TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

MAY 13, 2015

9:30 AM

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

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
Michael J. Pucillo, President
Richard M. Kleid, President Pro Tem
Danielle H. Moore
Penelope D. Townsend
Robert N. Wildrick

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. PUBLIC HEARINGS

A. **RESOLUTION NO. 65-2015** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as **211 Royal Poinciana Way** Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Page 8

Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

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

B. **RESOLUTION NO. 66-2015** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as the **Regents Park Historic District** Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Historic District Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach. Page 36

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

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeal From James McCartney Wearn & Richard and Kathleen Lubin 253 Jamaica Lane B-026-2015 Page 80

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

2. ARCOM appeal from Cristina Noble (via attorney James Green) 475 North County Road - B-010-2015 Gate Page 156

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

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

a. **SITE PLAN REVIEW #13-2014 WITH SPECIAL EXCEPTIONS AND VARIANCES (MODIFIED)** The application of T3 Family Investment, LLC; relative to property commonly known as **221 & 231 Royal Poinciana Way, Sunset Avenue, 214 Sunset Avenue, 216 Sunset Avenue**; described as Lengthy Legal Description on file; located in the C-TS Zoning District. The application has been modified and the applicant is requesting the following approvals: Page 236

1. Applicant is requesting site plan approval to construct a two (2) story 63,680 square foot mixed commercial and residential use condominium development with 42,962 square foot sub-basement with 86 underground parking spaces totaling 106,642 square feet, 18,080 square feet of commercial space on the first floor and six (6) residential units on the second floor. The following other zoning approvals are being requested:

2. Special Exception to allow residential tenancy above the first floor, as required by Section 134-1109(a)(3) for six (6) condominium units.

3. Special Exception to allow two (2) stories as required by Section 134-1113(8)(c).
4. Special Exception to allow Testa's Restaurant to occupy over 3,000 square feet of gross leasable area and 152 seats as required by Section 134-1109(a)(11). 5. Special Exception to allow outdoor seating for 60 of the 152 seats outdoors for Testa's Restaurant as required by Section 134-1109(a)(11) and 134-1111(a).
6. Variance to allow portions of the underground parking sub-basement to be paved for walkways and equipment pads in lieu of being landscaped as required in Section 134-2179(a).
7. Variance to allow a total of 86 off-street parking spaces in lieu of the required 140 off street parking spaces as required by Section 134-2175.
8. Variance to allow a maximum building length of 250.9 feet in lieu of the maximum allowed 150 feet allowed per Section 134-1113(10)(b).
9. Variance to allow for a landscaped open space of 12.2% in lieu of the minimum 25% required by Section 134-1113(11)(b).
10. Variance to allow a two (2) story building to be 106,642 square feet in lieu of the maximum allowed 15,000 square feet as required by Section 134-1113(12)(b).
11. Variance to allow lot coverage of 81.2% in lieu of 70.0%, as maximum permitted by Code Section 134-1113(9)(b).
[Attorney: Francis X. J. Lynch]
[Architectural Commission Recommendation: Implementation of the proposed variances related to architecture will not cause negative architectural impacts to the subject property. Carried 7-0.]
Deferred from the October 15, 2014, November 12, 2014, December 10, 2014, January 14, 2015, February 11, 2015, and March 11, 2015, Town Council Meetings.
TIME CERTAIN: 10:30 A.M.

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

2. New Business

a. **<u>SITE PLAN REVIEW #2-2015</u>** The application of RPP Palm Beach Property LP (Samantha David, Representative); relative to property commonly known as **340 Royal Poinciana Way**, described as Lengthy Legal Description on file; located in the C-PC Zoning District. The Applicant is requesting Site Plan Approval to modify the existing architecture, landscape, and off street parking area for the Royal Poinciana Plaza. The modifications include the elimination of one of the existing entrances on Cocoanut Row and the creation of two new entrances on Cocoanut Row; modification of the existing entrance on Royal Poinciana Way; change in the traffic flow pattern and parking spaces within certain locations within the north and south parking lot areas; milling, surfacing and

restriping of the parking lot; parking lot and landscape lighting improvements; landscape and hardscape improvements which include modification of sidewalks, benches and patio areas; architectural improvements which include new columns, parapets, doors, windows, awnings and fenestration. The application, which includes a complete description of the proposed project, and plans are available to be reviewed between 8:30 a.m. and 5:00 p.m. at the Planning, Zoning and Building Department. [Attorney: Maura Ziska, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed site plan review modification will not cause negative architectural impacts to the subject landmark property. Carried 7-0]

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

b. **SPECIAL EXCEPTION #12-2015** The application of a. Richard Sloane & Carolyn J. Sloane; relative to property commonly known as **1564 S. Ocean Blvd.**, described as LAGOMAR PARK NO 2 SLY 89.25 FT OF LT 2 IN OR371 P21 & S 40 FT OF LT 2 A; located in the R-A Zoning District. The Applicant is requesting a special exception to allow two sliding gates (one at each entrance) on Lagomar Road (which is a cul-de-sac street) with a setback for the west gate of 7.5 feet and a setback for the east gate of 9.2 feet in lieu of the 18 foot minimum required. [Attorney: Jack McDonald, Esq.]

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

c. **VARIANCE #10-2015** The application of Reinhard and Claudia Brandner; relative to property commonly known as **315 Eden Road**, described as the West 15.5 feet of Lot 41 and all of Lot 42, EDEN PROPERTIES, according to the plat thereof, recorded in Plat Book 18, Page 49, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The Applicant is requesting a variance to allow a 185 square foot master bedroom addition to the front of the house that would result in an angle of vision of 112 degrees in lieu of the 104 degree existing and maximum allowed in the R-B Zoning District. [Attorney: Maura Ziska, Esq.]
[Architectural Commission Recommendation: Implementation of the variance will not cause negative architectural impacts to the subject property. Carried 7-0]

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

d. **VARIANCE #11-2015** The application of Paul and Elizabeth Shiverick; relative to property commonly known as **670 Island Road**, described as Lot 68, and that part of Lot 66 described and bounded as follows: bounded on the south by the south of said lot 66; on the north by a line parallel to and 15 feet north of, measured at right angles to, the south boundary; on the west and east by the west and east boundaries respectively of

said lot 66; said lot 68 and said lot 66 being shown and designated on the plat of Lone Cabbage Island Development (renamed as Everglades Island) on file and of record in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida, in Plat Book 18, Page 31; located in the R-B Zoning District. The Applicant is requesting a variance to allow the newly installed generator to be 8 feet above the adjacent neighbor's grade which does not meet the requirement that a generator needs to be screened by a three sided wing wall of the same height when the maximum wall height allowed is 7 feet. The generator exceeds the wall height by 1 foot; and, a variance to allow the existing 7 foot tall wall to remain at a height of 7 feet and not fully screen the newly installed generator by 1 foot as required by code. [Attorney: Maura Ziska, Esq.]

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

e. **VARIANCE #12-2015** The application of John Ceriale; relative to property commonly known as **230 S. Ocean Blvd.**, described as Lot 528, Poinciana Park, Second Addition, Plat Book 6, Page 86; located in the R-B Zoning District. The Applicant is requesting a variance to allow the existing non-conformity porch to extend 4.08 feet to a street side yard setback at 20.16 feet in lieu of the 24.24 existing porch setback and the 25.0 foot minimum required by code; and, to allow a lot coverage of 28.9% (135 sf additional) in lieu of the 28.2% existing non-conformity and the 25% maximum allowed by code. [Agent: Jose Gonzalez]
[Architectural Commission Recommendation: Implementation of the variance will not cause negative architectural impacts to the subject property. Carried 7-0]

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

3. Other

a. 3-Strike Parking Violation
7 Lagomar Road

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

IX. ORDINANCES

A. Second Reading

1. **ORDINANCE NO. 13-2015** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning; Article VI, District Regulations, Section 134-1107(a) To Allow Public Parks As A Permitted Use In The C-TS Commercial Zoning District; Section 134-1109(a) To Allow Private Parks As A Special Exception Use In The C-TS Commercial Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For

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Codification; Providing An Effective Date.

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

X. ANY OTHER MATTERS

XI. ADJOURNMENT

PLEASE TAKE NOTE:

Note 1: No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

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

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

Note 4: Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

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

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: May 13, 2015

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 65-2015 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as **211 Royal Poinciana Way** Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

Presenter

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

Supporting Documents

- **Memorandum dated April 29, 2015 from John S. Page, Director of Planning, Zoning and Building**
- **Resolution No. 65 - 2015 for 211 Royal Poinciana Way**
- **Designation Report for 211 Royal Poinciana Way**
- **Excerpt from the Minutes of the Landmarks Preservation Commission Meeting of April 16, 2015**
- **Applicable Code Section**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 13, 2015

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Landmark Designation of 211 Royal Poinciana Way
Resolution No. 65 – 2015

Date: April 29, 2015

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 211 Royal Poinciana Way as a Town landmark, subject to certain caveats.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the April 16, 2015 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark, subject to certain caveats. The subject property contains two buildings addressed as 211 and 217 Royal Poinciana Way. The enumerated caveats identify non-contributing building elements which should be considered as such in any future application before the Landmarks Preservation Commission. The non-contributing building elements are identified in Section 4 of the attached Resolution. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

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

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

OWNER CONSENT

The attorney for the property owner, Guy Rabideau, testified that the property owner supports the landmark designation of this property, provided that the designation is subject to certain caveats which were submitted by Mr. Rabideau for the record, and were included in the recommendation for designation by the Landmarks Preservation Commission.

FUNDING/FISCAL IMPACT

No direct funding is needed for this action.

COMPREHENSIVE PLAN

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

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 65 - 2015 relating to 211 Royal Poinciana Way, and has approved it as to legal form and sufficiency.

attachments

JSP:cmd

cc: Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
John Lindgren, AICP, Planning Administrator
pf

RESOLUTION NO. 65 - 2015

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY KNOWN AS 211 ROYAL POINCIANA WAY MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND DESIGNATING SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

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

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

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

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

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

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

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **211 Royal Poinciana Way** and the property to be landmarked is legally described as follows:

TRACT 1: ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE COUNTY OF PALM BEACH AND STATE OF FLORIDA, SHOWN AND DESIGNATED AS THE EAST 19 FEET OF LOT 35, FLORAL PARK ADDITION NO. 1, 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 5, PAGE 28, AND THE EAST 19 FEET OF LOT 65 AND THE EAST 4 FEET OF THE WEST 6 FEET OF THE NORTH 15.5 FEET OF LOT 65; ALL OF LOTS 66, 67, 68, 69, 70, 71,72 AND 73, LESS THE EAST 15 FEET OF SAID LOTS OF FLORAL PARK, 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 2, PAGE 6, ALL IN THE TOWN OF PALM BEACH.

TRACT 2:
PARCEL 1: LOTS 63 AND 64 AND THE WEST 6 FEET OF LOT 65 LESS THE NORTH 15.5 FEET OF THE EAST 4 FEET, FLORAL PARK, 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 2, PAGE 6.

PARCEL 2: THE EAST 17.75 FEET OF LOT 32, ALL OF LOTS 33 AND 34, THE WEST 6 FEET OF LOT 35, FLORAL PARK ADDITION NO. 1, 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 5, PAGE 28.

Section 4. This resolution approving this Landmark Designation is passed and adopted subject to the understanding that: (a) the one story commercial building at 217 Royal Poinciana Way; (b) the first floor of 211 Royal Poinciana Way (not including the Corinthian fluted pilasters); (c) the roofing material of both 211 and 217 Royal Poinciana Way; and, (d) the structure located behind the front entablature of 211 Royal Poinciana Way, are all "non-contributing" and should be considered as such in any future application before the Landmarks Commission relating to Certificates of Appropriateness. There is nothing intended in the adoption of this resolution which would preclude the modification of such non-contributing building elements, a review by the LPC being to insure that the contributing features are not adversely affected by the modification of non-contributing building elements.

Section 5. The Town Clerk is hereby ordered to furnish the property owner of the landmarked property a copy of this Resolution.

Section 6. Within thirty (30) days from the date of this Resolution, the Landmarks Preservation Commission shall cause to be filed in the Office of the Recorder of Deeds in and for Palm Beach County, Florida, a certificate that the above-described property comprises a landmark, as defined in and subject to the provisions of Ordinance No. 2-84 and the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of May, 2015.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Danielle H. Moore, Town Council Member
ATTEST:	Penelope D. Townsend, Town Council Member
Susan A. Owens, MMC, Town Clerk	Robert N. Wildrick, Town Council Member

211 Royal Poinciana Way

DESIGNATION REPORT

February 18, 2015

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

211 Royal Poinciana Way

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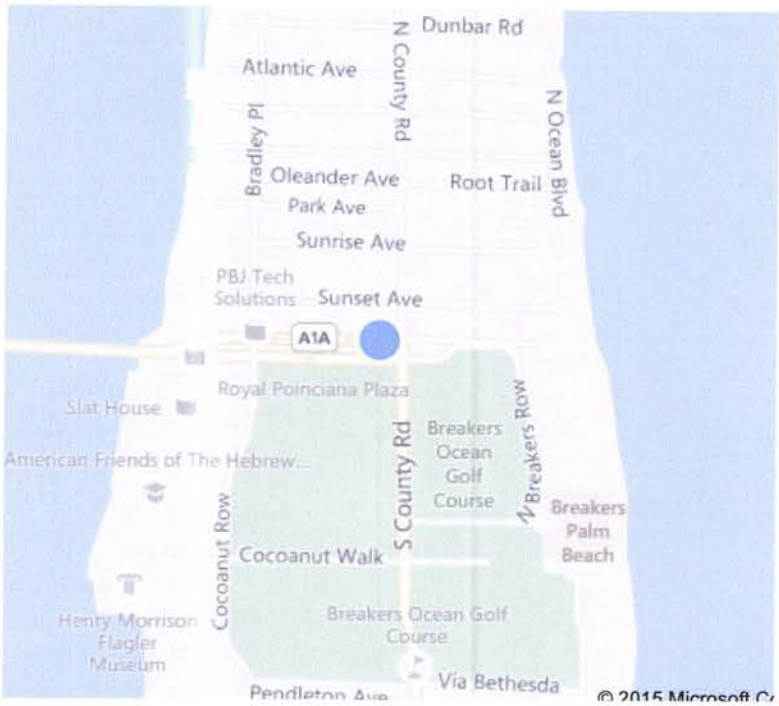
Report produced by Murphy Stillings, LLC

I. General Information

Name:	Garden Theatre
Location:	211 Royal Poinciana Way Palm Beach, Florida
Date of Construction:	1921
First Owner:	J.T. Havens
Architect:	Unknown
Builder/Contractor:	Unknown
Present Owner:	Vesendaz Holding Corp
Present Use:	Commercial
Present Zoning:	CTS
Palm Beach County Tax Folio Number:	50-43-43-22-32-000-0321
Current Legal Description:	FLORAL PARK ADD NO 1 E 17.75 FT OF LT 32, LTS 33, 34 & W 6 FT OF LT 35

II. Location Map

211 Royal Poinciana Way



III. Architectural Information

211 Royal Poinciana Way, originally known as The Garden Theatre, is a two-story commercial building located along the Town of Palm Beach's historic commercial main street. The building was constructed in the Neo-Classical Revival style in 1921 for J.T. Havens. The property includes the one-story commercial building adjacent to the Garden Theatre to the west, known as 217 Royal Poinciana Way, constructed circa 1925.

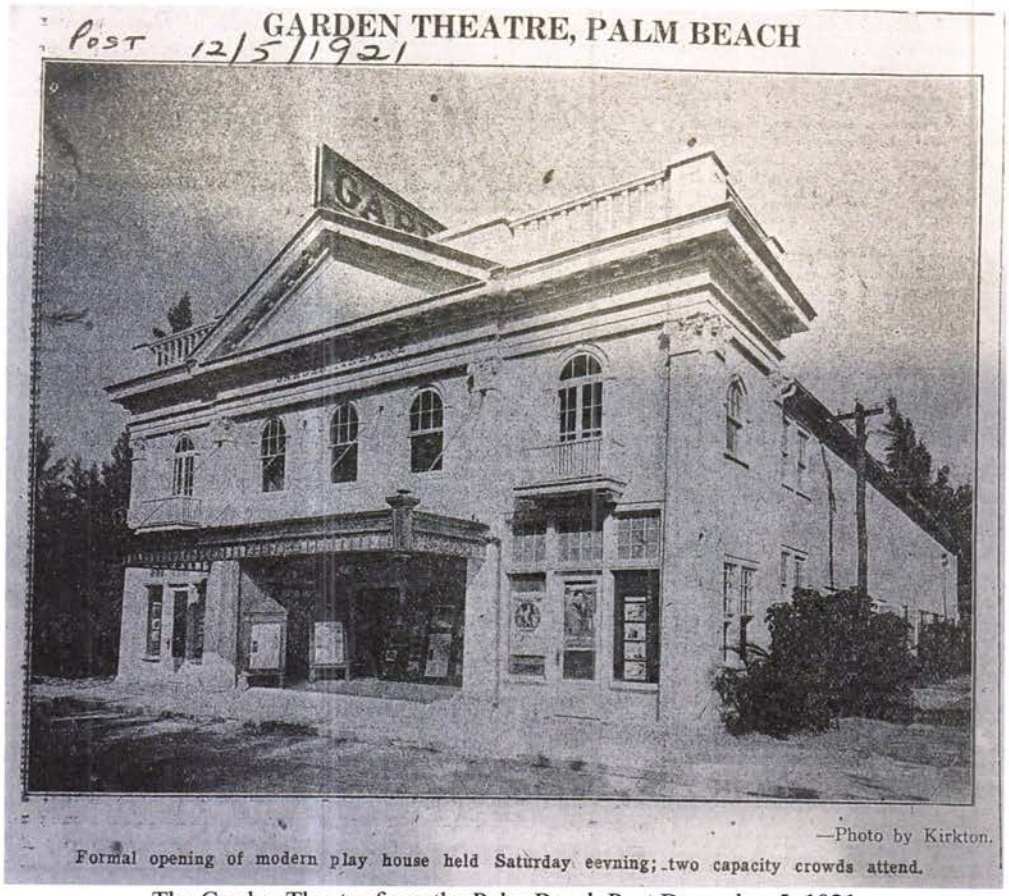
The Garden Theatre is a good example of the Neo-Classical Revival style of architecture. Neo-Classical Revival architecture refers to a style based on forms following classical principles of design from Greek and Roman architecture and later developed by Andrea Palladio during the Italian Renaissance. The interest in the classical past was in a large part due to significant archeological discoveries. From approximately 1890 to 1930 most public buildings such as banks and courthouses, as well as, many commercial buildings were designed in the Neo-Classical Revival style. The style generally has a symmetrical design and is often characterized by the use of a colossal pedimented portico supported by columns or pilasters, simple geometric forms, dentils or modillions at the cornice line, and smooth surfaces.

The Garden Theater has a rectangular plan and is constructed of wood framing with a smooth stucco exterior and concrete slab foundation. The

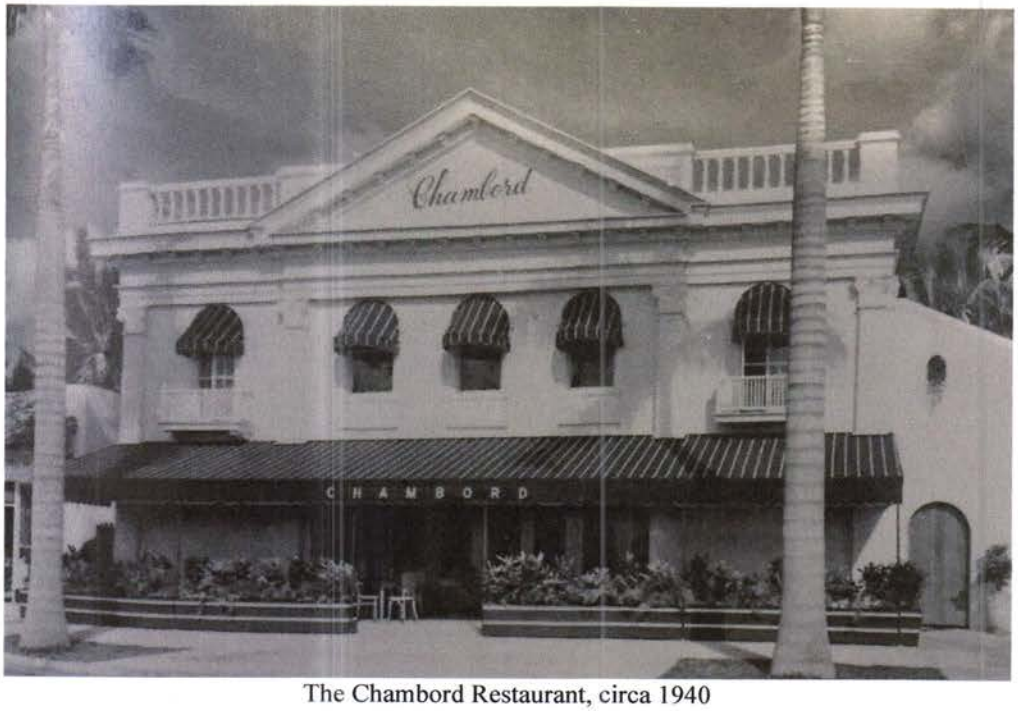
roof consists of a front facing gable, surfaced with composition shingles, and flat roofs. The symmetrical design has a three bay central temple block flanked a bay on each side. The most significant architectural features of the building are the two-story Corinthian fluted pilasters, the entablature which includes a stucco cornice with corbel supports, and the central triangular pediment with cast stone balustrade on either side that wraps the corners of the building. Three storefronts are located on the first floor of the main (south) façade. The storefronts are sheltered by canvas awnings. The fenestration of the main façade's second floor consists of fixed rectangular and arched windows.

Alterations to the building include the removal of the marquee and conversion of the original entrance into storefronts, replacement of two of the five arched windows on the second floor to rectangular windows (circa 1959), and the removal of two small balconies on the second floor of the main façade in 1976.[1] Even with these alterations, the building continues to retain its architectural integrity.

[1] Town of Palm Beach Building permits from 1920-2015. While no building permit was located for the removal of the marquee, it was likely removed when the theater was converted to a restaurant in 1936. Photos of the building when it was the Chambord Restaurant (1939-1945) do not show the marquee. Additional alterations to the building over the years include the addition of air conditioning, various roof repairs, interior remodeling, and the installation of awnings.



The Garden Theatre from the Palm Beach Post December 5, 1921



The Chambord Restaurant, circa 1940

To the west of the Garden Theater is 217 Royal Poinciana Way. This one-story masonry vernacular commercial building was constructed circa 1925.[2] The rectangular building has a concrete slab foundation and was constructed of concrete block surfaced with stucco. It has a flat roof with a shed pent roof surfaced with flat tiles. The pent roof is supported by pecky cypress brackets at each end. The building originally had a barrel tile roof and the storefront was replaced in the 1970s. The building no longer retains its historic appearance.

217 Royal Poinciana Way

Building on the left is 217 Royal Poinciana Way, c. 1930

III. Historical Information

The Garden Theatre was constructed in 1921 during the Florida Land Boom of the 1920s as Palm Beach's second movie theater. The 1920s was a period of tremendous growth in the Town of Palm Beach. The Island had become the winter resort of America's most influential families and the building boom was radically changing the face of the small community.

As new estates were built and subdivisions developed during the early 1920s, Main Street (now Royal Poinciana Way) was the center of town.[3] To meet the entertainment needs of the increasing population, Town Councilman John "J.T." Havens built the Neo-Classical Garden Theatre along Main Street at a cost of $75,000. By the mid-1920s, Main Street had

[2] Building permit #542 from December 1925 is for the construction of a one-story commercial building 16 feet by 50 feet, which could be the building at 217 Royal Poinciana Way.
[3] "Summer Saunterings in Main Street." Palm Beach Post, May 31, 1925.

become an area for congregating in restaurants, dining, dancing, watching movies, banking and shopping for both locals and visitors. In a 1924 article in the Palm Beach Post, Main Street was described as "the heart of Palm Beach from which all other activities radiate like veins and arteries, with the post office and bank and the purveyor and the stock broker and the tobacco merchant and the bookshop, all adding their bits to the composite street."[4]

The 800-seat Garden Theatre had its grand opening on December 3, 1921 with the classic Cecil B. DeMille silent-era photoplay, *The Affairs of Anatol*, starring Gloria Swanson. Havens leased the theater to the Stanley Company, which operated all theaters in Palm Beach at the time and offered first-run, star-studded attractions for the island's seasonal venues.[5] The price for a ticket at The Garden Theater was 40 cents. It was considered the more luxurious of Palm Beach's two movie theaters at the time with seats that were wider and spaced further apart than the Fashion Beaux Arts movie theater, built in 1917 on the roof of the Fashion Beaux Arts shopping center located on the Lake Trail.

The lobby of the Garden Theatre was decorated with original oil paintings depicting Hollywood stars, and between reels a seven-piece orchestra entertained the patrons.[6] Located inside of The Garden Theatre building was the origins of Testa's Restaurant. Michele Testa, Sr., who had recently arrived from Chicago in 1921, opened a small soda fountain in the Garden Theater and operated it in this location until 1929 when it was relocated to 207 Royal Poinciana Way where it operated until 1946, before moving to its current location at 221 Royal Poinciana Way.

By 1935, the Garden Theatre had showed its last picture and Havens received a nightclub license for the building. During the following fifteen years the building housed a series of restaurants - Patio Marguery Restaurant opened in 1936, followed by the Chambord Restaurant, Monaco's Restaurant and Leon and Eddie's Restaurant. In 1950, Trosby's Auction Galleries replaced Leon and Eddie's and conducted estate sales in the onetime picture palace. Trosby's remained in the location for 25 years. Today the building houses the Palm Beach Book Store.

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[4] "The Saunterer." Palm Beach Post, February 1, 1924

[5] Palm Beach resident Stanley C. Warrick owned the Stanley Company. By 1925, the Stanley Company operated all theaters in Palm Beach and West Palm Beach. In 1933, Warrick's Company went bankrupt and the Garden Theater and Paramount Theater became part of the Sparks chain of 120 theaters.

[6] Augustus Mayhew. Palm Beach Daily News, "Unforgettable Palm Beach: Town's Movie History Dates Back Nearly 100 Years." January 9, 2011.

V. Architects Biography

The original building permit for the Garden Theatre is not recorded in the Town of Palm Beach's records and there are no original drawings of the building. Additional research did not reveal the name of the architect or builder.[7]

VI. Statement of Significance

The Garden Theatre is a noteworthy example of a Neo-Classical Revival movie theater constructed during the 1920s Florida Land Boom. It is significant for its architectural style, as well as, an example of early commerce in Palm Beach. It was one of the first movie theaters and its subsequent commercial establishments represented the need for commercial buildings and businesses to accommodate the demands and desires of the growing number of seasonal residents and tourists in Palm Beach.

VII. Criteria For Designation

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

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

> The Garden Theatre was constructed during the Florida Boom Time Era of the 1920s as the Town's second movie theater, demonstrating the desires of the seasonal residents of the 1920s to be entertained while wintering in Palm Beach. The theater's location along Royal Poinciana Way, the original Main Street of Palm Beach and heart of commercial activities in Town, was important to its development as a theater followed by successful restaurant and commercial establishments. The Garden Theatre reflects the broad cultural, political, economic and social history of the Town of Palm Beach,

[7]Town of Palm Beach Building Permits 1920-2015, Palm Beach County Historical Society files, online newspaper research.

and thereby fulfilling criterion (1) of the Landmarks Preservation Ordinance.

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

The Garden Theater is a good example of Neo-Classical Revival style architecture as designed as an early movie theater in Palm Beach during the Land Boom of the 1920s. The building embodies distinctive Neo-Classical Revival characteristics including symmetrical design, full height pilasters, central triangular pediment, and cornice with corbel supports thereby fulfilling criterion (3) of the Town of Palm Beach Landmarks Preservation Ordinance.

VIII. Selected Bibliography

Curl, Donald W. Palm Beach County: An Illustrated History. Northridge, California: Windsor Publications, Inc., 1987.

The Historical Society of Palm Beach County. Garden Theatre and Royal Poinciana Way files.

Marconi, Richard A. and Murray, Debi. Images of America: Palm Beach. Charleston, South Carolina: Arcadia Publishing, 2009.

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

The Palm Beach Daily News and Palm Beach Post. Archived Articles.

O'Sullivan, Maureen. Palm Beach Then and Now. West Palm Beach, FL: Lickle Publishing, 2004.

Poppeliers, John, Allan S. Chambers, Jr. and Nancy Schwatz. What Style Is It? A Guide to American Architecture. Washington, D.C.: Preservation Press, 1983.

Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1919 and 1926. City of West Palm Beach Public Library, Florida Room.

Town of Palm Beach. Building Permits, 1920– 2015.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1918-1975.

Wiffen, Marcus. American Architecture Since 1780: A Guide to Styles. 4th Ed. Cambridge: MIT Press, 1996.

IX. Florida Master Site File Form

Florida Master Site File

HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB04331
Recorder # Jane S. Day
Field Date 11/11/2010
Form Date 2/4/2011
FormNo 201011
FormNo - Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Vesenas Holding Corp., Bldg.
Multiple Listing (DHR only)
Other Names >> Garden Theater
Survey or Project Name Palm Beach Historic Sites Survey, Phase V
Survey#
National Register Category Building(s)

LOCATION & IDENTIFICATION

Address

Street No.	Direction	Street Name	Street Type	Direction Suffix
215		Royal Poinciana	Way	

Cross Streets (nearest/ between) Bradley Place & North County Rd.
City / Town (within 3 miles) Town of Palm Beach
In Current City Limits? YES
County Palm Beach
Tax Parcel #(s) 50-43-43-22-32-000-0321
Subdivision Name Floral Park Add. # 1
Block
Lot 32-35
Ownership Private-Corporate-for Profit
Name of Public Tract (e.g., park)
Route to (especially if no street address) On the north side of Royal Poinciana Way between Bradley Place and North County Road.

MAPPING

USGS 7.5' Map Name
Publication Date >> PALM BEACH;1946
Township:
Range:
Section:
1/4 section:
>> 43S ;43E ;22;UNSP
Irregular Section Name:
Landgrant
UTM: Zone
Easting
Northing
Plat or Other Map (map's name, location)

DESCRIPTION

Style Neo-Classical Revival
Other Style
Exterior Plan Irregular
Other Exterior Plan
Number of Stories 215
Structural System(s) >> Wood frame
Other Structural System(s)
Foundation Type(s) >> Unspecified by recorder
Other Foundation Types
Foundation Material(s) >> Unspecified
Other Foundation Material(s)
Exterior Fabric(s) >> Stucco
Other Exterior Fabric(s)
Roof Type(s) >> Flat
Other Roof Type(s)
Roof Material(s) >> Tar & gravel
Other Roof Material(s)
Roof Secondary Structure(s) (dormers etc) >> Gable extension
Other Roof Secondary Structure(s)
Number of Chimneys
Chimney Material
Other Chimney Material(s)
Chimney Location(s)

Page 1 of 3

HISTORICAL STRUCTURE FORM

8PB04331

DESCRIPTION (continued)

Window Descriptions fixed

Main Entrance Description (stylistic details) multiple entrances on the south facade

Porches: #open ____ #closed ____ #incised ____ Location(s) ____

Porch Roof Types(s) ____

Exterior Ornament peidment, cast stone balustrade, pilasters

Interior Plan Irregular Other Interior Plan ____

Condition Good

Structure Surroundings

Commercial: MOSTly this category Residential: SOME of this category

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

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

Archaeological Remains (describe): none observed

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

Narrative Description (optional) ____

HISTORY

Construction year 1923

Architect (last name first): unknown Builder (last name first): Macomber, H. M.

Changes in Locations or Conditions

Type of Change	Year of Change	Date Change Noted	Description of Changes
>>			

Structure Use History

Use ____ Year Use Started ____ Year Use Ended ____ >> Commercial unspecified;1923;

Other Structure Uses ____

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

RESEARCH METHODS

Research Methods ____ >> Examine local property records

Other research methods ____

SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? INSUFF. INFO Name of Local Register if Eligible Town of Palm Beach Landmark

Idividually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? NO

Area(s) of historical significance ____ >> Community planning & development

Other Historical Associations ____

Explanation of Evaluation (required) This Neo- Classical revival building onces housed the Garden Theater. the building, constructed during the Boom Times, is still a focal point on Royal Poinciana Way. It is worthy of study.

Page 2 of 3

HISTORICAL STRUCTURE FORM

8PB04331

DOCUMENTATION (Photos, Plans, etc.)

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

Document type: _____ Maintaining Organization: _____

File or Accession #: _____ Descriptive Information: _____

>> _____

RECORDER INFORMATION

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

Recorder Address / Phone 728 Granada Drive, Boca Raton, Fl. 33432 561-362-4473

Recorder Affiliation Research Atlantica Other Affiliation Town of Palm Beach

Is a Text-Only Supplement File Attached (Surveyor Only)? _____

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

SHPO's Evaluation of Resource

Date

Cultural Resource Type:
Electronic Form Used:

Form Type Code:
Form Quality Ranking:
Form Status Code:

Supplement Information Status:
Supplement File Status:

FMSF Staffer:
Computer Entry Date:

Form Comments: _____

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

Page 3 of 3

EXCERPT FROM THE MINUTES OF THE LANDMARKS PRESERVATION COMMISSION MEETING OF APRIL 16, 2015

Item 2: 211 Royal Poinciana Way

Owner: Vesenaz Holding Corp. c/o Brenner Real Estate Group, Inc.

This hearing had been scheduled for February 18, 2015, but was deferred to the April meeting at the request of the owner's attorney.

Call for disclosure of ex parte communication: No disclosures

Emily Stillings testified to the architecture and history relative to this Neo-Classical Revival style building, originally built as the Garden Theatre in 1921, the Town's second movie theatre. Ms. Stillings explained that the legal boundaries of the property include the one story commercial building to the west of 211 Royal Poinciana Way, known as 217 Royal Poinciana Way. She testified that while 211 Royal Poinciana Way retains its architectural integrity, 217 Royal Poinciana Way does not. Ms. Stillings testified that this property meets the following criteria for landmark designation:

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

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

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

MOTION BY MRS. ALBARRAN THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.
MOTION SECONDED BY MS. HUFTY.
MOTION CARRIED UNANIMOUSLY.

Attorney Guy Rabideau, present on behalf of the property owner, stated that the owner supports the landmark designation, with specific caveats (to add to the resolution) to address potential future changes to the building. Those caveats follow:

This resolution approving this Landmark Designation is passed and adopted subject to the understanding that: (a) the one story commercial building at 217 Royal Poinciana Way; (b) the first floor of 211 Royal Poinciana Way (not including the Corinthian fluted pilasters); (c) the roofing material of both 211 and 217 Royal Poinciana Way; and, (d) the structure located behind the front entablature of 211 Royal Poinciana Way, are all "non-contributing" and should be considered as such in any future application before the Landmarks Commission relating to Certificates of Appropriateness. There is nothing intended in the adoption of this resolution which would preclude the modification of such non-contributing building elements, a review by the LPC being to insure that the contributing features are not adversely affected by the modification of non-contributing building elements.

Lori Volk requested that the suggested language be read into the record. Mr. Cooney read same into the record. She questioned why this language had not been presented to staff and the LPC prior to this hearing so it might have been studied in advance of the meeting. Ms. Volk mentioned that caveat (d) of the language will allow the owner an ad valorem tax credit, much like the advantages afforded the Breakers by virtue of their facade designation. Mr. Cooney responded that the LPC is frequently presented with new evidence during hearings, and deals effectively with that information. *(Note: Later in the meeting, Ms. Stillings clarified that the Breakers is on the National Register and is therefore eligible for the tax abatement program. The subject property is included in the recently proposed Royal Poinciana Way Historic District, proposed for the National Register. If accepted, this building will also be eligible for the tax abatement program due to the National Register designation.)*

Caveat (d) of the above was discussed several times to clarify that the whole building was landmarked, and this is not only a facade designation.

Mr. Lindgren noted that this proposed language is almost verbatim of the language included in the designation of 127 Dunbar Road which was designated in 2013.

Commission Comments: We have worked toward having owners come forward to landmark their buildings…in this case, the owner has certain concerns and we should try to honor them; this is in keeping with the history of the LPC; it almost links to the designation report, so I urge you to be willing to accept this, especially when the property owner agrees to the landmarking; question whether the property owner will be getting a tax credit; you should not get a tax credit for anything other than the facade of 211 Royal Poinciana Way; and, if the district is approved for the National Register, the entire building will be eligible for tax credits.

MOTION BY MR. ZUKOV THAT 211 ROYAL POINCIANA WAY BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND TO ADD "THE LANGUAGE" (Mr. Rabideau's submitted language) TO THE MOTION.
MOTION SECONDED BY MR. GANNON.
MOTION CARRIED UNANIMOUSLY.

ARTICLE IV. - DESIGNATION PROCEDURE

Sec. 54-161. - Criteria for landmarks and landmark sites.
Sec. 54-162. - Creation of historic districts.
Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.
Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.
Sec. 54-165. - Voluntary restrictive covenants.
Secs. 54-166—54-195. - Reserved.

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

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

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

(2) Is identified with historic personages or with important events in national, state or local history.

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

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

(Code 1982, § 16-38)

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

(a) *Authorized.* For preservation purposes, the commission shall identify geographically defined areas within the town to be designated as historic districts and shall cite the guideline criteria upon which such designation shall be made. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the town that:

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

(2) Is identified with historic personages or with important events in national, state or local history.

(3) Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style or methods of construction or use of indigenous materials or craftsmanship.

(4) Is representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.

(5) Constitutes a unique area of architecture, landscaping and planning.

(b) *Petition for special historic district category.* Following the designation of each landmark or landmark site, the commission may petition the town council for the categorizing of such

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

(1) Designate a building, together with its accessory buildings and its lot of record, or a vacant site or a district as historic and worthy of preservation as a landmark, landmark site or historic district, as the case may be, within the jurisdiction of the commission, provided such designation is ratified by the town council.

(2) Recommend appropriate legislation for the preservation of any building, site or district which it has so designated.

(3) Make application for public and private funds when appropriate and available for the purposes set forth in this article subject to the approval of the town council.

(4) Review applications proposing erection, alteration, restoration or moving of any building it has so designated or any building located in a district it has so designated, and to issue or deny certificates of appropriateness accordingly.

(5) Review applications for demolition permits proposing demolition of all or part of any landmark or any building located in an historic district, and to issue certificates of appropriateness or to deny them for one year.

(6) Cooperate with the owner of a landmark or a property located in an historic district throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for such landmark or property.

(7) Review its denial of a certificate of appropriateness for demolition of such landmark or property annually, during a public hearing at which time the owner of the affected landmark or property shall be afforded an opportunity to appear with counsel and to present testimony.

(8) Prohibit the issuance of building, exterior remodeling or demolition permits affecting any property under consideration for landmark designation without a certificate of appropriateness, this prohibition to remain in effect for the length of time required by the commission and the town council for final action on the proposed designation. The commission shall accomplish such prohibition by furnishing the building official a list of all property under consideration for landmark designation.

(Code 1982, § 16-42)

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

(a) The following procedure shall be adhered to by the commission in designating any building, building site or district that is worthy of preservation:

(1) The commission shall consider for landmark designation any property proposed by the owner of record or by a member of the commission.

(2)

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

(3) The commission shall also cause notice of each such proposed designation to be posted at least 30 days prior to the public hearing on the bulletin board in the lobby of the town hall, and in addition the commission shall cause such notice to be published in a newspaper having general circulation in the town.

(4) The commission may retain or solicit expert testimony regarding the historic and architectural importance of the buildings and districts under consideration for designation.

(5) The commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark, landmark site or historic district.

(6) The commission shall afford the owner of each affected property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of such property.

(7) The owner of each affected property shall be afforded a right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the commission.

(8) Any interested party may present testimony or documentary evidence regarding the designation of a proposed landmark, landmark site or historic district at the public hearing and may submit to the commission documentary evidence within three days after the hearing.

(9) Within not more than 30 days after a public hearing, the commission shall render a final decision regarding the proposed designation and give written notice of its decision to each owner of property affected by the designation, setting forth the reasons for the decision.

(10) The commission shall maintain a record of testimony and documentary evidence submitted to it for consideration of the designation of a proposed or previously designated landmark, landmark site or historic district.

(11) In accordance with section 54-163(1), the town council shall, within 90 days of the commission's final decision, hold a public hearing to consider ratification of the determination of the commission prior to the designation of a property as a landmark or landmark site or of a district as an historic district becoming effective. Absent ratification by the town council, the commission's determination shall be ineffective.

(12) Within 30 days of the date on which the town council ratifies the commission's designation of a landmark, landmark site or historic district, the commission shall cause to be filed in the office of the county recorder of deeds a certificate of notification that such property is designated a landmark or landmark site or is located within a district designated an historic district; and the certificate of notification shall be maintained on the public record until such time as such designation may be withdrawn by the commission and the town council.

(b) Designation and undesignation hearings before the commission shall be held only during the months of November, December, January, February, March and April.

(c)

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 13, 2015

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 66-2015 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as the **Regents Park Historic District** Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Historic District Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

Presenter

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

Supporting Documents

- **Memorandum dated April 29, 2015 from John S. Page, Director of Planning, Zoning and Building**
- **Resolution No. 66 - 2015 for Regents Park Historic District**
- **Designation Report for Regents Park Historic District**
- **Corrected Page 25 of Designation Report**
- **Excerpt from the Minutes of the Landmarks Preservation Commission Meeting of April 16, 2015**
- **Applicable Code Section**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 13, 2015

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Landmark Designation of Regents Park Historic District
Resolution No. 66 – 2015

Date: April 29, 2015

STAFF RECOMMENDATION

Staff recommends ratification of the Regents Park Historic District as an historic district within the Town of Palm Beach.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the April 16, 2015 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as an historic district. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

The property meets the following criteria for designation as an historic district of the Town of Palm Beach:

Sec. 54-162 (1)	Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and,
Sec. 54-162 (3)	Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; and,

Sec. 54-162 (4)	Is representative to the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age; and,
Sec. 54-162 (5)	Constitutes a unique area of architecture, landscaping and planning.

OWNER CONSENT

Please be advised that that all of the five property owners within Regents Park were notified of the Designation Hearings for the Regents Park Historic District. The Town has received no letters of objection relative to the proposed historic district from any of those property owners. The Town of Palm Beach, owner of the right-of-way included within the district, has specified certain conditions relative to future maintenance of said right-of-way, those conditions being included within Resolution No. 66 – 2015, Section 4.

FUNDING/FISCAL IMPACT

No direct funding is needed for this action.

COMPREHENSIVE PLAN

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

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 66 - 2015 relating to the Regents Park Historic District, and has approved it as to legal form and sufficiency.

attachments

JSP:cmd

cc: Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
John Lindgren, AICP, Planning Administrator
pf

RESOLUTION NO. 66 - 2015

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

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

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

WHEREAS, the Town Council does hereby find and determine that the historic district described herein meets the criteria required by the Ordinance to designate an historic district, and shall be designated as an historic district.

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

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

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

Section 3. The historic district herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as the **Regents Park Historic District** and the properties to be included within the district are legally described as follows:

100 Regents Park: LOT 1, REGENTS PARK, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 25, PAGE 215 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, and,

200 Regents Park:
***PARCEL ONE*: LOT 5, OF REGENTS PARK, A SUBDIVISION IN THE TOWN OF PALM BEACH, FLORIDA, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 25, PAGE 215.**
***PARCEL TWO:* THE NORTH 50 FEET OF THAT PART OF THE FOLLOWING DESCRIBED PARCEL OF LAND LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF OCEAN BOULEVARD AS NOW LAID OUT AND IN USE: A PARCEL OF LAND LYING AND BEING IN GOVERNMENT LOT 1, SECTION 2, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AND BOUNDED AS FOLLOWS: BOUNDED ON THE NORTH BY A LINE PARALLEL TO AND 99 FEET SOUTH OF THE NORTH LINE OF SECTION 2 AFORESAID; BOUNDED ON THE SOUTH BY A LINE PARALLEL TO AND 349 FEET SOUTH OF THE NORTH LINE OF SECTION 2 AFORESAID; BOUNDED ON THE EAST BY THE WATERS OF THE ATLANTIC OCEAN; BOUNDED ON THE WEST BY THE UNITED STATES GOVERNMENT PIERHEAD LINE REFERRED TO IN THAT CERTAIN DEED FROM TRUSTEES OF THE INTERNAL IMPROVEMENT FUND TO HENRY P. BINGHAM, DATED FEBRUARY 17, 1928, DEED #17872, RECORDED IN DEED BOOK 431, PAGE 114, PUBLIC OF PALM BEACH COUNTY, FLORIDA, and,**

<u>300 Regents Park</u>: LOT 2, REGENTS PARK, ACCORDING TO THE PLAT THEROF, RECORDED IN PLAT BOOK 25, PAGE 215, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, and,

<u>400 Regents Park</u>: LOT 4, REGENTS PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 25, PAGE 215 PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND THAT PORTION OF THE FOLLOWING DESCRIBED PROPERTY WHICH LIES WEST OF THE SOUTHERLY EXTENSION OF THE EAST BOUNDARY OF LOT 4, REGENTS PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 25, PAGE 215, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA: THE NORTH 50 FEET OF THAT PART OF THE FOLLOWING DESCRIBED PARCEL OF LAND LYING WEST OF THE WEST RIGHT OF WAY LINE OF OCEAN BOULEVARD AS NOW LAID OUT AND IN USE: A PARCEL OF LAND LYING AND BEING IN GOVERNMENT LOT 1, SECTION 2, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BOUNDED ON THE NORTH BY A LINE PARALLEL TO AND 99 FEET SOUTH OF THE NORTH LINE OF SECTION 2 AFORESAID; BOUNDED ON THE SOUTH BY A LINE PARALLEL TO AND 349 FEET SOUTH OF THE NORTH LINE OF SECTION 2 AFORESAID; BOUNDED ON THE EAST BY THE WATERS OF THE ATLANTIC OCEAN; BOUNDED ON THE WEST BY THE UNITED STATES GOVERNMENT PIERHEAD LINE REFERRED TO IN THAT CERTAIN DEED FROM TRUSTEES OF THE INTERNAL IMPROVEMENT FUND TO HENRY P. BINGHAM DATED FEBRUARY 17, 1928, DEED #17872, RECORDED IN DEED BOOK 431, PAGE 114, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, and,

<u>500 Regents Park</u>: LOT 3 OF REGENTS PARK, A SUBDIVISION IN 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 25, PAGE 215, and,

<u>Regents Park right of way:</u> DEDICATED PUBLIC ROAD RIGHT OF WAY KNOWN AS REGENTS PARK.

<u>Section 4</u>. The Town Council recognizes that the public right-of-way within this landmarked District will require routine maintenance as is commonplace with all Town roadways. In its adoption of this resolution, the Town Council hereby states its intention to preserve the general appearance of this historic district, yet empowers Town staff to take any and

all actions normally associated with maintenance or replacement of existing right-of-way infrastructure with no further review or approval from the Landmarks Preservation Commission. Future design changes to the infrastructure however, including but not limited to paving material changes, roadway or median realignments, and/or substantive landscaping changes, will necessitate Certificate of Appropriateness approval from the Landmarks Preservation Commission.

Section 5. The Town Clerk is hereby ordered to furnish a copy of this Resolution to the property owners of the properties included within the Regents Park Historic District.

Section 6. Within thirty (30) days from the date of this Resolution, the Landmarks Preservation Commission shall cause to be filed in the Office of the Recorder of Deeds in and for Palm Beach County, Florida, a certificate that the above-described historic district comprises a landmarked historic district, as defined in and subject to the provisions of Ordinance No. 2-84 and the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of May, 2015.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Danielle H. Moore, Town Council Member
ATTEST:	Penelope D. Townsend, Town Council Member
Susan A. Owens, MMC, Town Clerk	Robert N. Wildrick, Town Council Member

Regents Park Historic District

DESIGNATION REPORT

April 16, 2015

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

Regents Park Historic District

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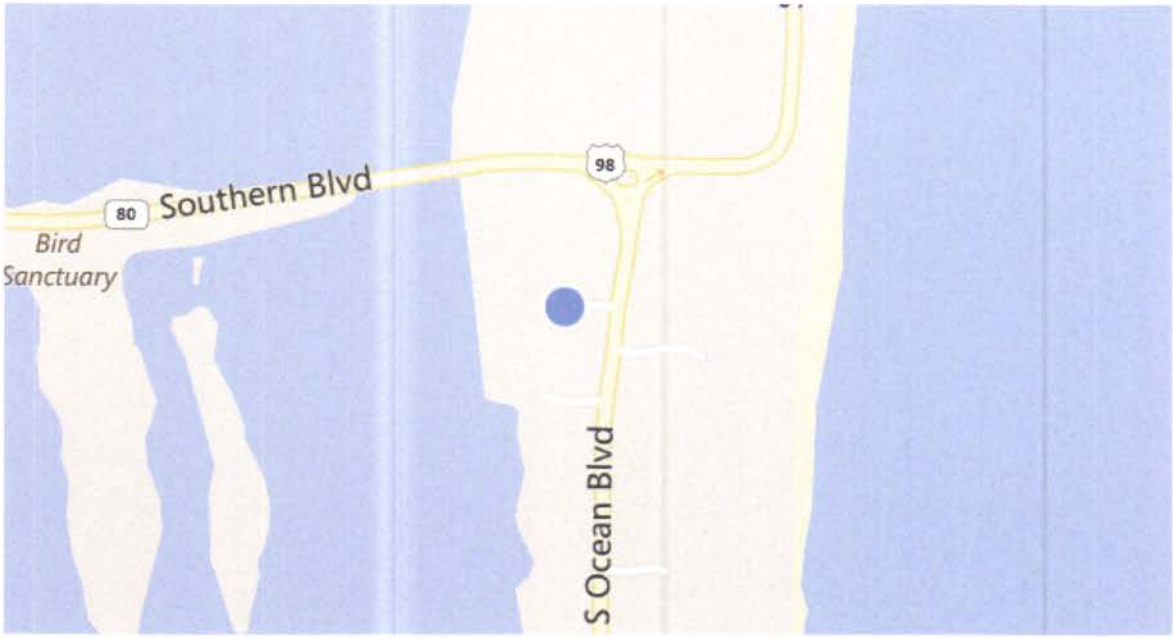
Report produced by Murphy Stillings, LLC

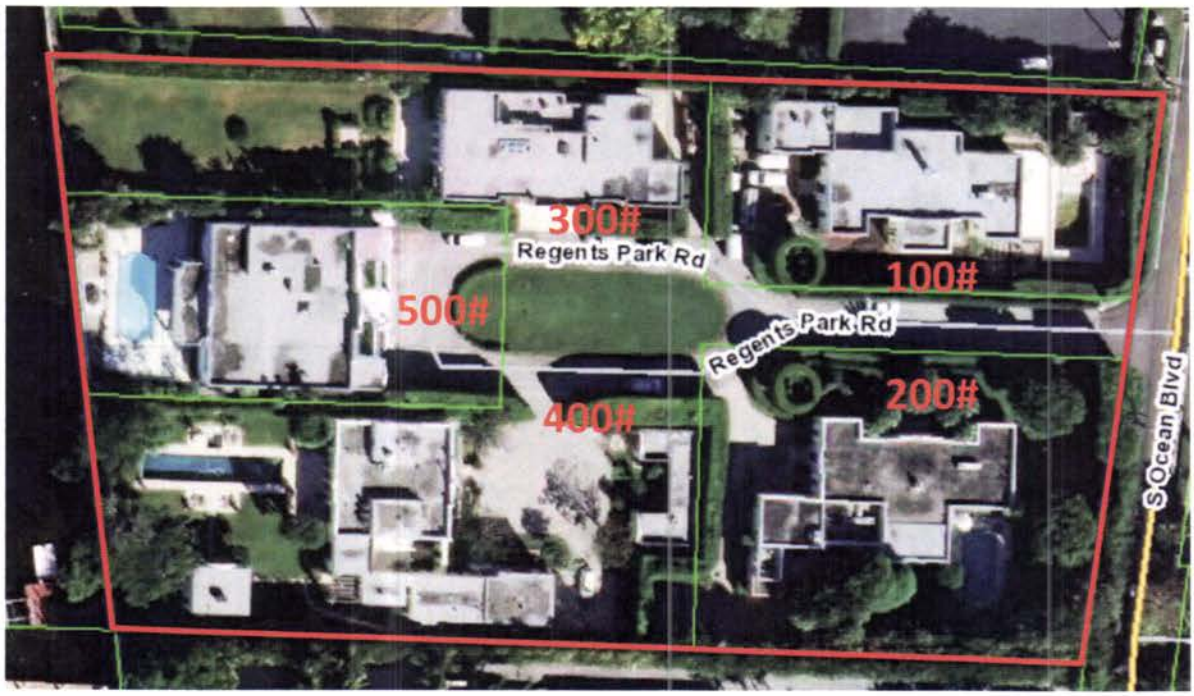
I. General Information

Location:	100 - 500 Regents Park Road Palm Beach, Florida
Date of Construction:	1958 - 1959
First Owner:	100 Regents Park Road: Arthur & Mary Hill 200 Regents Park Road: George & Ethel Garrett 300 Regents Park Road: Alfred Cowles, III 400 Regents Park Road: Clarence Mack 500 Regents Park Road: Irving J. Reuter Regents Park Right of Way: Town of Palm Beach
Architect:	Clarence Mack
Builder/Contractor:	Clarence Mack
Present Owner:	100 Regents Park Road: Paul & Lynda Lee Murry 200 Regents Park Road: Joyce L. Milner 300 Regents Park Road: Mary M. Ourisman 400 Regents Park Road: Kathleen M. Price 500 Regents Park Road: Eddy J. Louis Regents Park Right of Way: Town of Palm Beach
Present Use:	Residential
Present Zoning:	RA
Palm Beach County Tax Folio Number:	100 Regents Park Road: 50434335070000010 200 Regents Park Road: 50434335070000050 300 Regents Park Road: 50434335070000020 400 Regents Park Road: 50434335070000040 500 Regents Park Road: 50434335070000030
Legal Description:	Lots 1 Thru 5 and the right of way known as Regents Park, REGENTS PARK, according to the Plat thereof recorded in Plat Book 25, Page 215 of the Public Records of Palm Beach County, Florida

II. Location Maps

Regents Park Historic District





III. Introduction

Regents Park was platted in May of 1958 with five large lots in a prime Palm Beach location between South Ocean Boulevard and Lake Worth, approximately one-half mile southeast of the Southern Boulevard Bridge terminus.[1] Clarence Mack purchased the property in April of 1958 from Matthew H. and Helen T. McCloskey, Palm Beach winter residents from Philadelphia with close ties to John F. Kennedy and the Kennedy family.[2] From mid-1958 - 1959, acting as architect, builder and developer, Mack constructed five Regency style speculative houses on the lots, creating a unique development in Palm Beach. The homes were laid out around an oval green space. Mack named the subdivision for Regent's Park in London, a vast royal park Prince Regent (later King George IV) commissioned John Nash to design in 1811.[3] Nash, who was serving as architect to the Crown, designed the palatial terraced villas in a late Georgian style that became known as the Regency style. Mack planned the Regents Park subdivision with proficiency, providing the benefits of a well-located private enclave with stately Regency style houses that attracted affluent buyers. Mack was also skillful at designing the houses to complement one another thereby creating a distinct and cohesive district.

