



**TENTATIVE:
SUBJECT TO
REVISION**

TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

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

AGENDA

APRIL 13, 2016

9:30 AM

Welcome!

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

I. CALL TO ORDER AND ROLL CALL

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. RECOGNITIONS

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VII. APPROVAL OF AGENDA

VIII. PUBLIC HEARINGS

- A. **RESOLUTION NO. 57-2016** 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 **215 Garden Road** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV of The Code of Ordinances of The

Town of Palm Beach; And Designating Said Property As A Town of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV of The Code of Ordinances of The Town of Palm Beach.

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

IX. RESOLUTIONS

- A. **RESOLUTION NO. 58-2016** A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For **330 Island Road**, And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V of The Code of Ordinances of The Town of Palm Beach, Relating To Landmarks Preservation And Titled "Tax Exemptions."

Page 46

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

- B. **RESOLUTION NO. 59-2016** A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For **350 Worth Avenue**, The Everglades Club (Main Hall Foundation Renovation) And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V of The Code of Ordinances of The Town of Palm Beach, Relating To Landmarks Preservation And Titled "Tax Exemptions."

Page 51

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

X. DEVELOPMENT REVIEWS

A. Time Extensions and Waivers

1. Extension of Time Schedule for Completion of Construction per Town Code Chapter 18, Section 18-237, 1071 N. Ocean Boulevard

Page 56

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

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **SITE PLAN REVIEW #8-2015 WITH VARIANCE** The application of 201 Debra Lane, LLC (Juan M. Naveja Diebold, Manager); relative to property commonly known as **201 Debra Ln.**, described as lengthy legal description on file; located in the R-B Zoning Districts. The Applicant seeks Site Plan approval to construct a 3,814 square foot two story home on a platted lot that is 98.55 feet deep in lieu of the 100 foot minimum required and 91.61 foot wide in lieu of the 100 foot minimum required. A variance is requested to permit installation of a pool in the street side yard with a setback of 6.25 feet in lieu of the 15 foot minimum required. [Attorney: M. Timothy Hanlon] [Architectural Commission Recommendation: Deferred the project to the April 27th meeting. Carried 7-0.]
Deferred from the December 9, 2015, January 13, 2016, February 10, 2016, and March 9, 2016, Town Council Meetings.
Request for Withdrawal Per Letter Dated April 4, 2016, from M. Timothy Hanlon.

Page 65

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

- b. **SPECIAL EXCEPTION #08-2016 WITH SITE PLAN REVIEW AND**

VARIANCES The application of 280 NCR, LLC; relative to property commonly known as **280 N. County Rd.**, described as lengthy legal description on file; located in the R-B Zoning District. The Applicant is requesting a Special Exception with site plan review to allow the construction of a 7,205 square foot two-story single family residence on a non-conforming lot, comprised of portions of platted lots, which has a width of 92.6 feet in lieu of the 100 foot minimum required width in the R-B Zoning District. In connection with the proposed construction, the following three variances are being requested: to construct a two-story house with a second story street side yard setback (east side of the property) of 25 feet in lieu of the 30 foot minimum required; to construct a two-story house with an angle of vision of 133 degrees in lieu of the 116 degrees maximum allowed; and, to construct a two story addition with a second story street side yard setback (east side of the property) of 20 feet in lieu of the 30 foot minimum required in the R-B Zoning District. [Attorney: Guy Rabideau, Esq.]

[Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject property. Carried 7-0]

Deferred from the March 9, 2016, Town Council Meeting.

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

c. **SPECIAL EXCEPTION #33-2015 WITH SITE PLAN REVIEW AND VARIANCES**

The application of Robert and Denise Benedickson; relative to property commonly known as **222 Seaspray Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The Applicant is requesting a Special Exception with Site Plan Review approval to demolish an existing 2,444 square foot residence with a 800 square foot garage and build it back in the same location with a proposed total square footage of 3,802 on a non-conforming platted lot which is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 minimum required in the R-B Zoning District. The following variances are being requested: to allow a west side yard setback of 11.33 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District for a one story section of the house; to allow a west side yard setback of 8.33 feet in lieu of the 12.5 foot minimum required for the proposed covered entry for the front door; to allow an east side yard setback of 9.67 feet in lieu of the 15 foot minimum required for the proposed second story of the house; and to allow a lot coverage to be 31% in lieu of the 30% maximum allowed; to allow a cubic content ratio to be 6.11 in lieu of the 4.38 maximum allowed. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Denied deferral request by the applicant and removed the item from the agenda. Carried 5-2 with Messrs. Gruss and Sammons opposed.]

Deferred from the February 10, 2016, and March 9, 2016, Town Council Meetings.

Request for Withdrawal Per Letter Dated March 24, 2016 from Maura A. Ziska.

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

2. New Business

Page 69

- a. **SPECIAL EXCEPTION #09-2016 WITH SITE PLAN REVIEW** The application of Patrick and Lisa McGowan; relative to property commonly known as **250 Esplanade Way**, described as lengthy legal description on file; located in the R-B Zoning District. The Applicant is requesting a Special Exception with Site Plan Review to allow the construction of a 3,700 sq.ft. two-story, single family residence on a portion of a platted lot which is 88 feet in width in lieu of the 100 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Deferred the project to the April 27th meeting. Motion carried 7-0.]

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

Page 71

- b. **VARIANCE #03-2016** The application of Hunter and Melissa Beebe; relative to property commonly known as **1050 No. Ocean Blvd.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant's property is bounded by three streets: North Ocean Blvd., Via Marila and Laurian Ln. The property is 33,598 sq ft in total and is two platted buildable lots. The applicant has no immediate plans to divide the property but wants to build on the west half with a residence that would meet code as if it was a single lot (except for the accessory structures proposed on the east half which includes a swimming pool, deck and one story cabana). In order to achieve this plan, the following variances are being requested: a west side setback of 15.08 feet in lieu of the 28 foot minimum required for a lot with a width of 201.06 feet, and, a rear street yard setback of 15.2 feet for the garage and 18.7 feet for the playroom in lieu of the 35 foot minimum required for a lot in excess of 20,000 sq.ft and with a depth of 164.81 feet. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Implementation of the proposed west side yard variance will cause negative architectural impacts to the subject property. Carried 4-3 with Messrs. Sammons, Small and Ives opposed. Implementation of the proposed rear variance will not cause negative architectural impacts to the subject property. Carried 5-2 with Mr. Sammons and Ms. Grace opposed.]

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

- c. **VARIANCE #05-2016** The application of Joseph and Susan Meyer; relative to property commonly known as **225 Seaspray Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to demolish a 706 sq. ft. one story guest house in the rear of the landmarked property and construct a new 819 square foot two story garage addition to the main house in the same general location. The following variances are being requested: a rear yard setback of 4.5 feet in lieu of the 1.1 foot existing setback and the 15 foot minimum required in the R-b Zoning district for a two story structure; and, a west side yard setback of 7 feet in lieu of the 6.31 existing setback and the 15 foot minimum required for a two story structure. [Attorney: Maura Ziska] [Landmark Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to

the subject landmarked property. Carried 5-2 with Mr. Silvin and Ms. Hufty opposed.]

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

3. Other

- a. Proposed Declaration of Use Agreement for Royal Poinciana Plaza Related to Special Exception #6-2016, Proposed Sant Ambroeus Restaurant, 340 Royal Poinciana Way

Page 75

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

- b. **VARIANCE #04-2016** The application of Blossom Way Holdings, LLC; relative to property commonly known as **Blossom Way**, described as lengthy legal description on file; located in the R-AA Zoning District. A request for a variance in conjunction with a proposed partial abandonment of the Blossom Way cul-de-sac. The proposed partial abandonment would relocate the cul-de-sac to the north of its existing location and is proposed to have a radius of 40 feet in lieu of the 50 foot minimum required. [Attorney: Maura Ziska, Esq.]

Page 93

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

- (i) Subdivision Modification-Request by Maura Ziska, Attorney for Blossom Way Holdings, LLC, Property Owner for Lots 104, Replat of Blossom Estate Subdivision, to Approve a Proposed Sixth Amendment to the Blossom Estate Subdivision Agreement

Page 94

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

- (ii) **RESOLUTION NO. 45-2016** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating, Abandoning, and Rededicating a Portion of an Existing Private Right-of-Way Known as Blossom Way, in the Town of Palm Beach, Florida.

Page 114

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

XI. ORDINANCES

A. Second Reading

1. **ORDINANCE NO. 4-2016** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning; Article IV, Nonconformities, Sec. 134-419, Enlargement, Extension, Reconstruction Or Alteration, By Specifying That Demolition Of A Nonconforming Building Or Structure Cannot Exceed 50 Percent Of Its Existing Cubic Footage Within Five Years Of Passing A Final Inspection; Article IV, Nonconformities, Sec. 134-446 And Article VI, District Regulations, Secs. 134-793, 134-843 And 134-893, Lot, Yard And Area Requirements-Generally, To Require Architectural Commission Complete Review Of A Project Prior To Town Council Consideration Of A Site Plan Review And/Or Special Exception Or Variance To Construct A Single-Family Home On A Nonconforming Lot In The R-AA, R-A, R-B, R-C, R-D(1) And R-D(2) Zoning Districts; Article VI, District Regulations, Secs. 134-793, 134-843, 134-893, 134-948, 134-1004 And 134-1060, Lot, Yard And Area Requirements, By Eliminating The Provision Requiring The Maximum Building Height To Be

Page 146

Calculated Based On A Flat Roof When A Parapet Is Used Above The Maximum Building Height; Article VIII, Supplementary District Regulations, Sec. 134-1729, Generators And Swimming Pool Equipment, To Require A Concrete Block Masonry Finished Wing Wall Around Generators In Required Setbacks And Exempt Temporary Generators From Generator Regulations When Used During Or After A Natural Disaster; Sec. 134-1757, Swimming Pools, By Requiring A Continuous Six Foot High Hedge To Be Maintained At A Minimum Of Six Feet Outside Of The Required Six Foot High Wall For A Swimming Pool In A Street Side Or Street Rear Yard Setback; Amend Sec 134-1728, Air Conditioning And Swimming Pool Heating Equipment, To Require Cooling Towers To Be Screened From Neighbors By A Concrete Block Masonry Wall As Tall As The Cooling Tower; Article XI, Signs, Sec. 134-2372, General Regulations Applicable to Permitted Signs, To Prohibit Light Emitting Diode (LED) Lighting To Outline Any Building, Fence, Wall Or Any Other Structure And Only Allow Internally Lighted Signs Or Lettering Or Back-Lit Signs By Special Exception Approval From The Town Council And Exempt Front-Lit Signs From The Special Exception Requirement; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

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

XII. ANY OTHER MATTERS

XIII. ADJOURNMENT

PLEASE TAKE NOTE:

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

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

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

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

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

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

PUBLIC HEARINGS:

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

COMMUNICATIONS FROM CITIZENS:

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

OTHER AGENDA ITEMS:

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

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

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 57-2016 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 **215 Garden Road** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV of The Code of Ordinances of The Town of Palm Beach; And Designating Said Property As A Town of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV of The Code of Ordinances of The Town of Palm Beach.

Presenter

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

Supporting Documents

- [Memorandum Dated March 18, 2016 from John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 57-2016](#)
- [Designation Report 215 Garden Road](#)
- [Excerpt of March 16, 2016 Landmarks Preservation Commission Meeting Minutes](#)
- [Designation Procedures](#)
- [Letter Dated April 1, 2016, from Larry B. and Susan M. Alexander](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2016

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 215 Garden Road
Resolution No. 57-2016

Date: March 18, 2016

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 215 Garden Road as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the March 16, 2016 meeting of the Landmarks Preservation Commission, the Commission voted (4-3) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

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

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

OWNER CONSENT

Please be advised that owners Larry B. and Susan M. Alexander oppose this designation. Proper notifications were completed.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 57-2016 relating to 215 Garden Road, and has approved it as to legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
John Lindgren, AICP, Planning Administrator
Emily Stillings, Town Consultant
Janet Murphy, Town Consultant
Landmarks Preservation Commissioners
Tim Hanlon, Attorney
Lou Mrachek, Attorney

RESOLUTION NO. 57-2016

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 215 GARDEN ROAD MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND DESIGNATING SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

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 **215 Garden Road** and the property to be landmarked is legally described as follows:

EDEN PROPERTIES, LOT 7, PALM BEACH, FLORIDA

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

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

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of April, 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

215 Garden Road



DESIGNATION REPORT

March 16, 2016

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

215 Garden Road

Table of Contents

I.	GENERAL INFORMATION	2
II.	LOCATION MAP	3
III.	ARCHITECTURAL INFORMATION	4
IV.	HISTORICAL INFORMATION	10
V.	ARCHITECT'S BIOGRAPHY	13
VI.	STATEMENT OF SIGNIFICANCE	15
VII.	CRITERIA FOR DESIGNATION	15
VIII.	SELECTED BIBLIOGRAPHY	17
IX.	FLORIDA MASTER SITE FILE FORM	18

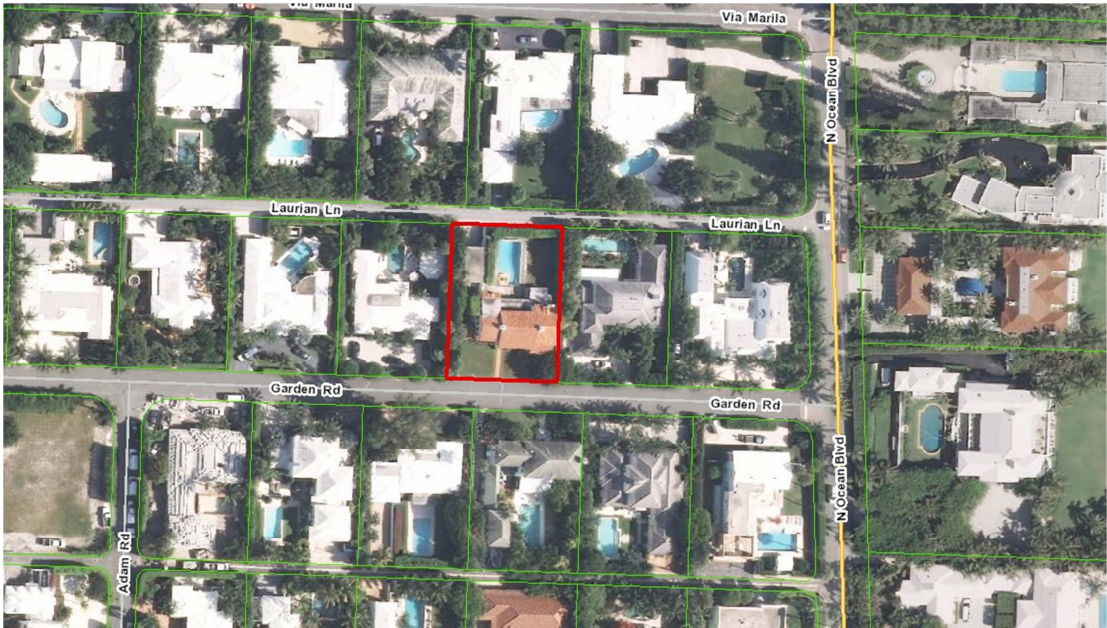
Report produced by Murphy Stillings, LLC

