytime dining opportunities from the Playhouse. As concerned theater professionals, we know that having adequate parking, theater seating and dining and club revenue are crucial for the Playhouse as a performing arts gem, as a vibrant cultural and social center for Palm Beach and as a main driver for revitalizing the Plaza. Neither the Americans with Disabilities Act (ADA) nor other renovation or creative considerations would "require" that seating or parking at the Playhouse be reduced. In fact, our business and architectural studies for the National Arts Institute called for the number of seats in the Playhouse to be increased.

We continue to hope that the Town Council will be vigilant in safeguarding the Playhouse, as mandated by the 1979 agreement and the 2007 court order protecting this very exciting cultural and social landmark.

Very sincerely,


Karen Poindexter

Producing Artistic Director
National Arts Institute

R. Douglas Hulse
139 Sunrise Avenue
Apartment 208
Palm Beach, Florida 33480

August 11, 2016

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

Honorable Mayor and Council Members:

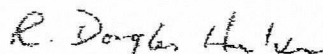
I note that the Town Council next week may hear proposals by the manager of the Poinciana Plaza regarding square footage limitations and outdoor dining at the Plaza. As a Town resident, I'm concerned that any such initiatives should not be advanced at an August Council meeting, when a substantial number of residents will not be in Town to hear or respond to the case presented by the Plaza manager, Up Markets. I'm also concerned that a series of piecemeal changes at the Plaza are being pursued by Up Markets, while residents are away, without us being able to hear and fully understand how those proposed changes of Town rules may affect the viability of the landmarked Poinciana Playhouse and the 1979 agreement protecting it. Up Markets also seems to have proceeded without adequate public input in its recent effort to take 135 seats and daytime dining revenue opportunities from the Playhouse and its restaurant and club, which I estimate could cause a loss of \$4.36 million annually for the Playhouse.

I was a Board member and treasurer of the Palm Beach Theater Guild for a number of years and remain a supporter of the Guild's efforts and programs. I was actively involved in the feasibility plans for reopening and operating the Playhouse that were prepared in the period 2008-2010, after a Court order was issued in 2007 requiring that the Playhouse be maintained and operated as a theater.

When I learned this past spring that the Plaza owner/managers propose to remove 135 seats from the Playhouse and give away competing daytime dining opportunities to a new restaurant, Sant Ambroeus, I made an estimate of the revenue loss arising from losing the 135 theater seats and lunch revenue for the Playhouse restaurant and club. At full capacity, the reduction in seats would represent a loss of \$1.9 million in revenue annually for the Playhouse, while the loss of the lunches would represent a loss of \$2.46 million in revenue annually (not including in this calculation any losses of dining revenue for times other than lunch). The total loss of \$4.36 million annually would represent nearly 25% of ticket and dining revenues for the Playhouse and its dining facilities. Many of us believe strongly that this damage to the theater and its crucial restaurant revenue stream should not be permitted.

I would be happy to share the details and assumptions behind these calculations.

Sincerely,



R. Douglas Hulse

SIMON TAYLOR

Simon Taylor is a corporate, litigation, finance and intellectual property attorney based in New York and Palm Beach, Florida. His broad experience includes corporate and securities law, investment banking and venture capital, litigation, motion picture and theater financing and distribution, licensing and technology transfer, contract and commercial law and mergers and acquisitions. Trained in the rigorous and demanding setting of general practice law firms in New York, he has worked in law and finance fields that include life sciences, biotechnology, medical devices, motion pictures and theater, information and computer technology, cleantech and manufacturing industries. His law practice has included, for more than thirty years, extensive involvement in international matters and transactions involving Japan, China, India, Latin America and Europe.

From 1988 to 2004, Simon was an attorney with the corporate, securities and general practice law firm Snow Becker Krauss in New York, which he joined as a partner and where he became of counsel in 1995, when he co-founded a venture capital industry advisory firm. He formed his own law firm in July 2004 as an outgrowth of the practice he built at Snow Becker. Prior to Snow Becker, Simon was an attorney with Finley, Kumble, Wagner, then the largest law firm in the United States.

In addition to his long experience as a corporate, litigation, intellectual property and international practice attorney, Simon has been a principal, attorney and compliance officer for a licensed investment banking firm.

Simon graduated from Columbia College at Columbia University in New York (Phi Beta Kappa, magna cum laude and John Jay Scholar) and from Harvard Law School. He was born in England and grew up in California in Palo Alto and Lodi in the state's Central Valley. He resides in Palm Beach, Florida.

Simon has been involved in a number of not-for-profit activities in the arts and community-based social services. He is the President and Chairman of the Palm Beach Theater Guild. He has also served as chairman of the board of an Off-Broadway theater and as a board member of an opera school and a regional opera company.

The Palm Beach Theater Guild thanks all supporters
for our 2013-14 Season, including

A "triumph,"
"absolutely magnificent,"
"one of the best events in Palm Beach"

The Palm Beach Theater Guild Presents



A Night in Florence
with the
Florentine Camerata

Thank you for coming to the Guild's last show,
our April 23 "Night in Florence" featuring singers
performing favorite opera arias and images and
fashions of Renaissance Florence.

With "world class" performances, we told the story
of the invention of opera by 1600 in the gatherings of
the group called the Florentine Camerata and heard
arias from the centuries since.

Barrie Ingham, of the Royal Shakespeare Company,
Broadway and the London stage and star of the Guild's
January production of "Keep Calm and Sing On" called it
"One of the finest evenings of entertainment I have
ever experienced anywhere in the world. The most
perfectly wonderful evening..."

Learn about the Theater Guild's upcoming
events at our website pbtheaterguild.org or
call (561) 818-0170.

PALM BEACH AND FLORENCE

Can't we see in the Palm Beach community many of the forces and elements that made Renaissance Florence so fruitful in fostering the arts? Can we take some lessons from Florence in the 1400s and 1500s to see how they cultivated arts in storied homes, studios, salons and social settings? The Palm Beach Theater Guild will raise these lively (and fun) questions in a stimulating evening of cocktails and opera arias, our 'Night in Florence with the Florentine Camerata.'

Our chosen focus for this gathering is the Florentine Camerata, a group of gentry, composers, writers and literati who met in notable houses in Florence and, by 1600, invented the art form of opera. The first opera ever composed, 'Dafne' by Jacopo Peri (1598), is lost to us, but we have the second opera, 'Euridice' by Peri and Giulio Caccini, which was created to be performed at the wedding of Marie de Medici to King Henry IV of France in 1600. We'll play parts of that opera and show images of the homes, personages and fashions of the time (see Peri above), followed by selected arias from the centuries since then, including transcendent favorites from operas by Mozart, Verdi and Puccini.

So join us for the story of the Camerata in Florence and the art form of opera that found its start there, an inspirational history challenging us in gatherings and activities in our community to pursue culture and cosmopolitan entertaining in social and cultural settings that can foster the performing and theater arts.

Palm Beach Theater Guild, Palm Beach, FL, (561) 818-0170



TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #14 -2017 WITH SITE PLAN REVIEW The application of Brian Plewinski, Attorney for Wilson 150 Worth LLC (Starbucks); relative to property commonly known as **150 Worth Ave. #110**, described as lengthy legal description on file; located in the C-WA Zoning District. The applicant is requesting a special exception with site plan approval to modify condition #1 – Hours of Operation for Site Plan Review #12-2006. Current approved hours of operation shall be limited to between 8:00 a.m. and 10:00 p.m. Proposed hours of operation shall be limited to between 6:00 a.m. and 10:00 p.m. [Attorney: Brian Plewinski, Esq.]

Presenter

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

ATTACHMENTS:

- ❑ **E-mail Dated May 1, 2017 From Frank Gentile**

From: [Paul Castro](#)
To: [Kelly Churney](#); [Kathleen Ruderman](#)
Subject: Fwd: Starbucks request for special exception 14-2017 to open 16 hours daily from 6;00 am 'till 10;00 pm
Date: Tuesday, May 02, 2017 9:57:37 AM

Sent from my iPhone

Begin forwarded message:

From: John Page <JPage@TownofPalmBeach.com>
Date: May 2, 2017 at 08:40:10 EDT
To: Tom Bradford <TBradford@TownofPalmBeach.com>
Cc: Paul Castro <PCastro@TownofPalmBeach.com>
Subject: FW: Starbucks request for special exception 14-2017 to open 16 hours daily from 6;00 am 'till 10;00 pm

Tom: I'm back from AL. I don't want to duplicate any work being done in your office. Shall I assume the TMO will forward the message below?

John S. Page
Planning, Zoning & Building Director

Town of Palm Beach
PZB Department
360 S. County Road
Palm Beach, FL 33480
Phone: 561-227-6405
Fax: 561-835-4621
www.townofpalmbeach.com

From: Gail Coniglio
Sent: Tuesday, May 02, 2017 8:21 AM
To: Tom Bradford <TBradford@TownofPalmBeach.com>; John Page <JPage@TownofPalmBeach.com>
Subject: Fwd: Starbucks request for special exception 14-2017 to open 16 hours daily from 6;00 am 'till 10;00 pm

Gentlemen
Please forward to TC members
Mayor

Sent from my iPhone

Begin forwarded message:

From: frank gentile <gentilenine@gmail.com>
Date: May 1, 2017 at 11:19:29 AM PDT
To: "mayor@townofpalmbeach.com"
<mayor@townofpalmbeach.com>, Betty Raffel
<braffel@winthrophousepb.com>, Mickey GEntile
<gentile28@aol.com>
Subject: Starbucks request for special exception 14-2017 to open
16 hours daily from 6;00 am 'till 10;00 pm

Dear Mayor: I've received notice that Starbucks is requesting an extension of their operating hours. I am against this request on the basis that no other businesses in the Esplanade are open before 9:00 am and the current schedule allows store employees, locals and shoppers more than sufficient time to get their "caffeine fix" at 8:00am.

Opening at 6:00 am will attract others with no reason to be on Worth Ave.

I spoke to Brian Plewinski, attorney for Starbucks today and asked the reason for the request and was told " because the barristers were too busy starting at 8;00am".

Not a good reason for me and obviously Starbucks is making plenty of money already.

The other side of the coin is that I'm sleeping and already being awakened by the cars racing down Worth to Starbucks now. Imagine if they open earlier. They'll be racing there starting at 5:45am!! Starbucks is the only national food chain in Palm Beach. they should be not pushing residents for more privileges!

Frank Gentile
100 Worth Ave.
apartment 504

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #15 -2017 WITH SITE PLAN REVIEW AND

VARIANCE The application of Gregory Fisher, Member of 316 Seabreeze LLC; relative to property commonly known as **316 Seabreeze Ave.**, 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 previous approval to allow the construction of a 2,700 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variance is being requested: to allow a 12.5 foot east side yard setback for the two story portion in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed special exception with site plan review and variances will not cause negative architectural impacts to the subject property. Carried 7-0.] [Architectural Commission approved the project as presented. Carried 7-0.]

Presenter

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

ATTACHMENTS:

- ▣ **E-Mail Dated May 23, 2017 From Dorothy Martin**

From: [Kelly Churney](#)
To: [Gail Coniglio](#); [Richard Kleid](#); [Danielle Hickox Moore](#); [Margaret Zeidman](#); [Bobbie Lindsay](#); [Julie Araskog](#)
Cc: [Paul Castro](#); [Kathleen Ruderman](#)
Subject: FW: 316 Seabreeze Ave Special Exception Variance Request
Date: Wednesday, May 24, 2017 8:05:20 AM

FYI

Kelly Churney
Office Assistant III

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

From: Dorothy Martin [<mailto:dmartin2543@gmail.com>]
Sent: Tuesday, May 23, 2017 5:25 PM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: 316 Seabreeze Ave Special Exception Variance Request

Mrs. Dorothy Martin
P.O. Box 2
(312 Seabreeze Ave.)
Palm Beach, FL 33480

May 23, 2017

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

RE: ARCOM Case #B-042-2017
Property Address: 316 Seabreeze Ave. Palm Beach, FL
Subject: New Construction

Dear Members of the Architectural Review Commission, Mayor and Town Council Members,

As owner and occupant of 312 Seabreeze Ave., directly next to the property 316 Seabreeze Ave. requesting the variance, we wish to encourage the commission NOT TO APPROVE the request for a special exception variance for a 12.5 ft. east side yard setback in lieu of the previously approved 15 ft minimum required.

We appreciate your consideration of our opinion in this matter and for your service to our community.

Sincerely,

Dorothy Martin

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SITE PLAN REVIEW #4-2017 WITH VARIANCES The application of James M. Crowley, Esq., Attorney for The Palmbeacher Apartments Inc.; relative to property commonly known as **3030 S. Ocean Blvd.**, described as lengthy legal description on file; located in the R-D (1) Zoning District. The applicant is requesting a site plan review to add additional paving in the eastern (pool) area and add an awning over the main building entrance on this nonconforming property. The following variances are requested: 1) a variance to increase lot coverage by adding a 360 square foot awning at the front entrance. This will increase lot coverage from 26.86% to 27.75% in a district that allows a maximum lot coverage of 20% for special exception buildings; 2) A variance to decrease landscaped open space from 14.0% to 12.6% by adding 573 square feet of additional paving in the pool area. This district required minimum landscaped open space of 35%; 3) A side (south) setback variance to allow a new trellis on top of the existing pool building to extend further into the side setback. The required side setback for the pool building, which is an enclosed 9.0' high accessory structure, is 30'. The existing pool building is 10.77' from the side property line. The proposed trellis would extend an additional 2.87' into the setback, creating a new side setback at that point of 7.9' in lieu of the 30' required; 4) a south (side) setback variance to allow the new awning at the front entrance to extend into the side setback. The required side setback for the building is 55.30', the height of the building. The building is 49.92' from the side property line. The proposed awning would extend an additional 12.0' into the setback, creating a new side setback at that point of 37.92' in lieu of the 55.30' required. [Attorney: James M. Crowley, Esq.] [Architectural Commission Recommendation: Deferred to the June 28, 2017 meeting at the request of the attorney. Carried 7-0.] **Request for Deferral to the July 12, 2017, Town Council Meeting Per Letter Dated May 31, 2017 from James M. Crowley**

Presenter

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

ATTACHMENTS:

- ▣ **E-Mail Dated May 22, 2017 From J. Pineau**
- ▣ **E-Mail Attachment 1**
- ▣ **E-Mail Attachment 2**
- ▣ **E-Mail Attachment 3**
- ▣ **E-Mail Attachment 4**
- ▣ **E-Mail Attachment 5**
- ▣ **Letter Dated May 31, 2017 From James M. Crowley**

From: [Kelly Churney](#)
To: [Gail Coniglio](#); [Richard Kleid](#); [Danielle Hickox Moore](#); [Margaret Zeidman](#); [Bobbie Lindsay](#); [Julie Araskog](#)
Cc: [Paul Castro](#); [Kathleen Ruderman](#)
Subject: FW: Access to the Public Bathrooms: 3030 S Ocean Blvd. ARCOM# B-035-2017 / Zoning#: Site Plan Review #4-017 w/ Variances
Date: Monday, May 22, 2017 3:23:07 PM
Attachments: [Microsoft Word - Access to the Public Bathrooms.docx.pdf](#)
[ATT00001.htm](#)

fyi

Kelly Churney
Office Assistant III

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

From: John Pineau [mailto:jpineau@yahoo.com]
Sent: Monday, May 22, 2017 2:03 PM
To: Kelly Churney <KChurney@TownofPalmBeach.com>; John Lindgren <JLindgren@TownofPalmBeach.com>; : 01 Howard Stewart <hstewart48105@yahoo.com>; Richard Manno <mannonrichard@yahoo.com>; Cosmo <CDEVE1314@AOL.COM>
Subject: Access to the Public Bathrooms: 3030 S Ocean Blvd. ARCOM# B-035-2017 / Zoning#: Site Plan Review #4-017 w/ Variances

Sincerely,

John Pineau
jpineau@yahoo.com
703 379 6626

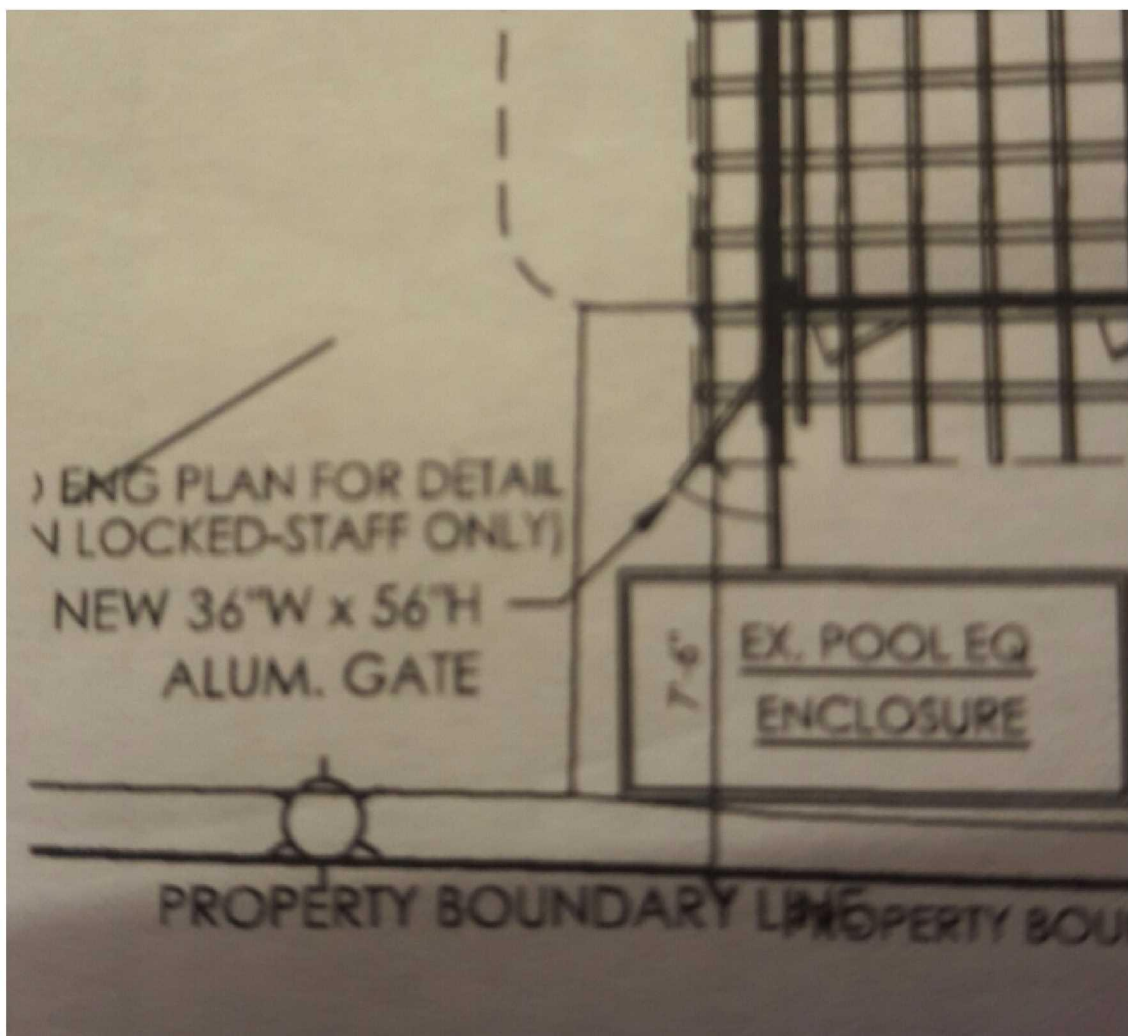
3030 S Ocean Blvd. Suite 104
Palm Beach, FL 33480

Access to the Public Bathrooms:

Currently, the only bathrooms available to the public, owners, visitors, contractors, delivery, etc. are located near but outside the pool patio. Moreover, during the summer, the bathrooms are opened daily for use by contractors and closed at about 5:00 PM.

The proposal eliminates access to the public bathrooms requiring the public, owners, visitors, contractors, delivery, etc. to gain access through either the locked pool gate on the north side of the pool pump or by having staff open the proposed new gate.

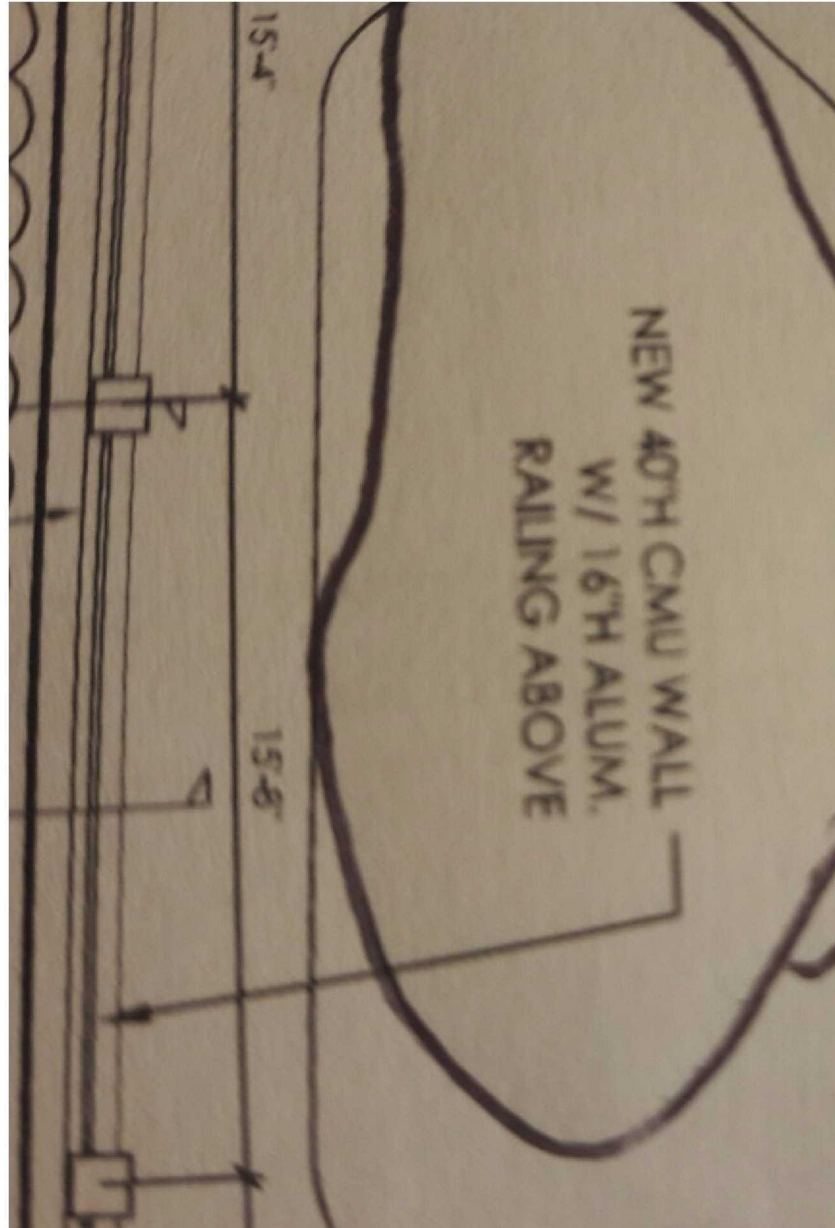
This proposal makes the pool deck and pool area available to anyone using the bathrooms and introducing issues of security and liability.



After examining the proposed plan, recently, local owners advised that the proposed plan would be a major inconvenience and wanted to keep the current arrangement.

South Perimeter Wall Pool Area

Currently, we have an 18-inch high perimeter wall on the south side of the pool perimeter. On top of this wall is a chain link fence.



The proposed plan has a 40-inch high fence in lieu of 18-inch existing. At the Special Membership Meeting held on 11/16/16 with 60 percent of the ownership represented, about 100 percent of the attended members voted to remove the proposed the 40-inch wall from the plans. The membership pointed out that the 40-inch high wall will block the ocean views and block the fresh breezes that cool the pool during the extended summer – April through November.