IV. Architectural Information

The Regency style of architecture Mack utilized in the design of the homes in Regents Park is a revival and interpretation of 19th century Regency architecture of England, and is sometimes referred to as "Palm Beach

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[1] It is a premier location with Mar-A-Lago just to the south, the Bath and Tennis Club across Ocean Boulevard to the east and views of the Bingham Islands bird sanctuary to the west.

[2] Mathew H. McCloskey owned a large construction company based in Philadelphia. He was a delegate to the Democratic National Conference numerous times, an important Democratic Party fundraiser and was associated with what became known as Kennedy's Irish Mafia. McCloskey also served as Ambassador to Ireland from 1962-1964.

[3] Known as the 'jewel in the crown', The Regent's Park covers 197 hectares. Like most of the other Royal Parks, Regent's Park formed part of the vast chase appropriated by Henry VIII. It was John Nash, architect to the crown and friend of the Prince Regent (later King George IV), who developed The Regent's Park as we know it today. A vast rounded park was designed by John Nash, surrounded by palatial terraces, a lake, a canal, 56 planned villas (only 8 were ever built) and a second home for the Prince - a summer palace, which was never built. The Park became the home of several organizations like the Zoological Society and the Royal Botanic Society. Of the buildings and monuments within the park, only two villas, St John's Lodge and The Holme, remain from John Nash's original conception of the park.

Regency". English Regency architecture spanned approximately the first thirty years of the 19th century and was named for George IV when he was Prince Regent. It drew from the Georgian architectural style, which preceded it. Regency architecture references the classical forms and details of Greek and Roman architecture as well as and later details developed by Andrea Palladio during the Italian Renaissance. Regency architecture has clean lines with a sense of tradition, a simplified elegance that features symmetry, stucco facades, slim lines, uncluttered planes, classical moldings, columns, pediments, porticos and arches often with keystones. The Regency style is also associated with interior design and decorative arts of the period. Clarence Mack incorporated Regency style details to the interiors of the residences in Regents Park.

V. Historical Information

The period from the end of World War II to the early 1970s was a golden era of economic growth in the United States. World War II ended in September 1945, which allowed for the conversion of the economy to a peacetime economy, with excess industrial capacity and a high demand for new consumer goods. The Cold War, which followed WWII, increased American's fear over a nuclear war with the Soviet Union, yet instead of conserving their resources, many Americans responded by escaping into a lifestyle of consumerism. Older generations were careful to save and reuse while the younger generations began to spend and consume more. Many Americans also turned away from older notions of thrift and began to buy on credit, including big-ticket items such as cars and houses, significantly benefitting both the automakers and the housing industry. Garages became an important feature of houses as many families started owning more than one car. The auto industry received an additional boost when President Eisenhower launched the Interstate Highway System in 1956.[4] One year later, in January of 1957, the Sunshine State Parkway opened, bringing many tourists to Florida.[5]

During the post-war boom years of the 1950s and the 1960s, Palm Beach residents and visitors were again enjoying life to its sub-tropical fullest. Blessed with abundant resources, America could afford to turn part of its

[4] President Eisenhower created the Interstate Highway System by signing the Federal Aid Highway Act into law in 1956.

[5] The Sunshine State Parkway is now the Florida Turnpike.

productive capacity to creating glitz and fashionable excess, much of which found its way to Palm Beach. Faster trains, air travel and modern conveniences such as air conditioning accelerated the boom even more. Civic leaders continued to prize Palm Beach's status as an eminent small town that offered many diversions for affluent residents and visitors. In the winters following World War II, Palm Beach was even more crowded than during the 1920s boom era, proving that the colony had triumphantly survived the war. The demand for housing rose dramatically and a late 1940s zoning change that increased density in Midtown sparked a building boom for two decades. The Southern Boulevard Bridge was completed in 1950 and immediately provided significantly faster access to the Island's south end. Palm Beach was also expanding its commercial and cultural venues. The Royal Poinciana Plaza and Playhouse, designed in 1957 by John Volk in the Regency style, were important and successful mid-century contributions to Palm Beach's commercial architecture and cultural vitality. Palm Beach's society set also became increasingly charity focused, as balls and galas became big business raising millions of dollars for numerous causes.

Clarence Mack arrived in Palm Beach in 1935 as the Depression was ending and Palm Beach was beginning its post-Depression boom era. Mack had financial resources from a successful career designing and building high-end houses in Ohio and Michigan prior to the stock market crash in 1929. Though he had no formal training as an architect, Mack spent a number of years exploring and sketching architectural examples in Europe. The first house Mack designed in Palm Beach was located near the western end of Jungle Road.[6] The April 24, 1935 building permit for this house had a written note at the bottom stating, "Architect has Applied for Registration in the State." Approximately nine months later, on January 8, 1936, Mack received his Florida Architectural License.[7] From the mid-1930s through the early 1960s, Mack continued to buy lots, mostly in Palm Beach's estate section, on which to design and build spec houses.[8] His practice of both designing and building houses did not sit well with the Palm Beach construction community, which believed that "architects should be architects and builders should stick to building", and it was improper and unethical to serve a client in both capacities.[9] Nonetheless, Mack often presented

[6] The address was 251 Jungle Road. The house was demolished and a new house was constructed on the lot in 2003.

[7] Florida Architectural License #AR0001059

[8] Most of the houses Clarence Mack designed were on Jungle Road, North County Road, Via Del Mar and El Vedado Road.

[9] Clarence Mack biography from the files of the Preservation Foundation of Palm Beach.

himself as the architect, engineer, builder, interior decorator and landscape architect, and was remarkably successful at it.

Clarence Mack's early Palm Beach houses were designed in the Colonial, Georgian and Neoclassical Revival styles with adaptations for the tropical climate, or what Mack termed Tropical Empire.[10] In 1936, he designed Jasmine Hall at 241 Jungle Road, where he lived for nearly ten years.[11] Two years later, he designed and built Southholm on a secluded lot at 211 Jungle Road. In the late 1930s Mack purchased lakefront parcels on El Vedado Road and built four houses including Lakeview House at 319 El Vedado Road (1940), Southview House at 320 El Vedado Road (1940), Southhaven at 334 El Vedado Road (1939) and South Villa at 335 El Vedado Road (1940). Mack's 241 Jungle Road House and the Hugh Walker Mercer house at 320 El Vedado Road were photographed in 1941 by renowned architectural photographer Samuel H. Gottscho for a large photographic collection that now resides in the Library of Congress.[12]

Clarence Mack started designing houses in the Regency style in the mid-1940s. Whether he was looking for a signature style or he just believed the style would be fitting and successful in Palm Beach, Mack's designs helped introduce the Regency style to Palm Beach and he is often credited with creating the "Palm Beach Regency."[13] Likely the first Palm Beach house Mack designed in the Regency style was 205 Via Del Mar built in 1945 on the northwest corner of North County Road and Via Del Mar.[14] This highly visible location in Palm Beach's Estate Section helped to showcase his new Regency design. In 1953, he designed two larger and more decorative Regency style houses at 685 and 695 South County Road. Both houses were distinguished residences on large visible lots and each sold quickly to

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[10] Lost in Wonderland: Reflections on Palm Beach. Augustus Mayhew. Palm Beach Editorial Services, 2012. "Mack's early Palm Beach houses were modeled on his 1920's Ohio houses, making slight modifications and accessorizing the facades with urns and statues. Before he platted Regent Park, he had built Neoclassical Revival-style houses, which he called Tropical Empire.

[11] The house has been demolished.

[12] The Gottscho-Schleisner Collection is comprised of over 29,000 images of primarily architectural subjects. Architects, designers, or owners of architectural publications commissioned many of the photographs and they document important achievements in American 20th century architecture and interior design.

[13] It has also been called Palm Beach's midcentury version of Neoclassicism.

[14] The address is now 830 South County Road. No earlier Regency style houses designed by Mack have been found or attributed to him, however, a more exhaustive search would need to be done to state definitively that this was his first Regency style house.

northern buyers looking to spend their winter seasons in Palm Beach.[15] In 1957, John Volk's Regency style design for the Royal Poinciana Plaza and Playhouse greatly helped to popularize and validate the Regency style in Palm Beach.

Though Clarence Mack had previously purchased and divided property, Regents Park was his first venture into platting and developing a subdivision. The plat included five lots surrounding Regents Park Road, a circular drive with a landscaped median in the center.[16] Two square stone pillars with decorative urns on top mark the entrance to the subdivision on the west side of South Ocean Boulevard, with the name "Regent Park" inscribed on both pillars. Lots two, three, and four front Lake Worth on their western boundary, while lots one and five have South Ocean Boulevard as their eastern boundary.

As noted previously, Mack planned the Regents Park subdivision with proficiency, providing the benefits of a well-located private enclave with stately Regency style houses that attracted affluent buyers. Though the houses were constructed with varying designs due to their lot size and placement, their Regency style united them and Regents Park became the first subdivision in Palm Beach designed, built, landscaped and developed by an architect with a vision to create a neighborhood with a distinctive architectural style and a private enclave ambiance. The original owners recognized the exceptional qualities of Regents Park and there was very little ownership turnover. Regents Park was also a financial and professional success for Mack, with all of the houses purchased and occupied by 1963.[17]

Following the completion of Regents Park, Mack bought an estate-sized parcel where he designed, built and developed his second subdivision, Parc Monceau. This subdivision located along South Ocean Boulevard between the ocean and the lake featured seven houses formulated with similar Regency style houses as Regents Park. After completing Parc Monceau, Mack retired but his achievements attracted other architects and developers, in particular, builder Robert W. Gottfried. When Gottfried arrived in Palm Beach to work in his family's construction company, he asked Mack's

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[15] Miami News article Aug 1, 1953, "A newly constructed resort home in Palm Beach on the corner of Jungle and County Roads was sold by owner and builder Clarence Mack for $150,000 to Mr. and Mrs. William Padgett of Baltimore, Maryland.

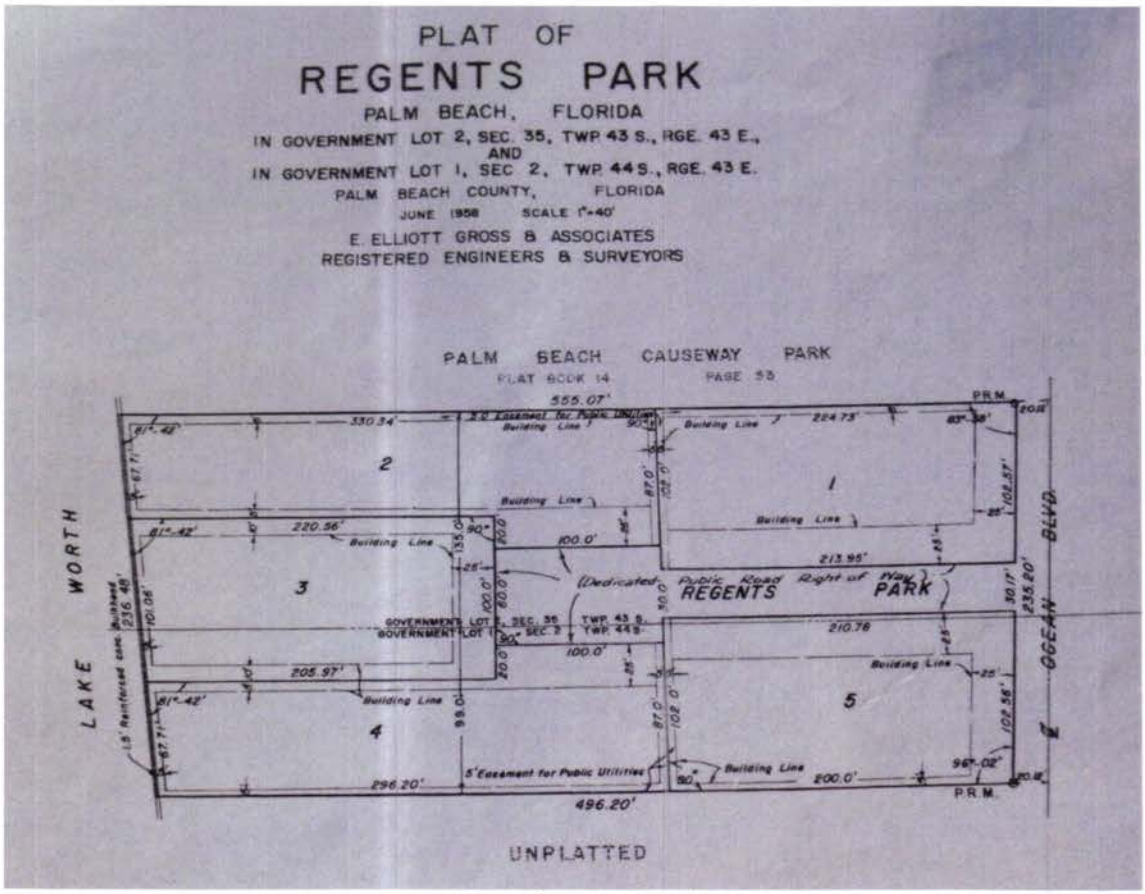
[16] The Town of Palm Beach owns the road and landscaped median.

[17] Clarence Mack provided mortgages for some of the owners through Clarence Mack, Inc.

advice on what he should build in Palm Beach. Mack instructed Gottfried to specialize in one particular style and make it his own. Gottfried paid Mack the highest compliment by emulating Mack's Palm Beach Regency style but making it his own. Within several years, "Gottfried Regency" became one of the island's most popular styles.[18]

VI. Architectural Descriptions and Original Owner Information

Clarence Mack designed the Regents Park subdivision to be a cohesive neighborhood consisting of five Regency style homes arranged along a drive with a landscaped median. The combined site plan design and architecture utilized by Mack created a visually unified enclave of residences. There are two residences located on the north side of the site, two residences on the south side and one located at the terminating vista of Regents Park Road.



Plat of Regents Park

[18] Lost in Wonderland. Augustus Mayhew. Palm Beach Editorial Service, 2012. Pages 249-251. According to Wikipedia, Robert W. Gottfried built approximately 400 houses in Palm Beach.

100 Regents Park Road

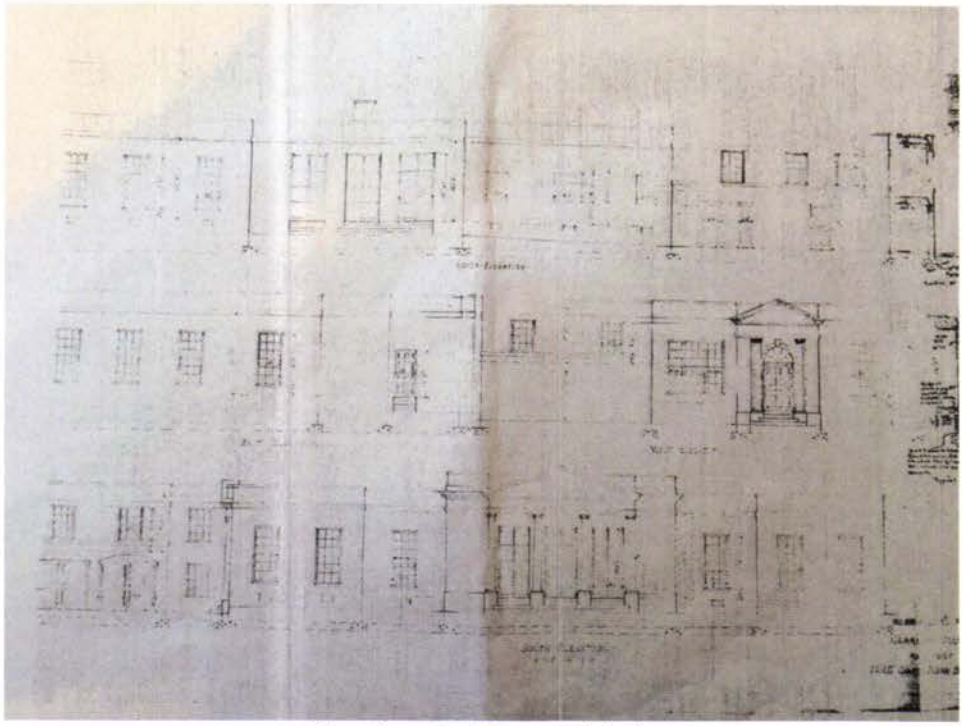
South and West Façade, Looking Northeast

100 Regents Park Road was designed in the Regency style of architecture as interpreted by Clarence Mack in 1958.[19] The design is representative of the Regency style in its classical details and symmetrically balanced facades. The residence was constructed of wood framing with a hollow tile veneer surfaced with stucco. It has a flat roof with straight parapet. The main entrance is located on the west façade, which runs perpendicular to a two-story garage wing emphasizing the importance of the automobile in Mack's design. The west façade is divided into three bays with the main entrance located in the center bay. The focal point of the house is the arched entrance, with a simple surround and keystone recessed under a triangular pediment supported by two simple slender columns. The apex of the pediment is at the same height as the top of the parapet wall that hides the flat roof. A continuous stringcourse is aligned with the cornice of the pediment. The bays flanking the pedimented entrance each contain large a nine-over-nine sash window.

A two-story garage wing extends to the west of the residence. The south façade of the two-story garage wing is comprised of three bays with the easternmost bay being slightly recessed breaking up the wall plane and

[19] Town of Palm Beach Building Permit #43258 dated August 28, 1958.

emphasizing the two garage bays. This recessed bay contains a six-over-six sash window on both the first and second floors. The two westernmost bays contain the garage and feature rectangular garage doors that are recessed behind segmental arches. Six-over-six sash windows are located above each of the garage doors. A stringcourse delineates the location of the second floor.



Elevations by Clarence Mack

The south façade of the residence is divided into five sections. The center section originally had a higher roofline with a triangular pediment and four columns. Three large multi-light doors were located between the columns. In 1969, a 368 square foot addition was constructed in front of the south façade's center bay.[20] To each side of the center section are three bays with the eastern and western two bays projecting forward.

A detached, one-story pool house and a swimming pool were added to the property in 1962. Located at the northeast corner of the property, the pool house was designed by the prominent architectural form of Wyeth, King and Johnson.[21] The pool house was constructed of concrete block surfaced with stucco and a flat roof with a straight parapet delineated by a stringcourse.

[20] Town of Palm Beach Building Permit No. 53269, dated August 12, 1969.
[21] Town of Palm Beach Building Permit No. 4362, dated August 14, 1962.

Arthur and Mary Hill bought 100 Regents Park Road in 1962 and spent the next twenty-seven winter seasons there.[22] The Hills were members of Palm Beach's society set, with Arthur a member of the Coconuts and the couple was involved in numerous charitable organizations, particularly the Palm Beach chapter of the Red Cross.[23] They had a homes in Washington D.C. and White Sulphur Springs, Montana, and often traveled abroad for Mary to study painting. They had well-known houseguests during many seasons, including the U.S. Ambassador to Spain and his wife, Ambassador and Mrs. W. Newbold.[24]

200 Regents Park Road

North and West Facades, Looking Southeast

200 Regents Park Road is the mirror image of 100 Regents Park Road. The residence was designed in the Regency style of architecture as interpreted by Clarence Mack in 1958.[25] The design is representative of the Regency style

[22] Palm Beach Daily News, November 9, 1962, "The Arthur Hills have returned to Washington after a few days at the Colony, coming down to look over their house in Regents Park which they will open next month."

[23] Coconuts are an almost century-old group of similarly aged society "old boys" who gather to usher in the New Year in Palm Beach.

[24] Arthur Middleton Hill and his wife Mary M. Hill were often mentioned in the Palm Beach Daily News and the Palm Beach Post "Palm Beach Notes."

[25] Town of Palm Beach Building Permit #52558 dated October 17, 1958.

in its classical details and symmetrically balanced facades. The residence was constructed of wood framing with a hollow tile veneer and surfaced with stucco. It has a flat roof with straight parapet.

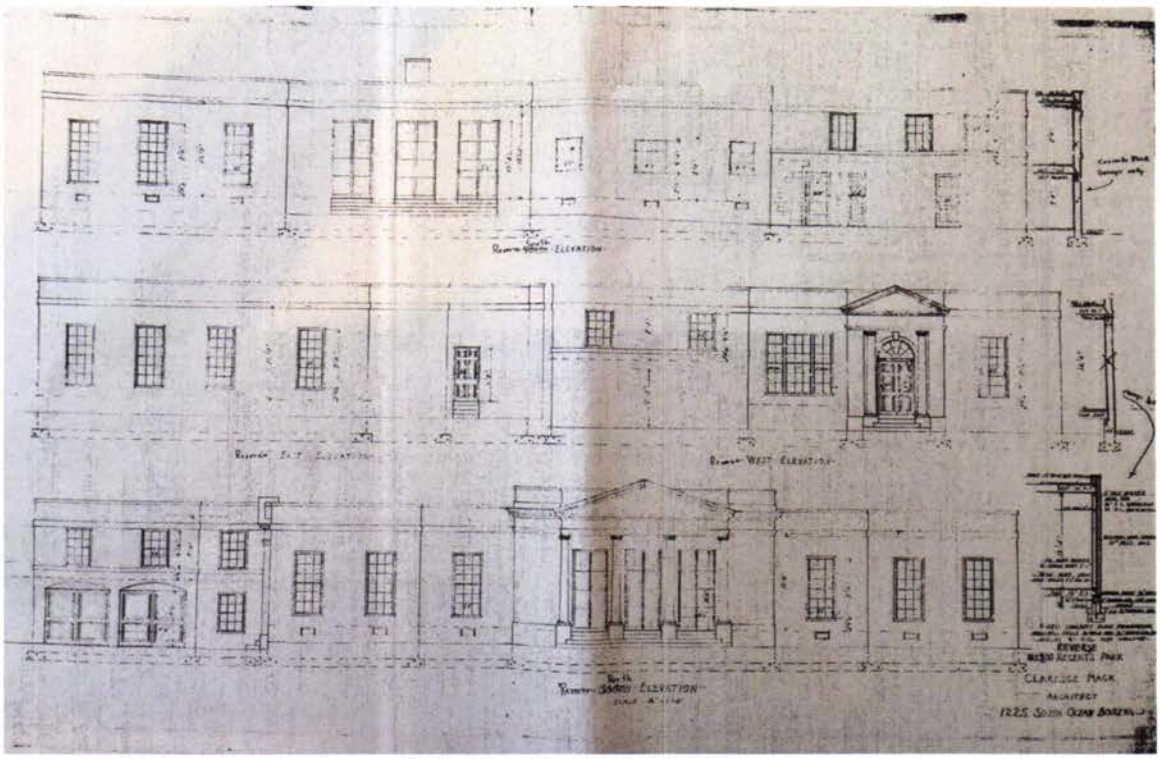
The main entrance is located on the west façade, which runs perpendicular to a two-story garage wing emphasizing the importance Mack put on the automobile. The west façade is divided into three bays with the main entrance located in the center bay. The focal point of the residence is the entranceway, which has a fanlight above the door and a simple surround and keystone recessed under a triangular pediment supported by two simple slender columns. The apex of the pediment is at the same height as the top of the parapet wall that hides the flat roof. A continuous stringcourse is aligned with the cornice of the pediment. The bays flanking the pedimented entrance each contain a large nine-over-nine sash window. The windows of the residence have louvered shutters.

Main Entrance on West Façade, Looking East

A two-story garage wing extends to the west of the residence. The north façade of the two-story garage wing is comprised of three bays with the easternmost bay being slightly recessed breaking up the wall plane and emphasizing the two garage bays. This recessed bay contains a six-over-six sash window on both the first and second floors. The two westernmost bays contain the garage and feature rectangular garage doors that are recessed behind segmental arches. Six-over-six sash windows are located above each

of the garage doors. A stringcourse delineates the location of the second floor.

The north façade of the residence is divided into five sections. The center section of the north façade has a higher roofline and a triangular pediment with four columns. Three large multi-light doors are located between the columns. To each side of the center section are three bays with the eastern and western two bays projecting forward.



Elevations by Clarence Mack

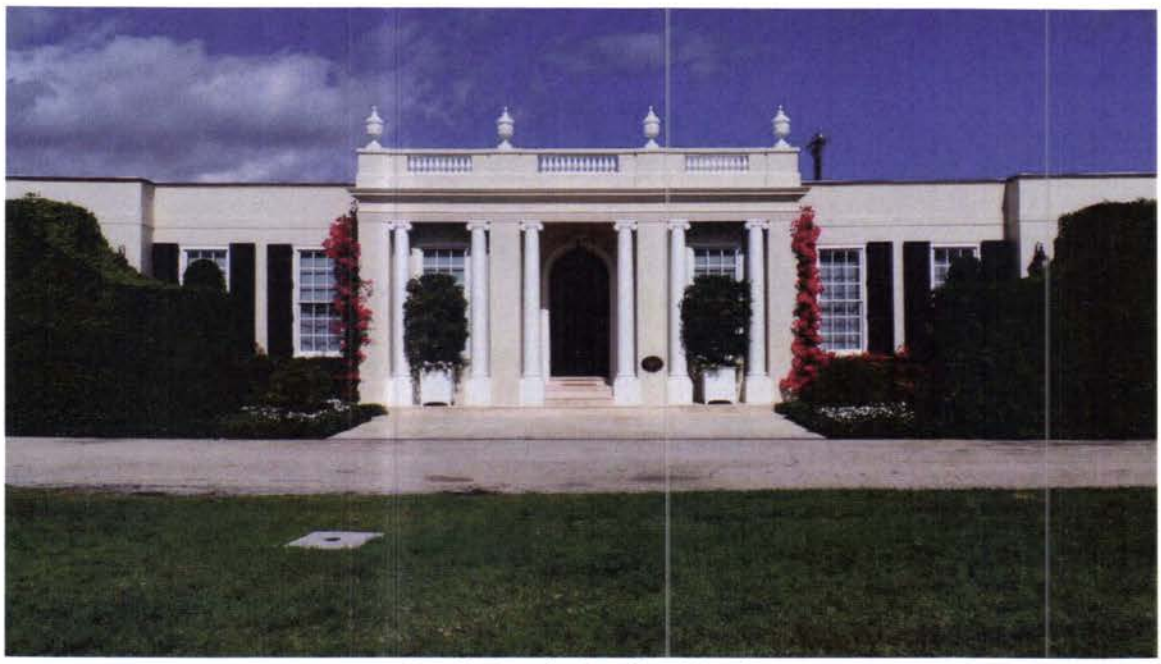
In 1966, an addition designed by Wyeth, King and Johnson, containing a bedroom, bathroom and dressing room, was constructed on the south façade, behind the garage wing.[26] The one-story addition was constructed of concrete block surfaced with stucco and has a flat roof with a parapet and six-over-six sash windows. A loggia addition was constructed in 1986 on the south façade of the residence. The loggia has a flat roof supported by columns.

George A. and Ethel S. Garrett purchased 200 Regents Park Road in 1961 and spent the winter season in the residence for twenty-five years. George

[26] Town of Palm Beach Building Permit No. 72766, dated December 5, 1966.

Garrett served as the United States Ambassador to Ireland from 1947 to 1951. The Garrett's founded a non-profit school in West Palm Beach called "The Classroom" for children with learning disabilities, and George Garrett served as Chairman of the Board for many years. The Garrett's were often mentioned entertaining visitors, including the Scottish Countess of Lauderdale and her daughter Lady Carew.

300 Regents Park Road



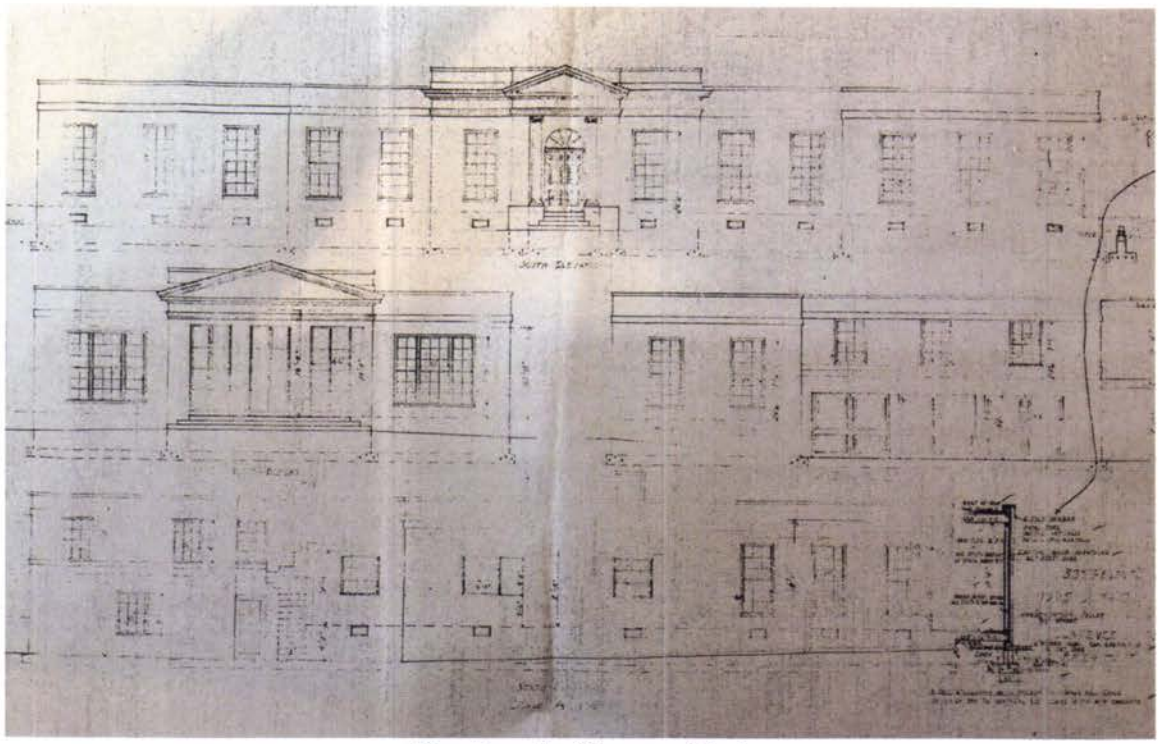
South Façade, Looking North

Clarence Mack designed 300 Regents Park Road in 1958. Mack designed the residence with his interpretation of the Regency architectural style.[27] The design is representative of the Regency style in its classical details and symmetrically balanced facades. The structure is constructed of wood framing with hollow tile veneer surfaced with stucco. The main (south) façade of the house was originally divided into five sections and was designed to be very similar to the south façade of 100 Regents Park Road and the north façade of 200 Regents Park Road. However, at some point during construction the design for the center section of the main façade was changed from a triangular pediment with two columns flanked by a window to a three bay portico. The main focus of the design is the center portico which has columns with simplified Ionic capitals supporting an entablature and a balustrade above. The arched entrance has a door surround with a

[27] Town of Palm Beach Building Permit No. 36358.

keystone. On each side of the central portico are two sections, one containing two bays and one containing three bays. Each bay has a nine-over-nine sash window with louvered shutters. The residence has a continuous stringcourse and the garage is located towards the rear of the residence, accessed by a driveway on the east end of the property.

In 2013, a loggia was added to the full length of the west façade along with two freestanding pergolas, one on each side of a new pool. Four urns were also added to the top of the balustrade on the main facade.



Elevations by Clarence Mack

Alfred and Louise Cowles, III, of Chicago, bought 300 Regents Park Road in 1963 and spent the season there for fifteen years. Prior to purchasing their Regents Park house, the Cowles spent a number of seasons in Palm Beach at the Brazilian Court Hotel. Alfred Cowles, III, was an American economist, businessman and founder of the Cowles Commission for research in economics, as well as a fellow and treasurer of the Econometric Society. His grandfather, Alfred Cowles, Sr., was a founder of the Chicago Tribune and his father, Alfred Cowles, Jr., managed and directed the Chicago Tribune. In Palm Beach, the Cowles were noted as "proficient golf

enthusiasts" and were members of several Palm Beach clubs.[28] They were also mentioned often attending charity events.

400 Regents Park Road

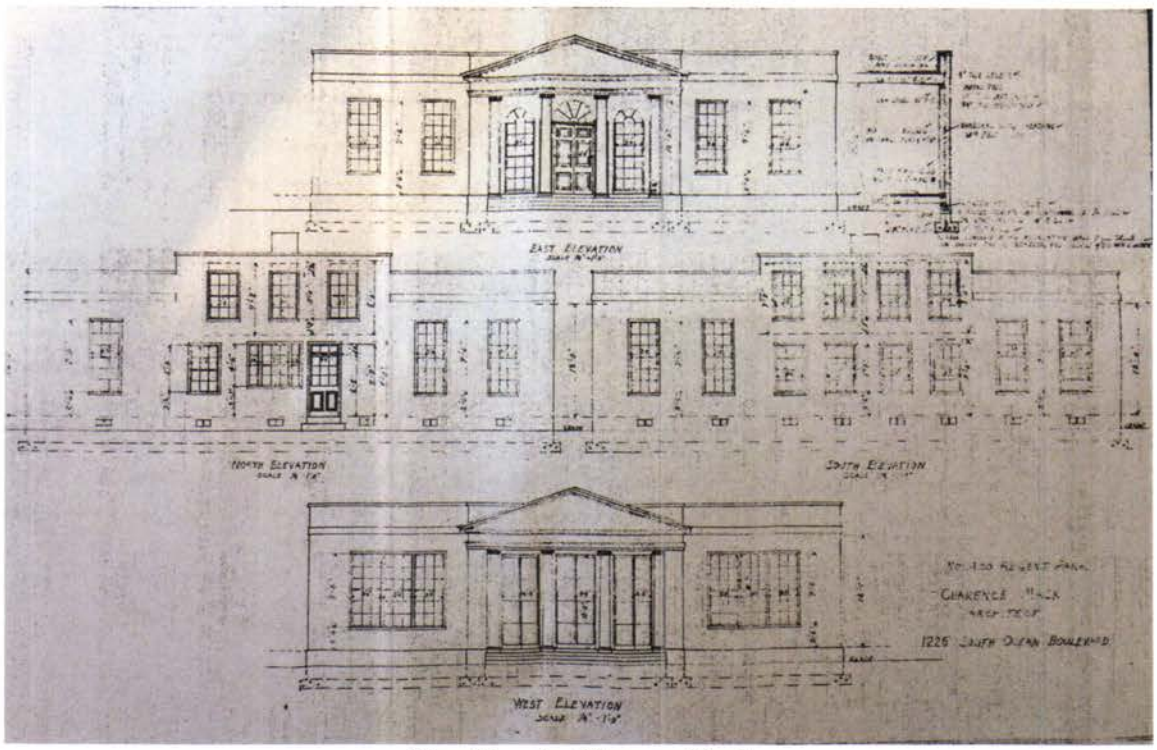
East Façade, Looking West

400 Regents Park Road was designed in the Regency style of architecture as interpreted by Clarence Mack in 1959.[29] This is the last house that was constructed in Regents Park. The design is representative of the Regency style in its classical details and symmetrically balanced facades. Mack designed the residence with a rectangular plan with the rear of the residence facing Lake Worth. Mack designed the residence as a one-story structure with two, two-story elements accessed by separate staircases. The residence was constructed of wood framing with a hollow tile veneer and surfaced with stucco. It has a flat roof with straight parapet. The residence's focal point is the main (east) façade's three bay central portico with a triangular pediment supported by columns. The columns have simple Ionic capitals. The apex of the pediment is at the same height as the top of the parapet wall that hides the flat roof. A continuous stringcourse is aligned with the cornice of the pediment. The bays of the central portico contain a pair of

[28] The Palm Beach Daily News, February 4, 1956. Mr. and Mrs. Alfred Cowles of Chicago arrive today to occupy their suite of rooms during another Palm Beach vacation extending to late March at the Brazilian Court Hotel. Mr. and Mrs. Cowles are proficient golf enthusiasts and among their Palm Beach club memberships is the Seminole Golf Club."

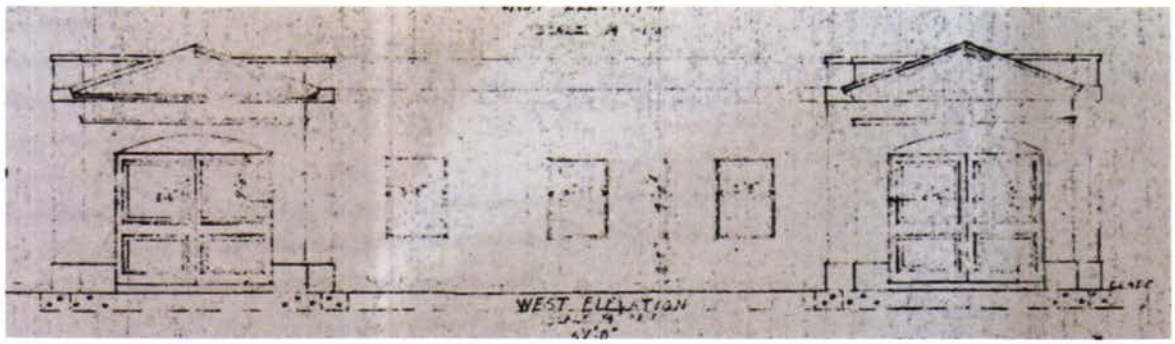
[29] Town of Palm Beach Building Permit #1859 dated January 13, 1959.

doors with an arched fanlight above flanked by large arched windows. The original structure had two bays on each side of the central portico each containing nine-over-nine sash windows.



Elevations by Clarence Mack

Mack designed and constructed a detached two-car garage at the east end of the property. A projecting garage bay is located on each end of the structure. The garage bays feature triangular pediments above rectangular garage doors that are recessed behind segmental arches. Three six-over-six sash windows, currently hidden by landscaping, are located between the garage bays. A parapet shields the flat roof and a continuous stringcourse is aligned with the cornice of the pediments.



Detached Garage, West Elevation by Clarence Mack

West Façade of Detached Garage Structure

A one and two-story addition, constructed in 2010, expanded the residence into an L-shape extending from the south side of the residence. The addition incorporated a portico with a triangular pediment into the design, but unlike the original porticos, it is not centrally located, distinguishing the addition from the original. A cabana was also constructed at the southwest corner of the property and surrounds were added to many of the windows.

North and East Facades, Looking Southwest

Clarence Mack owned and lived in 400 Regents Park Road from 1961 to 1981. It is not clear whether he built this house as a speculative house and later decided to reside there during his retirement or if he built the house for himself with no intentions to sell it upon completion. Nevertheless, Mack lived in 400 Regents Park for twenty years, the last nineteen which he spent in retirement after completing the Parc Monceau subdivision in 1962.

According to one account, during his retirement, Mack was active in public service and "played the Palm Beach social scene."[30]

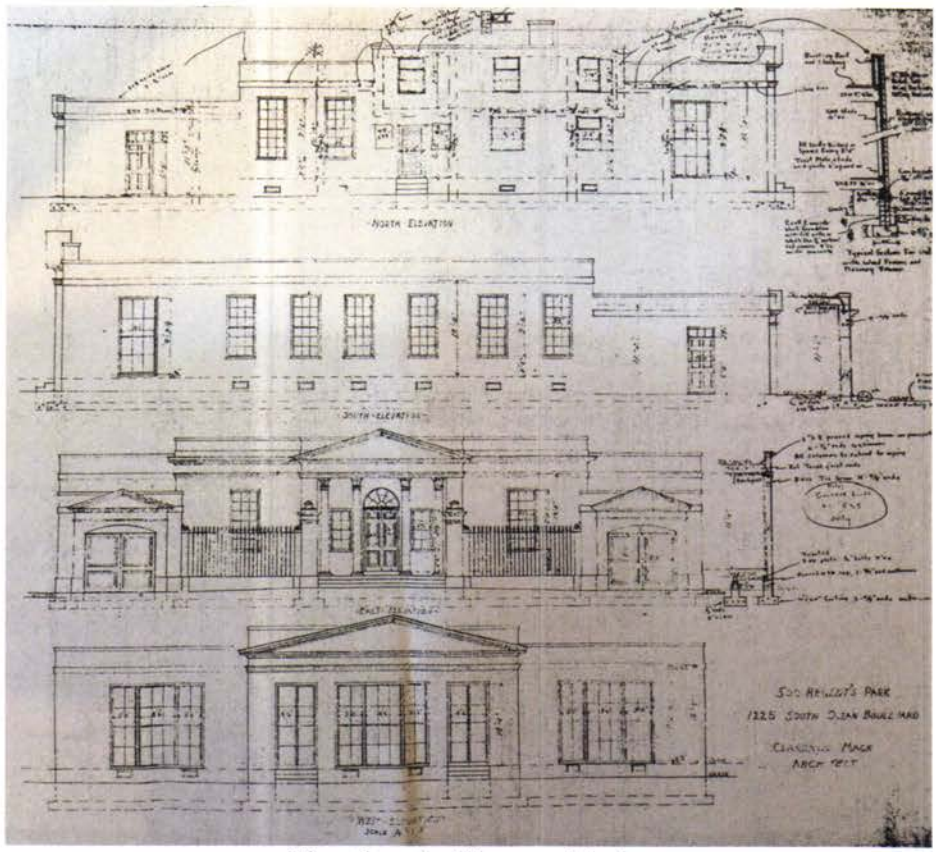
500 Regents Park Road

East Façade, Looking West

500 Regents Park Road is located at the terminating vista of Regents Park Road with the rear of the residence facing Lake Worth. This was the first house constructed in Regents Park. It was designed in the Regency style of architecture as interpreted by Clarence Mack in 1958.[31] The design is representative of the Regency style in its classical details and symmetrically balanced facades. The residence was constructed of concrete block and surfaced with stucco. It has a flat roof with straight parapet. The main focus of the residence is the centrally located portico with a triangular pediment on the east facade. Unlike the other pediments Mack designed in Regents Park, this pediment's apex reaches higher that the roof's parapet. Four slender columns support the pediment and the pediment's cornice line and the line of the architrave continue along the east façade. The wood entrance door with arched fanlight has a door surround with a keystone. The entrance is centrally located under the portico with a four-over-four window on each side. The bays flanking the portico contain nine-over-nine sash windows with louvered shutters. Two projecting garage bays are located at each end

[30] Clarence Mack's biography from the files of the Preservation Foundation of Palm Beach.
[31] Town of Palm Beach Building Permit #17458 dated May 8, 1958.

of the main façade, again emphasizing the importance Mack put on the automobile. The garage bays feature triangular pediments above rectangular garage doors that are recessed behind segmental arches. The apex of the garage pediments are at the same height as the top of the parapet wall that hides the flat roof and a continuous stringcourse is aligned with the cornice of the pediments.



Elevations by Clarence Mack

The rear façade of the residence was designed with a central pediment. In 1960 a loggia addition was constructed on the rear façade of the residence at the location of the central pediment. The urns located at the roofline on the main façade are not depicted on Mack's drawings and may have been added at a later date.

Mr. and Mrs. Irving Jacob Reuter purchased 500 Regents Park Road and spent nine winter seasons there until Mr. Reuter's death in 1972.[32] Irving J. Reuter was an automotive leader in the early 1900s. In 1925, he was named general manager and president of Oldsmobile after rising through the ranks

[32] Mrs. Reuter sold the house by 1973 and moved to the Palm Beach Towers.

at Remy Electric and then General Motors after the two companies merged in 1918. In 1922, he was one of ten original investors in the General Motors Investment Corporation.[33] Reuter retired from Oldsmobile in 1936 and purchased houses in Florida and North Carolina. Due to early purchases of General Motors stock, the Reuters were financially well off and supported a variety of charities. In 1954, they established the Janirve Foundation, which they used to make large philanthropic gifts and grants to charitable organizations. In Palm Beach, the Reuter's were very involved in the Palm Beach Round Table and the American Cancer Society.[34] They were also often mentioned in the news entertaining at their house in Regents Park and the Everglades Club.

VII. Architect's Biography

Clarence Mack was born in Cleveland, Ohio in 1888. Although he had no formal education as an architect, he came from a family of builders involved in construction and development. Prior to World War I, Mack spent several years in Europe sketching examples of great European buildings. English countryside manors and French chateaus impacted Mack greatly. Upon his return to the United Sates in 1914, he embarked on a career designing and building large houses in the Cleveland and Shaker Heights areas of Ohio and in Grosse Pointe, Michigan with initial financial backing from his uncle, industrialist Theodor Kundtz. His largest commission was Kingwood Mansion, a French Provincial Style estate built for industrialist Charles King on 47 acres in Mansfield, Ohio.[35]

While working in Ohio and Michigan, Mack built classically styled Georgian and French Eclectic homes for his wealthy clientele. The imposing houses were built of brick and stone, mostly in the Georgian Revival style, with playful adaptions to fit the setting. In addition to their carefully designed exteriors, Mack's interiors were meticulously designed with details

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[33] In 1927 at Eaton Rapids, Reuter and his wife Janet, built a lavish country home they called Medovue. From 1928 to 1936, prominent members of American business and automotive companies were their guests at social functions there. They were listed both in Who's Who in America and Who's Who in Michigan during their Medovue residency.

[34] In 1969, the Reuters donated a car to the Round Table Institute of World Affairs benefit.

[35] Charles King commissioned Clarence Mack to design his 27-room mansion on a 47-acre country setting outside of Mansfield in 1926. The home cost $400,000. The mansion is now the Kingwood Center, dedicated to horticulture education.

and furniture in style and proportion to the architecture of the house. In his own words, Mack explained his early work in the Ohio and Michigan areas,

> "The houses in Cleveland and Shaker Heights as well as elsewhere in Ohio and Michigan were all built prior to the financial crash of 1929. Although I had studied architecture prior to the First World War, both in America and Europe, I did not commence those houses until 1920. I lived in most of them, as I also furnished them and they were sold furnished to the new owners. I purchased many of the furnishings in Europe on annual buying trips. Most of the houses are of late Georgian design, based on old traditional examples, both in this country and England."[36]

Mack's business in Ohio and Michigan slowed with the advent of the stock market crash of 1929. He spent five years travelling around the world before settling in Palm Beach in 1935. He received his Florida Architectural License #AR0001059 in 1936 and thereafter often presented himself as an architect, builder, engineer, interior decorator, landscape architect and developer.

As the Depression was reaching its conclusion, Mack began designing and building houses in Palm Beach. While he built in traditional, established styles his floor plan designs were laid out to meet the more modern demands of comfort and convenience. In Palm Beach he often designed the interiors to be full of natural light to bring the outdoors inside. He also placed the garage in a convenient location, fully acknowledging the important place the automobile had come to represent in the lives of his clients. As Mack noted himself, many of his houses were built for speculation in which he bought the property, designed the house, acted as contractor, and then furnished and lived in many of them before they were sold.

Clarence Mack's early houses in Palm Beach were mostly Colonial, Georgian and Neoclassical Revival style houses on Jungle Road, Via Del Mar and El Vedado Road. Mack is often credited with creating the Palm Beach Regency style and his last two ventures were the Regents Park (1958-1960) and Parc Monceau (1959-1961) subdivisions with houses designed in the Regency style. Clarence Mack retired after the completion of Parc

[36] Letter to Lakewood Historical Society curator Margaret Manor Butler, 1965. Clarence Mack also served in the Army oversees from 1917 – 1919.

Monceau in 1962 and passed away in Palm Beach in January 1982 at the age of 93.

VIII. Statement of Significance

Regents Park is significant as the first subdivision in Palm Beach designed, built, landscaped and developed by Clarence Mack who had a vision to create an fashionable neighborhood with stately Regency style houses and a private enclave ambiance. The way the buildings complement each other to form a distinct and cohesive district adds greatly to the significance of Regents Park. With the completion of Regents Park, Mack was inspired to develop a second subdivision, Parc Monceau, with houses also designed in the Regency style.

IX. Criteria For Designation

Section 54-162 of the Town of Palm Beach Landmarks Preservation Ordinance outlines the criteria for designation of a historic district and suggests that at least one criterion must be met to justify the designation. Listed below are criteria that relate to this district and justification for designation:

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

Regents Park was the first subdivision in Palm Beach designed, built, landscaped and developed by an architect with a vision to create an exclusive neighborhood with a distinctive architectural style. The Island was thriving in the late 1950s and early 1960s and affluent members of the society set who were looking to spend their winter seasons in Palm Beach were attracted to the stately houses of Regents Park. The success of Regents Park enabled Clarence Mack to develop Park Monceau and inspired Robert Gottfried to develop numerous Palm Beach streets with Regency style houses, significantly shifting the architectural character of the Island. For these reasons, Regents Park Historic District deserves protection under criterion (1) of the Landmarks Preservation Ordinance.

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

The five residences that comprise Regents Park embody the distinguishing characteristics of the Regency style as interpreted by Clarence Mack. All of the residences retain their architectural integrity and display the Regency architecture characteristics of simplified classical elegance featuring symmetry, stucco facades, slim lines, uncluttered planes, classical moldings, columns, pediments, porticos and arches often with keystones. The designs of the residences, along with the cohesive design of the development, are inherently valuable for future study. For these reasons Regents Park Historic District fulfills criterion (3) of the Town of Palm Beach Landmarks Preservation Ordinance.

(4) "Is representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age."

Clarence Mack arrived in Palm Beach in 1935 after a successful career designing and building classically styled houses for wealthy clientele in Ohio and Michigan. His early Palm Beach houses were designed in Colonial, Georgian and Neoclassical Revival styles. Mack was unlike most architects because in addition to designing the houses, in many projects he also took on the roles of builder, engineer, interior designer, landscape architect and developer. Mack began designing Regency style houses in 1945 and is often credited with creating the Palm Beach Regency style. All five houses in the Regents Park subdivision are fine examples of Mack's late 1950s interpretation of the Regency style adapted for the South Florida climate and modern lifestyles of the times. For these reasons Regents Park Historic District fulfills criterion (4) of the Town of Palm Beach Landmarks Preservation Ordinance.

(5) "Constitutes a unique area of architecture, landscaping and planning.

Regents Park was the first subdivision in Palm Beach designed, landscaped, planned and developed by an architect with a vision of a distinctive neighborhood. The skillful way the houses were designed to complement each other and form a cohesive district makes Regents Park particularly

significant. As such Clarence Mack created a unique area of architecture, landscaping and planning, therefore fulfilling criterion (5) of the Town of Palm Beach Landmarks Preservation Ordinance.

X. LIST OF CONTRIBUTING PROPERTIES

Address	Date Built	Style	Architect
100 Regents Park Road	1958	Regency	Clarence Mack
200 Regents Park Road	1958	Regency	Clarence Mack
300 Regents Park Road	1958	Regency	Clarence Mack
400 Regents Park Road	1959	Regency	Clarence Mack
500 Regents Park Road	1958	Regency	Clarence Mack

XI. Selected Bibliography

Ash, Jennifer and Alex McLean. Tropical Style, Private Palm Beach. New York: Abbeville Press, 1992.

Curl, Donald W. Palm Beach County: An Illustrated History. Northridge, California: Windsor Publications, Inc., 1987.

The Encyclopedia of Cleveland History (online). "Clarence Mack."

The Historical Society of Palm Beach County. Historical and Architectural Files

Hoffstot, Barbara D. Landmark Architecture of Palm Beach. Revised Edition. Pittsburgh, Pennsylvania: Ober Park Associates, Inc., 1980.

The Lakewood Observer. Newsletter Article. "Clarence Mack: Architect in Lakewood." Lakewood, Ohio, 2014

Library of Congress. Gottscho-Schleisner Collection. Prints and Photographs Online Catalog.

Mack, Doug. Telephone Interview. February 27, 2015.

Mayhew, Augustus. Lost in Wonderland. Palm Beach Editorial Service, 2012.

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

O'Sullivan, Maureen and Dianna Shpritz. Palm Beach: Then and Now. Lickle Publishing, November 2003.

Palm Beach County Courthouse. Plat of Regents Park and Deeds Associated with the Plat, 1958.

Palm Beach County Property Appraiser.

The Palm Beach Daily News. Archived Articles Online

The Palm Beach Post. Archived Articles Online

The Preservation Foundation of Palm Beach. Files on Clarence Mack and Regents Park

Pubillones, Joseph. "Mack Attack: Clarence Mack's Tropical Tributes to Classical Forms." Palm Beach Magazine. Pages 50-51.

Town of Palm Beach. Building Permits, 1950– 2015.

Town of Palm Beach Landmark Designation Reports: 319 El Vedado Road, 320 El Vedado Road, 334 El Vedado Road and 335 El Vedado Road.

Tuckwood, Jan and Eliot Kleinberg. Pioneers in Paradise. Marietta, Georgia: The Palm Beach Post, 1994.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1916 -1986. These city directories include Town of Palm Beach directories and information on Palm Beach residents.

Wikipedia: Alfred Cowles, III; Irving Jacob Reuter; Robert W. Gottfried.

(3) "Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship."

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(5) "Constitutes a unique area of architecture, landscaping and planning.

Regents Park was the first subdivision in Palm Beach designed, landscaped, planned and developed by an architect with a vision of a distinctive neighborhood. The skillful way the houses were designed to complement each other and form a cohesive district makes Regents Park particularly

EXCERPT FROM THE MINUTES OF THE LANDMARKS PRESERVATION COMMISSION MEETING OF APRIL 16, 2015

Item 3: Regents Park Historic District

Owner: Lynda Lee and Paul Thomas Murry (100 Regents Park)
Owner: Joyce L. Milner (200 Regents Park)
Owner: Mary M. Ourisman (300 Regents Park)
Owner: Kathleen M. Price (400 Regents Park)
Owner: Eddy J. Louis (500 Regents Park)
Owner: Town of Palm Beach (right of way known as Regents Park)

Call for disclosure of ex parte communication: No disclosures

Mr. Page noted that the time was now 12:35 p.m., and the 1:00 p.m. meeting end time was looming. Attorney Ron Kolins had a scheduling conflict, and asked to be heard with regard to Item 4: Parc Monceau Historic District. Mr. Kolins stated that he represents at least one, but possibly more than one of the owners within Parc Monceau. He requested a deferral of the matter to the next designation season because he has just been retained.