I. General Information

Location:	215 Garden Road Palm Beach, Florida
Date of Construction:	1936
First Owner:	Eden Properties Inc.
Architect:	Treanor and Fatio
Builder/Contractor:	Smith and Yetter
Present Owner:	Larry B. and Susan M. Alexander
Present Use:	Single Family Dwelling
Present Zoning:	RB
Palm Beach County Tax Folio Number:	50-43-43-03-20-000-0070
Current Legal Description:	Eden Properties Lot 7

II. Location Map

215 Garden Road



III. Architectural Information

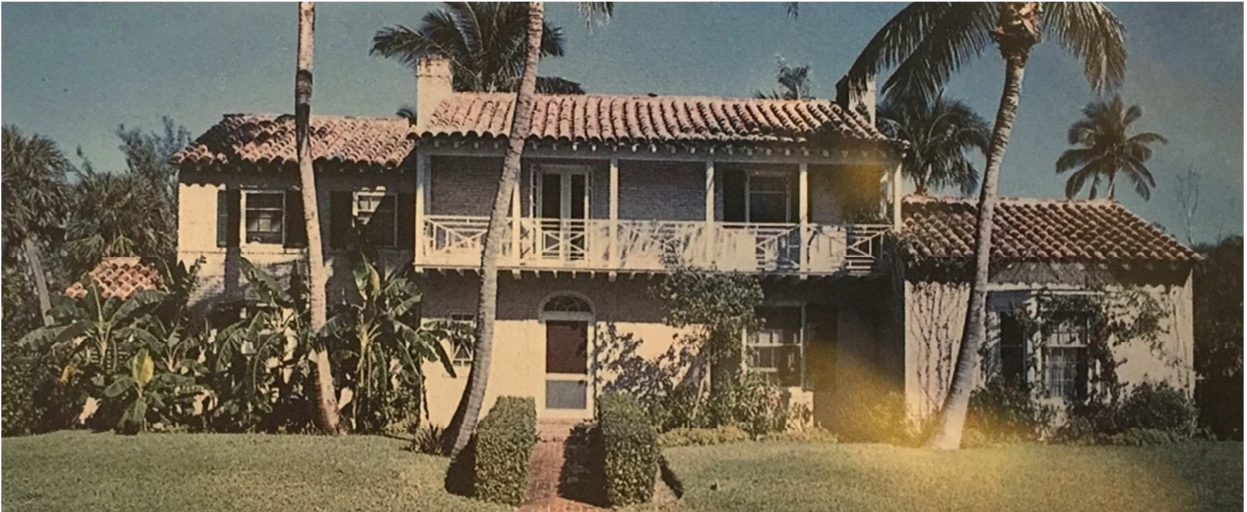
The residence at 215 Garden Road in Palm Beach's north end was designed in the Monterey style by one of Palm Beach's most important architects, Maurice Fatio. The house was commissioned in 1936 by Eden Properties Inc. as a series of four speculative homes all designed by the architectural firm of Fatio and Treanor. The builder, Smith and Yetter, constructed the residence for approximately \$25,000.¹



215 Garden Road is an excellent example of Maurice Fatio's interpretation of the Monterey style of architecture. The Monterey style originated in California and was especially popular in the United States between 1930 and 1950. It was a fusion of revival styles including Spanish Colonial, Colonial Revival and French Creole design details. The result was designs that were two-story residences with the main identifying feature being a second floor, cantilevered, open-air balcony covered by the principal roof. Decorative detailing of Monterey residences is often confined to the balcony railing, which are typically styled in wood or iron. The roofs were characteristically low-pitched with a side-facing gable, occasionally with a secondary front facing gable roof. Exterior walls were constructed of brick, stucco or wood, and some residences feature different exterior materials on the first and

¹ Town of Palm Beach Building permit #21736 dated November 17, 1936.

second floors. Early examples of the Monterey style tend to feature more Spanish detailing, while those constructed after 1940 typically emphasized Colonial details.



1936 Photograph
Provided by Property Owner

215 Garden Road is located on the north side of Garden Road between North Ocean Boulevard and Adam Road. The two-story Monterey style residence was constructed of hollow clay tile surfaced with brick and features low-pitched gabled roofs with exposed rafters and surfaced with clay barrel tiles. Throughout his career Fatio designed houses that incorporated both refined symmetry and casual asymmetry, which is apparent in the residence's design and massing. The residence is composed of a central section with wings on each side. A chimney is located on both the east and west ridge of the central section.



Central Section

The central portion of the residence contains the focal point of the house, a Monterey style second floor cantilevered balcony with an ornamental wood railing. The first floor of the central section contains the main entrance within an arched doorway. The doorway has an arched brick surround with a wood paneled door and decorative fanlight. To the east of the door is an eight-over-eight sash window with colonial shutters and a small window shielded by a shutter is located to the west of the door. The second floor of this section contains two sets of multi-light French doors flanked by shutters.

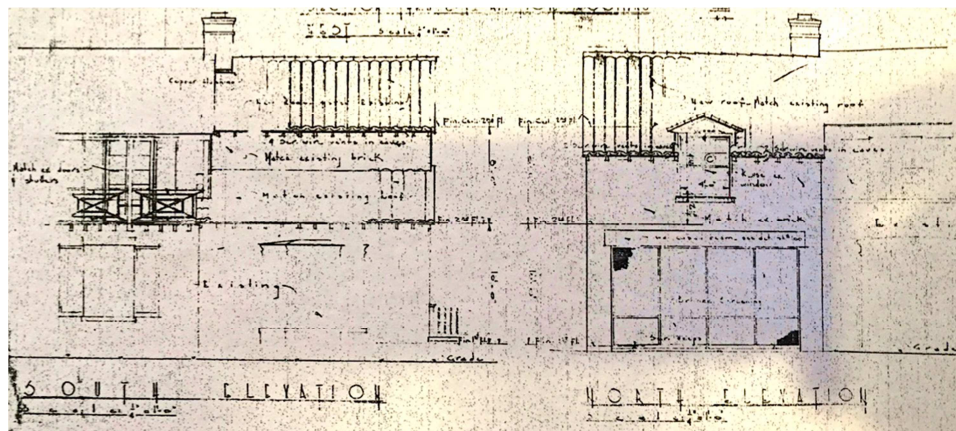


Balcony & Railing



Entrance

The eastern wing of the residence was originally a one-story element with a side-gabled barrel tile roof and a bay window with shutters facing Garden Road. This portion of the house projects forward of the central section. In 1949, the owner Granville O. Barclay hired architect Byron Simonson to design a second floor addition to the east wing.²



Elevations of Addition by Simonson, 1949

² Town of Palm Beach Building Permit #4449, dated April 1949.

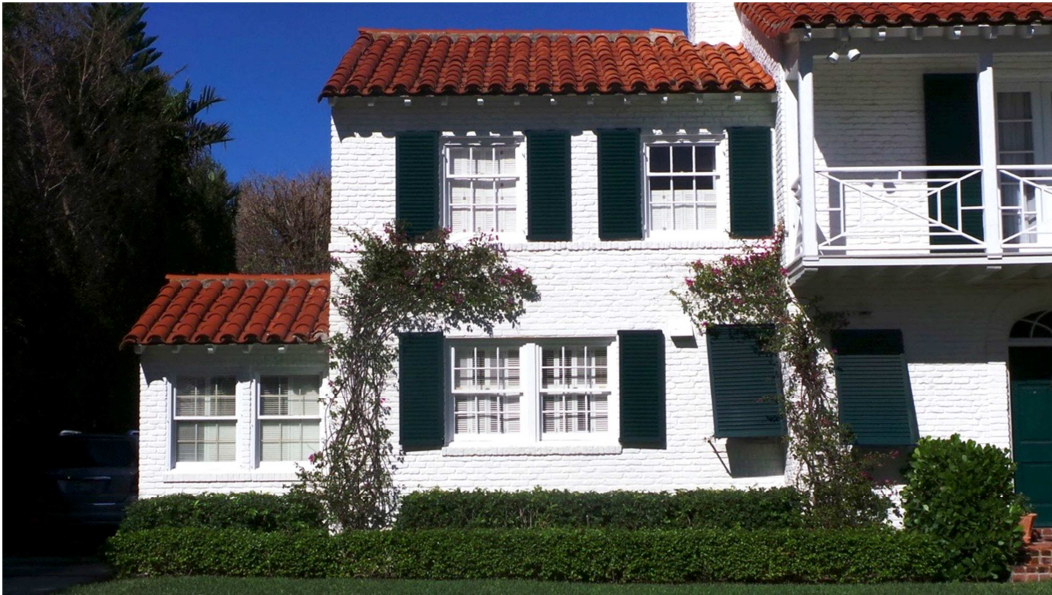
Simonson's popularity was one the rise after his plan to subdivide the famous Cielito Lindo Estate into smaller residences saved the iconic property from demolition.³ He had also worked for Maurice Fatio from 1933-1942, which included the time when 215 Garden Road was originally designed. Simonson designed the addition, which is recessed from the one-story original element, to retain the architectural integrity of the original design and not detract from the residence's significant architectural features.



Eastern Wing

³ The Cielito Lindo Estate was subdivided in 1947. 122 Kings Road and 123 Kings Road, two of the residences created with the subdivision, were designated Town of Palm Beach Landmarks in January 2016.

To the west of the central section is a two-story wing with a one-story component at the far west. The western wing is recessed from the central section of the house and has a side-gabled barrel tile roof, brick stringcourse and multi-light sash windows with brick sills and shutters. The one-story component is recessed back further and also has a side-gabled barrel tile roof and multi-light sash windows with brick sills.



Western Wing

The rear façade of the residence originally had two bay windows on the first floor and evenly spaced multi-light sash windows with shutters on the second floor. The 1949 addition by Simonson at the eastern end of the house contained a window with a small cross-gable roof.



Rear Façade - 1936 Photograph
Provided by Property Owner

In 1984 an addition was constructed to the rear of the residence. This addition created an enclosed loggia with multi-light sliding doors; enclosed a screen porch on the eastern end, added a chimney, and created new screen porch at this end of the residence; and added a second floor bedroom on the west end of the residence surfaced with clapboard.



Current Rear Facade
Provided by Property Owner

The rear of the property includes a one-story garage with access off of Laurian Lane and a swimming pool. The garage is surfaced with clapboard and has a flat roof. Both the garage and pool were constructed in 1936 at the same time as the residence.



Garage, Looking Northeast

Over the years there have been minimal changes to the property other than the additions noted above and ordinary repair and maintenance. The roof was repaired and replaced, air-conditioning installed, and the interior was renovated. Due to the sensitive addition to the east wing of the residence and the rear addition not being visible from the street, the original architectural integrity of the dwelling remains intact.

IV. Historical Information

The property at 215 Garden Road was originally part of the famed early Palm Beach scenic attraction the Garden of Eden. The Garden of Eden was the estate of Charles and Frances Cragin who were early Palm Beach pioneers. The Cragin's were from Philadelphia where they owned the Dobbins' Soap Manufacturing Company. They arrived in Palm Beach and purchased their first 20 acres of land north of what is today the Palm Beach County Club in 1887 from Moore Dimick. They continued to purchase land acquiring 250 acres and transforming it into a botanical paradise. The Cragin's constructed a Victorian style house on the property in 1893, which they named Reve D'Ete, which means "Dream of Summer", as their winter home. The Cragin's imported and planted so many trees and plants on the property that the federal government declared the property an experimental botanical garden. The Garden of Eden became a favorite tourist attraction in Town with visitors renting wheel chairs to take them to and around the extensive property. Charles Cragin died in 1915 and in 1925 Frances Cragin sold the property. The subdivision that was created in later years remembers its history through the names of the streets – Garden Road, Eden Road, and Adam Road.



Eden Properties Inc. developed the Eden Properties subdivision, one of the north end's earliest subdivisions, during the late Depression/New Deal Era of the mid to late-1930s. The end of the Boom Time Era in Palm Beach had signaled a change in the construction of residences, with many owners seeking mid-size residences in classic designs rather than the ornate Mediterranean Revival style estates of the 1920s Land Boom. This led to the subdivision of many large estates into smaller properties. Maurice Fatio was commissioned to design four houses for Eden Properties Inc. as a speculative venture. The homes included 215 Garden Road, 216 Garden Road, 220 Eden Road, and 227 Eden Road. As noted in an advertisement in *The Palm Beach Post* in 1937, the homes, while different in design and style, show an architectural unity and standards for future homes in the area.

GARDEN OF EDEN

**Two Minutes North of Palm Beach Country Club
North Ocean Boulevard**

Smart People—

It's significant that the smart people, who for generations have made Palm Beach society's winter resort capital of America, return year after year . . . that, year after year, more Americans discover the brilliant attractions of Palm Beach . . . that, year after year, more visitors become home-owners.

Foresight—

Eden Properties displayed exceptional foresight in recognizing the extra value of Palm Beach as a playground and a place to live and with architectural unity as its theme, developed the beautiful and historical Garden of Eden into a more beautiful home location.

Four Homes—

Characteristically the four new homes already built are different. Nevertheless they show architectural unity and impose a definite standard for future dwellings, controlled by the best of planning restrictions. Those completed contain three and four master bedrooms and the usual complement of other rooms.

Money Under the Ground—

Each of the completed homes is provided with a salt water swimming pool which will be served with water through facilities now in place, and all future homes may have pools served through these same facilities . . . an added feature which reflects your own smart theme of living.

Added Features—

Humphrey Automatic Gas Heater system affording hot air circulation and maintaining an even temperature throughout the winter.

Two car garage, laundry, electric water heaters, insulated and sound proofed plumbing, fireproof roof, two closets in each master bedroom, linen closet, trunk room, large loggia connecting with dining and living rooms, large kitchen, pantry, butler's pantry, etc. Service alley in rear. Also right of way to Atlantic Ocean and Lake Worth.

Life Insurance—

A wealth of sunshine, more hours out-of-doors, fun and congenial company—these combine to make Garden of Eden today's best investment in well-being, with daily dividends of happiness and potential added years of life.

1937 Ad from *The Palm Beach Post*

The second half of the 1930s was a busy time in Maurice Fatio's career as well as the beginning of significant growth in Palm Beach's north end. From 1931-1933, Fatio had so few commissions he considered closing the Palm Beach office. However, by the winter of 1934, business had picked up significantly and he remained very active and highly sought after until the start of the War. Building in Palm Beach was also on a rise and the north end was beginning to gain popularity. In a letter dated March 19, 1934, Fatio's wife, Eleanor Chase Fatio explains,

"Looking back on this winter, it hardly seems possible that, in October (1933), Maurice was considering closing the Palm Beach office because there wasn't enough work down here to warrant keeping it going. He has gotten an incredible number of jobs in the last two months. They are none of them mansions, but they are all moderate sized houses and he has, altogether ten contracts signed, with several more good prospects."⁴

Between 1935 and 1938, Fatio designed a number of houses in the north end of Palm Beach. Most of the houses were designed for specific clients, however, others were designed and built as spec homes for developers.⁵

In 1938, 215 Garden Road was purchased by its first resident, Mr. and Mrs. Charles Francis Coe. Charles "Socker" Coe was a famous American author who was born in Buffalo, New York, in 1890.⁶ At seventeen he enlisted in the Navy and after leaving the service, he was a boxer before becoming a prolific writer, advertiser, and lawyer. The Coe's started coming to Palm Beach in the 1930s and owned property in Jupiter Island before purchasing 215 Garden Road. After settling in Palm Beach, Coe kept busy writing novels, founding a Palm Beach law firm, and becoming the publisher and editor of The Palm Beach Post. In addition, he was active in various clubs and an avid fisherman. Charles Coe died in December 28, 1956 in Palm Beach.