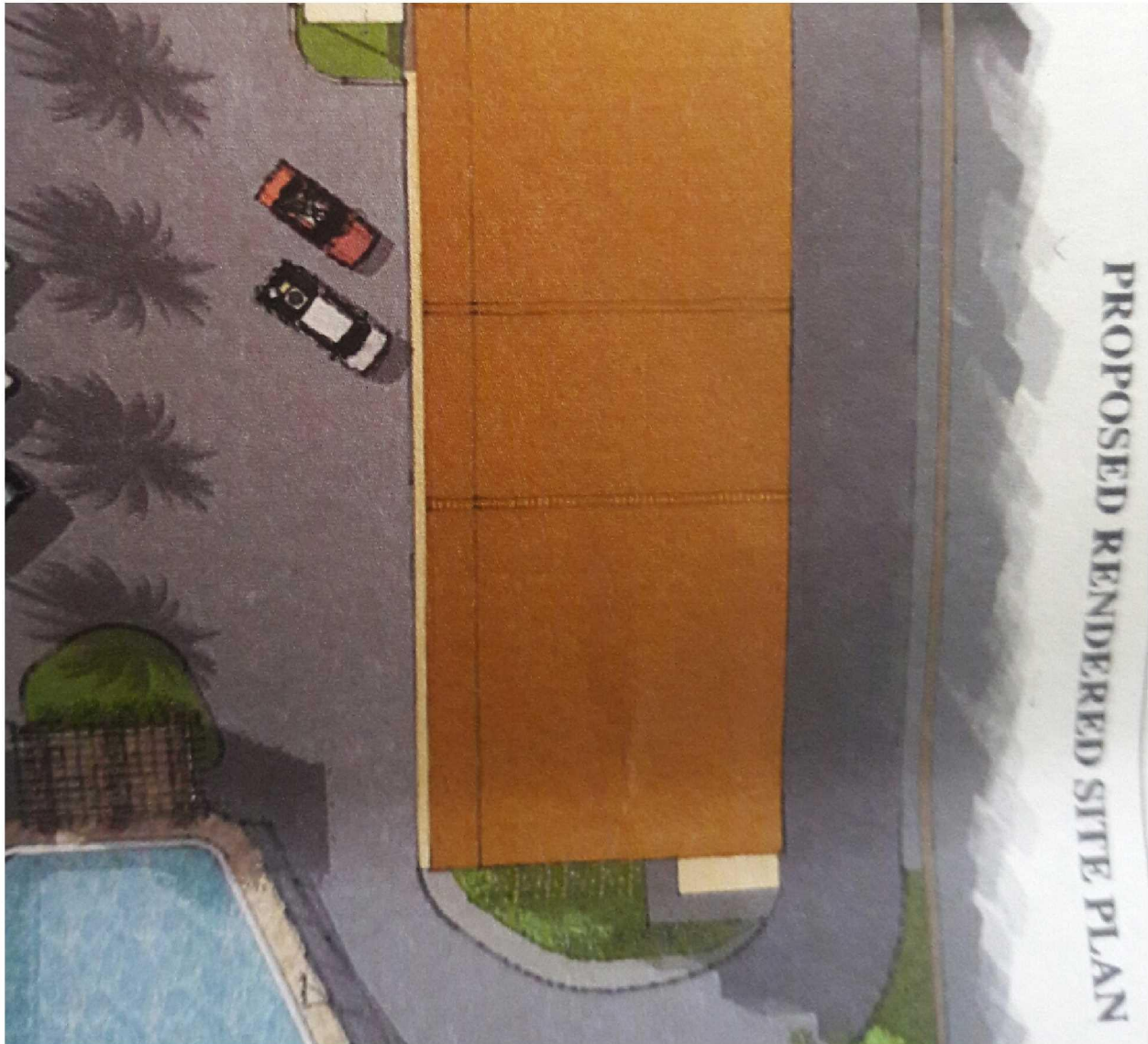
We do not want the proposed 40-inch high wall.

If legally required, retain an 18-inch high wall with an appropriate height aluminum fence. If the 18-inch high wall is not required, remove the wall/fence combo, and replace with. an aluminum fence of required height and matching color.

The Green Space Equation?

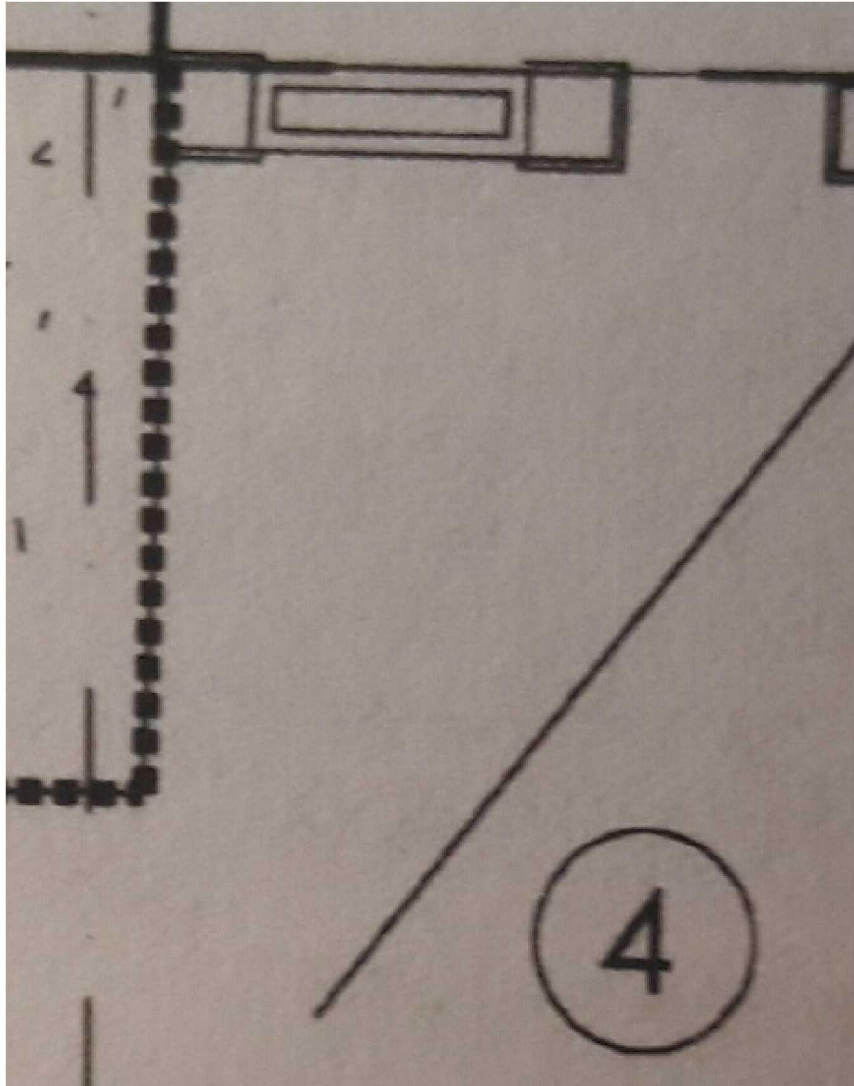
In examining green space associated with the Proposed Rendered Site Plan, sheet LS-3 and, the Proposed Landscape Plan, sheet LS-1, there appears to be discrepancies between the drawings.

For example, LS-3 indicates green space: a/ near the canopy in front of unit 103, b/ the east side half round and c/ the west side of the pump building.

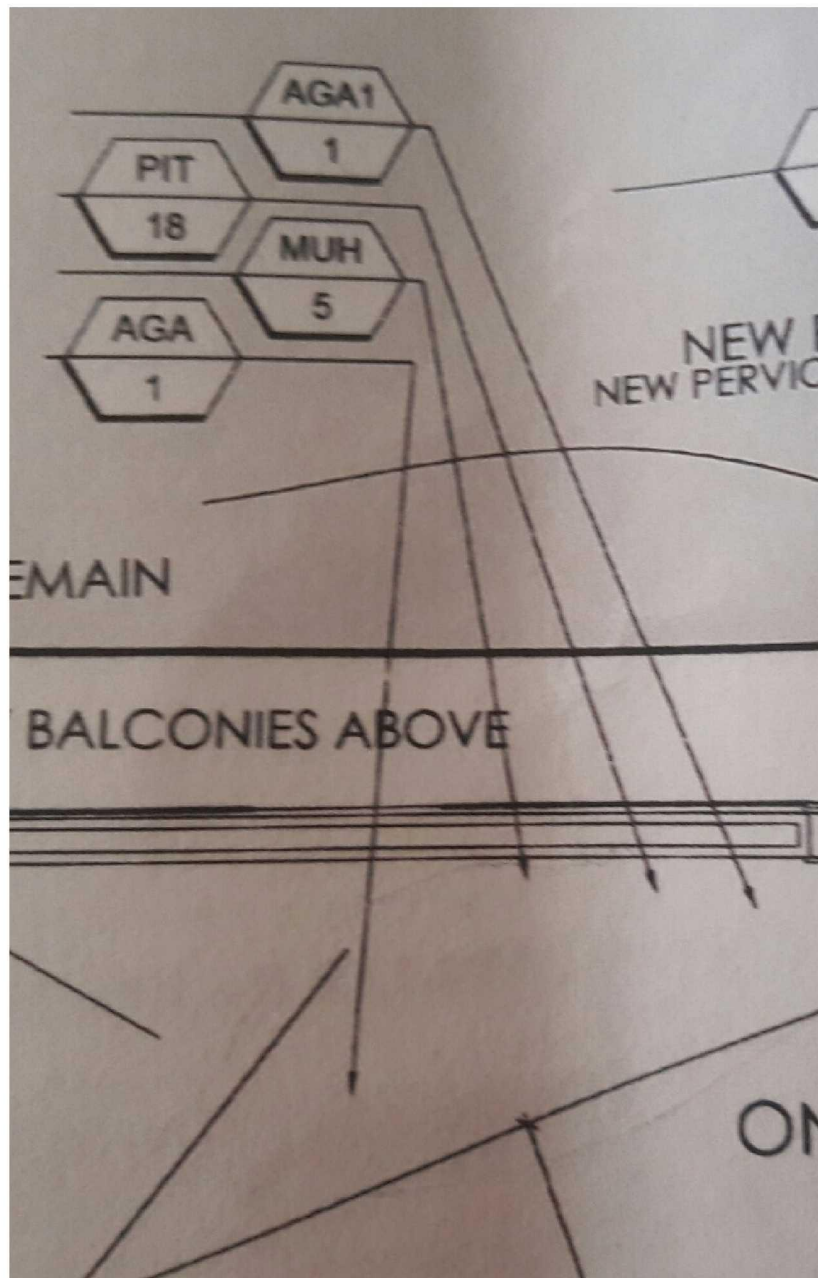


On the other hand, sheet LS-1 appears to be at variance with sheet LS-3 as follows.

- a. The green space near the east side canopy in front of unit 103 on sheet LS-3 but not shown in LS-1. See below LS-1:



- b. Area in front on apartment 101 in LS-3 has no greenspace. However, LS-1 shows substantial new green space as detailed below:

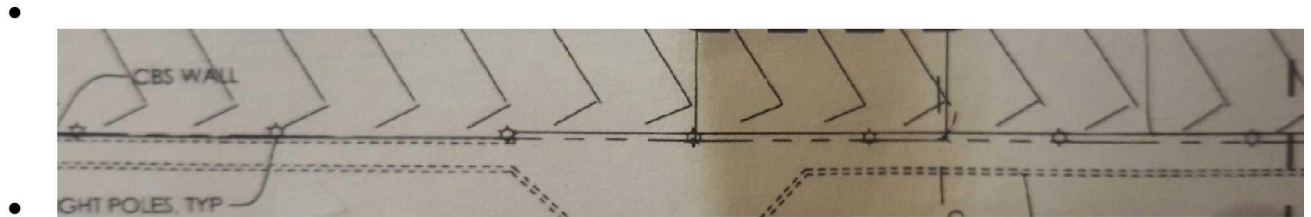


Moreover, during the winter season, this triangle is the area the pool company truck parks to maintain the pool three times per week and the Town police park their car daily when they investigate concerns on the Ocean front.

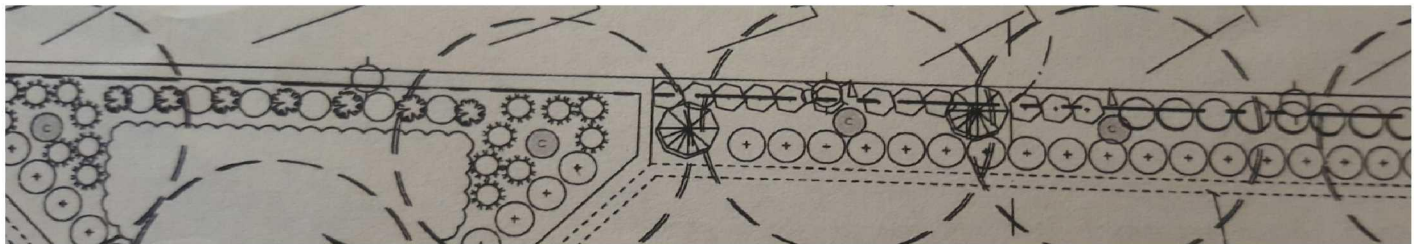
c. Calculating Green Space:

- We do not note certain numbers of square footage on the various drawings so we have been unable to double-check the calculations.
- Did the calculations include green space associated with the substantial vegetation to the south of our parking lot, but which appears to be part of neighboring property? (See below excerpts from Sheet LS-1 and Sheet SP-3).

- BEFORE PLANTING



AFTER PLANTING



- Do the calculations subtract the amounts needed for handicap access pathways on the east lawn including the paths to the ocean and to the two benches (see picture below)? Both access to the beach and the benches near the seawall are currently not handicap accessible.



Before the seawall replacement, these areas had paved paths that were handicap accessible to both the ocean front and benches. Paved pathways allow for ease of

movement by all owners and guest, be they handicap or not, and should be grandfathered and incorporated in the proposed plan before adding more concrete.

d. In summary

- The only amount of green space available for use by the owners and guests is called 'the lawn.'
- Replacing the 475 square feet of green grass with 475 square feet of new, sun drenched concrete defeats the purpose of beach living.
- During last season, [first season of grass in three years] many residents found it more desirable to lounge on the grass lawn and enjoy the breezes, sun, and easy proximity to the beach then spend time at the pool.
- Proposed area to be cemented below:



More cement Needed? No.

More cement Needed? No.



East End Half Round



Residents and guests daily use the east end half round to store their shoes and towels before walking to the beach, using the existing foot wash to wash the sand off their feet when returning from the beach, using the table and chairs to organize picnics and communal grilling, enjoying friendship during the summer evenings swapping stories about our grandchildren, relishing a cool beverage and experiencing the cool evening ocean breezes.

Owners and guest use the chaise lounges to bring to the beach and the meticulously groomed lawn. These are stored for year around access on the east end half round.

Moreover, at the Special Membership Meeting held on 11/16/16 with 60 percent of the ownership represented, about 100 percent of the attended members voted to keep the current arrangement for the east end half round.

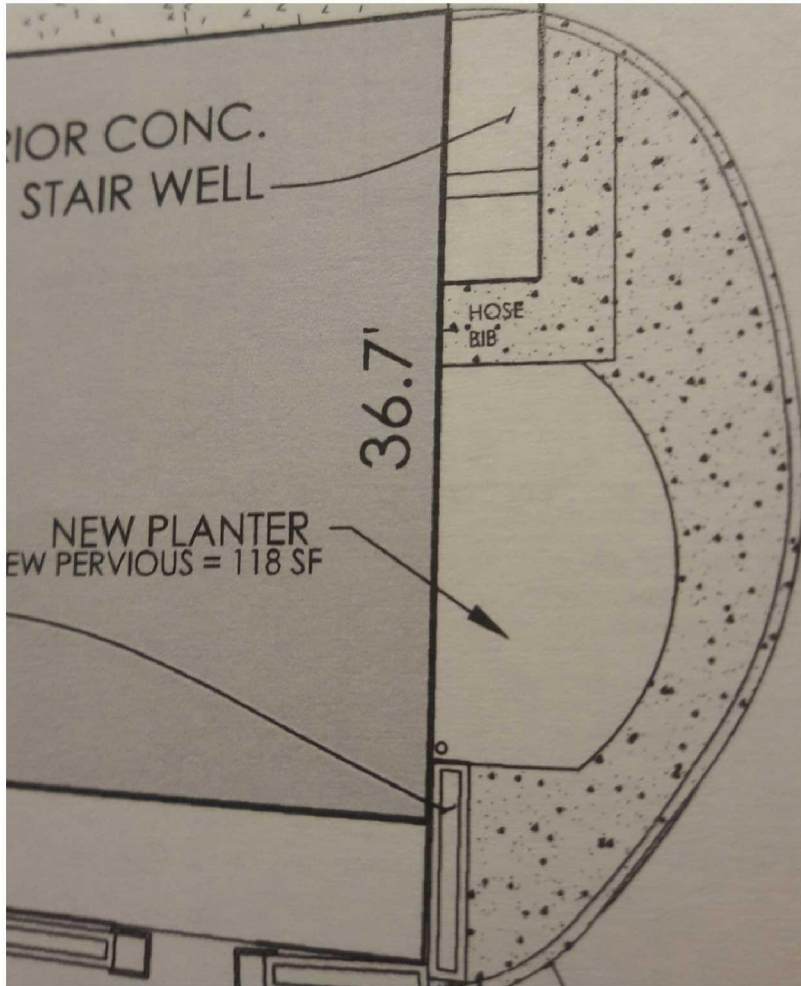
The proposal dramatically changes the utilization of this east end half round and obstructs the ocean view from the windows of unit 101 by the installation of five trees, sheet LS-2 CLU, with a *'planned trimmed'* height of about 4 feet.

The proposal converts 118 SF of useful concrete to green space. This dramatically reduces the available space for use by residents and guests. See detail from sheet LS-3 center below:

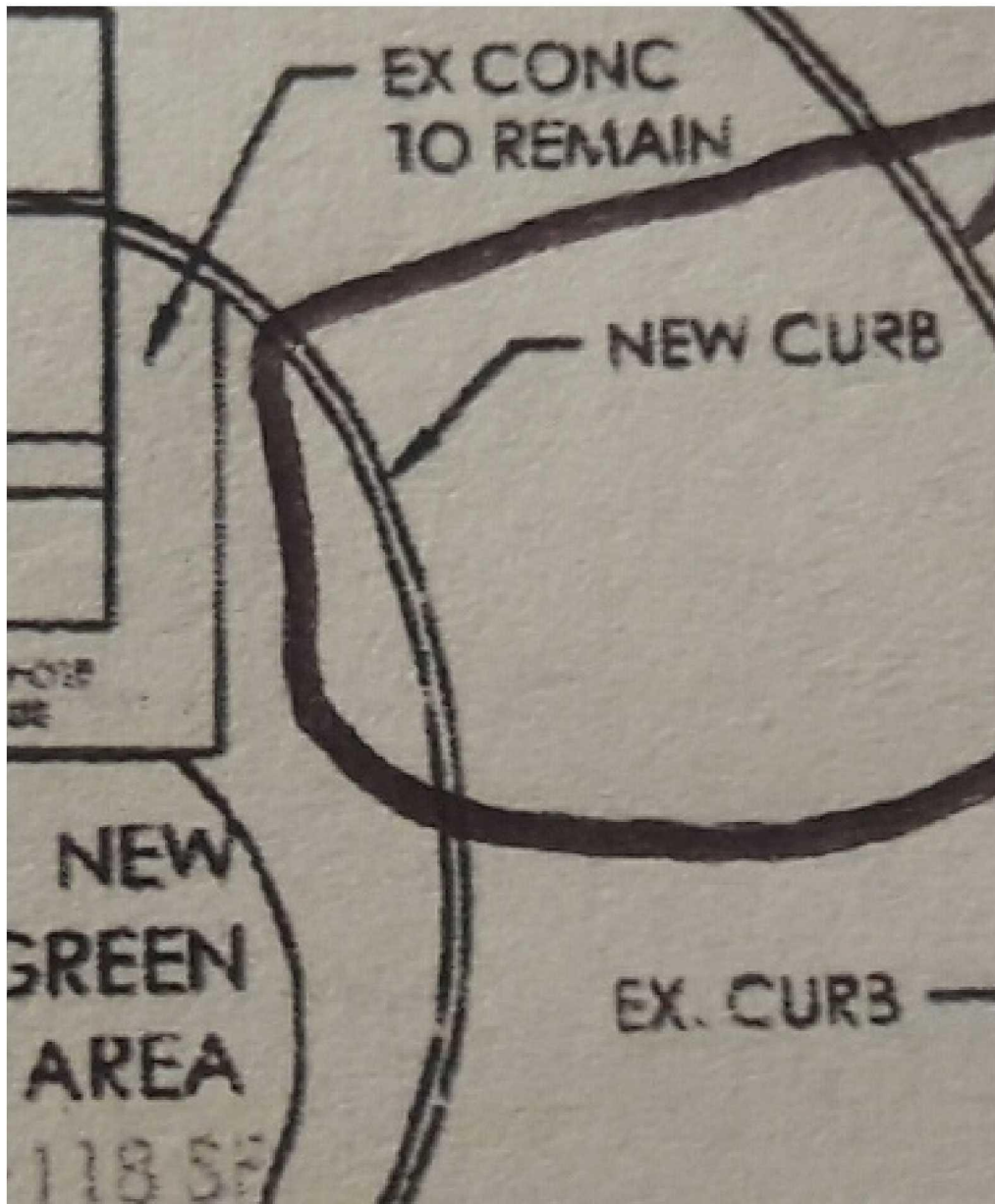


This also might increase the risk to pedestrians as cars and trucks must navigate the very tight 180 degrees turn. Many times, drivers have driven across the pedestrian painted area and, in one recent case, a driver managed to damage unit 101's wall mounted A/C unit trying to make the 180-degree tight turn.

And, the constructed green space might result in the migration of water into unit 101's apartment; as there are a few units on the first floor that have migration of water caused by design failures.



The new proposal includes a new curb and may raise the grade to the level of the curb.



Currently, there is no curbs on the west side of the east end half round. The proposed curb introduces a change in elevation and tripping hazard and because of the tight 180-degree turn, the Town of Palm Beach's trash truck which uses the existing soft lip to make the turn, may make the turn difficult and may damage the proposed new curb.

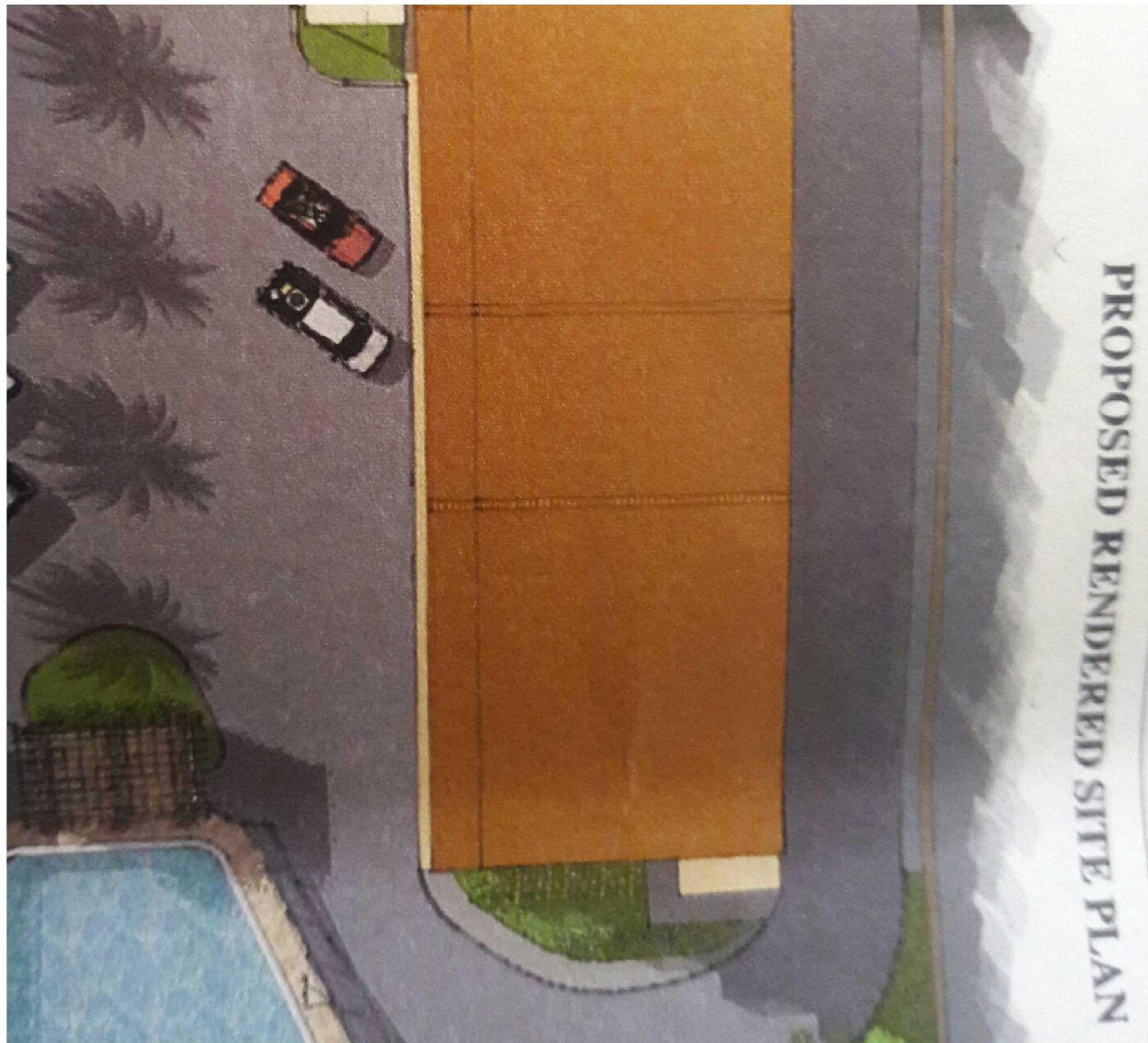
Moreover, the above plans appear to indicate that there is a purpose built 'L' shaped walk way, as indicated by the 'Ex Conc. to Remain,' to the foot wash and hose bib. The remaining area appears to be raised by the level of the new curb. This may introduce tripping and falling hazards and hinder the handicap and wheel chair bound.