Alexander Ives, Director of the Preservation Foundation, also asked to speak because of a scheduling conflict. He testified to his strong support of the designation of Regents Park as an historic district. He stated that the property is wonderful and Clarence Mack is an under-represented architect within the Town's landmarked properties.

Janet Murphy testified to the architect, architecture, and history relative to the proposed Regents Park Historic District for which Clarence Mack acted as the architect, builder and developer. The five homes included in the proposed district were designed in the Regency style. Ms. Murphy testified that the district meets the following criteria for designation as an historic district:

Sec. 54-162 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and,

Sec. 54-162 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; and,

Sec. 54-162 (4) Is representative of the notable works of one of more master builders, designers or architects whose individual ability has been recognized to have influenced their age; and,

Sec. 54-162 (5) Constitutes a unique area of architecture, landscaping and planning.

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

MOTION BY MRS. LORENTZEN THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.
MOTION SECONDED BY MRS. ALBARRAN.
MOTION CARRIED UNANIMOUSLY.

Ms. Murphy clarified that all 5 houses are contributing to the district, so all 5 houses would be landmarked via the district, if approved. Mr. Lindgren stated that no letters of objection were received by the Town.

MOTION BY MRS. LORENTZEN THAT THE REGENTS PARK HISTORIC DISTRICT BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS AN HISTORIC DISTRICT OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE PART OF THE RECORD.
MOTION SECONDED BY MR. GANNON.
MOTION CARRIED UNANIMOUSLY.

ARTICLE IV. - DESIGNATION PROCEDURE

Sec. 54-161. - Criteria for landmarks and landmark sites.
Sec. 54-162. - Creation of historic districts.
Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.
Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.
Sec. 54-165. - Voluntary restrictive covenants.
Secs. 54-166—54-195. - Reserved.

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

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

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

(2) Is identified with historic personages or with important events in national, state or local history.

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

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

(Code 1982, § 16-38)

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

(a) *Authorized.* For preservation purposes, the commission shall identify geographically defined areas within the town to be designated as historic districts and shall cite the guideline criteria upon which such designation shall be made. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the town that:

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

(2) Is identified with historic personages or with important events in national, state or local history.

(3) Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style or methods of construction or use of indigenous materials or craftsmanship.

(4) Is representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.

(5) Constitutes a unique area of architecture, landscaping and planning.

(b) *Petition for special historic district category.* Following the designation of each landmark or landmark site, the commission may petition the town council for the categorizing of such

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

(1) Designate a building, together with its accessory buildings and its lot of record, or a vacant site or a district as historic and worthy of preservation as a landmark, landmark site or historic district, as the case may be, within the jurisdiction of the commission, provided such designation is ratified by the town council.

(2) Recommend appropriate legislation for the preservation of any building, site or district which it has so designated.

(3) Make application for public and private funds when appropriate and available for the purposes set forth in this article subject to the approval of the town council.

(4) Review applications proposing erection, alteration, restoration or moving of any building it has so designated or any building located in a district it has so designated, and to issue or deny certificates of appropriateness accordingly.

(5) Review applications for demolition permits proposing demolition of all or part of any landmark or any building located in an historic district, and to issue certificates of appropriateness or to deny them for one year.

(6) Cooperate with the owner of a landmark or a property located in an historic district throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for such landmark or property.

(7) Review its denial of a certificate of appropriateness for demolition of such landmark or property annually, during a public hearing at which time the owner of the affected landmark or property shall be afforded an opportunity to appear with counsel and to present testimony.

(8) Prohibit the issuance of building, exterior remodeling or demolition permits affecting any property under consideration for landmark designation without a certificate of appropriateness, this prohibition to remain in effect for the length of time required by the commission and the town council for final action on the proposed designation. The commission shall accomplish such prohibition by furnishing the building official a list of all property under consideration for landmark designation.

(Code 1982, § 16-42)

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

(a) The following procedure shall be adhered to by the commission in designating any building, building site or district that is worthy of preservation:

(1) The commission shall consider for landmark designation any property proposed by the owner of record or by a member of the commission.

(2)

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

(3) The commission shall also cause notice of each such proposed designation to be posted at least 30 days prior to the public hearing on the bulletin board in the lobby of the town hall, and in addition the commission shall cause such notice to be published in a newspaper having general circulation in the town.

(4) The commission may retain or solicit expert testimony regarding the historic and architectural importance of the buildings and districts under consideration for designation.

(5) The commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark, landmark site or historic district.

(6) The commission shall afford the owner of each affected property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of such property.

(7) The owner of each affected property shall be afforded a right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the commission.

(8) Any interested party may present testimony or documentary evidence regarding the designation of a proposed landmark, landmark site or historic district at the public hearing and may submit to the commission documentary evidence within three days after the hearing.

(9) Within not more than 30 days after a public hearing, the commission shall render a final decision regarding the proposed designation and give written notice of its decision to each owner of property affected by the designation, setting forth the reasons for the decision.

(10) The commission shall maintain a record of testimony and documentary evidence submitted to it for consideration of the designation of a proposed or previously designated landmark, landmark site or historic district.

(11) In accordance with section 54-163(1), the town council shall, within 90 days of the commission's final decision, hold a public hearing to consider ratification of the determination of the commission prior to the designation of a property as a landmark or landmark site or of a district as an historic district becoming effective. Absent ratification by the town council, the commission's determination shall be ineffective.

(12) Within 30 days of the date on which the town council ratifies the commission's designation of a landmark, landmark site or historic district, the commission shall cause to be filed in the office of the county recorder of deeds a certificate of notification that such property is designated a landmark or landmark site or is located within a district designated an historic district; and the certificate of notification shall be maintained on the public record until such time as such designation may be withdrawn by the commission and the town council.

(b) Designation and undesignation hearings before the commission shall be held only during the months of November, December, January, February, March and April.

(c)

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 13, 2015

Section of Agenda

Appeals

Agenda Title

ARCOM Appeal From James McCartney Wearn & Richard and Kathleen Lubin 253 Jamaica Lane B-026-2015

Presenter

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

Supporting Documents

- **Memorandum dated April 17, 2015 from John S. Page**
- **Letter dated April 3, 2015 from James McC.Wearn**
- **Letter dated March 23, 2015 from James McC.Wearn**
- **Letter dated April 6, 2015 from Richard G. Lubin**
- **Letter Dated March 24, 2015 from Richard and Kathy Lubin**
- **Letter Dated April 29, 2015, from James McC. Wearn**
- **253 Jamaica Elevation Photos**
- **253 Jamaica Contextual Site Plan**
- **253 Jamaica Street Scape**
- **Code Section 18-205**
- **ARCOM Minutes of March 25, 2015**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 13, 2015

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: ARCOM Appeal From James McCartney Wearn & Richard and Kathleen Lubin
253 Jamaica Lane
B-026-2015

Date: April 17, 2015

STAFF RECOMMENDATION

Staff recommends that the Town Council consider and rule upon the appeal of James McCartney Wearn, subsequently joined by Richard and Kathleen Lubin, objecting to ARCOM's decision on March 25, 2015, approving a new two-story home for property owner/applicant "253 Jamaica Lane, LLC" at 253 Jamaica Lane.

GENERAL INFORMATION

The Town's Architectural Commission, meeting on March 25, 2015, considered an application to demolish an existing home and replace it with a new two-story home of approximately 4,500 sq. ft. The application also included a request for final landscape and hardscape approval. Architect Patrick Segraves and Landscape Architect Stephanie Portus presented the project to the Commission. A description and brief history of the existing home was followed by ARCOM approval to demolish the structure.

ARCOM adhered to its standard review procedures, i.e., disclosure of ex parte communications, presentation by structural architect and landscape architect, Commission comments/questions, public comment, and final action.

During his review of the proposed home, Patrick Segraves described the project as a casual north end home that is sensitive to its setting and that would not be detrimental to others. He acknowledged his awareness that several neighbors were objecting to a second story, yet indicated that Jamaica Lane contained an even mix of one and two story homes, noting that the lot coverage was contained to 26% (30% maximum allowed). He indicated that he has designed more than 50 homes in Palm Beach and all but three of those owners requested two stories. He also cited the relatively generous setbacks that will separate the proposed home from abutting others.

Commission discussion followed, with most members acknowledging the simplicity and charm of the structure. Minor criticisms were offered, with the architect consenting to making several minor design improvements. The possibility of reducing the overall height was strongly suggested. Landscaping was then presented. Commissioners expressed several criticisms, including the lack of elevation drawings from the sides and rear, concluding that the landscaping portion of the project would have to return at a later date.

John Lindgren, Planning Administrator, then noted that four objection letters had been received. Although those letters had been previously transmitted to members via e-mail, he read the letters from the following neighborhood residents into the record: Dweck, Lubin, Roberts, Wearn. Collectively, the letters express displeasure with the height, mass, and loss of sunlight that would be created. Mr. Wearn was the only person present to address the Commission in person. His letter is accompanied by a listing of sixteen "elements of objection" that he believes are contrary to Town Code. He asked that his sixteen elements be made part of the record even though they were not read aloud. Chair Vila concurred. Mr. Wearn then acknowledged his awareness that the Zoning Ordinance allows two-story homes in the R-B district, but argued that the home would be bigger than others, is too massive, and asked that the Commission not bi-furcate the issues of architecture and landscaping.

Upon hearing all testimony, motion was made by Garrison and seconded by Karakul to approve the proposed home subject to the following conditions:

1. The home be reduced in height by 2 feet.
2. The driveway be reduced to no more than 13 feet.
3. The landscaping plan be deferred to the month of May.

Upon a voice vote, the motion carried 6 aye, 1 nay (Sammons).

Town Code allows any interested party to appeal an ARCOM decision to the Town Council. James McCartney Wearn, an adjacent owner at 260 Jamaica Lane, has submitted a timely appeal requesting the following (see attached):

1. That any further consideration of or action on this Project B-026-2015 be stayed or deferred until after final disposition of this appeal;
2. That this appeal be granted;
3. That the ARCOM actions and inactions on the Project be overturned and reversed;
4. That the ARCOM misconception be clearly corrected; and
5. That the Town Council grant and take such other and further action which may be fair and just in the premises.

Richard and Kathleen Lubin have also submitted a "Written Notice of Joinder" in support of the Wearn appeal (see attached).

SPECIAL CONSIDERATIONS

The following materials are attached for review:

- James McCartney Wearn appeal letter dated April 3, 2015 to Town Clerk.
- James McCartney Wearn original objection letter (including 16 elements of objection) dated March 23, 2015.
- Richard Lubin appeal joinder, dated April 6, 2015.
- Richard Lubin original objection letter, dated March 24, 2015.
- James McCartney Wearn Town Council Appeal Letter of April 29, 2015 to Mayor Coniglio.
- Front elevations of intended new home at 253 Jamaica Lane (from architect).
- Contextual Site Plan (from architect).
- Streetscape visual (from architect).
- Code section 18-205 (ARCOM criteria for building permit).
- Excerpt from ARCOM Minutes of the March 25, 2015 meeting.

Attachments

cc: James McCartney Wearn
Richard Lubin
Patrick Segraves
ARCOM Members
John C. Randolph, Town Attorney

JAMES McCARTNEY WEARN
260 Jamaica Lane
Palm Beach, Florida 33480
Telephone 561-842-4500
Office telephone 561-659-0655
Office facsimile 561-659-0685

April 3, 2015

Susan A. Owens, MPA, MMC, Town Clerk
Town of Palm Beach

Via hand delivery

Re: APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION
TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING
AGENDA ITEM IX. PROJECT REVIEW:
C. MAJOR PROJECTS-NEW BUSINESS:
B – 026 - 2015 New Residence
Address: 253 Jamaica Lane

Dear Ms. Owens:

Pursuant to Town Code, enclosed please find the referenced Appeal, incorporated herein by reference.

As they develop, please advise me of the status of each request contained in the last two paragraphs of the Appeal.

Thank you for your attention to these matters.

Very truly yours,

James McC. Wearn

JMcCW:j (135.40 253 Jamaica Lane new two-story house Appeal)
Enclosure

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APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION
TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING
AGENDA ITEM IX. PROJECT REVIEW:

C. MAJOR PROJECTS-NEW BUSINESS:

B – 026 - 2015 New Residence
Address: 253 Jamaica Lane
Applicant: 253 Jamaica Lane, LLC
Architect: SKA Architect + Planner/Patrick W. Segraves
Project Description: New two-story home to be approximately 4,500 square feet. Home will consist of four bedrooms, five bathrooms, 1 half bathroom, living room, dining room, family room, kitchen, library, loggia(s) and two-car garage. Final landscape and hardscape will also be included. Demolition of existing one-story home

Comes now, James McC. Wearn (Wearn), an adjacent property owner at 260 Jamaica Lane (within less than 100 feet of and diagonally SW across Jamaica Lane from the subject property), and appeals the actions and inactions, and misconception(s) of the Architectural Review Commission (ARCom) on its above stated agenda item B – 026 – 2015 on March 25, 2015. The actions and inactions, and/or misconception(s) resulted in and included without limitation denying Wearn and his immediate neighbors surrounding the subject property on Jamaica Lane a full, fair and just hearing, and approving the "architecture" while deferring the "landscape."

The grounds for appeal include:

1. ARCom refused to hear, and overlooked or failed to consider certain submitted written Elements of Objection, consisting of an opening/preamble, 14 statements of fact each supporting a particular law/Code criterion to be applied/followed, two statements with argument, and a Summation with summary of criteria, any one of which is sufficient for denial, and each of which needed to be met, but none of which were fulfilled or found for approval of the "architecture."

2. The ARCom action of approving just the "architecture"

A. was with architectural modifications (building height reduced, two large front bay windows redesigned from three separate windows to one window with side lights, and driveway reduced in width and relocated) agreed by the applicant to be made later;

B. failed to include architectural modifications (two stage post and rear column construction style and material) agreed by the applicant to be made later, but not included as conditions of approval;

C. failed to include the hardscape in any action (approval of the "architecture" or deferral of the "landscape"), the "hardscape" being expressly identified as a part of the application for approval in the Project Description.

D. failed to include the "hardscape and landscape" as an inextricable and major part of the development as a whole, the "landscape" being deferred for later consideration, such later consideration then bound by the piecemeal "architectural" action; and

E. was premature and failed to take the development as a whole at one time with full and complete development design data, since it had to come back to ARCom in the future for "landscape" approval.

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2015 APR 3 13:43 TWN CLERK

Wearn suggested/requested that the proposed development "architecture" be considered when the proposed development was ready for "landscape" consideration (with full and complete design data) so that the proposed development would be considered as a whole, but such suggestion/request was declined by inaction.

Such piecemeal ARCom actions prevented the proposed development from being taken and considered as a whole, or even later presented as a whole for further final review by ARCom and the neighbors and public before final approved.

Such ARCom actions are contrary to the law/Code [Code Sec. 18-203: "The Commission shall act … after the filing of full and complete data [including design plans]"]

3. Underlying the ARCom actions and inactions is a misconception that ARCom is not lawfully allowed to deny approval of a two-story house, as here proposed for development. The misconception was vocalized by the Chairman at the end of end of consideration of this Agenda item. Wearn advanced the explanation, not accepted by ARCom as vocalized by its chairman, that the two-story proposed development could be denied approval, not because it is two stories, but because it does not meet the Architectural Review criteria for approval, which denial criteria can include its height (a single story can have the same objectionable height as a two story), its mass (a single story can have the same objectionable mass as a two story), its harmony or lack of harmony with the immediate neighborhood or enclave (a single story can have the same objectionable lack of harmony as a two story), et cetera. The misconception impedes, and impeded a fair or just consideration of the objections to this proposed development.

4. The ARCom actions and inactions, and misconception(s)
   - A. are contrary to the facts;
   - B. are contrary to the law/Code; and
   - C. are contrary to the facts and the law/Code.

Wearn hereby advises that the record and brief for this appeal are in the process of being prepared, as are the minutes for this meeting, and will be filed as soon as practicable expected within the next thirty days, and waives any time limit within which the Town Council is or may be required to hear and consider this appeal. Wearn requests at least two hours for his presentation of this Appeal, depending on Town Council advance review of the Appeal record.

Wearn hereby requests the following relief:

I. that any further consideration of or action on this Project B – 026 – 2015 be stayed or deferred until after final disposition of this appeal;

II that this appeal be granted;

III that the ARCom actions and inactions on this Project be overturned and reversed;

IV that the ARCom misconception be clearly corrected; and

V that the Town Council grant and take such other and further action which may be fair and just in the premises.

Respectfully signed, submitted and filed this April 3, 2015,

James McC. Wearn

James McC. Wearn

RECEIVED
MAR 23 2015
TOWN OF PALM BEACH
PZB DEPT

JAMES McCARTNEY WEARN
260 Jamaica Lane
Palm Beach, Florida 33480

March 23, 2015

Architectural Review Commission
Town of Palm Beach
360 South County Road
Palm Beach, Florida, 33480

Attention John Lindgren, AICP, Planning Administrator

Re: proposed new two story house at 253 Jamaica Lane, Palm Beach (026-2015)

Dear Members of the Palm Beach Architectural Review Commission:

Since I moved onto Jamaica Lane forty years ago, in 1975, our low level homes have been allowed to be demolished, one by one, from the outside in, like a cancer, on both sides, from the east, and from the west, without much regard for the character of the street being changed, leaving only a five-home enclave of charming, harmonious cottages in the center of the Jamaica Lane plat.

Those of us residing in these cottages in our enclave want it to remain as it is, without encroachment further into our quality of life.

It is up to you whether this enclave and its quality of life is preserved and survives. We want it to survive. Please appropriately apply our Architectural Review Code (see the enclosed Elements of Objection) for this harmony of preservation. You leave us to live with your decision.

My wife, Patsy and I thank you for your consideration

Sincerely,

James McC. Wearn

Elements of Objection to proposed Development at 253 Jamaica Lane
(135.40: new two-story house: 5B March 23, 2015;)

The Town Comprehensive Plan (carried as a criterion for Architectural Review per Code Sec. 18.205(a)(4)) discourages density, and here more importantly discourages increased intensity of use. It discourages increased density and intensity of use through the coordination of both zoning and architectural review, not one over the other, but both together, with the goal and purpose to preserve and enhance the existing quality of life, not create a new or different quality of life.

Under this protective umbrella, Zoning provides maximum and minimum criteria while Architectural Review requires fulfilling certain criteria within the zoning, each Architectural Review criterion to be applied separately to the proposed development, and all to be found true and accurate in order to approve and not deny the application. If any single/one criterion is not found true and accurate, the application should be denied,

Architectural Review needs to consider the following facts and Code criteria:

1. Proposed development does not preserve the low level building height and mass of the longstanding and current urban beauty of the 1950's established neighborhood.
[Code Sec. 18-146 (d): "The task of the architectural commission is therefore to preserve various elements of urban beauty..."]

2. Proposed development does not enhance the existing elements of low level height and width of buildings in its immediate neighborhood. Rather, the proposed development diminishes/contradicts and detracts from the established neighborhood beauty.
[Code Sec. 18-146 (d): "The task of the architectural commission is therefore to ... require that new projects enhance the existing elements [of urban beauty]."]

3. Proposed development does not contribute to the existing harmony in the immediate neighborhood. Rather, it creates disharmony, and detracts from the established neighborhood.
[Code Sec. 18-146 (e): "The essential foundation of beauty in communities is harmony."]

4. Proposed development does not achieve a pleasant and comprehensive cohesiveness in community development. Rather, it detracts from the cohesiveness of the neighborhood, breaking it up, unpleasantly. Proposed development does not fulfill the intent of Architectural Review because it does not contribute to or help achieve a pleasant or comprehensive cohesiveness to the existing developed neighborhood (200 feet).
[Code Sec. 18-146 (e): "It is the intent of this article [Article III. – Architectural Review] to achieve a pleasant and comprehensive cohesiveness in community development."]

5. Proposed development does not contribute affirmatively to the desirability of the neighborhood. Rather, it contributes to the demolition of the immediate long-established neighborhood in favor of more development of similar height and width so as to unduly stick up, out and above as a...thumb.
[Code Sec. 18-167(a): "All members of the architectural commission shall be specially qualified...by reason of...sound judgment to judge the effects of a proposed building upon the desirability...of surrounding areas."]

6. Proposed development does not contribute affirmatively to the existing development of surrounding areas, namely the surrounding immediate neighborhood established on Jamaica Lane surrounding this property. Rather, it contributes to the demolition of this neighborhood in favor of more different development of similar significantly greater height and mass, detrimental and negative to the surrounding neighborhood by unduly sticking up,out and above as a...thumb.
[Code Sec. 18-167(a): "All members of the architectural commission shall be specially qualified...by reason of...sound judgment to judge the effects of a proposed building upon the ...development of surrounding areas."]

7. Proposed development does not, as the existing immediate neighborhood does now, contribute to the town as a place of spaciousness. Landscaping of the existing neighborhood meets the sky, and that creates spaciousness. Rather, the proposed development is too big (high and wide) competing with spacious landscaping meeting the sky and breaking up, overcoming and obliterating such existing spaciousness of the neighborhood.
[Code Sec. 18-205(a)(1): The plan for the proposed building...contributes to the town as a place of...spaciousness...:]

8. Proposed development does not, as the existing neighborhood does now, contribute to the town as a place of balance, taste, fitness or charm. Rather, it (proposed development) is too big (high and wide) forced into the neighborhood, diminishing balance, not in good taste, overemphasizing lack of fitness, all without charm.
[Code Sec. 18-205(a)(1): The plan for the proposed building...contributes to the town as a place of...balance, taste, fitness [and] charm...":]

9. Proposed development is not in harmony with, and is excessively dissimilar to all other structures existing in the immediate neighborhood in height. The home being replaced was similar to all other structures/homes existing in this neighborhood in height. The proposed development is double the height of all other structures in this neighborhood.
[Code Sec. 18-205(a)(6)a: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: a. Height..."]

10. Proposed development is not in harmony with, and is excessively dissimilar to all other structures existing in the immediate neighborhood in the appearance of mass (i) from the street, and (ii) from any perspective visible to the public, and (iii) from any perspective visible to the adjoining property owners. The home being replaced was similar to all other structures existing in this neighborhood in the appearance of mass. The proposed development is double the appearance of mass of all other structures in this neighborhood.
[Code Sec. 18-205(a)(6)e: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: e. mass..."]

11. Proposed development design is not complimentary of the size and massing of adjacent properties; rather, the proposed development design overwhelms/outsizes and thereby diminishes residences on adjacent properties.

[Code Sec. 18-205(a)(6)f: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: design that is complimentary with size and massing of neighboring properties."

12. Proposed development of block height appearing two stories in the front, east side and west side creates the appearance of double the mass of existing residences in the immediate neighborhood, namely across the street on the front and diagonally southeast and southwest, and on the east side and west side.
[Code Sec. 18-205(a)(6)g: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: g. design...that will avoid the appearance of mass..."]

13. Proposed development is not in harmony with, and thus is inappropriate to the established character of all other structures existing in the immediate neighborhood. The house being replaced was appropriate to and followed the established character of other structures existing in this neighborhood. The proposed development is inappropriate and out of character with this neighborhood.
[Code Sec. 18-205(a)(7): "The proposed building...is appropriate in relation to the established character or other structures in the immediate area or neighboring area in respect to significant design features such as...architectural design [height, width or mass] as viewed from any public or private way..."]

14. Proposed development does not adequately protect scenic views or natural vistas. The home being replaced was appropriate to and like the established character of all other structures existing in this neighborhood, and protected scenic views and natural vistas extending across landscaping and the sky in and above the neighborhood. The proposed development is inappropriate and blocks scenic views and natural vistas existing in the neighborhood.
[Code Sec. 18-205(a)(9): "The project's location and design adequately protects...scenic views,...[and]natural vistas..."]

Beyond the Code criteria on Architectural Review, there are further arguments:

15. There are lots of neighborhoods in the north end of town where the residence presents on streetscape the similar height, width, bulk and mass of the proposed development, so a new such speculation house will not disrupt the neighborhood, but rather be similar to the neighborhood; such streets include Monterey Road, Queens Lane, etc.

16. You (Architectural Review Commission) have been told (by Town Attorney Randolph) that you cannot turn down a two story house, the maximum number of stories allowed by Zoning, but you have not been told in the same breath, the rest of the story, that you can turn down any house, two story or not, or the equivalent of two stories in height if it fails to meet the Architectural Review neighborhood criteria.

In summation, the proposed development fails to fulfill or differs from or contradicts each of the appropriate criterion (enumerated above) by which it should be judged whether it fits in this Jamaica Lane immediate neighborhood or not, whether it contributes to this neighborhood or detracts, and whether its apparent character is similar to the existing neighborhood or dissimilar.

And adding up the answers to all these failed criteria, taken as a whole, surely the existing neighborhood should not have this development imposed on it, or imposed on our and your actual neighboring residents, for the foreseeable future, living with the diminished quality of life which formerly made the town and this neighborhood so desirable.

Please deny this application, because:

1.-it does not preserve the low level building height and mass of the existing neighborhood;
2.-it does not enhance the existing neighborhood; rather, it diminishes or detracts from it;
3.-it is not in harmony with the existing neighborhood; rather, it does not blend in;
4.-it does not achieve a pleasant and comprehensive cohesiveness in the neighborhood; rather, it oddly or differently stands apart;
5.-it does not contribute affirmatively to the desirability of the existing neighborhood;
6.-it does not contribute affirmatively to the existing low level scale of the neighborhood;
7.-it does not contribute to the town or neighborhood as a place of spaciousness;
8.-it does not contribute to the town or neighborhood as a place of balance,taste,fitness or charm;
9.-it emphasizes dissimilarity to the neighborhood already existing low level height and scale of residences;
10.-it is disharmonious and looks to be about double the mass of existing neighborhood homes;
11.-it is not complimentary to the neighborhood; rather it stands above and diminishes its neighboring residences;
12.-it does not avoid the appearance of mass by limiting its height; rather, it emphasizes its mass by its height over surrounding residences;
13.-it is inappropriate and out of character to all other homes in the "immediate area or neighboring area;"
14.-it does not protect scenic or natural vistas; rather, it blocks them;

PS: Minor changes to this development will not suffice to meet each special criterion, much less the bulk and mass of all the criteria. A completely new and harmonious development needs to come forward.

RICHARD G. LUBIN, P. A.
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1217 SOUTH FLAGLER DRIVE
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RICHARD G. LUBIN*
JONATHAN R. KAPLAN
NICOLE M. COTTON
*BOARD CERTIFIED CRIMINAL TRIAL LAWYER

STEVEN H. MALONE
OF COUNSEL

ONE FINANCIAL PLAZA
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TELEPHONE (954) 761-2300

423 DELAWARE AVENUE
FT. PIERCE, FL 34950
TELEPHONE (772) 468-0009

April 6, 2015

Susan A. Owens, MPA, MMC, Town Clerk
Town of Palm Beach

VIA HAND DELIVERY

Re: APPEAL TO THE PALM BEACH TOWN COUNCIL FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING AGENDA ITEM IX. PROJECT REVIEW: C. MAJOR PROJECTS - NEW BUSINESS:
B-026-2015 New Residence
Address: 253 Jamaica Lane

WRITTEN NOTICE OF JOINDER

Dear Ms. Owens:

My wife Kathleen and I file this Notice joining the appeal of the above referenced matter.

Sincerely,

RICHARD G. LUBIN
244 Jamaica Lane
Palm Beach, FL 33480

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2015 APR 6 15:18 TWN CLERK

RICHARD G. LUBIN, P.A.
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OF COUNSEL

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423 DELAWARE AVENUE
FT. PIERCE, FL 34950
TELEPHONE (772) 468-0009

March 24, 2015

Via Electronic Mail Only
(Jlindgren@Townofpalmbeach.com)

Town of Palm Beach
Architectural Review Commission

Re: Application for Construction
253 Jamaica Lane

Dear Members of the Palm Beach Architectural Review Commission:

We live at 244 Jamaica Lane less than 200 feet east and across the street from the proposed construction. We have reviewed a current rendering of the project. It is our strong feeling that the project is inconsistent with the character of our street for a number of reasons:

1. The scale and size of the proposal are inconsistent with the neighborhood as it is too massive for its lot.

2. The narrowness of Jamaica Lane, compared to many other streets on the north end will contribute to the towering effect of this design.

3. The proposed roof line accentuates the massive bulk of the project.

For these reasons, and for those enumerated by James Wearn in his objections to the project, we oppose approval of the project in its current form.

Thank you for reviewing this letter.

Sincerely,

Richard and Kathy Lubin
244 Jamaica Lane
Palm Beach

cc: James Wearn (Jwearn@hotwiremail.net)

JAMES McCARTNEY WEARN
260 Jamaica Lane
Palm Beach, Florida 33480
Telephone 561-842-4500
Office telephone 561-659-0655
Office facsimile 561-659-0685

TOWN OF PALM BEACH
APR 29 2015
Town Manager's Office

April 29, 2015

Hon. Gail L. Coniglio, Mayor
Town of Palm Beach

Via hand delivery through Town Manager's Office

Re: APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION
TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING
AGENDA ITEM IX. PROJECT REVIEW:
C. MAJOR PROJECTS-NEW BUSINESS:
B – 026 - 2015 New Residence
Address: 253 Jamaica Lane

Dear Mayor Coniglio:

On the referenced matter, enclosed is a briefing book, a duplicate original of which has been filed with the Town Clerk and a duplicate original of which is being furnished by me to the Town Council President, President pro tem, and Members, and the Town Attorney.

If you have any questions or comments, please feel comfortable calling me at home or my office.

Thank you for the opportunity to meet with you Monday morning, April 13, 2015, and for your consideration.

Respectfully,

James McC. Wearn

JMcCW:j (135.40 253 Jamaica Lane new two-story house Appeal briefing book delivery to Mayor Coniglio)
Enclosure

JAMES McCARTNEY WEARN
260 Jamaica Lane
Palm Beach, Florida 33480
Telephone 561-842-4500
Office telephone 561-659-0655
Office facsimile 561-659-0685

IN RE: JAMES McC. WEARN,
JOINED BY KATHLEEN AND RICHARD G. LUBIN, AND SYDNEY ROBERTS

APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION
TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING
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ARCOM RECORD, APPEAL, RECORD ON APPEAL/APPENDIX

1. Applicant Agenda Description B-26-2015 for ARCom meeting March 25, 2015

2. Area description and photographic drawings
   A. from Wearn's presentation
   -Palm Beach Atlas locating subject property within Jamaica Lane cottage enclave
   B. from Applicant's presentation
   -Jamaica Lane Surrounding Properties (within 100 feet) photographs
   -South/Dweck, 252 Jamaica Lane
   -SouthEast/Lubin, 244 Jamaica Lane
   -East/Allison, 245 Jamaica Lane
   -West/Roberts, 265 Jamaica Lane (omitted from Application)
   -SouthWest/Wearn, 260 Jamaica Lane
   -Contextual drawing (Jamaica Lane low level enclave, with home to be demolished)
   -Contextual drawing (Jamaica Lane low level enclave, with proposed new house)
   -Street Scape drawing (Jamaica Lane low level enclave, with proposed new house)

3. Applicant's Proposed Development new two-story house
   -House -Front/South Elevation
   (facing S to Dweck, SE to Lubin, and SW to Wearn)
   -Side/East Elevation
   (facing E to Allison, SE to Lubin)
   -Back/North Elevation
   (facing property on Tradewind Drive)
   -Side/West Elevation
   (facing W to Roberts, SW to Wearn)

4. Objection letter of Hilary and Stuart DWECK, 252 Jamaica Lane, dated March 20, 2015

5. Objection letter of Kathy and Richard LUBIN, 244 Jamaica Lane, dated March 24, 2015

6. Objection letter of Sydney ROBERTS, 265 Jamaica Lane, dated March 22, 2015

7. Objection letter of James McC. WEARN, 260 Jamaica Lane, dated March 23, 2015 together with its enclosed Elements of Objection

8. Extract of B-26-2015 Minutes of ARCom meeting March 25, 2015

9. ARCom Chairman's quote from March 25, 2015 meeting (published also in Daily News March 30, 2015)

11. Appeal filed April 3, 2015
    -letter to Town Clerk with attached statement of Appeal grounds and requested relief
    -joinder of the Lubin
    -joinder of Roberts

12. Brief on Appeal
-cover sheet: Appeal
-Introduction
-Grounds for Appeal
-Appeal Relief Requested
-The Facts
    -Application Facts (1-3)
    -Jamaica Lane enclave of low level, modest size, modest bulk, and modest mass existing homes (4-6)
    -Letters of Objection (7-10)
    -Elements of Objection (Statement of Facts and Applicable Law/Code citations on authority (11-24)
-Argument
    -Appeal Issue/Point 1
    -Appeal Issue/Point 2
    -Appeal Issue/Point 3
-Conclusion

TOWN OF PALM BEACH

ARCHITECTURAL COMMISSION
360 SOUTH COUNTY ROAD
2ND FLOOR, TOWN COUNCIL CHAMBERS

MARCH 25, 2015

09:00 A.M.

Robert J. Vila, Chairman
Ann L. Vanneck, Vice Chairman
Kenn Karakul, Member
Richard Sammons, Member
Peter I. C. Knowles II, Member
Martin D. Gruss, Member
Robert N. Garrison, Member
Alexander C. Ives, Alternate Member
Michael B. Small, Alternate Member
Maisie Grace, Alternate Member

B - 026 - 2015 New Residence
Address: 253 Jamaica Lane
Applicant: 253 Jamaica Lane, LLC
Architect: SKA Architect + Planner/Patrick W. Segraves
Project Description: New two-story home to be approximately 4,500 square feet. Home will consist of four bedrooms, five bathrooms, 1 half bathroom, living room, dining room, family room, kitchen , library, loggia(s) and two-car garage. Final landscape and hardscape will also be included. Demolition of existing one-story home.

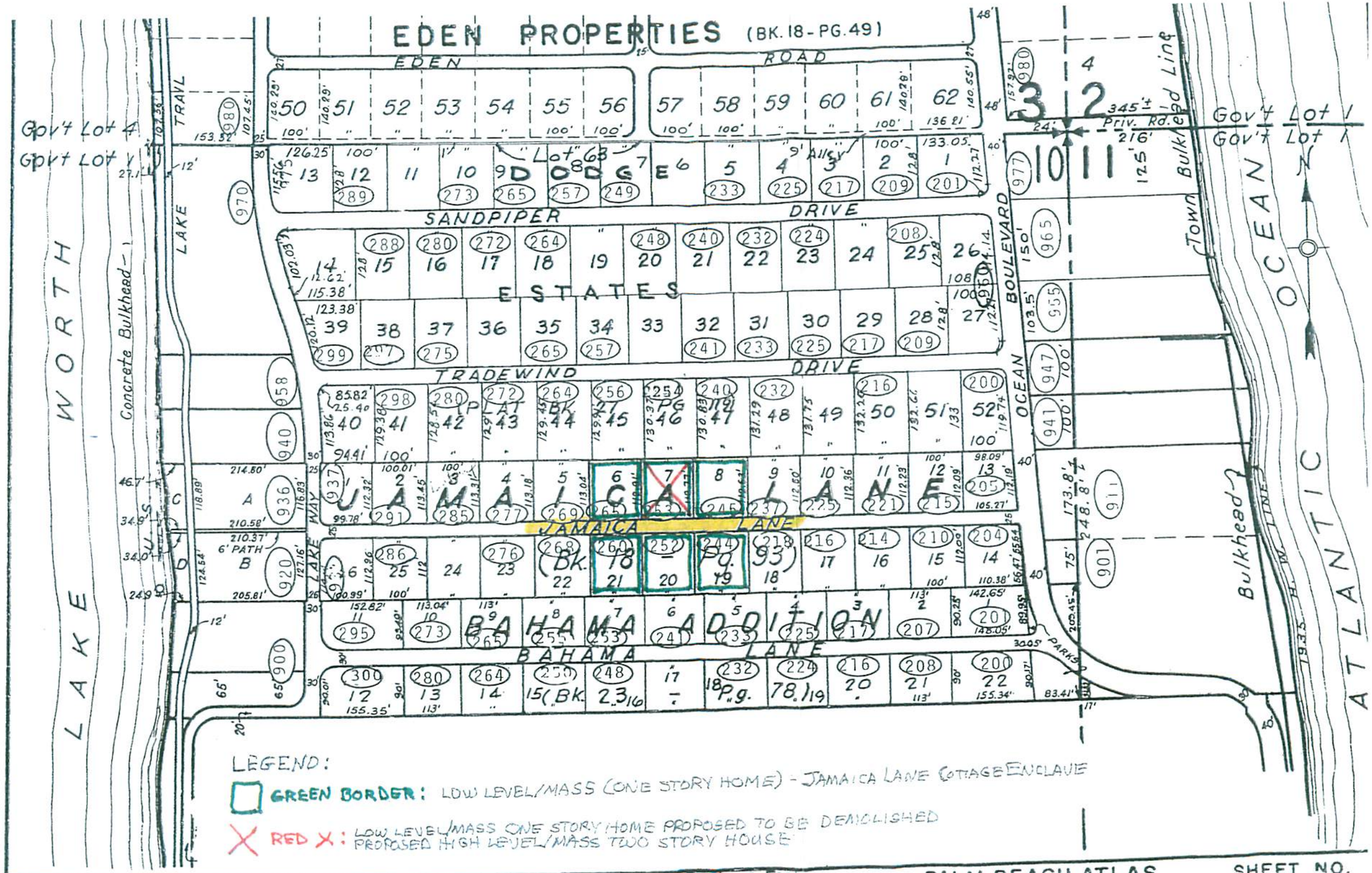
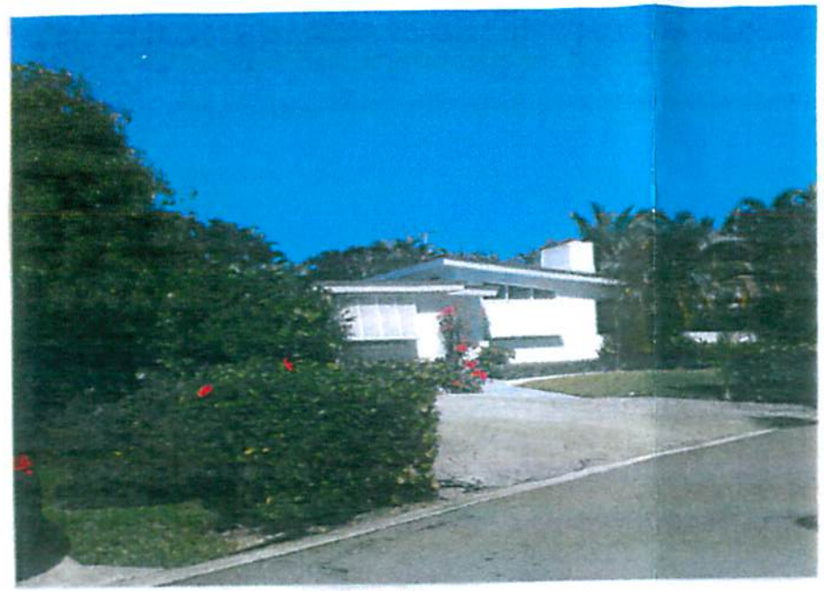

EDEN PROPERTIES (BK. 18 - PG. 49)
EDEN ROAD
SANDPIPER DRIVE
ESTATES
TRADEWIND DRIVE
JAMAICA LANE
BAHAMA ADDITION
BAHAMA LANE
OCEAN BOULEVARD
LAKE WORTH
LAKE TRAVL
Concrete Bulkhead
Town Bulkhead
OCEAN ATLANTIC
Gov't Lot 4
Gov't Lot 1
Priv. Rd.
Park
LEGEND:
GREEN BORDER: LOW LEVEL/MASS (ONE STORY HOME) - JAMAICA LANE COTTAGE ENCLAVE
RED X: LOW LEVEL/MASS ONE STORY HOME PROPOSED TO BE DEMOLISHED
PROPOSED HIGH LEVEL/MASS TWO STORY HOUSE
Scale in Feet
PALM BEACH ATLAS
SHEET NO.
ROBERT E. OWEN & ASSOCIATES, INC.

PHOTO
NOT FILED
WITH
APPLICATION

265



253

SUBJECT PROPERTY

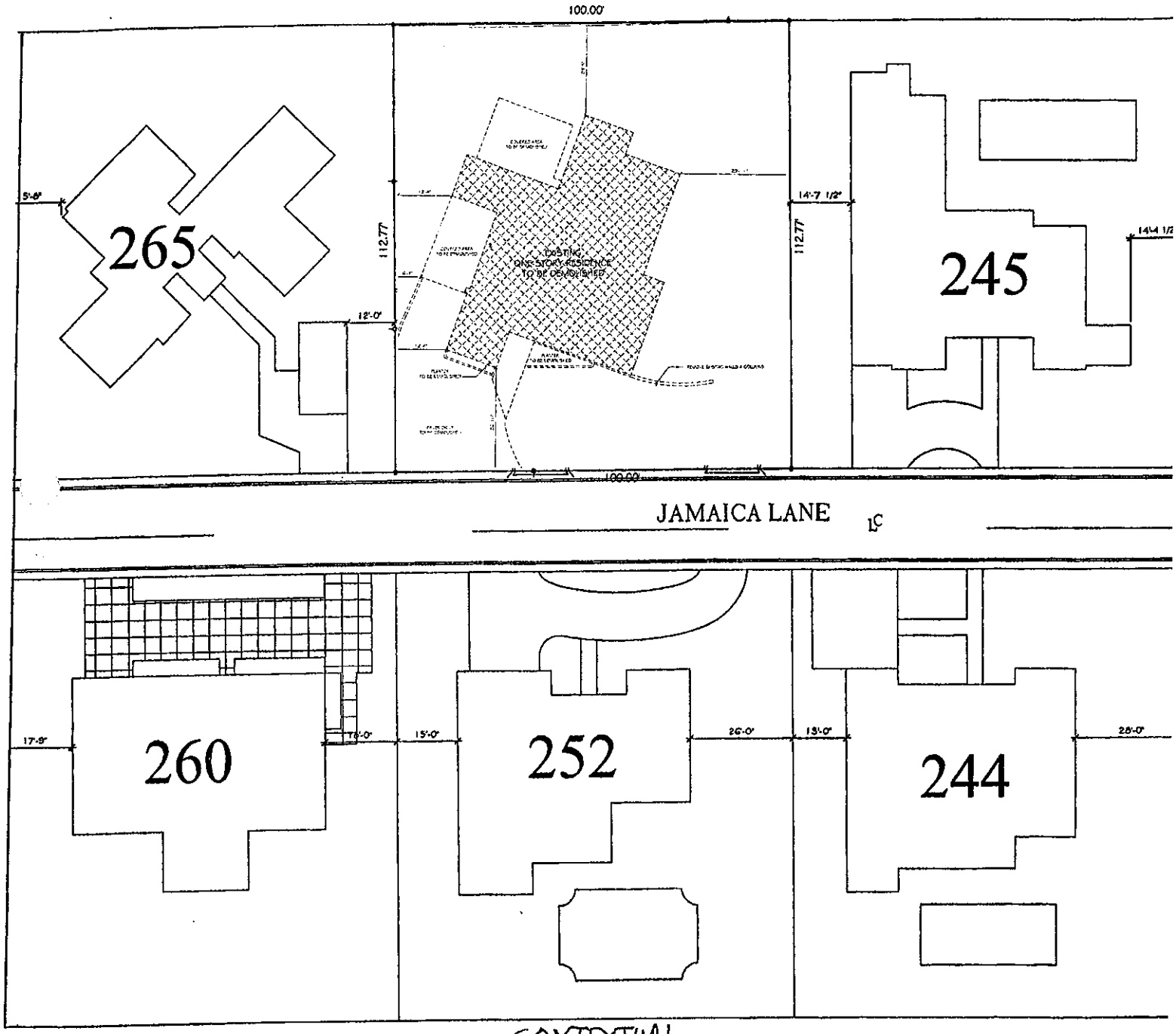
245

SURROUNDING PROPERTIES

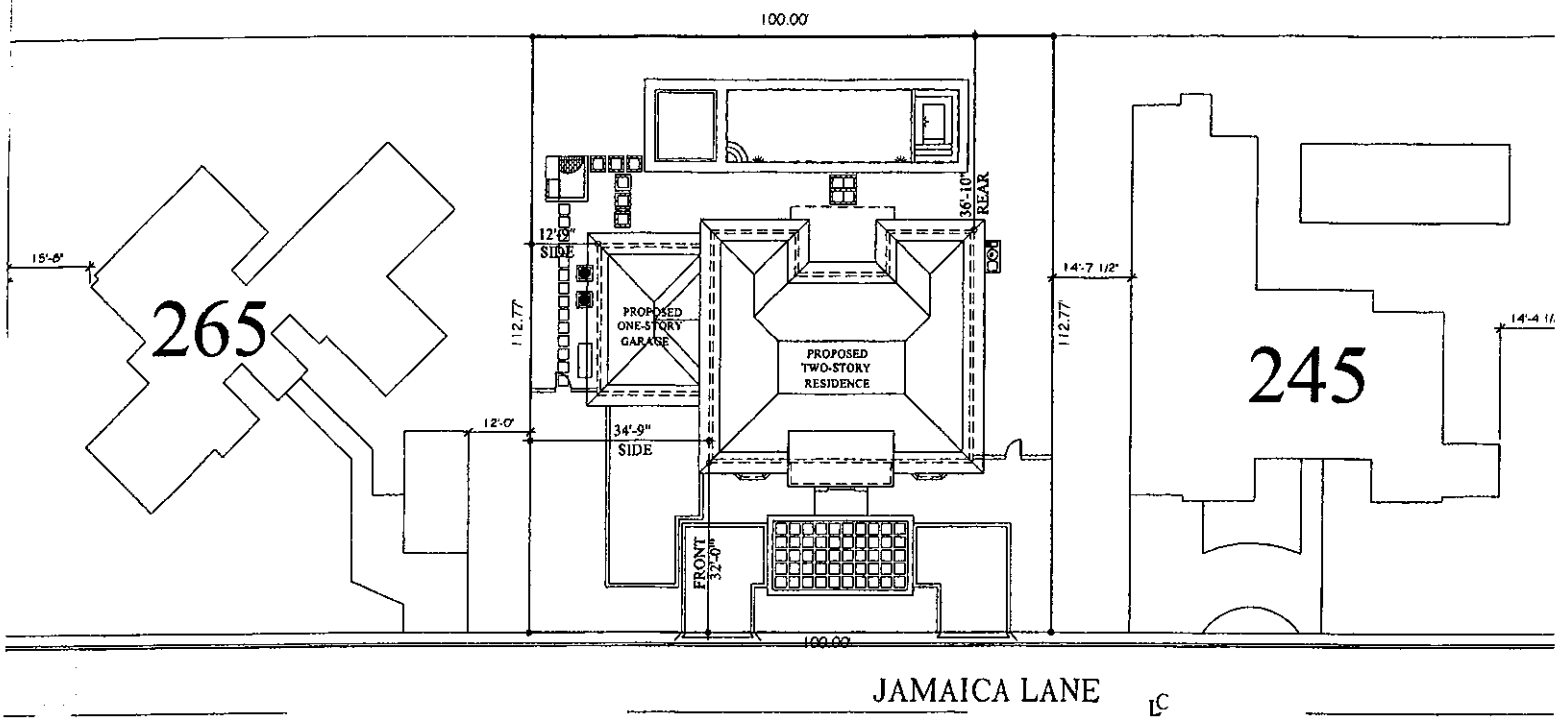
260

252

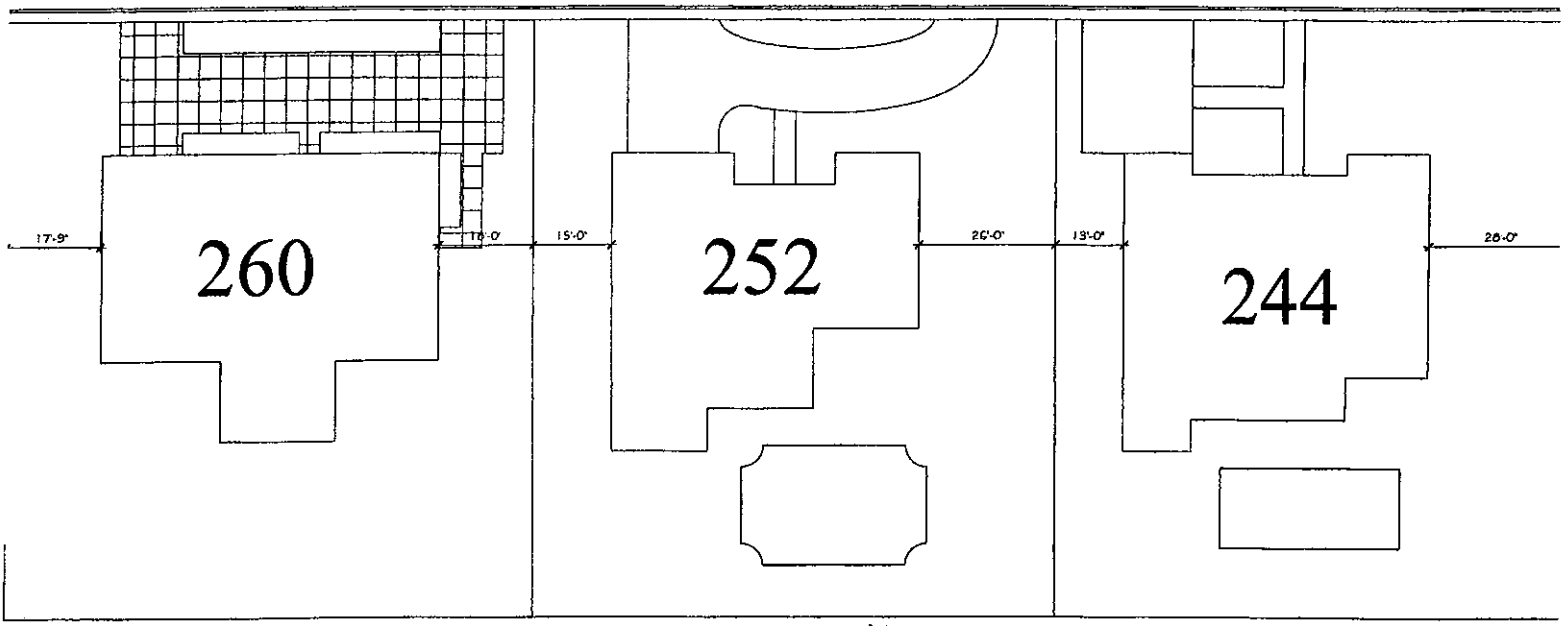
244



CONTEXTUAL
WITH
LOW LEVEL HOUSE
BEING DEMOLISHED



JAMAICA LANE

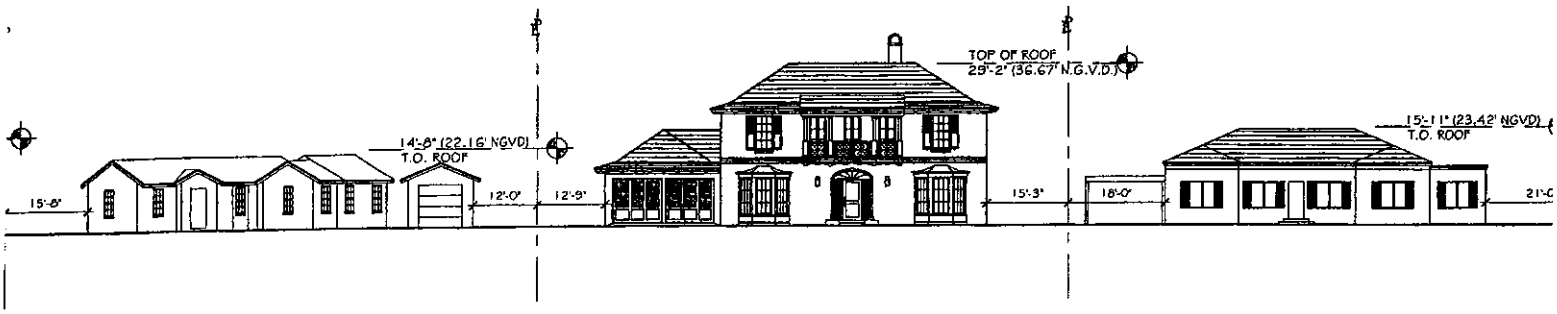


CONTEXTUAL
WITH

PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.