The Coe's owned the property at 215 Garden Road for approximately ten years until it was sold to John E. Laird. Subsequent owners include Granville O. Barclay and Edward Corcoran. The current owners of the property Larry

⁴ Alexandra Fatio. Maurice Fatio, Architect. Stuart, Florida: Southeastern Printing, 1992.

⁵ The developers included Eden Properties Inc., Palm Beach Modern Homes, Inc., E.B. Walton and Sons, J.S. Willson Company, and Arnold Construction Company.

⁶ Fifteen of Charles Coe's titles are kept in the Library of Congress.

and Susan Alexander purchased 215 Garden Road in 2002 and have been excellent stewards of the property.

V. Architects Biographies

Maurice Fatio

Maurice Fatio was one of Palm Beach's leading architects from the 1920s to the early 1940s. His firm, Treanor & Fatio was one of the largest architectural firms in Palm Beach and Fatio's distinctive designs can be seen throughout the Island.

Fatio was born in 1897 in Geneva, Switzerland. He studied architecture under Karl Moser at the Zurich Polytechnical. After graduation in 1920, Fatio came to America and apprenticed with Harrie T. Lindeberg, a prominent New York architect of Norman and English style country houses.

In 1921, Fatio formed a partnership with William A. Treanor, another architect in Lindeberg's firm. They quickly achieved a great deal of success, constructing numerous houses, primarily Colonial, on Long Island as well as buildings in Manhattan, including Beekman Tower on the East River.

Fatio's association with Florida can be traced to his employment with Lindeberg, when he received the commission for eight small houses in New Smyrna, Florida. In October, 1923, Treanor and Fatio were asked to be the architects for the Olympia Beach development, now Jupiter Island. The next year Fatio opened an office in Palm Beach.

Fatio's many commissions for houses and commercial buildings in Palm Beach were based on his reputation in New York as well as his charm, good looks, and European manner. During his career in Florida, Fatio designed in many diverse styles. Mediterranean Revival, more specifically, Italianate houses incorporating tower blocks, were designed for William McAneeny (195 Via Del Mar), the Coopers (801 South County Road), Mortimer Schiff (920 South Ocean Boulevard), and Daniel McCarthy (550 South Ocean Boulevard). More horizontal, symmetrical and formal Florentine houses were designed for Otto Kahn (690 North County Road) and Joseph Widner (1500 South Ocean Boulevard). In 1928, he designed a French Normandy style house for his future mother-in-law Mrs. Charles Curry Chase (Via Del Mar). In the mid-30s,

Fatio began designing in the Georgian and British Colonial styles. Large commissions for Albert Worswick (1860 South Ocean Boulevard), E. F. Hutton (1768 South Ocean Boulevard), and Wolcott Blair (1960 South Ocean Boulevard) with their simple materials and uncluttered lines reflected the sober, economic climate and set the pace for the smaller Colonial and Regency commissions that followed them.

During this time, Fatio also worked in the modern style, producing such modern masterpieces as "The Reef" built for Mr. and Mrs. Vadim Makaroff. The design of this house won Fatio the Gold Medal at the 1936 French Exposition Internationale des Arts et Techniques dans la vie Moderne as the "Best Modern House In America." Other modern houses were designed for Messmore Kendall, aviator pioneer Grover Loening, and Prince and Princess Zalstem-Zalessky (Evangeline Johnson Merrill).

World War II brought a halt to construction in Palm Beach. Fatio had many international connections and entered the Office of Strategic Services in Washington, D.C. in June of 1943. He sadly died of cancer later that same year, on December 2, 1943, at the young age of 46.

Byron Frederick Simonson

Byron Simonson was born in Milwaukee, Wisconsin on December 9, 1902. He attended Milwaukee State Teachers College from 1920 – 1923. He then attended the Chicago Institute of Fine and Applied Arts and the Ray School of Design for a year. Simonson moved to Palm Beach and served as chief draftsman for Addison Mizner from 1924-1925 and again from 1930-1933. He also was a designer for York & Sawyer in New York. From 1933-1942, Simonson was the chief designer for Treanor and Fatio. On April 28, 1944, Simonson applied to the State of Florida for licensure as an architect, which was granted with certificate #AR0001418 on January 11, 1945. Upon receiving his Florida architectural license, Byron Simonson formed a partnership with Maurice E. Holley, which thrived until they dissolved the partnership in 1949, at which time Simonson began to practice under his own name. He acquired a N.C.A.R.B. certification and was active in the Palm Beach Chapter of the A.I.A.⁷

⁷ N.C.A.R.B is the National Council of Architectural Registration Boards.

Byron Simonson's most prominent work in Palm Beach is the Colony Hotel he designed in 1946-1947. In 1946, he was the architect who designed the plan to subdivide the famed Cielito Lindo estate of Jessie Woolworth Donahue thus saving it from demolition. In the 1950's he "renounced the arches and columns of classical styles" for Mid-Century Modernism. The former La Coquille Club in Manalapan was considered a modernist masterpiece popular with the jet set and for a time put Simonson in the top tier of Palm Beach's society architects.⁸ Built in 1952 for Spelman Prentice, John D. Rockefeller's grandson, "the club's flat-roofed buildings were so stunningly avant-garde that the year after it opened, awed Florida AIA members held their meeting at the club and high society loved its minimalist elegance."⁹ Simonson became one of the areas most prominent modern architects in the post-war building boom of the 1950s but unfortunately most of his Palm Beach houses were torn down after modernism fell out of favor locally in the 1980s.

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

VI. Statement of Significance

215 Garden Road is significant as a very good example of the Monterey style of architecture as interpreted by the acclaimed architect Maurice Fatio as one of four speculative houses within what was once the Garden of Eden at the beginning of growth in Palm Beach's north end.

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:

⁸ The La Coquille Club was demolished in 1985 to make room for the Ritz Hotel (now Eau Palm Beach).

⁹ Augustus Mayhew, New York Social Diary.

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

The house at 215 Garden Road was built in 1936 in one of the north end’s earliest subdivisions during the late Depression/New Deal Era. The end of the Boom Time Era in Palm Beach had signaled a change in development and construction of residences. With many owners seeking mid-size residences in classic designs, developers began to purchase large estate properties, subdivide the land and sell off the lots. The Monterey style residence at 215 Garden Road exemplifies the trend of moving away from the large, ornate, Mediterranean Revival style estates to more traditional styles of architecture.

(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 residence at 215 Garden Road is a very good example of Maurice Fatio’s skillful interpretation of the Monterey style of architecture. The brick dwelling has a second floor, cantilevered balcony with an ornamental wood railing with low-pitched side-gable roofs with exposed rafters and barrel tiles. The home also exhibits Fatio’s use of refined symmetry and casual asymmetry.

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

Maurice Fatio was one of Palm Beach’s leading and most sought-after architects from the 1920s to the early 1940s. He was an eclectic architect who took pride in his ability to work in different architectural styles. 215 Garden Road is a very good example of Fatio’s ability to adapt to the changing economic climate and shifts in architectural trends.

VIII. Selected Bibliography

Fatio, Alexandra. Maurice Fatio: Architect. Stuart, Florida: Southeastern Printing, 1992.

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

Mockler, Kim I. Maurice Fatio: Palm Beach Architect. Acanthus Press, 2010.

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Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1919 and 1924 updated to 1946.

Town of Palm Beach. Building Permits and Microfiche Records 1936–2016.

West Palm Beach City Directories. Palm Beach Section, Asheville, NC: Florida-Piedmont Directory Company, 1936-1975.

IX. Florida Master Site File Form

		HISTORICAL STRUCTURE FORM Electronic Version 1.1.0	Site # <u>FB09444</u> Recorder # <u>Jane S. Day</u> Field Date <u>9/4/2004</u> Form Date <u>9/4/2004</u> Form No <u>200409</u> Form No = Field Date (YYYYMM)
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First Site Form Recorded for this Site? NO

GENERAL INFORMATION

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

LOCATION & IDENTIFICATION

Address

Street No.	Direction	Street Name	Street Type	Direction Suffix
<u>215</u>		<u>Garden</u>	<u>Road</u>	

Cross Streets (nearest/ between) North Ocean Blvd & North Lake Way
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES
 County Palm Beach Tax Parcel #(s) 50-43-43-03-20-000-0070
 Subdivision Name Eden Properties Block _____ Lot 7
 Ownership Private Individual
 Name of Public Trust (e.g., park) _____
 Route to (especially if no street address) On the north side of Garden Road between North Ocean Blvd and North Lake Way.

MAPPING

USGS 7.5' Map Name _____ Publication Date _____ >> PALM BEACH; 1946
 Township: _____ Range: _____ Section: _____ 1/4 section: _____ >> 43S ; 43E ; 02; UNSP
 Irregular Section Name: _____
 Landgrant _____
 UTM: Zone _____ Easting _____ Northing _____
 Plat or Other Map (map's name, location) _____

DESCRIPTION

Style Monterey Other Style _____
 Exterior Plan Irregular Other Exterior Plan _____
 Number of Stories 2
 Structural System(s) _____ >> Hollow clay tile
 Other Structural System(s) _____
 Foundation Type(s) _____ >> Slab
 Other Foundation Types _____
 Foundation Material(s) _____ >> Poured Concrete Footing
 Other Foundation Material(s) _____
 Exterior Fabric(s) _____ >> Brick
 Other Exterior Fabric(s) _____
 Roof Type(s) _____ >> Gable
 Other Roof Type(s) _____
 Roof Material(s) _____ >> Spanish tile
 Other Roof Material(s) _____
 Roof Secondary Structure(s) (dormers etc) _____ >> Shed extension
 Other Roof Secondary Structure(s) _____
 Number of Chimneys 2
 Chimney Material Brick
 Other Chimney Material(s) east and west ridge
 Chimney Location(s) _____

HISTORICAL STRUCTURE FORM

8FB09444

DESCRIPTION (continued)

Window Descriptions 3/6, 6/6, 8/8. bay windows, French doors

Main Entrance Description (stylistic details) On the south facade with a fanlight above

Porches: #open 2 #closed 0 #incised 0 Location(s) entry - s, cantilevered balcony - s

Porch Roof Type(s) shed extension on balcony

Exterior Ornament exposed rafters, shutters, decorative railings

Interior Plan Unknown

Other Interior Plan

Condition Excellent

Structure Surroundings:

Commercial: NONE of this category Residential: ALL this category

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

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

Archaeological Remains (describe): none observed

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

Narrative Description (optional)

HISTORY

Construction year 1936

Architect (last name first): Treanor and Fatio

Builder (last name first): Smith and Yelter

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 >> Private residence; 1936;

Other Structure Uses

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

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods

SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? YES Name of Local Register if Eligible Town of Palm Beach Landmark

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? NO

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

Other Historical Associations

Explanation of Evaluation (required) Treanor and Fatio designed this house in 1936. It is a good example of the Monterey style and is worthy of local designation.

HISTORICAL STRUCTURE FORM

8PB09444

DOCUMENTATION (Photos, Plans, etc.)

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

Document type: _____ Maintaining Organization: _____
 File or Accession #: _____ Descriptive Information: _____
 >> Photographs (archived); Research Atlantica;

RECORDER INFORMATION

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

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

Cultural Resource Type: <u>SS</u> Electronic Form Used: <u>8110</u> Form Type Code: <u>SCRM</u> Form Quality Ranking: <u>NEW</u> Form Status Code: <u>SCAT</u> Supplement Information Status: <u>NO SUPPLEMENT</u> Supplement File Status: <u>NO SUPPLEMENT FILE</u> Form Comments: _____ _____ _____	SHPO's Evaluation of Resource Date: _____ FMSF Staffer: _____ Computer Entry Date: <u>9/4/2004</u>
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REQUIRED PAPER ATTACHMENTS

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

XI. DESIGNATION HEARINGS

Item 1: 215 Garden Rd

Owner: Larry B. and Susan M. Alexander

Mr. Cooney stated that our Town Attorney, John Randolph, was not available to attend so Mr. Tim Hanlon will be representing the Town today in this matter.

Louis Mrachek stated he will be representing Larry B. and Susan M. Alexander in this matter. Heidi Merrill – Us Legal Support, was the court reporter for the owners.

Emily Stillings – Murphy Stillings, LLC, testified to the architecture and history for this residence. Ms. Murphy stated this 1936 home is a good example of the Monterey style of architecture as interpreted by Maurice Fatio and is located what was known as the “Garden of Eden,” which was built in the beginning of Palm Beach’s history in the north end. Throughout the building’s long history, the alterations made to the residence include a second story addition to the eastern wing and a rear addition including a screened porch and loggia but otherwise the changes have been minimal. Ms. Stillings testified that the building meets the following criteria for designation as a landmark:

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

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

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

A motion was made by Ms. Albarran and seconded by Mr. Zukov that the designation report be made part of the record. Motion carried with all in favor.

Mr. Mrachek asked Ms. Stillings about more of the details on the three criteria that she feels this property meets for designation. A lengthy discussion ensued.

Commission Comments: Some of the Commission questioned if the homeowners wanted their home landmarked. Mr. Mrachek stated that the owners were opposed to their home to being landmarked.

Mr. Mrachek entered into the record the current and historic pictures of the front and rear of the home, a chart he created that depicts landmark examples of Monterey style as well as a letter from the homeowners.

Call for ex parte communication: Disclosure by Messrs. Zukov and Cooney.

Commission Comments: Many of the Commission felt that even though the rear of the home had been altered, a large part of the home had only minimal changes and maintains its integrity.

Some members disagreed. Mr. Cooney reminded the Commission that owner consent is not part of the ordinance to landmark a property.

Motion made by Ms. Hufty and seconded by Mr. Zukov that 215 Garden Rd. not be recommended to the Town Council for designation as a landmark of the Town of Palm Beach because it is contrary to the owners wishes and there are many typical Monterey homes to be landmarked. Motion failed 3-4 with Mses. Wyett and Albarran and Messrs. Strawbridge and Cooney in opposition.

Motion made by Ms. Albarran and seconded by Mr. Strawbridge that 215 Garden Rd. be recommended to the Town Council for designation as a landmark of the Town of Palm Beach, and that the criteria, as presented, be made a part of the record. Motion passed 4-3 with Ms. Hufty and Messrs. Silvin and Zukov in opposition.

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

ARTICLE IV. - DESIGNATION PROCEDURE

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

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

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

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

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

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

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

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

(Code 1982, § 16-38)

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

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

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

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

(Code 1982, § 16-42)

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

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

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

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

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

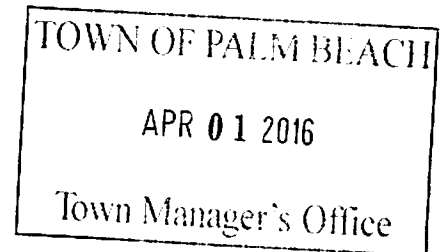
Secs. 54-166—54-195. - Reserved.