We want to retain the existing arrangement.

The Green Space Equation?

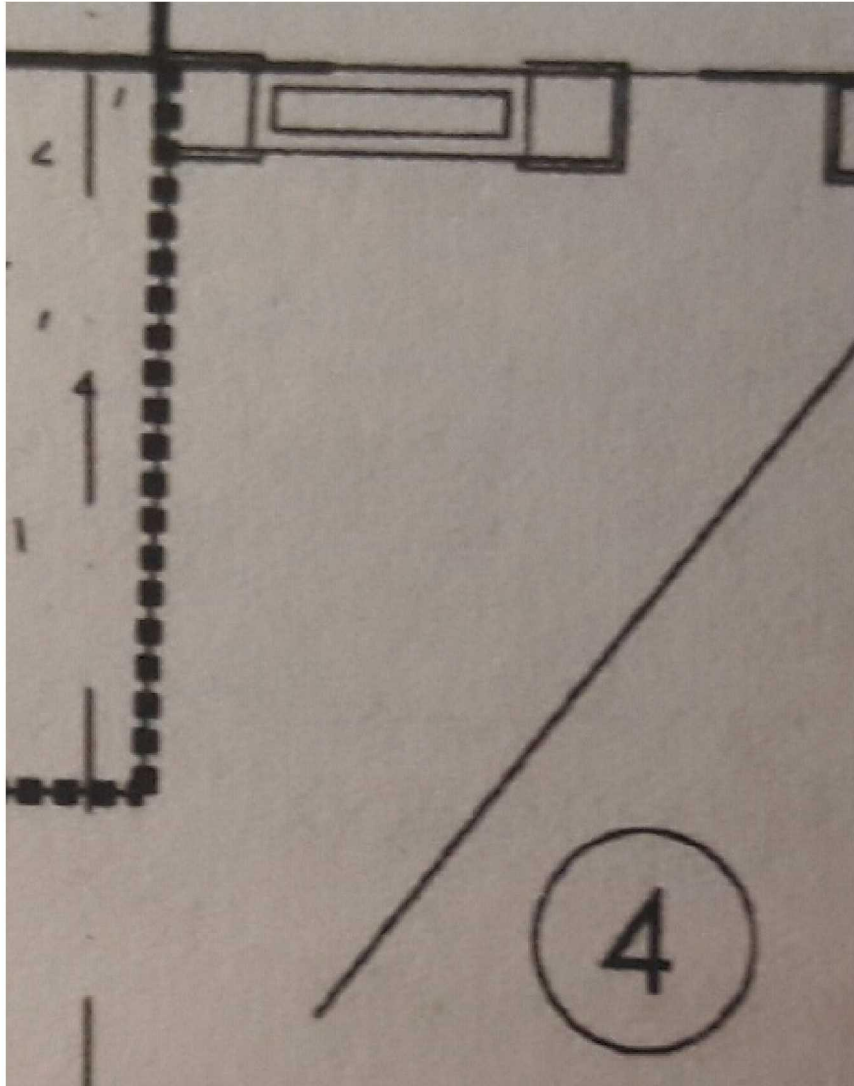
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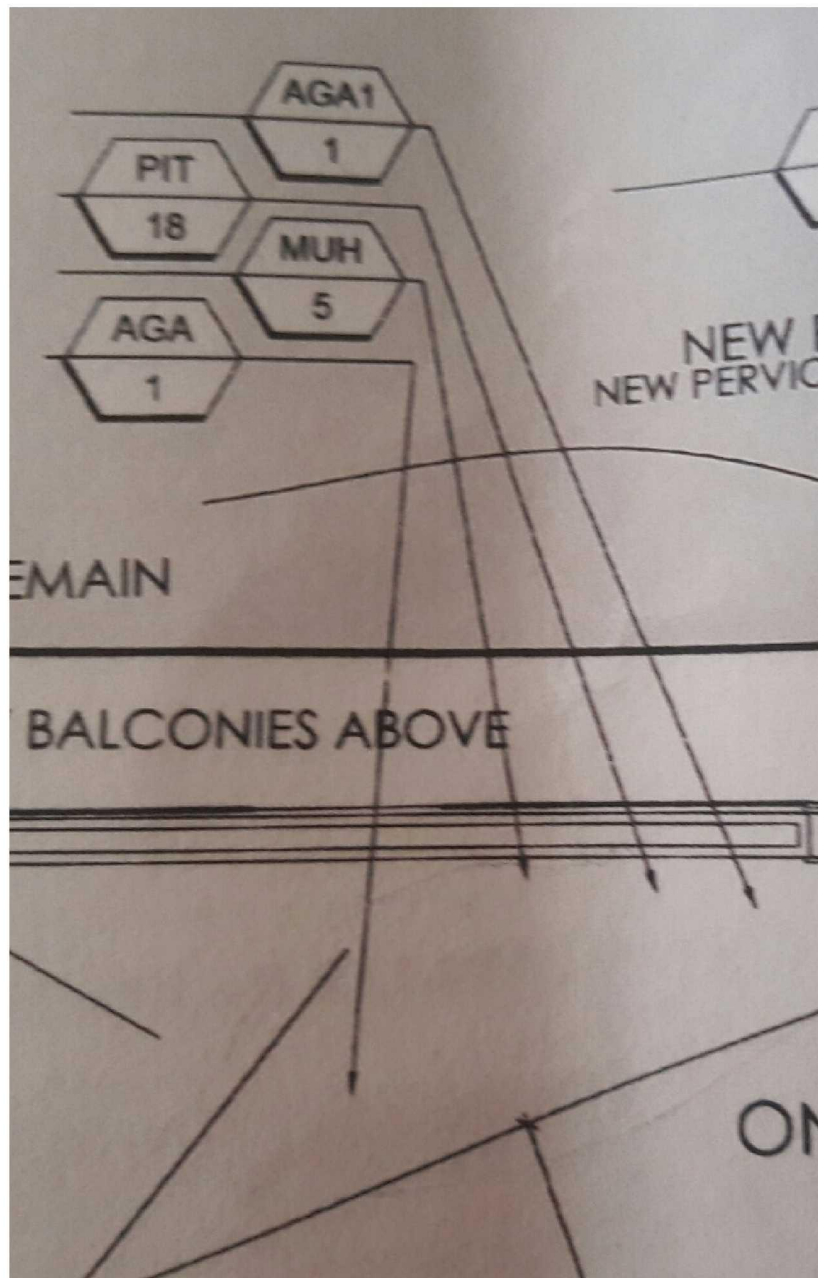


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- b. Area in front on apartment 101 in LS-3 has no greenspace. However, LS-1 shows substantial new green space as detailed below:



Moreover, during the winter season, this triangle is the area the pool company truck parks to maintain the pool three times per week and the Town police park their car daily when they investigate concerns on the Ocean front.



May 31, 2017

VIA E-MAIL

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

Re: SPR #4-2017 w/Variances - 3030 South Ocean Boulevard

Dear Paul:

We respectfully request a deferral of the hearing on SPR #4-2017 w/Variances (currently scheduled to be heard at the June 14, 2017 meeting of the Town Council) until the July 12, 2017 Town Council meeting. This item was deferred from the May 24, 2017 ARCOM meeting to the June 28th meeting, which is the reason for this deferral request.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,

James M. Crowley, Esq.
JMC/op

cc: John Soruchuk
Lynn Bender
Edgar Duenas, PE
John Page, Director of Planning, Zoning and Building
John Lindgren, Planning Administrator

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SITE PLAN REVIEW #5-2017 The application of Parc Regent Condominium (Paula Gottlieb, Manager); relative to property commonly known as **184 Bradley Place**, described as lengthy legal description on file; located in the R-D (2) Zoning District. The applicant is requesting a site plan approval for a 400 KW generator and the construction of a required 540 sq. ft. building to house said generator. The building is proposed to be located on the north of the condominium building and immediately west of the tennis courts, which front Bradley Place. The building is designed and baffled so the intake air, exhaust air and engine exhaust all face the tennis courts. Two 3,000 gallon fuel tanks are proposed to be located on the west side of the property, beyond the setbacks. [Attorney: Maura Ziska, Esq.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SUBDIVISION #1-2017 The application of 89 Middle Road LLC, relative to property commonly known as **89 Middle Rd.**, described as lengthy legal description on file, located in the R-A Zoning District. The subject property is 135,907 square feet +/- of land, which calculates to 3.398 “Palm Beach acres.” The applicant is requesting approval to replat 11 existing platted lots from the Singer Addition and El Bravo Park plats into a new subdivision called El Bravo-Singer Annex, comprised of six (6) lots, which meet all of the lot area, width and depth zoning requirements for the lots in the R-A (Estate Residential) Zoning District. [Attorney: Gregory E. Young, Esq.]

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated June 1, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **E-mail Dated May 2, 2017 From Dana Landry**
- ▣ **Application as an attachment to the memorandum**

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Subdivision of Six Proposed Lots, 89 Middle Road

Date: June 1, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the proposed El Bravo – Singer Annex (a proposed subdivision constituting a Replat of Lots 3 and 5 and a portion of Lot 1 of El Bravo Park, as well as Lots 70, 72, 73, 74 and a portion of Lots 12, 13, 14, 15, 69 and 71 of the Singer Addition, together with a portion of Middle Road), creating 6 parcels (Lots A-F) to determine if the subdivision satisfies all local Code requirements.

GENERAL INFORMATION

Commonly referred to as “89 Middle Road” and formerly owned by John W. Kluge, the subject 3.398 Palm Beach acre site was conveyed to Columbia University after Mr. Kluge’s death in 2010, then subsequently purchased by the current owner (89 Middle Road LLC) in 2016. The property has been cleared of all residential improvements (with the exception of the landmarked home at 91 Middle Road), with the intent of subdividing/creating six new lots. The property is zoned R-A (Estate Residential) for single-family residential use on lots measuring at least 20,000 sq. ft. in size. All proposed lots comply with that standard (see attachments).

In order to subdivide property in Palm Beach, the owner must submit a plat meeting all requirements as outlined in the following Chapters of the Palm Beach Code of Ordinances and State Statutes:

- Zoning (Chapter 134), including land use and lot dimensional requirements.
- Subdivisions (Chapter 110), filing of plats, easement dedications, infrastructure improvements.
- Planning (Chapter 86), stormwater management.
- “Concurrency” (Chapter 30), Comprehensive Plan consistency, levels of service confirmation.
- Florida Statutes (F.S. 177), Land Boundaries, Platting.

The legal firm of Squire Patton Boggs (Gregory Young) has submitted required subdivision application materials, including survey details from Wallace Surveying, civil engineering plans from Gruber Consulting Engineers, Inc., and utility details from Jones & Conde, LLC. These plans have been attached herein for Council review. Collectively, they are intended to satisfy all Code requirements as identified on the previous page.

Typically, subdivisions are required to satisfy a myriad of issues in order to be approved. The present subdivision application does not require any street extension (which simplifies the process). Parcels B & C have frontage to existing Middle Road. The remaining four parcels all front on either El Bravo Way and/or South County Road. The property includes all or a portion of thirteen (13) platted lots and abandoned portions of Middle Road right-of-way. New easements, necessary for utility and drainage purposes will be created and dedicated as part of the replatting approval.

Infrastructure concurrency documents are required in order to subdivide property in Palm Beach. In this instance, a Concurrency Management Statement has been provided/issued by the following entities: FPL; Town of Palm Beach (sanitary sewer and solid waste); City of West Palm Beach; Solid Waste Authority for Palm Beach County; AT&T; Florida Public Utilities; Florida Department of Transportation; Palm Beach County Traffic Division and Comcast. To date the Town is continuing to work on drainage concurrency requirements with the Applicant. The Town's traffic consultant (American Consulting Engineers of Florida) is also continuing to review the proposed plat for Town traffic concurrency requirements. While Staff believes these two remaining concurrency determinations completed by June 14th, the proposed plat will have to be deferred if they remain unresolved.

The Town's Public Works Department has carefully reviewed all submitted plans and are recommending that a non-access line or strip be placed on the west side of proposed Lots A and F so that no vehicular access is allowed onto South County Road. If the Council concurs with Staff's recommendation on this issue, the proposed subdivision will have to be amended in a fashion that provides vehicular access to all lot from either Middle Road or El Bravo Way. Calvin Giordano & Associates, the Town's surveying consultant responsible for reviewing the proposed plat pursuant Chapter 177, Florida Statutes, is also continuing to work on its final review. While Staff anticipates having this completed by June 14th, the proposed plat will have to be deferred if this is also not completed by that date.

Attachments (include materials submitted with application)

cc: John C. Randolph, Town Attorney
H. Paul Brazil, Pubic Works Director
Gregory Young, Attorney for Owner

From: [Paul Castro](#)
To: [Kelly Churney](#); [Kathleen Ruderman](#)
Subject: FW: 89 Middle Road, Palm Beach FL - Subdivision
Date: Friday, May 05, 2017 9:41:34 AM

fyi

From: Tom Bradford
Sent: Tuesday, May 02, 2017 7:33 PM
To: kleid561@aol.com; Gail Coniglio <gailconig1@aol.com>; Danielle Moore <dukie85@aol.com>; Bobbie (Barbara) D. Lindsay Buck <lindsaybobbie@gmail.com>; Margaret Zeidman <heron1107@aol.com>; Julie Araskog <jaraskog@TownOfPalmBeach.com>
Cc: John Page <JPage@TownofPalmBeach.com>; Paul Castro <PCastro@TownofPalmBeach.com>
Subject: FW: 89 Middle Road, Palm Beach FL - Subdivision

MTC:

FYI

Thomas G. Bradford
Town Manager

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

From: Dana Landry [<mailto:dana.landry@wfp.com>]
Sent: Tuesday, May 02, 2017 12:46 PM
To: Tom Bradford <TBradford@TownofPalmBeach.com>
Cc: Dana Landry <dana.landry@wfp.com>; William Moody <william.moody@wfp.com>
Subject: 89 Middle Road, Palm Beach FL - Subdivision

Dear Mr. Bradford,

Could you distribute this letter to the Mayor and Town Council members?

Dear Mayor and Town Council Members,

As the owner of 577 South County Road, a property that abuts the Kluge Estate, I am writing to express my concerns regarding the condition of the demolished property located at 89 Middle Road and the hardship and inconvenience this project has caused to-date.

The construction noise and dirt/dust have eliminated the use of our back yard and pool area. The contractors have not put up appropriate barriers and screening to protect the neighbors from the construction. They have cut down a significant amount of trees and have had no regard to the surrounding neighbors. Their many, many construction vehicles are parked haphazardly on the neighboring streets and it often feels like we are living in the middle of a construction zone. This is the ESTATE SECTION!

Further, we would encourage the Town Council level to limit out of scale construction and density. It is our understanding that the developer is asking for a subdivision of six additional lots in addition to the landmarked Mizner home that fronts the ocean. We cannot imagine the future hardships of construction of six new residences based on what has happened so far. Not to mention that we believe this subdivision will impact the values of our homes due to several years of construction and increased density? Who comes to Palm Beach for that?

We support development, but only development that makes sense. Six additional homes in the estate section does not make sense. We have extreme concerns over preserving the uniformity of the historic and pristine estate section of this town, and we hope you do as well.

Sincerely,

Dana Landry

577 South County Road

April 21, 2017

BY HAND DELIVERY

Mr. Paul W. Castro
Zoning Administrator – AICP
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

**Re: Application for New Subdivision / Plat of El Bravo – Singer Annex (the “Replat”)
for 89 Middle Road, Palm Beach, Florida (the “Property”)
Town of Palm Beach Subdivision # 1 – 2017**

Dear Mr. Castro:

This firm represents 89 Middle Road LLC (“Owner”), which owns the Property and is “Applicant” in connection with the subject undertakings. Applicant’s representative and “Authorized Signatory” is Gregory E. Young – Phone Number 561-650-7200.

Attached please find plans and application materials regarding the present request, submitted on behalf of Owner. In accordance with your direction, we are filing this application as a Subdivision request in accordance with Chapter 110, Subdivision, of the Town of Palm Beach Code of Ordinances (“Chapter 110”). This request includes creation of new easements. Any existing easements which are intended to “survive” the Replat and any new easements are created and dedicated on the Replat.

The Property includes all or a portion of thirteen (13) platted lots and abandoned portions of the right-of-way previously designated at Middle Road. These component parcels are reflected on the Plat of the Singer Addition, which was recorded in 1922 (Plat Book 8, Page 81 – Public Records for Palm Beach County, Florida) – as to ten (10) of the platted lots and the abandoned portions of Middle Road, or the Plat of El Bravo Park, which was recorded in 1921 (Plat Book 8, Page 9 – Public Records for Palm Beach County, Florida) – as to three (3) of the platted lots. These parcels were ultimately assembled under the ownership of the late John W. Kluge and, following Mr. Kluge’s death in 2010, were owned by the Columbia University in the City of New York until purchased by Owner in 2016.

The Property is bounded on the south by El Bravo Way, on the west by South County Road, and on the north by the south terminus of Middle Road and other of the platted lots within the Plat of the Singer Addition (Plat Book 8, Page 81 – Public Records for Palm Beach County, Florida). We wish to advise you that the Boundary Survey referenced in item 3

BY HAND DELIVERY

below includes the legal description of the Property and a Vicinity Sketch (not to scale). In its present condition, the Property has been cleared of all residential improvements. Owner is actively removing driveways and certain other underground drainage and utility infrastructure.

The Property includes 135,907 square feet +/- of land area, which calculates to 3.120 acres or 3.398 "Palm Beach acres". Within the current process, Owner seeks to create six (6) new vacant platted lots – each in excess of 20,000 square feet and each otherwise complying with all property development regulations and dimensional requirements associated with the Town's R-A zoning district.

As required by Chapter 110 and otherwise further connection with the foregoing, we hereby submit to you the following documents for review and approval by the Town Council for the Town of Palm Beach:

1. A Subdivision Review Check Sheet – completed per our conversations;
2. Four (4) full sized copies of the proposed Plat of El Bravo – Singer Annex, as prepared by Wallace Surveying Corp. (**Exhibit A**);
3. One (1) full-sized version of the signed and sealed Boundary Survey of the Property, as prepared by Wallace Surveying Corp. (**Exhibit B**);
4. One (1) full-sized version of the Subdivision Plan reflecting dimensional compliance with the requirements of the R-A Zoning District within the Town of Palm Beach, as prepared by Smith and Moore Architects, Inc. (**Exhibit C**);
5. Four (4) signed and sealed sets of Construction Drawings, as prepared by Gruber Consulting Engineers, Inc. and Jones & Conde, LLC (**Exhibit D**);
6. Fourteen (14) mini-sets of the above items (2) – (5) (**Exhibit E**);
7. A Traffic Generation Statement prepared by Simmons & White (**Exhibit F**);
8. A letter/statement of traffic concurrency issued by Palm Beach County, Florida (**Exhibit G**);
9. A letter/statement of approval issued by the Florida Department of Transportation (**Exhibit H**);
10. A Concurrency Management Statement, as issued by Gruber Consulting Engineers and utility company and public concurrency letters/statements issued by the following (collectively, **Exhibit I**):
 - a. FPL;
 - b. Town of Palm Beach;
 - c. City of West Palm Beach;
 - d. Solid Waste Authority for Palm Beach County;
 - e. AT&T;
 - f. Florida Public Utilities; and
 - g. Comcast.
11. Construction Cost Estimate (**Exhibit J**);
12. Notice Affidavit and accompanying materials from the Palm Beach County Property Appraiser (**Exhibit K**);
13. Evidence of Authority for Gregory E. Young to act in the capacity of Authorized Signatory, for and on behalf of 89 Middle Road LLC (**Exhibit L**);
14. A check in the amount of \$11,615.92, representing the non-refundable filing and review fee associated with this application; and

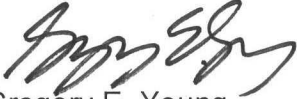
BY HAND DELIVERY

15. Other application materials as required for this matter and the requirements of Chapter 110.

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

Sincerely,

Squire Patton Boggs (US) LLP



Gregory E. Young

GEY:jws

Enclosures

cc: Mr. John Page

John C. Randolph, Esq.

Sir Peter J. Wood

Mr. Richard Mills

Adam Bulmer, Esq.

Mr. Rhon Ernest-Jones

Mr. Craig L. Wallace

Harold Smith, AIA

SUBDIVISION REVIEW CHECK SHEET

APPLICANT: 89 Middle Road LLC DATE: April 20, 2017

PROPERTY LOCATION: 89 Middle Road, Palm Beach, FL

SUBDIVISION NAME: El Bravo – Singer Annex

ENGINEER: Chad Gruber/Gruber Consulting Engineers, Inc.

		Submitted	Satisfactory	Not Required
A.	SUBMITTED DOCUMENTS: (INITIAL REVIEW) (SECOND REVIEW)			
1.	Plat <u>Craig Wallace/Wallace Surveying Corporation</u>	X		
2.	Survey <u>Craig Wallace/Wallace Surveying Corporation</u>	X		
3.	Construction Drawings <u>Chad Gruber/Gruber Consulting Engineers, Inc.</u>	X		
4.	Traffic Study <u>Simmons & White, Inc.</u>	X		
5.	Utility Company Letters Electric – Water – Phone – Gas – Cable _____	X		
6.	Nonrefundable Review Fee – \$1,000.00 ¹ _____	X		
7.	Construction Cost Estimate _____	X		
8.	Other _____	X		
B.	DOCUMENTS SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:			
1.	Proposed plan or replat shall conform to applicable State Statutes and ordinances of the Town of Palm Beach.			
2.	Construction drawings shall include, but not be limited to the following:			
a.	Streets			
1.	At minimum elevation of six (6) feet _____ N/A			X
2.	Street name _____ N/A			X
3.	Street lights, if provided _____ N/A			X
b.	Sidewalks, if provided _____ N/A			X
c.	Fire Hydrant locations _____ Existing			X
d.	Security structure locations, if applicable _____ N/A			X
e.	Proposed seawalls and docks, if applicable _____ N/A			X
f.	Utilities and Easements _____ (Included)	X		
g.	Landscape buffer areas, if applicable _____ N/A			X
3.	Traffic engineering study, including traffic control devices and sign locations, when required by the Building Official. _____ N/A			X
4.	Detailed construction plans meeting all applicable Governmental agency and Town standards. _____ (Included)	X		
5.	Soil bearing capacity tests, where applicable _____ N/A			X
6.	Topographics of existing land and proposed subdivision _____ (Included)	X		
7.	Current survey of existing land and existing buildings _____ (Included)	X		

Note: Chapter 20, “Subdivisions” of Town Code of Ordinance should be reviewed in detail to insure compliance with all regulations.

¹ In addition, Applicant is required to pay the additional fee which will be 2% of the estimated subdivision improvements plus either \$300 per platted lot or \$10 per front footage of the proposed platted lots, whichever is greater. Applicant will also be required to pay advertising cost and the cost recovery fees for traffic engineering concurrency and the surveyor.

C. DEPARTMENT REVIEW & COMMENTS (INITIAL REVIEW)

Please review all documents in relation to the function of your department only.