253 JAMAICA LANE
PALM BEACH, FLORIDA 33480

STREET SCAPE

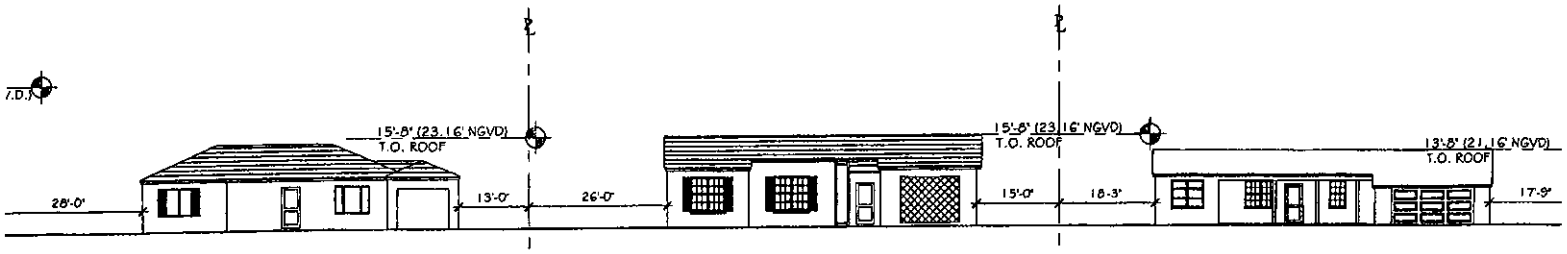


265 JAMAICA LANE

253 JAMAICA LANE
SUBJECT PROPERTY

245 JAMAICA LANE

JAMAICA LANE LOOKING NORTH



244 JAMAICA LANE

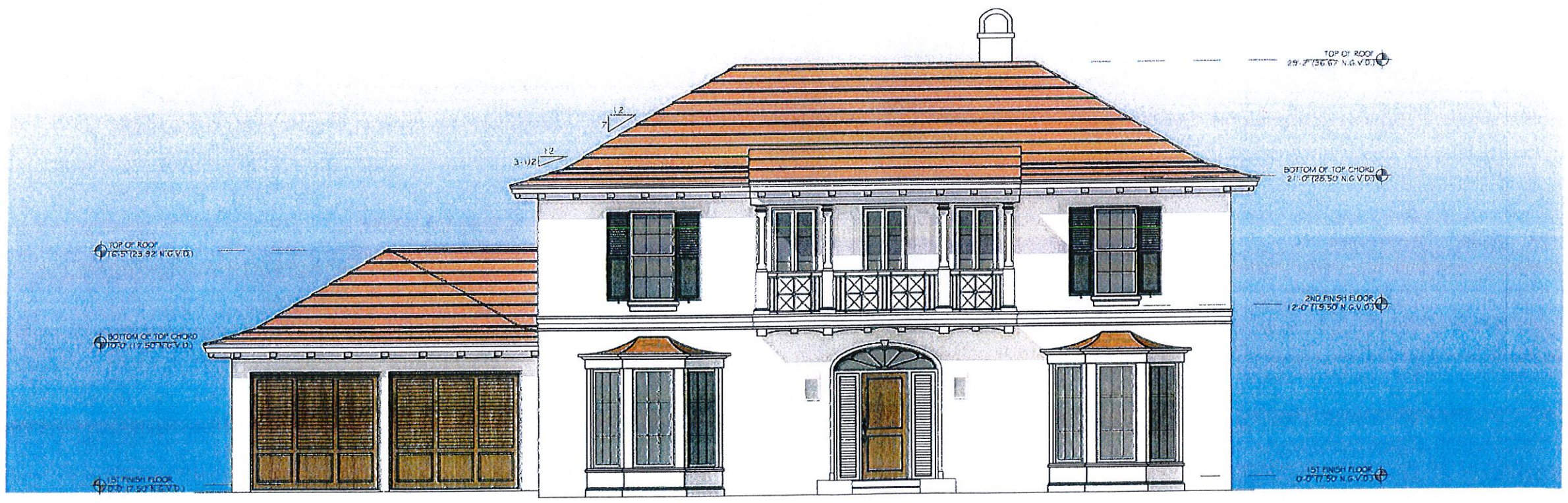
252 JAMAICA LANE

260 JAMAICA LANE

JAMAICA LANE LOOKING SOUTH

PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.

253 JAMAICA LANE
PALM BEACH, FLORIDA 33480



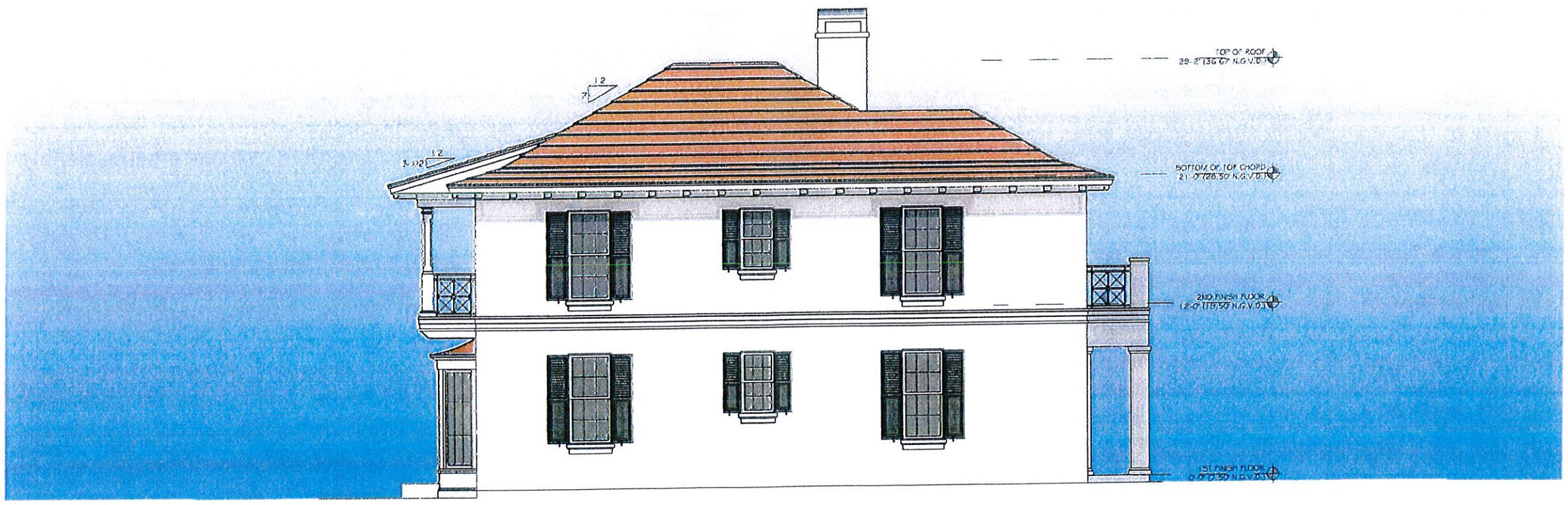
PROPOSED SOUTH ELEVATION 1/4" = 1'-0"

THE OFFICE OF
PATRICK W. SEGRAVES, A.I.A., P.A.
SKA ARCHITECT + PLANNER
249 PERUVIAN AVENUE, SUITE F2
PALM BEACH, FLORIDA 33480

PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.
253 JAMAICA LANE
PALM BEACH, FLORIDA 33480

SOUTH ELEVATION
SCALE: 1/4" = 1'-0"
FEBRUARY 23, 2015
B-026-2015

A-3



PROPOSED EAST ELEVATION 1/4" = 1'-0"

THE OFFICE OF
PATRICK W. SEGRAVES, A.I.A., P.A.
SKA ARCHITECT + PLANNER
249 PERUVIAN AVENUE, SUITE F2
PALM BEACH, FLORIDA 33480

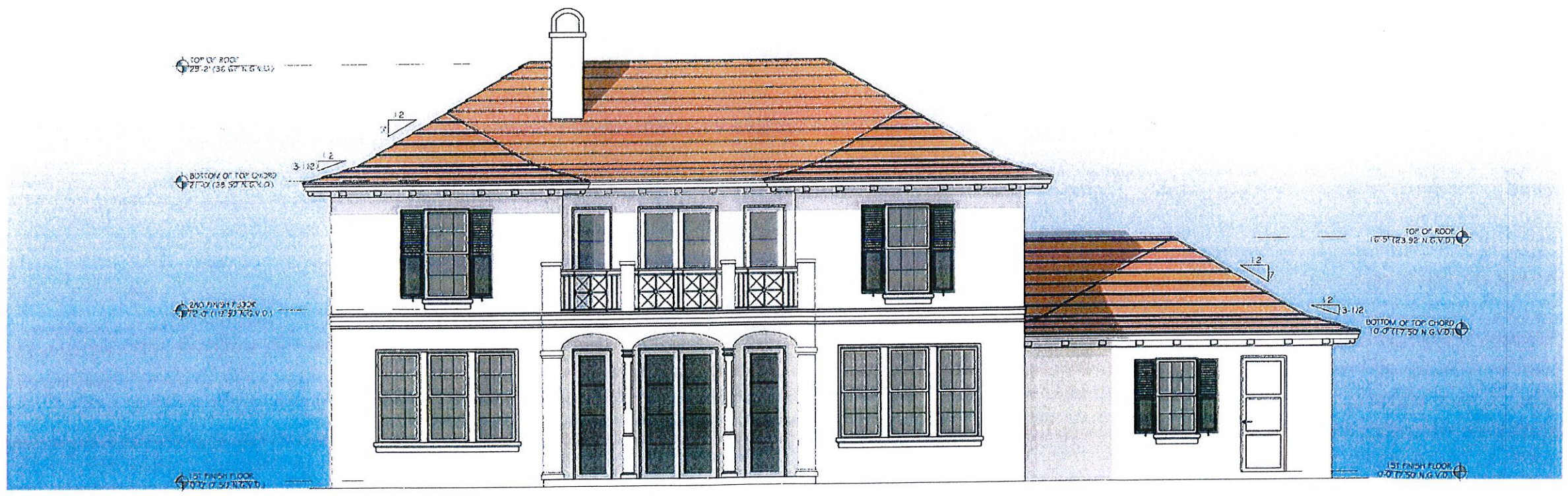
PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.

253 JAMAICA LANE
PALM BEACH, FLORIDA 33480

EAST ELEVATION
SCALE: 1/4" = 1'-0"

FEBRUARY 23, 2015
B-026-2015

A-4



PROPOSED NORTH ELEVATION 1/4" = 1'-0"

THE OFFICE OF
PATRICK W. SEGRAVES, A.I.A., P.A.
SKA ARCHITECT + PLANNER
249 PERUVIAN AVENUE, SUITE F2
PALM BEACH, FLORIDA 33480

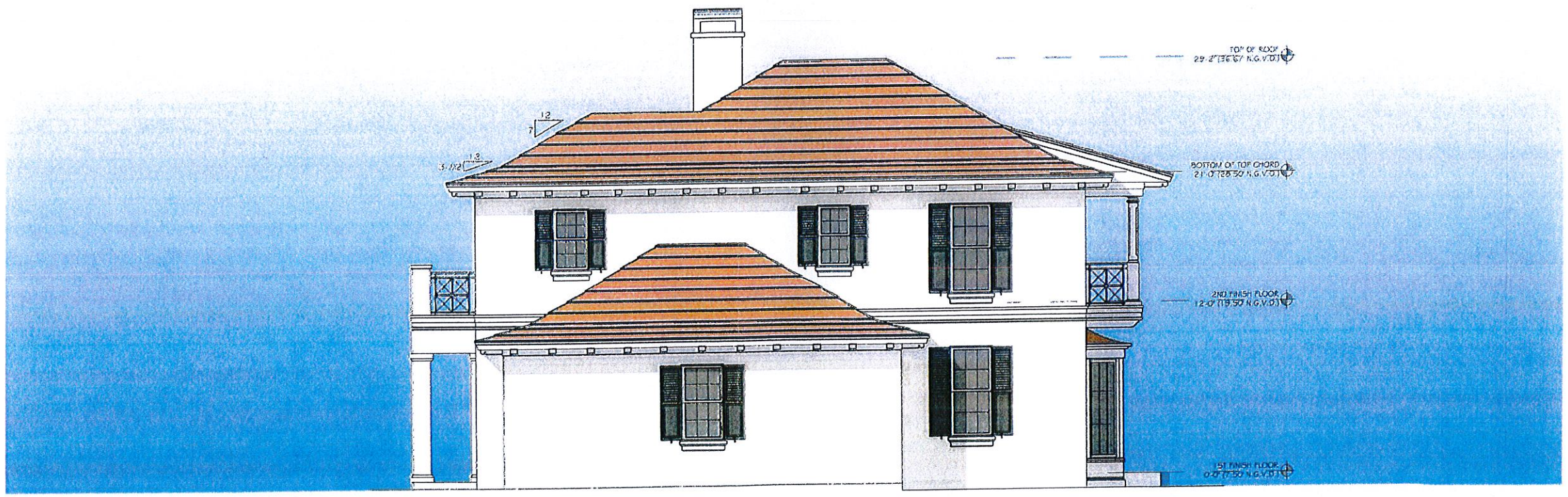
PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.

253 JAMAICA LANE
PALM BEACH, FLORIDA 33480

NORTH ELEVATION
SCALE: 1/4" = 1'-0"

FEBRUARY 23, 2015
B-026-2015

A-5



PROPOSED WEST ELEVATION 1/4" = 1'-0"

THE OFFICE OF
PATRICK W. SEGRAVES, A.I.A., P.A.
SKA ARCHITECT + PLANNER
249 PERUVIAN AVENUE, SUITE F2
PALM BEACH, FLORIDA 33480

PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.

253 JAMAICA LANE
PALM BEACH, FLORIDA 33480

WEST ELEVATION
SCALE: 1/4" = 1'-0"

FEBRUARY 23, 2015
B-026-2015

A-6

HILARY & STUART DWECK

252 JAMAICA LANE
PALM BEACH, FL 33480

TELEPHONE: (917)439-6415

March 20, 2015

Architectural Review Commission
Palm Beach, FL 33480

Re: 253 Jamaica Lane

Dear Board Members:

We are the owners of 252 Jamaica Lane, the house directly across the street from the new house proposed at 253 Jamaica Lane. Unfortunately, we will not be able to appear for the hearing on this matter on March 25, 2015.

We have reviewed the plans submitted and have numerous objections to the proposed "Spec House" to be built across the street. We believe that the volume, height and design of the proposed house are not suitable and do not fit the neighborhood. The height of this proposed home will undoubtedly block sunlight and cast shadows upon our one story home. The specific further details of our objections are specified in the submission of our neighbors, Mr. and Mrs. James McCartney Wearn. It is also my understanding that several others who live across or adjacent to this project will also voice objections.

We respectfully request that this Commission utilize its authority and discretion in concert with the criteria set forth in the Code sections cited by Mr. and Mrs. Wearn, so as to preserve the architectural and physical beauty of our block.

Thank your for your consideration with respect to this matter.

Respectfully yours,

Stuart & Hilary Dweck

RICHARD G. LUBIN, P. A.
ATTORNEYS AT LAW
SECOND FLOOR, FLAGLER PLAZA
1217 SOUTH FLAGLER DRIVE
WEST PALM BEACH, FLORIDA 33401
TELEPHONE (561) 655-2040
FACSIMILE (561) 655-2182
DEFENSE@LUBINLAW.COM
WWW.LUBINLAW.COM

RICHARD G. LUBIN*
JONATHAN R. KAPLAN
NICOLE M. COTTON
*BOARD CERTIFIED CRIMINAL TRIAL LAWYER

STEVEN H. MALONE
OF COUNSEL

ONE FINANCIAL PLAZA
100 SE 3RD AVE., STE. 2612
FT. LAUDERDALE, FL 33394
TELEPHONE (954) 761-2300

423 DELAWARE AVENUE
FT. PIERCE, FL 34950
TELEPHONE (772) 468-0009

March 24, 2015

Via Electronic Mail Only
(Jlindgren@Townofpalmbeach.com)

Town of Palm Beach
Architectural Review Commission

Re: Application for Construction
253 Jamaica Lane

Dear Members of the Palm Beach Architectural Review Commission:

We live at 244 Jamaica Lane less than 200 feet east and across the street from the proposed construction. We have reviewed a current rendering of the project. It is our strong feeling that the project is inconsistent with the character of our street for a number of reasons:

1. The scale and size of the proposal are inconsistent with the neighborhood as it is too massive for its lot.

2. The narrowness of Jamaica Lane, compared to many other streets on the north end will contribute to the towering effect of this design.

3. The proposed roof line accentuates the massive bulk of the project.

For these reasons, and for those enumerated by James Wearn in his objections to the project, we oppose approval of the project in its current form.

Thank you for reviewing this letter.

Sincerely,

Richard and Kathy Lubin
244 Jamaica Lane
Palm Beach

cc: James Wearn (Jwearn@hotwiremail.net)

From: sydroberts@me.com
Subject: Re: ARCOM: 253 JAMAICA LANE
Date: 03/22/2015 04:49 PM
To: jwearn@hotwiremail.net

Jim
This is a rough draft. I'll probably drop the last paragraph in favor of something about consideration from the board. I plan on sending you a final draft and one to Arcom for their files.
Sorry it took so long.

Sent from Syd Roberts

> On Mar 22, 2015, at 1:13 PM, Syd Roberts <sydroberts@me.com>; wrote:
>
> Dear sirs,
>
> My name is Sydney Roberts. I live at 265 Jamaica Lane. I abut 253 Jamaica lane to the East. I have lived there for 19 years. I am homesteaded. I grew up in Palm Beach and attended school in town. I Have been a Palm Beach resident most of my life. My three children were raised and attended school in town. I am the forth generation of my family to be residents of Palm Beach.
>
> During the past two years I have endured a remodeling of a house immediately to my North.This included, no privacy fencing after the hedge and fence were torn out working after hours and on Sundays, noise, dust, foul language and human defecation behind my house just for starters.
>
> I did not complain because I believe it was someone's private residence and the owners kept it as a one story house. I also believe in being a good neighbor.

A few years ago a two story spec house was built diagonally across the street from my house on Jamaica Lane. I can sit in my pool at the back of my property and see into their bedrooms. That house has fundamentally changed the "feel" of the immediate neighborhood. Now, someone, wants to build another spec house immediately to my East.
>
> In the short term, I will be subjected to construction noise, dust, no parking for my pool and yard maintenance people, due to all the construction vehicles. Jamaica Lane is a narrow street that is only wide enough for two cars. With all the construction what happens to Fire Vehicles and Ambulances.
>
> The long term effects to my property will be a loss of privacy, a loss of morning sunlight, a loss of ocean breeze. I will be subject to increased flooding from their elevated property. Also a decline in the value of my house because the neighborhood has lost its charm, or an increase in my taxes because the value of my property has been artificially increased.
>
> When I first moved to Jamaica Lane there were predominantly one story buildings. There were a few two story homes but they were of a modest size and set back from the street. They added to the charm of the street. Slowly but surely massive homes have been built that more resemble banks or embassies than homes. Jamaica Lane now has its first electric security gate.
>
> Nothing in this letter is new to the North End. This discussion of over density building has been going on for many, many years. If someone wants a big house, that is their decision. However, a house this MASSIVE does not belong on a lot this small or a street as narrow as Jamaica Lane.
>
> Failing that, maybe I should build a similar sized spec house on my lot and take the money and run.
>
> Sincerely,
> Sydney Roberts

JAMES McCARTNEY WEARN
260 Jamaica Lane
Palm Beach, Florida 33480

March 23, 2015

Architectural Review Commission
Town of Palm Beach
360 South County Road
Palm Beach, Florida, 33480

Attention John Lindgren, AICP, Planning Administrator

Re: proposed new two story house at 253 Jamaica Lane, Palm Beach (026-2015)

Dear Members of the Palm Beach Architectural Review Commission:

Since I moved onto Jamaica Lane forty years ago, in 1975, our low level homes have been allowed to be demolished, one by one, from the outside in, like a cancer, on both sides, from the east, and from the west, without much regard for the character of the street being changed, leaving only a five-home enclave of charming, harmonious cottages in the center of the Jamaica Lane plat.

Those of us residing in these cottages in our enclave want it to remain as it is, without encroachment further into our quality of life.

It is up to you whether this enclave and its quality of life is preserved and survives. We want it to survive. Please appropriately apply our Architectural Review Code (see the enclosed Elements of Objection) for this harmony of preservation. You leave us to live with your decision.

My wife, Patsy and I thank you for your consideration

Sincerely,

James McC. Wearn

Elements of Objection to proposed Development at 253 Jamaica Lane
(135.40: new two-story house: 5B March 23, 2015;)

The Town Comprehensive Plan (carried as a criterion for Architectural Review per Code Sec. 18.205(a)(4)) discourages density, and here more importantly discourages increased intensity of use. It discourages increased density and intensity of use through the coordination of both zoning and architectural review, not one over the other, but both together, with the goal and purpose to preserve and enhance the existing quality of life, not create a new or different quality of life.

Under this protective umbrella, Zoning provides maximum and minimum criteria while Architectural Review requires fulfilling certain criteria within the zoning, each Architectural Review criterion to be applied separately to the proposed development, and all to be found true and accurate in order to approve and not deny the application. If any single/one criterion is not found true and accurate, the application should be denied,

Architectural Review needs to consider the following facts and Code criteria:

1. Proposed development does not preserve the low level building height and mass of the longstanding and current urban beauty of the 1950's established neighborhood.
[Code Sec. 18-146 (d): "The task of the architectural commission is therefore to preserve various elements of urban beauty..."]

2. Proposed development does not enhance the existing elements of low level height and width of buildings in its immediate neighborhood. Rather, the proposed development diminishes/contradicts and detracts from the established neighborhood beauty.
[Code Sec. 18-146 (d): "The task of the architectural commission is therefore to ... require that new projects enhance the existing elements [of urban beauty]."]

3. Proposed development does not contribute to the existing harmony in the immediate neighborhood. Rather, it creates disharmony, and detracts from the established neighborhood.
[Code Sec. 18-146 (e): "The essential foundation of beauty in communities is harmony."]

4. Proposed development does not achieve a pleasant and comprehensive cohesiveness in community development. Rather, it detracts from the cohesiveness of the neighborhood, breaking it up, unpleasantly. Proposed development does not fulfill the intent of Architectural Review because it does not contribute to or help achieve a pleasant or comprehensive cohesiveness to the existing developed neighborhood (200 feet).
[Code Sec. 18-146 (e): "It is the intent of this article [Article III. – Architectural Review] to achieve a pleasant and comprehensive cohesiveness in community development."]

5. Proposed development does not contribute affirmatively to the desirability of the neighborhood. Rather, it contributes to the demolition of the immediate long-established neighborhood in favor of more development of similar height and width so as to unduly stick up, out and above as a...thumb.
[Code Sec. 18-167(a): "All members of the architectural commission shall be specially qualified...by reason of...sound judgment to judge the effects of a proposed building upon the desirability...of surrounding areas."]

6. Proposed development does not contribute affirmatively to the existing development of surrounding areas, namely the surrounding immediate neighborhood established on Jamaica Lane surrounding this property. Rather, it contributes to the demolition of this neighborhood in favor of more different development of similar significantly greater height and mass, detrimental and negative to the surrounding neighborhood by unduly sticking up,out and above as a...thumb.
[Code Sec. 18-167(a): "All members of the architectural commission shall be specially qualified...by reason of...sound judgment to judge the effects of a proposed building upon the ...development of surrounding areas."]

7. Proposed development does not, as the existing immediate neighborhood does now, contribute to the town as a place of spaciousness. Landscaping of the existing neighborhood meets the sky, and that creates spaciousness. Rather, the proposed development is too big (high and wide) competing with spacious landscaping meeting the sky and breaking up, overcoming and obliterating such existing spaciousness of the neighborhood.
[Code Sec. 18-205(a)(1): The plan for the proposed building...contributes to the town as a place of...spaciousness...:]

8. Proposed development does not, as the existing neighborhood does now, contribute to the town as a place of balance, taste, fitness or charm. Rather, it (proposed development) is too big (high and wide) forced into the neighborhood, diminishing balance, not in good taste, overemphasizing lack of fitness, all without charm.
[Code Sec. 18-205(a)(1): The plan for the proposed building...contributes to the town as a place of...balance, taste, fitness [and] charm...":]

9. Proposed development is not in harmony with, and is excessively dissimilar to all other structures existing in the immediate neighborhood in height. The home being replaced was similar to all other structures/homes existing in this neighborhood in height. The proposed development is double the height of all other structures in this neighborhood.
[Code Sec. 18-205(a)(6)a: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: a. Height..."]

10. Proposed development is not in harmony with, and is excessively dissimilar to all other structures existing in the immediate neighborhood in the appearance of mass (i) from the street, and (ii) from any perspective visible to the public, and (iii) from any perspective visible to the adjoining property owners. The home being replaced was similar to all other structures existing in this neighborhood in the appearance of mass. The proposed development is double the appearance of mass of all other structures in this neighborhood.
[Code Sec. 18-205(a)(6)e: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: e. mass..."]

11. Proposed development design is not complimentary of the size and massing of adjacent properties; rather, the proposed development design overwhelms/outsizes and thereby diminishes residences on adjacent properties.

[Code Sec. 18-205(a)(6)f: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: design that is complimentary with size and massing of neighboring properties."

12. Proposed development of block height appearing two stories in the front, east side and west side creates the appearance of double the mass of existing residences in the immediate neighborhood, namely across the street on the front and diagonally southeast and southwest, and on the east side and west side.
[Code Sec. 18-205(a)(6)g: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: g. design...that will avoid the appearance of mass..."]

13. Proposed development is not in harmony with, and thus is inappropriate to the established character of all other structures existing in the immediate neighborhood. The house being replaced was appropriate to and followed the established character of other structures existing in this neighborhood. The proposed development is inappropriate and out of character with this neighborhood.
[Code Sec. 18-205(a)(7): "The proposed building...is appropriate in relation to the established character or other structures in the immediate area or neighboring area in respect to significant design features such as...architectural design [height, width or mass] as viewed from any public or private way..."]

14. Proposed development does not adequately protect scenic views or natural vistas. The home being replaced was appropriate to and like the established character of all other structures existing in this neighborhood, and protected scenic views and natural vistas extending across landscaping and the sky in and above the neighborhood. The proposed development is inappropriate and blocks scenic views and natural vistas existing in the neighborhood.
[Code Sec. 18-205(a)(9): "The project's location and design adequately protects...scenic views,...[and]natural vistas..."]

Beyond the Code criteria on Architectural Review, there are further arguments:

15. There are lots of neighborhoods in the north end of town where the residence presents on streetscape the similar height, width, bulk and mass of the proposed development, so a new such speculation house will not disrupt the neighborhood, but rather be similar to the neighborhood; such streets include Monterey Road, Queens Lane, etc.

16. You (Architectural Review Commission) have been told (by Town Attorney Randolph) that you cannot turn down a two story house, the maximum number of stories allowed by Zoning, but you have not been told in the same breath, the rest of the story, that you can turn down any house, two story or not, or the equivalent of two stories in height if it fails to meet the Architectural Review neighborhood criteria.

In summation, the proposed development fails to fulfill or differs from or contradicts each of the appropriate criterion (enumerated above) by which it should be judged whether it fits in this Jamaica Lane immediate neighborhood or not, whether it contributes to this neighborhood or detracts, and whether its apparent character is similar to the existing neighborhood or dissimilar.

And adding up the answers to all these failed criteria, taken as a whole, surely the existing neighborhood should not have this development imposed on it, or imposed on our and your actual neighboring residents, for the foreseeable future, living with the diminished quality of life which formerly made the town and this neighborhood so desirable.

Please deny this application, because:

1.-it does not preserve the low level building height and mass of the existing neighborhood;
2.-it does not enhance the existing neighborhood; rather, it diminishes or detracts from it;
3.-it is not in harmony with the existing neighborhood; rather, it does not blend in;
4.-it does not achieve a pleasant and comprehensive cohesiveness in the neighborhood; rather, it oddly or differently stands apart;
5.-it does not contribute affirmatively to the desirability of the existing neighborhood;
6.-it does not contribute affirmatively to the existing low level scale of the neighborhood;
7.-it does not contribute to the town or neighborhood as a place of spaciousness;
8.-it does not contribute to the town or neighborhood as a place of balance,taste,fitness or charm;
9.-it emphasizes dissimilarity to the neighborhood already existing low level height and scale of residences;
10.-it is disharmonious and looks to be about double the mass of existing neighborhood homes;
11.-it is not complimentary to the neighborhood; rather it stands above and diminishes its neighboring residences;
12.-it does not avoid the appearance of mass by limiting its height; rather, it emphasizes its mass by its height over surrounding residences;
13.-it is inappropriate and out of character to all other homes in the "immediate area or neighboring area;"
14.-it does not protect scenic or natural vistas; rather, it blocks them;

PS: Minor changes to this development will not suffice to meet each special criterion, much less the bulk and mass of all the criteria. A completely new and harmonious development needs to come forward.

MINUTES
ARCHITECTURAL COMMISSION
IN THE
TOWN COUNCIL CHAMBERS
2ND FLOOR, TOWN HALL
360 S. COUNTY ROAD, PALM BEACH

WEDNESDAY, MARCH 25, 2015, 9:00 a.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Cindy Delp, Secretary to the Architectural Commission at (561) 227-6408. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

I. CALL TO ORDER: (09:00:17 a.m.)

Chairman Vila called the meeting to order at 9:00 a.m.

II. ROLL CALL: (09:00:20 a.m.)

Robert J. Vila, Chairman	PRESENT
Ann L. Vanneck, Vice Chairman	PRESENT
Kenn Karakul, Member	PRESENT
Richard Sammons, Member	PRESENT
Peter I. C. Knowles II, Member	PRESENT
Martin D. Gruss, Member	PRESENT
Robert N. Garrison, Member	PRESENT
Alexander C. Ives, Alternate Member	PRESENT (arrived at 9:05 a.m.)
Michael B. Small, Alternate Member	PRESENT
Maisie Grace, Alternate Member	PRESENT

Staff Members Present: John S. Page, Director of Planning, Zoning and Building, John Lindgren, Planning Administrator, and Cynthia Delp, Secretary to the Architectural Commission. Town Attorney, John C. Randolph, did not attend this meeting.

Let the record show that a court reporter, Dawn McConnell, was present for B-125-2014, 1330 South Ocean Boulevard.

OTHERS WHO TESTIFIED: James McCartney Wearn

Mr. Segraves presented the project in accordance with the submitted plans and as described above. First, he provided the demolition report for the existing one-story home designed in 1951 by John Stetson. Ms. Portus, speaking to the landscaping, stated that 2 Coconut Palms will be relocated, and the front Ficus hedge will be maintained during construction, but will be removed later.

MOTION BY MRS. VANNECK TO APPROVE THE DEMOLITION WITH THE CAVEAT THAT IT IS SODDED AND IRRIGATED AS SOON AS POSSIBLE.
MOTION SECONDED BY MR. GARRISON.
MOTION CARRIED UNANIMOUSLY.
(Let the record show that Mr. Ives voted on this motion because Mr. Karakul had stepped out.)

Mr. Segraves stated that Jamaica Lane has a mixture of one and two-story homes. Design elements for this new home include: Two-story home with one-story garage wing designed to be a casual north end home in keeping with the neighborhood; garage pushed back over 50 ft. from street; pool in rear; terra cotta clay tile roof; balcony in front at second floor level; cream house with green shutters and white trim; two bay windows on front elevation at first floor; Chippendale balcony railing; and two separate front loading garage doors. Mr. Segraves made some changes to the plans which resulted from ex parte communications. Those changes were submitted at the meeting on new plan pages.

Commission Comments: Attractive, but the houses immediately around it are one-story houses; nice, simple house; appreciate the two separate garage doors; the bay windows are too tall and skinny…go to 4 lites instead of 3; issue with two-stage posts at the projecting balcony; in the rear, the middle section looks a little pinched; issue with middle posts in rear…recommend wood to lighten it up; instead of triple windows, would rather see one window with side lites; charming house; on this street, there are real two-story houses that have been there for quite a while; this will fit in and be a charming house for the neighborhood; try to bring it down just a bit; would prefer to get rid of overhanging roof on south elevation entirely; OK with overhanging roof…it adds a certain bit of charm that would be missing otherwise; and, you are at 29 ft. and the other houses are at 25 ft. and 27 ft.….bring it down 2 ft.

Ms. Portus continued with the landscape/hardscape pursuant to the submitted plans; Design elements include: Circular driveway with 14 ft. openings; driveway shifted a bit to avoid a straight view of garages; hardscape: concrete pavers with accent at front drop off in pre-cast or stone with turf strips; pool with submerged spa in rear…pool floating in sod; large pool terrace; small BBQ area; clean, formal landscape to accent house; row of specimen Date Palms at the street; formal layers of green on green; Magnolias on the sides; Italian Cypress at front door; and, privacy hedges on sides and rear.

Commission Comments: You have to come back with the other 3 elevations; you have not landscaped out the garage view; provide height and privacy for the neighbors; reduce the driveway and curb cuts to 12 ft.; taller scale landscaping is needed; you're calling attention to the house with the parade of Date Palms…the neighborhood is more subtle and informal; give us more relief from the garage doors; and, suggest tropical colors.

Mr. Lindgren read all or part of 4 letters/emails received objecting to this project: 1) letter dated March 20, 2015 from Stuart and Hilary Dweck, 252 Jamaica Lane; 2) letter dated March 24, 2015

from Richard and Kathy Lubin, 244 Jamaica Lane; 3) email dated March 24, 2015 from Sidney Roberts, 265 Jamaica Lane; and 4) letter dated March 23, 2015 from James McCartney Wearn, 260 Jamaica Lane.

James McCartney Wearn asked for assurance that his letter with 16 points is included in the record. Mr. Vila assured him that although the 16 points were not read, they are included in the record. Mr. Wearn offered his objections relative to the proposed home, i.e.,, that this proposed house is right in the middle of an enclave of one-story homes on Jamaica Lane. He questioned the mass, height and bulk of the proposal and requested that the project be deferred for re-study.

MOTION BY MR. GARRISON FOR APPROVAL OF THE ARCHITECTURE WITH THE FOLLOWING CAVEATS: THAT THE HEIGHT BE REDUCED BY 2 FEET, AND THAT THE DRIVEWAY BE REDUCED TO A MAXIMUM OF 13 FEET (12 FT. PREFERRED), AND THAT THE LANDSCAPING BE DEFERRED TO NEXT MONTH. MOTION SECONDED BY MR. KARAKUL.
MOTION CARRIED 6-1, WITH MR. SAMMONS OPPOSED.

Mr. Vila stated, for the record, that as long as the Code allows for two-story homes, ARCOM can just influence the aesthetics and the scale.

IN RE: NEW RESIDENCE AT 253 JAMAICA LANE

CASE NO.: B-026-2015

VOICE-TO-TEXT TRANSCRIPTION AUDIO-RECORDED

TOWN OF PALM BEACH

ARCHITECTURAL REVIEW COMMISSION HEARING

MARCH 25, 2015

1 A P P E A R A N C E S

2 ARCHITECTURAL REVIEW COMMISSION

3 Robert J. Vila, Chair
Ann Vanneck, Vice Chair
4 Kenn Karakul, Member
Peter I.C. Knowles, II, Member
5 Richard Sammons, Member
Martin D. Russ, Member
6 Robert N. Garrison, Member
Alexander C. Ives, Alternate Member
7 Michael B. Small, Alternate Member
Maisie Grace, Alternate Member
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(Audio-recorded testimony as follows:)

CHAIRMAN VILA: So B-026-2015 new residence address 253 Jamaica Lane. The applicant Jamaica Lane, LLC. The architect Patrick Seagraves. The project description, new two-story home to be approximately 4,500 square feet. Home will consist of four bedrooms, five bathrooms, one half bathroom, a living room, a dining room, family room, kitchen, library, loggia, and two-car garage. Final landscape and hardscape will also be included. Demolition of existing one-story home.

Ex-parte.

CHAIRMAN VILA: Okay. I would just like to add that a lot of the concerns of the citizens are certainly valid, I'm just not sure that the architectural commission has the power to do anything about it, and as long as our zoning and building and

bylaws and code allow two-story houses, all we can do is influence the aesthetics of it and sometimes the scale of it, and that's where we are.

Next item on the agenda is 156 Seagate Road. It's item 027.

(End of recording.)

1 CERTIFICATE OF TRANSCRIPTION

2

3 STATE OF FLORIDA)

4 COUNTY OF PALM BEACH)

5

6

7 I, Matthew J. Haas, Professional

8 Reporter, do hereby certify that I was authorized

9 to and did listen to and stenographically

10 transcribe the foregoing recorded proceedings and

11 that the transcript is a true record to the best

12 of my ability.

13

14

15

16 Dated this 27th day of April,

17 2015.

18

19

20

21

22

23

24 MATTHEW J. HAAS
Court reporter

25

JAMES McCARTNEY WEARN
260 Jamaica Lane
Palm Beach, Florida 33480
Telephone 561-842-4500
Office telephone 561-659-0655
Office facsimile 561-659-0685

April 3, 2015

Susan A. Owens, MPA, MMC, Town Clerk
Town of Palm Beach

Via hand delivery

Re: APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION
TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING
AGENDA ITEM IX. PROJECT REVIEW:
C. MAJOR PROJECTS-NEW BUSINESS:
B – 026 - 2015 New Residence
Address: 253 Jamaica Lane

Dear Ms. Owens:

Pursuant to Town Code, enclosed please find the referenced Appeal, incorporated herein by reference.

As they develop, please advise me of the status of each request contained in the last two paragraphs of the Appeal.

Thank you for your attention to these matters.

Very truly yours,

James McC. Wearn

JMcCW:j (135.40 253 Jamaica Lane new two-story house Appeal)
Enclosure

RECEIVED

2015 APR 3 13:44 TWN CLERK

APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION
TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING
AGENDA ITEM IX. PROJECT REVIEW:

C. MAJOR PROJECTS-NEW BUSINESS:

B – 026 - 2015 New Residence
Address: 253 Jamaica Lane
Applicant: 253 Jamaica Lane, LLC
Architect: SKA Architect + Planner/Patrick W. Segraves
Project Description: New two-story home to be approximately 4,500 square feet. Home will consist of four bedrooms, five bathrooms, 1 half bathroom, living room, dining room, family room, kitchen, library, loggia(s) and two-car garage. Final landscape and hardscape will also be included. Demolition of existing one-story home

Comes now, James McC. Wearn (Wearn), an adjacent property owner at 260 Jamaica Lane (within less than 100 feet of and diagonally SW across Jamaica Lane from the subject property), and appeals the actions and inactions, and misconception(s) of the Architectural Review Commission (ARCom) on its above stated agenda item B – 026 – 2015 on March 25, 2015. The actions and inactions, and/or misconception(s) resulted in and included without limitation denying Wearn and his immediate neighbors surrounding the subject property on Jamaica Lane a full, fair and just hearing, and approving the "architecture" while deferring the "landscape."

The grounds for appeal include:

1. ARCom refused to hear, and overlooked or failed to consider certain submitted written Elements of Objection, consisting of an opening/preamble, 14 statements of fact each supporting a particular law/Code criterion to be applied/followed, two statements with argument, and a Summation with summary of criteria, any one of which is sufficient for denial, and each of which needed to be met, but none of which were fulfilled or found for approval of the "architecture."

2. The ARCom action of approving just the "architecture"

A. was with architectural modifications (building height reduced, two large front bay windows redesigned from three separate windows to one window with side lights, and driveway reduced in width and relocated) agreed by the applicant to be made later;

B. failed to include architectural modifications (two stage post and rear column construction style and material) agreed by the applicant to be made later, but not included as conditions of approval;

C. failed to include the hardscape in any action (approval of the "architecture" or deferral of the "landscape"), the "hardscape" being expressly identified as a part of the application for approval in the Project Description.

D. failed to include the "hardscape and landscape" as an inextricable and major part of the development as a whole, the "landscape" being deferred for later consideration, such later consideration then bound by the piecemeal "architectural" action; and

E. was premature and failed to take the development as a whole at one time with full and complete development design data, since it had to come back to ARCom in the future for "landscape" approval.

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2015 APR 3 13:44 TOWN CLERK

Wearn suggested/requested that the proposed development "architecture" be considered when the proposed development was ready for "landscape" consideration (with full and complete design data) so that the proposed development would be considered as a whole, but such suggestion/request was declined by inaction.

Such piecemeal ARCom actions prevented the proposed development from being taken and considered as a whole, or even later presented as a whole for further final review by ARCom and the neighbors and public before final approved.

Such ARCom actions are contrary to the law/Code [Code Sec. 18-203: "The Commission shall act ... after the filing of full and complete data [including design plans]"]

3. Underlying the ARCom actions and inactions is a misconception that ARCom is not lawfully allowed to deny approval of a two-story house, as here proposed for development. The misconception was vocalized by the Chairman at the end of end of consideration of this Agenda item. Wearn advanced the explanation, not accepted by ARCom as vocalized by its chairman, that the two-story proposed development could be denied approval, not because it is two stories, but because it does not meet the Architectural Review criteria for approval, which denial criteria can include its height (a single story can have the same objectionable height as a two story), its mass (a single story can have the same objectionable mass as a two story), its harmony or lack of harmony with the immediate neighborhood or enclave (a single story can have the same objectionable lack of harmony as a two story), et cetera. The misconception impedes, and impeded a fair or just consideration of the objections to this proposed development.

4. The ARCom actions and inactions, and misconception(s)
   - A. are contrary to the facts;
   - B. are contrary to the law/Code; and
   - C. are contrary to the facts and the law/Code.

Wearn hereby advises that the record and brief for this appeal are in the process of being prepared, as are the minutes for this meeting, and will be filed as soon as practicable expected within the next thirty days, and waives any time limit within which the Town Council is or may be required to hear and consider this appeal. Wearn requests at least two hours for his presentation of this Appeal, depending on Town Council advance review of the Appeal record.

Wearn hereby requests the following relief:

I. that any further consideration of or action on this Project B – 026 – 2015 be stayed or deferred until after final disposition of this appeal;

II that this appeal be granted;

III that the ARCom actions and inactions on this Project be overturned and reversed;

IV that the ARCom misconception be clearly corrected; and

V that the Town Council grant and take such other and further action which may be fair and just in the premises.

Respectfully signed, submitted and filed this April 3, 2015,

James McC. Wearn

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RICHARD G. LUBIN*
JONATHAN R. KAPLAN
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*BOARD CERTIFIED CRIMINAL TRIAL LAWYER

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423 DELAWARE AVENUE
FT. PIERCE, FL 34950
TELEPHONE (772) 468-0009

April 6, 2015

Susan A. Owens, MPA, MMC, Town Clerk
Town of Palm Beach

VIA HAND DELIVERY

Re: APPEAL TO THE PALM BEACH TOWN COUNCIL FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING AGENDA ITEM IX. PROJECT REVIEW: C. MAJOR PROJECTS - NEW BUSINESS:
B-026-2015 New Residence
Address: 253 Jamaica Lane

WRITTEN NOTICE OF JOINDER

Dear Ms. Owens:

My wife Kathleen and I file this Notice joining the appeal of the above referenced matter.

Sincerely,

RICHARD G. LUBIN
244 Jamaica Lane
Palm Beach, FL 33480

RECEIVED

2015 APR 6 15:17 TWN CLERK

Sydney Roberts
265 Jamaica Lane
Palm Beach, Florida 33480

April 16, 2015

Via hand delivery

Susan A. Owens, MPA, MMC, Town Clerk
Town of Palm Beach

Via hand delivery

Re: Proposed new two story house at 253 Jamaica Lane, Palm Beach (026-2015)

APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION
TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING
AGENDA ITEM IX. PROJECT REVIEW:
C. MAJOR PROJECTS-NEW BUSINESS:
B – 026 - 2015 New Residence
Address: 253 Jamaica Lane

Notice of Joinder of Sydney Roberts in Appeal

Dear Ms. Owens:

Please take Notice of my Joinder in the referenced Appeal brought by and on the side of James McC. Wearn, previously joined by Kathleen and Richard G. Lubin.

Thank you for your attention to this matter.

Very truly yours,

Sydney Roberts

RECEIVED

2015 APR 17 15:02 TWN CLERK

JAMES McCARTNEY WEARN
260 Jamaica Lane
Palm Beach, Florida 33480
Telephone 561-842-4500
Office telephone 561-659-0655
Office facsimile 561-659-0685

IN RE: JAMES McC. WEARN,
JOINED BY KATHLEEN AND RICHARD G. LUBIN, AND SYDNEY ROBERTS

APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL REVIEW COMMISSION
TAKEN AT ITS MEETING ON MARCH 25, 2015 CONCERNING
AGENDA ITEM IX. PROJECT REVIEW:

C. MAJOR PROJECTS-NEW BUSINESS:

B – 026 - 2015 New Residence
Address: 253 Jamaica Lane
Applicant: 253 Jamaica Lane, LLC
Architect: SKA Architect + Planner/Patrick W. Segraves
Project Description: New two-story home to be approximately 4,500 square feet. Home will consist of four bedrooms, five bathrooms, 1 half bathroom, living room, dining room, family room, kitchen, library, loggia(s) and two-car garage. Final landscape and hardscape will also be included. Demolition of existing one-story home

INTRODUCTION

James McC. Wearn (Wearn), residing with his wife Patricia Watts-Wearn at 260 Jamaica Lane, Palm Beach, joined by Kathleen and Richard G. Lubin (Lubins), residing at 244 Jamaica Lane, Palm Beach, and joined by Sydney Roberts (Roberts), residing at 265 Jamaica Lane, Palm Beach, appeals the actions (actions and inactions, and misconception(s)) of the Architectural Review Commission (ARCom) at its March 25, 2015 meeting on Agenda item B – 026 – 2015. The actions and inactions, and/or misconception(s) resulted in among other results approving the "architecture" while deferring the "landscape."

This Appeal was timely filed by Wearn with the Palm Beach Clerk on April 3, 2015, and the Appeal was joined by the Lubins and Roberts.

GROUNDS FOR APPEAL

The grounds for appeal as stated when filed include:

1. ARCom refused to hear, and overlooked or failed to consider certain submitted written Elements of Objection, consisting of an opening/preamble, 14 statements of fact each supporting a particular law/Code criterion to be applied/followed, two statements with argument, and a Summation with summary of criteria, any one of which is sufficient for denial, and each of which needed to be met, but none of which were fulfilled or found for approval of the "architecture."

2. The ARCom action of approving just the "architecture"

A. was with architectural modifications (building height reduced, and driveway reduced in width and relocated) agreed by the applicant to be made later;

B. failed to include architectural modifications (two large front bay windows to be redesigned from three separate windows to one window with side lights, rear two-stage post and column construction style and material to be one-stage from uniform material) agreed by the applicant to be made later, but not included as conditions of approval;

C. failed to include the hardscape in any action (approval of the "architecture" or deferral of the "landscape"), except the driveway being reduced in width and relocated, the "hardscape" being expressly identified as a part of the application for approval in the Project Description.

D. failed to include the "hardscape and landscape" as an inextricable and major part of the development as a whole, the "landscape" being deferred for later consideration, such later consideration then bound by the piecemeal "architectural" action; and

E. was premature and failed to take the development as a whole at one time with full and complete development design data, since it had to come back to ARCom in the future for "landscape" approval.

Wearn suggested/requested that the proposed development "architecture" be considered when the proposed development was ready for "landscape" consideration (with full and complete design data) so that the proposed development would be considered as a whole, but such suggestion/request was declined by inaction.

Such piecemeal ARCom actions prevented the proposed development from being taken and considered as a whole, or even later presented as a whole for further final review by ARCom and the neighbors and public before final approved.

Such ARCom actions are contrary to the law/Code [Code Sec. 18-203: "The Commission shall act ... after the filing of full and complete data" which would including re-design house architecture plans, and re-design hardscape and landscape plans]"]

3. Underlying the ARCom actions and inactions is a misconception that ARCom is not lawfully allowed to deny approval of a two-story house, as here proposed for development. The misconception was vocalized by the Chairman at the end of consideration of this Agenda item. Wearn advanced the explanation, not accepted by ARCom as vocalized by its chairman, that the two-story proposed development could be denied approval, not because it is two stories, but because it does not meet the Architectural Review criteria for approval, which denial criteria can include its height (a single story can have the same objectionable height as a two story), its mass (a single story can have the same objectionable mass as a two story), its harmony or lack of harmony with the immediate neighborhood or enclave (a single story can have the same objectionable lack of harmony as a two story), et cetera. The misconception impedes, and impeded a fair or just consideration of the objections to this proposed development.

4. The ARCom actions and inactions, and misconception(s)
   A. are contrary to the facts;
   B. are contrary to the law/Code; and
   C. are contrary to the facts and the law/Code.

APPPEAL RELIEF REQUESTED

Wearn, joined by the Lubins and Roberts, requests the following relief:
I. that any further consideration of or action on this Project B – 026 – 2015 be stayed or deferred until after final disposition of this appeal;
II that this appeal be granted;
III that the ARCom actions and inactions on this Project be overturned/reversed;
IV that the ARCom misconception be clearly corrected; and
V that the Town Council grant and take such other and further action which may be fair and just in the premises.

THE FACTS

The material facts on this Appeal include the following:
Application Facts (1-3):
1. -The Applicant is 253 Jamaica Lane, LLC, 829 Harbour Isle Place, Palm Beach Gardens, FL 33410, owned and managed by Susan Shulman
(See Town Record Application, recording and public record)
2. -The Applicant sought permission to raze the existing low level 2180 First Floor area square footage and its covered carport and loggia, for which demolition there were no grounds for opposition, and permission was granted.

(See Town Record Application and submission Demolition Site Plan DSP-1)
3. -The proposed development is for a new two-story house to be approximately 4,500 square feet consisting of four bedrooms, five bathrooms, 1 half bathroom, living room, dining room, family room, kitchen, library, loggia(s) and two-car garage, with landscape and hardscape included.

-the proposed house is twice as big (height, bulk and mass) as the existing home.

-the proposed house is a box, viewed horizontally and vertically, from the S, E & W) directions/elevations, with a garage appendage and with relief given to the back/N elevation.

-the largest mass of the proposed house is placed to its front on Jamaica Lane

-the proposed box front is not diminished by any architectural treatment offering to better fit the neighborhood (such as done in the rear/N where there are wall variations/setbacks, which vary the concentration of height, size, bulk and mass).

-the proposed box front is slightly broken by a second floor non-prominent balcony and by first floor bay windows on each side of the front door.

-the proposed house appears more formal than its surrounding neighbors.
(See Town Record, Applicant submission drawings including DSP-1, site plan and elevations, front/S, sides/E&W, and rear/N, and Appeal Appendix)

Jamaica Lane enclave of low level, modest size, modest bulk, and modest mass existing homes (4-6)
4. -The surrounding five homes on Jamaica Lane are existing and are

-each about half as big (height, bulk and mass) as the proposed house.

-each a unique charming custom home with distinct different but blended architecture and landscape establishing neighborhood character in the nature of an enclave.
(See Record on Appeal Applicant submission Surrounding Properties: Jamaica Lane S side: 244, 252 and 260, and N side: 245 and 265 (required photograph of 265 not included in Application); Contextual Site Plan CSP-1; and Street Scape SS-1)
5. -On the N side of this enclave, there are four more low level homes, two on each side.
(See Town Record Application photographs of Surrounding Properties: Jamaica Lane E side: 237 and 225, and W side: 269 and 277, and Appeal Appendix)
6. On the S side of this enclave, there are two maximized houses, one on each side, the ARCom approval of which was unsuccessfully opposed by the Jamaica Lane neighbors' objections due to height, bulk and mass, resulting in squeezing and boxing-in and the friendly-appearing enclave.
(See Town Record, Applicant submission Surrounding Properties, Appeal Appendix and take notice of public record of ARCom approval for houses at 218 and 268 Jamaica Lane)

Letters of Objection (7-10):
7. Stuart and Hilary Dweck (Dweck), residing at 252 Jamaica Lane, directly across the street from the subject proposed development, in their March 20, 2015 letter objected to ARCom approval because the "volume, height and design of the proposed house are not suitable and do not fit in the neighborhood" on which they elaborated and incorporated by reference Wearn's Elements of Objection; the letter in its entirety was read aloud by staff to the ARCom.
(See Town Record, Dweck letter, recording and Appeal Appendix)
8. Richard and Kathy Lubin (Lubins), residing at 244 Jamaica Lane, diagonally SE across the street from the subject proposed development, in their March 24, 2015 letter objected to ARCom approval because "[t]he scale and size of the proposal are inconsistent with the neighborhood as

it is too massive for its lot. The narrowness of Jamaica Lane...will contribute to the towering effect of this design. [and] The proposed roof line accentuates the massive bulk of the project," and incorporated by reference Wearn's Elements of Objection; the letter in its entirety was read aloud by staff to the ARCom.
(See Town Record, Lubins letter, recording and Appeal Appendix)

9. Sydney Roberts, residing at 265 Jamaica Lane, directly to the West of the subject proposed development, in his March 22, 2015 letter objected to ARCom approval because, among other grounds, "When I first moved to Jamaica Lane there were predominantly one story buildings. There were a few two story homes but they were of a modest size and set back from the street. The added to the charm of the street. Slowly but surely massive homes have been built that more resemble banks or embassies than homes"; the letter in its entirety was read aloud by staff to the ARCom.
(See Town Record, Roberts letter, recording and Appeal Appendix)

10. James McC. Wearn (Wearn), with his wife residing at 260 Jamaica Lane, diagonally SW across the street from the subject proposed development, in his March 23, 2015 letter objected to ARCom approval because protection of the Jamaica Lane enclave of five low-level homes surrounding the subject proposed development was deserved from this comparatively high level, large bulk, and massive house (about twice the height, size, bulk and mass), which was out of character with the neighborhood-friendly existing homes, which struck at the center of the enclave, and which was inappropriate under the facts relevant to and addressing the ARCom Code criteria required to be considered and applied, as set forth in Wearn's attached and referenced Elements of Objection; only Wearn's letter was read aloud by staff to the ARCom, but the grounds of objection (facts and law/Code) set forth in the Elements of Objection were declined by the Chairman to be read aloud by staff to the ARCom for its consideration.
(See Town Record, Wearn letter with attached Elements of Objection, Minutes of this ARCom meeting, recording and Appeal Appendix)

Elements of Objection (Statements of Facts and Applicable Law/Code citations of authority) (11-24):
11. Proposed development does not preserve the low level building height and mass of the longstanding and current urban beauty of the 1950's established neighborhood.
[Code Sec. 18-146 (d): "The task of the architectural commission is therefore to preserve various elements of urban beauty..."]
(See Town Record, Appeal/Appendix and Applicant submission Surrounding Properties; Contextual Site Plan CSP-1; and Street Scape SS-1)
12. Proposed development does not enhance the existing elements of low level height and width of buildings in its immediate neighborhood. Rather, the proposed development diminishes/contradicts and detracts from the established neighborhood beauty.
[Code Sec. 18-146 (d): "The task of the architectural commission is therefore to ... require that new projects enhance the existing elements [of urban beauty]."]
(Id.)
13. Proposed development does not contribute to the existing harmony in the immediate neighborhood. Rather, it creates disharmony, and detracts from the established neighborhood.
[Code Sec. 18-146 (e): "The essential foundation of beauty in communities is harmony."]