LARRY B. AND SUSAN M. ALEXANDER
215 GARDEN ROAD
PALM BEACH, FL 33480
PHONE: 561-659-3000
EMAIL: lalexander@jonesfoster.com

April 1, 2016

VIA HAND DELIVERY

Honorable Mayor and Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480
Attn: Thomas G. Bradford, Town Manager



Dear Honorable Mayor and Town Council:

Our home at 215 Garden Road was recommended to be designated as a landmark at the March 16, 2016 Designation Hearing of the Landmarks Preservation Commission. We appeared through our counsel, Louis Mrachek at the Landmarks Preservation Commission meeting and strenuously objected to our home being designated as a landmark. Our home was originally constructed in 1936, as one of four spec houses constructed in the Eden Properties subdivision. Since its construction in 1936, the home has been substantially modified twice.

The first modification occurred in 1949, when an addition was added to the second floor of the residence. This addition is located immediately above the north and south portion of the east side of the first floor of the residence, as originally constructed. This modification added two dressing rooms and a bath, as well as additional closet space. The addition, which, in our opinion substantially changed the character of the front façade, and has been described as an "ugly bump", was not designed by the original architects, Treanor & Fatio.

The second modification occurred in 1984, when a two story addition to the rear of the home was constructed. This modification (i) added an enclosed glass sliding door loggia across the rear of most of the home, (ii) enclosed what had been a rear screened-in porch, (iii) added a fireplace, (iv) added a second floor bedroom on the west side of the home, and (v) added a new covered patio with a built-in barbeque on the east side of the home. The first and the second modifications, in addition to the front and rear of the home, also modified the east and west sides of the home. The result is that all four sides of the home have been modified since its original construction.

We are fortunate to have photographs of the home as originally constructed, with both front and rear views, which are enclosed. We also enclose current photographs of the front and rear views of the home. The current photographs clearly show the substantial

modifications to the east side of the second floor on the front of the home and the rear of the home.

There are currently 44 Treanor & Fatio designed homes designated as landmarks, including 4 Treanor & Fatio designed Monterey style homes. There are other numerous Monterey style homes designed by other architects which have also been landmarked.

There are four criteria for homes being landmarked as follows:

1. The first criteria is that the site "exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town." The consultant suggests that this criteria is met based on the movement from large homes to small homes and the development of the north end of the Town. Since almost any home in the north end (or anywhere else in Town) would meet this criteria, we do not believe that the first criteria is specifically met by our home.
2. The second criteria is that the site "is identified with historic personages or with important events in national, state or local history." The consultant, at the Landmark Commission meeting, admitted that only the first, third and fourth criteria were applicable to our home.
3. The third criteria is that the site "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." As the home was substantially renovated, it is no longer a distinguished architectural type, nor is it a specimen inherently valuable for study as stated in the criteria. There are currently 44 Treanor & Fatio designed homes designated as landmarks, including 5 Treanor & Fatio designed Monterey style homes. There are also numerous Monterey style homes designed by other architects which have been landmarked. Surely there are sufficient number of specimens already landmarked, more valuable than our home.
4. The fourth criteria is that the site "is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who has influenced his age." While certainly Treanor & Fatio were notable architects, the home, designed as a spec home along with three others, is not, in our view, a "notable work". This is particularly true when compared to other much more grand Treanor & Fatio designed homes.

We believe that comments from members of the Commission at the designation hearing are persuasive as to the reasons why the home should not be designated. For example:

Mr. Zukov emphasized that "three sides of the home are substantially changed. Three sides. The house has four so one side of the home is also changed but

not a lot, a little. So we have three sides that have been changed, that's 75 percent."

Ms. Drake stated "I also think not every house that Fatio does or a named architect does, should be necessarily and for that reason, designated. Now, looking at this house, I think there are magnificent examples of Fatio's. This may well not be one of them. I do think that the alterations are significant. If you look at the original house and you look at it now, these alterations are significant, especially when you look at the back of the house. Its changed, you know, the structure that's coming at you on the right side, as Lee says, as you look at it. The glass, I mean, I don't think we, from what I've, you know, during my time here on the Commission, we would ever have approved those changes in the back. They completely change, in my opinion the feeling of the house, so I think we should be very mindful, in addition, when the owners are against it, you know, especially when the house is not just simply, just clearly a hugely significant architectural value."

Ms. Hufty stated "I think we can pound almost any house into those three criteria if we have a strong enough hammer and enough determination. I just think your house is utterly charming, but I think Palm Beach would not necessarily be the poorer without it, and I think you are going to have children who maybe want to live in it, maybe want to change it Ex post facto landmarking of purchased property is really cruel and unusual punishment.

The Landmarks Commission recommendation was based on a 4 to 3 vote, hardly a mandate. One of the members who voted for landmarking, clearly wrestling with whether or not to vote to designate, stated "I think my job is to landmark. I'm thinking. I think my job is to landmark, so I'm rejecting it (speaking to the motion that the home not be designated)." Were it not for this perspective, the vote to designate would have failed.

We do not believe that our home, as presently constructed meets the criteria for designation and we request that our home not be designated a landmark.

Thank you for your thoughtful consideration.

Sincerely,



Larry B. Alexander

Cc: John S. Page, Director of Planning, Zoning & Building
Eight copies for distribution with color photographs



1936 Front View



2015 Front View
(with 1949 addition)



1936 Rear View



2015 Rear View
(with 1949 and 1984 additions)

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 58-2016 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For **330 Island Road**, And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V of The Code of Ordinances of The Town of Palm Beach, Relating To Landmarks Preservation And Titled “Tax Exemptions.”

Presenter

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

Supporting Documents

- [Memorandum Dated March 30, 2016 from John S. Page, Director of Planning, Zoning & Building](#)
- [Resolution No. 58-2016](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Tax Abatement: 330 Island Road
Resolution No. 58-2016

Date: March 30, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 58-2016, granting Tax Abatement to the property at 330 Island Road.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission has approved all changes to this property using the Secretary of Interior (Federal) Standards for Rehabilitation as required in the Tax Abatement program.

GENERAL INFORMATION

1. Project Summary: The above-mentioned applicant has applied for participation in the Town's Tax Abatement Program.

330 Island Road was designated as a Landmark of the Town of Palm Beach on January 11, 2012.

The Landmark Preservation Commission (LPC) approved the Tax Abatement Application in 2011. The completed work has been reviewed and found to be in compliance with the LPC approval.

2. Town Council approval is required to grant this abatement and forward same to Palm Beach County.
3. A written application for ad valorem tax exemption has been presented to Town staff as prescribed by Section 54-199 of Town Code. As additionally required by Section 54-200, the property owner must enter into a covenant or agreement with

the Town, the form of which is established by the Department of State, requiring that the character of the property and the qualifying improvements be maintained during the exemption period. The covenant must be entered into prior to the submittal to the County and Property Appraiser's Office.

FUNDING/FISCAL IMPACT

Action will abate ad valorem Town of Palm Beach property tax increase (new incremental value only) for a period of ten years. Full value assessment will be applicable after the ten year program.

The estimated cost of the improvement as provided by the property owner is \$7,373,682. The Palm Beach County Property Appraiser will determine the value of the tax abatement using its own methodology.

TOWN ATTORNEY REVIEW

Resolution No.58-2016 has been approved by the Town Attorney for legal form and sufficiency.

Attachments

JP:jl

cc: John Lindgren, AICP, Planning Administrator
Emily Stillings, AICP, Murphy Stillings, LLC

RESOLUTION NO. 58-2016

330 Island Road

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR 330 ISLAND ROAD, AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Chapter 54, Article V, Code of Ordinances of the Town of Palm Beach, the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant of agreement with the Town for the ten year term for which the exemption is granted.

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

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed as a Landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Chapter 54, Article V.

Section 2. The landmark is owned by Milan EAT LLC and is located at 330 Island Road, Palm Beach, Florida. The property is legally described as follows:

Tax Folio Number: 50-43-43-27-04-000-0031

Legal Description: REVISED PLAT OF ISLAND ROAD DEV WEST 85 FEET OF LOT 3, LOT 4 AND EAST 6 FEET OF LOT 5

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

Section 4. A copy of this Resolution with completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Chapter 54 of the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the Town of Palm Beach assembled this 13th day of April 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, President Pro-Tem

Bobbie Lindsay, Town Council Member

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret Zeidman, Town Council Member

Resolution No. 58-2016

Page 2 of 2

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 59-2016 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For **350 Worth Avenue**, The Everglades Club (Main Hall Foundation Renovation) And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V of The Code of Ordinances of The Town of Palm Beach, Relating To Landmarks Preservation And Titled “Tax Exemptions.”

Presenter

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

Supporting Documents

- [Memorandum Dated March 30, 2016 from John S. Page, Director of Planning, Zoning & Building](#)
- [Resolution No. 59-2016](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Tax Abatement: The Everglades Club, 350 Worth Avenue:
Main Hall Foundation Renovation
Resolution No. 59-2016

Date: March 30, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 59-2016, granting Tax Abatement to the property at The Everglades Club, 350 Worth Avenue – Main Hall Foundation Renovation.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission has approved all changes to this property using the Secretary of Interior (Federal) Standards for Rehabilitation as required in the Tax Abatement program.

GENERAL INFORMATION

1. Project Summary: The above-mentioned applicant has applied for participation in the Town's Tax Abatement Program.

The Everglades Club was designated as a Landmark of the Town of Palm Beach on May 22, 1980.

The Landmark Preservation Commission (LPC) approved the Tax Abatement Application on April 16, 2016. The completed work has been reviewed and found to be in compliance with the LPC approval.

2. Town Council approval is required to grant this abatement and forward same to Palm Beach County.

3. A written application for ad valorem tax exemption has been presented to Town staff as prescribed by Section 54-199 of Town Code. As additionally required by Section 54-200, the property owner must enter into a covenant or agreement with the Town, the form of which is established by the Department of State, requiring that the character of the property and the qualifying improvements be maintained during the exemption period. The covenant must be entered into prior to the submittal to the County and Property Appraiser's Office.

FUNDING/FISCAL IMPACT

Action will abate ad valorem Town of Palm Beach property tax increase (new incremental value only) for a period of ten years. Full value assessment will be applicable after the ten year program.

The estimated cost of the improvement as provided by the property owner is \$850,000. The Palm Beach County Property Appraiser will determine the value of the tax abatement using its own methodology.

TOWN ATTORNEY REVIEW

Resolution No. 59-2016 has been approved by the Town Attorney for legal form and sufficiency.

Attachments

JP:jl

cc: John Lindgren, AICP, Planning Administrator
Emily Stillings, AICP, Murphy Stillings, LLC

RESOLUTION NO. 59-2016

Everglades Club, 350 Worth Avenue
Main Hall Foundation Renovation

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR 350 WORTH AVENUE, THE EVERGLADES CLUB (MAIN HALL FOUNDATION RENOVATION) AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Chapter 54, Article V, Code of Ordinances of the Town of Palm Beach, the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant of agreement with the Town for the ten year term for which the exemption is granted.

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

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed as a Landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Chapter 54, Article V.

Section 2. The landmark is owned by The Everglades Club Inc. and is located at 350 Worth Avenue, Palm Beach, Florida. The property is legally described as follows:

Tax Folio Number: 50-43-43-23-05-019-0010

Legal Description: ROYAL PARK ADD LTS 1 THRU 18 BLK 19 & UN#D LT LYG BET BLKS 19 & 20 (LESS W 25 FT) & 27-43-43, FILLED LANDS LYG WLY OF & ADJ TO LT 1 BLK 19 & SLY OF & ADJ TO UN#D LT LYG BET BLKS 19 & 20 (LESS W 25 FT)

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

Section 4. A copy of this Resolution with completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Chapter 54 of the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the Town of Palm Beach assembled this 13th day of April 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, President Pro-Tem

Bobbie Lindsay, Town Council Member

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Time Extensions

Agenda Title

Extension of Time Schedule for Completion of Construction per Town
Code Chapter 18, Section 18-237, 1071 N. Ocean Boulevard

Presenter

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

Supporting Documents

- [Memorandum Dated March 23, 2016 from John S. Page, Director of Planning, Zoning and Building](#)
- [Letter Dated March, 8, 2016 From Maura Ziska](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Extension of Time Schedule for Completion of Construction per Town Code
Chapter 18, Section 18-237
1071 N Ocean Blvd

Date: March 23, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider an extension of the Code-specified time limit for construction for the project located at 1071 North Ocean Blvd (construction of a new single family home).

GENERAL INFORMATION

The applicant is requesting a 2-month extension of the time limit (Permit B-13-31998) for the construction of a new single family residence of 23,040 square feet. The permit was issued on October 25, 2012 and was given a time for completion per the schedule in the Town Code of Ordinances of 42 months. This limit imposes a completion date for the construction of April 25, 2016. Attorney for Contractor (Davis General Contracting), has submitted a letter to the Building Official explaining extension circumstances. As required by Code, all owners within 200' of the project were notified of the extension, including Town Council meeting details. A construction completion schedule was also provided to staff.

As outlined within the Code, the Council may impose conditions on the extension which may include the implementation of mitigation measures deemed appropriate by the Council and imposition of a fee for each day of the extension beyond the 42 month term imposed. The fee established is 10 cents per square foot with a minimum of \$500.00/per day. From the Town's record drawings, the project square footage is 23,040 square feet. This means that the maximum fee that the Council could opt to impose is \$2,304.00 per day (which would accrue until the Planning, Zoning and Building Department issues a Certificate of Occupancy).

Attachments

JP/wcb

cc: Hugh Davis, Davis General Contracting
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Ben Alma, Code Enforcement Unit

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel**

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA HAND DELIVERY

March 8, 2016

Mr. Bill Bucklew, Building Official
Town of Palm Beach
360 S County Road
Palm Beach, FL 33480

Re: Extension for construction time frame / 1071 North Ocean Blvd., Palm Beach, FL

Dear Bill,

This letter shall serve as formal notice of the request for a waiver of the time schedule for completion of construction by the owner of 1071 North Ocean Blvd., Palm Beach, Florida. Also enclosed is a revised construction schedule from Davis General Contracting. The reason for the delay and request for an extension is due line items 19-24 on the attached construction schedule cannot be completed until after season, per Town regulations regarding work in the right of way. There were also ARCOM revisions during the project which further delayed field work. Additionally, the exterior stone selected was sourced from the Middle East causing a delay in delivery; and, because of material selected for the roof, there was an excessive lead time for the delivery due to output production from the manufacturer. I have also included the Notice Affidavit for sending the notification to the surrounding property owners', a copy of the letter to the surrounding property owners' and the list of the surrounding property owners'.

Please place this request on the April 13, 2016 Town Council agenda.

Respectfully,



Maura Ziska

RECEIVED
MAR 08 2016
Town of Palm Beach
PZB Dept

/maz

00031313.DOC

NOTICE AFFIDAVIT

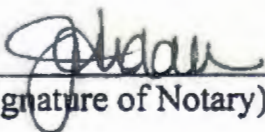
**STATE OF FLORIDA
COUNTY OF PALM BEACH**

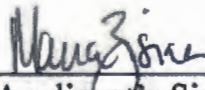
**BEFORE ME THIS DAY PERSONALLY APPEARED Maura Ziska
WHO BEING DULY SWORN, DISPOSES AND SAYS THAT:**

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in the request for Town Ordinance 18-242, Section 105.4.1.6, Agreed Maximum Time Schedule for Completion of Construction.
2. All properties within two hundred (200) feet of the real property described as 1071 N Ocean Blvd. have been notified using Property Appraiser labels at least 25 days prior to the Town Council Meeting of April 13, 2016.
3. A copy of the Notification Letter is attached.