PUBLIC WORKS DEPARTMENT:

TOWN ENGINEER:

BUILDING & ZONING DEPARTMENT:

FIRE DEPARTMENT:

POLICE DEPARTMENT:

ARCHITECTURAL & LANDMARK COMMISSIONS:

TOWN MANAGER:

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT 89 MIDDLE ROAD LLC, A FLORIDA LIMITED LIABILITY COMPANY, OWNER OF THE LAND SHOWN HEREON AS **EL BRAVO - SINGER ANNEX**, BEING A PORTION OF GOVERNMENT LOT 2, A REPLAT OF LOTS 3 AND 5 AND A PORTION OF LOT 1 OF THE PLAT OF EL BRAVO PARK AS RECORDED IN PLAT BOOK 8, PAGE 9, AND A REPLAT OF LOTS 70, 72, 73, 74 AND A PORTION OF LOTS 12, 13, 14, 15, 69, AND 71 OF THE PLAT OF SINGER ADDITION TO PALM BEACH AS RECORDED IN PLAT BOOK 8, PAGE 81, TOGETHER WITH A PORTION OF MIDDLE ROAD, ACCORDING TO SAID PLAT OF SINGER ADDITION TO PALM BEACH, ALL AS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LYING IN SECTION 26, TOWNSHIP 43 SOUTH, RANGE 43 EAST, TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF LOT 74, SINGER ADDITION TO PALM BEACH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 81, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 89°51'57" EAST, ALONG THE NORTH LINE OF SAID LOT 74, A DISTANCE OF 130.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 74; THENCE NORTH 00°08'03" EAST, ALONG THE WEST LINE OF LOTS 69, 70 AND 71, ACCORDING TO SAID PLAT OF SINGER ADDITION TO PALM BEACH, A DISTANCE OF 137.80 FEET; THENCE SOUTH 89°51'57" EAST A DISTANCE OF 125.00 FEET TO A POINT ON THE EAST LINE OF SAID LOT 69; THENCE SOUTH 00°08'03" WEST, ALONG THE EAST LINE OF SAID LOTS 69 AND 70, A DISTANCE OF 42.90 FEET; THENCE SOUTH 89°51'57" EAST A DISTANCE OF 6.02 FEET TO A POINT OF CUSP ON A NON-TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 26.00 FEET, A CENTRAL ANGLE OF 60°00'00" AND A CHORD BEARING OF SOUTH 60°08'03" WEST; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 27.23 FEET; THENCE NORTH 89°51'57" WEST, ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVE, A DISTANCE OF 20.50 FEET; THENCE SOUTH 00°08'03" WEST A DISTANCE OF 34.00 FEET; THENCE SOUTH 89°51'57" EAST A DISTANCE OF 124.00 FEET; THENCE SOUTH 89°49'25" EAST A DISTANCE OF 27.84 FEET; THENCE SOUTH 43°41'55" EAST A DISTANCE OF 69.53 FEET; THENCE SOUTH 02°28'08" WEST A DISTANCE OF 104.73 FEET TO A POINT ON THE SOUTH LINE OF LOT 12, EL BRAVO PARK, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 8, PAGE 9, SAID PUBLIC RECORDS OF PALM BEACH COUNTY; THENCE NORTH 88°54'30" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 8.65 FEET; THENCE DEPARTING SAID SOUTH LINE, SOUTH 02°20'31" WEST A DISTANCE OF 133.29 FEET TO A POINT ON THE EAST LINE OF LOT 3 (ALSO BEING THE WEST LINE OF LOT 1) ACCORDING TO SAID PLAT OF EL BRAVO PARK; THENCE SOUTH 00°08'03" WEST, ALONG SAID EAST LINE, A DISTANCE OF 41.72 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH 88°54'30" WEST, ALONG THE SOUTH LINE OF LOTS 3 AND 5, ACCORDING TO SAID PLAT OF EL BRAVO PARK, A DISTANCE OF 400.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 5; THENCE NORTH 00°08'03" EAST, ALONG THE WEST LINE OF SAID LOT 5 AND THE WEST LINE OF AFOREMENTIONED LOT 74 ACCORDING TO SAID PLAT OF SINGER ADDITION TO PALM BEACH, A DISTANCE OF 275.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING IN ALL 3.120 ACRES, MORE OR LESS.

HAVE CAUSED THE SAME TO BE SURVEYED AND PLATTED AS SHOWN HEREON AND DO HEREBY DEDICATE OR RESERVE AS FOLLOWS:

UTILITY EASEMENT - THE UTILITY EASEMENT (U.E.) AS SHOWN HEREON IS HEREBY DEDICATED IN PERPETUITY FOR THE CONSTRUCTION AND MAINTENANCE OF UTILITY FACILITIES, INCLUDING CABLE TELEVISION SYSTEMS. THE INSTALLATION OF CABLE TELEVISION SYSTEMS SHALL NOT INTERFERE WITH THE CONSTRUCTION AND MAINTENANCE OF OTHER UTILITIES.

EL BRAVO WAY - AS PROVIDED FOR IN THE DEDICATION OF THE PLAT OF EL BRAVO PARK AS RECORDED IN PLAT BOOK 8, PAGE 9, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THE AREA SHOWN HEREON AS EL BRAVO WAY (20' PRIVATE ROAD EASEMENT) IS RESERVED FOR THE EXCLUSIVE USE OF THE OWNERS OF EL BRAVO PARK.

IN WITNESS WHEREOF, THE ABOVE-NAMED LIMITED LIABILITY COMPANY HAS CAUSED THESE PRESENTS TO BE SIGNED BY ITS MANAGER, THIS ____ DAY OF ____, 2016.

89 MIDDLE ROAD LLC,
A FLORIDA LIMITED LIABILITY COMPANY

WITNESS: _____ BY: _____
PETER J. WOOD, MANAGER

PRINTED NAME

WITNESS: _____

PRINTED NAME

ACKNOWLEDGEMENT

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME PERSONALLY APPEARED PETER J. WOOD, WHO IS PERSONALLY KNOWN TO ME, OR HAS PRODUCED _____ AS IDENTIFICATION, AND WHO EXECUTED THE FOREGOING INSTRUMENT AS MANAGER OF 89 MIDDLE ROAD LLC, A FLORIDA LIMITED LIABILITY COMPANY, AND ACKNOWLEDGED TO AND BEFORE ME THAT HE EXECUTED SUCH INSTRUMENT AS SUCH OFFICER OF SAID LIMITED LIABILITY COMPANY, AND SAID INSTRUMENT IS THE FREE ACT AND DEED OF SAID LIMITED LIABILITY COMPANY.

WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF ____, 2016.

MY COMMISSION EXPIRES: _____

SIGNATURE OF NOTARY PUBLIC

MY COMMISSION NO.: _____

NOTARY STAMP

PRINTED NAME OF NOTARY PUBLIC

MORTGAGEE'S JOINDER AND CONSENT

STATE OF ILLINOIS
COUNTY OF _____

THE UNDERSIGNED HEREBY CERTIFIES THAT IT IS THE HOLDER OF A MORTGAGE UPON THE PROPERTY DESCRIBED HEREON AND DOES HEREBY JOIN IN AND CONSENT TO THE DEDICATION OF THE LAND DESCRIBED IN SAID DEDICATION BY THE OWNER THEREOF AND AGREES THAT ITS MORTGAGE WHICH IS RECORDED IN OFFICIAL RECORDS BOOK 28224, PAGE 864, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SHALL BE SUBORDINATED TO THE DEDICATION SHOWN HEREON.

IN WITNESS WHEREOF, THE SAID CORPORATION HAS CAUSED THESE PRESENTS TO SIGNED BY ITS SENIOR VICE PRESIDENT AND ITS CORPORATE SEAL TO BE AFFIXED HEREON BY AND WITH THE AUTHORITY OF ITS BOARD OF DIRECTORS THIS ____ DAY OF ____, 2016.

THE NORTHERN TRUST COMPANY,
AN ILLINOIS BANKING CORPORATION

WITNESS: _____ BY: _____
CHERYL CULP, SENIOR VICE PRESIDENT

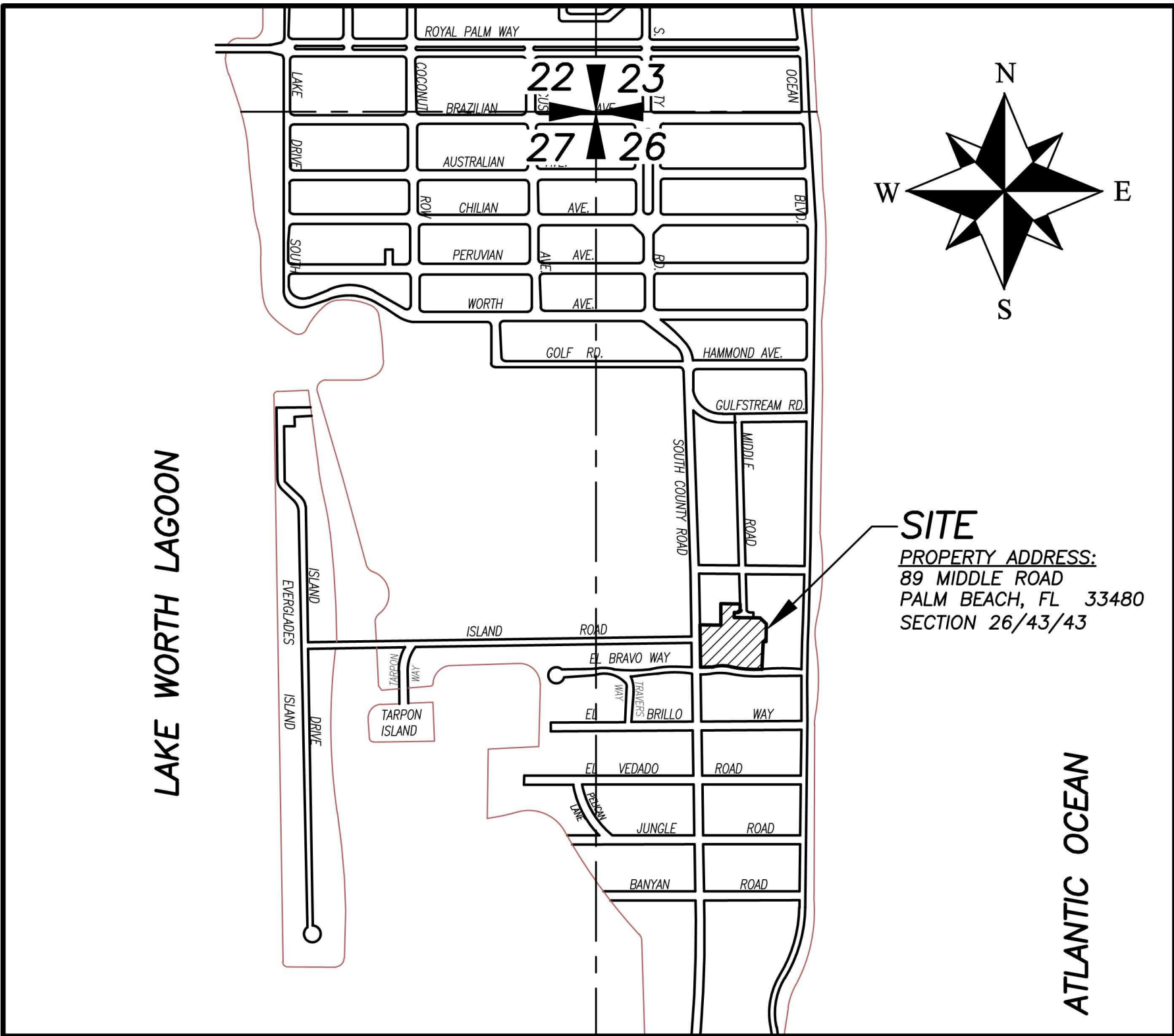
PRINTED NAME

WITNESS: _____

PRINTED NAME

El Bravo - Singer Annex

BEING A PORTION OF GOVERNMENT LOT 2, A REPLAT OF LOTS 3 AND 5 AND A PORTION OF LOT 1 OF THE PLAT OF EL BRAVO PARK AS RECORDED IN PLAT BOOK 8, PAGE 9, AND A REPLAT OF LOTS 70, 72, 73, 74 AND A PORTION OF LOTS 12, 13, 14, 15, 69, AND 71 OF THE PLAT OF SINGER ADDITION TO PALM BEACH AS RECORDED IN PLAT BOOK 8, PAGE 81, TOGETHER WITH A PORTION OF MIDDLE ROAD, ACCORDING TO SAID PLAT OF SINGER ADDITION TO PALM BEACH, ALL AS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LYING IN SECTION 26, TOWNSHIP 43 SOUTH, RANGE 43 EAST, TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA



VICINITY SKETCH N.T.S.

ACKNOWLEDGEMENT

STATE OF ILLINOIS
COUNTY OF _____

BEFORE ME PERSONALLY APPEARED CHERYL CLUP, WHO IS PERSONALLY KNOWN TO ME, OR HAS PRODUCED _____ AS IDENTIFICATION, AND WHO EXECUTED THE FOREGOING INSTRUMENT AS SENIOR VICE PRESIDENT OF THE NORTHERN TRUST COMPANY, AN ILLINOIS BANKING CORPORATION, AND SEVERALLY ACKNOWLEDGED TO AND BEFORE ME THAT SHE EXECUTED SUCH INSTRUMENT AS SUCH OFFICER OF SAID CORPORATION, AND THAT THE SEAL AFFIXED TO THE FOREGOING INSTRUMENT IS THE CORPORATE SEAL OF SAID CORPORATION AND THAT IT WAS AFFIXED TO SAID INSTRUMENT BY DUE AND REGULAR CORPORATE AUTHORITY, AND THAT SAID INSTRUMENT IS THE FREE ACT AND DEED OF SAID CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF ____, 2016.

MY COMMISSION EXPIRES: _____

SIGNATURE OF NOTARY PUBLIC

MY COMMISSION NO.: _____

NOTARY STAMP

PRINTED NAME OF NOTARY PUBLIC

SURVEYOR'S NOTES:

- ALL BEARINGS SHOWN HEREON ARE RELATIVE TO THE WEST LINE OF LOT 5, EL BRAVO PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 9, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND IS ASSUMED TO BEAR NORTH 00°08'30" EAST AND ALL OTHER BEARINGS ARE RELATIVE THERETO.
- BUILDING SETBACK LINES SHALL BE AS REQUIRED BY THE CURRENT BUILDING AND ZONING REGULATIONS OF THE TOWN OF PALM BEACH.
- NO BUILDING OR ANY KIND OF CONSTRUCTION OR TREES OR SHRUBS SHALL BE PLACED ON ANY EASEMENT WITHOUT PRIOR WRITTEN CONSENT OF ALL EASEMENT BENEFICIARIES AND APPLICABLE TOWN OF PALM BEACH APPROVALS OR PERMITS AS REQUIRED FOR SUCH ENCROACHMENTS.
- IN THOSE CASES WHERE EASEMENTS OF DIFFERENT TYPES CROSS OR OTHERWISE COINCIDE, DRAINAGE EASEMENTS SHALL HAVE FIRST PRIORITY, UTILITY EASEMENTS SHALL HAVE SECOND PRIORITY, ACCESS EASEMENTS SHALL HAVE THIRD PRIORITY, AND ALL OTHER EASEMENTS SHALL BE SUBORDINATE TO THESE WITH THEIR PRIORITIES BEING DETERMINED BY USE RIGHTS GRANTED.
- NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL, IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
- THIS INSTRUMENT PREPARED BY:
ROBERT J. CAJAL IN THE OFFICE OF
WALLACE SURVEYING CORPORATION
5553 VILLAGE BOULEVARD,
WEST PALM BEACH, FLORIDA 33407

89 MIDDLE ROAD SEAL:

NORTHERN TRUST SEAL:

TOWN SEAL:

REVIEWING SURVEYOR'S
SEAL:

SURVEYOR'S SEAL:

SHEET 1 OF 2

TOWN OF PALM BEACH APPROVAL

THE PLAT AS SHOWN HEREON HAS BEEN APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA AND THE TOWN DOES HEREBY FORMALLY ACCEPT THE OFFERS TO DEDICATE CONTAINED ON THE PLAT THIS DAY ____ OF ____, 2016.

THOMAS G. BRADFORD, TOWN MANAGER

REVIEWING SURVEYOR

ON BEHALF OF THE TOWN OF PALM BEACH, THE UNDERSIGNED, A LICENSED PROFESSIONAL SURVEYOR AND MAPPER, HAS REVIEWED THIS PLAT FOR CONFORMITY TO CHAPTER 177, PART 1, FLORIDA STATUTES AS REQUIRED BY SECTION 177.091 (1), FLORIDA STATUTES.

DATE: _____

BY: _____
STEVEN M. WATTS, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE NO. 4588

TITLE CERTIFICATION

WE, FIRST AMERICAN TITLE INSURANCE COMPANY, A TITLE INSURANCE COMPANY AS DULY AUTHORIZED TO DO BUSINESS IN THE STATE OF FLORIDA, DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TITLE TO THE HEREON DESCRIBED PROPERTY; THAT WE FIND THE TITLE TO THE PROPERTY IS VESTED IN 89 MIDDLE ROAD LLC, A FLORIDA LIMITED LIABILITY COMPANY; THAT THE CURRENT TAXES HAVE BEEN PAID; THAT ALL MORTGAGES NOT SATISFIED OR RELEASED OF RECORD NOR OTHERWISE TERMINATED BY LAW ARE SHOWN HEREON; AND THAT THERE ARE ENCUMBRANCES OF RECORD, BUT THOSE ENCUMBRANCES DO NOT PROHIBIT THE SUBDIVISION CREATED BY THIS PLAT.

DATED THIS ____ DAY OF ____, 2016.

GREGORY E. YOUNG - PARTNER
SQUIRE PATTON BOGGS (US) LLP,
AS AGENT FOR FIRST AMERICAN
TITLE INSURANCE COMPANY

SURVEYOR AND MAPPER CERTIFICATE

THIS IS TO CERTIFY THAT THE PLAT SHOWN HEREON IS A TRUE AND CORRECT REPRESENTATION OF SURVEY MADE UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION; THAT SAID SURVEY IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT PERMANENT REFERENCE MONUMENTS ("P.R.M.S.") AND MONUMENTS, ACCORDING TO SECTION 177.091(9), FLORIDA STATUTES, HAVE BEEN PLACED AS REQUIRED BY LAW; AND, FURTHER, THAT THE SURVEY DATA COMPLIES WITH ALL THE REQUIREMENTS OF CHAPTER 177, PART 1, FLORIDA STATUTES, AS AMENDED, AND THE ORDINANCES OF THE TOWN OF PALM BEACH, FLORIDA.

CRAIG L. WALLACE, P.S.M.
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATION NO. 3357

El Bravo - Singer Annex



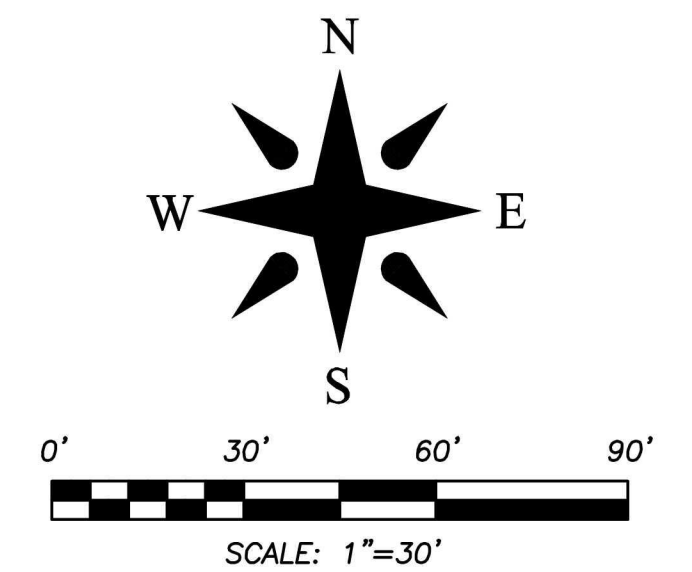
WALLACE SURVEYING
CORP., LICENSED BUSINESS # 4569
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

FIELD:	JOB NO.: 14-1338.14	F.B.	PG.
OFFICE: R.C./N.I.	DATE: APRIL 2017	DWG. NO. 14-1338-9	
C/K'D: C.W.	REF: 14-1338-1.DWG	SHEET 1 OF 2	

El Bravo - Singer Annex

BEING A PORTION OF GOVERNMENT LOT 2, A REPLAT OF LOTS 3 AND 5 AND A PORTION OF LOT 1 OF THE PLAT OF EL BRAVO PARK AS RECORDED IN PLAT BOOK 8, PAGE 10, AND A REPLAT OF LOTS 70, 72, 73, 74 AND A PORTION OF LOTS 12, 13, 14, 15, 69, AND 71 OF THE PLAT OF SINGER ADDITION TO PALM BEACH AS RECORDED IN PLAT BOOK 8, PAGE 81, TOGETHER WITH A PORTION OF MIDDLE ROAD, ACCORDING TO SAID PLAT OF SINGER ADDITION TO PALM BEACH, ALL AS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LYING IN SECTION 26, TOWNSHIP 43 SOUTH, RANGE 43 EAST, TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA

SHEET 2 OF 2

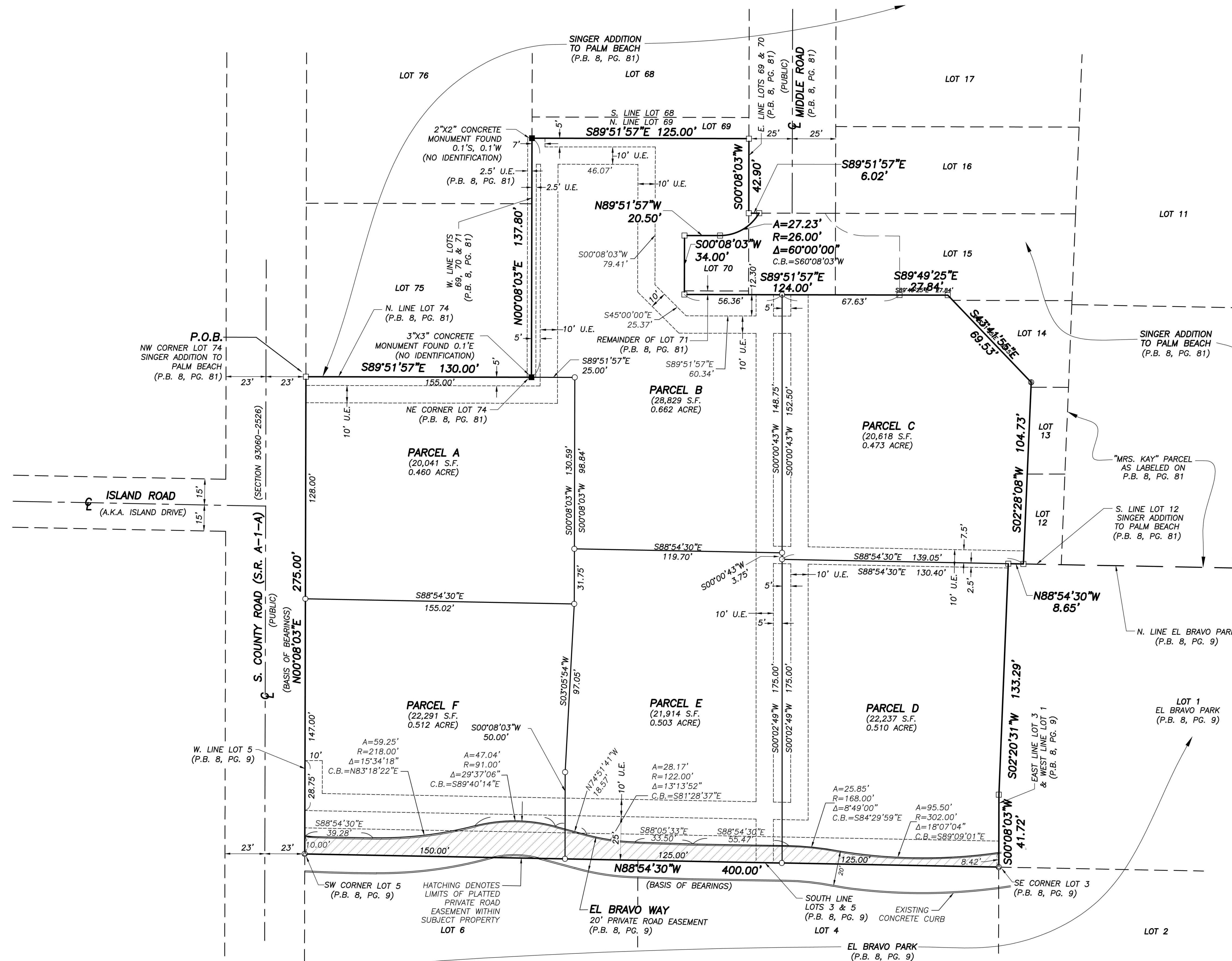


ABBREVIATIONS & SYMBOLS

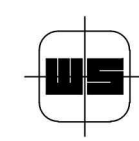
- = CONCRETE MONUMENT FOUND (AS NOTED)
- = 4"x4" CONCRETE MONUMENT WITH DISK STAMPED
- = SET 5/8" IRON ROD & CAP STAMPED "WALLACE LB #4569"
- = FOUND IRON ROD AND CAP (AS NOTED)
- ⊙ = SET MAG NAIL & DISK STAMPED "P.R.M. LB #4569"
- = ALSO KNOWN AS
- A.K.A. = ALSO KNOWN AS
- C, C/L = CENTERLINE
- D.B. = DEED BOOK
- ESMT. = EASEMENT
- L.A.E. = LIMITED ACCESS EASEMENT
- L.B. = LICENSED BUSINESS
- (M) = MEASURE
- O.R.B. = OFFICIAL RECORDS BOOK
- O/S = OFFSET
- P.B. = PLAT BOOK
- P.B.C. = PALM BEACH COUNTY
- PG. = PAGE
- P.R.M. = PERMANENT REFERENCE MONUMENT
- R.P.B. = ROAD PLAT BOOK
- R/W = RIGHT-OF-WAY
- U.E. = UTILITY EASEMENT
- W.C. = WITNESS CORNER