(Id.)
14.The proposed development does not achieve a pleasant and comprehensive cohesiveness in community development. Rather, it detracts from the cohesiveness of the neighborhood, breaking it up, unpleasantly. Proposed development does not fulfill the intent of Architectural Review because it does not contribute to or help achieve a pleasant or comprehensive cohesiveness to the existing developed neighborhood (200 feet).
[Code Sec. 18-146 (e): "It is the intent of this article [Article III. – Architectural Review] to achieve a pleasant and comprehensive cohesiveness in community development."]
(Id.)
15. Proposed development does not contribute affirmatively to the desirability of the neighborhood. Rather, it contributes to the demolition of the immediate long-established neighborhood in favor of more development of similar height and width so as to unduly stick up, out and above as a…thumb.
[Code Sec. 18-167(a): "All members of the architectural commission shall be specially qualified…by reason of…sound judgment to judge the effects of a proposed building upon the desirability…of surrounding areas."]
(Id.)
16. Proposed development does not contribute affirmatively to the existing development of surrounding areas, namely the surrounding immediate neighborhood established on Jamaica Lane surrounding this property. Rather, it contributes to the demolition of this neighborhood in favor of more different development of similar significantly greater height and mass, detrimental and negative to the surrounding neighborhood by unduly sticking up, out and above as a…thumb.
[Code Sec. 18-167(a): "All members of the architectural commission shall be specially qualified…by reason of…sound judgment to judge the effects of a proposed building upon the …development of surrounding areas."]
(Id.)
17. Proposed development does not, as the existing immediate neighborhood does now, contribute to the town as a place of spaciousness. Landscaping of the existing neighborhood meets the sky, and that creates spaciousness. Rather, the proposed development is too big (high and wide) competing with spacious landscaping meeting the sky and breaking up, overcoming and obliterating such existing spaciousness of the neighborhood.
[Code Sec. 18-205(a)(1): The plan for the proposed building…contributes to the town as a place of…spaciousness…:]
(Id.)
18. Proposed development does not, as the existing neighborhood does now, contribute to the town as a place of balance, taste, fitness or charm. Rather, it (proposed development) is too big (high and wide) forced into the neighborhood, diminishing balance, not in good taste, overemphasizing lack of fitness, all without charm.
[Code Sec. 18-205(a)(1): The plan for the proposed building…contributes to the town as a place of…balance, taste, fitness [and] charm…":]
(Id.)
19. Proposed development is not in harmony with, and is excessively dissimilar to all other structures existing in the immediate neighborhood in height. The home being replaced was similar to all other structures/homes existing in this neighborhood in height. The proposed development is double the height of all other structures in this neighborhood.

[Code Sec. 18-205(a)(6)a: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: a. Height..."]
(Id.)

20. Proposed development is not in harmony with, and is excessively dissimilar to all other structures existing in the immediate neighborhood in the appearance of mass (i) from the street, and (ii) from any perspective visible to the public, and (iii) from any perspective visible to the adjoining property owners. The home being replaced was similar to all other structures existing in this neighborhood in the appearance of mass. The proposed development is double the appearance of mass of all other structures in this neighborhood.
[Code Sec. 18-205(a)(6)e: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: e. mass..."]
(Id.)

21. Proposed development design is not complimentary of the size and massing of adjacent properties; rather, the proposed development design overwhelms/outsizes and thereby diminishes residences on adjacent properties.
[Code Sec. 18-205(a)(6)f: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: design that is complimentary with size and massing of neighboring properties."]
(Id.)

22. Proposed development of block height appearing two stories in the front, east side and west side creates the appearance of double the mass of existing residences in the immediate neighborhood, namely across the street on the front and diagonally southeast and southwest, and on the east side and west side.
[Code Sec. 18-205(a)(6)g: "The proposed building...is not excessively dissimilar in relation to any other structure existing...within 200 feet...in respect to one...of the following features: g. design...that will avoid the appearance of mass..."]
(Id.)

23. Proposed development is not in harmony with, and thus is inappropriate to the established character of all other structures existing in the immediate neighborhood. The house being replaced was appropriate to and followed the established character of other structures existing in this neighborhood. The proposed development is inappropriate and out of character with this neighborhood.
[Code Sec. 18-205(a)(7): "The proposed building...is appropriate in relation to the established character or other structures in the immediate area or neighboring area in respect to significant design features such as...architectural design [height, width or mass] as viewed from any public or private way..."]

24. Proposed development does not adequately protect scenic views or natural vistas. The home being replaced was appropriate to and like the established character of all other structures existing in this neighborhood, and protected scenic views and natural vistas extending across landscaping and the sky in and above the neighborhood. The proposed development is inappropriate and blocks scenic views and natural vistas existing in the neighborhood.
[Code Sec. 18-205(a)(9): "The project's location and design adequately protects...scenic views,...[and] natural vistas..."]
(Id.)

25. Elements of Objection were not included as part of the Wearn letter read aloud, or allowed to be read aloud (only three minutes were allotted to Wearn for oral presentation) (See Town Record, minutes and recording)

26. ARCom Chairman statement that as long as zoning allows two-story houses, all ARCom can do is influence the aesthetics of the two-story house and sometimes the scale of the two-story house.
(See Town Record, minutes, recording and quote extract)

ARGUMENT

APPEAL ISSUE/POINT 1

Restated:
1. ARCom refused to hear, and overlooked or failed to consider certain submitted written Elements of Objection, consisting of an opening/preamble, 14 statements of fact each supporting a particular law/Code criterion to be applied/followed, two statements with argument, and a Summation with summary of criteria, any one of which is sufficient for denial, and each of which needed to be met, but none of which were fulfilled or found for approval of the "architecture."

The Elements of Objection were made and filed as part of a March 23, 2015 Wearn letter based then only on the Applicant's pre-filing for the March 23, 2015 presentation before ARCom.

The Elements of Objection started with an opening/preamble on the relationship of the Comprehensive Plan (CompPlan; controlling over all development, such as intensity of use, to be considered under architectural review per Code Sec. 18-205(a)(4)), and zoning (establishing development maximum and minimum criteria) and architectural review (establishing development appearance/aesthetics criteria), zoning and architectural review being complementary tools for implementing the CompPlan.

It should be noted here that both zoning criteria and architectural review criteria have to be fulfilled separately, each according to its own criteria.

And while ARCom may not turn down an application for failure to meet a zoning criteria, it may turn down an application, indeed should turn down an application for failure to meet ARCom approval criteria. (please see Appeal Issue/Point 3)

Following the opening/preamble in the Elements of Objection come 14 statements of fact. The 14 statements of fact are each followed by a citation of a particular Town Code

architectural review law/criterion to be applied/followed for architectural review approval to be granted. The stated facts showed that the subject criterion was not apparently met or fulfilled. The Elements of Objection ended in a Summation listing of criteria not apparently fulfilled.

When the ARCom March 25, 2015 meeting reached this above described "new two-story home," the Applicant's presentation to ARCom was by the architects (building and landscape) without time limitation (stated or imposed), followed by each ARCom member having an opportunity to speak. Then, when the chair asked for a motion, Wearn approached the podium and staff (in the absence of the Town Attorney) reminded the chair that letters from the public were received and to be read aloud into the record, whereupon, the neighborhood residents Dweck letter of objection was read aloud, Lubin letter of objection was read aloud, and Roberts letter of objection was read aloud, each in its entirety. Wearn's letter was read aloud, but its identified and enclosed Elements of Objection was not read aloud by direction from the chair. Mr. Wearn was then given by the chair three minutes for comment. Immediately following, the chair called for a motion and the architecture was approved with two caveats (conditions) and the landscape was deferred for substantial negative comments by ARCom members to be addressed and agendaed for the next meeting (See the Town Record, minutes).

It is understood by Wearn that it has long been the Town Attorney recommended procedure on major project hearings, as here, that letters on a given ARCom application are to be read out loud (usually by staff) to be heard by the Architectural Review Commissioners (analogous to being published or allowed to be published to the finder of fact). Apparently there is no adopted or published rule or regulation involving this procedure, as authorized and directed by Code Sec. 18-172. A reason for the Town Attorney recommended procedure may be to ensure the fulfillment of Sec. 18-205(a) which provides in material part:

> "The architectural commission may ... [act] in any matter subject to its jurisdiction <u>only after consideration of whether the following criteria are complied with:</u>" (Emphasis added).

Here, on this application item, the Wearn March 23, 2015 letter alone was read, but not its Elements of Objection on the criteria not being met, so the record is devoid of any express consideration having been given to each of Elements of Objection or the 14 stated Objections, such as by sustaining or overruling each objection.

Because the Elements of Objection were not read for hearing and then each considered by the Architectural Commission, it is not possible to determine from the record that each and all of the objections were included in the hearing and given consideration.

For these reasons, the actions (and inaction) of the architectural commission on the hearing on this Application on March 25, 2015 should be reversed and set aside; if there is a remand, any remand of this Application should be with instructions to fully hear and consider and make findings and rulings on the facts and applicable law on all written and oral objections, sustaining or overruling each objection.

If it is assumed that the 14 Elements of Objection on this Project are in the record, and it is assumed that the Elements of Objection being in the record are sufficient for their consideration (even though not published or allowed to be published to the finder of fact), then the facts advanced by Wearn (see Facts 11 through 24) must be considered to determine whether there was any competent substantial evidence in the record disputing or refuting such facts. If not, then each such set of facts alone constitutes, and all together clearly constitute substantial competent evidence showing the criteria of architectural review not met/fulfilled or existing for approval.

Depending on how one reads the transcript of the applicant's presentation to ARCom, perhaps some architectural review required criteria were addressed with competent substantial evidence in the record. However, all of the Code criteria cited by Wearn as the basis for objection to approval were supported by competent substantial fact stated and included in the record, which objections and facts were not disputed or refuted, much less with or based on competent substantial evidence in the record.

ARCom made no findings of fact on which approval is based. So, let us look at the facts in the record on each of the 14 Elements of Objection, the 14 elements of Code criteria to be met/fulfilled as the required predicate for architectural approval:

-Reference Element of Objection 1/above Fact 11: if the low level building height and mass of the longstanding and 1950's established neighborhood is an element of urban beauty, then the task of the architectural commission is to preserve it. The Applicant filing and presentation did not address this, as did Wearn.

-Reference Element of Objection 2/above Fact 12: if the longstanding and 1950's established immediate neighborhood of low level height and width of buildings are existing elements of

urban beauty, then the proposed development is required to enhance the same, and the task of the architectural commission is to require that enhancement. The Applicant filing and presentation did not address this, as did Wearn.

-Reference Element of Objection 3/above Fact 13: if the low level building height and mass of the longstanding and 1950's established neighborhood of homes are in harmony, then the proposed development should be required to contribute, not distract to such harmony. The Applicant filing and presentation did not address this within the Jamaica Lane cottage enclave, as did Wearn.

-Reference Element of Objection 4/above Fact 14: if the proposed development height and mass do not achieve a pleasant and comprehensive cohesiveness inside the Jamaica Lane cottage enclave with its low level height and mass, then it does not meet the intent of architectural review. The Applicant filing and presentation did not address this, as did Wearn.

-Reference Element of Objection 5 & 6/above Fact 15 & 16: if the proposed development does not contribute affirmatively to the desirability of the low level and mass of the immediate neighborhood, or rather contributes to the demolition of the immediate long-established neighborhood, then the task of architectural review has not been provided for the benefit of surrounding areas. The Applicant filing and presentation did not address this; Wearn did.

-Reference Element of Objection 7/above Fact 17: if the proposed development height and bulk in the middle of the low level and mass of the immediate neighborhood do not contribute to the town as a place of spaciousness, as the immediate neighborhood is a place of spaciousness, then it fails such criteria. The Applicant filing and presentation did not address this, as did Wearn.

-Reference Element of Objection 8/above Fact 18: if the proposed development height and bulk in the middle of the low level and mass of the immediate neighborhood do not contribute to the town as a place of balance, taste, fitness and charm, as the immediate neighborhood does, then it fails such criteria. The Applicant filing and presentation did not address this, as did Wearn. However, there was comment by an ARCom commissioner that the proposed development did fit and was charming (See minutes and recording).

-Reference Element of Objection 9/above Fact 19: if the proposed development approaching double the height in the middle of the low level height of the immediate neighborhood is excessively dissimilar, then it fails such criteria. The Applicant filing and presentation did not address this, as did Wearn.

-et cetera for Elements of Objection 10-14/above Facts 20-24, each covering separately requirements for mass, for being complimentary with size and massing, for design that will avoid the appearance of mass, for being appropriate to the established character of other homes in the immediate area, and for protecting scenic views and natural vistas.

It should be noted that if all of the 14 architectural criteria were subject to debate on this record, then each of the criteria are subject to being too vague or ambiguous for any objective finding.

Because these factual grounds supporting Objections to the meeting or fulfillment of required architectural criteria were not directly or expressly addressed by either the Application filing for ARCom review or the Application presentation at the ARCom review, the Application should not merely be reversed. It should be denied based on the competent substantial facts in evidence in the Objections.

APPEAL ISSUE/POINT 2

Restated for better clarity:

2. ARCom approved the "architecture" with two substantive revisions (building height, and driveway location and width) yet to be made, and deferred landscape for multiple substantive revisions, but did not require the revised "architecture" to be presented with the revised hardscape and landscape all at one time for final consideration or approval.

These ARCom divided presentations, considerations and actions may suit Applicant, ARCom and staff purposes.

On a major Project such as a new house, the architectural review process starts out as one Project, under one application, covering the house, hardscape and landscape.

When a resident or residents have substantial objections to a Project involving its architecture, its hardscape, and its landscape, namely its height, its bulk, its mass, its preservation of the character of the neighborhood, its harmony with the neighborhood, its enhancement of the neighborhood, its cohesiveness with the neighborhood, its contribution to the nature of the neighborhood and its charm, spaciousness, scenic and natural vistas, etc., the existing residents/objectors should be provided a forum for the presentation and consideration they expect under their Town Code, that is consideration of the project when all of its pieces are put together as a whole.

The residents should not have to judge the acceptability of Mona Lisa's eyes separately, or her hair separately, or her demeanor separately, or be bound by the shape of her head before considering her hair, eyes, and demeanor.

The residents' Town Code provides for a project not to come before ARCom until it is a complete whole; Code Sec 18-203 states in material part:

> "The Commission shall act ... after the filing of full and complete data."

That is not saying the ARCom shall act before the filing of full and complete data. That is not saying the ARCom may act before the filing of full and complete data. That is not saying the ARCom shall act on part or some data filed and defer consideration of the balance. That does not say the ARCom may approve or may deny piecemeal.

"Full and complete data" does not yet exist because of the conditional architecture changes in height and driveways not yet presented, because of the revised hardscape apparently expected within the landscape but not yet presented, and because of the total landscape revision expected and not yet presented.

The residents' Town Code and procedures should at least provide equally for the residents, and be equally resident friendly. The residents need to have a full and fair chance to review the whole and consider it as a whole, since it is they who will have to live with the result as a whole for quite some time.

Altogether, the "architecture" and the hardscape and the landscape are inextricably entwined as one Project at the filing outset, and should remain so until final approval, approval with conditions, or disapproval as provided by Code Sec. 18-205.

If there is to be a deferral of decision beyond the 30 days within which the "commission shall act on the application," per Code Sec. 18-203, then that should be a deferral of the whole application.

One of the two architectural modifications involved lowering the height by two feet, but it is not known what that will look like when done, because it is not specified whether all of the two feet or any portion come off the roof, or the height of the second story, or the height of the first story.

And the second of the two architectural modifications involved changing the location of the driveway two entrances to offset from the front loading garages and reducing their size, but exactly what changes that would make are not easily apparent.

While it would have been simple to bring the house architectural modifications back at the same time as the hardscape and landscape, so the neighbors could see the Project as a whole, ARCom declined that neighbor friendly action, dividing the process into pieces, making it more difficult and less neighbor friendly.

So the one Project now is a number of separated Projects:

-the architecture (height, mass and appearance) to be redone without further public (established residents) or ARCom review

-the architecture approved without consideration of hardscape or landscape, no longer one Project

-the hardscape to be redone notwithstanding architectural appeal pending

-the landscape to be redone notwithstanding architectural appeal pending

This division of the Project is not resident friendly, and is developer friendly.

This division undercuts consideration of the whole.

This division dilutes the neighbors' concerns with which ARCom does not have to live.

Such piecemeal ARCom actions prevented the proposed development from being taken and considered as a whole, or even later presented as a whole (when all revisions to data are filed) when the Project is ripe/mature for further final review by ARCom and the neighbors and public before final approval.

At the ARCom March 25, 2015 meeting when the divided action was being taken, Wearn suggested/requested that the proposed development "architecture" be considered when the proposed development was ready for "landscape" consideration (with full and complete design data) so that the proposed development would be considered as a whole, but such suggestion/request was declined by inaction.

These dividing actions were not in keeping with the spirit and purpose of the Architectural Review law/Code Sec. 18-203.

For these reasons, the actions (and inaction) of the architectural commission on the hearing on this Application on March 25, 2015 should be reversed and set aside, and any remand instruction should be to not act on the Application unless and until full and complete data is timely filed and at hand (with sufficient time for residents' review), and then to act within 30 days of having such full and complete data unless extension is agreed to by the Applicant.

APPEAL ISSUE/POINT 3

Restated, for better clarity:

3. Underlying the ARCom actions and inactions is a misconception that ARCom is not lawfully allowed to deny approval of a two-story house, as here proposed for development. The misconception was vocalized by the Chairman at the end of end of consideration of this Agenda item. Wearn advanced the explanation/argument, not accepted by ARCom as vocalized by its chairman, that the two-story proposed development could be denied approval, not because it is two stories, but because it does not meet the Architectural Review criteria for approval, which denial criteria can include its height (a single story can have objectionable height just as a two story), its mass (a single story can have objectionable mass just as a two story), its harmony or lack of harmony with the immediate neighborhood or enclave (a single story can have objectionable lack of harmony just as a two story), et cetera. The misconception impedes, and impeded a fair or just consideration of the objections to this proposed development.

At the end of the March 25, 2015 action on this Project, the Chairman stated:

> "A lot of the concerns of the citizens [neighbors] are certainly valid. I'm just not sure that the Architectural Commission has the power to do anything about it. So long as our zoning and building codes allow two-story houses, all we can do is influence the aesthetics of it and sometimes the scale. The commission approved the architecture with the caveat that the architect reduce the height of the house by 2 feet. The landscaping was deferred until April."
> (See minutes, recording and extract)

The misperception that architectural criteria cannot be applied to lower <u>height</u> to be and fit the height level of the existing neighborhood is clear by this statement and by declining to hear and consider the objections of the neighbors all directed to architectural criteria, not zoning or building code criteria.

The misperception that architectural criteria cannot be applied to lower <u>mass</u> to be and fit the existing neighborhood is clear by this statement and by declining to hear and consider the objections of the neighbors all directed to architectural criteria, not zoning or building code criteria.

The misperception that architectural criteria cannot be applied to require

-enhancing the neighborhood by fitting in, to and with the existing neighborhood

-being in harmony with the existing neighborhood

-achieving a pleasant and comprehensive cohesiveness in the existing neighborhood

-contributing to the spaciousness of the town and this particular neighborhood

-contributing to the desirability of this particular neighborhood

-contributing to the low level scale of this neighborhood

-contributing to the spaciousness of this neighborhood

-contributing to the balance, taste, fitness and charm of this neighborhood

-emphasizing similarity to the neighborhood already existing low level height and scale of residences

-being harmonious with the mass of the existing neighborhood homes

-being complimentary to the existing neighborhood (rather than standing above and diminishing its existing neighborhood residences)

-avoiding the appearance of mass

-being in character with the existing residences in this neighborhood

-protecting scenic and natural vistas existing in this neighborhood (rather than blocking them)

is clear by this statement and declining to hear and consider the very specific facts supporting objections of the neighbors all directed to architectural criteria, not zoning or building code criteria.

Additionally, law/Code Sec. 18-205(b) states in material part:

"If the above criteria are met, the application shall be approved."

That does not say: if "some of the above criteria" are met. When not all criteria are met, then the second sentence mandates that conditions may be applied and they "shall be such as to bring such building or structure into conformity."

So, all the criteria must be met, either with or without conditions. Not just some, all!

For the one overriding misconception that a two story house may not be denied by ARCom (the misconception steering consideration away from all the appropriate criteria to address this Project), the actions (and inaction) of the architectural commission in the hearing on this application on March 25, 2015, should be reversed and set aside.

And since there are clearly one, two, ...five, ... ten, ... or fourteen sets of competent substantial facts in the record on objection, undisputed and unrefuted, only one of which is needed, supporting and requiring a finding that the criteria are not met, unless conditions are imposed to bring the building into compliance with all the criteria not met, denial of the Project is appropriate, indeed mandated.

CONCLUSION

In conclusion, James McC. Wearn, joined by Kathleen and Richard G. Lubin, and joined by Sydney Roberts, appeal the actions (actions and inactions, and misconception(s)) of the Architectural Review Commission (ARCom) on its March 25, 2015 meeting, Agenda item B – 026 – 2015. The actions and inactions, and/or misconception(s) resulted in among other results approving the "architecture" while deferring the "landscape." The action of approving the architecture without reading aloud into the record (publication) of the Elements of Objection identified in each of their letters denied Wearn, Dweck, Lubin and Roberts a full and fair hearing.

The appeal should be granted. The actions and inactions of the ARCom on this Project should be reversed and set aside, and the Objections of the resident neighbors should be sustained based on the competent substantial evidence set forth in their letters and with the Objections, and the Project should be denied.

The misconception about the relation of architectural review and approval, and zoning review and approval, both under the umbrella of the CompPlan, should be clearly enunciated, and educated.

Respectfully submitted,

JAMES McC. WEARN
JOINED BY KATHLEEN AND RICHARD G. LUBIN, AND SYDNEY ROBERTS

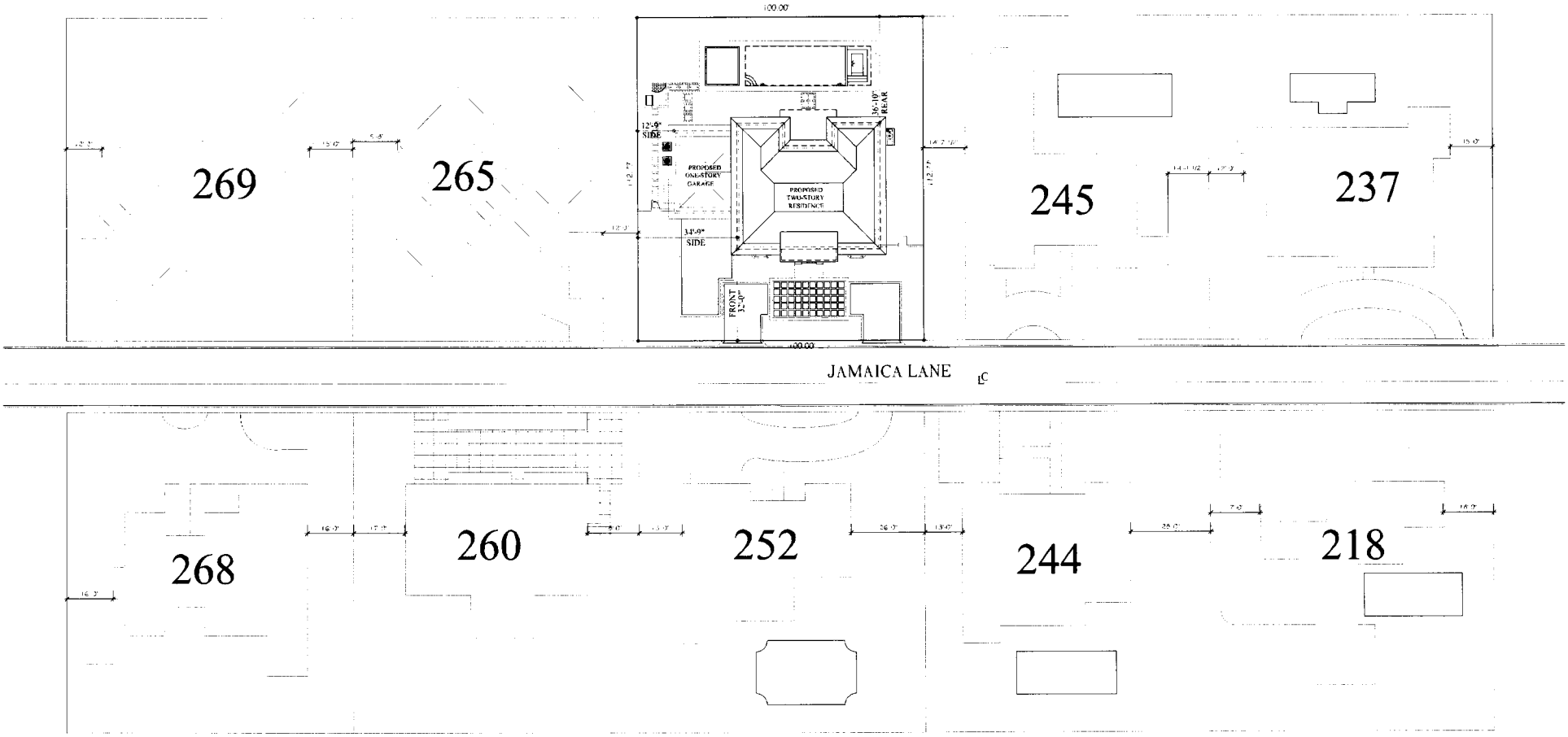
PROPOSED SOUTH ELEVATION 1/4" = 1'-0"

THE OFFICE OF
PATRICK W. SEGRAVES, A.I.A., P.A.
SKA ARCHITECT + PLANNER
249 PERUVIAN AVENUE, SUITE F2
PALM BEACH, FLORIDA 33480

PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.
253 JAMAICA LANE
PALM BEACH, FLORIDA 33480

SOUTH ELEVATION
SCALE: 1/4" = 1'-0"
FEBRUARY 23, 2015
B-026-2015

A-3



PROPOSED SITE PLAN 1/8" = 1'-0"

149

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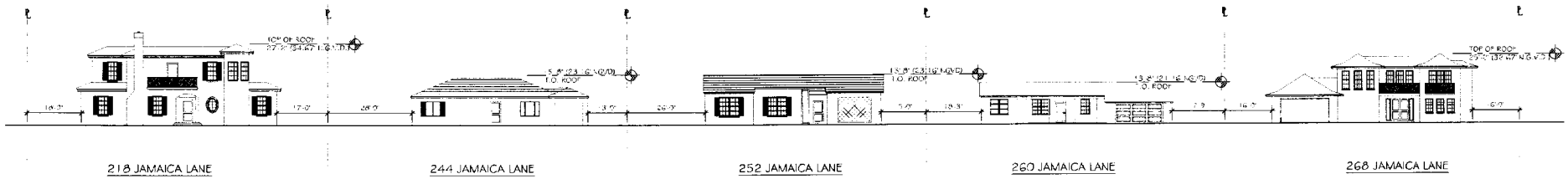
PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.
253 JAMAICA LANE
PALM BEACH, FLORIDA 33480

CONTEXTUAL SITE PLAN
SCALE: N.T.S.
MARCH 25, 2015
B-026-2015

CSP-1

JAMAICA LANE LOOKING NORTH



JAMAICA LANE LOOKING SOUTH

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PALM BEACH, FLORIDA 33480

PROPOSED RESIDENCE FOR:
253 JAMAICA LANE, LLC.
253 JAMAICA LANE
PALM BEACH, FLORIDA 33480

STREET SCAPE
SCALE: N.T.S.
MARCH 25, 2015
B-026-2015

SS-1

Sec. 18-205. Criteria for building permit.

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

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

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

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

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

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

a. Apparently visibly identical front or side elevations;

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

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

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

a. Height of building or height of roof.

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

c. Architectural compatibility.

d. Arrangement of the components of the structure.

e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.

f. Diversity of design that is complimentary with size and massing of adjacent properties.

g. Design features that will avoid the appearance of mass through improper proportions.

h. Design elements that protect the privacy of neighboring property.

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

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

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

(10) The financial guarantee required in section 18-175 is met.

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

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

(Code 1982, § 5-35[illegible]; Ord. No. 3-98, § 1, [illegible]-10-98; Ord. No. 5-00, § 1, 7-11-00; Ord. No. 32-02, § [illegible]

ARCOM MINUTES OF MARCH 25, 2015

B - 026 - 2015 New Residence
Address: 253 Jamaica Lane
Applicant: 253 Jamaica Lane, LLC
Architect: SKA Architect + Planner/Patrick W. Segraves
Project Description: New two-story home to be approximately 4,500 square feet. Home will consist of four bedrooms, five bathrooms, 1 half bathroom, living room, dining room, family room, kitchen , library, loggia(s) and two-car garage. Final landscape and hardscape will also be included. Demolition of existing one-story home.

Call for disclosure of ex parte communication: Disclosures by several members

ARCHITECTURAL PRESENTATION BY: Patrick W. Segraves, SKA Architect + Planner
LANDSCAPE PRESENTATION BY: Stephanie Portus, Krent Wieland Design

OTHERS WHO TESTIFIED: James McCartney Wearn

Mr. Segraves presented the project in accordance with the submitted plans and as described above. First, he provided the demolition report for the existing one-story home designed in 1951 by John Stetson. Ms. Portus, speaking to the landscaping, stated that 2 Coconut Palms will be relocated, and the front Ficus hedge will be maintained during construction, but will be removed later.

MOTION BY MRS. VANNECK TO APPROVE THE DEMOLITION WITH THE CAVEAT THAT IT IS SODDED AND IRRIGATED AS SOON AS POSSIBLE.
MOTION SECONDED BY MR. GARRISON.
MOTION CARRIED UNANIMOUSLY.
(Let the record show that Mr. Ives voted on this motion because Mr. Karakul had stepped out.)

Mr. Segraves stated that Jamaica Lane has a mixture of one and two-story homes. Design elements for this new home include: Two-story home with one-story garage wing designed to be a casual north end home in keeping with the neighborhood; garage pushed back over 50 ft. from street; pool in rear; terra cotta clay tile roof; balcony in front at second floor level; cream house with green shutters and white trim; two bay windows on front elevation at first floor; Chippendale balcony railing; and two separate front loading garage doors. Mr. Segraves made some changes to the plans which resulted from ex parte communications. Those changes were submitted at the meeting on new plan pages.

Commission Comments: Attractive, but the houses immediately around it are one-story houses; nice, simple house; appreciate the two separate garage doors; the bay windows are too tall and skinny...go to 4 lites instead of 3; issue with two-stage posts at the projecting balcony; in the rear, the middle section looks a little pinched; issue with middle posts in rear...recommend wood to lighten it up; instead of triple windows, would rather see one window with side lites; charming house; on this street, there are real two-story houses that have been there for quite a while; this will fit in and be a charming house for the neighborhood; try to bring it down just a bit; would prefer to get rid of overhanging roof on south elevation entirely; OK with overhanging roof...it adds a certain bit of charm that would be missing otherwise; and, you are at 29 ft. and the other houses are at 25 ft. and 27 ft.....bring it down 2 ft.

Ms. Portus continued with the landscape/hardscape pursuant to the submitted plans; Design elements include: Circular driveway with 14 ft. openings; driveway shifted a bit to avoid a straight view of garages; hardscape: concrete pavers with accent at front drop off in pre-cast or stone with turf strips; pool with submerged spa in rear...pool floating in sod; large pool terrace; small BBQ area; clean, formal landscape to accent house; row of specimen Date Palms at the street; formal layers of green on green; Magnolias on the sides; Italian Cypress at front door; and, privacy hedges on sides and rear.

Commission Comments: You have to come back with the other 3 elevations; you have not landscaped out the garage view; provide height and privacy for the neighbors; reduce the driveway and curb cuts to 12 ft.; taller scale landscaping is needed; you're calling attention to the house with the parade of Date Palms...the neighborhood is more subtle and informal; give us more relief from the garage doors; and, suggest tropical colors.

Mr. Lindgren read all or part of 4 letters/emails received objecting to this project: 1) letter dated March 20, 2015 from Stuart and Hilary Dweck, 252 Jamaica Lane; 2) letter dated March 24, 2015

from Richard and Kathy Lubin, 244 Jamaica Lane; 3) email dated March 24, 2015 from Sidney Roberts, 265 Jamaica Lane; and 4) letter dated March 23, 2015 from James McCartney Wearn, 260 Jamaica Lane.

James McCartney Wearn asked for assurance that his letter with 16 points is included in the record. Mr. Vila assured him that although the 16 points were not read, they are included in the record. Mr. Wearn offered his objections relative to the proposed home, i.e.,, that this proposed house is right in the middle of an enclave of one-story homes on Jamaica Lane. He questioned the mass, height and bulk of the proposal and requested that the project be deferred for re-study.

MOTION BY MR. GARRISON FOR APPROVAL OF THE ARCHITECTURE WITH THE FOLLOWING CAVEATS: THAT THE HEIGHT BE REDUCED BY 2 FEET, AND THAT THE DRIVEWAY BE REDUCED TO A MAXIMUM OF 13 FEET (12 FT. PREFERRED), AND THAT THE LANDSCAPING BE DEFERRED TO NEXT MONTH. MOTION SECONDED BY MR. KARAKUL.
MOTION CARRIED 6-1, WITH MR. SAMMONS OPPOSED.

Mr. Vila stated, for the record, that as long as the Code allows for two-story homes, ARCOM can just influence the aesthetics and the scale.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 13, 2015

Section of Agenda

Appeals

Agenda Title

ARCOM appeal from Cristina Noble (via attorney James Green)
475 North County Road - B-010-2015 Gate

Presenter

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

Supporting Documents

- **Memorandum dated April 17, 2015 from John S. Page**
- **Letter dated April 6, 2015 from James K. Green**
- **Letter dated April 24, 2015 from Alexander S. Rotan**
- **Service Gate Rendering**
- **Map**
- **Code Section 18-205**
- **ARCOM MInutes of February, 2015**
- **ARCOM Minutes of March, 2015**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 13, 2015

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: ARCOM appeal from Cristina Noble (via attorney James Green)
475 North County Road
B-010-2015 Gate

Date: April 17, 2015

STAFF RECOMMENDATION

Staff recommends that the Town Council consider and rule upon the appeal of Cristina Noble objecting to ARCOM's decision of March 25, 2015, approving a "new black anodized aluminum gate on service driveway" for owners Christopher and Vicki Kellogg at 475 North County Road.

GENERAL INFORMATION

In order to fully understand the context of this appeal, Council should be aware of the following facts:

- The applicants seeking gate approval are Christopher and Vicki Kellogg, 475 North County Road.
- The appellant, Christina Noble, is an adjacent, easterly owner, at 473 North County Road (fronting the Ocean).
- Both parcels were once part of the same estate. When split, an access easement was provided through the Kellogg parcel to the "landlocked" Noble parcel.
- ARCOM first considered the gate request in February this year. Ms. Noble, represented by Attorney Paul Rampell, objected. He stated that there is ongoing litigation between the parties with many different issues being disputed, and argued that his client had not "joined" in the application.
- Architect Ralph Cantin, representing the Kelloggs, stated that access through the gate will be by a code, and the code will be provided to Ms. Noble.
- Town Attorney Randolph opined that ARCOM was only to apply the criteria of the Code as it relates to gate design. He noted that staff does not complete title searches to reveal any recorded agreements or easements.
- ARCOM deferred a decision in March, indicating that more landscaping details were needed.

- ARCOM approved installation of the gate at its following meeting on March 25, 2015.

At the March meeting, Chair Vila reminded the Commission that the application had been deferred the previous month at ARCOM's direction due to the need for landscaping details. Architect Ralph Cantin then made a brief presentation highlighting the gate and landscaping treatment flanked by "Spanish Stoppers" 54 inches in height, contrasted with the gate at 5 feet in height. Mr. Vila reminded the Commission that its sole purpose was to review the aesthetics of the gate and landscaping. The Commission found both the gate and the landscaping acceptable.

Attorney James Green, representing Cristina Noble, explained that he was acting as co-counsel with Paul Rampell, and that he wanted to lay a public record. His client objects to the gate because it will block the access easement leading from North County Road to the Noble home and cause service delays. He indicated that Ms. Noble has not "joined" the application, which would be proper in this instance. He continued his point by informing ARCOM that the Noble property is landmarked. The Landmarks Preservation Commission recently acted upon a request from Noble to demolish a slat house, and required that the Kellogg's join the application before any action was taken. *Please note that the LPC took such action because the subject slat house actually straddled a shared property line between the two owners (not a factor with the proposed gate).*

Mr. Green continued with his objection, again noting that he was laying a record. He submitted several documents for the record, and announced that Mr. Robert Moore, former Town PZB Director, was present to explain past Town practices regarding co-signed applications when two owners are so directly affected. Several ARCOM members objected to being drawn into issues they believed were beyond their purview.

Chair Vila advised that ARCOM was not the right venue for legal arguments. Public comment was ended. He noted that there was a motion on the floor by Garrison to approve the gate/landscaping application. Mrs. Vanneck seconded the motion. Motion carried 6 aye, 1 nay (Gruss).

SPECIAL CONSIDERATIONS

The following materials are attached for review:

- James K. Green appeal letter (including INDEX TO APPEAL, Tabs A-G).
- Alexander Rotan letter.
- Service Gate Rendering.
- Site Plan.
- Code Section 18-205 (ARCOM criteria for building permit).
- Excerpts from ARCOM Minutes of the February 25 and March 25, 2015 meetings.

Attachments

cc: Christopher and Vicki Kellogg
Cristina Noble

James K. Green
Alexander Rotan
Ralph Cantin
ARCOM members
John C. Randolph, Town Attorney

JAMES K. GREEN, P.A.

LAWYERS

JAMES K. GREEN
NINA M. ZOLLO
ANNE F. O'BERRY
JOHN F. PAULY, OF COUNSEL

SUITE 1650, ESPERANTE'
222 LAKEVIEW AVENUE
WEST PALM BEACH, FLORIDA 33401
561.659.2029
FACSIMILE 561.655.1357

April 6, 2014

VIA HAND DELIVERY

Susan A. Owens, Town Clerk
Palm Beach Town Hall
360 South County Road
Palm Beach, FL 33480

Re: Appeal of March 25, 2015 Architectural Commission Decision on Item No. B-010-2015 Gate, 475 North County Road, Christopher and Vicki Kellogg (collectively "Kellogg")

Dear Ms. Owens:

Pursuant to Section 18-177 of the Palm Beach Code of Ordinances, Ms. Cristina Noble ("Noble" or the "Easement Owner"), through the undersigned counsel, hereby files this appeal with the Town Clerk of the decision by the Palm Beach Architectural Commission ("ARCOM") at their March 25, 2015 meeting to approve the construction of a gate blocking Ms. Noble's service access easement at 475 North County Road, Palm Beach, Florida 33480 (the Property").

Enclosed is a check in the amount of $320.00 made payable to the Clerk of the Town of Palm Beach to cover the required cost of filing this appeal.

I. Introduction and Summary of Argument

This appeal challenges ARCOM's approval, over Ms. Noble's objection, of a gate blocking Ms. Noble's service access easement over Kellogg's property.

Noble's property is landmarked; Kellogg's is not.

In an earlier application by Ms. Noble to the Landmarks Preservation Commission ("LPC") to demolish a portion of a slat house adjacent to Kellogg's property (involving coincident property interests of Nobel and Kellogg), the LPC required that Kellogg join in Noble's application.

In Kellogg's application to ARCOM, ARCOM, over Noble's objection, refused to require that Noble join in Kellogg's application.

Requiring Kellogg to join Noble's application to the LPC but not requiring Noble to join Kellogg's application before ARCOM, where both applications were alleged to involve coincident property interests, is arbitrary and irrational and demonstrates the need for this Council to provide guidance and consistency to applicants before Town Commissions.

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Further, ARCOM's refusal to allow Noble to proffer the testimony of Robert Moore, the Town's long-term former chief building official, that the Town had a long-standing custom, practice and policy of requiring property owners with property interests in the subject property to join in applications such as those before ARCOM and the LPC, violates procedural due process.

II. Background Information Regarding the Property, the Applications, and the Hearings

The Noble Property is bounded on the east by the Atlantic Ocean and on the west by the Kellogg property. The Noble Property has access to public roads only through a service driveway easement over the north of Kellogg's property and an easement over a third party's property to the south. Tab A, Drawing

In or about January, 2015, Noble made an Application for Certificate of Appropriateness to the LPC to demolish a portion of a slat house adjacent to Kellogg's property (which purportedly involved coincident property interests between Nobel and Kellogg). At its January 21, 2015 hearing, the LPC required that Kellogg join in Noble's application. Tab B, Noble Application; Tab C, Transcript of January 21, 2015 hearing

In or about January, 2015, Kellogg made an initial application to ARCOM, Item No. B-010-2015 Gate, proposing to construct a new gate across Noble's service driveway easement. Tab D, Kellogg Application

Two hearings were conducted on Kellogg's application, on February 25 and March 25, 2015. Over Noble's objections, ARCOM approved Kellogg's application without requiring Noble's joinder. Tabs E and F, Transcripts

At the latter hearing, Noble's counsel requested leave to proffer the testimony of Robert Moore, the Town's long-term former chief building official, that the Town had a long-standing custom, practice and policy of requiring property owners with property interests in the subject property to join in applications such as those before ARCOM and the LPC. Tab F, Transcript

III. Argument

The due process clauses to the Florida and United States Constitutions protect private property. Such protections extend to easements such as Noble's service driveway easement. *United States v. Welch*, 217 U.S. 333, 339 (1910); *First Unitarian Church v. Salt Lake City Corp.*, 308 F.3d 1114, 1122 (10th Cir. 2002) (holding that government condemnations of easements are takings under the Fifth Amendment and entitle the holder to compensation); *United States v. 10.0 Acres*, 533 F.2d 1092 (9th Cir. 1976) (stating that exclusive easement was a property right subject to a takings claim when government purchased servient property); *McCulloch v Glasgow*, 620 F.2d 47 (5th Cir. 1980) (regardless of the ultimate success of a person's claim of title to real estate, the conflict between his arguably unencumbered title and the town's arguable easement was sufficient to give the claimant a significant property interest, entitling him to a due process hearing; and depriving him of that hearing was an actionable wrong independent of any uncompensated taking); *Donnell v. United States*, 834 F. Supp. 19 (D.

Me. 1993) (holding that easements are property interests subject to strictures of the Fifth Amendment); *Dianne v. Wingate*, 84 So. 3d 427 (Fla. 1st DCA 2012) (a genuine issue of material fact as to whether the grantors' installation of speed bumps on an ingress and egress easement substantially or unreasonably interfered with the easement holders' right of passage precluded summary judgment in favor of the easement holders in action seeking to have the speed bumps removed).

Procedural due process ensures that the government will not deprive a party of property by engaging in unfair procedures to reach a decision, while substantive due process ensures that the State will not deprive a party of property for an arbitrary reason, regardless of the procedures used to reach that decision. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), whether the fault lies in a denial of fundamental procedural fairness, *see, e.g., Fuentes v. Shevin*, 407 U.S. 67, 82 (1972), or in the exercise of power without reasonable justification in the context of an otherwise legitimate governmental activity, *see, e.g., Daniels v. Williams*, 474 U.S. 327, 331 (1986) (the substantive due process guarantee protects against government power arbitrarily and oppressively exercised).

Here, there was nothing "fair" about the Town's decision through ARCOM to grant Kellogg's application to block Noble's service driveway easement without her joinder but to condition Noble's application to demolish her portion of the slat house on Kellogg's joinder in hers.

Employment of shifting, inconsistent rationales for granting or denying an application also bespeaks arbitrariness. *See, e.g., Houston v. Unum Life Ins. Co. of America,* 246 Fed. Appx. 293 (6th Cir. 2007) (holding that insurer's shifting rationale for denying coverage and its inexplicable reversal of its own conclusion was unreasoned, unprincipled, arbitrary and capricious). As the court observed in *Sweeney v. Mack*, 625 So. 2d 15, 16 (Fla. 5th DCA 1993), "[e]ven if ... an architectural review committee is given the absolute power to approve or to disapprove building plans, such power cannot be exercised unreasonably or arbitrarily." *Id.* (citing *Young v. Tortoise Island Homeowner's Ass'n, Inc.*, 511 So. 2d 381, 384 (Fla. 5th DCA 1987)). *See ABC Liquors, Inc. v. City of Ocala*, 366 So. 2d 146, 149 (Fla. 1st DCA 1979) ("Any standards, criteria, or requirements which are subject to whimsical or capricious application or unbridled discretion will not meet the test of constitutionality."); *Park of Commerce Assocs. v. City of Delray Beach*, 606 So. 2d 633, 635 (Fla. 4th DCA 1992) (Farmer, J., specially concurring) (on rehearing *en banc*), *aff'd*, 636 So. 2d 12 (Fla. 1994 ("land ownership is at the core of our constitutional freedoms and thus the power of government must be exercised with a healthy regard for that right"); McLaren and Glasgow, "Success in Litigating Local Permit Denials: Alternative Theories of Obtaining Justice," 86 *Fla. Bar J.* 20, 25 (Dec. 2012) (observing that "[w]hile the federal courts have eroded the ability of landowners to bring substantive due process claims to protect property rights under the Fifth and 14th Amendments, Fla. Const. art. I, §9 is alive and well to protect property owners from arbitrary and/or capricious government actions that adversely affect property rights") (citing *Chicago Title Ins. Co. v. Butler*, 770 So. 2d 1210, 1214 (Fla. 2000)).

For the foregoing reasons, the Town through ARCOM should be equitably estopped from imposing one requirement for property owners before the LPC and another before ARCOM. As explained in *Hollywood Beach Hotel Co. v. City of Hollywood*, 329 So. 2d 10 (Fla. 1976):

> Every citizen has the right to expect that he will be dealt with fairly by his government. ... 'Unfair dealing' by a municipality can also serve as the basis for the invokement of equitable estoppel. *City of Jacksonville v. Wilson*[, 157 Fla. 838, 27 So. 2d 108 (1946)]. While a City Commission certainly possesses the prerogative of deciding to defer action on such a proposal over a long period of time, it must assume the attendant responsibility for the adverse effect it knows or should know its deliberate inaction will have upon the parties with whom it is dealing. In the instant case, the course of inaction chosen by the City and its subsequent arbitrary actions must necessarily be equated with 'unfair dealing.'

Id. at 18 (citations omitted). *See City of Lauderdale Lakes v. Corn*, 427 So. 2d 239, 243-44 (Fla. 4th DCA 1983) (holding that city was equitably estopped from denying property owner's rights based on change in zoning ordinance where owner relied in good faith upon then-existing zoning to induce him to request annexation of his property and not only expended considerable sums of money but also substantially changed the nature and contour of the land and its drainage system because of that reliance).

ARCOM's error in not requiring Noble's joinder in Kellogg's application under these facts was compounded by its refusal to allow the testimony of Mr. Moore or even to allow a proffer at the March 25th hearing. Tab F, Transcript; Tab G, Ltr to John Randolph. On these grounds alone, ARCOM should be reversed for denying procedural due process, as refusing to permit the proffer precludes full and effective appellate review. *Rozier v. State*, 636 So. 2d 1386, 1387 (Fla. 4th DCA 1994); *B.K.F. v. State*, 614 So. 2d 1167, 1168 (Fla. 2d DCA 1993); *Pender v. State*, 432 So. 2d 800, 802 (Fla. 1st DCA 1983); *Brown v. State*, 431 So. 2d 247, 248 (Fla. 1st DCA 1983). The remedy for denial of a proffer is to send the matter back for a new hearing. *Lillyman v. Department of Highway Safety & Motor Vehicles*, 645 So. 2d 113 (Fla. 5th DCA 1994).

ARCOM's error may also have violated equal protection. *See Village of Willowbrook v. Olech*, 528 U.S. 562 (2000) (holding that an individual's assertion that she was irrationally and arbitrarily singled out by governmental officials based upon their requirement that she grant the Village a non-standard 33-foot easement to permit the Village to widen the road on which she lived stated a proper "class of one" claim under the equal protection clause).

IV. Summary and Request for Relief

The "touchstone" of due process is protection of the individual against arbitrary and oppressive action of the government. *City of Chicago, B. & Q. R. Co. v. Chicago*, 166 U.S. 226 (1897); *Dent v. State of West Virginia*, 129 U.S. 114, 123 (1889).

The Town Council needs to reverse ARCOM's decision below and remand this matter to allow Noble to develop a record below through the testimony of Mr. Moore. Further, we respectfully urge the Town Council to provide guidance to ARCOM and other Town entities as follows:

1. As a matter of policy and history, whenever the Town has knowledge of multiple interests in land, it should require the owners of all interests to join in or consent to new construction or improvements on such land. (This policy was followed at the LPC hearing, in which the Town required Kellogg to join Noble's application for demolition.)

2. The Town can reasonably discern multiple interests by disclosure of such interests in surveys required in applications for ARCOM approval, LPC approval, and for building permits, without undertaking its own title examination.

3. The Town should never authorize a gate across a driveway which blocks the valid access over such driveway by a Town resident; it owes every Town resident protection from such obstructions as matters of safety and welfare.

4. If a resident seeks to build on any portion of his or her property covered by a public utility easement, the Town mandates consent to such construction by every holder of every public utility easement.

5. The Town will act more prudently in requiring an easement holder's joinder or consent to an application for a gate blocking such easement than in defending a lawsuit asserting that the Town enabled a property encroachment.

ARCOM's actions have placed both the Town and Noble in an untenable position legally, which can be avoided by memorializing the proffered policy. If Ms. Noble merely sues Kellogg, his defense will be that he acted with the Town's permission, forcing Noble to add the Town as a party defendant, which she is reluctant to do unless forced by Kellogg. An evaluation of the Town's litigation risks indicates that the proactive requirement of Ms. Noble's consent is wiser than a defensive reaction to future litigation which the Town will lose.

Respectfully submitted,

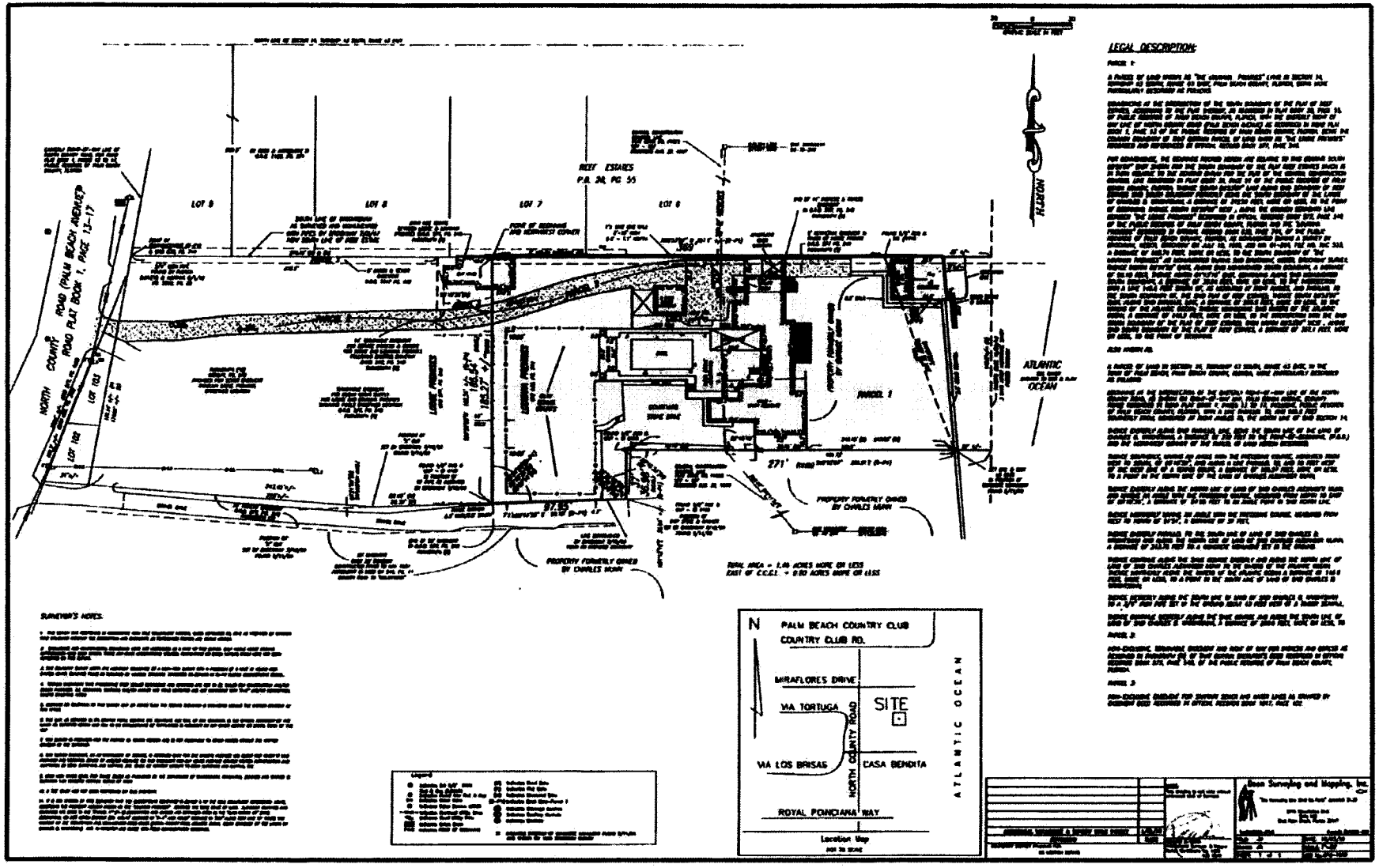
/s/ *James K. Green, Esq.*
Counsel for Cristina Noble

ccs. ***Via email (without record on appeal) to:***
Mayor Gail L. Coniglio
Michael J. Pucillo, President
Richard M. Kleid, President Pro Tem
Danielle H. Moore
Penelope D. Townsend
Robert N. Wildrick
John Randolph, Esq.
Roy Fitzgerald, Esq.

INDEX TO APPEAL
B-010-2015

Tab A	Drawing
Tab B	Application submitted by Noble at January 21, 2015 at LPC meeting
Tab C	LPC transcript excerpt of January 21, 2015 hearing
Tab D	Application submitted by Kellogg at February 25, 2015 ARCOM meeting
Tab E	ARCOM transcript excerpt of February 25, 2015 hearing
Tab F	ARCOM transcript excerpt of March 25, 2015 hearing
Tab G	Letter from James K. Green to John Randolph dated March 24, 2015

Submitted to record by Mr. Rampell 2/25/15



TAB B

COA-005-2015

TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION
360 South County Road, Palm Beach, FL 33480

(561) 227-6414 for John Lindgren, Planning Administrator
(561) 227-6408 for Cindy Delp, Secretary for the Landmarks Preservation Commission

APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

ADDRESS OF PROPERTY: 473 and 475 North County Road, Palm Beach, FL 33480

OWNER OF PROPERTY: Cristina De Heeren Noble
(Address) 473 North County Road
(Address) Palm Beach, FL 33480
(Phone) (561) 833-1116

APPLICANT'S NAME: Cristina De Heeren Noble
(Address) 473 North County Road
(Address) Palm Beach, FL 33480
(Phone) (561) 833-1116

ARCHITECT FOR PROJECT:
(Firm name) Smith Architectural Group, Inc.
(Architect's name) Jeffery W. Smith
(Architectural firm's address) 206 Phipps Plaza
(Architectural firm's address) Palm Beach, FL 33480
(Phone) (561) 832-0202 (E-Mail) jeff@smitharchitecturalgroup.com

☐ **Check this box if you are an LPC member, and this project will result in a Voting Conflict for you.**

TYPE OF PROJECT:

☐ Restoration	☐ Demolition (Interior)
☐ Rehabilitation	X Demolition (Exterior)
☐ Reconstruction	☐ Sign
☐ Addition to historic structure	☐ Awning
☐ New Accessory Structure	☐ Exterior Color Change
☐ Landscape/hardscape	
☐ Other: _____	

Is this a tax abatement project? (Must check one) Yes ____ Or No X
TAX EXEMPTION PROJECTS: PART 1-PRECONSTRUCTION APPLICATION MUST BE SUBMITTED AS PART OF THIS APPLICATION (Contact cdeln@townofpalmbeach.com for tax abatement forms)

Does this project require a Town Council approval? (Must check one) Yes ___ Or No X

Revised 9/19/2013

DESCRIPTION OF PROJECT: (Please give a comprehensive description of the project which fully describes the changes to the landmarked building and/or landmarked property. Attach additional sheet if necessary.)