Sworn to and subscribed before me this 7th day of April, 2016.

By Maura Ziska who is personally known to me or who has produced
_____ as identification and who did (did not) take an oath.


(Signature of Notary)


(Applicant's Signature)

J. Hudak
(Printed Name of Notary)

Maura Ziska
(Printed Name of Applicant)

00031312.DOC



KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel* •

*Also admitted in New York

• Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

March 8, 2016

To Whom It May Concern:

A waiver of Town Ordinance 18-242, Section 105.4.1.6, agreed maximum time schedule for completion of construction, is being requested by 1071 North Ocean Blvd., Palm Beach, Florida allowing extra time to complete construction.

This matter will be presented to the Palm Beach Town Council at the regularly scheduled meeting on April 13, 2016. Any concerns regarding this matter should be expressed at this meeting and/or submitted to the Town's Planning, Zoning & Building Department in advance of the Town Council meeting.

Respectfully,



Maura Ziska

/maz

00031311.DOC

3/7/2016

Property Appraiser GIS - Property Detail list by parcel control number

Buffer:

50434303140000360
1071 NORTH OCEAN BLVD TRUST
222 LAKEVIEW AVE STE 1500
WEST PALM BEACH FL 33401 6174

Acres	1.39	Sales Instr	DT	MTG	NEW SIEARS TR LT B & 2/3-43-43, S 122.20 FT OF N 800.41 FT OF GOV LT 1 SEC 2 &
Value \$	29,582,012.00	Price	\$12,096,000.00	PUSE VACANT	
Taxbl \$	28,295,838.00	Date	5/17/2011	TaxDist 50411	
Bldg \$	0.00	Book	24529	NAV	
Land \$	29,582,012.00	Page	816		

Buffer: 200

50434302000010020
TGS FLORIDA LLC
1185 6TH AVE FL 10
NEW YORK NY 10036 2604

Acres	1.05	Sales Instr	WD	MTG	2/3-43-43, S 200 FT OF N 440 FT OF GOV LT 1 SEC 2 & PAR W OF & ADJ THERETO BEING S 176 FT OF GOV LT 3 & N 24 FT OF GOV LT 4 IN SEC 3 E OF OCEAN BLVD
Value \$	21,067,489.00	Price	\$31,000,000.00	PUSE SINGLE FAMILY	
Taxbl \$	15,493,755.00	Date	5/25/2015	TaxDist 50411	
Bldg \$	2,722,055.00	Book	27565	NAV	
Land \$	18,345,434.00	Page	1302		

50434302000010031
MANDEL MORTON L
MORTON L MANDEL TR HLD
1063 N OCEAN BLVD
PALM BEACH FL 33480 3200

Acres	0.78	Sales Instr	QC	MTG	2/3-43-43, S 118.59 FT OF N 900 FT OF GOV LT 1 SEC 2 & S 118.59 FT OF N 503 FT OF GOV LT 4 SEC 3 LYG W OF & ADJ THERETO E OF OCEAN BLVD
Value \$	16,514,526.00	Price	\$100.00	PUSE SINGLE FAMILY	
Taxbl \$	6,952,042.00	Date	5/1/1993 1	TaxDist 50411	
Bldg \$	2,571,996.00	Book	07701	NAV	
Land \$	13,942,530.00	Page	1332		

50434303130000010
KASUN DONALD E &
1080 N OCEAN BLVD
PALM BEACH FL 33480 3207

Acres	0.30	Sales Instr	QC	MTG	GREGORY ADD LT 1 & E 30 FT OF LT 3
Value \$	3,360,697.00	Price	\$10.00	PUSE SINGLE FAMILY	
Taxbl \$	2,188,482.00	Date	8/19/2011	TaxDist 50411	
Bldg \$	1,428,697.00	Book	24701	NAV	
Land \$	1,932,000.00	Page	311		

50434303140000010
LEONARD JOHN &
1076 N OCEAN BLVD
PALM BEACH FL 33480 3207

Acres	0.28	Sales Instr	WD	MTG	NEW SIEARS TR LT 1 & E 35 FT OF LT 2
Value \$	3,119,373.00	Price	\$2,152,500.00	PUSE SINGLE FAMILY	
Taxbl \$	2,101,837.00	Date	1/5/2001 1	TaxDist 50411	
Bldg \$	1,306,614.00	Book	12238	NAV	
Land \$	1,812,759.00	Page	1659		

3/7/2016

Property Appraiser GIS - Property Detail list by parcel control number

50434303140000021 MARA KATHLEEN 211 ORANGE GROVE RD PALM BEACH FL 33480 3235	Acres 0.40 Value \$ 2,572,596.00 Taxd \$ 1,745,745.00 Bldg \$ 245,140.00 Land \$ 2,327,456.00	Sales Instr Price \$2,200,000.00 Date 7/15/2010 Book 23963 Page 1360	WD PUSE SINGLE FAMILY TaxDist 50411 NAV	NEW SIEMERS TR W 40 FT OF LT 2, LT 3 & E 45 FT OF LT 4
504343031400000341 ABOUZEID DIANA L 1072 N OCEAN BLVD PALM BEACH FL 33480 3255	Acres 0.41 Value \$ 4,643,959.00 Taxd \$ 3,261,473.00 Bldg \$ 2,277,259.00 Land \$ 2,366,700.00	Sales Instr Price \$3,250,000.00 Date 1/16/2003 Book 14691 Page 270	WD PUSE SINGLE FAMILY TaxDist 50411 NAV	NEW SIEMERS TR E 15 FT OF LT 34 & LTS 35 & 36
504343031400000350 MARCUS JEFFREY A 1075 N OCEAN BLVD PALM BEACH FL 33480 3230	Acres 0.66 Value \$ 20,715,823.00 Taxd \$ 20,165,823.00 Bldg \$ 5,810,158.00 Land \$ 14,905,665.00	Sales Instr Price \$23,240,492.00 Date 7/9/2014 1 Book 26916 Page 102	WD PUSE SINGLE FAMILY TaxDist 50411 NAV	NEW SIEMERS TR LT A
504343031600000010 BEESON JOHN S 550 WAUGH DR HOUSTON TX 77019 2002	Acres 0.25 Value \$ 3,163,720.00 Taxd \$ 2,707,593.00 Bldg \$ 1,509,445.00 Land \$ 1,654,275.00	Sales Instr Price \$3,225,000.00 Date 9/30/2004 Book 17612 Page 269	WD PUSE SINGLE FAMILY TaxDist 50411 NAV	LIST ADDITION NO 1 LT 1
504343031600000020 209 LIST LLC PO BOX 805 NEW YORK NY 10150 0805	Acres 0.23 Value \$ 1,597,050.00 Taxd \$ 1,528,711.00 Bldg \$ 9,187.00 Land \$ 1,587,863.00	Sales Instr Price \$1,579,825.00 Date 7/19/2013 Book 26207 Page 221	WD PUSE SINGLE FAMILY TaxDist 50411 NAV	LIST ADDITION NO 1 LT 2
504343031700000230 SAGE SARA W 214 LIST RD PALM BEACH FL 33480 3226	Acres 0.29 Value \$ 2,174,715.00 Taxd \$ 1,477,693.00 Bldg \$ 287,996.00 Land \$ 1,886,719.00	Sales Instr Price \$1,780,000.00 Date 6/11/2012 Book 25266 Page 1356	WD PUSE SINGLE FAMILY TaxDist 50411 NAV	LIST ADDITION NO 2 LT 23

3/7/2016

Property Appraiser GIS - Property Detail list by parcel control number

50434303120000240 KLEIN DIANE L 1060 N OCEAN BLVD PALM BEACH FL 33480 3229	Acres Value \$ 2,705,278.00 Taxd \$ 2,277,363.00 Bldg \$ 758,184.00 Land \$ 1,947,094.00	0.30	Sales Instr Price \$100.00 Date 2/1/1997 1 Book 09655 Page 1457	QC	MTG PUSE SINGLE FAMILY TaxDist 50411 NAV	LIST ADD NO 2 LT 24	
50434303180000011 BOBST MAMDOUHA S TR 1 SUTTON PL S NEW YORK NY 10022 2493	Acres Value \$ 13,752,707.00 Taxd \$ 13,156,708.00 Bldg \$ 28,029.00 Land \$ 13,774,678.00	0.55	Sales Instr Price \$100.00 Date 11/1/1988 Book 05881 Page 1131	WD	MTG PUSE SINGLE FAMILY TaxDist 50411 NAV	CORAL ESTATES IN OR 755 P 35	LOT 1 /LESS S 87.5 FT & TRACT
50434303180000020 BEEBE EDMUND H & 1050 N OCEAN BLVD PALM BEACH FL 33480 3229	Acres Value \$ 4,228,996.00 Taxd \$ 2,963,267.00 Bldg \$ 17,840.00 Land \$ 4,211,156.00	0.77	Sales Instr Price \$10.00 Date 7/16/2012 Book 25388 Page 1137	QC	MTG PUSE SINGLE FAMILY TaxDist 50411 NAV	CORAL ESTATES LOTS 1-A & 15-A	LOTS 2 & 3 & UND 2/15 INT IN

PROJECT: 1071 N. Ocean
Extended look ahead
8/7/2018

64

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SITE PLAN REVIEW #8-2015 WITH VARIANCE The application of 201 Debra Lane, LLC (Juan M. Naveja Diebold, Manager); relative to property commonly known as **201 Debra Ln.**, described as lengthy legal description on file; located in the R-B Zoning Districts. The Applicant seeks Site Plan approval to construct a 3,814 square foot two story home on a platted lot that is 98.55 feet deep in lieu of the 100 foot minimum required and 91.61 foot wide in lieu of the 100 foot minimum required. A variance is requested to permit installation of a pool in the street side yard with a setback of 6.25 feet in lieu of the 15 foot minimum required. [Attorney: M. Timothy Hanlon]

[Architectural Commission Recommendation: Deferred the project to the April 27th meeting. Carried 7-0.]

Deferred from the December 9, 2015, January 13, 2016, February 10, 2016, and March 9, 2016, Town Council Meetings.

Request for Withdrawal Per Letter Dated April 4, 2016, from M. Timothy Hanlon.

Presenter

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

Supporting Documents

- [Letter dated April 4, 2016, from M. Timothy Hanlon](#)

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

340 ROYAL POINCIANA WAY, SUITE 321

POST OFFICE BOX 431

PALM BEACH, FLORIDA 33480-0431

(561) 659-1770

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DOYLE ROGERS
ALAN LINDSAY
PAUL B. ERICKSON
DAVID H. BAKER
WILLIAM W. ATTERBURY III
LOUIS L. HAMBY III
ROBB R. MAASS
M. TIMOTHY HANLON
WARREN D. HAYES, SR.
STUART J. HAFT
CAROL S. WAXLER
BRUCE A. McALLISTER
CATHERINE KENT
DAVID R. MAASS
CHRISTINE BIALCZAK

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

1331 SE OCEAN BOULEVARD
STUART, FLORIDA 34986
P (772) 287-4404
F (772) 287-4044

April 4, 2016

Sent Via Email and U.S. Mail

Paul Castro
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, FL 33480

Re: SPR #8-2015
201 Debra Lane

Dear Paul:

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

Thank you for your assistance in this matter. If you have any questions, please contact me.

Sincerely,



M. Timothy Hanlon

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #33-2015 WITH SITE PLAN REVIEW AND VARIANCES

The application of Robert and Denise Benedickson; relative to property commonly known as **222 Seaspray Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The Applicant is requesting a Special Exception with Site Plan Review approval to demolish an existing 2,444 square foot residence with a 800 square foot garage and build it back in the same location with a proposed total square footage of 3,802 on a non-conforming platted lot which is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 minimum required in the R-B Zoning District. The following variances are being requested: to allow a west side yard setback of 11.33 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District for a one story section of the house; to allow a west side yard setback of 8.33 feet in lieu of the 12.5 foot minimum required for the proposed covered entry for the front door; to allow an east side yard setback of 9.67 feet in lieu of the 15 foot minimum required for the proposed second story of the house; and to allow a lot coverage to be 31% in lieu of the 30% maximum allowed; to allow a cubic content ratio to be 6.11 in lieu of the 4.38 maximum allowed. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Denied deferral request by the applicant and removed the item from the agenda. Carried 5-2 with Messrs. Gruss and Sammons opposed.]

Deferred from the February 10, 2016, and March 9, 2016, Town Council Meetings.

Request for Withdrawal Per Letter Dated March 24, 2016 from Maura A. Ziska.

Presenter

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

Supporting Documents

- [Letter Dated March 24, 2016, from Maura Ziska](#)

KOCHMAN & ZISKA PLC**Ronald S. Kochman*****Maura A. Ziska****Marvin S. Rosen, Counsel***

*Also admitted in New York

*Also admitted in Michigan

Esperanté**222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401****Telephone: (561) 802-8960****Facsimile: (561) 802-8995****VIA FACSIMILE: 561-838-5411****March 24, 2016****Mayor and Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480****TOWN OF PALM BEACH****MAR 24 2016****Town Manager's Office****RE: Special Exception 33-2015; 222 Seaspray Avenue., Palm Beach, Florida****Dear Mayor and Town Council:**

**Please withdraw the above referenced matter from the TOWN COUNCIL agenda.
Please call me if you have any questions or comments with the foregoing. Thank you.**

Sincerely,**Maura A. Ziska****/maz****cc: Roger Hansrote
Paul Castro
00031512**

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #09-2016 WITH SITE PLAN REVIEW The application of Patrick and Lisa McGowan; relative to property commonly known as **250 Esplanade Way**, described as lengthy legal description on file; located in the R-B Zoning District. The Applicant is requesting a Special Exception with Site Plan Review to allow the construction of a 3,700 sq.ft. two-story, single family residence on a portion of a platted lot which is 88 feet in width in lieu of the 100 foot minimum required. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Deferred the project to the April 27th meeting. Motion carried 7-0.]

Request for Deferral to the May 11, 2016, Town Council Meeting Per Letter Dated April 7, 2016, from Maura A. Ziska.

Presenter

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

Supporting Documents

- [Letter Dated April 7, 2016, from Maura A. Ziska](#)

KOCHMAN & ZISKA PLC

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

•Also admitted in New York
•Also admitted in Michigan

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

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

VIA FACSIMILE: 561-838-5411

April 7, 2016

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

RE: Special Exception 9-2016 – 250 Esplanade Way, Palm Beach, Florida

Dear Mayor and Town Council:

Please defer the above referenced matter from the **April 13, 2016** Town Council agenda to the **May 11, 2016** Town Council agenda. The reason for the deferral is because ARCOM deferred the project at the March 23, 2016 meeting.