CURVE SYMBOLS

- A = ARC (LENGTH)
- R = RADIUS
- Δ = CENTRAL ANGLE
- C.B. = CHORD BEARING

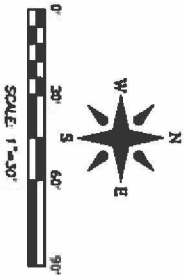
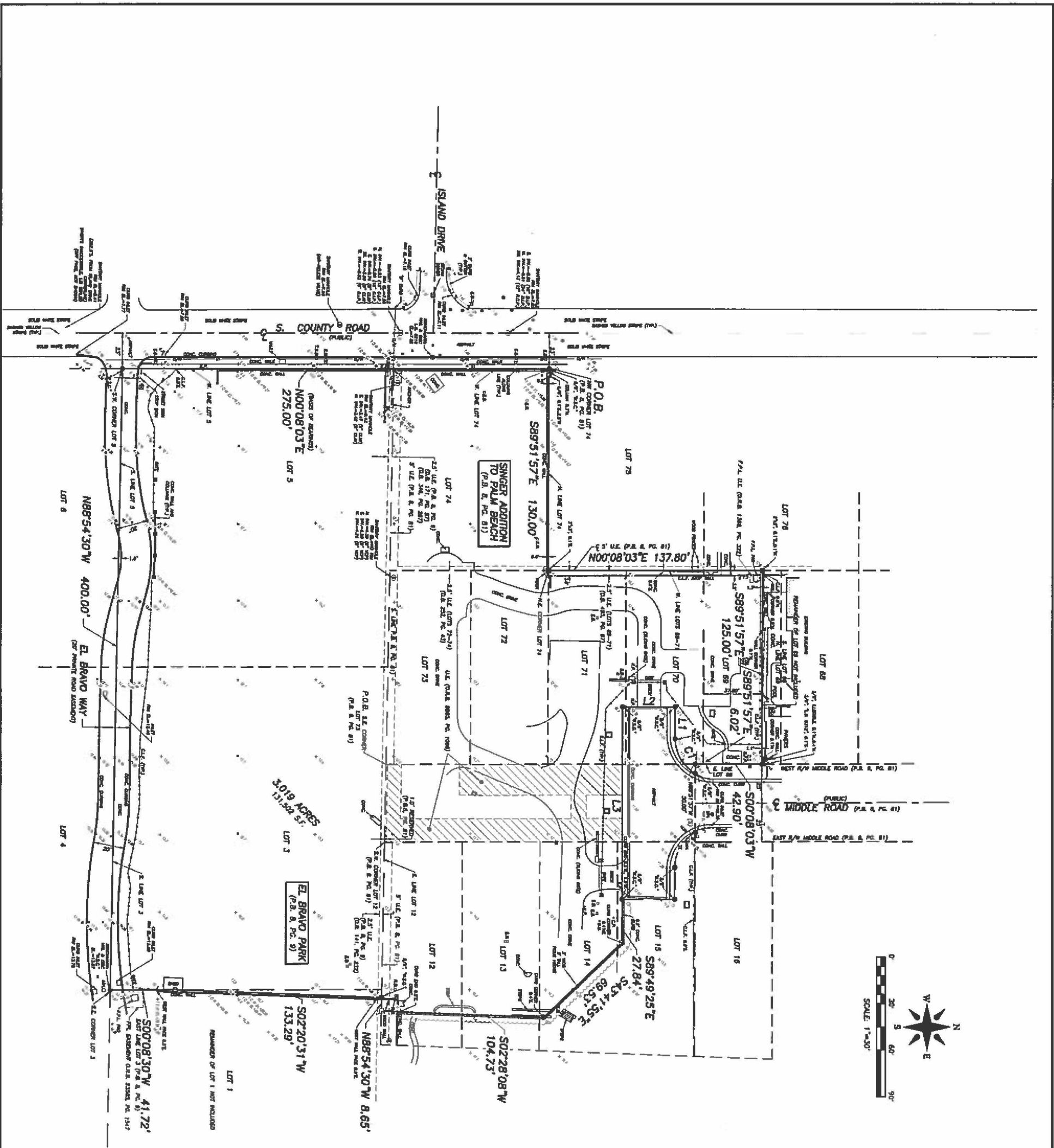


El Bravo - Singer Annex



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

FIELD:	JOB NO.: 14-1338.14	F.B.	PG.
OFFICE: R.C./N.I.	DATE: APRIL 2017	DWG. NO. 14-1338-9	
CK'D: C.W.	REF: 14-1338-1.DWG	SHEET 2 OF 2	



CURVE TABLE			
CURVE	RADIUS	ANGLE/LENGTH	DELTA ANGLE
C1	78.07'	27.23'	60.0000°

LINE TABLE	
LINE	DISTANCE
1	133.29'
2	104.73'
3	124.00'

BOUNDARY SURVEY FOR:

89 MIDDLE ROAD LLC, A FLORIDA LIMITED LIABILITY COMPANY

WILLIAMS SURVEYING

1000 WILSON AVENUE, SUITE 100, PALM BEACH, FLORIDA 33480 • (561) 844-4444

PROJ. NO.

DATE

CLIENT

14-1330-3

12/18/14

14-1330-15

BY

CHKD

APP'D

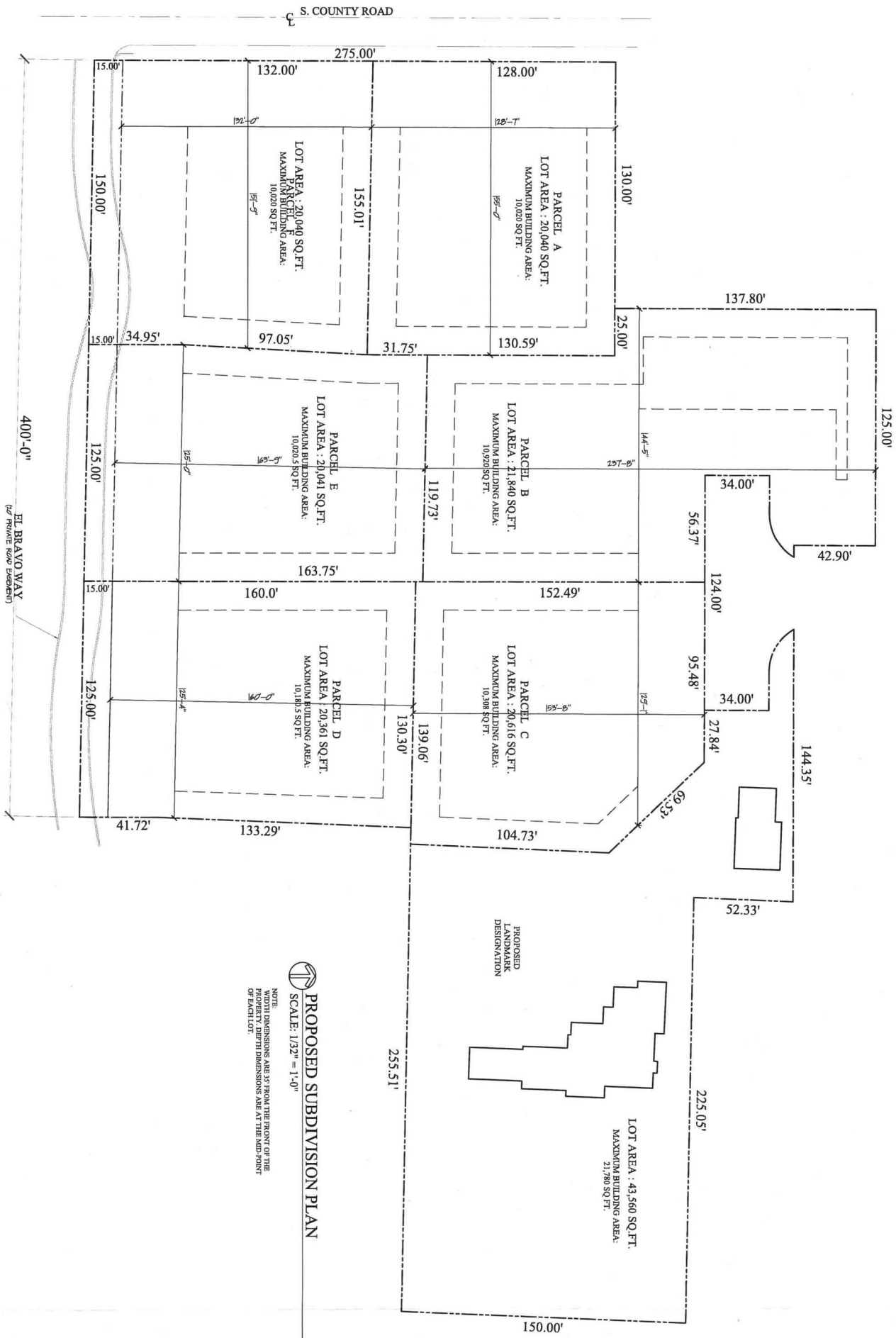
PG1/02

2

2

PG. NO.

PG. 2



NO. -	
DWG. BY:	
SHEET:	

ISSUED	2017-03-14
REGISTERED ARCHITECT 94957	
DANIEL KAHAN	
REGISTERED ARCHITECT 9393	
PETER G. PAPADOPOULOS	
REGISTERED ARCHITECT 1544	
JONATHAN C. MOORE	
REGISTERED ARCHITECT 8742	
HAROLD J. SMITH	
REGISTERED ARCHITECT 8742	

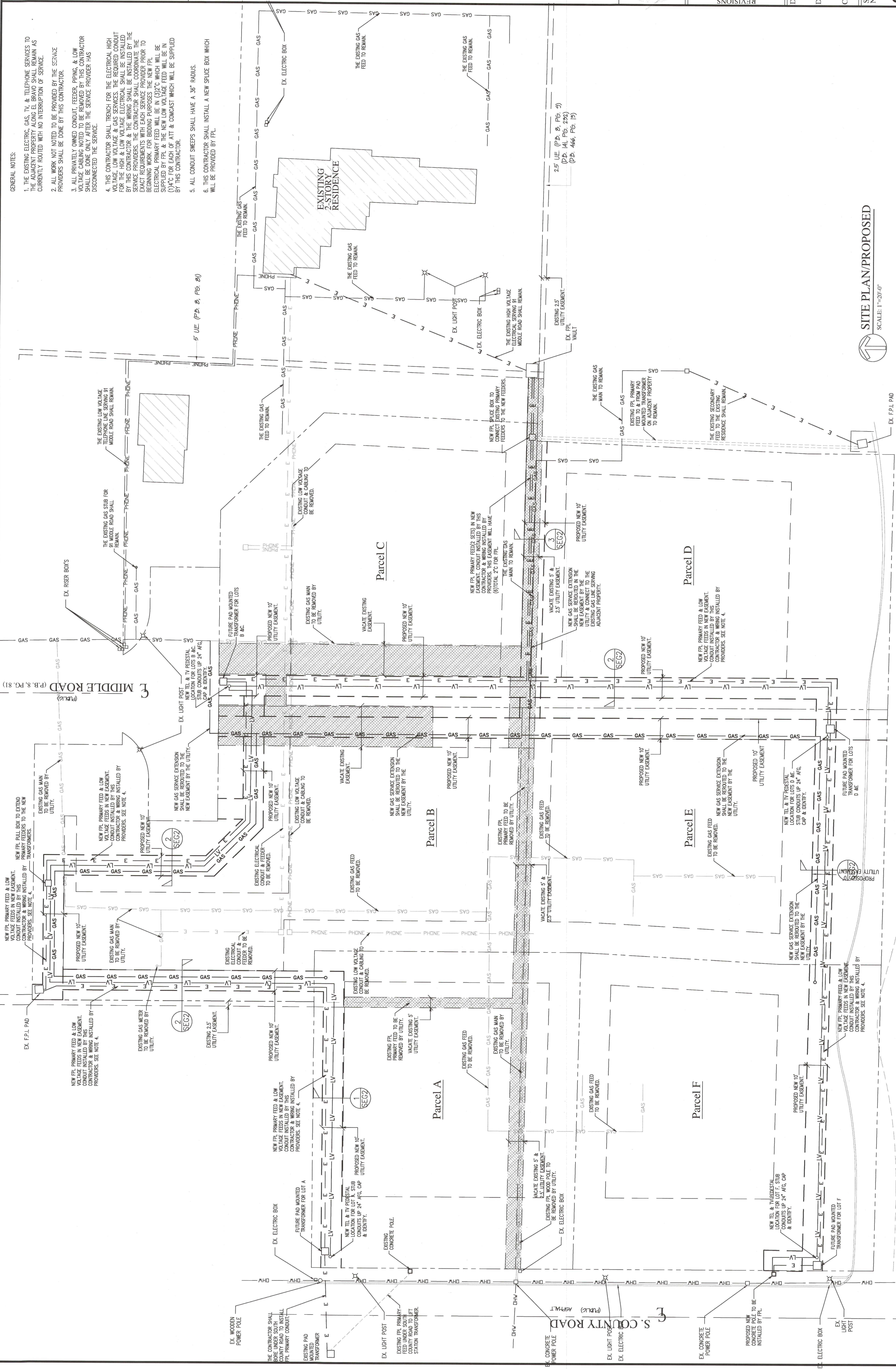
FLORIDA AAC
NO. 001285

LOT SPLIT/SUBDIVISION 89 MIDDLE ROAD PALM BEACH, FL.
SMITH AND MOORE ARCHITECTS, INC. • 1500 SOUTH OLIVE AVENUE WEST PALM BEACH, FLORIDA 33401 • TEL (561) 835-1888 FAX (561) 832-7015 •



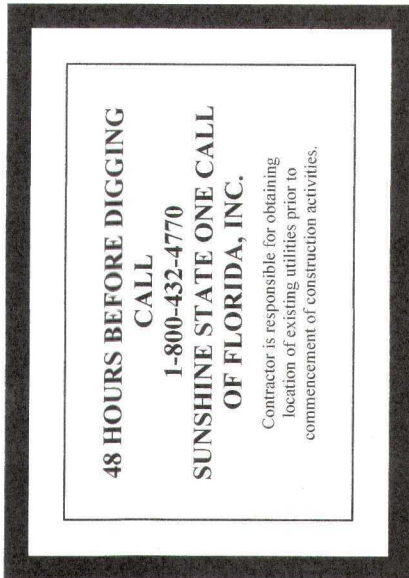
GENERAL NOTES:

1. THE EXISTING ELECTRICAL GAS, TV, & TELEPHONE SERVICES TO THE ADJACENT PROPERTY ALONG EL BRAVO SHALL REMAIN AS IS. ALL WORK NOT NOTED TO BE PROVIDED BY THE SERVICE PROVIDERS SHALL BE DONE BY THIS CONTRACTOR.
2. ALL WORK NOT NOTED TO BE PROVIDED BY THE SERVICE PROVIDERS SHALL BE DONE BY THIS CONTRACTOR.
3. ALL PRIVATELY OWNED CONDUIT, FEEDER, PIPING, & LOW VOLTAGE CABLEING NOTED TO BE REMOVED BY THIS CONTRACTOR SHALL BE DONE ONLY AFTER THE SERVICE PROVIDER HAS DISASSEMBLED THE SERVICE.
4. THIS CONTRACTOR SHALL TRENCH FOR THE ELECTRICAL HIGH VOLTAGE, LOW VOLTAGE & GAS SERVICES. THE REQUIRED CONDUIT FOR THE HIGH & LOW VOLTAGE ELECTRICAL SHALL BE INSTALLED BY THIS CONTRACTOR & THE WIRING SHALL BE INSTALLED BY THE SERVICE PROVIDER. THE CONTRACTOR SHALL COORDINATE THE EXISTING REQUIREMENTS WITH THE SERVICE PROVIDER TO BEGINNING WORK FOR BIDDING PURPOSES THE NEW FPE ELECTRICAL PRIMARY FEED WILL BE IN (3/2" WHICH WILL BE SUPPLIED BY FPL & THE NEW LOW VOLTAGE FEED WILL BE IN (1/4" FOR EACH OF ATT. & COMCAST WHICH WILL BE SUPPLIED BY THIS CONTRACTOR.
5. ALL CONDUIT SWEEPS SHALL HAVE A .36" RADIUS.
6. THIS CONTRACTOR SHALL INSTALL A NEW SPUICE BOX WHICH WILL BE PROVIDED BY FPL.



SITE PLAN/PROPOSED
SCALE: 1"=20'-0"

EL BRAVO WAY



Gruber Consulting
Engineers, Inc.
Certificate of Authorization No. 28190
2475 MERCER AVE., SUITE 305
WEST PALM BEACH, FL 33401
PHONE: 561.531.2041
FAX: 561.531.7229
office@gruberengineers.com

Project Information	
Project No.	2016-0109
Issue Date	02/22/2017
Scale	As Shown
Drawn By	KM
Checked By	CG

89 Middle Road
Palm Beach, Florida

Revisions	
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U.S. POST OFFICE
FL P.E. No. 57466
4/18/17
C. M. Gruber

Sheet No.
WS-4

TOWN OF PALM BEACH PUBLIC WORKS DEPARTMENT REVISIONS:	DATE:	APPROVED:	STANDARD	DRAWING NO.
			SANITARIUM WHOLE	28
			NOTES:	
			APPROVED: <i>Boyle</i>	EFFECTIVE:
			TOTAL SHEETS: 1	7-54

1. PRECAST CONCRETE TYPE II 4000 P.S.I. 2. JOINTS ON EQUAL AT ALL RISE JOINTS (1/2" RISE) WITH WIDTH AT JOINTS 1/4" THE WALL THICKNESS) WITH GROUT ON INSIDE AND OUTSIDE 3. ALL OPENINGS SHALL BE SEALED WITH A WATERPROOF NON-SHRINKING GROUT 4. ALL MANHOLES SHALL BE CONSTRUCTED TO DIRECT INFLUENT INTO FLOW STREAM 5. 1 FT. HOLES ARE PERMITTED. 6. ALL PIPE HOLES SHALL BE PRECAST OR CORE-DROLLED. 7. APPROVED RUBBER FOOT MUST BE USED WITH PVC PIPE. 8. INSIDE DROPS SHALL NOT BE DESIGNED TO EXCEED 1.80 FEET AND NOT CONSTRUCTED TO EXCEED 2.00 FEET. 9. ALL INSIDE DROPS SHALL BE 14"-15" FOR 8" PIPE 14"-17" FOR 10" PIPE 10. MANHOLE SHALL BE COATED WITH "GODREPS" TOW COAL TAR EPOXY OR EQUAL EXTERIOR WALLS ONE COAT & INTERIOR WALLS TWO COATS. 11. OUTSIDE DROP REQUIRED OVER 3.0' 12. MANHOLE FABRIC SHALL BE IN ACCORDANCE WITH A.S.T.M.-C-478. LATEST EDITION.
--

TOWN OF PALM BEACH PUBLIC WORKS DEPARTMENT	STANDARD SANITARY MANHOLE	DRAWING NO. 21	DATE 1/24/94
		APPROVED: <i>[Signature]</i> TOWN ENGINEER	EFFECTIVE 1/24/94
		REVISIONS	
		DATE	
		DATE	

[illegible]

TABLE 100			
TABLE OF MATERIALS AND CONSTRUCTION STANDARDS RESIDENTIAL ACCESS AND LOCAL STREETS			
COMPONENT (1)	DESCRIPTION MATERIALS (2)	CONSTRUCTION REQUIREMENTS EXPOSE (2) METHOD (3)	NOTES
A	ASPHALTIC CONCRETE	1-1/2" ONE (1) LIFT	TACK COAT REQUIRED WITH MULTIPLE LIFTS
	ASPHALTIC CONCRETE	1-1/2" TWO (2) LIFT	
B	LIKESOCK	8"	SEE DETAIL DRAWINGS FOR TRUCK COAT NOTATION
	CRUSHED CONCRETE	6"	
C	SURGRADE	12"	

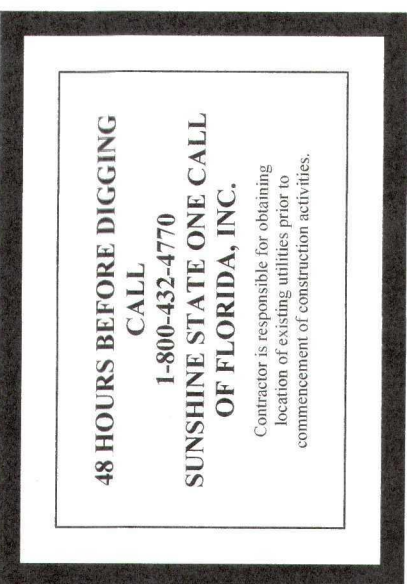
(1) A = BASEMENT
C = SURGRADE

(2) ALL DIMENSIONS REFER TO FINISHED THICKNESS.

(3) COMPACTED TO AT LEAST PER MAXIMUM DENSITY PER
ASTM C 94-68.

TOWN OF PALM BEACH PUBLIC WORKS DEPARTMENT		TABLE 100	DRAWING NO.
REVISIONS	DATE		
APPROVED: <i>[Signature]</i>			EFFECTIVE: 7/74
TOTAL ENGINEER			

[illegible]



STANDARD WATER & SEWER SEPARATION
(F.A.C. 62-555.374, EFFECTIVE 08/28/2003)

PER F.A.C. 62-555.311, AUGUST 28, 2003:

"The minimum horizontal separation distance between any existing or proposed treatment plant process piping, conveying either raw, partially treated, or finished effluent, and any existing or proposed water main or sewer shall be at least 10 feet. If the water main or sewer is located within the right-of-way of a public water system and that has an inside diameter of three inches or greater, the minimum horizontal separation distance shall be at least 15 feet."

- 1. HORIZONTAL SEPARATION BETWEEN UNDERGROUND WATER MAINS AND SANITARY OR STORM SEWERS, WASTEWATER OR STORMWATER FORCE MAINS, RECLAIMED WATER PIPELINES, AND UNDERGROUND AND UNDERGROUND SYSTEMS
 - (a) NEW OR RELOCATED UNDERGROUND WATER MAINS SHALL BE LAID TO PROVIDE A HORIZONTAL DISTANCE OF AT LEAST THREE FEET BETWEEN THE OUTSIDE OF THE WATER MAIN AND THE OUTSIDE OF ANY EXISTING OR PROPOSED STORM SEWER, STORMWATER MAIN, OR WASTEWATER FORCE MAIN. EXISTING UNDERGROUND WATER MAINS CONTAINING RECLAIMED WATER REGULATED UNDER PART II OF CHAPTER 62-810, F.A.C.
 - (b) NEW OR RELOCATED, UNDERGROUND WATER MAINS SHALL BE LAID TO PROVIDE A HORIZONTAL DISTANCE OF AT LEAST THREE FEET BETWEEN THE OUTSIDE OF THE WATER MAIN AND THE OUTSIDE OF ANY EXISTING OR PROPOSED VACUUM-TYPE SANITARY SEWER.
 - (c) NEW OR RELOCATED, UNDERGROUND WATER MAINS SHALL BE LAID TO PROVIDE A HORIZONTAL DISTANCE OF AT LEAST THREE FEET BETWEEN THE OUTSIDE OF THE WATER MAIN AND THE OUTSIDE OF ANY EXISTING OR PROPOSED STORM SEWER, STORMWATER FORCE MAIN, WASTEWATER FORCE MAIN, OR PIPELINE CONVEYING CONVECTED WASTEWATER.
 - (d) NEW OR RELOCATED, UNDERGROUND WATER MAINS SHALL BE LAID TO PROVIDE A MINIMUM HORIZONTAL SEPARATION DISTANCE BETWEEN WATER MAINS AND UNDERGROUND WATER MAINS OF AT LEAST SIX INCHES ABOVE THE TOP OF THE SEWER.
 - (e) NEW OR RELOCATED, UNDERGROUND WATER MAINS SHALL BE LAID TO PROVIDE A HORIZONTAL DISTANCE OF AT LEAST TEN FEET BETWEEN THE OUTSIDE OF THE WATER MAIN AND THE OUTSIDE OF ANY EXISTING OR PROPOSED "WATER AND DISPOSAL SYSTEM" AS DEFINED IN SECTION 381.006(2)(2), F.S., AND RULE 64C-6.002, F.A.C.
 - (f) THE CITY OF WEST PALM BEACH'S MINIMUM HORIZONTAL SEPARATION REQUIREMENT FOR WATER MAINS AND SEWERS SHALL BE THE SAME AS THE CITY OF WEST PALM BEACH'S REQUIREMENT FOR WATER MAINS AND SEWERS. THE CITY OF WEST PALM BEACH'S REQUIREMENT MAY BE APPROVED ON A CASE BY CASE BASIS AND MUST MEET MINIMUM REQUIREMENTS FOR THE CITY OF WEST PALM BEACH. THE CITY OF WEST PALM BEACH'S REQUIREMENT SHALL BE APPROVED PRIOR TO INSTALLATION.