Complete demolition of a 1,176 S.F. nonconforming wood slat house in the NW corner of the property.

EXAMPLES OF SUBMISSION MATERIALS: SUBMIT THOSE WHICH ARE APPROPRIATE FOR YOUR SPECIFIC PROJECT.

**** (Please note that effective June 21, 2010, electronic submission is required. Please follow electronic submission instructions included in this application****

- ☐ Site Calculations (to be printed on Site Plan)
- ☐ Site Plan (must show any and all adjacent right-of-way)
- ☐ **Materials Removal Plan (must delineate any and all materials that are to be removed or relocated in the construction process). This drawing shall be titled "Materials Removal Plan." If no original materials are scheduled to be removed or relocated, it shall be so noted on the floor plans.**
- ☐ Survey (for new construction/additions, site changes, etc.)
- ☐ Existing and Proposed Elevations (on same page)
- ☐ Details such as columns, railings, awnings, signs, etc. drawn to scale
- ☐ Floor plans
- ☐ Photographs, Original and/or Existing
- ☐ Color Samples and/or Fabric Samples
- ☐ Other
- ☐ **NOTE: 14 Mini-Sets of Reduced Plans (paper copies) are to be submitted to the Town no later than 1 week prior to the meeting.**

The undersigned hereby certifies that the project described in this application, and as detailed by plans and other materials submitted, will be constructed in exact accordance with the aforesaid plans and specifications.

Signed by: _____ (Property owner)

OR _____ (Owner's Legally Authorized Agent*)

Printed name: _____

Printed Name: Vera Lachman (LA) for Christina Nye

***If signed by a Legally Authorized Agent, must be accompanied by a Power of Attorney or statement from property owner authorizing the signer to sign on owner's behalf.**

Revised 9/19/2013

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LANDMARKS PRESERVATION COMMISSION
TOWN COUNCIL CHAMBERS
SECOND FLOOR, TOWN HALL
360 SOUTH COUNTY ROAD, PALM BEACH

JANUARY 21, 2015

- - -

RECEIVED
MAR 25 2015
TOWN OF PALM BEACH
PZB DEPT

Reported By:
DAWN S. McCONNELL, Court Reporter
Notary Public, State of Florida

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APPEARANCES:

William O. Cooley, Chairman
Nikita Zukov, Vice Chairman
Jacqueline Albarran, Member
Edward Austin Cooney, Member
John T. Gannon, Member
Page Lee Hufty, Member
Rachel Lorentzen, Member
Richard Rene Silvin, Alternate Member
Carol N. Wyett, Alternate Member
William J. Strawbridge, Jr., Alternate Member
On behalf of the Town of Palm Beach:
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Palm Beach, FL 33480-4323
Crandolph@Mettlerlaw.com
JOHN RANDOLPH, ESQ.
On behalf of Cristina De Heeren Noble:
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400 Royal Palm Way, Suite 410
Palm Beach, FL 33480
Paul@Rampell-Law.com
PAUL RAMPELL, ESQ.
On behalf of Christopher Kellogg:
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505 S. Flagler Dr, Suite 600
West Palm Beach, FL 33401-5945
Rfitzgerald@mrachek-law.com
ROY FITZGERALD, ESQ.

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(Thereupon, the following proceedings were had):

- - -

CHAIRMAN COOLEY: Application for certificate of appropriateness number 005-2015, owner, applicant Cristina De Heeren Noble, address 473 and 475 North County Road. Architect Smith Architect Group, Jeffrey W. Smith. Project description request for approval for demolition of a structure which is further described as: Complete demolition of a 1,176 square-foot nonconforming wood slat house in the northwest corner of the property, which extends onto the property at 475 North County Road. Other associated changes presented.

Has there been any ex parte communication?

MS. ALBARRAN: None.

CHAIRMAN COOLEY: I reached out and looked at the slat house on Sunday, but other than that, none.

MS. HUFTY: None.

MS. LORENTZEN: None.

MR. SILVIN: Saw it from the street.

MS. WYETT: None.

MR. STRAWBRIDGE: None.

CHAIRMAN COOLEY: Yes, sir.

MR. RAMPELL: Good morning. Chairman Cooley

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and good morning honorable members of the Landmark Preservation Commission. My name is Paul Rampell. I'm a lawyer here in Palm Beach and a resident and I represent Cristina Noble, the owner of the 475 North County Road.

I would respectfully request that Chairman Cooley recuse himself in this matter, since he and I are on opposite sides of two open active litigations, one in U.S. District Court, case number 14CD8140RLR, and the other in the judicial circuit court case number 2014CA013648. Thank you.

CHAIRMAN COOLEY: Mr. Randolph, do you have a comment on that?

MR. RANDOLPH: Under Florida statute you are required to recuse yourself if a -- if your vote will inure to your special private gain or loss, otherwise you are not to recuse yourself.

So you need to consider whether or not your vote on this would inure to your special private gain or in addition, because it's a quasi judicial hearing, if you feel for some reason that you could not act fairly on this project as a result of the litigation that Mr. Rampell is discussing, you could choose to recuse yourself, but...

CHAIRMAN COOLEY: Thank you. Mr. Rampell, I'm

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561-835-0220

Noble Exhibit 1

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not going to recuse myself. Quite frankly, if I had to recuse myself from every lawyer that I had a lawsuit going on with, I would never be able to sit up here.

So please go ahead.

MR. RAMPELL: To move forward, we are presenting the testimony of Jeffrey W. Smith of the Smith Architect Group. Thank you.

CHAIRMAN COOLEY: Mr. Smith.

MR. SMITH: Good morning. For the record Jeffrey Smith, president Smith Architect Group. I would like to submit for the record the designation report prepared by the Town of Palm Beach in 1980. I would also like to submit as part of the record my resume. And in that resume I'd like to point out that I have projects that I've worked on now, seven of them have won the Preservation Foundation's Ballinger award; eight of them have won the Florida Trust of Historic Preservation award; five of which have won the AIA award; three of which were for restored properties and that's the AIA State of Florida award and I've won 16 American Institute of Architects Palm Beach Chapter awards for excellence, five of which were for historic properties.

For the record, I'd like to say I have served

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as Chairman of the Landmark Preservation Commission for five years from 1995 to the year 2000. I have personally visited the site at Luana numerous times. I have been retained by my client, Cristina Noble, to give advice on various landmark issues regarding the property at 473 North County Road. I was asked to analyze the slat house at her request. And based on my observations and experiences, it's my opinion the slat house should be demolished for the following reasons; number one, it has no historic or architectural value at all. It is a noncontributing structure to the landmark status of Luana.

The demolition of this satisfies all the criteria that is listed in section 54-125 of the town's code. It is so insignificant that it was not even mentioned in the designation report prepared in 1980. It's an eyesore, unsightly and it detracts a landmark house. It is structurally unsound and it's a threat to the safety through collapse and/or fire and fails to conform to our building code and our zoning code.

My opinion it's illegal. It's simply a handyman special and I respectfully submit that you request approval of the demolition.

CHAIRMAN COOLEY: Thank you. The one question

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I had and I think we should clear it up for the record is the property line runs through the middle of this property, there is a – is it a deed, codicil or something in the deed that gives one owner the authority to tear it down or the other owner and so they are properly before us, correct?

MR. PAGE: I'm glad you brought up the question, Mr. Cooley. I'm going to give you some information and I may have to call upon Mr. Lindgren or Mr. Randolph for some additional help.

The first slide that Mr. Smith had up on the screen is more or less the front page of your mini sets here and as you will see the slat house actually straddles a property line and sits on two separate properties.

There is indeed a private agreement between the parties that goes back to the 1990s, I believe, John; is that correct?

MR. RANDOLPH: 1960s.

MR. PAGE: 1960s, I'm sorry, specifying that any one of these two property owners has the right to demolish and has the right to traverse on to the others properties to do the demolition. They have to give proper notice to the other party that that is going to occur.

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This is a very unusual situation. It's not one that we see on a regular basis. So we had the opportunity to visit with Mr. Randolph yesterday to say, would there be any legal concern with this situation going forward with the request and he asked a question about which party or parties signed the application. My understanding is that only one party signs the application and that would be the Nobles on the coast. We don't know whether that agreement goes back to the 1960s, it might have been superceded by another agreement saying something different to him.

So I might call Skip to see what legal advice for us about proceeding forward.

CHAIRMAN COOLEY: Let me – let me do this first, let me ask Mr. Rampell, can you tell us that the agreement has not been superceded, that the agreement is in full force and effect?

MR. RAMPELL: Yes, sir, I can say that.

CHAIRMAN COOLEY: And have the other neighbors been notified?

MR. RAMPELL: Yes, sir.

CHAIRMAN COOLEY: Okay. Thank you.

MR. RAMPELL: May I also add that I've been in communication with the lawyer for the neighbor and they are anticipating a demolition of this slat

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house.

CHAIRMAN COOLEY: Thank you, Skip.

MR. RANDOLPH: Well, I was brought into this yesterday in a conversation with Mr. Lindgren and Mr. Page and the application was accepted by Mr. Lindgren on behalf of both property owners and when I learned that I stated we really usually don't pay attention to private documents between property owners. We always base our decisions based on our own codes because if we had to do a title search in regard to every property to find out what documents are out there, we would be hamstrung.

So I indicated it's my opinion that an application like this coming from two property owners should have the signature and approval of both property owners. And I don't know -- I don't know that it does. But I suggested to them that if the other property owner were here and could state whether or not they had an objection or not, that would be helpful or perhaps there should be a continuance of this in order to figure out whether or not -- I mean, we heard a statement here that this document has not been superceded. But, again, we don't do title searches to make that determination. We base applications on our codes and these

applications usually come in the name of both property owners as opposed to someone coming in and asking it to -- for both properties.

So that's my concern. I also understand there's litigation pending between these properties owners and I don't know what that involves or whether it involves this particular issue or not.

So I think we need to learn more about.

CHAIRMAN COOLEY: Did you want to comment on that, Mr. Rampell?

MR. RAMPELL: Yes, sir. There is -- there's a dispute between the property owners that -- over various issues, but the dispute pertaining to the slat house is the claim by the neighbor that -- that he's being denied access to the east side of the slat house due to a new gate that's been installed. The east side of the slat house -- he can still access the west side, but his objection is to the east side. And since there's a dispute about access as well as some other issues, we thought it would be best to simply stop sharing the slat house and demolish it.

It is all of those things that Mr. Smith testified to; it is an eyesore; it is nonconforming; it is unsound and, therefore, we think the simplest solution is to demolish it. We believe the open

space would be better than this delapidated structure.

We will be glad to prepare and submit to you a chain of title to show that the 1960 deed remains in effect. And we doubt that we will be able to obtain a signature on the landmark's certificate of appropriateness application from the neighbor because of the dispute between them; however, it seems to me that all we're asking for today is your approval of the demolition of the landmark as it sits on a landmark site.

Now, it seems to me that your jurisdiction over the non-landmark site would mean that that's not so relevant today. Thank you.

CHAIRMAN COOLEY: Okay. Ms. Lorentzen?

MS. LORENTZEN: It's -- I'm referring to the words you use because you said they anticipate the demolition, but do they agree to the demolition?

MR. RAMPELL: I think they accept the fact that we have the right to unilaterally demolish the slat house under the clear provisions of the 1960 deed and what they have written to me is a request that certain components of the slat house be preserved or respected on their side because it's their intention to rebuild part of it on their side after the

demolition.

I have an e-mail from Lou Moratchek to me to that effect that after the demolition, they're planning on rebuilding their side. But I don't intend to speak for them because is Mr. Kellogg here and his lawyer, do you wish to comment on your position?

MR. FITZGERALD: Good morning. Roy Fitzgerald on behalf of Mr. Kellogg who will testify shortly. We do object and we object for a number of reasons. We have contacted Ms. Noble's attorney. There's a beam that runs from an existing shed that has not been part of the slat house to the slat house. If the slat house is demolished, it will be effecting the structural integrity of the shed house, which is on Mr. Kellogg's property. We've tried to work with them, so we do have an objection to just demolishing the slat house on both sides of the property line.

So let me have Mr. Kellogg tell you his objections.

CHAIRMAN COOLEY: Let me ask you one question. Do you -- do you agree that there is a written document that gives one party or the other the authority to tear it down?

MR. FITZGERALD: There is a 1960 easement that

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allows either party on ten days notice to demolish the slat house. Since then, a hedge has been attached to the slat house, which is part of the slat house.

So if you take down the slat house, you are going to effect Mr. Kellogg's shed and we object for that reason among others.

Let me have Mr. Kellogg speak.

CHAIRMAN COOLEY: Thank you. Mr. Kellogg.

MR. KELLOGG: Good morning.

CHAIRMAN COOLEY: Good morning.

MR. KELLOGG: This proposal goes beyond, I think, the authority of the Landmark because I'm not a landmark property. So I'm not so sure how Landmark is going to approve demolishing my property. On my side of the property is a tool shed, which I believe were built around the same time as the slat house and that has a cement floor and is deceptively marked as part of a slat house. It's clearly a tool shed with a cement floor.

I object because -- and I can -- would recommend to the proper authority, whether it's town council or whatever that I would rebuild and take down my side of the slat house to avoid the damage to the plants and garden equipment and so forth.

So I don't see -- I just want to enter my objection. Thank you.

CHAIRMAN COOLEY: Thank you.

THE CLERK: Your full name for the record, sir.

MR. KELLOGG: Christopher Gage Kellogg. Thank you.

CHAIRMAN COOLEY: Mr. Zukov?

MR. ZUKOV: Thank you, sir. I believe that we're not a court of law here. And I think that we should have an architect to come and present a demolition plan and show us what they want to demolish and how and I believe it should be signed by both owners, I mean, this is right on the property line and an architect should show you how he's going to preserve one part, if the owner wishes to leave one part alone.

So I don't know how we can resolve this except postpone it, defer it until you resolve it between the two owners.

CHAIRMAN COOLEY: Mr. Rampell, do you want to comment on that or Mr. Smith?

MR. SMITH: It is my belief that the footprint we're showing was the original slat house and at one time because there are some plans that were in the Town that we found of the foundations and they're

pretty sketchy, but you can make it out. And that at some time a handyman enclosed part of the slat house and put in an actual roof on the slat house at that location to enclose the structure. Okay. But it's my opinion that the whole thing was the original slat house and part of it was converted and put T & G plywood on the side to enclose it and that's why we're asking for the entire structure to be demolished.

CHAIRMAN COOLEY: Could you -- excuse me, go ahead.

MR. ZUKOV: This is -- we believe you, okay, we believe you but that doesn't make it right for us to allow a demolition on two properties. That's not -- that's a legal matter.

MR. SMITH: That's correct. Let the lawyers work it out.

CHAIRMAN COOLEY: Mr. Strawbridge?

MR. STRAWBRIDGE: It seems to me that maybe what we ought to do is let Skip tell us where we should go with this. It seems to be way beyond our expertise and so forth and so on and I wouldn't want to --

CHAIRMAN COOLEY: I've got one question that -- go ahead, please.

MR. CANTIN: Good morning. Ralph Cantin for the record. I have not won any Ballinger awards. You can -- can I have this document here -- actually the photo in front of you shows the shed and there are two separate foundations. I would have a sense and Mr. Zukov is welcome to come out to the site with us for the next month's meeting that the shed predates the footing for the slat house and that exterior that you see there is wood finished shed. I personally have no objection to demolishing the slat house, which includes about ten feet on Mr. Kellogg's property. It's really the shed that's more of a concern, so if you grant approval for demolishing just the slat house, we would like to take down the slat house on our property, so we can keep the shed in place and that's really what it comes down to and anything more than that would be aggressive.

CHAIRMAN COOLEY: Do you have any problem with that if they demolish their half and you demolish your half?

MR. RAMPELL: The proposal is that we demolish our side and they demolish their side?

CHAIRMAN COOLEY: I believe that's what I understand; is that what you're saying?

MR. CANTIN: That would be acceptable to us,

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this way I can keep the major beams that are connected to the shed, we'll take down our part, they can take down their part and we'll all walk away from here.

CHAIRMAN COOLEY: It's like Solomon, you cut the shed in half.

MR. CANTIN: Actually, we had to take down of at least ten feet of it on our property because there's a ridge pole that goes ten feet into the Kellogg's property and we're willing to take that down in advance of them taking down the shed. The shed is a nonconforming structure, if they want to get rid of it, get rid of it.

CHAIRMAN COOLEY: Do you agree with that?

MR. RANDOLPH: I think we've got a deal here now how do we --

MR. ZUKOV: It's better than somebody contracted to come in on one side and another contractor coming from the other side and they're going to meet at the property line with a beam going across; how is that going to work?.

CHAIRMAN COOLEY: I think if the two parties agree, I think they can figure it out, this isn't --

MR. ZUKOV: They should agree with it legally.

CHAIRMAN COOLEY: But Mr. Zukov, I think that

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his proposal is that they'll take steps to preserve their portion of the slat house or their shed -- not the slat house -- necessarily.

MR. CANTIN: Well, that becomes the legal issue, you know, I'm saying that the shed is not part of the slat house. This is more of a survey basically saying the same thing. I think it's out of spite and aggressiveness to come into our property, let the lawyers work that out, your Landmark, take down the shed, take down the slat house that's on the neighbor's property that's on your property.

CHAIRMAN COOLEY: Mr. Silvin?

MR. SILVIN: Unless I have completely misunderstood our function here, I don't believe that we have any authority in the legal areas. Our function is to decide whether a structure is suitable to be on landmark property or not and what if the removal would have an impact on. I don't see that this discussion is relevant to us, as interesting as it is.

MR. RAMPELL: I agree with you and all we're asking for is whether you deem it to be appropriate to remove an eyesore that has no contributing value whatsoever to a landmark. This is -- it's far removed from the mansion. It isn't consistent with

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the Mizner touches to the mansion. It has nothing to do with the landmark. It's just an eyesore.

CHAIRMAN COOLEY: Ms. Lorentzen, go ahead, please.

MS. LORENTZEN: Well, I was going to -- I was going to agree with that, but I don't know how it gets worked out legally. I don't believe it gets worked out here, but it does seem that they need to do their work first, not that -- but I don't think we have the right to get involved with this.

MS. ALBARRAN: I mean, I think maybe they are at least -- they can get a little bit of a feedback from us that if they work it out that we would not have a problem with it being demolished, maybe if they get that feedback so they can move forward showing that.

CHAIRMAN COOLEY: Could I suggest this, we've got a couple of other hearings that will take quite a while, could you two gentlemen just kind of go out in the back and see if you can work this out and then come back?

MR. RAMPELL: Certainly.

CHAIRMAN COOLEY: I'd like to move to lay this over until the last item?

MR. RAMPELL: Excuse me, when can we come back?

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CHAIRMAN COOLEY: In half an hour, 20 minutes.

MR. SMITH: This entire property is landmarked, therefore, anything on the property is considered a landmark, even though it wasn't even mentioned in the designation report where every other accessory structure on the property was mentioned in the designation report, except this slat house.

CHAIRMAN COOLEY: Mr. Randolph?

MR. RANDOLPH: Before you send them away, I'd like you to send them away with some direction and my concern is that one applicant is applying for demolition on two properties. And I understand that they have that 1960 document, but we don't get into those documents from the staff's standpoint.

So if they can work this out in a way that the people -- the Kellogg's can agree that this application can move forward, that even if they would state that orally today because they reached an agreement in regard to the adjacent property, that's fine, but I think to protect the Town, I don't want to see the Town get in the middle of a lawsuit as to whether or not we had jurisdiction to knock property down on both properties.

CHAIRMAN COOLEY: So what do you suggest, they both have to sign --

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MR. RANDOLPH: I'm suggesting that if you don't defer this until that can all be worked out, but if you want to send them away to try to work this out in the next half hour that one of the things we'd be looking for when they come back is an agreement from the Kellogg's that they can go forward with the demolition on both properties subject to whatever agreement they worked out.

CHAIRMAN COOLEY: Mr. Rampell, what is your comment on that?

MR. RAMPELL: Well, I'm glad to meet with Mr. Kellogg and his counsel.

CHAIRMAN COOLEY: Mr. Kellogg is that okay with you?

MR. KELLOGG: Yes, sir, it is. As you know, it's my interest to take down our portion of the slat house and it's not in their --

CHAIRMAN COOLEY: We'll just lay this over for a while. Give us the hi sign when you're ready and we'll put you back on.

(A break was taken from 11:03 a.m. to 11:14 a.m.)

MR. RAMPELL: Thank you, Mr. Chairman, I think we have an agreement. Basically both parties agree that a certificate of appropriateness can be issued.

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Mr. Kellogg will demolish his side of -- his side -- or his half of the slat house and we will demolish our half -- our side of the slat house.

CHAIRMAN COOLEY: Would we -- if we approve it, could we request that you both have signatures on the application?

Yes, sir.

MR. FITZGERALD: We do have an agreement in principle, but here's kind of the rock, I mean, if we want to take down our side first --

CHAIRMAN COOLEY: And if we agree --

MR. FITZGERALD: -- which has nothing to do with this committee, I mean, I'm in an impossible position because if they don't allow us to take down our side first, then I have no recourse.

CHAIRMAN COOLEY: When would you be starting to take your side down --

MR. FITZGERALD: We can take it down within two weeks.

CHAIRMAN COOLEY: Would that be agreeable to you?

MR. RAMPELL: I'm sorry, do we have to go to ARCOM --

MR. RANDOLPH: He's asking whether he has to go to ARCOM and the answer is, no, because it's behind

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other structures that he would not have to go to ARCOM.

CHAIRMAN COOLEY: Could we put that on the record, please, Mr. Randolph what your comment was, I think it's important.

MR. RANDOLPH: Yes. Hearing what Mr. Fitzgerald said concerned me because I thought perhaps they first have to go to ARCOM because their property is not landmark. Mr. Lindgren has indicated, no, they will not have to go to ARCOM that he can -- because it's not visible from the street or from other properties, correct, Mr. Lindgren?

MR. LINDGREN: That's correct.

MR. RANDOLPH: And therefore, you know, perhaps your motion could be if you're inclined to allow demolition, it could be subject to their having gone forward with their demolition first; is that what -- is that the agreement you came to?

MR. RAMPELL: Yes.

MR. FITZGERALD: That's what we would like.

CHAIRMAN COOLEY: I would entertain a motion that we approve the application for certificate of appropriateness number 005--2015 subject to one, having both parties sign the application subject to, two, Mr. Kellogg going first and we'll give him three

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weeks to demolish and then you folks are on next.

Did any -- would somebody care to make a motion?

MS. ALBARRAN: So moved.

MS. HUFTY: I'll second.

CHAIRMAN COOLEY: There's a motion and a second. Any discussion? Call the roll on the motion.

MS. HUFTY: I'd just like to make one point.

CHAIRMAN COOLEY: Yes, ma'am.

MS. HUFTY: There's been a lot of discussion in this town and I think it's quite marvelous even if it's not overall to warn parties represented by lawyers are actually able to work it out and I thank you all for talking to each other. It was very helpful. I'm thrilled.

MR. PAGE: Can I ask for one clarification, please.

CHAIRMAN COOLEY: Yes, sir.

MR. PAGE: The condition of three weeks to demolish, I don't know how quickly the -- Mr. Kellogg and his representatives will be able to put together an application for demolition, perhaps we can clarify that they have to submit their demolition permit within three weeks from today and act upon it in a

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timely fashion or something to that effect.
CHAIRMAN COOLEY: Is that agreeable?
MR. FITZGERALD: That's fine with us.
MS. ALBARRAN: I make the motion to say that.
CHAIRMAN COOLEY: I just -- I didn't want to get in the position where if they have to go first and they second and they never go and then you wind up right back here again. So some way we have to have a trigger to get you guys --
MR. FITZGERALD: The three-week requirement to get the demolition permit is acceptable to us.
MR. ZUKOV: I guess the motion is if you both sign the demolition within two weeks, right?
MR. RANDOLPH: They're going to sign that right away, I mean, right?
MR. FITZGERALD: We'll sign it subject to we go first and we get three weeks to get our permit.
MR. RANDOLPH: Right.
CHAIRMAN COOLEY: Okay. Call the roll.
MR. LINDERGAN: Well, one point of clarification for demolition of the entire structures, although this is barely a structure, there is a prohibition of demolition on entire structures from 1, December through February 28th, so the earliest they could demolish it would be

March 1st.
MR. RANDOLPH: And thank you for reminding me of that.
MR. ZUKOV: The concrete slab is to be removed as well as everything?
MR. FITZGERALD: No, the concrete slab that's part of the shed, that's staying.
MS. ALBARRAN: I can amend the motion that basically they submit for permit.
MR. ZUKOV: We did.
MS. ALBARRAN: No, no, change it so that basically they should start demolition March 1st.
MR. LINDERGAN: Yes, ma'am. Complete it within the March month.
MS. ALBARRAN: Completed within the month of March.
CHAIRMAN COOLEY: Okay. That's good.
MR. RANDOLPH: We're talking about two partial demolitions?
MR. LINDERGAN: They are and then they add up to a whole at the slat house.
MS. ALBARRAN: I think for us --
MR. RANDOLPH: I'll withdraw that.
MS. ALBARRAN: So ruled.
CHAIRMAN COOLEY: I take it you gentlemen are

going to work this out.
Call the roll.
THE CLERK: Ms. Albarran.
MS. ALBARRAN: Yes.
THE CLERK: Ms. Hufty?
MS. HUFTY: Yes.
THE CLERK: Mr. Cooney?
MR. COONEY: Yes.
THE CLERK: Mr. Gannon?
MR. GANNON: Yes.
THE CLERK: Ms. Lorentzen?
MS. LORENTZEN: Yes.
THE CLERK: Mr. Zukov?
MR. ZUKOV: Yes.
THE CLERK: Mr. Cooley?
CHAIRMAN COOLEY: Yes.
Thank you all very much for your support and getting together on this issue. We are down to other business.
(The meeting concluded at 11:20 a.m.)

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CERTIFICATE

- - -

I, DAWN S. McCONNELL, Court Reporter, State of Florida at Large, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 10th day of March, 2015

Dawn S. McConnell, FPR

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TAB D

APPLICATION FOR ARCHITECTURAL COMMISSION REVIEW
(Please refer to attached Electronic Submission Instructions)

1. Project Address: 475 N County RD

2. Name of the Applicant: CHRISTOPHER + VICKI KELLOGG
   Address: 475 N COUNTY RD Telephone#: 844-4477

3. Name of Architect/Engineer: RALPH CANTIN, AIA
   Phone #: 310-8039 Architect's e-mail address: RALPHCANTIN@GMAIL.COM

4. Brief description of the project: (The exact wording in this section will appear on the ARCOM agenda . Please include a comprehensive summarized description of the project which describes the changes)
   NEW BLACK ANODIZED ALUMINUM GATE ON SERVICE DRIVEWAY

5. Are there any Town Council approvals necessary to complete the project? YES OR NO
   Please provide variance, site plan review, and/or special exception numbers:

6. Number of stories: Roof material (type): Const. Type: CBS ?
   Frame?: Colors: Building: Roof: Trim: Shutters:
   also, please provide the above information on the cover sheet of the ARCOM plans.

7. Signature: (property owner or owner's legally authorized agent*)
   ***If signed by a legally authorized agent, must be accompanied by a Power of Attorney or statement from property owner authorizing the signer to sign on owner's behalf.**

   ☐ **Please check box if you are an ARCOM member, and this project will result in a Voting Conflict for you.**

(Please use the attached checklist to ensure that your application is complete. Incomplete applications may cause a deferral of the request. If you have any questions regarding the requirements, please call John Lindgren, at 227-6414 or Cindy Delp at 227-6408 well in advance of the submission deadline.)

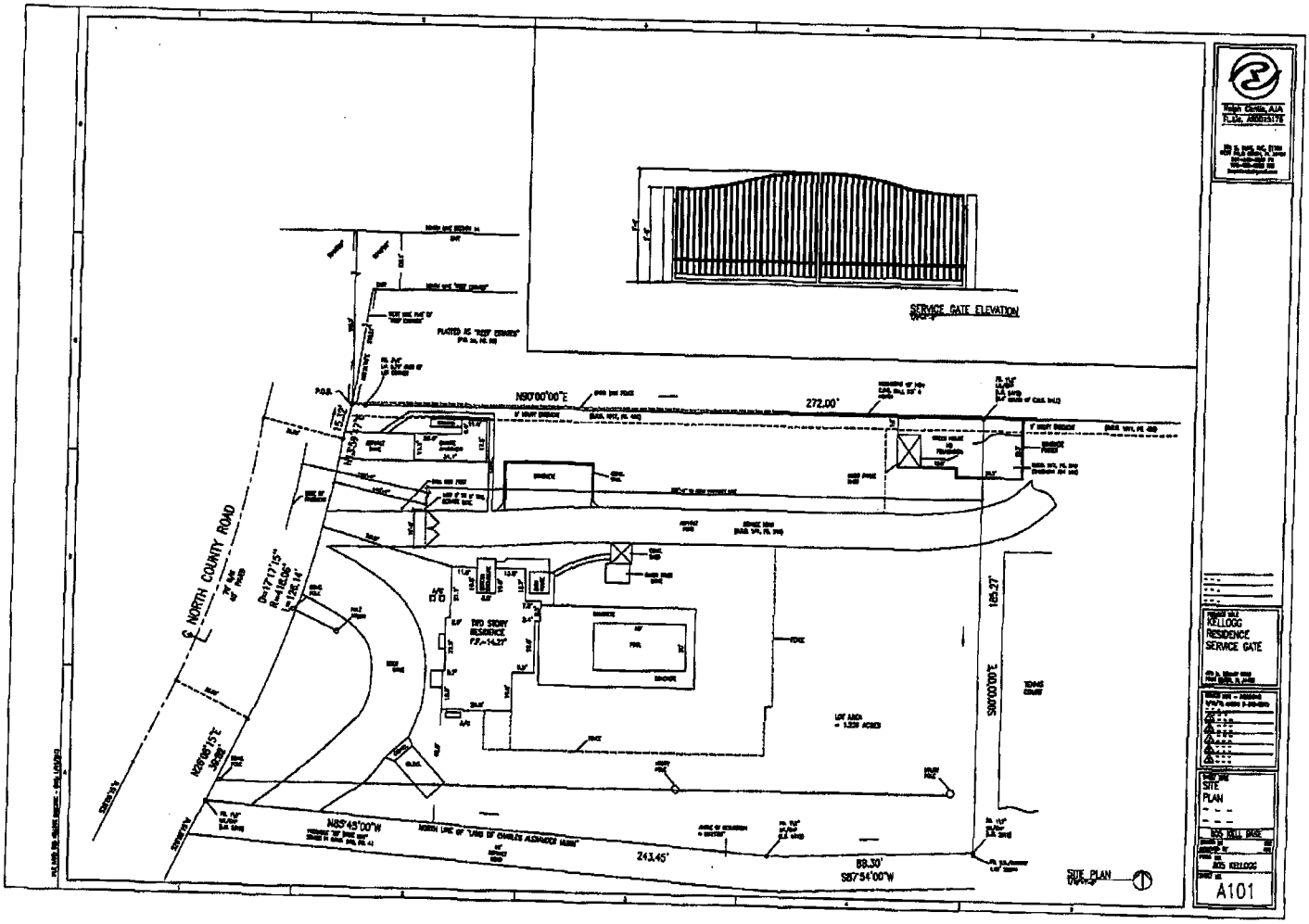
FEES:		
	Major projects:	$750.00
	Landscape/Hardscape/Site Lighting:	$750.00
	Minor projects (awnings, signs, fenestration):	$250.00
	Deferred projects:	no charge

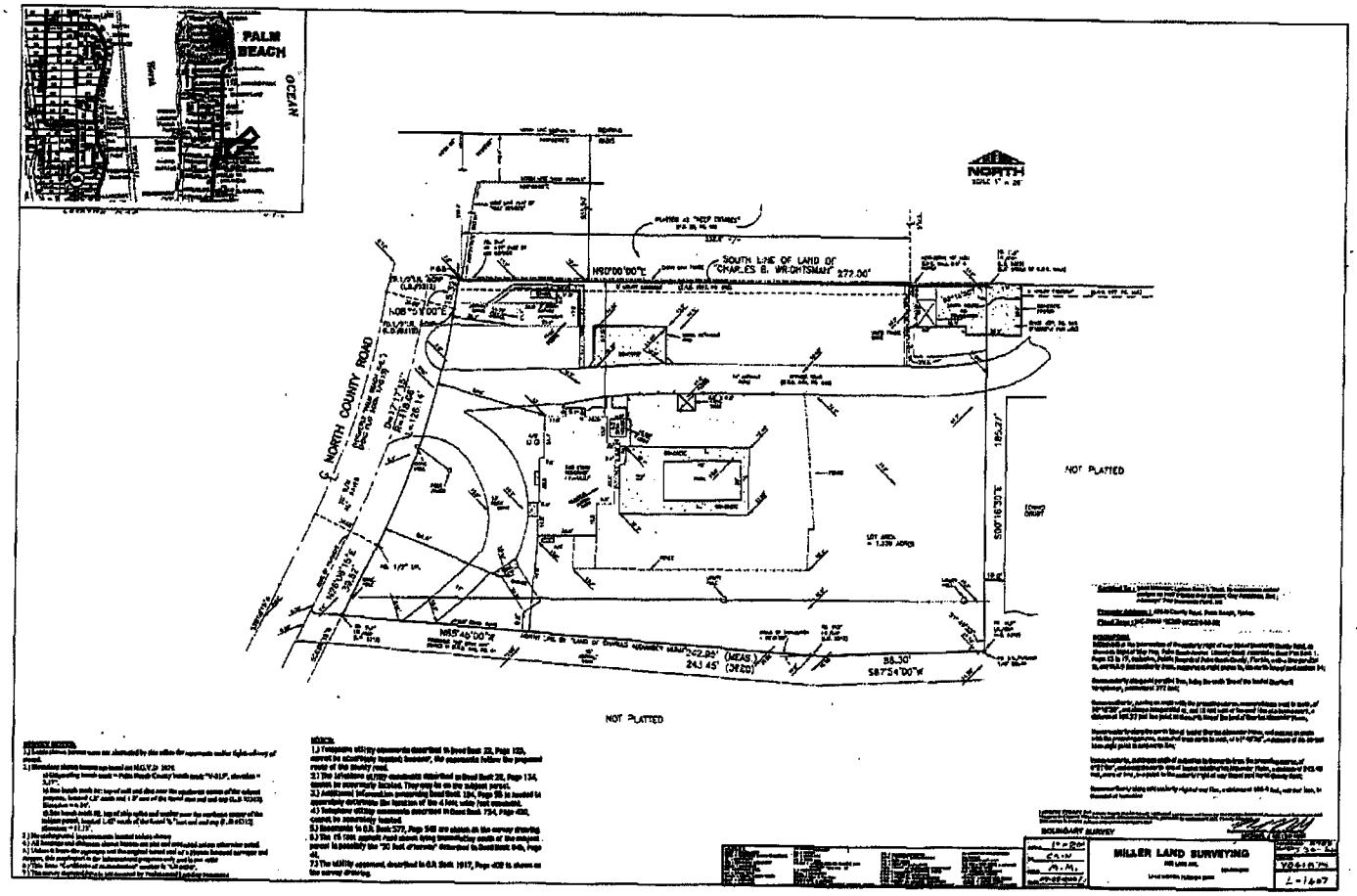
SUBMISSION DEADLINES: **(Please refer to attached electronic submission instructions)**
Major projects: - 30 days prior to the meeting, or as listed on the Town's Architectural Commission Meeting Dates and Filing Deadlines list available at www.townofpalmbeach.com
Minor projects: - Two weeks prior to the next scheduled meeting
Deferrals: - No later than one week prior to the scheduled meeting (with changes clouded)
Revisions: - No later than one week prior to the scheduled meeting (with changes clouded), together with a written narrative that succinctly details the changes made.

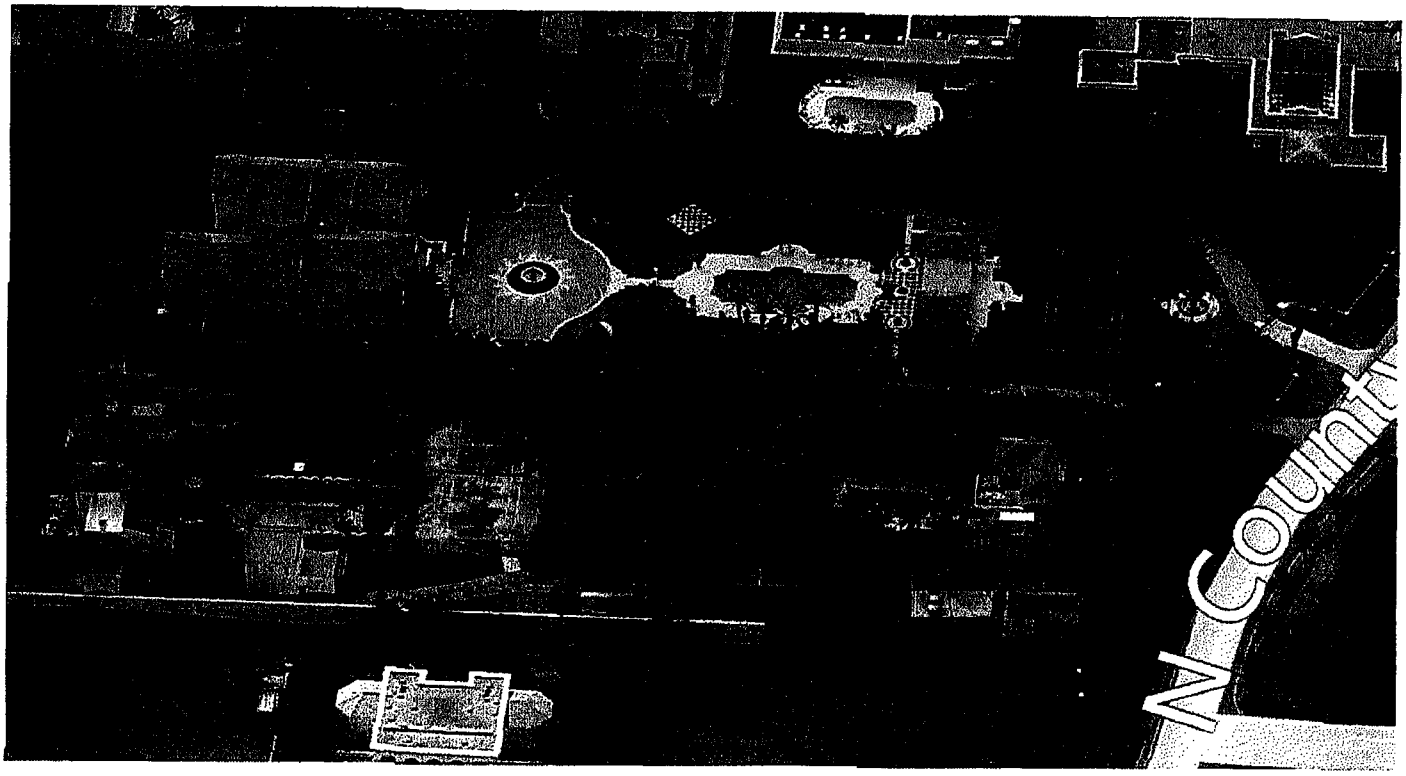
MEETING DATES: Please see ARCHITECTURAL COMMISSION MEETING DATES AND FILING DEADLINES on Town website at www.townofpalmbeach.com

The Architect and/or Landscape Architect is advised that he/she will be responsible for acknowledging, prior to the issuance of a Certificate-of-Occupancy, that the as-built design matches the original ARCOM approved design, with the exception of other ARCOM or staff approvals.

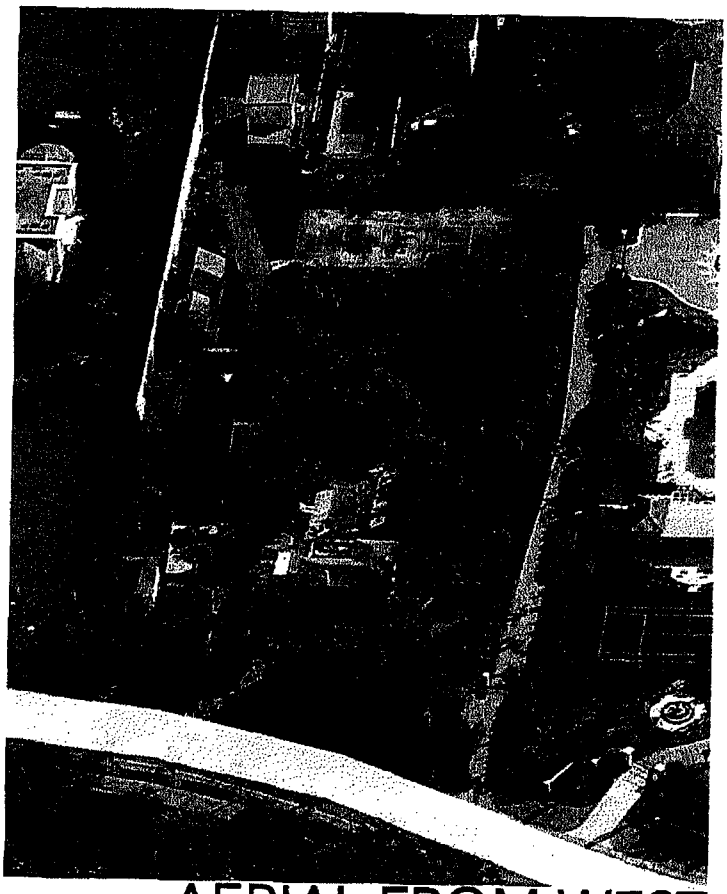
Revised 9/25/2013


SERVICE GATE ELEVATION
N90°00'00"E
272.00'
N85°45'00"W
243.45'
S87°54'00"W
89.30'
S00°00'00"E
185.27'
N00°00'15"E
N85°59'17"E
P.O.B.
℄ NORTH COUNTY ROAD
TWO STORY RESIDENCE
POOL
SPA
LOT AREA = 1.259 ACRES
SITE PLAN
SITE PLAN
KELLOGG RESIDENCE SERVICE GATE
A101

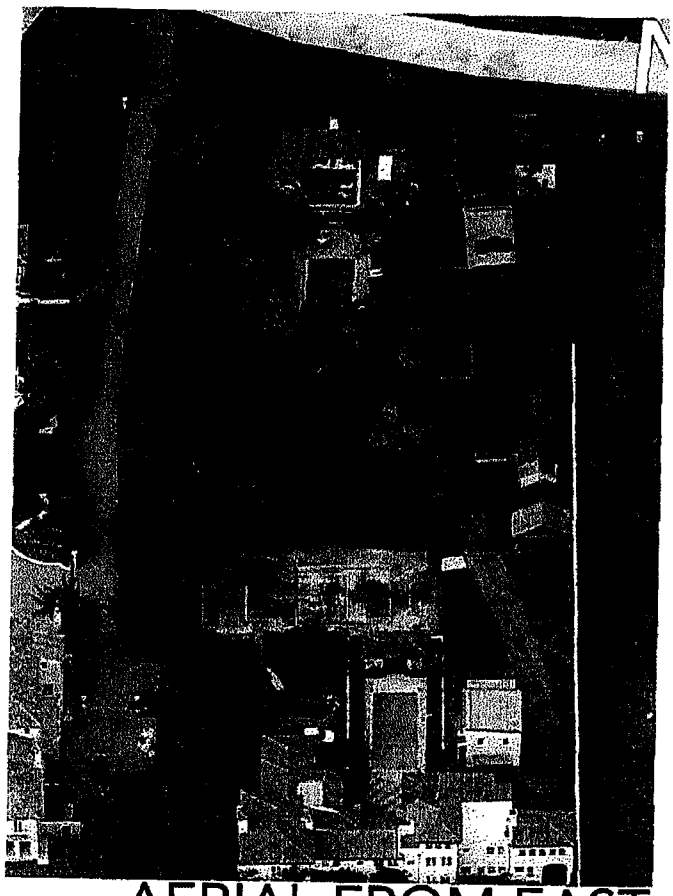

PALM BEACH
OCEAN
NORTH
SOUTH LINE OF LAND OF "CHARLES B. WRIGHTSMAN" 272.00'
N90°00'00"E
N08°51'00"E
NORTH COUNTY ROAD
N89°46'00"W
243.45' (MEAS.)
S87°54'00"W
S00°16'00"E
NOT PLATTED
NOT PLATTED
BOUNDARY SURVEY
MILLER LAND SURVEYING



AERIAL FROM NORTH



AERIAL FROM WEST



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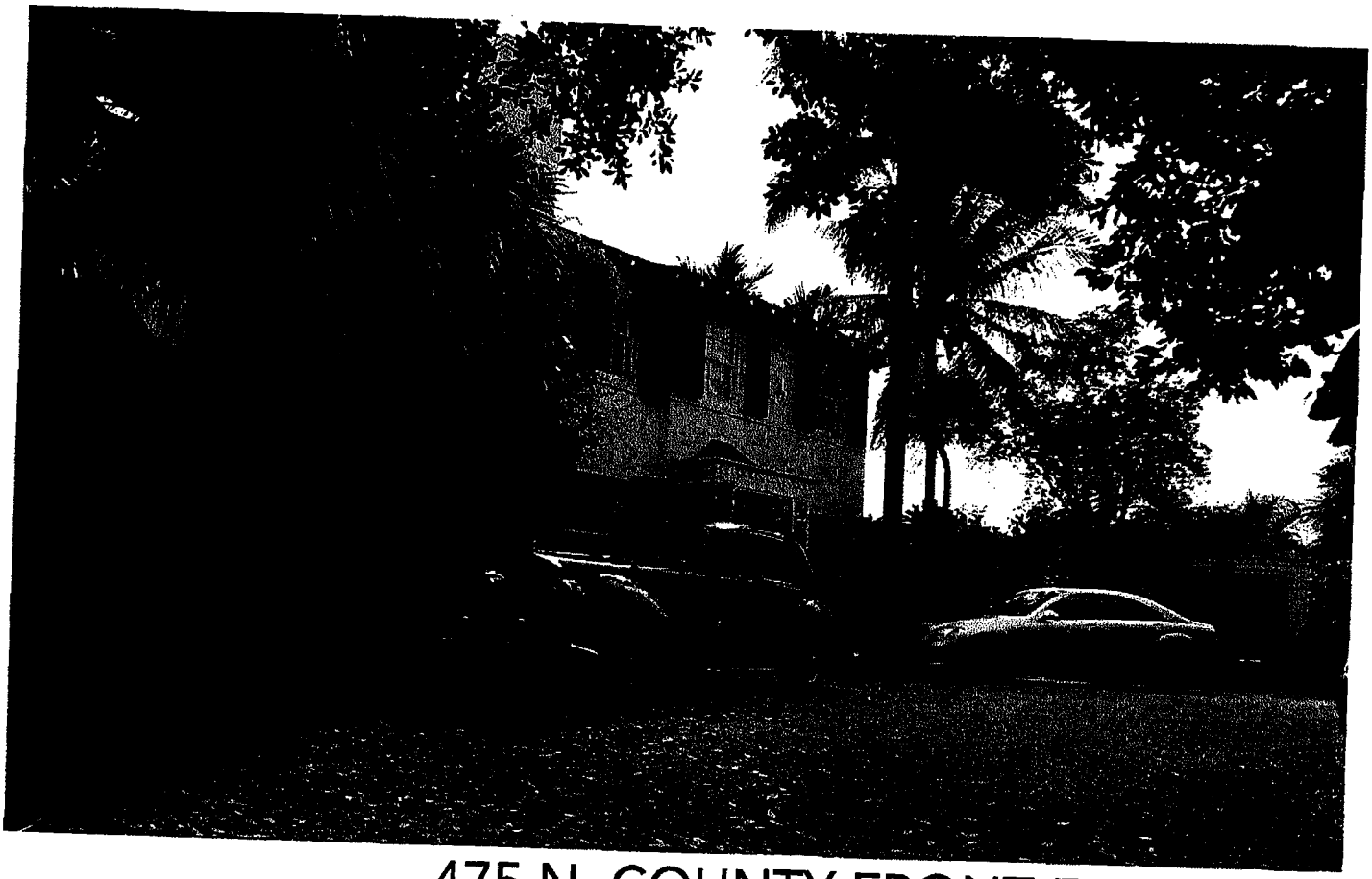
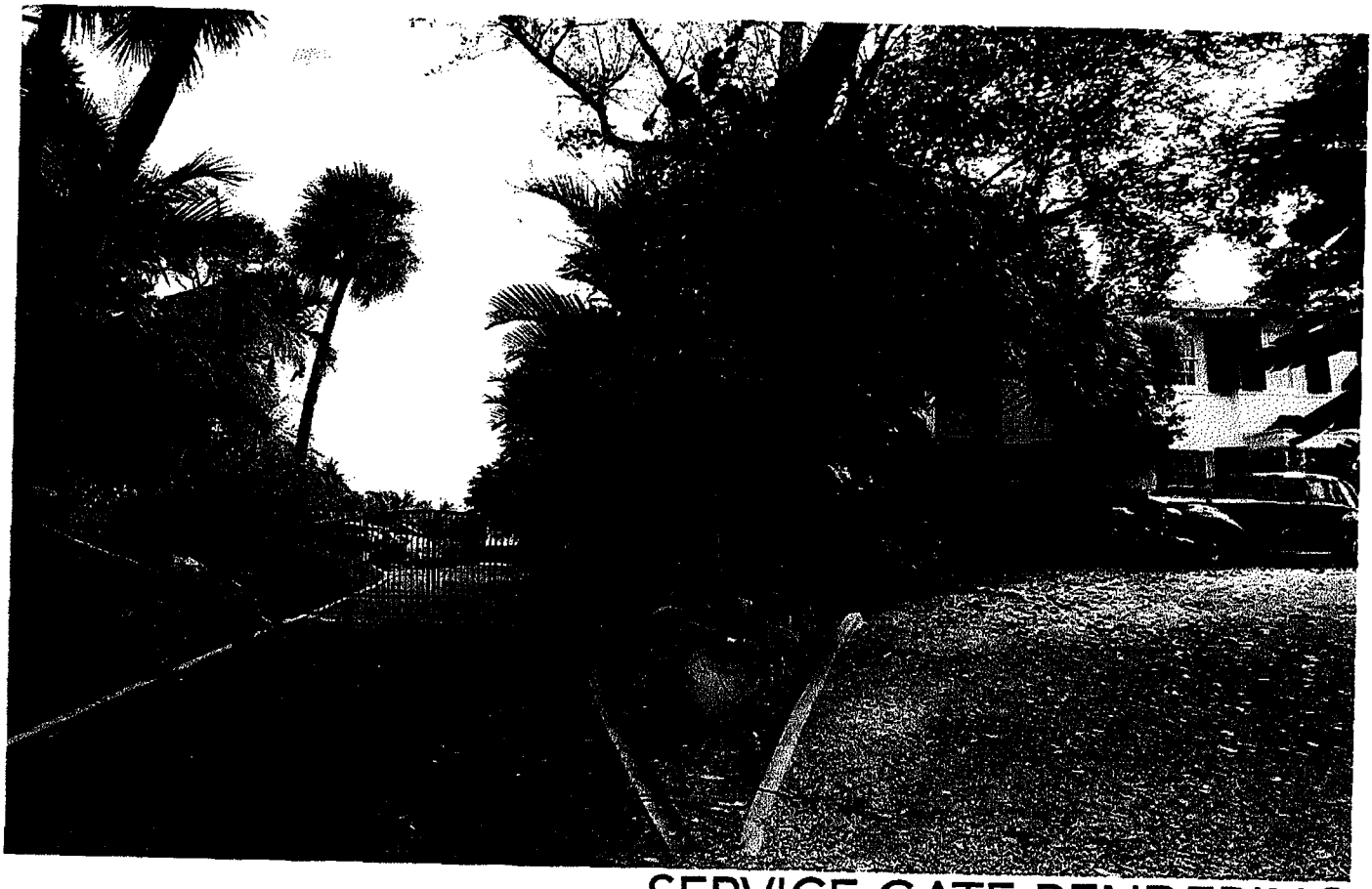


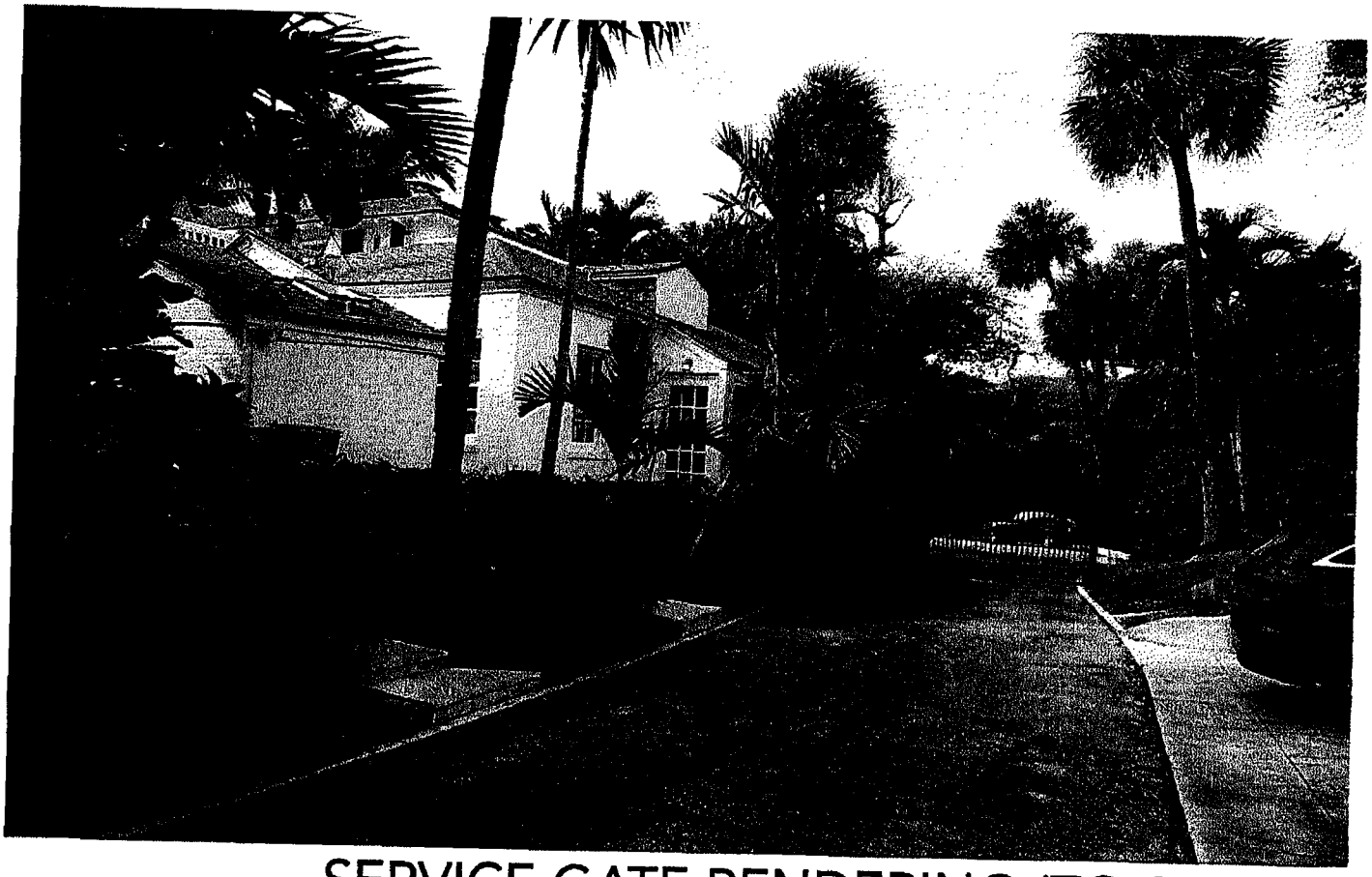
475 N. COUNTY FRONT ELEVATION

ENTRANCE TO 455 & 473 N. COUNTY RD

EXISTING SERVICE DRIVE



SERVICE GATE RENDERING



SERVICE GATE RENDERING (TO STREET)

ARCHITECTURAL COMMISSION
TOWN COUNCIL CHAMBERS
SECOND FLOOR, TOWN HALL
360 SOUTH COUNTY ROAD, PALM BEACH

FEBRUARY 25, 2015

- - -

Reported By:
DAWN S. McCONNELL, Court Reporter
Notary Public, State of Florida

1 APPEARANCES:
2
Robert J. Vila, Chairman
3 Ann L. Vanneck, Vice Chairman
Kenn Karakul, Member
4 Richard Sammons, Member
Peter I.C. Knowles, Member
5 Martin D. Gruss, Member
Robert N. Garrison, Member
6 Alexander C. Ives, Alternate Member
Michael B. Small, Alternate Member
7 Maisie Grace, Jr., Alternate Member
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ROY FITZGERALD, ESQ.
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20
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(Thereupon, the following proceedings were had):

- - -

CHAIRMAN VILA: New business, B-010-2015 Gate. 475 North County Road, Christopher and Vicki Kellogg, Ralph Cantin, architect. New black anodized aluminum gate on service driveway.