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

Sincerely,



Maura A. Ziska

MAZ/jch
cc: Paul Castro
Debby Morakis
Architect
00031671

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #03-2016 The application of Hunter and Melissa Beebe; relative to property commonly known as **1050 No. Ocean Blvd.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant's property is bounded by three streets: North Ocean Blvd., Via Marila and Laurian Ln. The property is 33,598 sq ft in total and is two platted buildable lots. The applicant has no immediate plans to divide the property but wants to build on the west half with a residence that would meet code as if it was a single lot (except for the accessory structures proposed on the east half which includes a swimming pool, deck and one story cabana). In order to achieve this plan, the following variances are being requested: a west side setback of 15.08 feet in lieu of the 28 foot minimum required for a lot with a width of 201.06 feet, and, a rear street yard setback of 15.2 feet for the garage and 18.7 feet for the playroom in lieu of the 35 foot minimum required for a lot in excess of 20,000 sq.ft and with a depth of 164.81 feet. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Implementation of the proposed west side yard variance will cause negative architectural impacts to the subject property. Carried 4-3 with Messrs. Sammons, Small and Ives opposed. Implementation of the proposed rear variance will not cause negative architectural impacts to the subject property. Carried 5-2 with Mr. Sammons and Ms. Grace opposed.]

Presenter

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

Supporting Documents

- [Letter Dated April 4, 2016, from Marilyn Meyerhoff](#)
- [E-mail Dated April 6, 2016, from Roger Patton Janssen](#)
- [Letter Dated April 6, 2016, from Marilyn Meyerhoff](#)

Marilyn Meyerhoff
216 Via Marila
Palm Beach, Florida 33480

April 4, 2016

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

RE: Variance 3-2016 – 1050 North Ocean Boulevard

Dear Mayor Coniglio and Members of the Town Council:

I live directly to the west of Mr. and Mrs. Beebe who are asking you for approval to build their new home for their family. I have met with Mr. and Mrs. Beebe on numerous occasions to review the plans and attended the recent Arcom meeting. I support their wanting to build a smaller home on the west half of their lot and I believe it is a great use of the property providing green space and less density. I have no objection to their plans and support their application. I hope you and your staff will agree with me and will approve the proposed project and any zoning relief the Beebes may need.

Thank you for your consideration.

Sincerely,

Marilyn Meyerhoff



FW: Carden response

Maura Ziska

to:

PGayle-Gordon@TownofPalmBeach.com

04/06/2016 09:18 AM

Hide Details

From: Maura Ziska <MZiska@floridawills.com>

To: "PGayle-Gordon@TownofPalmBeach.com" <PGayle-Gordon@TownofPalmBeach.com>

Pat: Please include the email below in the back up for Wednesday Town Council Variance 3-2016. Tx Maura

Maura A. Ziska, Esq.

Kochman & Ziska PLC

222 Lakeview Avenue, Suite 1500

West Palm Beach, FL 33401

561-802-8960 (telephone)

561-802-8995 (fax)

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From: Roger Janssen [<mailto:rpjanssen@aol.com>]

Sent: Wednesday, April 06, 2016 9:08 AM

To: Maura Ziska <MZiska@floridawills.com>; hbeebe@hrecap.com

Cc: patrick@daileyjanssen.com

Subject: Carden response

Maura,
fyi , thanks.

Hi Roger,

It looks like the second story will be set back enough so we won't be staring at each other from the back yard. And the garage is one story. You can tell the Beebe's attorney that he/she can represent that Cardens at 211 Garden have reviewed the plans and we have no objections.

Best,

Stephanie

Best Regards,

Roger

Roger Patton Janssen

Dailey Janssen Architects, P.A.

400 Clematis Street

Suite 200

West Palm Beach, FL 33401

561.833.4707 ph 561.833.4705 fax

www.DaileyJanssen.com

Roger@DaileyJanssen.com

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Marilyn Meyerhoff
216 Via Marila
Palm Beach, Florida 33480

April 6, 2016

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

RE: Variance 3-2016 – 1050 North Ocean Boulevard

Dear Mayor Coniglio and Members of the Town Council:

I live directly to the west of Mr. and Mrs. Beebe who are asking you for approval to build their new home for their family. I have met with Mr. and Mrs. Beebe on numerous occasions to review the plans and attended the recent Arcom meeting. I support their wanting to build a smaller home on the west half of their lot and I believe it is a great use of the property providing green space and less density. I have no objection to their plans and support their application. I hope you and your staff will agree with me and will approve the proposed project and any zoning relief the Beebes may need. We support this project as long as it is not counter to the statutes and spirit of Palm Beach.

Thank you for your consideration.

Sincerely,

Marilyn Meyerhoff

Sam Feldman
Sent from my iPad.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Development Review - Other

Agenda Title

Proposed Declaration of Use Agreement for Royal Poinciana Plaza
Related to Special Exception #6-2016, Proposed Sant Ambroeus
Restaurant, 340 Royal Poinciana Way

Presenter

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

Supporting Documents

- [Memorandum Dated April 1, 2016 from John S. Page, Director of Planning, Zoning and Building](#)
- [Declaration of Use Agreement as Modified by Staff](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Declaration of Use Agreement for Royal Poinciana Plaza Related to Special Exception #6-2016, Proposed Sant Ambroeus Restaurant, 340 Royal Poinciana Way

Date: April 1, 2016

STAFF RECOMMENDATION

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

GENERAL INFORMATION

On March 9 2016, the Council conditionally approved Special Exception #6-2016 to allow Sant Ambroeus Restaurant to open a 120 seat restaurant in Royal Poinciana Plaza for breakfast, lunch and dinner. In order to meet the off-street parking requirement for the restaurant for all of the proposed hours of operation, the Town Council placed a condition of approval that the property owner enter into a Declaration of Use Agreement requiring the removal of 135 seats from the Royal Poinciana Playhouse (the "Theater). This seat removal compensates for the additional 27 required off-street parking spaces needed for the proposed restaurant during breakfast and lunch.

Staff has made proposed changes to the applicant's draft Declaration of Use Agreement which are identified in add/delete format (See Attached). Staff and the Royal Poinciana Plaza property owner, RPP Property GP, LLC, have been unable to come to terms on the conditions in the proposed Declaration of Use Agreement. There are two significant differences.

The property owner wants to keep the 860 seats in the Theater and not use them before 5:00 p.m. As Staff stated at the March Council meeting, this is an enforcement issue that Staff should not and cannot reasonably monitor. As approved by the Council, the owner agreed to remove 135 seats from the Theater as a condition of approval of the Restaurant. Staff believes those seats should be permanently removed from the Theater with the proviso that should the restaurant close, the property owner be allowed to request Council approval to use the 27 grandfathered parking spaces at the same location or elsewhere in the Plaza for other permitted and special exception uses.

The property owner also wants the Agreement to terminate with the termination of the lease for the restaurant. Staff believes that the Agreement should not terminate just because the lease for the restaurant might terminate. The property owner is not allowed to reinstall the 135 seats removed from the Theater, which is a nonconforming use. Section 134-386 and 134-387 of the Zoning Code prohibits the intensification of a nonconforming use. Once the seats are removed, they are not allowed to be replaced.

Staff and Maura Ziska, the property owner's attorney, are prepared to address these issues at the meeting. If you have any questions about the proposed Agreement please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

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

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

DECLARATION OF USE AGREEMENT

by

THE TOWN OF PALM BEACH

and

RPP PALM BEACH PROPERTY LP

April 2016

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

TABLE OF CONTENTS

	Page
ARTICLE 1	RECITALS.....4
ARTICLE 11	REPRESENTATION OF AUTHORITY..... 4
ARTICLE III	RESTAURANT USE4
ARTICLE IV	CONDITION..... 4
ARTICLE V	VOLUNTARY AGREEMENT.....5
ARTICLE VI	REMEDIES FOR VIOLATION.....5
ARTICLE VII	PROVISIONS TO RUN WITH LAND/RECORDING.....5
ARTICLE VIII	ENTIRE AGREEMENT.....6
ARTICLE IX	EFFECTIVE DATE.....6
ARTICLE X	MISCELLANEOUS.....6

DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ____ day of _____, 2016 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called the "Town"); and RPP PALM BEACH PROPERTY LP, 340 Royal Palm Way, Palm Beach, Florida 33480 (hereinafter called "RPP") which terms "Town" and "RPP" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH :

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

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

WHEREAS, Sant Ambroeus is a restaurant which is a permitted use in the C-PC Zoning District with Special Exception approval; and

WHEREAS, the Town Council conditionally approved Special Exception Number #6-2016 on March 9, 2016 which ~~approved~~ allows the Sant Ambroeus ~~as a~~ restaurant at the above referenced location; and

WHEREAS, Special Exception Number #6-2016 was conditionally approved based on subject to the conditions 135 seats being permanently removed from the Theater on the Land known as Royal Poinciana Playhouse the "Theater") in order to meet the off-street parking requirements for the new Sant Ambroeus Restaurant during all hours of operation as identified in the application, set forth herein and the approval of this Agreement on the basis of Sant Ambroeus' application, the testimony on behalf of Sant Ambroeus, and the specific finding of the Town Council that the proposed restaurant be beneficial and compatible with the neighborhood, and upon a finding by the Town Council that the applicable provisions of the Town Code governing the use of the Land and special exception criteria have been met; and

WHEREAS, should the RPP fail to comply with the conditions set forth by the Town Council on March 9, 2016, as further set forth in ~~Paragraph 2 of in~~ Article IV below, the approval of the Special Exception ~~may~~ shall be revoked and the restaurant operation ~~may~~ shall cease operating at breakfast and lunch as identified in the application; and

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

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

ARTICLE I

RECITALS

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

ARTICLE II

REPRESENTATION OF AUTHORITY

RPP has full right to enter into this Agreement and to bind the Land and itself to the terms hereof pursuant to the Power of Attorney from Sidney Spiegel, Trustee under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 3152037 and Island Properties of Palm Beach, Inc., dated September 9, 2014 and attached hereto as Exhibit "B". There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement and the Agreement dated March 6, 1979, as amended. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will violate any restriction, court order or agreement to which the Land are subject.

ARTICLE III

RESTAURANT AND THEATER USE

The ~~use~~ Restaurant and Theater uses that ~~is~~ are the subject of this Declaration of Use Agreement shall be as set forth in the application submitted to the Town for Special Exception Number #6-2016 and the condition of approval ~~and approved~~ as authorized by Town Council on March 9, 2016 as the same may be amended from time to time (hereinafter referred to as the "Approval").

ARTICLE IV

CONDITION

~~The approval to operate Sant Ambroeus during the daytime hours is conditioned upon the The Royal Poinciana Playhouse not holding daytime Special Events that exceed 725 seats.~~

In consideration of approval of the Restaurant, the property owner shall permanently remove 135 of the approved seats within the Theater, bringing the maximum number of seats in the theater to 725. The removal of the seats shall be required prior to the theater reopening. Said removal shall not preclude RPP, its representatives, successors or assigns from requesting an amendment to this Agreement which would allow the movement of the grandfathered twenty-seven (27) off-street parking spaces related to those seats to another permitted or special exception use in the C-PC district should Sant Ambroeus close.

ARTICLE V
VOLUNTARY AGREEMENT AND HOLD HARMLESS

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

ARTICLE VI
REMEDIES FOR VIOLATION

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

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

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

ARTICLE VII
PROVISIONS TO RUN WITH LAND/RECORDING

This Agreement shall run with the Land and shall be binding upon RPP, its representatives, successors and assigns, ~~only~~ and shall only terminate upon ~~the termination of Sant Ambroeus' lease~~ or rescission of approval by the Town Council. This Agreement shall be recorded by RPP in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto.

ARTICLE VIII

ENTIRE AGREEMENT

This Agreement and Special Exception ~~Permit~~ Application #6-2016 represent the entire ~~a~~Agreement between the parties as to its subject matter and it may not be amended except by written agreement executed by both parties.

ARTICLE IX

EFFECTIVE DATE

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

ARTICLE X

MISCELLANEOUS

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

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

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

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

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

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

Signed, sealed and delivered
In the presence of:

TOWN OF PALM BEACH

Print Name: _____

By: _____
Gail Coniglio, Mayor

Print Name: _____

Print Name: _____

By: _____
Michael Pucillo, President

Print Name: _____

Print Name: _____

By: _____
Thomas Bradford, Town Manager

Print Name: _____

Print Name: _____

RPP Palm Beach Property LP

Print Name: _____

By: _____
Its: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2016, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2016, by Michael Pucillo, the President of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2016, by Thomas Bradford, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2016, by _____, on behalf of RPP Palm Beach Property GP, LLC, as the general partner of RPP Palm Beach Property LP. He/She is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

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

By: _____
John C. Randolph, Esquire

EXHIBIT “A”

LEGAL DESCRIPTION

LEGAL DESCRIPTION OF REAL PROPERTY

PARCEL A:

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

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

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

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

September 11, 1939, and recorded in Deed Book 592, Page 478, of the public records of Palm Beach County, Florida.

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

PARCEL B:

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

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

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

EXHIBIT "B"

POWER OF ATTORNEY

POWER OF ATTORNEY

The undersigned, SIDNEY SPIEGEL, as Successor Trustee (the "Trustee") under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No.31520371, as amended (the "Trust") and Island Properties of Palm Beach, Inc., a Florida corporation (the "Corporation", and together with the Trustee and the Trust, the "Principal"), are the lessors under that certain Ground Lease dated March 31, 2008, as amended by that certain First Amendment to Ground Lease dated July, 2009 and that certain Second Amendment to Ground Lease dated August 26, 2014 (as amended, the "Ground Lease") pursuant to which RPP PALM BEACH PROPERTY LP, a Delaware limited partnership (the "Lessee") leases the property owned in fee simple by the Principal and described on Exhibit "A" hereto (the "Property"). Pursuant to Article 5 of the Ground Lease, Principal has granted Lessee the exclusive right to deal with all governmental issues related to the Property. In furtherance thereof, and pursuant to the specific terms of the Trust and also pursuant to the Unanimous Written Consent of the Board of Directors of Island Properties of Palm Beach, Inc. attached hereto as Exhibit "B", Principal does hereby constitute and appoint Jeremy M. Sclar, , Thomas J. DeSimone, Richard A. Marks, Deirdre A. Geoghegan and/or Samantha P. David and/or Lessee (as applicable, the "Agent") as the Principal's true and lawful attorney-in-fact to have power and authority, in the name, place and stead of the Principal, to do any and every act and exercise any and every power that the Principal might or could do with respect to the Principal's fee simple interest in the Property in connection with all governmental issues related to the Property, including, without limitation, (i) all matters relating to the Royal Poinciana Playhouse, (ii) all matters relating to the "landmarking" of any portion or all of the Property, (iii) the pursuit of zoning and building approvals, consents and permits necessary to renovate or redevelop the Property, and (iv) the execution in the name of Principal of any documents or instruments required for such renovation or redevelopment such as: (a) zoning applications, (b) changes or variances required by governmental authority, (c) granting, modifying or abandoning existing rights of way bounding the Property, (d) granting easements or licenses for roadways, right of ways, utilities, ingress, egress and other purposes, with or without consideration, (e) building permits, variances, use permits, licenses, approvals or similar governmental authorizations, (f) amendments, modifications or termination of that certain Agreement by and between the Town of Palm Beach and Poinciana Properties, Ltd. dated March 6, 1979, and all amendments thereto, (g) amendments, modifications or termination of any unity of title affecting the Property, (h) any documents or instruments necessary to submit all or a portion of the Ground Leased Premises to the leasehold condominium form of ownership, (i) impose restrictive covenants on the Property, and (j) any and all other similar matters, as fully, and for all intents and purposes, as the Principal might or could do if personally present, with full power of substitution, hereby ratifying and confirming all that the Agent shall lawfully do or cause to be done by virtue hereof, all of which acts and agreement shall be binding on the Principal and the Principals' successors and assigns, shall run with the title to the Property, and shall be effective to bind the Property during and after the termination or expiration of the Ground Lease.