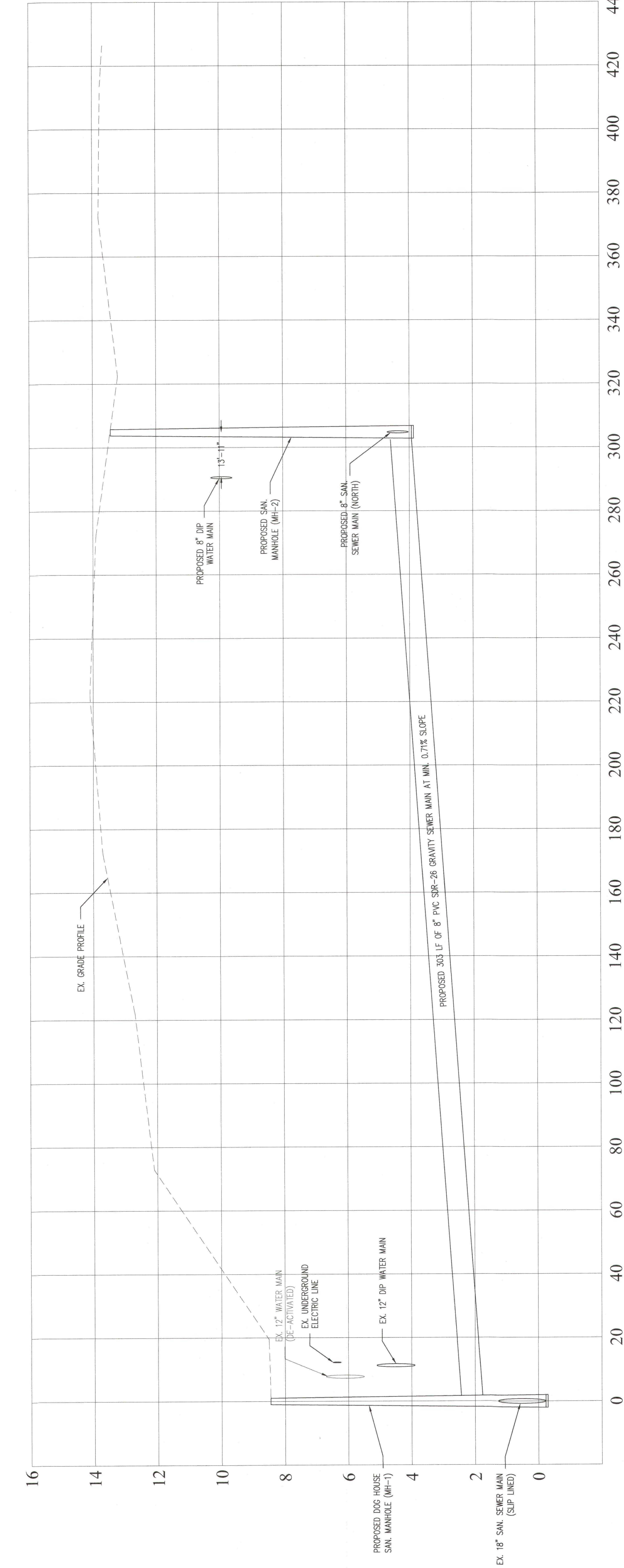
CONTINUED ON GN-2.1

REVISED	GENERAL NOTES - STANDARD WATER & SEWER SEPARATION	STANDARD
09/28/2016	(F.A.C. 62-555.374)	GN-2
ISSUED 2016	CITY OF WEST PALM BEACH.	

[illegible][illegible][illegible]

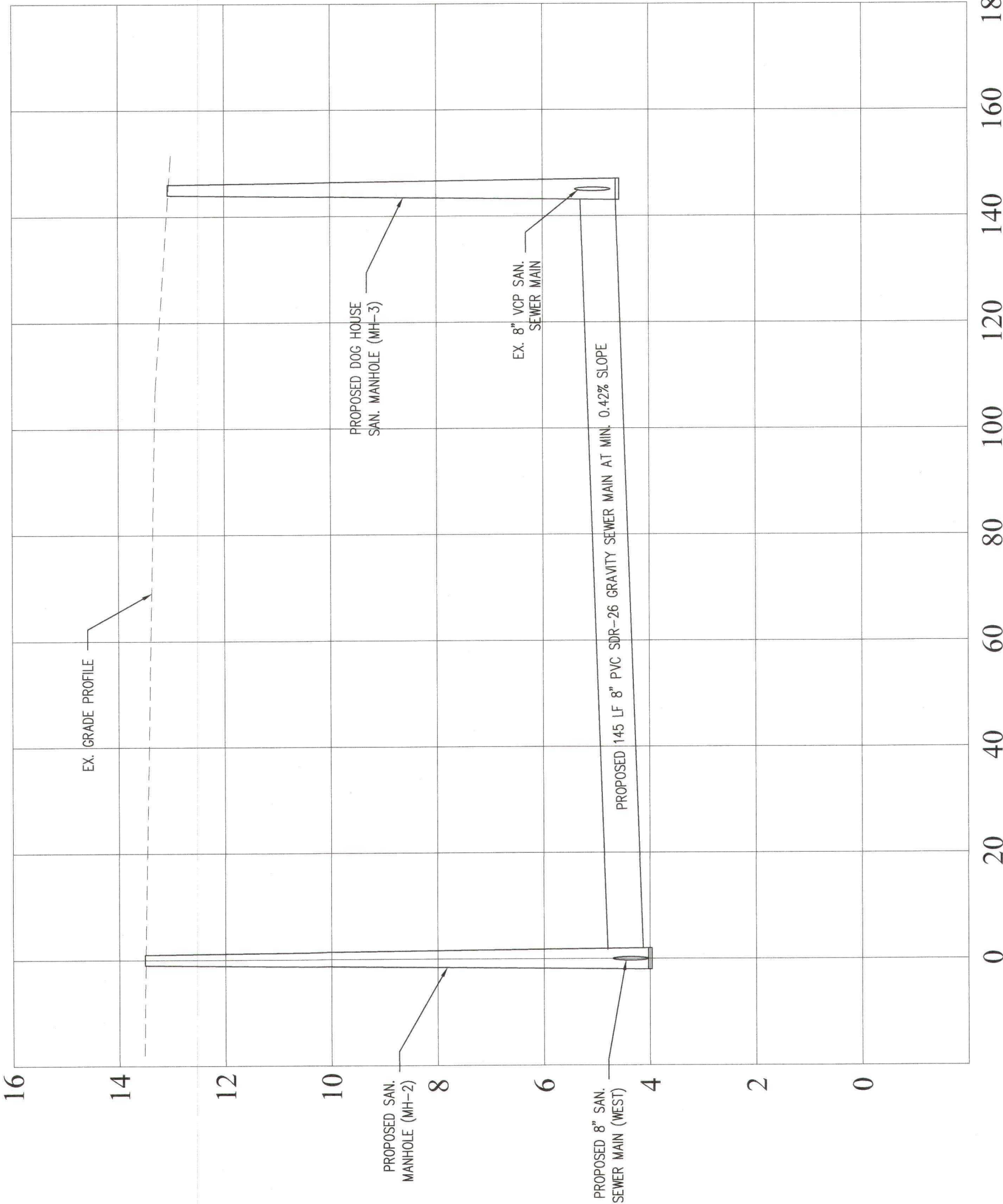
	STANDARD DETAIL
REVISIONS 1. ISSUED JUN 2016 2016	PRESSURE PIPE - SAMPLING POINT CITY OF WEST PALM BEACH
ISSUED JUN 2016 2016	P-111

[illegible]



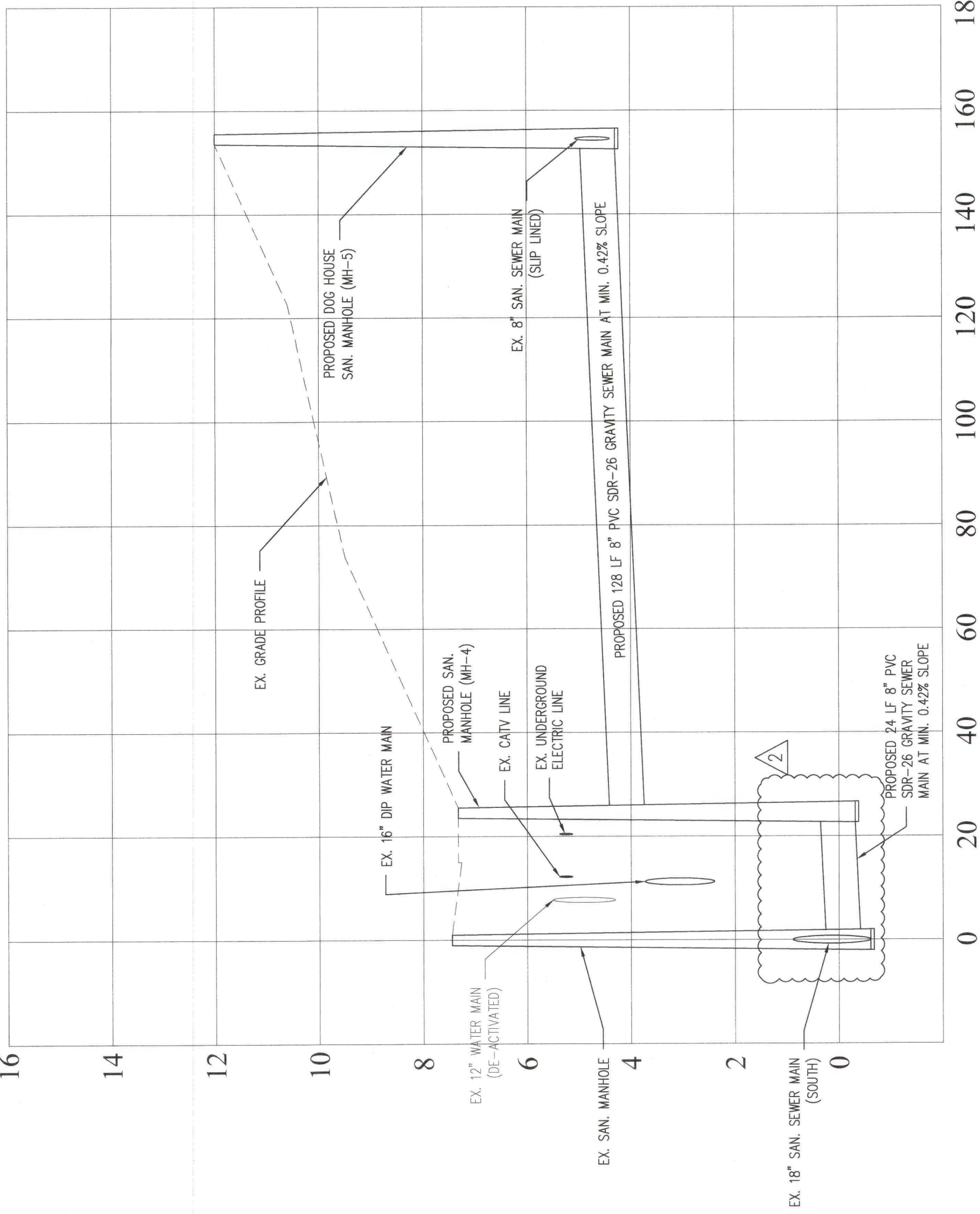
Profile View (MH-1 to MH-2)

Scale: 1" = 20' Horiz./1" = 2' Vert.



Profile View (MH-2 to MH-3)

Scale: 1" = 20' Horiz./1" = 2' Vert.



Profile View (MH-4 to MH-5)

Scale: 1" = 20' Horiz./1" = 2' Vert.

48 HOURS BEFORE DIGGING
CALL
1-800-4-A- Dig
SUNSHINE STATE ONE CALL
OF FLORIDA, INC.
Contractor is responsible for obtaining
location of all existing utilities prior to
commencement of excavation activities.



Gruber Consulting
Engineers, Inc.
Certificate of Authorization No. 28190
2475 MERCER AVE., SUITE 305
WEST PALM BEACH, FL 33411
PHONE: 561.317.2041
FAX: 561.317.7239
office@grubercngineers.com

Project Information	
Project No.	2016-0109
Issue Date	02/22/2017
Scale	1" = 20'
Drawn By	KM
Checked By	CG

Water & Sewer Main Relocation Plan For:

Existing Property

89 Middle Road

Palm Beach, Florida

Revisions	
1	03/27/2017
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WS-2

Sheet No.

03/27/17
REVISE SEWER MAIN FROM MH-1
TO MH-2 AND MH-2 TO MH-3

03/29/17
ADJUST PROFILES PER TOWN OF
PALM BEACH COMMENTS

Plan Background from Composite Site
Plan by Smith and Moore Architects
Received 9/15/16
© 2017 Gruber Consulting Engineers, Inc.

Water & Sewer Main Relocation Plans

for

Proposed Subdivision

at

89 Middle Road

Palm Beach, Florida

48 HOURS BEFORE DIGGING
CALL
1-800-432-4770
SUNSHINE STATE ONE CALL
OF FLORIDA, INC.
Contractor is responsible for obtaining
all permits and for the safety and
completion of construction activities.

Gruber Consulting
Engineers, Inc.
Certificate of Authorization No. 28190

2475 MERCEK AVE., SUITE 305
WEST PALM BEACH, FL 33401
PHONE: 561.312.2041
FAX: 561.537.7229
office@grubercngineers.com

Project Information	
Project No.	2016-0109
Issue Date	02/22/2017
Scale	1" = 20'
Drawn By	KM
Checked By	CG

Water & Sewer Main Relocation Cover Sheet For:

89 Middle Road

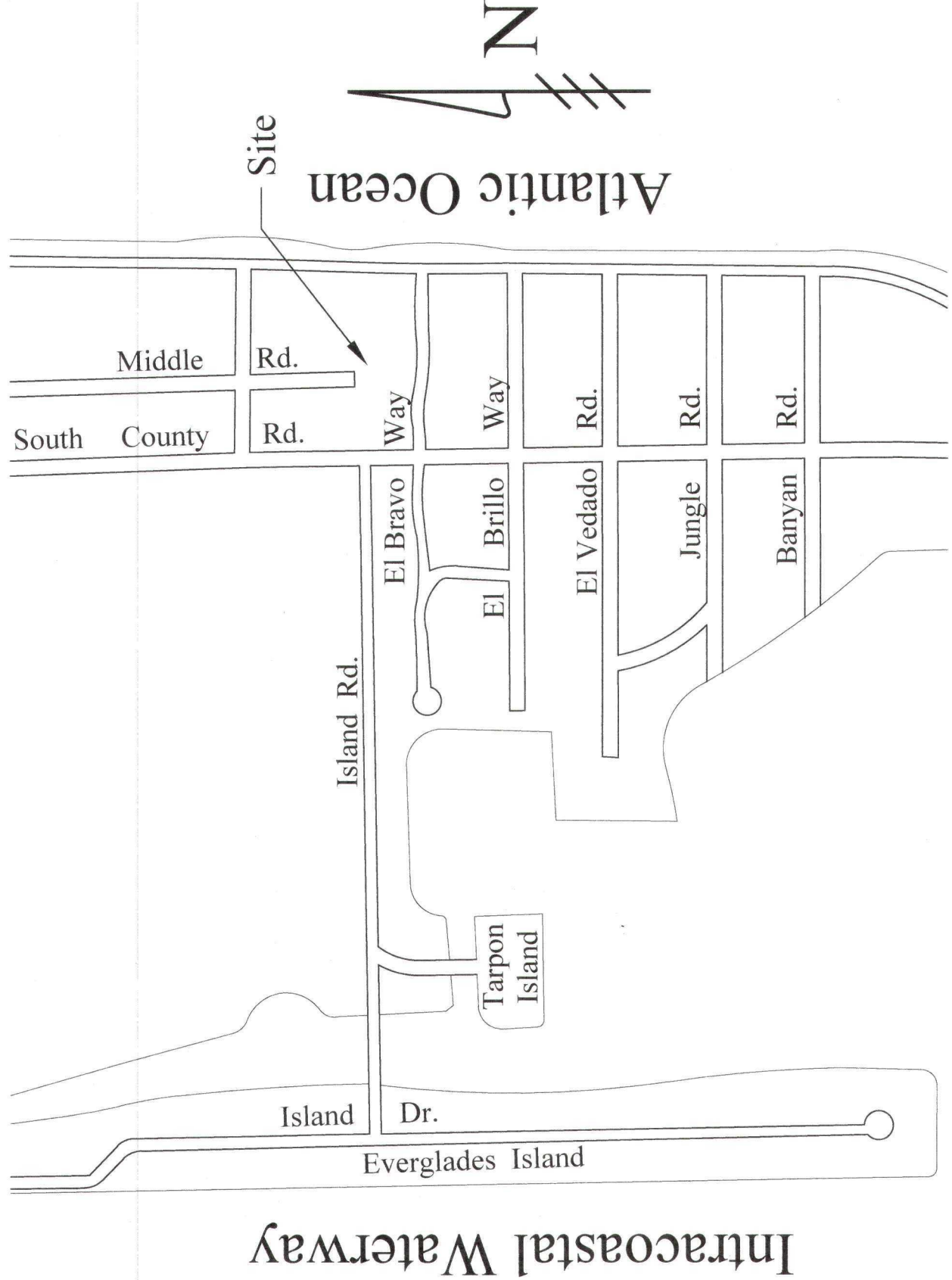
Palm Beach, Florida

Revisions	
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Chief M. Gruber
7/18/17
P.E. No. 57066

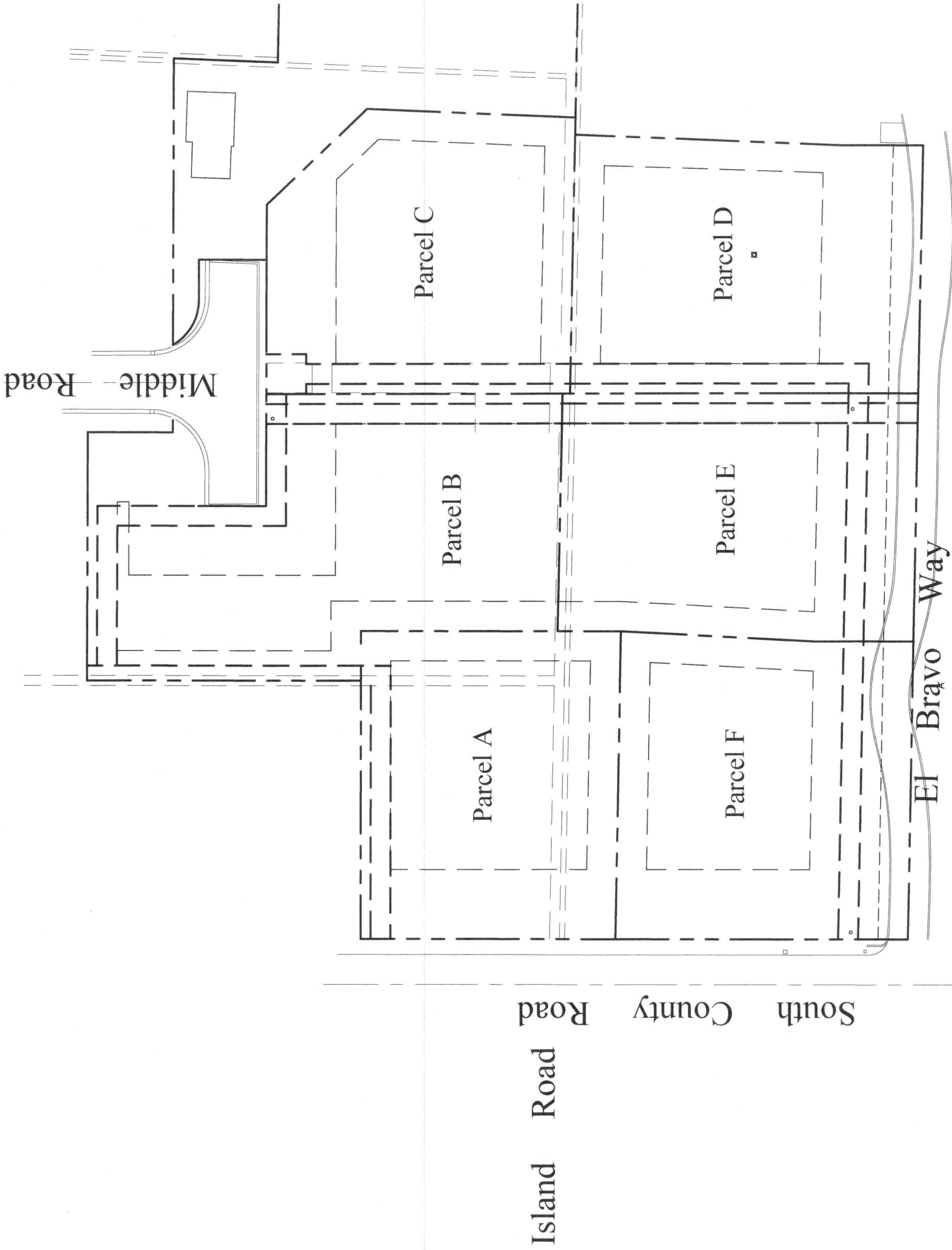
Sheet No.

WS-0



Location Map

N.T.S

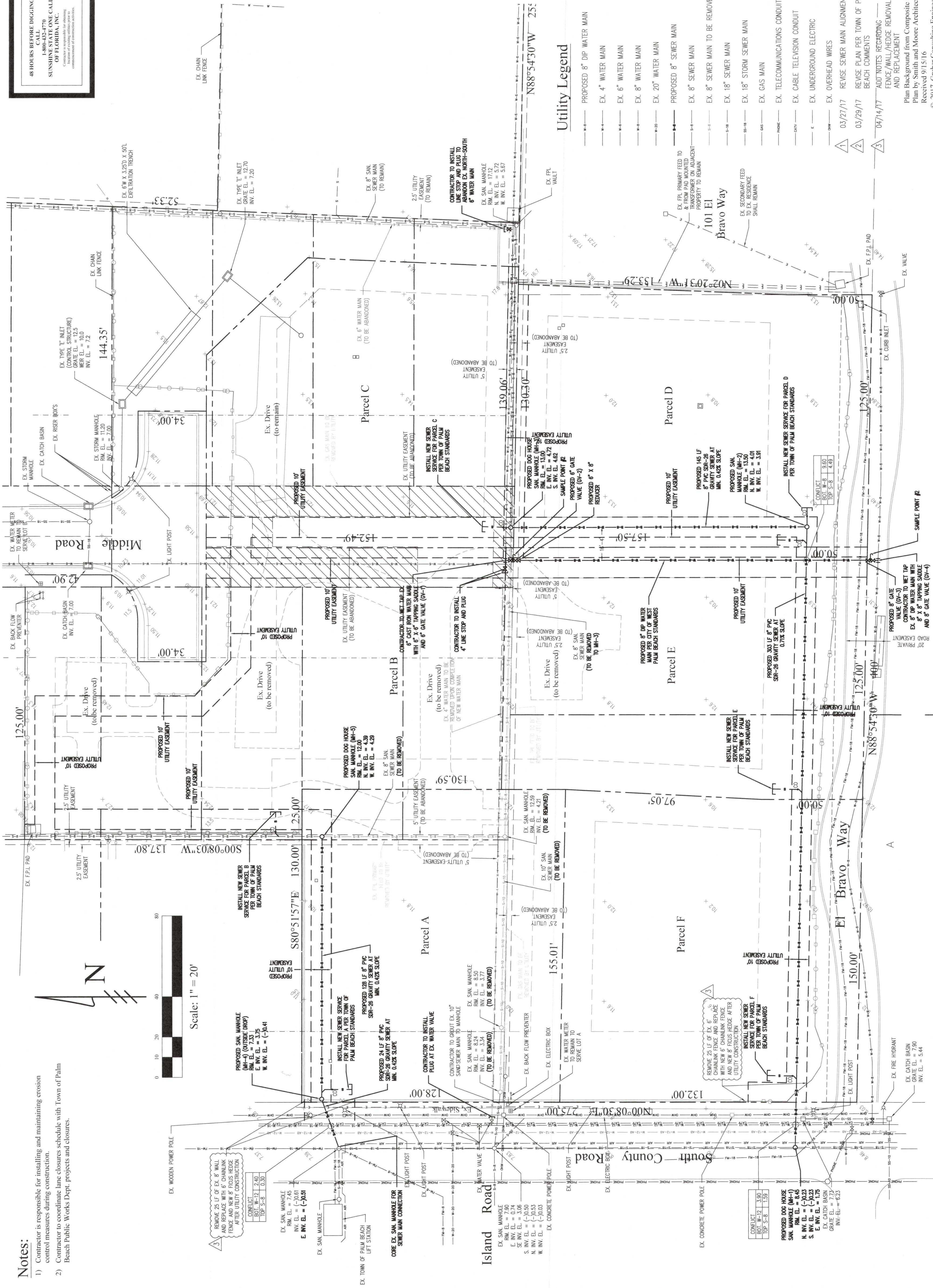


Overall Site Plan

Scale: 1" = 100'

Notes:

- Contractor is responsible for installing and maintaining erosion control measures during construction.
- Contractor to coordinate lane closures schedule with Town of Palm Beach Public Works Dept. projects and closures.



48 HOURS BEFORE DIGGING
1-800-432-7770
SUNSHINE STATE ONE CALL
OF FLORIDA, INC.
Contractor is responsible for obtaining
commitment of construction activities.