Ex parte communications, please?

MR. GARRISON: None.

MS. SAMMONS: None.

MR. KARAKUL: None.

MS. VANNECK: None. I got a summary.

MR. KNOWLES: I got these emails from --

MS. VANNECK: That too.

MR. KNOWLES -- the Town about the neighbor's objecting to some zoning issues.

CHAIRMAN VILA: I didn't see it.

MS. VANNECK: We got plenty of emails.

MR. IVES: Same. The same emails that Mr. Knowles referenced I got, but that's all.

MR. SMALL: I visited the site and neighboring properties and then late yesterday evening when I got back from a fellowship dinner, I saw a lengthy email from Mr. Rampell.

MR. IVES: Oh, I got that too.

1 MS. GRACE: I visited the site and I received
2 emails and I didn't know if there was any rules for
3 us regarding access or anything that we needed to
4 answer.
5 MR. GARRISON: Mr. Chairman --
6 CHAIRMAN VILA: Yes.
7 MR. GARRISON -- I spoke to the attorney and I
8 understand he will make a recommendation to us.
9 CHAIRMAN VILA: Before we get out of control
10 here, this is a gate, but all we can do is talk about
11 the design and the gate.
12 So I'm not sure why it's on our agenda?
13 MR. RANDOLPH: That's correct. Mr. Rampell
14 contacted me in regard to a recorded easement with
15 the suggestion that this application not be
16 entertained, unless Mr. Rampell's client joined in
17 the application stating that his client has a
18 property interest in this matter. It's, I believe,
19 that you're here only to apply the criteria of your
20 code as it relates to the placement of the gate and
21 not to make a legal determination as to who owns what
22 in regards to the property.
23 As I've stated on previous occasions when staff
24 receives an application, they base it upon the fee
25 simple property owner, owner's representation that

they own the property and I believe that we checked to make sure that they own the property, but that we don't go further to see what kinds of recorded documents may exist because if we did that on each application, we would have to do a title search to see what easements there are on the property, who may hold some beneficial interest, et cetera.

So I advised Mr. Rampell before this meeting that I believe your role today is just to consider the design of the gate under the criteria of your code.

CHAIRMAN VILA: Thank you very much.

So can you just show us the design of the gate?

MR. CANTIN: Sure. I have a cold, so I might be hard to understand. Ralph Cantin for the record. I'd like to just give you a layout of the site for reasons why our gate is going --

CHAIRMAN VILA: Mr. Cantin, we can look at the layout and we can understand what the story is, but until it's resolved at another level, ARCOM doesn't really need to go through all that and spend all of the time on that. If you want to show us the gate and the placement of the gate, we'll be happy to look at that.

MR. CANTIN: Okay. I'm going to be very brief,

1 right where the hand is, is where the gate is
2 supposed to be. The gate is 50 feet back from North
3 County Road. Part of this is specificated, this is a
4 landmark property, this is a landmark property as
5 well. This is an access for these two properties.
6 It now is a service gate. It's the main entrance for
7 this property. This is the service gate for this
8 property. There's no connection between the front
9 entry and garages for this property, which I'll call
10 Noble property and that's the one reason why we're
11 here.
12 I'll move on to the gate --
13 CHAIRMAN VILA: That's not our --
14 MR. CANTIN: Okay.
15 CHAIRMAN VILA -- purview, it's not our
16 bailiwick. We're only interested in the esthetics of
17 the gate and its placement and if the actual
18 possibility of building it or not building it is
19 something that's coming before another Town Board, we
20 don't want to waste our time or your time.
21 MR. CANTIN: Okay. The house is a 1930 house
22 which is right here. The gate is -- this is an
23 estate property to the south. This is where the gate
24 would be right here. It's 50 feet back from the road
25 and this is the gate and its location. This is

looking back towards the street with the gate and its location.

I'll be happy to answer any questions.

MR. SAMMONS: Mr. Chairman, I think I have to recuse myself as I have a client who has an interest in this property.

CHAIRMAN VILA: Okay. Mr. Sammons is recused. Mr. Garrison?

MR. GARRISON: Mr. Chairman, I'll make a motion that we approve the gate as presented.

CHAIRMAN VILA: Mr. Karakul.

MR. KARAKUL: I will second that, the only thing I think would be is to put some vegetation around each of the gate posts, you know, not to come into the driveway, but just to soften those gates.

MR. GARRISON: I'll amend my -- I'll amend my motion to include that.

MS. VANNECK: I just might think that you're pretty much imploding in mid air and it's very simple, it doesn't have any, you know, weight or structure, so it needs to be anchored properly and vegetation would do it, but other than that, I would rule on it.

CHAIRMAN VILA: Well, I just question whether an ARCOM -- ARCOM's approval of the gate design and

1 placement is at all appropriate given the legal
2 situation between the various owners, but who am I, I
3 didn't make a motion; is there a motion?
4 MR. KARAKUL: There's a motion and I seconded
5 it.
6 MR. GARRISON: No, I made a motion to approve
7 the gate and then with the caveat of its character
8 that we have landscaping around the gate and make it
9 more substantial.
10 CHAIRMAN VILA: We have a motion and it's been
11 seconded, all in favor --
12 MR. RANDOLPH: No, no, no, you got to call on
13 the public first.
14 CHAIRMAN VILA: Oh, that's right, we do.
15 Sorry. Excuse me.
16 For the record, please identify yourself.
17 MR. LYNCH: Good morning. Frank Lynch and I
18 represent 123 LLC, the property immediately to the
19 south.
20 THE COURT: You have a time limit.
21 MR. LYNCH: Absolutely, absolutely. My
22 client's concern is not necessarily the gate, but
23 what the gate represents. The gate represents a
24 barrier across an easement that a party is entitled
25 to. My client's concern is that if that gate is

allowed to be closed and there's no automatic opener to that gate, the possibility exists that service personnel would be directed or redirected from this location onto an easement that exists on my client's property overburdening that easement from what was initially intended.

So, again, my concern is not the gate, the design of the gate, but that a gate exists. If there was an automatic opener to this gate so that a service vehicle could approach the gate and it would automatically open, I think our concern as to that goes away.

But, again, I don't want to take up a lot of your time, our issue is the existence -- not the existence of the gate, but what that gate represents.

CHAIRMAN VILA: Like the Cowoma (phonetic).

MR. LYNCH: Yes.

CHAIRMAN VILA: Thank you very much.

MR. RAMPELL: Good morning, Mr. Chairman and members of the commission. I understand --

CHAIRMAN VILA: Your name for the record, please.

MR. RAMPELL: I'm Paul Rampell. I'm a lawyer in town for 35 years. I represent Cristina Noble, the owner of 473 North County Road.

1 We will ask you for your patience because even
2 though you seem inclined to approve the esthetics for
3 the gate, we are entitled to make a record of our
4 position and it's going to take a few minutes, not a
5 long time, but a few minutes.
6 I will start by introducing into the record --
7 just to back up, Ms. Noble owns 473 North County
8 Road. This is the property that's adjacent and east
9 of the Kellogg property. It's represented in green.
10 She also owns the easement which runs across Mr.
11 Kellogg's property. It also is shown in green. This
12 is a service driveway. It has been in place without a
13 gate for many decades. Currently, there is litigation
14 between Ms. Noble and Mr. Kellogg on many different
15 issues are being disputed. We are scheduled for
16 mediation on March 23rd of this year in hopes of
17 settling some of these differences. In the meantime,
18 we do object to the Town entertaining this
19 application because we essentially are the co-owner
20 of this property over which the gate is planned.
21 And it's our position that we must join in the
22 application in order for ARCOM to hear it. We're an
23 interested party; we're an indispensable party; we're
24 essentially the co-owner. It isn't any different than
25 the situation where the owner of a Worth Avenue store

would come before the ARCOM, then the tenant would have to join in. It's not any different then when a condominium unit owner makes an application here and the condominium association has to join in. We have two property interests that are involved in this application and unless and until we join in the application, we don't think that it's proper for the Town to entertain it.

I wish to submit to the record -- for the record, the deeds which confirm those facts that I've just been describing. Ms. Noble's ownership interest, Mr. Kellogg's ownership interest and the existence of this easement.

CHAIRMAN VILA: Is this then heading for counsel review or where does this go? If we approve the design of the gate, which we have a motion on the floor to approve, it's really -- I understand he wants to be on the record, but this seems to me to be the wrong venue.

MR. RANDOLPH: Well, he would have the right to appeal the town counsel, so that's where it would go if he's not satisfied with the result, he can appeal it to the town counsel.

CHAIRMAN VILA: Okay. Thank you, Mr. Rampell, is that all?

1 MR. RAMPELL: No, it's not at all.
2 CHAIRMAN VILA: Well, in the interest of our
3 agenda, sir, and I keep trying to make it clear,
4 we -- we're -- our responsibility is just to look at
5 the proposed architectural design of a gate and
6 you're presenting a case and the case is not our
7 bailiwick.
8 MR. RAMPELL: Basically, Mr. Chairman, because
9 unless we have a record below before you, we won't
10 have anything to discuss before the town counsel. We
11 have to exhaust our remedies, we have to make a
12 presentation to you. You can -- you can disagree
13 with us, but it's sort of like skipping a trial and
14 going to an appeal. We're at the trial.
15 CHAIRMAN VILA: How much time do you need?
16 MR. RAMPELL: Maybe ten minutes total.
17 CHAIRMAN VILA: Mr. Garrison?
18 MR. GARRISON: I thought we had Skip -- I
19 thought that's where counsel explained to us that our
20 responsibility is for the gate and the gate only, all
21 this other stuff is irrelevant. I don't care who
22 owns the property. My understanding is we are
23 charged with a gate and is the gate a good design or
24 a bad design, period.
25 CHAIRMAN VILA: Ms. Vanneck.

1 MS. VANNECK: Can I ask Mr. Randolph one thing,
2 please. Mr. Randolph, since this is not a bailiwick,
3 yet he has the right to try to present something,
4 can't he present it in writing and skip the rest of
5 it, so we can continue with our agenda?
6 MR. RANDOLPH: I think he's got the right to --
7 as any other party would, to present it orally.
8 Normally you allow three minutes and, obviously, he
9 has requested more time in order to present his case.
10 I would just encourage him if he has things to submit
11 to the -- because I think he's already laid out his
12 case, I would encourage Mr. Rampell if he has things
13 to present for the record that he would like to
14 presented to the counsel, to just present those to
15 the record, I'm not sure why it would take ten more
16 minutes to do that.
17 MR. RAMPELL: But --
18 CHAIRMAN VILA: Does that have anything to do
19 with the design of the gate?
20 MR. RANDOLPH: No. No, and I think -- no, in
21 my opinion it does not, but you're just hearing my
22 opinion. He has a different opinion in that regard.
23 I think one of the things to consider here is whether
24 or not access is being blocked to his client's
25 property by positioning the gate. I think it would be

1 relevant for you to hear whether or not access is
2 being blocked because I think there are -- that could
3 be an issue.
4 I believe you're here only to consider the
5 design of the gate. And we at the staff level after
6 determining in granting a permit whether or not we're
7 going to be blocking access.
8 So I'd like -- I'd like for you to hear whether
9 or not this gate is going to be blocking access to
10 Mr. Rampell's client's property.
11 CHAIRMAN VILA: We just -- we just heard the
12 point that they would be willing to have an automatic
13 gate, so that it never impeded access to anybody's
14 property.
15 MR. RANDOLPH: Did they say that, I thought
16 I --
17 MR. RAMPELL: Mr. Lynch said that.
18 MR. RANDOLPH: I haven't heard -- I haven't
19 heard him say that.
20 MR. CANTIN: No, the access concerning Ms.
21 Noble, the police and other people for service,
22 there's over a thousand -- several hundred that would
23 have the ability to program them to the gate.
24 MS. VANNECK: Mr. Chair?
25 CHAIRMAN VILA: Yes.

1 MS. VANNECK: Just a quick reference, when we
2 were -- I was on Landmark, we had a building who came
3 before us looking to get Landmark status and not
4 everyone was on board at the same time and we said go
5 back, settle it between you and come back to us for a
6 decision for the esthetics, would that be something
7 that we could ask at this time?
8 MR. RAMPELL: I would certainly be amenable to
9 that.
10 CHAIRMAN VILA: As I understand March 23rd is
11 the mediation date.
12 MR. CANTIN: If there's a motion on the floor,
13 actually I had been in September at Landmark's
14 proposing a gate and putting it in, the problem now
15 is any car goes 220 feet into the property, there's
16 no turn around, that's why we really need the gate
17 there now.
18 MS. VANNECK: It's not been there for I don't
19 know how many years, one month will not change that.
20 CHAIRMAN VILA: Yep. I can certainly agree
21 with you.
22 MS. VANNECK: Now, in that case if you want to
23 --
24 MR. KNOWLES: I'll withdraw my motion.
25 CHAIRMAN VILA: Are you withdrawing your

motion?

MR. KNOWLES: Yes.

MR. GRUSS: Can we move to defer?

MS. VANNECK: I second it.

CHAIRMAN VILA: Thank you. We have a motion to defer. It's been seconded.

All in favor?

Robert J. Vila, Chairman.

MS. VANNECK: Aye.

MR. KARAKUL: Aye.

MR. KNOWLES: Aye.

MR. GRUSS: Aye.

MR. GARRISON: Aye.

MR. IVES: Aye.

MR. SMALL: Aye.

MS. GRACE: Aye.

CHAIRMAN VILA: Any opposed?

This project is --

MR. CANTIN: Is this architecturally deferred to April 1st?

MR. FITZGERALD: What provisions of the criteria are you deferring this on? I'm Roy Fitzgerald on behalf of the Kellogg's. Either it's esthetically acceptable or it's not.

MS. VANNECK: Right now I need to see more

design with planting and that to make an opinion.

MR. RANDOLPH: Let's make sure you have a time certain as to the March --

CHAIRMAN VILA: To the March meeting, yeah, we want to see a presentation that includes landscape treatment for the area that we saw which has a gate with no visibility means to support and no landscape --

MR. GARRISON: It's deferred until March.

CHAIRMAN VILA: Okay. The next item on our agenda is B-011-2015, Storefront, 225 Worth Avenue, Suite B, applicant is JMcLaughlin, Tenant, Burton Handelsman is the manager, owner and of Love is next door, LLC, retail store. Ex parte communication --

THE CLERK: Mr. Villa, Mr. Randolph --

MR. RANDOLPH: If I might, the clerk cannot recall your having taken a vote in regard to the motion to defer, nor can I.

MR. GRUSS: We didn't take a vote.

CHAIRMAN VILA: We just said ayes and nays. I'd say we certainly did.

THE CLERK: Okay. Thank you.

CHAIRMAN VILA: Said aye in a hurry.

(The agenda item concluded at 12:03 p.m.)

1 C E R T I F I C A T E

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3

4 I, DAWN S. McCONNELL, Court Reporter, State of
5 Florida at Large, certify that I was authorized to and
6 did stenographically report the foregoing proceedings and
7 that the transcript is a true and complete record of my
8 stenographic notes.

9

10 Dated this 1st day of April, 2015

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17 Dawn S. McConnell

18 Dawn S. McConnell, FPR

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ORIGINAL

EXCERPT OF RECORDED ARCOM MEETING FOR TOWN OF PALM BEACH

RE: B010-2015 GATE

475 NORTH COUNTY ROAD

MARCH 25, 2015

WWW.USLEGALSUPPORT.COM
866-339-2608

1 (Item B010-2015 as follows:)

2 MR. CHAIRMAN: B010-2015 gate, 475 North County

3 Road. Applicant is Christopher and Vicki Kellogg. The

4 architect is Ralph Cantin, AIA. The project description

5 is a new black anodized aluminum gate on a service

6 driveway. At the February meeting, the project was heard

7 and a motion carried for deferral to the March meeting.

8 And I believe it was based on the fact that we were

9 presented just a plain old gate. And we asked that we

10 see landscaping around the gate, maybe even some supports

11 or posts or that sort of thing. Ex parte?

12 BOARD MEMBER: None.

13 BOARD MEMBER: None.

14 BOARD MEMBER: No.

15 MR. CHAIRMAN: No.

16 BOARD MEMBER: None.

17 BOARD MEMBER: Can I ask is Mr. Sammons recusing

18 himself on this?

19 THE SPEAKER: Mr. Sammons had a vote of incomp last

20 month on this project and it's the same this month.

21 MR. CHAIRMAN OFFICER: So Mr. Ives would be voting.

22 BOARD MEMBER: None.

23 BOARD MEMBER: Nothing since the letters from the

24 last meeting.

25 MR. CHAIRMAN: Thank you. Mr. Cantin?

1 MR. CANTIN: Good morning. Ralph Cantin for the
2 record. We're here to talk about the landscaping for the
3 gate. Dustin Mizell is here. It is 30 Spanish stoppers
4 54 inches high. We have the landscape plan right here.
5 I can zoom in on the area. I will be more reactive on my
6 comments depending on how the attorneys appear. But this
7 shows the undergrowth. It's a natural mid plant material
8 and then here's the growth here and the rendering here.
9 And in the other direction here. And depending on how
10 the conversation goes, I will talk more about the gate.
11 MR. CHAIRMAN: What's the landscaping you're
12 proposing?
13 MR. CANTIN: It's Eugenia Spanish stopper. It's a
14 natural undergrowth for Florida.
15 MR. CHAIRMAN: Can you back up to the shot that had
16 the Spanish bayonet in it? Okay. That's in a pot?
17 MR. CANTIN: Oh, yeah. This is all existing. All
18 you see here is where the hand is, this is green and this
19 green here. This is naturally shaded here. This is more
20 open here. The posts for the gates are four by four,
21 which were the same as presented last time.
22 MR. CHAIRMAN: Okay. Our purpose here is solely
23 dedicated to the aesthetics of the proposed gate. And so
24 what you are proposing is just ground cover?
25 MR. CANTIN: It's 54 inches high. The gate is five

1 feet high.

2 MR. CHAIRMAN: Oh, it's back there.

3 MR. CANTIN: It's back here, right here and here.

4 MR. CHAIRMAN: Okay. And what did you say the

5 material was?

6 MR. CANTIN: Eugenia Spanish stopper.

7 MR. CHAIRMAN: Mr. Karakul? Is that from before?

8 MR. KARAKUL: Yeah, that was from before.

9 MR. CHAIRMAN: Okay. Does anybody have any

10 questions about the proposed gate?

11 BOARD MEMBER: Spanish stoppers is a fine product to

12 use, so I don't have an objection to the Spanish stopper.

13 MR. CHAIRMAN: Okay. Mr. Garrison?

14 MR. GARRISON: Mr. Chairman, based on the comments

15 that we've gotten and the plan that we've gotten back,

16 I'll make a motion that we approve specifically the

17 request for the gates and the landscaping of the gates

18 and the landscaping.

19 MR. CHAIRMAN: Thank you. We have a gentleman at

20 the podium. Did you wish to discuss the aesthetics of

21 this gate?

22 MR. GREEN: I wish to lay a record. My name is

23 James K. Green, 222 Lakeview Avenue, West Palm Beach.

24 And along with Paul Rampell, we represent Christina

25 Noble, who's the owner of the property farther east. Ms.

1 Noble also owns an easement over a portion of the Kellogg
2 property, which is Mr. Kellogg in the applicant here.
3 Ms. Noble's address is 473 North County Road. Mr.
4 Kellogg's is 475. It used to be part of the same estate.
5 My client opposes the application. This gate will
6 block and seriously delay service access to Ms. Noble's
7 property. The Kellogg's gate affects two properties, not
8 only his but also Ms. Noble's. Ms. Noble does have a
9 gate farther east, but it only affects her property. We
10 have not joined Mr. Kellogg in the application. And as
11 stated earlier, we oppose it.
12 Two months ago, another matter affecting both the
13 Noble and the Kellogg properties came before landmarks on
14 January 21st. And the town attorney advised that Mr.
15 Kellogg and based upon town policy needed to join in Ms.
16 Noble's application regarding a slat house. Ms. Noble's
17 property is landmarked. Mr. Kellogg's is not. And for
18 the record, here is a transcript of the January 21, 2015,
19 landmarks hearing which is marked as Noble Exhibit 1.
20 Yesterday I sent --
21 MR. CHAIRMAN: We have a three-minute limit.
22 MR. GREEN: I understand, but I need to lay a
23 record. Yesterday I sent Mr. Randolph a letter, which is
24 Noble Exhibit 2.
25 MR. GARRISON: Mr. Chairman, we're talking about

1 aesthetics, right? We're not talking about legal ease on
2 this property or anything.
3 MR. CHAIRMAN: Exactly. Thank you, Mr. Garrison.
4 I'm not sure that you understand that this is not the
5 right venue for this legal presentation.
6 MR. GREEN: And for the record, I also have
7 testimony from Robert Moore, who's the former town
8 business building official for many, many decades, who
9 will testify that as a matter of town custom, policy and
10 practice, it always required that where a particular
11 application affected two property owners property rights
12 that the town required that both join in the application
13 whether it be before ARCOM or landmarks.
14 MR. CHAIRMAN: Well, I have a motion on the floor
15 right now.
16 BOARD MEMBER: Mr. Chair, I think that the
17 presentation by the attorneys for their record can be
18 made by submitting their letters in writing to whatever
19 authority because it does not apply to us. We do not
20 need to hear it.
21 MR. CHAIRMAN: Exactly.
22 BOARD MEMBER: And that being said, I will second
23 the motion.
24 MR. GREEN: May I make a proffer of Mr. Moore's
25 testimony?

1 MR. CHAIRMAN: I'm sorry?

2 MR. GREEN: May a make a live proffer of Mr. Moore's
3 testimony?

4 MR. CHAIRMAN: Don't you hear what we're saying?
5 This is not the right venue for these arguments. Our
6 understanding is --

7 MR. GREEN: But for an appeal, we need to lay a
8 record.

9 BOARD MEMBER: We're not talking about an appeal.
10 We're talking about approving an architectural gate with
11 landscaping, which we talked about last month. That's
12 why it's deferred. I move the motion, Mr. Chairman.

13 MR. CHAIRMAN: Exactly. We have a motion and it's
14 been seconded. All in favor? Any opposed? Okay.
15 There's one opposed. The motion carries. We think the
16 gate is fine.

17 THE SPEAKER: I'm sorry. Who opposed?

18 MR. CHAIRMAN: Mr. Gruss.

19 (End of this item.)

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1
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3 C E R T I F I C A T E
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5
6
7 The State of Florida,
8 County of Palm Beach.
9
10
11 I, Vicki Woodham, Court Reporter, and Notary Public, State of
12 Florida, do hereby certify that I was authorized to and did
13 listen to and stenographically transcribed the foregoing
14 audio-recorded proceedings and that the transcript is a true
15 record to the best of my ability.
16
17
18 Dated this 27th day of March, 2015.
19
20
21
22
23 Vicki Woodham, Court Reporter
24
25

JAMES K. GREEN, P.A.
LAWYERS

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March 24, 2015

By Email to:
jrandolph@jonesfoster.com

John C. Randolph, Esq.
Town of Palm Beach Town Attorney
505 South Flagler Drive, Suite 1100
West Palm Beach, FL 33402

Re: Kellogg Application B-010-2015 to ARCOM
475 N. County Road, Palm Beach, Florida

Dear Skip:

Paul Rampell, Esq. and I represent Cristina Noble, the owner of 473 N. County Road as well as an easement over a portion of 475 N. County Road.

Ms. Noble's neighbors, Christopher and Vicki Kellogg, filed an Application for Architectural Commission Review to construct a new black gate across Ms. Noble's easement.

We object to the Town of Palm Beach allowing Mr. and Mrs. Kellogg's application unless and until Ms. Noble joins in the same. Ms. Noble is a co-owner and an indispensable party. Ms. Noble's vested property interest in 475 N. County is reflected in Executors' Deed dated December 8, 1960, a copy of which is attached, and this interest has never been released or terminated in any way whatsoever.

We acknowledge that the Town, as a matter of policy and expediency, does not undertake a title search of every property for which ARCOM approval may be pursued. In this case, however, we have brought to the Town's attention the vested interest of a co-owner whose service drive will be blocked if the subject gate is permitted. Accordingly, the Town ignores this property owner at its own peril. Since you and others have cautioned ARCOM and the Town Council against taking actions which will invite litigation, it seems both appropriate, given the circumstances, and prudent for the Town to require Ms. Noble joiner in Mr. Kellogg's application.

Recently, Ms. Noble applied for a Certificate of Appropriateness from the Landmarks Preservation Commission ("LPC") to demolish a slat house which straddled her land and Mr. Kellogg's land. Even though Mr. Kellogg's property is not landmarked and is not

subject to the LPC's jurisdiction, you advised the Town to require his signature on Ms. Noble's application. At the hearing you said:

> ...I think to protect the Town, I don't want to see the Town get into the middle of a lawsuit as to whether or not we had jurisdiction to knock property down on both properties.

In this situation before ARCOM, as in the prior situation before LPC, Ms. Noble and Mr. Kellogg have (a) two distinct property interests and (b) both interests are effected by the Town's decisions.

Ms. Noble will be compelled to take action against the Town if it issues approval to Mr. Kellogg to block her access. Action against Mr. Kellogg alone will be insufficient to stop him; one of his defenses will be that he is acting within the Town's permission.

Sec. 18-205, Criteria for building permit, in the Code of Ordinances, contains language favoring good design and balance and the protection of neighborhoods. The proposed gate will disrupt this area by blocking vehicular traffic on a service drive and diverting it to, and thus overloading, an owners drive. Surely, a mandate for ARCOM should be to preserve a resident's access to her home.

The Town routinely requires residents to obtain permission from holders of utility easements prior to various construction and this situation is equivalent.

Please reconsider your advice to ARCOM. The Town easily can require Ms. Noble's signature on Mr. Kellogg's application, an approach which will obviate litigation.

Very truly yours,

James K. Green, Esq.

cc: Ms. Cristina Noble
Paul Rampell, Esq.

MRACHEK
FITZGERALD
ROSE
KONOPKA
THOMAS
& WEISS, P.A.

L A W

Writer's Direct Dial: (561) 355-6992
Writer's E-mail: arotan@mrachek-law.com

April 24, 2015

Via e-mail: tbradford@townofpalmbeach.com
and U.S. Mail

Thomas G. Bradford, Town Manager
Palm Beach Town Hall
360 South County Road
Palm Beach, FL 33480

Re: Appeal by Cristina Noble of March 25, 2015 Architectural Commission Decision on Item No. B-010-2015 Gate, 475 North County Road

Dear Mr. Bradford:

This law firm represents Christopher Kellogg, owner of 475 North County Road.

It has come it our attention that Cristina Noble has filed an appeal with the Town Clerk of the decision by the Palm Beach Architectural Commission ("ARCOM") at its March 25, 2015 meeting to approve the architectural substance and aesthetic appearance of a gate on the Kellogg's property located at 475 North County Road.

The purpose of this letter is to ascertain: (i) the date when the hearing on the Noble appeal will take place; (ii) what standard of review will be applied at the hearing, and; (iii) what evidence will be considered by the Town Council at the hearing.

Section 18-177 of the Palm Beach Code of Ordinances mandates that "[a]ppeals filed pursuant to this section shall be based on the record of the proceedings below and shall not be presented de novo" and that the appeal "shall set forth the alleged inconsistency or nonconformity with the procedures or criteria set forth in this article or standards set forth in or pursuant to this Code." It is our understanding that the Town Council's review of the proceeding below is limited to the question of whether ARCOM, as reflected in the record, properly applied the criteria set forth in section 18-205(a) in approving Kellogg's application for a building permit. Any issues presented or arguments made on appeal that are outside the scope of review as delineated in section 18-177 are not to be considered or heard.

Noble makes no argument in her appeal that ARCOM failed to properly apply the section 18-205(a) criteria when it approved the Kellogg's application, and the record of the proceeding below clearly demonstrates that ARCOM did not stray from the requirements of section 18-205(a) in granting approval.

In the proceeding below, ARCOM limited itself to considering only the architectural substance and aesthetic appearance of the gate as detailed in the Kellogg's application. In fact, section 18-205(b) states that if the criteria laid out in 18-205(a) is met, "the application *shall* be approved." The record below contains no indication that the Kellogg's application failed to meet the section 18-205(a) criteria, or that ARCOM erred in applying the criteria to the Kellogg's application.

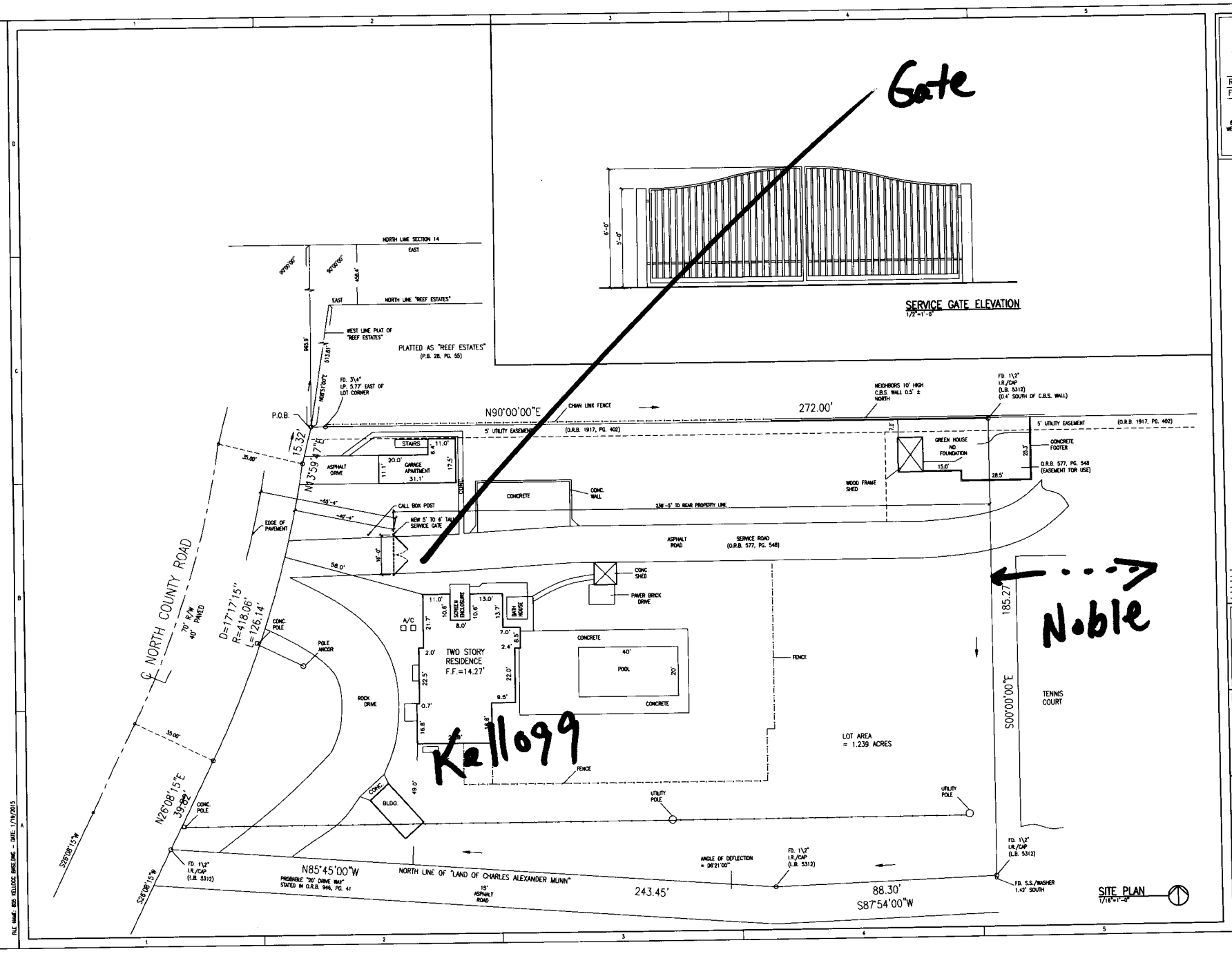
We therefore anticipate the Town Council will have little difficultly in upholding ARCOM's decision to approve the application.

Sincerely,

Alexander S. Rotan, Esq.

ASR/gjd
cc: John Lindgren, via e-mail jlindgren@townofpalmbeach.com
Susan Owens, via e-mail sowens@townofpalmbeach.com
John Randolph, Esq., via e-mail jrandolph@jonesfoster.com

SERVICE GATE RENDERING



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PROJECT TITLE
KELLOGG RESIDENCE SERVICE GATE
475 N. COUNTY ROAD
PALM BEACH, FL 33480

ISSUED FOR - REVISIONS
1/18/15 ARCOM B-010-2015

SHEET TITLE
SITE PLAN

805 KELL BASE
DRAWN BY RTC
REVIEWED BY RTC
PROJ. NO. 805 KELLOGG
SHEET NO. A101

FILE NAME: 805 KELLOGG BASELINE - DATE: 1/19/2015

Sec. 18-205. Criteria for building permit.

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

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

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

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

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

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

a. Apparently visibly identical front or side elevations;

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

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

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

a. Height of building or height of roof.

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

c. Architectural compatibility.

d. Arrangement of the components of the structure.

e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.

f. Diversity of design that is complimentary with size and massing of adjacent properties.

g. Design features that will avoid the appearance of mass through improper proportions.

h. Design elements that protect the privacy of neighboring property.

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

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

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

(10) The financial guarantee required in section 18-175 is met.

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

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

(Code 1982, § 5-38.2; Ord. No. 3-98, § 1, 3-10-98; Ord. No. 5-00, § 1, 7-11-00; Ord. No. 32-08, §

ARCOM Minutes of February 2015

B. **MAJOR PROJECTS-NEW BUSINESS: (11:50:01 a.m.)**

B - 010 - 2015 Gate
Address: 475 N. County Road
Applicant: Christopher and Vicki Kellogg
Architect: Ralph Cantin, AIA
Project Description: New black anodized aluminum gate on service driveway

Call for disclosure of ex parte communication: Disclosures by several members

ARCHITECTURAL PRESENTATION BY: Ralph Cantin
ATTORNEY PRESENT: Paul Rampell for Ms. Noble at 473 N. County Road
ATTORNEY PRESENT: Frank Lynch for 123 LLC at 455 N. County Road
ATTORNEY PRESENT: Roy Fitzgerald for the Kelloggs

Mr. Randolph stated that Mr. Rampell had contacted him in regard to a recorded easement suggesting that this application not be entertained unless Mr. Rampell's client joined in the application, because his client has a property interest in this matter. Mr. Randolph opined that ARCOM was only to apply the criteria of the Code as it relates to the placement of the gate and

not to make a legal determination as to who owns what part of the property. Routinely, when staff receives an application, no title search is performed to reveal any recorded agreements or easements. Mr. Randolph advised Mr. Rampell that the role of ARCOM in this matter is just to consider the design of the gate under the criteria of the Code.

Mr. Cantin presented the gate in accordance with the submitted plans for the proposed gate, to be placed 50 feet back from County Road.

Let the record show that Mr. Sammons declared a voting conflict with regard to this project as he has a client with an interest in this property. Mr. Ives will vote on this project.

MOTION BY MR. GARRISON FOR APPROVAL OF THE GATE, AS PRESENTED.
MOTION SECONDED BY MR. KARAKUL, BUT THERE SHOULD BE SOME VEGETATION AROUND EACH OF THE GATE POSTS.
MR. GARRISON ACCEPTED THE CONDITION STATED BY MR. KARAKUL.

Mrs. Vanneck agreed that the gate needs to be anchored by landscaping.

Attorney Frank Lynch, representing 123, LLC, the property immediately to the south, stated that his client's concern is that this gate represents a barrier across an easement. His client was not opposed to the gate, but to what that gate represents. If the gate is allowed to be closed, and there is no automatic opener to that gate, the possibility exists that service personnel will be re-directed onto an easement that exists on the property owned by 123, LLC, overburdening that easement. If there were an automatic opener to the gate, so that service vehicles approaching could have access, that concern would go away.

Attorney Paul Rampell, representing Cristina Noble, owner of 473 North County, stated that Ms. Noble also owns an easement over Mr. Kellogg's property. There is ongoing litigation between Ms. Noble and Mr. Kellogg with many different issues disputed. He stated that he and his client object to the Town entertaining this application because his client is a co-owner of the property over which the gate is planned. His client has not joined in the application. He submitted a survey into the record. He maintained that he must be allowed to present the case of his client so that it is on the record and appealable to the Town Council.

Upon hearing the outcry from ARCOM members as to why they were being drawn into these issues that do not concern ARCOM, Mr. Randolph advised that Mr. Rampell has the right to present his case orally today.

Mr. Cantin stated that access through the gate will be by a code, and the code will be given to Ms. Noble.

Mrs. Vanneck suggested that both parties be instructed to resolve their issues with the other, and then return to ARCOM for approval.

MOTION WITHDRAWN BY MR. GARRISON.

MOTION BY MR. GRUSS TO DEFER TO MARCH.
MOTION SECONDED SIMULTANEOUSLY BY MR. IVES AND MRS. VANNECK.
MOTION CARRIED UNANIMOUSLY.

ARCOM Minutes of March 2015

B - 010 - 2015 Gate
Address: 475 N. County Road
Applicant: Christopher and Vicki Kellogg
Architect: Ralph Cantin, AIA
Project Description: New black anodized aluminum gate on service driveway
At the February meeting, the project was heard, and a motion carried for deferral to the March meeting.

Let the record show that Mr. Sammons left the dais due to his continuing voting conflict with this project. Mr. Ives will vote.

Call for disclosure of ex parte communication: Disclosure by Mr. Ives

ARCHITECTURAL AND LANDSCAPE PRESENTATION BY: Ralph Cantin
OTHERS WHO TESTIFIED: Attorney James K. Green

Mr. Cantin presented photos to illustrate the revised project with landscaping. He explained that 30 Spanish Stoppers or Eugenia (54" high) will be planted at the area of the gate.

Mr. Vila reminded that ARCOM's sole purpose is to review the aesthetics of the gate and the landscaping.

MOTION BY MR. GARRISON TO APPROVE SPECIFICALLY THE REQUEST FOR GATES AND LANDSCAPING.

Attorney James K. Green, 222 Lakeview Avenue, West Palm Beach, stated that he and Paul Rampell represent Cristina Noble, the owner of 473 North County Road. Ms. Noble owns an easement over the Kellogg property, and opposes the application as the gate will block and delay service access to her property. Further, Attorney Green stated that his client has not joined Mr. Kellogg in this application. Mr. Green referred to an application which was heard before the Landmarks Preservation Commission on January 21, 2015 involving these two properties and property owners, where the signatures of both property owners were required on the application. He submitted two documents for the record: Noble Exhibit 1-Verbatim transcript of the Landmarks Preservation Commission meeting of January 21, 2015, and Noble Exhibit 2- Letter dated March 24, 2015 from James K. Green to John C. Randolph, Town Attorney. He stated that Robert Moore, former Director of Planning, Zoning and Building, was present and would testify that it has been a long practice of the town that if an application affected the property rights of two owners, both signatures were required.

Mr. Vila advised that this is not the right venue for these legal arguments.

MOTION SECONDED BY MRS. VANNECK.
MOTION CARRIED 6-1, WITH MR. GRUSS OPPOSED.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 13, 2015

Section of Agenda

Development Review - Old Business

Agenda Title

SITE PLAN REVIEW #13-2014 WITH SPECIAL EXCEPTIONS AND VARIANCES (MODIFIED) The application of T3 Family Investment, LLC; relative to property commonly known as **221 & 231 Royal Poinciana Way, Sunset Avenue, 214 Sunset Avenue, 216 Sunset Avenue**; described as Lengthy Legal Description on file; located in the C-TS Zoning District. The application has been modified and the applicant is requesting the following approvals:

1. Applicant is requesting site plan approval to construct a two (2) story 63,680 square foot mixed commercial and residential use condominium development with 42,962 square foot sub-basement with 86 underground parking spaces totaling 106,642 square feet, 18,080 square feet of commercial space on the first floor and six (6) residential units on the second floor. The following other zoning approvals are being requested:
2. Special Exception to allow residential tenancy above the first floor, as required by Section 134-1109(a)(3) for six (6) condominium units.
3. Special Exception to allow two (2) stories as required by Section 134-1113(8)(c).
4. Special Exception to allow Testa's Restaurant to occupy over 3,000 square feet of gross leasable area and 152 seats as required by Section 134-1109(a)(11). 5. Special Exception to allow outdoor seating for 60 of the 152 seats outdoors for Testa's Restaurant as required by Section 134-1109(a)(11) and 134-1111(a).
6. Variance to allow portions of the underground parking sub-basement to be paved for walkways and equipment pads in lieu of being landscaped as required in Section 134-2179(a).
7. Variance to allow a total of 86 off-street parking spaces in lieu of the required 140 off street parking spaces as required by Section 134-2175.
8. Variance to allow a maximum building length of 250.9 feet in lieu of the maximum allowed 150 feet allowed per Section 134-1113(10)(b).
9. Variance to allow for a landscaped open space of 12.2% in lieu of the minimum 25% required by Section 134-1113(11)(b).
10. Variance to allow a two (2) story building to be 106,642 square feet in lieu of the maximum allowed 15,000 square feet as required by Section

134-1113(12)(b).
11. Variance to allow lot coverage of 81.2% in lieu of 70.0%, as maximum permitted by Code Section 134-1113(9)(b).
[Attorney: Francis X. J. Lynch]
[Architectural Commission Recommendation: Implementation of the proposed variances related to architecture will not cause negative architectural impacts to the subject property. Carried 7-0.]
Deferred from the October 15, 2014, November 12, 2014, December 10, 2014, January 14, 2015, February 11, 2015, and March 11, 2015, Town Council Meetings.
TIME CERTAIN: 10:30 A.M.

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

Supporting Documents

- **Letter Dated April 6, 2015, from Anne C. Pepper**
- **Letter Dated May 5, 2015, from William O. Cooley**
- **E-mail Dated May 6, 2015, from Susan Watts**
- **E-mail Dated May 6, 2015, from Nixon S. Griffis**
- **E-mail Dated May 7, 2015, from Doug Williamson**
- **E-mail Dated May 7, 2015, from Frederick McCarthy**
- **E-mail Dated May 7, 2015, from Debby and John Oxley**
- **E-mail Dated May 7, 2015, from Lindley MF Hoffman and Judy Wells Hoffman**
- **E-mail Dated May 7, 2015, from Anna Murdoch Mann**
- **E-mail Dated May 7, 2015, from Casey Cowell**
- **E-mails Dated May 7, 2015, from David and Carol Barton**
- **E-mail Dated May 7, 2015, from Lisa Heard**
- **E-mail Dated May 7, 2015, Suzanne Elson**
- **E-mail Dated May 7, 2015, from Anita Pollak**
- **E-mail Dated May 7, 2015, Barbara Williamson**
- **Letter Dated May 7, 2015, from Nancy E. Stroud, Esq.**

Anne C. Pepper
Interior Design and Decoration

4-6-15

Mayor and Town Council
Town Manager
Town of Palm Beach
By PDF

Dear Mayor and Town Council,
As the secretary/treasurer of the Neighborhood Alliance of Palm Beach, Inc,(NAPB) with an office at 101 Bradley Place in an area directly affected by the T3 Family Investments application to be heard on May 13, 2015 and as an individual tax-paying resident of the Town of Palm Beach, I and the NAPB have an interest in these zoning matters that exceeds that of the general interest of the community. A substantial number of the members of the NAPB will be adversely affected by a decision to approve the applicationPlease make this letter a part of the legal record.

Our organization has spoken often before the Town Council in recent years seeking to have the Council uphold the zoning ordinances currently in effect with regard to this project. We spearheaded the successful campaign in which the voters of the Town rejected by referendum the proposed PUD-5 Ordinance which would have permitted much larger development on Royal Poinciana Way and Sunset Avenue. This is the heart of our town, the historic Main Street and the nearest egress from the Island for all North End Residents. That this area is already congested, contains one of the most dangerous intersections in the town (Royal Poinciana Way and Bradley Place) and is deficient in parking due to pre-existing development is well documented. To exacerbate this situation by granting special exceptions and variances is not only illegal but unsafe and a burden for the residents and NAPB members who pass through this area daily and use the nearby businessesa .

The ongoing Palm House debacle should be a lesson regarding large scale development and its pitfalls must be avoided. Has the Council looked to see what parallels there might be between the two projects? What if Testa's is torn down and

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then the project not built, leaving a great void in the center of town? How can that be averted? Require a bond that the developer must build within a certain time frame? Look at the Plaza Inn site-how long has the lot been vacant? What if the retail spaces - far more than what the town can support given the condition of retailing nationwide- cannot be leased as smaller specialty stores that Palm Beachers value will be unable to afford the rent? How long will the project remain empty before another restaurant asks to combine spaces and open. How will their parking needs be met?

The law is clear that a self-created hardship cannot constitute basis for a zoning variance. When a developer is tearing down one fifth of a town block, over an acre, clearly there is no hardship associated with the land. The so-called reasoning for the variances and special exceptions is created by the developer's desire for maximum building size on the property and therefore maximum profit. It is not the Town's obligation to assist any owner in making a windfall at the expense of the Town residents' safety and welfare. With such a large blank canvas to build on, there are innumerable reasonable uses for this site. Building within the code as to lot coverage, landscaping and parking is the legal and reasonable approach. All aspects of this project should be sent back to the design drawing board and told to return only with a project that is compliant in every aspect. A design within the code will also be in harmony with the neighborhood. Smaller buildings as required by code would result in a smaller underground parking lot, more landscaping, more permeable surface area, and reduced parking variance request.

This is the legal and reasonable course the Council must take. An in-scale, code compliant design will enhance the street, be sustainable, leasable, desirable and in the best interests of the Town.

Respectfully submitted,

Anne C. Pepper
NAPB Sec/Treasurer
333 Seaspray Ave

PALM BEACH PRESERVATION ALLIANCE, LLC
Suite 200B
101 Bradley Place
WILLIAM O. COOLEY
171 El Pueblo Way
Palm Beach, Florida 33480

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

May 5, 2015

RE: T3 Family Investments, LLC: Site Plan; Special Exception; Variance application, sometimes referred to as the "Testa" application.

Dear Mayor and Members of the Town Council,

Palm Beach Preservation Alliance, LLC ("PBPA"), and, William O. Cooley, as an individual and as a Director of PBPA, are adversely affected by the proposed Town Council actions that would grant site plan approval, special exceptions, and variances to the above captioned project. We have an interest in these zoning decisions being considered by the Town Council at the scheduled meeting of May 13, 2015, an interest that exceeds the general interest of other citizens in the community.

At present I maintain an office at 101 Bradley Place, and previously I maintained an office at 203 Royal Poinciana Way, both being within the Royal Poinciana Way block on which Testa's is located. The expansion of the Testa property beyond that which is allowed under our current C-TS ordinance will increase traffic and congestion and create parking issues that will affect my use of the office property.

I also have actively participated in and supported the work of those who sought and achieved a referendum on the Town's last effort in 2013-14 to allow Testa's to expand, when the voters of the Town rejected the Town's proposed PUD-5 ordinance. As you know, I have testified before many Town Council and Town Board and Commission meetings in the last several years regarding the zoning that is appropriate to this traditional and Historic Main Street block in our Town. Many years of my life and considerable financial resources of my own have been spent in the effort to preserve and protect the character and history of this block. The proposed variances and special exceptions that are now being considered for the Testa property would undo all of the efforts that I personally, along with the Neighborhood Alliance of Palm Beach, and the hundreds and hundreds of citizens of Palm Beach have made.

My interest in the Royal Poinciana Way block has extended to my being a party in the state administrative challenge to the Town's adoption of the comprehensive plan amendments regarding the proposed PUD-5 in 2013-14. Case No. 13-4554GM, Florida Division of Administrative Hearings, was brought by me personally and by the Neighborhood Alliance of

Palm Beach to stop the comprehensive plan amendments that would have enabled the overdevelopment of the Testa property and other properties on the Royal Poinciana Way/Sunset Avenue block.

I own residential property in the north part of Town and live in the north part of town and travel past this block many times during the typical day. As we all know, Royal Poinciana Way is a main road to access the mainland for those of us who live in the northern neighborhoods of the island. The expansion of Testa's will obviously increase traffic and congestion for me personally, and for others in the north end of Palm Beach in our daily travels to and from our homes.

I have personally invested extraordinary time and resources over the years in special efforts to preserve the character of the Town in which my wife has been a resident of since 1967, and in which I have resided for over twenty years. I have served on the Landmarks Preservation Commission for four years and was that commission's past-Chairman. This is my second term on that Commission, the first from 2009 to 2012 and again in 2014 - 15. I have formed, and am Chairman and Director of, the Palm Beach Preservation Alliance, LLC, which is dedicated to preserving the historic nature of Palm Beach. I am fully committed to this community, to its historic past, and to preserve and protect the character of its residential areas and its commercial centers, especially the historic Main Street of Royal Poinciana Way.

The reason for the foregoing recitation of fact is to demonstrate that I am a voter, a property owner, a citizen, a taxpayer in the Town of Palm Beach and that I have an interest that exceeds the general interests of other citizens in the block and in the negative manner in which the proposed Testa project, with its need for variances and special exceptions, will have on the block and the area.

As a matter of procedure for the hearing on this matter, the notice published in the *Palm Beach Daily News* states that site plan approval, four (4) Special Exception approvals, and six (6) variances are being requested. I would respectfully request that the variance matters be heard by the Council as the first matter as the variances granted, if any, will determine the site plan and the need for Special Exceptions.

Next I would like to point out to the Council that settled law in the case of Bernard v. Town Council of Palm Beach prohibits the granting of every one of these requested variances as they are all self-created hardships that necessitate these requested variances.

The 1990 decision by the Fourth District Florida Court of Appeals found that:

> "... [a] hardship necessary to obtain a zoning variance **may not be found** unless there is a showing that under present zoning **no reasonable** use can be made of the property, and **self-created hardship cannot constitute basis for zoning variance."** (emphasis added).

There are many "reasonable" uses for the subject property without the requested variances. The owners can build a myriad of different types and styles of buildings on the property by merely abiding by, and complying with, the existing C-TS ordinance. **This would include an "above ground" parking structure.** The question in the Testa matter doesn't seem to be whether or not the property can be used, because clearly it can be used without these variances, but what density of development will be allowed? The question of maximizing the financial return for the developer should not be considered. I'd like to remind the Council that our Ordinances were set up to be applied evenly to all property owners and were not designed to allow excess financial gain by one property owner over another. Financial gain to a developer or land owner is not, and should not, be a part of the Town's obligation or consideration when reviewing a variance request. **This project would not be in front of the Council in this form if the owners hadn't amassed $9 million in debt on the property. It is not the obligation of the Town Council to bail out the parties at interest at the expense of sacrificing our zoning ordinances and the small town character of Palm Beach.**

Every variance that is being requested is necessitated by the owner's/developer's own hand. They are all "self-created."