Notwithstanding the foregoing, the Agent is not hereby authorized to convey by deed or other instrument any of the fee simple interest of the Principal in the Property.

[Signatures on Next Page]

IN WITNESS WHEREOF, this Power of Attorney is executed by the undersigned as of this 9 day of September, 2014.

Carol Gassi
Print Name: Carol Gassi

Sidney Spiegel
Sidney Spiegel, as Successor Trustee under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 21520371

Sharon Grunberg
Print Name: Sharon Grunberg

Carol Gassi
Print Name: Carol Gassi

Island Properties of Palm Beach, Inc., a Florida corporation

Sharon Grunberg
Print Name: Sharon Grunberg

Sidney Spiegel
Sidney Spiegel, Vice President

PROVINDE OF ONTARIO

:
: SS
:

The foregoing instrument was acknowledged before me as of the 9 day of September, 2014, by SIDNEY SPIEGEL, as Successor Trustee under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371, as amended and as Vice President of Island Properties of Palm Beach, Inc., a Florida corporation, on behalf of such trust and corporation, who is personally known to be or who has produced a driver's license as identification.

Alan Lyons
Name: Alan Lyons
Notary Public
Province of Ontario
My Commission Expires: permanent

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Development Review - Other

Agenda Title

VARIANCE #04-2016 The application of Blossom Way Holdings, LLC; relative to property commonly known as **Blossom Way**, described as lengthy legal description on file; located in the R-AA Zoning District. A request for a variance in conjunction with a proposed partial abandonment of the Blossom Way cul-de-sac. The proposed partial abandonment would relocate the cul-de-sac to the north of its existing location and is proposed to have a radius of 40 feet in lieu of the 50 foot minimum required. [Attorney: Maura Ziska, Esq.]

Presenter

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

Supporting Documents

- NONE

TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Development Review - Other

Agenda Title

Subdivision Modification-Request by Maura Ziska, Attorney for Blossom Way Holdings, LLC, Property Owner for Lots 104, Replat of Blossom Estate Subdivision, to Approve a Proposed Sixth Amendment to the Blossom Estate Subdivision Agreement

Presenter

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

Supporting Documents

- [Memorandum Dated April 1, 2016 from John S. Page, Director of Planning, Zoning & Building](#)
- [Exhibit A, Property Owner Proposed Modifications](#)
- [Exhibit B, Staff Proposed Modifications](#)
- [Exhibit C, Staff's Proposed Sixth Amendment to the Blossom Estate Subdivision Agreement](#)
- [Exhibit D, The Replat of The Blossom Estate](#)
- [Exhibit E, Setback Exhibit The Blossom Estate](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Subdivision Modification-Request by Maura Ziska, Attorney for Blossom Way Holdings, LLC, Property Owner of Lots 1-4, Replat of the Blossom Estate Subdivision, to Approve a Proposed Sixth Amendment to the Blossom Estate Subdivision Agreement

Date: April 1, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve an Amendment to the Blossom Estate Subdivision Agreement modifying Paragraph 2.B(iii) & (vi), as proposed by the applicant and modified by Staff in attached Exhibit B.

Staff also recommends Town Council conditionally approve one access point through the Limited Access Easement (L.A.E.) on Lot 4 onto South Ocean Boulevard. The conditions of approval are 1) a unity of title in a form and manner acceptable to the Town be executed and recorded unifying Lots 1 through 4, Replat of Blossom Estate; 2) Only one access point shall be allowed through the L.A.E. on Lot 4 as proposed in Exhibit A of the property owner's request at least 240 feet south of Lot 5; and 3) should the required unity of title for Lots 1-4, Replat of Blossom Estate be terminated, said access to South Ocean Boulevard shall be terminated unless and until re-approved by the Town Council.

GENERAL INFORMATION

Blossom Way Holdings, LLC, the owner of Lots 1 through 4, Replat of Blossom Estate, is proposing to build a large residential estate with a single-family home straddling three lots (Lots 1 through 3). Access to and from South Ocean Boulevards through Lot 4. There are two paragraphs in the Blossom Estate Subdivision Agreement, as amended, which are impediments to the intended development plan. Those two paragraphs 1) prohibit access to and from the property via South Ocean Boulevard; and 2) provide defined building envelopes for each platted lot within the subdivision, precluding building a large single-family home outside of those building envelopes and across platted lot lines. The applicant is proposing the Sixth Amendment to the Agreement modifying those provisions to allow the plan to move forward. The property owner's proposed amendments, as well as Staff's modifications, are sequentially identified in attached Exhibit A and B. In addition, the proposed Sixth Amendment incorporating Staff modifications to the property owner's draft Agreement are provided in Exhibit C for your information.

BACKGROUND

The original Blossom Estate Subdivision, replat and Agreement, and the First Amendment to the Blossom Estate Subdivision Agreement were executed by the Town in 1982 and 1986. Both in 1982 and 1986, when the property was platted and replatted, a five foot wide "Limited Access Easement" (L.A.E.), as

identified in Exhibit D, was dedicated on the lots within the subdivision that abut the east side of South Ocean Boulevard (now Lots 4, 5 and 6) that allowed limited access to and from South Ocean Boulevard from Lot 1 through 6. In 1986, when the property was replatted, the L.A.E. remained intact and the First Amendment to the Blossom Estate Subdivision Agreement was entered into, which among other items, added a paragraph 4, **prohibiting** (not limiting) any access to or from South Ocean Boulevard from Lots 1 through 6.

The property owner is now requesting that paragraph 4 of the Agreement be modified to eliminate Lot 4 from that non-access provision. As proposed, this would permanently allow only Lot 4 to have unlimited direct access to and from South Ocean Boulevard. Staff, however, recommends the proposed language be modified to allow Town Council discretion to approve or deny access by any property owner in the Subdivision through the L.A.E. in order to provide access from South Ocean Boulevard. This approval or denial would be on a case by case basis based on the situation. The proposed language changes recommended by Staff are in Exhibit B attached.

If Staff's recommended changes are adopted, Staff further recommends that the property owner of Lots 1-4 be conditionally granted access through the L.A.E. Staff recommends the following conditions for granting access:

1. The property owner shall enter into a unity of title in a form and manner acceptable to the Town unifying Lots 1 through 4, Replat of Blossom Estate;
2. Only one access point shall be allowed through the L.A.E. on Lot 4 as proposed in Exhibit A of the property owner's request at least 240 feet south of Lot 5;
3. Should the required unity of title for Lots 1-4, Replat of Blossom Estate be terminated, said access to South Ocean Boulevard shall be terminated unless and until re-approved by the Town Council.

The second part of the request is to modify the language in the Agreement relative to building envelope requirements for all of the lots in the Subdivision as depicted in Exhibit E. Staff recommends that property owners in the Subdivision should be allowed to combine lots by Unity of Title Agreement and build beyond the building envelopes of Lots as identified in the Setback Exhibit. Therefore Staff recommends changes to Paragraph 2.B, (iii) and (vi) of the Agreement, as identified in Exhibit B. This will allow single-family development over any lot lines and building envelopes provided an acceptable Unity of Title Agreement is in place.

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

Attachments

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

EXHIBIT A

Property owner proposed modifications as identified in the following Proposed Sixth Amendment to the Blossom Estate Subdivision Agreement.

2. Zoning; Construction Requirements

A....

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

(i)...

(ii)...

(iii) As a part and parcel of this Agreement, Developer has submitted to the Town a document called "Setback Exhibit – The Blossom Estate", attached to and a part of the Replat, prepared by Hutcheon Engineers and identified as file and drawing number 85-3-7052, dated June 16, 1986, consisting of one page (the "Setback Exhibit"). The Town and Developer have initialed the Setback Exhibit which is incorporated by reference herein. Developer or any future owner agrees that no residence shall be constructed in any area outside of the shaded areas which are shown on the Setback Exhibit. Developer or any future owner further agrees that any one residence may be constructed upon Lots 7 and 8 which Lots shall be deemed and treated as a single Lot and which shall remain under single ownership at all times. With respect to Lot 7, the upland limit of the Mangrove area referred to in subparagraph (iv) below has been determined by the Palm beach County Health Department and the Department of Environmental Regulation as shown on the Replat of Blossom Estate submitted to the Town for approval. The allowable setback from the line so established shall be twenty-five (25) feet (the "Mangrove Setback"). Prior to commencement of any site work on Lot 7, the Mangrove Setback shall be fenced off. A separate Unity of Title as to Lots 7 and 8 will be recorded simultaneously with recoding of this Agreement. In the event Lots 1, 2, 3, 4 or 5 (or any combination thereof) are combined under a single ownership by Unity of Title, the Setback Exhibit shall not apply and the property shall be required to meet existing zoning requirements.

(iv)...

(v)...

(vi) The Setback Exhibit indicates by darkened areas the "Buildable Envelope" upon which improvement may be constructed. Developer or any future owner agrees no improvements of any kind will be built upon any portion of Lot 7 not contained in the Building Envelope on Lot 7, except for the driveway, privacy wall, gates, boardwalk, dock and terminal platform shown on Exhibit "A" attached hereto and made a part hereof (New Boardwalk and Dock Plan by Smith and Moore

Architects, Inc., dated 6/14/2013 and Sheets 1 and 2, Proposed Boardwalk and Dock Plan by Isiminger & Stubbs Engineering, Inc., dated 4/13). In the event Lots 1, 2, 3, 4 or 5 (or any combination thereof) are combined under a single ownership by Unity of Title, the Setback Exhibit shall not apply and the property shall be required to meet existing zoning requirements.

3....

4. Access

Blossom Way, the private road on the Plat, shall remain private and shall be maintained by the homeowners association (in accordance with a Declaration of Covenants, Conditions and Restrictions of Blossom Estate to be recorded by Developer). Blossom Way will, however, be constructed by Developer in conformance with the same construction standards as if Blossom Way were to be dedicated to the Public. ~~There will be no ingress or egress to or from Lots 1, 2, 3, 4, 5 or 6 to or from Ocean Boulevard (state Road AIA) except by way of Blossom Way.~~ There will be no ingress or egress to or from Lots 1, 2, 3, 5 or 6 to or from Ocean Boulevard (state Road AIA) except by way of Blossom Way. This in effect will allow access to Lot 4 from Ocean Boulevard, if also approved by the Town.

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

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

THIS AGREEMENT made this ____ of _____, 2016 between the TOWN OF PALM BEACH, a Municipal Corporation, Post Office Box 2029, Palm Beach, Florida 33480 ("TOWN") and BLOSSOM WAY HOLDINGS LLC, a Delaware limited liability company, c/o Citadel LLC, 131 South Dearborn Street, Chicago, IL 60603 ("OWNER").

WITNESSETH:

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

WHEREAS, in connection with the replat of The Blossom Estate, which replat was recorded in Plat Book 54, Page 127 of the Public Records of Palm Beach County, Florida (the "Replat"), the TOWN approved certain requests by the Developer, George E. Straub, Trustee, to amend the Agreement and entered into a First Amendment to the Blossom Estate Subdivision Agreement ("First Amendment") on August 22, 1986, which First Amendment is recorded in Official Record Book 5022, Page 514, Public Records of Palm Beach County, Florida;

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

WHEREAS, the TOWN approved certain requests by the then owner, Ronald S. Kochman as Trustee of the 1255 South Ocean Boulevard Realty Trust dated December 16, 2009, to further amend the Agreement and entered into a Third Amendment to the Blossom Estate Subdivision Agreement ("Third Amendment") on August 23, 2010, which Third Amendment is recorded in Official Records Book 24031, Page 884, Public Records of Palm Beach County, Florida;

WHEREAS, the TOWN approved certain requests by the owner, Thomas P. Peterffy, as Trustee of the Thomas P. Peterffy Amended and Restated Revocable Trust dated September 13, 2007, to further amend the Agreement and entered into a Fourth Amendment to the Blossom Estate Subdivision Agreement ("Fourth Amendment") on March 30, 2012, which Fourth

Amendment is recorded in Official Records Book 25117, Page 1804, Public Records of Palm Beach County, Florida;

WHEREAS, the TOWN approved certain requests by the owner, Thomas P. Peterffy, as Trustee of the Thomas P. Peterffy Amended and Restated Revocable Trust dated September 13, 2007, to further amend the Agreement and entered into a Fifth Amendment to the Blossom Estate Subdivision Agreement ("Fifth Amendment") on November 27, 2013, which Fifth Amendment is recorded in Official Records Book 26481, Page 1530, Public Records of Palm Beach County, Florida;

WHEREAS, OWNER owns Lots 1, 2, 3, and 4 and agrees to create a Unity of Title to unify Lots 1 through 4 that will be recorded simultaneous with this Sixth Amendment.

WHEREAS, upon application for a Sixth Amendment to the Blossom Estate Subdivision Agreement ("Sixth Amendment"), on _____, 2016, the TOWN, upon motion made and duly adopted, allowed the owners of Lots 1, 2, 3, 4 and 6 (according to the Replat) to further amend the Agreement as provided herein;

WHEREAS, the TOWN found that all residents living in the Blossom Estate Subdivision consent to the proposed Sixth Amendment as provided herein;

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

1. Paragraph 4 of the Agreement is now further amended to remove the language: "There will be no ingress or egress to or from Lots 1, 2, 3, 4, 5 or 6 to or from Ocean Boulevard (state Road AIA) except by way of Blossom Way" and replaced with "There will be no ingress or egress to or from Lots 1, 2, 3, 5 or 6 to or from Ocean Boulevard (state Road AIA) except by way of Blossom Way." This in effect will allow access to Lot 4 from Ocean Boulevard, if also approved by the Town.

2. Paragraph 2B (iii) and 2B (vi) which both paragraphs reference the "Setback Exhibit" shall both be amended to add the following sentence to the end of each paragraph as follows:

In the event Lots 1, 2, 3, 4 or 5 (or any combination thereof) are combined under a single ownership by Unity of Title, the Setback Exhibit shall not apply and the property shall be required to meet existing zoning requirements.

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

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

Witnesses:

TOWN OF PALM BEACH

Sign _____
Print _____

By: _____

Sign _____
Print _____

BLOSSOM WAY HOLDINGS LLC,
a Delaware limited liability company

Sign _____
Print _____

By: KP Holdings L.L.C., an Oregon
limited liability company, its sole member

Sign _____
Print _____

By: _____
Gerald A. Beeson, Manager

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

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

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2016.

Notary Public

STATE OF)
COUNTY OF)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Gerald A. Beeson, as Manager of KP Holdings, L.L.C., an Oregon limited liability company, the sole member of Blossom Way Holdings LLC, formerly PBH LLC, a Delaware limited liability company, on behalf of the company, to me known to be the person described in or who produced _____ as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2016.

Notary Public

Approved as to Legal Form and Sufficiency

John C. Randolph, Town Attorney

EXHIBIT "A" - LEGAL DESCRIPTION

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

EXHIBIT B

Staff's proposed modifications to the Blossom Estate Subdivision Agreement, as amended.

2. Zoning; Construction Requirements

A....

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

(i)...

(ii)...