Gruber Consulting
Engineers, Inc.
Certificate of Authorization No. 28190
275 MARKER AVE., SUITE 305
WEST PALM BEACH, FL 33401
PHONE: 561.712.2041
FAX: 561.712.2929
office@gruberengineers.com

Project Information	
Project No.	2016-0109
Scale	1" = 20'
Issue Date	02/22/2017
Drawn By	KM
Checked By	CG

Water & Sewer Main Relocation Plan For:
Existing Property
Palm Beach, Florida
89 Middle Road

Revisions	
1	03/27/2017
2	05/29/2017
3	04/14/2017
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Chad M. Gruber
Professional Engineer
No. 11817
Exp. 12/31/2016

Sheet No.
WS-1

Utility Legend

- PROPOSED 8" DIP WATER MAIN
- EX. 4" WATER MAIN
- EX. 6" WATER MAIN
- EX. 8" WATER MAIN
- EX. 20" WATER MAIN
- PROPOSED 8" SEWER MAIN
- EX. 8" SEWER MAIN
- EX. 8" SEWER MAIN TO BE REMOVED
- EX. 18" SEWER MAIN
- EX. 18" STORM SEWER MAIN
- EX. GAS MAIN
- EX. TELECOMMUNICATIONS CONDUIT
- EX. CABLE TELEVISION CONDUIT
- EX. UNDERGROUND ELECTRIC
- EX. OVERHEAD WIRES
- 03/27/17 REVISE SEWER MAIN ALIGNMENT
- 03/29/17 REVISE SEWER MAIN ALIGNMENT
- 04/14/17 ADD NOTES REGARDING FENCE/WALL/HEDGE REMOVAL AND REPLACEMENT

Plan Background from Composite Site
Plan by Smith and Moore Architects
Received 9/15/16
© 2017 Gruber Consulting Engineers, Inc.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - Other

Agenda Title

DECLARATION OF USE AGREEMENT

SPECIAL EXCEPTION #9-2017 WITH SITE PLAN REVIEW AND VARIANCE The application of Old Guard Society of Palm Beach; relative to property commonly known as **165 Bradley Place**, described as lengthy legal description on file; located in the C-TS Zoning District. Special Exception With Site Plan Review and Variance approval was granted at April 12, 2017 Town Council meeting, with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. [Attorney: Maura Ziska]

Presenter

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

ATTACHMENTS:

- ❑ **Memorandum from John Page dated June 1, 2017**
- ❑ **Proposed Declaration of Use Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Special Exception #9-2017 with Site Plan Review and Variance, Proposed Declaration of Use Agreement for The Old Guard Society of Palm Beach, 165 Bradley Place

Date: June 1, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the proposed Declaration of Use Agreement as modified by Staff.

GENERAL INFORMATION

At the April 12, 2017 meeting, the Council conditionally approved the subject application to allow the Old Guard Society to locate its club at 165 Bradley Place. As part of the approval, the applicant is required to enter into a Declaration of Use Agreement which outlines the conditions of approval.

Staff has made minor changes to the applicant's draft Declaration of Use Agreement which are identified in add/delete format (attached). The applicant's attorney, Maura Ziska, has reviewed Staff's proposed changes. There remains one issue that the Applicant wants to address with the Council. The Club wants to modify Condition No. 1 in the Agreement to allow longer hours of operation for the Club for other activities such as card games. Both Staff and the Applicant are prepared to address the proposed Agreement at the meeting.

If you have any questions about the proposed Agreement please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

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

cc: Jay Boodheshwar, Deputy Town Manager
Veronica W. Close, Asst. Director, Planning, Zoning & Building
Susan A. Owens, Town Clerk
Paul Castro, Zoning Administrator
Maura Ziska, Esq.
zf & pf

DECLARATION OF USE AGREEMENT

between

THE TOWN OF PALM BEACH

and

OLD GUARD SOCIETY OF PALM BEACH

June 2017

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

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ARTICLE IV	CONDITIONS.....4
ARTICLE V	VOLUNTARY AGREEMENT.....5
ARTICLE VI	REMEDIES FOR VIOLATION.....5
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DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ____ day of _____, 2017 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called "the Town") and THE OLD GUARD SOCIETY OF PALM BEACH, 165 Bradley Place, Palm Beach, Florida 33480 (hereinafter called "~~Tenant~~ the Club"), which terms "the Town" and "~~the Club~~ ~~Tenant~~" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH :

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

WHEREAS, ~~Tenant~~ The Club is a ~~private club which is a permitted~~ Special Exception use in the C-TS Zoning District ~~with Special Exception approval~~; and

WHEREAS, the Town Council conditionally approved Special Exception Number 9-2016 with Site Plan Review and Variance on April 12, 2017 which approved the ~~Tenant~~ Special Exception with Site Plan Review to open the Club as a ~~private club~~ at the above referenced location and a the Variance to eliminate the requirement for ten (10) additional off-street parking spaces based on the principle of equivalency calculation; and

WHEREAS, all of the representations made herein are true and accurate and the approval of the Special Exception with Site Plan Review and Variance are conditioned upon the representations made herein and all of the conditions herein imposed; and

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

ARTICLE I

RECITALS

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

ARTICLE II

REPRESENTATION OF LEASE

~~Tenant~~ The Club has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or

referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated herein will violate any restriction, court order or agreement to which ~~Tenant~~ the Club or the Land are subject.

ARTICLE III

PRIVATE CLUB USE

The use (the Club) that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number 9-2017 with Site Plan Review and Variance and approved by Town Council on April 12, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval"). The set of plans which are part of Special Exception Number 9-2017 with Site Plan Review and Variance conditional approval, and as identified on sheet drawings A000 and A100 prepared by MP Design & Architecture, Inc., stamp dated February 24, 2017, may not be deviated from unless prior Special Exception approval is granted by the Town Council.

~~The use that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number # 9-2017 and approved by Town Council on April 12, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval").~~

ARTICLE IV

CONDITIONS

The approval to allow ~~a private club~~ the Club to operate is based ~~conditioned~~ upon the following conditions:

- 1) Hours shall be limited from noon to 2:30 p.m. and 5:00 p.m. to 11:00 p.m. Monday through Saturday.
- 2) The maximum membership ~~to the Club~~ shall be 100 people.
- 3) The maximum number of members and guests during lunch (noon to 2:30 p.m.) shall not exceed 20 people.
- 4) The number of evening events shall be limited to one time per month from November 1st to ~~M~~May 1st with the exception of December ~~in~~ during which the Club can have a maximum of two (2) events that month.
- 5) Valet parking is required for all night events. A valet parking permit from the Police Department shall be required and the valet stand shall be located on the subject property and not on any surrounding streets.
- 6) No music shall be allowed.
- 7) The ~~applicant~~ Club shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject property.

ARTICLE V

VOLUNTARY AGREEMENT AND HOLD HARMLESS

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

ARTICLE VI

REMEDIES FOR VIOLATION

1. ~~Upon determination by the Town Council of a violation of any of the terms or conditions of this Agreement that is based on competent substantial evidence, Tenant the Club shall pay to the Town a liquidated amount of \$2,000 per violation. On the occurrence and finding by the Town Council of a third violation that is based on competent substantial evidence, the Town Council at a future meeting may rescind the approval of the use.~~

~~In the event Tenant disputes the determination of the Town Council that a violation of this Agreement has occurred, Tenant may appeal their its decision to the Circuit Court in and for Palm Beach County, Florida.~~

2. ~~In addition to the above, the Town and/or Tenant shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered provided in the Town's Code of Ordinances; and (c) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County for the State of Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non performance of this Agreement, or any of its covenants, agreements, terms or conditions, the prevailing party be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the whomever prevails, either before or as a result of litigation, including appeals.~~

1. Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this Agreement or any other provision in the Town Code of Ordinances, and upon notice in writing from the Town to the Club and the Club's representative of said violation(s) and the date upon which said violations(s) shall be corrected, owner or owner's successor or assigns shall pay to the TOWN a liquidated amount of \$2,000 per violation. Said liquidated amount shall accrue on a per day basis for each day a violation of this agreement exists. In addition, in the event a violation remains uncorrected beyond the date noticed for correction by the Director of the Planning, Zoning and Building Department, this Agreement may be reconsidered by the Town Council at a future meeting upon thirty days notification to the owner. The Town Council may, upon a finding of violation, alter this Agreement or rescind the approval of the use.

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

2. The Town shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered in the Town's Code of Ordinances; and (c) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County for the State of Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non-performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

ARTICLE VII

PROVISIONS TO RUN WITH THE CLUB LAND/RECORDING

This Agreement shall NOT run with the Land and shall be binding upon ~~the Tenant the Club~~ only and shall terminate upon the termination of ~~Tenant's~~ the Club's ~~Elease and/or business tax receipt~~, or rescission of approval by the Town Council. This Agreement shall be recorded by the ~~Tenant Club~~ in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Agreement shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VIII

ENTIRE AGREEMENT

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

ARTICLE IX

EFFECTIVE DATE

The Effective Date of this Agreement shall be the day upon which this Agreement is executed by the last party to sign the Agreement.

ARTICLE X

MISCELLANEOUS

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

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

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

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

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

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

Signed, sealed and delivered
In the presence of:

THE TOWN OF PALM BEACH

Print Name: _____

By: _____
Gail Coniglio, Mayor

Print Name: _____

By: _____
Richard Kleid, President

Print Name: _____

Print Name: _____

By: _____
Thomas Bradford, Town Manager

Print Name: _____

TENANT THE CLUB

OLD GUARD SOCIETY
OF PALM BEACH

Print Name: _____

By: _____
Its: _____

Print Name: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by Richard Kleid, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by Thomas Bradford, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of
_____, 2017, by _____, on behalf of Old Guard
Society of Palm Beach. He/She is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

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

By: _____
John C. Randolph, Esquire

EXHIBIT "A"
LEGAL DESCRIPTION:

PARCEL NO. 1: A PART OF LOT 4 OF SECTION 15, TOWNSHIP 43 SOUTH, RANGE 43 EAST, BEGINNING AT A CERTAIN STAKE ON THE EAST SHORE OF LAKE WORTH, 8 CHAINS AND 30 LINKS NORTH OF THE SECTION LINE BETWEEN SECTIONS 15 AND 22, TOWNSHIP AND RANGE AFORESAID, SAID STAKE MARKING THE LINE BETWEEN LAND FORMERLY BELONGING TO CHAS. I. CRAGIN AND ROSWELL K. BROWN, AND UPON WHICH IS ALSO A LARGE PALMETTO TREE NEAR THE LAKE SHORE; RUNNING NORTH FROM SAID STAKE 6 RODS ALONG THE LAKE SHORE; THENCE EAST TO THE EAST LINE OF SECTION 15 IN THE CENTER OF COUNTY ROAD; THENCE SOUTH ALONG THE SECTION LINE IN THE CENTER OF THE COUNTY ROAD 6 RODS TO A POINT; THENCE WEST PARALLEL WITH THE NORTH LINE HEREOF TO THE EAST SHORE OF LAKE WORTH, AND THE POINT OF BEGINNING; TOGETHER WITH ALL AND SINGULAR THE RIPARIAN RIGHTS THEREUNTO BELONGING OR IN ANYWISE APPERTAINING IN THE WATERS OF LAKE WORTH, BEING THE SAME LAND DESCRIBED IN AND CONVEYED BY DEED FROM DORINGA H. BRELSFORD TO NETTIE STEINART, DATED APRIL 18, 1917 FILE APRIL 19, 1920 AND RECORDED IN DEED BOOK 127, AT PAGE 463, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, EXCEPTING FROM THE

ABOVE ALL THAT PART SITUATE, LYING AND BEING EAST OF THE CENTER LINE OF BRADLEY PLACE, A HIGHWAY, AS NOW LAID OUT AND IN USE ACROSS SAID LANDS, THE PROPERTY HEREBY CONVEYED BEING MORE ACCURATELY DESCRIBED AS FOLLOWS: BEGINNING AT A CROSS CHISELED IN THE CONCRETE SEA WALL ON THE EAST SHORE OF LAKE WORTH 547.80 FEET NORTH OF THE SECTION LINE BETWEEN SECTIONS 15 AND 22, TOWNSHIP 43 SOUTH OF RANGE 43 EAST; THENCE RUN EASTERLY ALONG THE SOUTH LINE OF THE ABOVE DESCRIBED PROPERTY 473.79 FEET TO A ONE INCH IRON PIPE DRIVEN IN THE WEST PROPERTY LINE OF BRADLEY PLACE; THENCE CONTINUE EASTERLY 15 FEET TO THE CENTER LINE OF BRADLEY PLACE AFORESAID; THENCE NORTHERLY ALONG THE CENTER LINE OF SAID BRADLEY PLACE WITH AN ANGLE OF 89° 43' 30" FROM WEST TO NORTH, A DISTANCE OF 99 FEET TO A POINT; THENCE WESTERLY ALONG THE NORTH LINE OF THE ABOVE DESCRIBED PROPERTY WITH AN ANGLE OF 90° 16' 30" FROM SOUTH TO WEST, A DISTANCE OF 15 FEET TO A PIPE DRIVEN ON THE WEST PROPERTY LINE OF BRADLEY PLACE AFORESAID, CONTINUING WESTERLY ALONG SAID ABOVE DESCRIBED LINE A DISTANCE OF 468.07 FEET TO A CROSS CHISELED IN THE CONCRETE SEA WALL ON THE EAST SHORE OF LAKE WORTH, THENCE SOUTHERLY ALONG THE SHORE OF LAKE WORTH, A DISTANCE OF 99.12 FEET TO THE POINT OF BEGINNING, TOGETHER WITH ALL AND SINGULAR THE RIPARIAN RIGHTS THEREUNTO BELONGING OR IN ANYWISE APPERTAINING IN OR UNDER THE WATERS OF LAKE WORTH, AND TOGETHER WITH ANY AND ALL RIGHTS OF THE GRANTOR INCLUDING REVERSIONARY RIGHTS, IF ANY, IN THAT PORTION OF BRADLEY PLACE INCLUDED IN THE BOUNDARIES HEREIN DESCRIBED; SUBJECT TO THE RIGHTS OF THE PUBLIC IN SAID BRADLEY PLACE. THERE IS EXCEPTED FROM THE FOREGOING THAT PORTION OF THE PROPERTY HEREIN ABOVE DESCRIBED WHICH WAS CONDEMNED BY THE TOWN OF PALM BEACH, FLORIDA, FOR THE PURPOSE OF WIDENING BRADLEY PLACE IN C. L. CASE 2993, IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA, THE FOLLOWING, TO-WIT: COMMENCING AT THE N.E. CORNER OF LOT 20 OF BUNGALOW PARK AS SHOWN ON THE PLAT OF SAID BUNGALOW PARK, ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF PALM BEACH COUNTY, FLORIDA, RUN A WESTERLY DIRECTION ALONG THE NORTH LINE OF SAID LOT 20, TO THE INTERSECTION WITH A LINE 35 FEET WEST OF AND PARALLEL TO THE CENTER LINE OF BRADLEY PLACE AS NOW LAID OUT; THENCE RUN IN A NORTHERLY DIRECTION ALONG A LINE 35 FEET WEST OF AND PARALLEL TO THE CENTER LINE OF BRADLEY PLACE TO A POINT 10 FEET SOUTH OF THE NORTH SIDE OF OLEANDER AVENUE; THENCE IN AN EASTERLY DIRECTION ALONG A LINE PARALLEL TO THE NORTH LINE OF OLEANDER AVE., AND 10 FEET SOUTH THEREOF TO THE INTERSECTION WITH THE WEST LINE OF BRADLEY PLACE AS NOW LAID OUT; THENCE IN A SOUTHERLY DIRECTION ALONG THE WEST LINE OF BRADLEY PLACE AS NOW LAID OUT, TO THE POINT OF BEGINNING.

PARCEL NO. 2: BEING A PART OF GOVERNMENT LOT 4 OF SECTION 15, TOWNSHIP 43 SOUTH, RANGE 43 EAST, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST SHORE OF LAKE WORTH AT THE SOUTHWEST CORNER OF THE TRACT OF LAND CONVEYED BY ROSWELL K. BROWN AND WIFE TO DORINDA H. BRELSFORD, BY DEED DATED JUNE 14, 1893 AND RECORDED IN BOOK "G" OF DEEDS, PAGE 453, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, WHICH TRACT OF LAND IS NOW KNOWN AS OCEAN PARK, H.W. ROBBINS ADDITION TO PALM BEACH, FLORIDA; THENCE RUNNING EASTERLY ALONG THE SOUTH LINE OF SAID OCEAN PARK, APPROXIMATELY 475 FEET TO THE WEST LINE OF BRADLEY PLACE SOUTHERLY ALONG THE WEST LINE OF BRADLEY PLACE 66 FEET; THENCE WESTERLY ON A LINE PARALLEL TO AND 66 FEET SOUTH FROM THE SOUTH LINE OF SAID OCEAN PARK, A DISTANCE OF APPROXIMATELY 475 FEET TO THE WATERS OF LAKE WORTH; THENCE NORTHERLY 66 FEET TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS THEREUNTO BELONGING OR IN ANYWISE APPERTAINING. HOWEVER, EXCEPTING THE EASTERLY 20 FEET THEREOF HERETOFORE CONDEMNED BY THE TOWN OF PALM BEACH, FLORIDA, FOR THE WIDENING OF BRADLEY PLACE, CONVEYING TO THE GRANTEE, HOWEVER, ALL REVERSIONARY RIGHTS OF THE GRANTOR IN AND TO SAID TWENTY FEET OF LAND. SAID PARCELS NO. 1 AND 2 SUBJECT TO RIGHT OF WAY EASEMENT FOR LAKE TRAIL AND ALSO SUBJECT TO A PERPETUAL EASEMENT OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY, TO-WIT: THE SOUTH 10 FEET OF THE NORTH 74 FEET OF ALL THAT CERTAIN LAND CONVEYED TO FRED MIKKELSON AND HAROLD E. PENTLER, CO-PARTNERS, DOING BUSINESS AS MIKKELSON-PENTLER VENTURE, , ON THE 9TH DAY OF OCTOBER, 1962, BY TWO DEEDS, ONE RECORDED IN OFFICIAL RECORD BOOK 843, PAGE 946, AND THE OTHER IN OFFICIAL RECORD BOOK 843, PAGE 948, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS.

TOGETHER WITH: LOTS 23 AND 24, BUNGALOW PARK, AN ADDITION TO THE TOWN OF PALM BEACH, FLORIDA, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 7, PAGE 26.

TOGETHER WITH: LOTS 25, 26 AND 27, ACCORDING TO THE PLAT OF BUNGALOW PARK, AN ADDITION TO THE TOWN OF PALM BEACH, FLORIDA AS RECORDED IN PLAT BOOK 7, AT PAGE 26, IN AND FOR THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PARCEL OF LAND LYING WEST OF AND ADJACENT TO SAID LOTS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 27, THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 27 A DISTANCE OF 48.20 FEET TO A POINT OF INTERSECTION WITH THE EAST EDGE OF A 10 FOOT CONCRETE WALK (LAKE TRAIL), AS NOW LAID OUT AND IN USE; THENCE NORTH 03°30'00" EAST ALONG THE SAID EAST EDGE, A DISTANCE OF 60.11 FEET TO A POINT OF INTERSECTION WITH THE SOUTH EDGE OF A 10 FOOT CONCRETE WALK (LAKE TRAIL), AS NOW LAID OUT AND IN USE; THENCE EAST ALONG THE SAID SOUTH EDGE A DISTANCE OF 46.69 FEET TO A POINT LYING ON THE WEST LINE OF SAID LOTS 25, 26 AND 27; THENCE SOUTH 02°04'00" WEST ALONG THE SAID WEST LINE A DISTANCE OF 60.03 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: A PARCEL OF FILLED SOVEREIGNTY LAND IN THE SOUTHEAST- ONE QUARTER (SE ¼) AND ABUTTING SECTION 15, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 25, BUNGALOW PARK, AN ADDITION TO THE TOWN OF PALM BEACH, FLORIDA, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, IN AND FOR PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 7, PAGE 26; THENCE WEST ON AN EXTENSION OF THE NORTH LINE OF SAID BUNGALOW PARK, A DISTANCE OF 20.40 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT BEING ON THE ORIGINAL SEAWALL ON THE FORMER EASTERLY SHORELINE OF LAKE WORTH; THENCE CONTINUE WEST, A DISTANCE OF 36.74 FEET TO A POINT ON THE EXISTING SEAWALL ON THE PRESENT EASTERLY SHORELINE OF LAKE WORTH; THENCE, NORTH 03°30'00" EAST, ALONG THE EXISTING SEAWALL, A DISTANCE OF 164.36 FEET; THENCE, NORTH 88°56'55" EAST, ALONG THE EXISTING SEAWALL, A DISTANCE OF 32.07 FEET TO ITS INTERSECTION WITH THE ORIGINAL SEAWALL; THENCE SOUTH 01°51'52" WEST, ALONG THE ORIGINAL SEAWALL, A DISTANCE OF 164.73 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL 100,095.30 SQUARE FEET.

TOGETHER WITH: (SUBMERGED LANDS) A PARCEL OF SUBMERGED LAND LYING AND BEING IN SECTION 15, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT WHERE THE CENTER LINE OF PARK AVENUE INTERSECTS WITH THE CENTER LINE OF BRADLEY PLACE AS NOW LAID OUT AND IN USE, WHICH CENTER LIES 10.00 FEET WEST OF THE CENTER LINE OF A 30.00 FOOT RIGHT-OF-WAY SHOWN ON THE PLAT OF BUNGALOW PARK, AN ADDITION TO THE TOWN OF PALM BEACH FLORIDA, AS RECORDED IN PLAT BOOK 7 AT PAGE 26 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA; THENCE n 00°13'31" w ALONG THE SAID EXISTING CENTER LINE OF BRADLEY PLACE FOR 82.36 FEET; THENCE WEST AND ALONG THE NORTHERLY BOUNDARY OF BUNGALOW PARK FOR 455.96 FEET OF THE NORTHWEST CORNER OF SAID PLAT: THENCE CONTINUE WEST ALONG THE EXTENSION OF THE SAID NORTHERLY BOUNDARY OF BUNGALOW PARK FOR 57.14 FEET TO THE WESTERLY SIDE OF A CONCRETE SEAWALL, SAID SEAWALL ALSO BEING THE SAFE UPLAND LINE OF THE INTRACOASTAL WATERWAY (LAKE WORTH) AND THE POINT OF BEGINNING; THENCE CONTINUE WEST FOR 284.00 FEET; THENCE NORTH FOR 158.65 FEET; THENCE N 88°56'55" E FOR 294.09 FEET TO THE SAID CONCRETE SEAWALL AND THE SAFE UPLAND LINE; THENCE S 03°30'00" W ALONG THE CONCRETE SEAWALL AND THE SAFE UPLAND LINE FOR 164.36 FEET TO THE POINT OF BEGINNING.

CONTAINING: 1.07 ACRES, MORE OR LESS.

TOGETHER WITH: LOTS 20, 21 AND 22 BUNGALOW PARK, AN ADDITION TO THE TOWN OF PALM BEACH, FLORIDA, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 7, PAGE 26, LESS AND EXCEPTING HOWEVER THE EASTERLY 20.0 FEET THEREOF AS ADDITIONAL RIGHT-OF-WAY FOR BRADLEY PLACE, AS CONDEMNED BY THE TOWN OF PALM BEACH, FLORIDA IN C.L. CASE 2993 AFORESAID. CONTAINING 8846 SQUARE FEET, MORE OR LESS SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Development Review - Other

Agenda Title

Presentation - William Bucklew, Certified Floodplain Manager, Upcoming FEMA Floodplain and Building Code Changes

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: June 14, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO.15-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning As Follows: Article I, In General, Section 134-2 To Create A Definition For “Zero Datum”, Modify The Definition Of “Building Height (Applicable Only To The R-B District)”, To Clarify Where Zero Datum Is Taken From And To Modify All Definitions Of Building Height And The Definition Of Building Height Plane To Reference “Zero Datum” As The Point Of Measuring Building Height, Overall Height, Building Height Plane And Cubic Content Ratio; Section 134-2, “Building Height, Of Lot Abutting Low Streets”, To Reference The Minimum Floodplain Elevation In Chapter 50, Floods, As Zero Datum Rather Than 7 ½ Feet Mean Sea Level NGVD; Article Vii, District Regulations, Section 134-793 And 134-843 To Reference The Minimum Flood Elevation Rather Than 7.5 Feet For Measuring The Building Height Plane Requirement In The R-AA And R-A Zoning Districts, 134-893 By Eliminating The Maximum Height For Single-Family Homes On Lots Abutting Low Streets; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated June 1, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 15-2017**

TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council Meetings on:
June 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 134, Zoning, Related to the Point of Measurement Requirements for Height, Overall Height, Building Height Plane and Cubic Content Ratio.

Ordinance No. 15-2017

Date: June 1, 2017

STAFF RECOMMENDATION

Staff recommends that the Local Planning Agency recommend approval and the Town Council approve Ordinance No.15-2017 at first reading.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its May 15, 2017 meeting, by a 7-0 vote, recommended approval of Zoning Code modifications as identified in Ordinance No. 15-2017. Both the Building Official and Zoning Administrator explained that Federal Emergency Management Agency (FEMA) required flood map and floodplain regulation changes are in the process of approval. The Zoning Code amendments herein simply “sync” with soon-to-be implemented changes to Chapter 50, Floods, of the Town’s Code of Ordinances.