I would like to remind the council that there are criteria that must be met in Section 134-299 of the Code of Ordinances before a Special Exception can be granted. There are fourteen (14) specific criteria in Section 134-299 and while all fourteen (14) must be met, I would like to call your attention to four (4) of the criteria that the granting of these Special Exceptions do not meet. They are 134-299 (2), (4), (5) and (8);

> (2). The use is so designed, located and proposed to be operated that the public health, **safety,** welfare and morals will be protected.
>
> (4). The use will be compatible with adjoining development and the **intended purpose of the district in which it is to be located.**
>
> (5). The use **will comply with yard, other open space**, and any special requirements set out in article VI for the particular use involved.
>
> (8). Adequate ingress and egress to property and proposed structures thereon and **off-street parking** and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe. (emphasis added).

None of the Special Exceptions requested meet these criteria. This is a Commercial Town Serving district. Five Thousand (5,000) foot condominiums are not compatible with the intended commercial purpose of this district. Granting these Special Exceptions would trigger the need for Variances for parking. **Special Exceptions cannot legally be granted when their granting necessitates variances to accommodate those Special Exceptions.**

The following are the "special exceptions" and "variances" being requested by the applicant, as published in the *Palm Beach Daily News,* followed by the reasons each must be denied by the Town Council (numbering as published in the notice).

1. **Applicant is requesting site plan approval to construct a two (2) story 63,680 square foot mixed commercial and residential use condominium development with 42,962 square foot sub-basement with 101 underground parking spaces totaling 106,642 square feet, 18,080 square feet of commercial space on the first floor and six (6) residential units on the second floor.**

   The site plan approval should be deferred until after the variances and special exceptions have been considered as granting or denial of those may change the site plan.

2. **Special Exception to allow residential tenancy above the first floor, as required by Section 134-1109(a)(3) for six (6) condominium units.**

   Considering the fact that granting these condominium units exacerbates the parking shortage for the project, these should not be allowed until the project is brought within the code for parking. When the project is 54 parking spaces short of the required amount, it is outside permissible discretion of the council to allow this Special Exception, the granting of which would require fourteen (14) additional parking spaces.

3. **Special Exception to allow two (2) stories as required by Section 134-1113(8)(c).**

   Same as item 2 above. This Special Exception should not be granted until such time as the project is in compliance with the parking code. It is outside the authority of the Town Council to grant a special exception when doing so necessitates the simultaneous granting (and is the causation) of a variance.

4. **Special Exception to allow Testa's Restaurant to occupy over 3,000 square feet of gross leasable area and 152 seats as required by Section 134-1109(a)(11).**

   This requested Special Exception should be denied until such time as the project complies within the parking code. It is outside the authority of the Town Council to grant a special exception when doing so necessitates the granting of a simultaneous variance. This project exceeds the Town of Palm Beach parking ordinance by 54 cars. The granting of this special exception only increases that problem. The restaurant **can** be operated with a 4COP license that does not require 150 seats or a variance or this Special Exception.

5. **Special Exception to allow outdoor seating for 60 of the 152 seats outdoors for Testa's Restaurant as required by Section 134-1109 (a) (11) and 134-1111(a).**

   This should be denied until such time as it is determined the exact seating capacity of the restaurant and that there is available parking under the ordinance. Four thousand (4,000) square feet in size and 152 seats are not allowed under the current code as the request requires a parking variance that cannot legally be granted by the Town Council. When the project is brought to a point where it is within the parking code, then, and only then, should this special exception by considered.

6. **Variance to allow portions of the underground parking sub-basement to be paved for walkways and equipment pads in lieu of being landscaped as required in Section 134-2179(a).**

   This **must** be denied by the Council as the Town of Palm Beach Ordinance Sec. 134-201 provides, "In order to authorize **any** variance from the terms of this chapter, the town council **must and shall** find the following: "(1)...circumstances exist which are **peculiar to the land....** (2) The special conditions and circumstances **do not result from the actions of the applicants**. (3) Granting the variance requested will not confer on the applicant **any special privilege** that is denied by this chapter to other lands, buildings or structures in the same zoning district. (5). The variance granted is the **minimum variance that will make possible the reasonable use of the land,** building or structure." (emphasis added).

   (Note: There are seven (7) sub-sections to this ordinance, six (6) of which apply to the proposed development; in order to grant the requested variance the council must and shall find that **all** six (6) would apply to the property/applicant. While this applicant does not comply with most or all of the six (6) requirements in Sec. 134-201 (a), the above noted four (4) sub-sections in particular stand out as requirements the applicant has not met.)

   In addition to not meeting the requirements of Ordinance Sec. 134-201, this requested variance is clearly outside the law as stated in Bernard v. Town Council of Palm Beach. The Bernard decision states, among other things, "[a] hardship necessary to obtain zoning variance may not be found unless there is showing that under present zoning no reasonable use can be made of property **and self-created hardship cannot constitute basis for zoning variance."** (emphasis added).

This also is a self-created hardship. The land can be reasonably used without this variance being granted. The request for this variance is necessitated by the applicants desire to maximize development of this site for financial considerations.

7. **Variance to allow a total of 86 off-street parking spaces in lieu of required 140 off-street parking spaces allowed as required by Section 134-2175.**

In an area of Palm Beach that is so starved for parking, to allow this 54 car variance would only increase the parking problem. This project can be designed with adequate on-site parking by simply reducing the density of the project and/or by modifying the project size and constructing on site, above ground parking facilities. The Town Council cannot legally grant this, and other, variance(s) as they are self-created by the developer's hand.

This **must** be denied by the Council as the Town of Palm Beach Ordinance Sec. 134-201 provides, "In order to authorize **any** variance from the terms of this chapter, the town council **must and shall** find the following: "(1) ...circumstances exist which are **peculiar to the land....** (2) The special conditions and circumstances **do not result from the actions of the applicants**. (3) Granting the variance requested will not confer on the applicant **any special privilege** that is denied by this chapter to other lands, buildings or structures in the same zoning district. (5) The variance granted is the **minimum variance that will make possible the reasonable use of the land,** building or structure." (emphasis added).

(Note: There are seven (7) sub-sections to this ordinance, six (6) of which apply to the proposed development; in order to grant the requested variance the council must and shall find that **all** six (6) would apply to the property/applicant. While this applicant does not comply with most or all of the six (6) requirements in Sec. 134-201 (a), the above noted four (4) sub-sections in particular stand out as requirements the applicant has not met.)

In addition to not meeting the requirements of Ordinance Sec. 134-201, this requested variance is clearly outside the law as stated in Bernard v. Town Council of Palm Beach. The Bernard decision states, among other things, "[a] hardship necessary to obtain zoning variance may not be found unless there is showing that under present zoning no reasonable use can be made of property and self-created hardship cannot constitute basis for zoning variance."

This is probably the most outrageous of the requested variances. A recent parking inventory provided by the Town has indicated that there is an existing parking deficit of 1591 parking spaces in the Royal Poinciana Way/-Sunset block. An additional 54 spaces to that present deficit is not in the best interests of the town. Further, if the applicant was not "maxing" out the development on this site and asking for, among other things, variances for landscape, lot coverage and size, and special exceptions to build 2nd story residential units and to expand the allowable space in their restaurant from 3,000 to 4,000 square feet, they would not require so many parking spaces and would not require these variances. This variance request is self-created and cannot legally be granted.

8. **Variance to allow a maximum building length of 250.9 feet in lieu of the maximum allowed 150 feet allowed per Section 134-1113(10)(b).**

This **must** be denied by the Council as the Town of Palm Beach Ordinance Sec. 134-201 provides, "In order to authorize **any** variance from the terms of this chapter, the town council **must and shall** find the following: "(1)…circumstances exist which are **peculiar to the land….** (2) The special conditions and circumstances **do not result from the actions of the applicants**. (3) Granting the variance requested will not confer on the applicant **any special privilege** that is denied by this chapter to other lands, buildings or structures in the same zoning district. (5). The variance granted is the **minimum variance that will make possible the reasonable use of the land,** building or structure." (emphasis added).

(Note: There are seven (7) sub-sections to this ordinance, six (6) of which apply to the proposed development; in order to grant the requested variance the council must and shall find that all six (6) would apply to the property/applicant. While this applicant does not comply with most or all of the six (6) requirements in Sec. 134-201 (a), the above noted four (4) sub-sections in particular stand out as requirements the applicant has not met.)

In addition to not meeting the requirements of Ordinance Sec. 134-201, this requested variance is clearly outside the law as stated in Bernard v. Town

Council of Palm Beach. The Bernard decision states, among other things, "[a] hardship necessary to obtain zoning variance may not be found unless there is showing that under present zoning no reasonable use can be made of property **and self-created hardship cannot constitute basis for zoning variance.**" (emphasis added).

This also is a self-created hardship. The building design is of the developers own choosing. This one massive building could simply be broken into two separate buildings to meet this section of the code. This variance request must be denied as a self-created hardship and for the fact that not granting the variance has no effect on the ability to use the property for a number of commercial uses by the owner/developer.

9. **Variance to allow for a landscaped open space of 12.2% in lieu of the minimum 25% required by Section 134-1113(11)(b).**

This **must** be denied by the Council as the Town of Palm Beach Ordinance Sec. 134-201 provides, "In order to authorize **any** variance from the terms of this chapter, the town council **must and shall** find the following: "(1)...circumstances exist which are **peculiar to the land....** (2) The special conditions and circumstances **do not result from the actions of the applicants**. (3) Granting the variance requested will not confer on the applicant **any special privilege** that is denied by this chapter to other lands, buildings or structures in the same zoning district. (5) The variance granted is the **minimum variance that will make possible the reasonable use of the land,** building or structure." (emphasis added).

(Note: There are seven (7) sub-sections to this ordinance, six (6) of which apply to the proposed development; in order to grant the requested variance the council must and shall find that all six (6) would apply to the property/applicant. While this applicant does not comply with most or all of the six (6) requirements in Sec. 134-201 (a), the above noted four (4) sub-sections in particular stand out as requirements the applicant has not met.)

In addition to not meeting the requirements of Ordinance Sec. 134-201, this requested variance is clearly outside the law as stated in Bernard v. Town Council of Palm Beach. The Bernard decision states, among other things, "[a] hardship necessary to obtain zoning variance may not be found unless there is showing that under present zoning no reasonable use can be made of property **and self-created hardship cannot constitute basis for zoning variance.**" (emphasis added).

This is a self-created hardship. Again, the developers desire to create this dense development is over-shadowed by their inability to abide by the ordinances. The property could simply be less dense and meet the landscape requirement.

10. Variance to allow a two (2) story building to be 106,642 square feet in lieu of the maximum allowed 15,000 square feet as required by Section 134-1113(12)(b).

This **must** be denied by the Council as the Town of Palm Beach Ordinance Sec. 134-201 provides, "In order to authorize **any** variance from the terms of this chapter, the town council **must and shall** find the following: "(1)...circumstances exist which are **peculiar to the land....** (2) The special conditions and circumstances **do not result from the actions of the applicants**. (3) Granting the variance requested will not confer on the applicant **any special privilege** that is denied by this chapter to other lands, buildings or structures in the same zoning district. (5). The variance granted is the **minimum variance that will make possible the reasonable use of the land,** building or structure." (emphasis added).

(Note: There are seven (7) sub-sections to this ordinance, six (6) of which apply to the proposed development; in order to grant the requested variance the council must and shall find that all six (6) would apply to the property/applicant. While this applicant does not comply with most or all of the six (6) requirements in Sec. 134-201 (a), the above noted four (4) sub-sections in particular stand out as requirements the applicant has not met.)

In addition to not meeting the requirements of Ordinance Sec. 134-201, this requested variance is clearly outside the law as stated in Bernard v. Town Council of Palm Beach. The Bernard decision states, among other things, "[a] hardship necessary to obtain zoning variance may not be found unless there is showing that under present zoning no reasonable use can be made of property **and self-created hardship cannot constitute basis for zoning variance."** (emphasis added).

Again, this is a self-created hardship necessitated by the developers desire to over-build the site. The developer would not need this variance if they would simply build to the setbacks and to the density required in the C-TS ordinance.

11. Variance to allow lot coverage of 81.2% in lieu of 70% maximum allowed by Code Section 134-1113(9)(b).

This **must** be denied by the Council as the Town of Palm Beach Ordinance Sec. 134-201 provides, "In order to authorize **any** variance from the terms of this chapter, the town council **must and shall** find the following: "(1)...circumstances exist which are **peculiar to the land....** (2) The special conditions and circumstances **do not result from the actions of the applicants**. (3) Granting the variance requested will not confer on the applicant **any special privilege** that is denied by this chapter to other lands, buildings or structures in the same zoning district. (5) The variance granted is the **minimum variance that will make possible the reasonable use of the land,** building or structure." (emphasis added).

(Note: There are seven (7) sub-sections to this ordinance, six (6) of which apply to the proposed development; in order to grant the requested variance the council must and shall find that all six (6) would apply to the property/applicant. While this applicant does not comply with most or all of the six (6) requirements in Sec. 134-201 (a), the above noted four (4) sub-sections in particular stand out as requirements the applicant has not met.)

In addition to not meeting the requirements of Ordinance Sec. 134-201, this requested variance is clearly outside the law as stated in Bernard v. Town Council of Palm Beach. The Bernard decision states, among other things, "[a] hardship necessary to obtain zoning variance may not be found unless there is showing that under present zoning no reasonable use can be made of property **and self-created hardship cannot constitute basis for zoning variance."** (emphasis added).

Another self-created hardship. This variance request, as the others, does not run with the land, but is the result of merely a design choice of the developer to build out this site to the maximum. 70% coverage, instead of the 82.2% requested, provides reasonable use of the land for this developer. There are no special circumstances that run with the land that would make this variance necessary or allow this variance to be granted by the Council.

For the above stated reasons, each and every variance and special exception request must be denied by the Town Council as there is no provision under our Ordinances that would allow the granting of these and there is no basis under current law in the State of Florida that would permit any of these variances and special exceptions to stand if granted by the Town Council.

This plan/project is too large for this block. The Special Exceptions being requested cannot legally be granted as each of them necessitates and requires the granting of a variance because of lack of parking. The Variances, as a matter of settled Florida law, cannot be granted as each and every one of them is self-created by the developer's desire to put the maximum square footage of development on the site.

This site can be built out without the necessity of requesting variances and special exceptions that, in-turn, require variances.

The Town Council should deny all variance requests, special exception requests, and the site plan approval and direct the applicant to go back to the design stage and design a building that is in harmony with this historic block and that meets our code of ordinances.

Thank you for your attention to this matter.

Sincerely,
Palm Beach Preservation Alliance, LLC

William O. Cooley, Director

William O. Cooley, as a resident, tax payer and voter, and adversely affected party

Cc: Thomas Bradford, Town Manager
John Randolph, Town Attorney
John Page, Director of Planning, Zoning and Building
Paul Castro, Director of Zoning

May 6, 2015

To: The Honorable Gail Coniglio
Town Council Members, Town of Palm Beach
From: Susan Watts

As a Palm Beach resident and NAPB member, I would like to address the impact the Testa's development project on Royal Poinciana Way could have on each and every taxpayer in Palm Beach. Using our "Main Street" on almost a daily basis, I fear the worst will happen to it if this development plan is approved.

The developer/owner of the Testa's property is asking for variances in order to build a huge building complex, one that is out of scale with the street and existing structures.

The developers of this project envision windfall profits. Now, I fully understand a profit motive; I believe in Capitalism. But our code states, "The Variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure." The developer is asking for variances to maximize profits, not the minimum for reasonable use.

What is this actually going to cost me as a taxpayer? Let's start in Town Council Chambers and Town Hall. This Council, commission members and staff have spent many hours of taxpayer-paid time reviewing this project. The multiple variances that have been requested over the past year require mountains of paperwork and many hours to evaluate and address.

I see my tax dollars at work helping support a development project that requires bypassing our zoning ordinances and Comprehensive Plan to construct, and that in my opinion doesn't belong or fit in this Town.

Which prompts me to ask: Is this project Town serving? Taxpayers pay to live here and to support Town services required to make Palm Beach the highly desirable residential community it is. Therefore, using our resources to provide bars, restaurants and entertainment for the thousands who will be moving into the glut of new condos in West Palm seems at odds with the basic reason most of us live here.

Studies have shown large scale development projects can end up costing a community more than the community gets back in taxes. Providing public safety (ambulance, fire, law enforcement) and public works such as street maintenance, lighting, refuse collection and solid waste disposal most often require an increase in residents' taxes to support those additional expenses.

Residents don't mind paying taxes if they are able to enjoy the fruits of those contributions. But to see money being used to support businesses and individuals who are trying to break the system and bend the rules is not a financial deal that's fair to us. Do the cost-revenue ratios make sense when considering the impact on traffic, congestion, density, open space and the character of our Town?

Our criteria for granting Variances states that variances "…will not be injurious to the area involved or otherwise detrimental to the public welfare." In light of the obvious downside of the proposal, does the Testa's project meet those criteria? I think not. I feel my taxpayer's pocket is being picked to line the pockets of developers who are abusing our Town's Ordinances. That's detrimental.

I understand the Town could be taken to court if variances are granted since this project is so much at odds with our zoning ordinances. It's my understanding that if sued, the Town would probably lose in Court. Similar cases have lost. Is defending this project in the courts a good use of my tax dollars?

There is no reason why a lovely, livable, viable project that meets our zoning code could not be built on Royal Poinciana Way. One in keeping with the character and vision of Palm Beach. One that will appeal to and be used by taxpayers who keep the Town running. We certainly have the talent and imagination to do that.

I urge the Council in its wisdom to deny granting these variance requests, and to encourage a more reasonable, appropriately conceived plan for our Main Street.

With all due respect,
Susan Watts
455 Worth Avenue

From: "ngriffis" <ngriffis@bellsouth.net>
To: <tbradford@townofpalmbeach.com>
Date: 05/06/2015 08:52 PM
Subject: No Self Created Hardship Based Variances: Testas

Mr. Bradford,

Please add this email to those from the list of people who believe that the Town of Palm Beach should not grant any variances based on self created hardships.

Thank You,

Nixon S. Griffis

Town Resident

From: Doug Williamson <dfwilliamsonjr@gmail.com>
To: tbradford@townofpalmbeach.com
Date: 05/07/2015 09:12 AM
Subject: Testa's application for variances and special exceptions

Mr. Bradford:

Would you kindly distribute this mail to the Mayor and Town Council and also make it a part of the official record.

It seems unnecessary to repeat here the excellent analysis by and conclusions of the Neighborhood Alliance of Palm Beach (NAPB), appended below. I endorse what NAPB is saying and simply want to add my voice to those urging the Town Council to do the right thing, by rejecting the effort to build more and bigger on the Testa site than is allowed under our Code.

NAPB cites a recent case, involving the Town of Palm Beach itself, standing for the proposition that variances cannot be granted in the circumstances presented here. Everyone loves the Testa family and regrets that they have become enmeshed in this long-running battle that is really between non-family developers (apparently the Frisbies) and the overwhelming number of Palm Beach residents who want the Town to be governed by its own ordinances. I'm sure the Testas will be able to live with a new restaurant created within the limits of what is allowed by law. The speculators should be made to live within the same rules.

This should be the end of it. The plans should be rejected and sent back to be re-worked once and for all to fit within the framework provided by our Code.

Doug Williamson.

http://napb33480.us2.list-manage1.com/track/click?u=ed1e96ae4fa3ea03eae8a0ada&id=25c2b32359&e=21fbd4c3f2

Testa's Latest Application

Dear Concerned Palm Beach Neighbor and Friend,

A revised application for the Testa's development will be heard by the Town Council on Wed. May 13, 2015 at 9:30 in Town Hall.

To summarize: The developer has been revealed to be the Frisbies, heretofore developers of speculative residential housing on the island. To get out from under $9 Million dollars of debt, they are proposing a very large project requiring 6 variances and 4 special exceptions. That this number has been reduced is not germane. The issue is that settled court law (Bernard vs Town of Palm Beach 1990) established that a zoning variance may NOT be found unless it can be shown that no reasonable use can be made of the land. Self-created hardship does not constitute basis for zoning variance.

With 1/5 of an entire town block on which to build, clearly there are many reasonable uses for the land and therefore the variances and special exceptions are self-created by the over-scaled design of the project. It is not the obligation of the Town Council to consider the financial needs of any owner nor to give away zoning and allow development which does not meet the code when they have more than an acre on which to build. The bottom line is that the Council cannot legally grant these variances and the entire project should be sent back to be redesigned within the code. This will result in smaller buildings that fit in with Royal Poinciana's scale and eliminate the variances for excessive lot coverage, deficient landscaping and lack of 54 parking spaces in an area already deficient in parking.

Ask yourself can the smaller, specialty shops we value afford the new rents? Will the developer come back and ask to combine those empty retail spaces to allow more restaurants and bars who can afford the rent? Then where will they park those cars-restaurants being the most intensive users of parking? What guarantee does the Town have that the project will be built and in a timely fashion? Will we face another Palm House fiasco? Will the

existing structures be knocked down and a great void left on Main street for years as is the case on Brazilian with the Plaza Inn?

Everyone in Palm Beach-no matter on which side of the PUD-5 debate-wanted to preserve the character and scale of the historic Main Street. Should this kind of super-sized development be approved, more of the same will be requested on other streets with the same disastrous results. New construction, be it commercial or residential, must comply with the code.

Please let the Town Council and the Mayor know that self-created hardship through over-scaled, maximum profit design is not legal grounds for a zoning variance, that the Testa project should be redesigned to comply in size and scale with its neighborhood and our zoning code. Address your letter(360 South County Rd) or email to the Mayor and Town Council.

Send your email to the Town manager:t.bradford@townofpalmbeach.com Ask him to forward it to the Mayor and the Council and to include your comments in the record.This must be received by 5:00 Thurs., May 7th to be included in the record.

Please attend the Town Council meeting next Wed. May 13th at 9:30 and make a brief comment if you can.
Thank you for your continued support in our effort to keep Palm Beach the small scale, livable town we all care about.

Sincerely,
Your NAPB Board

follow on **Twitter** | friend on **Facebook** | forward to a friend

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You are receiving this email because you opted to share your email with us.
Our mailing address is:
Neighborhood Alliance of Palm Beach
P.O. Box 2174
Palm Beach, Florida 33480

Add us to your address book

http://www.mailchimp.com/monkey-rewards/?utm_source=freemium_newsletter&utm_medium=email&utm_campaign=monkey_rewards&aid=ed1e96ae4fa3ea03eae8a0ada&afl=1

From: Frederick McCarthy <fredmccarthypb1519@hotmail.com>
To: Gail Coniglio <gconiglio@townofpalmbeach.com>, Michael Pucillo <mpucillo@townofpalmbeach.com>, "dmoore@townofpalmbeach.com" <dmoore@townofpalmbeach.com>, "rkleid@townofpalmbeach.com" <rkleid@townofpalmbeach.com>, "ptownsend@townofpalmbeach.com" <ptownsend@townofpalmbeach.com>, Robert Wildrick <rwildrick@townofpalmbeach.com>, "tbradford@townofpalmbeach.com" <tbradford@townofpalmbeach.com>
Date: 05/07/2015 02:44 PM
Subject: Testa's Current Application

Dear Mayor Gail L. Coniglio, Town Council President Michael J Pucillo and Council Members Richard M. Kleid, Danielle H. Moore, Penelope D. Townsend & Robert N. Wildrick:

All I can say is "There they go again!"

The Frisbies and their Testa's project have caused more trouble in our fine Town than anyone in my 24 years of residence, maybe with the possible exception of Frances, Jeanne and Wilma.

The PUD-5 proposal, which grew out of the years of lobbying by Testa's developers, sharply divided and hurt this Town with good people both for and against, all seeking to preserve the character and charm of our Main Street.

The current Testa's proposal would destroy the charm and scale of Royal Poinciana Way.

It can be compared to trying to squeeze an elephant into a Mini Cooper.

Obviously the developers want to go as big as politically possible. They have giant debts to pay. Bigger is better for them; it's more profitable for them!

Of course, bigger is not better for us the residents of our Town.

I urge you to reject their request for 10 variances and special exceptions and send them back to design their project to fit within the code.

The Town of Palm Beach has no obligation to bail out the developers from problems of their own making. Let them sink or swim within the code.

Sincerely yours,

Fred McCarthy

Frederick W. McCarthy
1519 North Ocean Way
Palm Beach, Florida 33480
561-714-6224

From: dmojco@aol.com
To: TBRADFORD@TOWNOFPALMBEACH.COM
Date: 05/07/2015 02:30 PM
Subject: Variances/Special Exceptions Proposed Testa Redevelopment

Mr. Bradford,
We are very concerned about the proposed plan for redevelopment of the Testa property. We choose to move to Palm Beach for many reasons but a primary motivation was our concern regarding rampart over development in other South Florida communities. We felt Palm Beach could withstand the pressure of developers. We only hope that we were correct in our assumption. We want to see the character and scale of development in Palm Beach protected.

The variances and special exceptions requested should be denied and the property should be developed within the parameters of current requirements. This project should be comparable in scale to the existing properties. We live in the North end and visit the shops and restaurants of Main Street almost daily. We don't need more congestion in the area.

Unfortunately, we will not be in town for the meeting next week we would certainly be there if we could. Iam Thank you for you time and consideration. Please forward this email to the Mayor and the Council.

Sincerely,
Debby and John Oxley
1045 N Ocean Blvd
Palm Beach, FL
561 881-2273
561 212-1093

From: Lindley Hoffman <lindleyhoffman@hotmail.com>
To: "TBRADFORD@TOWNOFPALMBEACH.COM" <tbradford@townofpalmbeach.com>
Date: 05/07/2015 02:24 PM
Subject: Re: Testa's Latest Application

The Mayor of Palm Beach
The Town Council of Palm Beach

Madam Mayor and Ladies and Gentlemen of the Town Council:

Allowing Six Variances and Four Special Exceptions for an over scaled development and self-created hardship would be a travesty. This would set a terrible and non reversible precedence for the future land use of our wonderful town. If you grant these variances and exceptions, you will effectively be weakening our current codes.

Please send this project back for a redesign to fit within the current building codes.

Thank you for your consideration of this matter.

Yours truly,

Lindley MF Hoffman
Judy Wells Hoffman

email: lindleyhoffman@hotmail.com

From: anna mann <hellsbells1285@gmail.com>
To: tbradford@townofpalmbeach.com
Date: 05/07/2015 02:11 PM
Subject: Testa Development

Dear Mr. Bradford,

May I please add my voice of dissent to others who are troubled about the changes to the zoning code being asked for by the Testa / Frisbie developers?

My husband and I love this town of Palm Beach mainly because of its charm and its small size. In a world of growing super-sizing and ugly strip malls and massive municipal car parks, the town of Palm Beach stands unique. We must work at, and be diligent to keep it from over-development or we will end up looking like West Palm Beach. There is a place for high rises, and dense development but it is not here.

This is a small island, a strip of sand between the ocean and the intracoastal. Its resources are finite and should be protected. Overbuilding and the existing lack of parking spaces in the season are warning signs of what could come if we allow untrammelled development. Do not allow the size and scale, the human scale, of the current landscape to be radically changed. Ir will be setting a very bad precedent.

Please forward this letter to the Mayor and the Town Council and include my comments in the record.

Yours sincerely,

Anna Murdoch Mann.

From: Casey Cowell <caseycowell@gmail.com>
To: TBRADFORD@TOWNOFPALMBEACH.COM
Date: 05/07/2015 12:23 PM
Subject: Testa's Development Zoning Variance

Dear Mr. Bradford,
I am writing to express my concern over the development plan in process for the Testa's property. I believe the request for a variance is not within zoning laws, rules and regulations as has been pointed out by the Neighborhood Alliance of Palm Beach. Further, I do not believe the spirit of the development is in keeping with the nature of the area and will most likely pose significant parking and traffic problems.

I therefore request that this application process be stopped and that the town take no action in support of it or allowing it and take all actions possible to stop it.

Please forward my comments to our Mayor and all members of our Town Council.

Thank you for your time, attention and assistance.

Respectfully yours,
Casey Cowell
150 Clarke Avenue
Palm Beach, FL 33480
561-310-7167
caseycowell@gmail.com

From: Carol Barton <cubcassatt@gmail.com>
To: TBRADFORD@TOWNOFPALMBEACH.COM
Date: 05/07/2015 10:54 AM
Subject: Testa's latest application

Testa's revised application for development of their Royal Poinciana Way property does NOT comply to code. Self-created hardship is not legal grounds for 6 zoning variances and4 special exceptions. The Testa project needs to be redesigned to comply in size and scale with its neighborhood and our zoning code. We need responsible stewardship.

David & Carol Barton
216 Jamaica Lane
Palm Beach, Fl 33480

From: Carol Barton <cubcassatt@gmail.com>
To: TBRADFORD@TOWNOFPALMBEACH.COM
Date: 05/07/2015 12:07 PM
Subject: Testa's Latest Application

Testa's revised application for development of the Royal Poinciana properties proposing 6 variances and 4 special exceptions is based on a self-created hardship, hence cannot be legally granted. This project needs to be redesigned to comply in size and scale with its neighborhood and existing zoning code. We need responsible stewardship.

Sincerely,

David W. and Carol Barton

Sent from my iPhone

Begin forwarded message:

> **From:** Lisahearddonald <lisahearddonald@gmail.com>
> **Date:** May 7, 2015 at 10:56:07 AM EDT
> **To:** "tbtadford@townofpalmbeach.com" <tbtadford@townofpalmbeach.com>
> **Subject: Fwd: Testa**

> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** Lisahearddonald <lisahearddonald@gmail.com>
> > **Date:** May 7, 2015 at 10:30:26 AM EDT
> > **To:** "tbradford@townifpalmbeac.com" <tbradford@townifpalmbeac.com>
> > **Subject: Testa**

Dear mr. Bradford,
I am writing you to ask that you not allow any variances nor special exceptions for testa. Please keep palm beach the beautiful small town that it currently is. Thank you. Please forward this email to the mayor and town council to be included in the official comment records.
Sincerely yours,
Lisa heard

Po box 2403
Palm beach, fl 33480

Sent from my iPhone

From: susie elson <susieelson@hotmail.com>
To: "tbradford@townofpalmbeach.com" <tbradford@townofpalmbeach.com>
Date: 05/07/2015 10:52 AM
Subject: Testa Varience

I am opposed to the Testa variance …….Suzanne Elson ,180 Cocoanut Row

From: Pollak Anita <anitapol@bellsouth.net>
To: TBRADFORD@TOWNOFPALMBEACH.COM
Date: 05/07/2015 10:02 AM
Subject: Frisbies

Dear Mr. Bradford,

Mr. Frisbie is ruthless. He will go to any lengths to have his way, even to using his own family. His favorite way is to buy people off. He has tried several times with me. Therefore, my belief is that he uses the same tactics with the town and unfortunately it has worked.

Be wary! Be wise.

Please forward to the Mayor and the Council. Thank you.

Anita Pollak

From: barbara williamson <barbarawilliamsonpb@gmail.com>
To: tbradford@townofpalmbeach.com
Date: 05/07/2015 09:16 AM
Subject: Testa property

Dear Mr. Bradford:

Will you please distribute the following comment on the proposal for development of the Testa property to the Mayor and members of the Town Council, and ensure that it is entered in the record of the proceedings on May 13th?

In this year's Town election all candidates assured the voters that they favor the preservation of Palm Beach's unique character and scale. In the referendum a year ago voters rejected a proposal to circumvent the Town's Comprehensive Plan and zoning ordinances – specifically on Royal Poinciana, our town's historic "main street."

Now the owners of the Testa property are requesting an array of zoning variances in another effort to erect a large, over-scale complex that violate the town's restrictions on the size of buildings, their landscaping, and their provision of parking – already a serious problem on Royal Poinciana.

I urge the Mayor and Council to heed the voice of the voters, who have made it clear that they want the Testa property developed in accordance with the planning and zoning ordinances that for so many years have protected the Palm Beach we all love. It is entirely possible to design a plan for the Testa property that will be in accordance with our Code. Let's demand that they do so.

Barbara Williamson.

Lewis Stroud & Deutsch, P.L.

Nancy E. Stroud, Esq.

Direct Dial: 561 826 2803

May 7, 2015

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

RE: T3 Family Investments, LLC Application for Development Approvals (Site Plan Review #13-2014 w/ Special Exceptions and Variances)

Dear Mayor Coniglio and Town Council Members:

I am writing on behalf of the Neighborhood Alliance of Palm Beach (NAPB) in regard to the revised Application by T3 Family Investments, LLC for approval of four special exceptions, six variances, and a site plan for its property located on 221 and 231 Royal Poinciana Way and 214 and 216 Sunset Avenue (the property also known as Testa's). We understand that this Application will be heard by the Town Council on May 13, 2015. The NAPB and its members will be adversely affected by Town approval of this Application, and objects to any approval. None of the six variances requested meets the Town Code requirements for approval, and without the variances, the special exceptions cannot meet the Town Code requirements. We respectfully request that the Council deny this Application.

The NAPB and its members have an interest in the Application that exceeds the general interest of all citizens in the Town of Palm Beach. The NAPB currently maintains an office at 101(a) Bradley Place, and previously had an office in the same building. The office is on the same block on Royal Poinciana Way where the proposed Testa's development is to be located. The Council is also well aware that NAPB led the effort in 2013-14 to create a referendum on the Town's proposed PUD-5 ordinance, which ordinance would have permitted Testa's to expand at this location in a way similar to what is being proposed by the Application. NAPB and its members, along with other Town citizens, were successful when the Town voters rejected the PUD-5 ordinance. Prior to the referendum, NAPB and its members participated in numerous Town hearings and workshops on the PUD-5 ordinance, opposing the PUD-5 ordinance and the associated proposed comprehensive plan changes, and offering alternative code changes for the redevelopment of the Royal Poinciana Way block. NAPB was a party in the state administrative challenge to the Town's adoption of the comprehensive plan amendments in Case No. 13-4554GM, Florida Division of Administrative Hearings, where it opposed changes to the Town comprehensive plan that would have enabled the overdevelopment of the block, inconsistent with the Town's history and character.

One Lincoln Place, 1900 Glades Road, Suite 251, Boca Raton, Florida 33431
Telephone — 561 826 2800 Facsimile — 561 826 2828

Members of the NAPB also own homes and live and work in the north part of Town, travelling to and past the Royal Poinciana Way block and this property regularly because of its proximity to shopping (such as at the adjacent Publix) and services. Additionally, because Royal Poinciana Way is a main road connecting to the north bridge that accesses the mainland, the residents of the northern neighborhoods in particular travel on Royal Poinciana Way, and adjacent roads, frequently on a daily basis. The proposed overdevelopment of Testa's at this location will significantly increase traffic and congestion in and near this location on those daily travels.

The proposed demolition of the existing Testa's buildings and the construction of the new structures for restaurant, retail and residential uses, and the underground parking garage simply do not qualify for the six variances sought in this Application. The Town Code requires that in order to grant a variance, the Town Council must make findings that the variance meets all of the applicable variance criteria. The Application meets none of the criteria. The applicable variance criteria are found at Sec. 134-201, paragraphs (a) (l)-(5) and 7:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

(2) The special conditions and circumstances do not result from the actions of the applicant.

(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.

(4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

...(7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Notably, the Town Code at Section 134-201(b) explicitly provides that "No nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance." The Applicant's most common justification for its variances is that the remainder of the block is developed in the way Applicant wishes to develop, with less parking, less open space, less landscaping. In other words, Applicant's justifications fly in the face of the Code provision 134-201(b) that prohibits use of these justifications.

Further, the variances requested are not the minimum variances that will make possible the reasonable use of the land (see paragraph (a)(5)), but are rather simply the variances that make possible the larger development in the design that the Applicant prefers. None of the requested variances meet the requirements of Florida law for a "hardship" that would otherwise

leave the Applicant with no reasonable use of the land. See Bernard v. Town Council of Palm Beach, 569 So. 2d 853 (Fla. 4th DCA 1990). In the same way, the requested variances are not the result of special and peculiar conditions of the land or proposed structures, but simply the result of the Applicant's desire to maximize the use and value of the property. Any other property owner in the C-TS zoning district, following the code requirements of the C-TS district, would not be able to develop its property in the way requested by the Applicant. The Town in granting the variances will be allowing the owner special privileges.

Finally, the need for so many variances for the site indicates that the mix of uses and size of development is inappropriate for the zoning district. Clearly, the variances are being requested primarily to accommodate the need for parking that is generated by the proposed uses. Without the variances, insufficient parking will be provided and thus the application fails to meet the special exception criteria for adequate off-street parking, automotive and pedestrian safety and convenience, traffic flow and control. The applicant has failed to produce adequate information that the uses will be Town-serving, and simply asserts that the project will comply.

The NAPB urges the Town Council to deny the requested variances and special exceptions, and follow the Town Code.

Very truly yours,

Nancy Stroud

Nancy E. Stroud

cc: John Randolph, Esq.
Town Attorney

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 13, 2015

Section of Agenda

Development Review - Other

Agenda Title

3-Strike Parking Violation
7 Lagomar Road

Presenter

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

Supporting Documents

- **Memorandum dated May 5, 2015 from John S. Page**
- **7 Lagomar Exhibit 1-A**
- **7 Lagomar Exhibit 1-B**
- **7 Lagomar Exhibit 2**
- **7 Lagomar Exhibit 3**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 13, 2015

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: 3-Strike Parking Violation
7 Lagomar Road

Date: May 5, 2015

STAFF RECOMMENDATION

Staff recommends that the construction Stop Work order be rescinded upon receipt of written acknowledgement by the owner and contractor of acceptance of all conditions placed on the permit.

GENERAL INFORMATION

Right-Of-Way Parking Requirements Related To Construction On Private Property:
Parking permits are available from the Public Works Department for parking in the right-of-way for construction-related work. After submitting a parking plan to utilize the maximum space on-site for parking, a contractor may buy parking permits for parking in the right-of-way. The monthly permit fee for parking in the right-of-way is $450, which entitles the applicant to 3 permits. In rare instances, (such as where there are a number of construction projects on one street, such as Island Drive), a contractor may receive less than 3 permits, although the fee remains at $450.

The rules related to the issuance of parking permits for construction sites, and the enforcement of related violations, are found in the Town's Standards Applicable to Public Rights-of-Way and Easements within the Town of Palm Beach (commonly known as the Right-of-Way Manual). The rules, and the ramifications for violations to the rules, are contained within the section known as the "3-strike" rule, and were instituted to address the problems caused by the large number of construction-related vehicles blocking the right of way, reducing available street parking, and blocking access to neighboring driveways in the vicinity of private construction projects.

The responsibility for all parking for a project lies with the general contractor, who controls the site under the Town's construction permitting requirements. The "3-strike" rule calls for the issuance of parking tickets to the general contractor for any vehicles parking in the right of way without a proper permit. The first occasion (violation) results in a fine of $75 per day per vehicle. The second and subsequent violations result in a fine of $150 per day per vehicle. Each of these tickets may be appealed to the Town. After receiving a ticket for the third violation, a Stop Work order is issued by PZB, after which the contractor may meet with PZB and present mitigating circumstances, and if acceptable, PZB may waive one of the violations, upon payment of a fine of $250 (in addition to parking fees). If it is determined that no mitigating circumstances exist, the contractor and/or owner may request the Town Council give consideration to lifting the stop work order. Upon hearing the case, the Town Council may choose to impose any or all of the following actions:

- Admonish the contractor.

- Nullify the existing building permit.
- Require a binding agreement to memorialize the conditions imposed in order to lift the Stop Work order.
- Establish penalties in any amount for future Right-of-Way violations.
- Collect the 3-strike fine ($250).
- Collect all outstanding fines for parking violations, including interest.
- Prohibit issuance of Right-of-Way permits for the duration of work.

In the past, a few contractors have received "3 strikes", but mitigating circumstances have warranted the waiver of one of the strikes, and no violations have subsequently occurred.

Parking Violations at 7 Lagomar Road:
A permit for major renovation was issued to the contractor, Monteiro Development Inc., on March 5, 2014 for a residence at 7 Lagomar Road, owned by Mathieu P. Rosinsky. This property is located adjacent to the curve containing a tree island on Lagomar Road.

At the present time, the contractor is able to park three (3) vehicles on the site. The Town began receiving complaints from the residents of Lagomar on or about February 19, 2015. Code Enforcement met with the contractor on at least three (3) occasions, and advised the contractor of the rules and regulations regarding construction parking. January, 2015 imagery from Google Earth (Exhibit 1) shows at least seven vehicles parked on the street.

On March 4, 2015, the contractor received his first of three parking violations for 2 vehicles parked in the right of way. He applied for parking permits and on March 10, 2015, was issued 3 parking permits for a period from March 6, 2015 to May 9, 2015. Attached to his permit was a notice from the Town regarding the rules and regulations pertaining to construction parking. On April 10, 2015 he received his second parking violation for a vehicle, and on April 21, 2015, he received his third parking ticket for five vehicles parked in violation of the regulations. None of the tickets were appealed, and on May 4, 2015, a letter was issued to the contractor (Exhibit 2) and a stop work order was issued.

The contractor met with the Planning, Zoning and Building Department, and it was determined that insufficient mitigating circumstances existed to warrant a waiver of one of the strikes. On May 5, 2015, PZB received a letter from the owner requesting that this issue be heard by the Town Council, and the stop work order be lifted, for reasons contained in the letter (Exhibit 3).

This project has until March 5, 2016 for completion under the Town's construction time limits, and theoretically, parking could be an issue for that length of time if the issue is not adequately addressed. However, the contractor has stated that he anticipates the job will be done in six weeks to two months. The Department does not believe this estimate is realistic, but anticipates the project could be done well before the March 2016 date.

Department Recommendations:
- Payment of the $250 parking penalty.
- Maintain active right of way permits for 3 vehicles until the project receives a passed final inspection.
- Purchase sufficient, but in any event, no less than 3, parking placards, and shuttle additional workers to site, to prevent any future parking violations. Renew placards until the project receives a passed final inspection.
- Vehicles arriving at site will be turned away when no parking space is available.

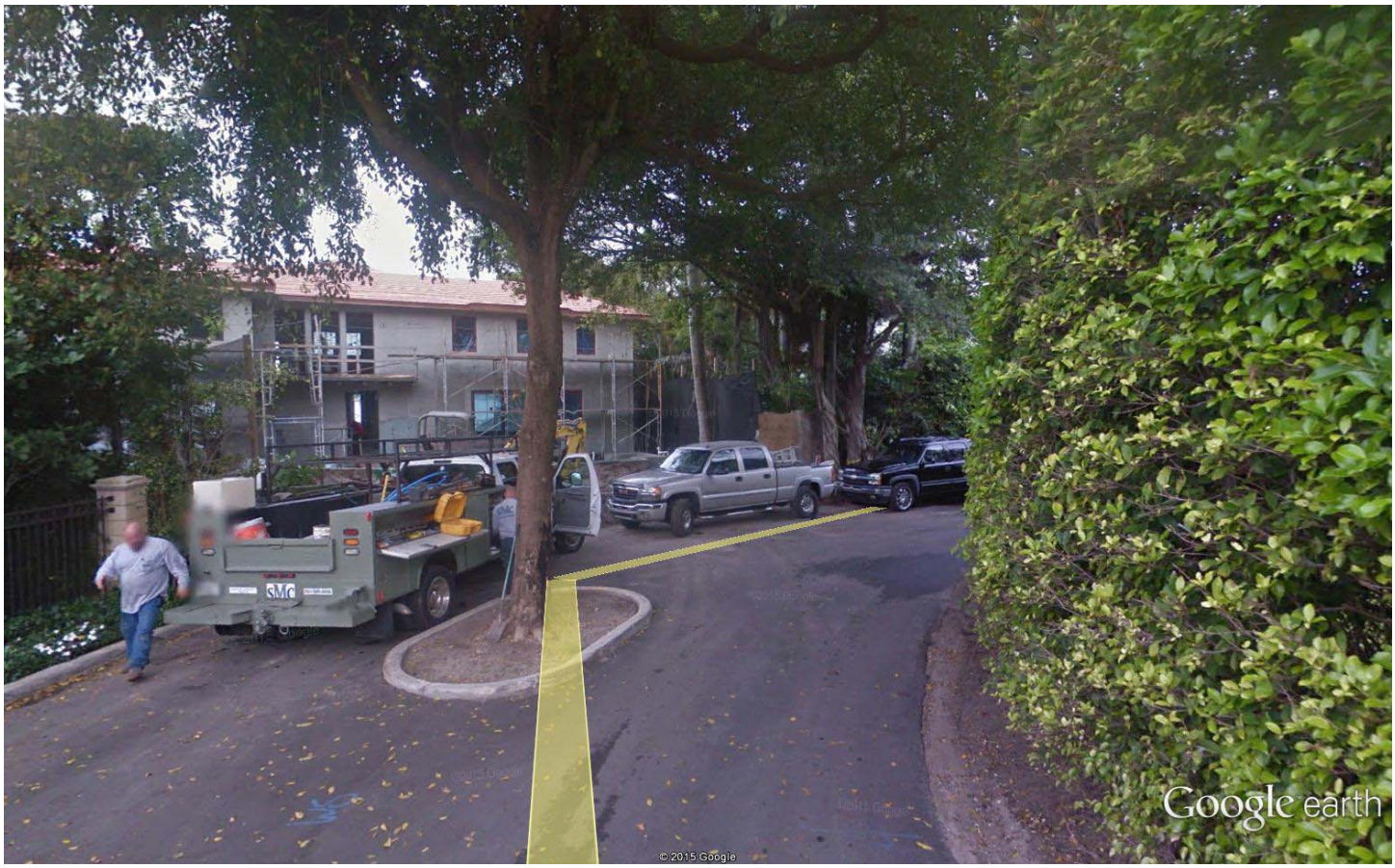
- Site visits by owner, designer or architect will be done by car-pooling or after hours (per owner's attached letter).
- Coordinate all deliveries so that trucks can be accommodated on site and utilize trained flagmen whenever any construction activities, such as deliveries, may impact the right of way.
- Any additional parking violations will be assessed at $500 per vehicle per violation.
- All outstanding fees must be paid before receiving a passed final inspection.
- Owner and contractor will submit a written statement acknowledging acceptance of all permit conditions, and verifying their intent to conform to all construction parking rules and regulations.
- The Town reserves the right to revoke any and all construction permits in the future, in the event parking violations occur prior to the end of the job.

Attachments

cc: Jorge Monteiro, Monteiro Development Inc.
Mathieu P. Rosinsky, Property Owner
John C. Randolph, Town Attorney
H. Paul Brazil, Public Works Director
Raychel Houston, Code Enforcement and Parking Manager
Veronica W. Close, Assistant Director, PZB
William C. Bucklew, Building Official

Google earth

feet 10
meters 4



Google earth

feet 10
meters 3

TOWN OF PALM BEACH

Planning, Zoning & Building Department

May 4, 2015

Jorge Monteiro, Qualifier
Monteiro Development Inc
PO BOX 7299
Jupiter, FL 33468

Re: Construction Vehicle Parking Citations
Stop Work Order

The Town of Palm Beach Right-of-Way Manual regulates the number of construction-related vehicles that can be parked on Town streets adjacent to building project sites. When possible, all vehicles should be parked on private property. Permits (up to three in number) can be approved when private parking availability is limited. You have applied for and received three (3) R/W parking permits for your project at 7 Lagomar. Attached to those permits are the regulations governing their use.

You have received parking citations on three separate occasions: March 4, 2015, April 10, 2015 and April 21, 2015. The parking tickets received on the first two occasions have been paid, and the third remains unpaid as of this date. Furthermore, no appeal has been received by the Town for any of these parking violations. Under the Town's rules (referred to as the "3-strike" rule), the Right-of-Way Manual authorizes the Town to suspend work activity on the site via a **"stop work"** order as allowed by Section 18-204 of Town Code.

Therefore, please be advised that a "Stop Work" order has been issued by the Building Official effective the end of the working day Monday, May 4, 2015. After that date, no work may be performed at the site under any permits issued by the Town of Palm Beach.

You are advised to contact me directly at (561) 227-6401 at your earliest convenience, if you believe there are mitigating circumstances related to the issuance of the parking tickets. Please be advised that unless you provide compelling information that mitigating circumstances were involved, the Stop Work order will remain in effect until you and/or the property owner provides a written request to the Planning, Zoning and Building Department to place this item on the next regularly scheduled Town Council meeting for consideration of lifting the Stop Work Order.

Please note that the next Town Council meeting date is Wednesday May 13, 2015, and 7 days advance notice is required to be placed on that agenda.

Post Office Box 2029 * 360 South County Road * Palm Beach, FL 33480 * (561) 838-5430

Truly yours,

Veronica W. Close

Veronica W. Close
Assistant Director

cc: Mathieu P. Rosinsky, Property Owner
H. Paul Brazil, Public Works Director
Raychel Houston, Parking and Code Enforcement Manager
John S. Page, Director, Planning, Zoning & Building Department
William Bucklew, Building Official

Mathieu Rosinsky

7 Lagomar Road, Palm Beach, FL 33480

May 5th, 2015

Mr. John S Page
Head of Building Department

360 South County Road, Palm Beach, FL 33480

Dear Mr. Page:

I am the homeowner of 7 Lagomar, Road, Palm Beach & would like to express my sincere apology for any trouble caused due to the construction disturbance having taken place at my residence. I have asked my contractor to make sure everything is done by the book, unfortunately this has not been the case. As of now construction has completely stopped as per the town's request. I am writing to request that we are placed on the agenda for this item to be heard on the May 13th council meeting.

I would like to be at the hearing in person but unfortunately will have to have my contractor act on my behalf. I have discussed the parking disturbance at length with him & my architect. Based on our discussions, we plan on proposing to take the following actions to remedy the ongoing problem we have created.

1. Continue with the 3-4 on-site parking spaces available.

2. Continue with the 3 R/W parking permits that are available.

3. Purchase parking permits at Phipps Ocean Park and shuttle additional workers to site.

4. Park worker vehicles at Owner's residence in West Palm Beach and car pool to site.

5. On days that are scheduled for deliveries by suppliers or Waste Management, make arrangements for existing vehicles that are parked on site to leave and be moved to Phipps Ocean Park or Owner's residence.

6. Sub contractor's supervisors when visiting site must make arrangements to meet before or after hours and/or make other arrangements to utilize permitted parking.

7. Architect, designer, Owner will also make arrangements when visiting site to either car pool or come before or after hours.

8. When vehicles arrive at site and there are no available spots to park, they will be turned away and informed as to when there will be a spot available for them to return.

9. Make arrangements to rent a van when needed for use shuttling workers from Phipps Ocean Park and

Owners residence in West Palm Beach.

We have tried our best in coming up with the aforementioned solutions & would love to hear any suggestions you may have. I would like to once again apologize for the inconvenience this has caused anyone & plan on apologizing to my neighbors. I can assure you I will do whatever is in my power to make sure we proceed in a manner acceptable to the Town of Palm Beach.

Sincerely,

Mathieu Rosinsky

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 13, 2015

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 13-2015 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning; Article VI, District Regulations, Section 134-1107(a) To Allow Public Parks As A Permitted Use In The C-TS Commercial Zoning District; Section 134-1109(a) To Allow Private Parks As A Special Exception Use In The C-TS Commercial 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 and Building

Supporting Documents

- **Ordinance No. 13-2015**

ORDINANCE NO. 13-2015

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING; ARTICLE VI, DISTRICT REGULATIONS, SECTION 134-1107(a) TO ALLOW PUBLIC PARKS AS A PERMITTED USE IN THE C-TS COMMERCIAL ZONING DISTRICT; SECTION 134-1109(a) TO ALLOW PRIVATE PARKS AS A SPECIAL EXCEPTION USE IN THE C-TS COMMERCIAL ZONING DISTRICT; 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;

WHEREAS, after public hearing pursuant to notice required by law, the Local Planning Agency considered the Planning and Zoning Commission's recommendation 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 VI, DISTRICT REGULATIONS, Section 134-1107, Permitted uses, (a) Enumeration maximum gross leasable area, to read as follows:

Sec. 134-1107. Permitted uses.

(a) *Enumeration; maximum gross leasable area.* The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:
(1) Retail and service establishments, such as restaurants, excluding formula restaurants as defined in section 134-2 and bars/lounges, hardware stores, food stores, clothing stores, drugstores, barbershops beauty salons and jewelry stores.
(2) Offices, executive office suites, professional services, business services and securities and financial brokerage and trust companies located above the first floor.

(3) Offices, professional services, business services and securities and financial brokerage and trust companies in the 200 block of Peruvian Avenue and Bradley Place.
(4) Nonprofit cultural centers.
(5) Professional and studio type schools.
(6) Essential services.
(7) Public parks.

Section 2. Amend Article V I, DISTRICT REGULATIONS, Section 134-1109, Special exception uses to read as follows:

Sec. 134-1109. - Special exception uses.

(a) The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:
(1) Public or private parking lots or storage garages.
(2) Auto rental lots.
(3) Residential tenancy above the first floor.
(4) Private social, swimming, golf, tennis and yacht clubs.
(5) Service stations.
(6) Public structures.
(7) Supplemental parking.
(8) Public or private academic schools.
(9) Drive-in business service facilities.
(10) Churches, synagogues or other houses of worship.
(11) Any commercial establishment with greater than 3,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.
(12) Banks and financial institutions, excluding securities or financial brokerage and trust companies.
(13) Roof-deck automobile parking.
(14) Outdoor seating in conjunction with permitted restaurants where administrative approval is not being requested. See section 134-1111 for additional conditions.
(15~~) Reserved~~. Private parks.
(16) Museums occupying building of unique value as designated historical landmarks, as determined by the landmarks preservation commission and the town council.
(17) Nightclubs.
(18) Except as provided for in subsection 134-1107(3), offices (excluding executive office suites), professional services, business services and securities or financial brokerage and trust companies on the first floor provided that there are at least 50 percent existing office uses on all floors of the building in which the office use is proposed and more than 50 percent existing office uses on the first floor within 300 feet of the proposed office use within the same zoning district.
(b) An owner or tenant of a property, located within the C-TS district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted

a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

Section 3. Severability.

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

Section 4. Repeal of Ordinances in Conflict.

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

Section 5. Codification.

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

Section 6. 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 _____ day of _____ 2015, and for second and final reading on this _____ day of _____ 2015.

_____
Gail L. Coniglio, Mayor

_____
Michael J. Pucillo, Town Council President

_____
Richard M. Kleid, Council President Pro Tem

_____
Danielle H. Moore, Town Council Member

_____
Penelope D. Townsend, Town Council Member

ATTEST:

_____
Susan A. Owens, MMC, Town Clerk

_____
Robert N. Wildrick, Town Council Member