One related question was repeatedly raised by Commissioners. It was understood that new floodplain maps and model regulations were likely to be approved during the Summer months, but expected Florida Building Code changes that will require higher floor elevations will not be implemented until late 2017/early 2018. Commissioners anticipate that owners starting new projects between present time and the end of the year may want to build at the higher floor elevations which will not become law until the new, anticipated Building Code changes occur. Though designing new structures with the lowest floor at the anticipated, higher elevations is permissible, today’s “building height” and “overall building height” is measured from current elevation requirements (not the increased change anticipated at years end). The result...two-story structures built with lowest floors higher than the present “point of measurement”/elevating standard would have to be slightly compressed to comply with present building height and

overall building height limitations. Builders of new structures between present time and the end of the year may think it wise to build at a higher elevation, yet owners of existing, adjacent structures may find objection to changes in height and overall height. Commissioners encouraged Staff and the Council to give consideration to how such dilemmas should be resolved.

Staff (including the Planning, Zoning and Building Director, Zoning Administrator and Building Official) subsequently consulted with Town Attorney Randolph to discuss the pros and cons of allowing an increase in height and overall height if a builder chose to build at a higher elevation than presently required. After weighing all variables, it was the consensus not to automatically allow for taller structures. Any structure intended to exceed existing height restrictions should require both Architectural Commission and Town Council variance approval.

GENERAL INFORMATION

The Town was placed on notice by FEMA several years ago that our local floodplain maps would be revised by the United States government. Our obligation to adopt the newly revised maps would be triggered upon receipt from FEMA of a “Letter Of Final Map Determination.” In addition to the maps, new floodplain regulations must be adopted. On a different but related track, we expect that the Florida Building Code will be amended late this year increasing required elevation standards. The Town presently requires residential buildings and related accessory electrical equipment (such as air conditioners, generators and pool pumps) to be built six inches above the base flood elevation as shown on the revised FEMA maps. It is anticipated that this requirement will be increased to one foot higher than the base flood elevation. Further, the Florida Building Code presently requires commercial buildings and their associated accessory electric equipment to be one foot above the base flood elevation. It is anticipated that the Building Code will be amended in the near future to increase that elevation to two feet.

As part of these changes, the Council’s Ordinance, Rules and Standards Committee previously recommended that the Town Council adopt the Florida Department of Environmental Management’s model flood prevention ordinance within Chapter 50, FLOODS, in the Town’s Code of Ordinances. Staff must also begin the process of amending Chapter 134, Zoning, making the two Ordinances consistent. On April 7, 2017, the Town received the “Letter of Final Map Determination” from FEMA. The Town has 180 days from that date to adopt the revised maps and the model floodplain regulation changes or jeopardize participation in the National Flood Insurance Program.

It must be noted that because of these required changes, Staff may have to allow higher landings and more steps in required setbacks so that buildings can meet the higher minimum flood elevation requirements. There also may be rare instances where grade changes between lots may preclude some electrical equipment from being placed in required side yards due to the inability to effectively screen the equipment with a wall. However, Staff does not believe Code changes are necessary as on those rare occasions the issue can be resolved by locating the equipment elsewhere on the lot.

The attached draft Zoning Ordinance amendments are in add/delete format with Staff proposed

changes to existing language. The proposed changes are intended to make necessary amendments in Chapter 134, Zoning, concurrent with the adoption of the new floodplain regulations in Chapter 50 (Floods). Without these changes in the attached draft Ordinance, the Zoning Code will have antiquated language, inconsistent with required new flood elevation changes in Chapter 50 of the Code. The proposed changes in the attached draft ordinance do the following:

1. Replaces all references in Chapter 134, Zoning, related to specific minimum flood elevation numbers (7.5 feet NGVD) for low streets and replaces that number with a cross reference which states zero datum will be the minimum flood elevation as required in Chapter 50, FLOODS.
2. Modifies all of the definitions for building height for consistency by referencing “zero datum” as the point of measurement.
3. Creates a definition of “Zero Datum.”
4. Eliminates a provision in the R-B District that only allows a maximum building height of 26 feet above very low streets within that District.

If you have any questions about any of the attached information, please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

Ordinance No. 15-2017 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Planning and Zoning Commission
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Paul W. Castro, AICP, Zoning Administrator
Veronica B. Close, Planning, Zoning & Building Asst. Director
Bill Bucklew, Building Official
zf

ORDINANCE NO. 15-2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING AS FOLLOWS: ARTICLE I, IN GENERAL, SECTION 134-2 TO CREATE A DEFINITION FOR “ZERO DATUM”, MODIFY THE DEFINITION OF “BUILDING HEIGHT (APPLICABLE ONLY TO THE R-B DISTRICT)”, TO CLARIFY WHERE ZERO DATUM IS TAKEN FROM AND TO MODIFY ALL DEFINITIONS OF BUILDING HEIGHT AND THE DEFINITION OF BUILDING HEIGHT PLANE TO REFERENCE “ZERO DATUM” AS THE POINT OF MEASURING BUILDING HEIGHT, OVERALL HEIGHT, BUILDING HEIGHT PLANE AND CUBIC CONTENT RATIO; SECTION 134-2, “BUILDING HEIGHT, OF LOT ABUTTING LOW STREETS”, TO REFERENCE THE MINIMUM FLOODPLAIN ELEVATION IN CHAPTER 50, FLOODS, AS ZERO DATUM RATHER THAN 7 ½ FEET MEAN SEA LEVEL NGVD; ARTICLE VII, DISTRICT REGULATIONS, SECTION 134-793 AND 134-843 TO REFERENCE THE MINIMUM FLOOD ELEVATION RATHER THAN 7.5 FEET FOR MEASURING THE BUILDING HEIGHT PLANE REQUIREMENT IN THE R-AA AND R-A ZONING DISTRICTS, 134-893 BY ELIMINATING THE MAXIMUM HEIGHT FOR SINGLE-FAMILY HOMES ON LOTS ABUTTING LOW STREETS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, after a public hearing pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended the following changes to the Code of Ordinances; and

WHEREAS, after public hearing pursuant to notice required by law, the Local Planning Agency considered the Planning and Zoning Commission’s Record and Report and 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.

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 I, IN GENERAL, Section 134-2, Definitions and rules of construction, to read as follows:

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

Building, height of (applicable only in the R-B districts) means the vertical distance from ~~zero datum 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. ~~To raise~~ If the floor lot grade is raised 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 zero datum shall be ~~measured~~ from a point 18 inches above the highest street elevation or the minimum flood elevation, whichever is lower. 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.

Building height of (applicable to all districts except the R-B districts) means the vertical distance from ~~the grade established by the town for zero datum, which is~~ 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 non-habitable 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 zero datum for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height is height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement Zero datum for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior wall meets the minimum flood elevation as defined in Chapter 50 or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of ~~the~~ first floor slab of the existing structure building.

Building height of, corner lot. In those cases involving a corner lot as defined in this section, the zero datum of the lot set forth in the definition of the term “building, height of (applicable to all districts except the R-B district)” shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of the first floor slab of the existing ~~structure~~ building.

Building, height of, lot abutting low streets, means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the lot, and if such street elevation is below the minimum flood elevation as established in Chapter 50 of the Code of Ordinances. plus 7½ feet mean sea level, National Geodetic Vertical Datum, such lot grade Zero datum for measuring building height shall be measured from the minimum flood elevation 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 be 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~~ Zero datum for the portion of the building fronting on the rear street shall measure its height be 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.

Building, height of, (applicable to R-B lots abutting Lake Trail), means the vertical distance from ~~the top of the floor slab~~ zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for ~~structures~~ buildings may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot and the minimum flood elevation. To raise the floor more than the typical 18 inches above the highest street elevation pursuant to 134-898, ~~the structure~~ building height zero datum 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.

Building, height of, (applicable to all other lots abutting Lake Trail), means the vertical distance from ~~the top of the floor slab~~ zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. ~~The top of the floor slab~~ Zero datum for structures buildings shall be either the crown of the public street at its highest

elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing ~~structure~~ building.

Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height zero datum to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement Zero datum for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided all of the following conditions are met:

(1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;

(2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and

(3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

Building height 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~~ as defined in "height of building" and "overall height of building", or the minimum floodplain elevation as established in Chapter 50 of the Code of Ordinances seven and one-half feet mean sea level, whichever is higher, as defined in "height of building" and "overall height of building".

Zero datum means the point of measuring all zoning code calculations related to building height, building overall height, building height plane and cubic content ratio.

Section 2. Amend Article VI, DISTRICT REGULATIONS, Section 134-793, Lot, yard and area requirement-Generally, to read as follows:

Sec. 134-793. Lot, yard and area requirements—Generally.

(a) *Schedule of regulations.* In the R-AA large estate residential district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

...

(7) *Building height plane.* The building height plane regulations are as follows: two feet of front setback for each one foot in building height.

- a. No portion of any building or building roof system shall extend beyond a height limiting plane extending at an inclined angle from the intersection of the front yard property line and the zero datum grade for a lot or the minimum flood elevation as established in Chapter 50 ~~7.5 feet~~, whichever is higher, as defined by height of building and overall height of building.

...

- d. The granting of a variance for measurement for building height for ground levels above the minimum flood elevation as required in Chapter 50 or zero datum grade ~~7.5 feet mean sea level~~ is not intended to modify the location of the building height plane.

Section 3. Amend Article VI, DISTRICT REGULATIONS, Section 134-843, Lot, yard and area requirement-Generally, to read as follows:

Sec. 134-843. - Lot, yard and area requirements—Generally.

(a) *Schedule of regulations.* In the R-A estate residential district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

...

(7) *Building height plane.* The building height plane regulations are as follows: two feet of front setback for each one foot in building height.

- a. No portion of any building or building roof system shall extend beyond a height limiting plane extending at an inclined angle from the intersection of the front yard property line and the zero datum grade for a lot or the minimum flood elevation as established in Chapter 50 ~~7.5 feet~~, whichever is higher, as defined by height of building and overall height of building.

...

- d. The granting of a variance for measurement for building height for ground levels above the minimum flood elevation as required in Chapter 50 or zero datum grade ~~7.5 feet mean sea level~~ is not intended to modify the location of the building height plane.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Section 134-893, Lot, yard and area requirement-Generally, to read as follows:

Sec. 134-893. - Lot, yard and area requirements—Generally.

(a) *Schedule of regulations.* In the R-B low density residential district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

...

(10) *Height and overall height.*

- a. For one-story buildings, the maximum building height is 14 feet.
- b. For two-story buildings, the maximum building height is 22 feet.
- c. Maximum overall height of a building in the R-B district shall be the maximum allowable building height plus three feet for a flat roof and eight feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- d. ~~The vertical distance to the top of the beam or plate as described in the building height definition in section 134-2 shall not be more than 18 feet (one story) or 26 feet (two stories) above the crown of street at its highest elevation abutting the lot or the average elevation (taken at the crown of the street) of each of the two streets abutting the lot in the case of corner or through lots.~~

Section 5. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 6. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 7. Codification.

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

Section 8. 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 14th day of June, 2017, and for second and final reading on this ____ day of _____, 2017.

Gail L. Coniglio, Mayor

Richard Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, 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 14, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 17-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 66, Natural Resource Protection As Follows: Article 1, In General, Section 66-2 To Create A Definition For “Pestilent Exotic/Invasive Species”; Article IIII, Vegetation, Subdivision IV, Conservation District, Sections 66-369 – 66-375 To Create A Permitting Process For Landscaping And Related Work To Be Done In The Conservation Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated June 2, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 17-2017**
- ▣ **Exhibit A Map**

TOWN OF PALM BEACH

Information for Town Council Meeting on: June 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Permitting Process for Activity within the Conservation Zoning District
Ordinance No. 17-2017

Date: June 2, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 17-2017, at first reading.

ORDINANCE, RULES, AND STANDARDS COMMITTEE RECOMENDATION

The Ordinance, Rules, and Standards Committee at its May 4, 2017 meeting recommended approval to modify the Town's Code of Ordinances as identified in Ordinance No. 17-2017.

GENERAL INFORMATION

The Town's Comprehensive Plan contains provisions in the Coastal Management/Conservation Element that provide for the protection of native vegetative communities and the removal of exotic, non-native vegetation from the shoreline in the Lake Worth Lagoon. Objective 2 of that Element states that the Town shall protect native vegetation communities and their associated wildlife by implementing policies that protect and restore native vegetation. It also states that the measurement of Objective 2 is the degree to which the Policies in Objective 2 are implemented. Staff has drafted proposed language in Chapter 66 (attached) to establish a Conservation District alteration permit which controls and allows for landscape work to be done in the Conservation Zoning District which better accomplishes Objective 2 of the Comprehensive Plan.

Being proposed is a permitting process to allow for the removal, relocation and the replanting of native vegetation on property in the Conservation Zoning District. Other work that is permissible under this framework is the removal of invasive or pestilent exotic vegetation and site improvements necessary to secure the property. Site improvements or planting that may promote the use of the land for more intensive purposes is prohibited per Chapter 134. The Conservation Zoning District is identified in dark green on the Zoning Map (attached as EXHIBIT A).

TOWN ATTORNEY REVIEW

Ordinance No. 17-2017 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Please contact Veronica Close at 227-6401 if you have any questions about these recommendations.

Attachments

cc: John C. Randolph, Town Attorney
Jay Boodheshwar, Deputy Town Manager
Veronica W. Close, Planning, Zoning & Building Assistant Director
Paul W. Castro, AICP, Zoning Administrator

ORDINANCE NO. 17-2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 66, NATURAL RESOURCE PROTECTION AS FOLLOWS: ARTICLE 1, IN GENERAL, SECTION 66-2 TO CREATE A DEFINITION FOR “PESTILENT EXOTIC/INASIVE SPECIES”; ARTICLE III, VEGETATION, SUBDIVISION IV, CONSERVATION DISTRICT, SECTIONS 66-369 – 66-375 TO CREATE A PERMITTING PROCESS FOR LANDSCAPING AND RELATED WORK TO BE DONE IN THE CONSERVATION ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Palm Beach’s Comprehensive Plan contains provisions in the Coastal Management/Conservation Element that provide for the protection of native vegetative communities and the removal of exotic, non-native vegetation from the shoreline in the Lake Worth Lagoon; and

WHEREAS, Objective 2 of that Element states that the Town shall protect native vegetation communities and their associated wildlife by implementing policies that protect and restore native vegetation; and

WHEREAS, the measurement of Objective 2 is the degree in which the Policies in Objective 2 are implemented; and

WHEREAS, after a public hearing pursuant to notice required by law, the Ordinance, Rules, and Standards Committee 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 66, Natural Resource Protection, 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 I, IN GENERAL, Section 66-2, Definitions, to read as follows:

Sec. 66-2. Definitions.

...Pestilent Exotic/invasive Species means species as identified by the Florida Exotic Pest Plant Council's Invasive Plant List.

...

Section 2. Amend ARTICLE III, VEGETATION, DIVISION 5, REGULATIONS, Subdivision IV, Conservation District, Sections 66-369 – 66-375, to read as follows:

Subdivision IV. Conservation District

Sec. 66-369. Application procedure for Conservation District alteration.

Conservation District alteration permits shall be required to remove pestilent exotic or invasive species, install native species, maintain native habitat or make site improvements necessary to secure the property. Such permits shall be obtained by submitting an application prior to removal, installation, maintenance or site improvement to the planning, zoning and building department director or his or her designee. The application shall include a written statement specifying the reasons necessitating the work to be performed.

Sec. 66-370. Circumstances justifying issuance.

Permits shall be issued in the following circumstances:

- (1) Presence of pestilent exotic or invasive species.
- (2) Work is necessary to protect against natural habitat degradation.

Sec. 66-371. Permit conditions.

The following conditions shall be required for issuance of a permit:

- (1) All native habitat must be restored in accordance with all federal, state, and local regulations.
- (2) Applicant must demonstrate plans for maintaining conservation area/native plant/threatened or endangered communities in a natural, undisturbed state.
- (3) Mulching or placement of removed vegetation on site is prohibited.
- (4) Documentation that all mangrove trimming will be done by an authorized professional mangrove trimmer (PMT) in accordance with Fla. Stat. §403.9329.
- (5) All mechanical equipment necessary for the proposed work shall be identified and is subject to approval by the planning, zoning and building department director or designee.

Sec. 66-372. Plans required.

(+) A landscaping plan shall include the following:

- a. Property boundaries, location of any site improvements, including but not limited to walls, fences, gates, retention areas, easements, rights-of-way, drainage

structures, overhead and underground utilities, poles, fire hydrants, check valves, transformers and other features to remain or to be removed.

- b. Location, botanical name, and common name of all existing and proposed vegetation, including invasive or pestilent exotic species, three inches or larger in diameter at standard height (4.5') on the property, identifying all vegetation that will be added, retained, relocated, removed or disturbed.
- c. Threatened or endangered vegetative species as identified by the Florida Department of Agriculture and Consumer Services in its Regulated Plant Index.
- d. Planting specifications, including but not limited to staking, fertilization, top soil, mulching, and identification of any mechanical equipment to be used.
- e. Method to protect trees, including historic or specimen trees, vegetation, and native plant communities during performance of work.
- f. Such other information that may be required to give a complete understanding of a proposed plan.

Sec. 66-373. Fees required.

Applications shall be accompanied by a fee which shall be in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner. When professional advice and/or consultation is required, as determined by the director of the planning, zoning and building department, the expense shall be borne by the applicant.

Sec. 66-374. Permit issuance and time limitations.

Upon approval of an application, the planning, zoning and building department director or his designee shall issue a permit. Permits shall expire and become null and void if work is not commenced within 90 days from the date of permit issuance. Work must be completed and pass final inspection within six months of permit issuance. A time extension for the permit may be granted by the planning, zoning and building department director or his or her designee for good cause upon written request. A denial of a time extension request may be appealed to town council. The appeal shall be filed within five business days of notice of denial. If an appeal to the town council is made, the town council shall act upon such appeal no later than forty-five days subsequent to the notice of appeal.

Sec. 66-375. Penalty for violation.

Any person who performs work outside of the scope of an issued permit shall be subject to the code enforcement provisions set forth in Sections 2-401 through 2-439 of the town code of ordinances. In addition, the applicant may be required to pay to the town a civil penalty equal to the total value of work required to restore the site to the conditions approved in the permit. Restoration work may be required as restitution in lieu of money. A combination of money and restoration work may be required.

Sec. 66-376—66-400. Reserved.

Section 5. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 6. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 7. Codification.

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

Section 8. Effective Date.

This Ordinance shall take effect immediately upon 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 14th day of June, 2017, and for second and final reading on this ____ day of _____, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

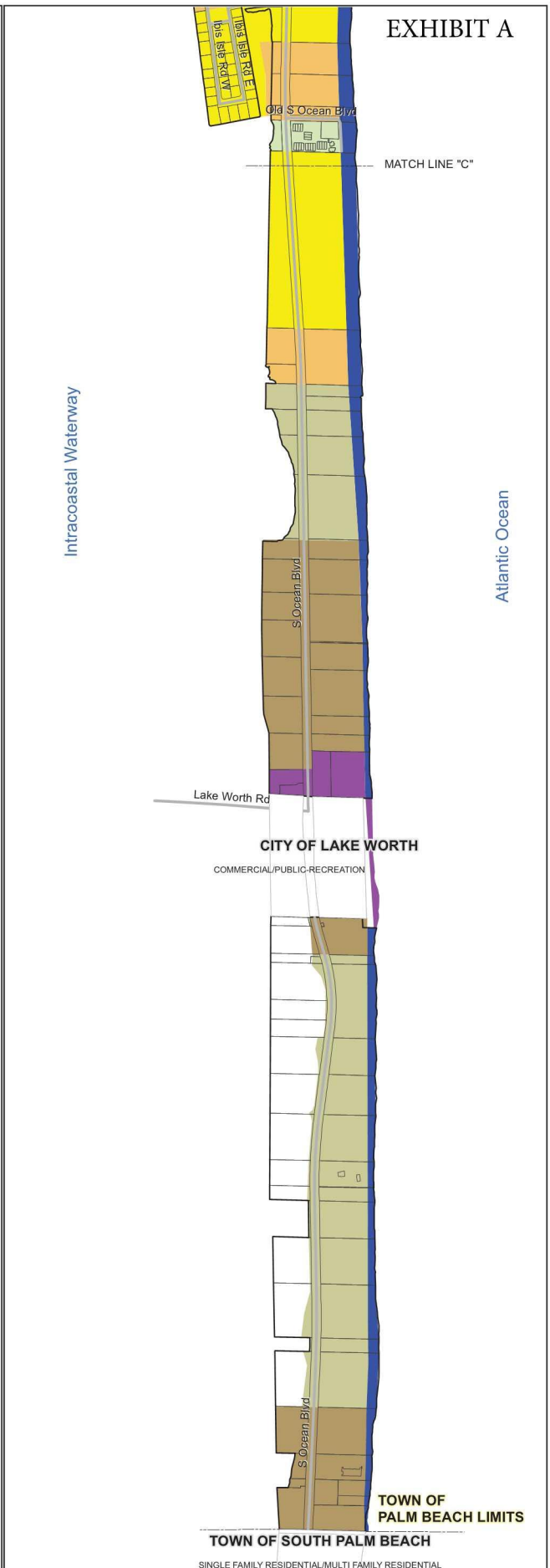
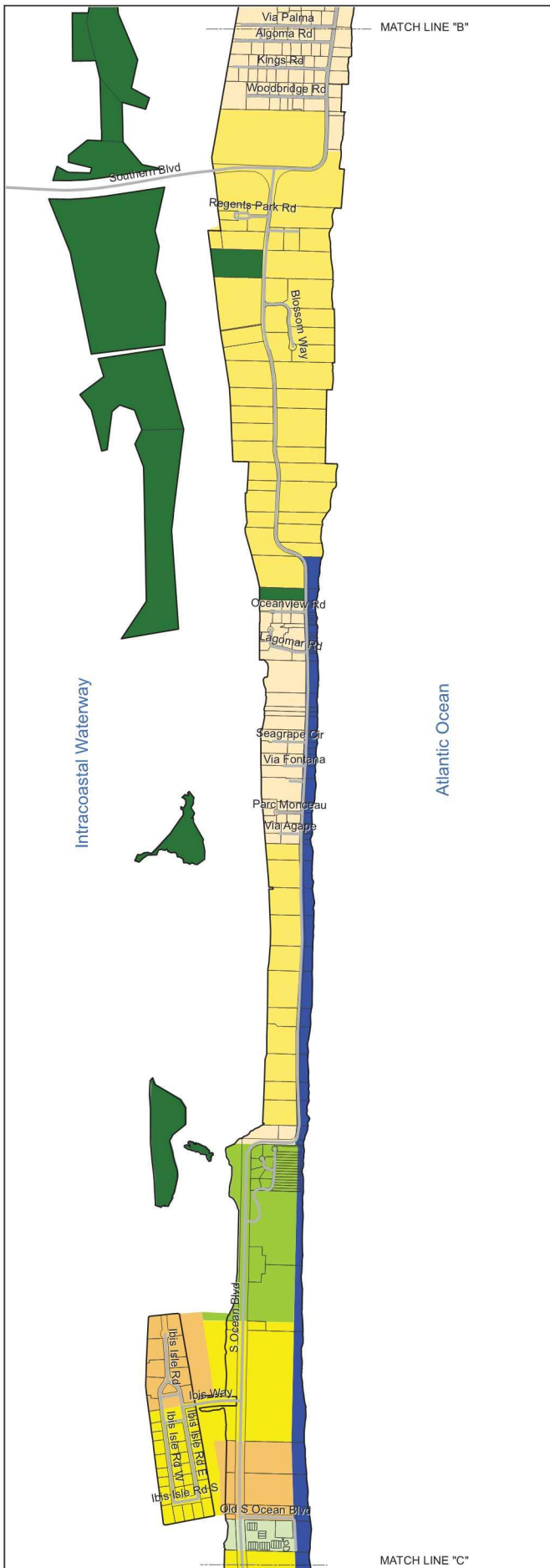
Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MPA, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member



TOWN OF PALM BEACH ZONING MAP - 2016 **Planning, Zoning & Building Department**

- | | | |
|---------------------------------------|------------------------------------|---------------------------|
| R-AA (Large Estate Residential) | R-D(2) (Heavy Density Residential) | C (Conservation District) |
| R-A (Estate Residential) | C-OPI (Commercial Off, Prof, Inst) | PUD-A (Planned Unit Dev) |
| R-B (Low Density Residential) | C-PC (Commercial Planned Ctr) | PUD-B (Planned Unit Dev) |
| R-C (Medium Density Residential) | C-TS (Commercial Town Serving) | PUD-C (Planned Unit Dev) |
| R-D(1) (Moderate Density Residential) | C-WA (Commercial Worth Ave) | BA (Beach Area) |
| | C-B (Commercial Offices) | |



0 1,000 2,000 Feet

Map Created: November 1, 2016
 Town of Palm Beach
 Information Technologies GIS Division
 Planning, Zoning & Building Department
 (561) 838-5430
 Email: pzb@townofpalmbeach.com
 Website: www.townofpalmbeach.com



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 MAP I - 1