(iii) As a part and parcel of this Agreement, Developer has submitted to the Town a document called "Setback Exhibit – The Blossom Estate", attached to and a part of the Replat, prepared by Hutcheon Engineers and identified as file and drawing number 85-3-7052, dated June 16, 1986, consisting of one page (the "Setback Exhibit"). The Town and Developer have initialed the Setback Exhibit which is incorporated by reference herein. Developer or any future owner agrees that no residence shall be constructed in any area outside of the shaded areas which are shown on the Setback Exhibit. In the event Lots 1 through 6, or portions thereof, are combined under single ownership by Unity of Title Agreement in a form and manner as approved by the Town, the Setback Exhibit shall not apply and the property owner shall be required to meet existing zoning requirements in place at that time. In the event the Unity of Title Agreement is terminated by the owner and the Town, the "Setback Exhibit" shall apply. Developer or any future owner further agrees that any one residence may be constructed upon Lots 7 and 8 which Lots shall be deemed and treated as a single Lot and which shall remain under single ownership at all times. ~~With respect to Lot 7, the upland limit of the Mangrove area referred to in subparagraph (iv) below has been determined by the Palm beach County Health Department and the Department of Environmental Regulation as shown on the Replat of Blossom Estate submitted to the Town for approval.~~ The allowable setback from the line so established shall be twenty-five (25) feet (the "Mangrove Setback"). Prior to commencement of any site work on Lot 7, the Mangrove Setback shall be fenced off. A separate Unity of Title as to Lots 7 and 8 will be recorded simultaneously with recoding of this Agreement.

(iv)...

(v)...

(vi) ~~The Setback Exhibit indicates by darkened areas the "Buildable Envelope" upon which improvement may be constructed.~~ Developer or any future owner agrees no improvements of any kind will be built upon any portion of Lot 7 not contained in the Building Envelope on Lot 7, except for the driveway, privacy wall, gates, boardwalk, dock and terminal platform shown on Exhibit "A" attached hereto and made a part hereof (New Boardwalk and Dock Plan by Smith and Moore Architects, Inc., dated 6/14/2013 and Sheets 1 and 2, Proposed Boardwalk and Dock Plan by Isiminger & Stubbs Engineering, Inc., dated 4/13).

3....

4. Access

Blossom Way, the private road on the Plat, shall remain private and shall be maintained by the homeowners association (in accordance with a Declaration of Covenants, Conditions and Restrictions of Blossom Estate to be recorded by Developer). Blossom Way will, however, be constructed by Developer in conformance with the same construction standards as if Blossom Way were to be dedicated to the Public. There will be no ingress or egress to or from Lots 1, 2, 3, 4, 5 or 6 to or from South Ocean Boulevard (state Road AIA) except by way of Blossom Way unless approved, or approved with conditions, by the Town Council.

EXHIBIT C

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

SIXTH AMENDMENT TO THE BLOSSOM ESTATE SUBDIVISION AGREEMENT

THIS AGREEMENT made this ____ of _____, 2016 between the TOWN OF PALM BEACH, a Municipal Corporation, Post Office Box 2029, Palm Beach, Florida 33480 ("TOWN") and BLOSSOM WAY HOLDINGS LLC, a Delaware limited liability company, c/o Citadel LLC, 131 South Dearborn Street, Chicago, IL 60603 ("OWNER").

WITNESSETH:

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

WHEREAS, in connection with the replat of The Blossom Estate, which replat was recorded in Plat Book 54, Page 127 of the Public Records of Palm Beach County, Florida (the "Replat"), the TOWN approved certain requests by the Developer, George E. Straub, Trustee, to amend the Agreement and entered into a First Amendment to the Blossom Estate Subdivision Agreement ("First Amendment") on August 22, 1986, which First Amendment is recorded in Official Record Book 5022, Page 514, Public Records of Palm Beach County, Florida;

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

WHEREAS, the TOWN approved certain requests by the then owner, Ronald S. Kochman as Trustee of the 1255 South Ocean Boulevard Realty Trust dated December 16, 2009, to further amend the Agreement and entered into a Third Amendment to the Blossom Estate Subdivision Agreement ("Third Amendment") on August 23, 2010, which Third Amendment is recorded in Official Records Book 24031, Page 884, Public Records of Palm Beach County, Florida;

WHEREAS, the TOWN approved certain requests by the owner, Thomas P. Peterffy, as Trustee of the Thomas P. Peterffy Amended and Restated Revocable Trust dated September 13, 2007, to further amend the Agreement and entered into a Fourth Amendment to the Blossom

~~thereof shall run with the lands known as The Blossom Estate and described on Exhibit "A" attached hereto and made a part hereof.~~

2. Zoning; Construction Requirements

A....

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

(i)...

(ii)...

(iii) As a part and parcel of this Agreement, Developer has submitted to the Town a document called "Setback Exhibit – The Blossom Estate", attached to and a part of the Replat, prepared by Hutcheon Engineers and identified as file and drawing number 85-3-7052, dated June 16, 1986, consisting of one page (the "Setback Exhibit"). The Town and Developer have initialed the Setback Exhibit which is incorporated by reference herein. Developer or any future owner agrees that no residence shall be constructed in any area outside of the shaded areas which are shown on the Setback Exhibit. In the event Lots 1 through 6, or portions thereof, are combined under single ownership by Unity of Title Agreement in a form and manner as approved by the Town, the Setback Exhibit shall not apply and the property owner shall be required to meet existing zoning requirements in place at that time. In the event the Unity of Title Agreement is terminated by the owner and the Town, the "Setback Exhibit" shall apply. Developer or any future owner further agrees that any one residence may be constructed upon Lot 7 and 8 which Lots shall be deemed and treated as a single Lot and which shall remain under single ownership at all times. ~~With respect to Lot 7, the upland limit of the Mangrove area referred to in subparagraph (iv) below has been determined by the Palm beach County Health Department and the Department of Environmental Regulation as shown on the Replat of Blossom Estate submitted to the Town for approval.~~ The allowable setback from the line so established shall be twenty-five (25) feet (the "Mangrove Setback"). Prior to commencement of any site work on Lot 7, the Mangrove Setback shall be fenced off. A separate Unity of Title as to Lots 7 and 8 will be recorded simultaneously with recoding of this Agreement.

(vi) ~~The Setback Exhibit indicates by darkened areas the "Buildable Envelope" upon which improvement may be constructed.~~ Developer or any future owner agrees no improvements of any kind will be built upon any portion of Lot 7 not contained in the Building Envelope on Lot 7, except for the driveway, privacy wall, gates, boardwalk, dock and terminal platform shown on Exhibit "A" attached hereto and made a part hereof (New Boardwalk and Dock Plan by Smith and Moore Architects, Inc., dated 6/14/2013 and Sheets 1 and 2, Proposed Boardwalk and Dock Plan by Isiminger & Stubbs Engineering, Inc., dated 4/13).

3....

4. Access

Estate Subdivision Agreement ("Fourth Amendment") on March 30, 2012, which Fourth Amendment is recorded in Official Records Book 25117, Page 1804, Public Records of Palm Beach County, Florida;

WHEREAS, the TOWN approved certain requests by the owner, Thomas P. Peterffy, as Trustee of the Thomas P. Peterffy Amended and Restated Revocable Trust dated September 13, 2007, to further amend the Agreement and entered into a Fifth Amendment to the Blossom Estate Subdivision Agreement ("Fifth Amendment") on November 27, 2013, which Fifth Amendment is recorded in Official Records Book 26481, Page 1530, Public Records of Palm Beach County, Florida;

WHEREAS, OWNER owns Lots 1, 2, 3, and 4 and agrees to create a Unity of Title in a form and manner acceptable to the Town to unifying Lots 1 through 4, Replat of Blossom Estate, that will be recorded simultaneous with this Sixth Amendment.

~~WHEREAS, upon application for a Sixth Amendment to the Blossom Estate Subdivision Agreement ("Sixth Amendment"), on _____, 2016, the TOWN, upon motion made and duly adopted, allowed the owners of Lots 1, 2, 3, 4 and 6 (according to the Replat) to further amend the Agreement as provided herein;~~

WHEREAS, the TOWN found that all residents living in the Blossom Estate Subdivision consent to the proposed Sixth Amendment, as amended by the Town and as provided herein;

NOW THEREFORE, for good and valuable consideration, a receipt and sufficiency of which are acknowledged, the parties agree that the Blossom Estate Subdivision is amended as follows:

~~1. Paragraph 4 of the Agreement is now further amended to remove the language: "There will be no ingress or egress to or from Lots 1, 2, 3, 4, 5 or 6 to or from Ocean Boulevard (state Road AIA) except by way of Blossom Way" and replaced with "There will be no ingress or egress to or from Lots 1, 2, 3, 5 or 6 to or from Ocean Boulevard (state Road AIA) except by way of Blossom Way." This in effect will allow access to Lot 4 from Ocean Boulevard, if also approved by the Town.~~

~~2. Paragraph 2B (iii) and 2B (vi) which both paragraphs reference the "Setback Exhibit" shall both be amended to add the following sentence to the end of each paragraph as follows:~~

~~In the event Lots 1, 2, 3, 4 or 5 (or any combination thereof) are combined under a single ownership by Unity of Title, the Setback Exhibit shall not apply and the property shall be required to meet existing zoning requirements.~~

~~3. The Agreement as amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment and this Sixth Amendment is hereby ratified and reaffirmed and shall remain in full force and effect according to its terms and all provisions~~

Blossom Way, the private road on the Plat, shall remain private and shall be maintained by the homeowners association (in accordance with a Declaration of Covenants, Conditions and Restrictions of Blossom Estate to be recorded by Developer). Blossom Way will, however, be constructed by Developer in conformance with the same construction standards as if Blossom Way were to be dedicated to the Public. There will be no ingress or egress to or from Lots 1, 2, 3, 4, 5 or 6 to or from South Ocean Boulevard (state Road A1A) except by way of Blossom Way unless approved, or approved, with conditions by the Town Council.

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

Witnesses:

TOWN OF PALM BEACH

Sign _____
Print _____

By: _____

Sign _____
Print _____

BLOSSOM WAY HOLDINGS LLC,
a Delaware limited liability company

Sign _____
Print _____

By: KP Holdings L.L.C., an Oregon
limited liability company, its sole member

Sign _____
Print _____

By: _____
Gerald A. Beeson, Manager

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

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

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2016.

Notary Public

STATE OF)
COUNTY OF)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Gerald A. Beeson, as Manager of KP Holdings, L.L.C., an Oregon limited liability company, the sole member of Blossom Way Holdings LLC, formerly PBH LLC, a Delaware limited liability company, on behalf of the company, to me known to be the person described in or who produced _____ as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2016.

Notary Public

Approved as to Legal Form and Sufficiency

John C. Randolph, Town Attorney

EXHIBIT "A" — LEGAL DESCRIPTION

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

REPLAT OF THE BLOSSOM ESTATE

EXHIBIT D

TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA
SHEET 2 OF 2 SHEETS

Hutchinson Engineers
INCORPORATED
1000 S. PALM BEACH BLVD.
PALM BEACH, FLORIDA 33480
TELEPHONE 833-1111

↑
N
N.T.S.

- LEGEND
- - BOUNDARY BETWEEN ADJACENT PARCELS
 - - BOUNDARY BETWEEN ADJACENT PARCELS
 - P.B.E. - PUBLIC BEACH EASEMENT
 - D.E. - DRAINAGE EASEMENT
 - L.A.E. - LUTHERAN EASEMENT
 - S - SEWER
 - A - AIR RIGHT
 - L - LAND
 - C - CANAL
 - CB - COAST BOUNDARY
- NOTE
- BEARING AND DISTANCE ON THE NORTH LINE OF SECTION 2, T. 40 S., R. 42 E., BEING A BEARING OF 2 00° 00' 00" N.

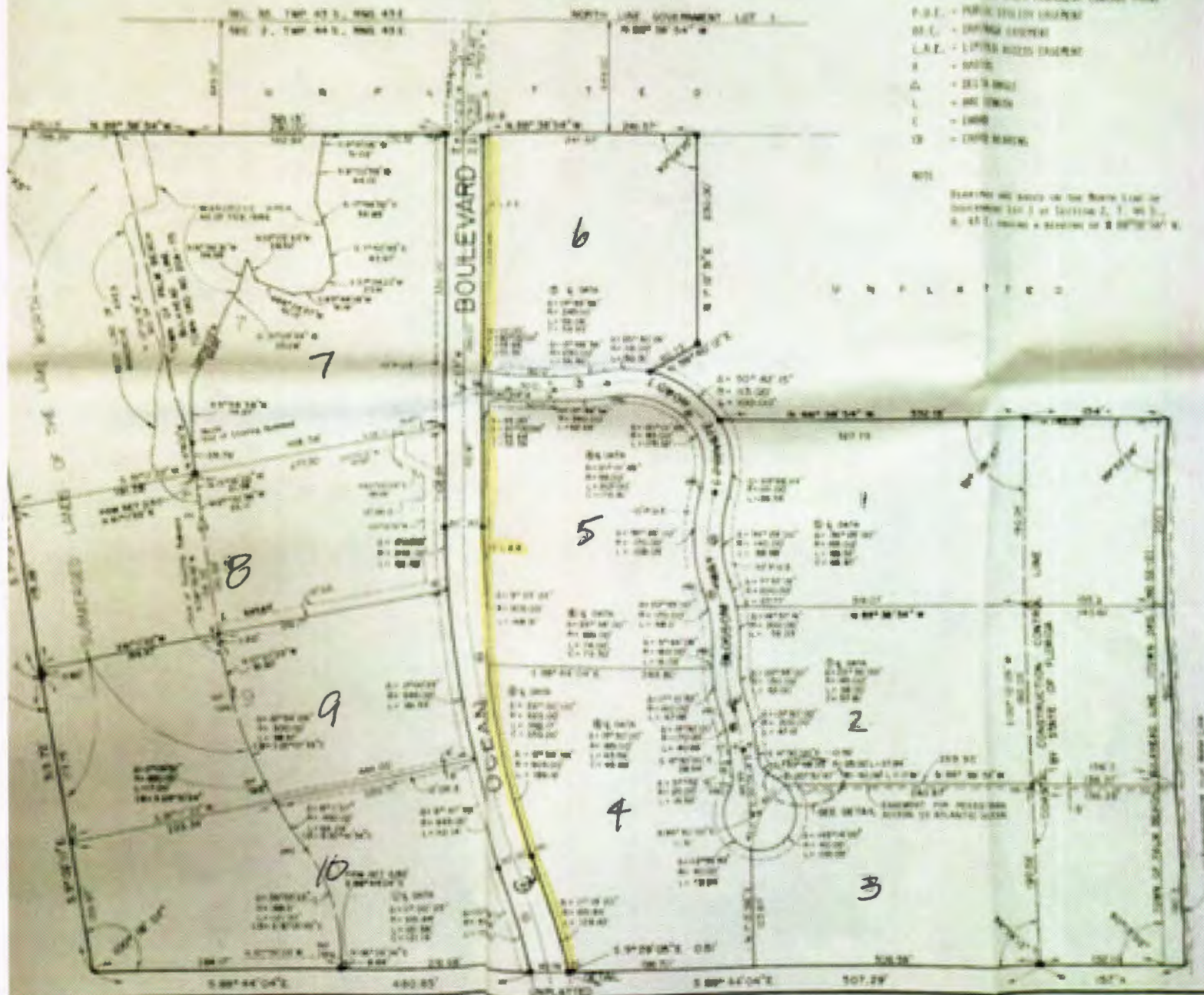
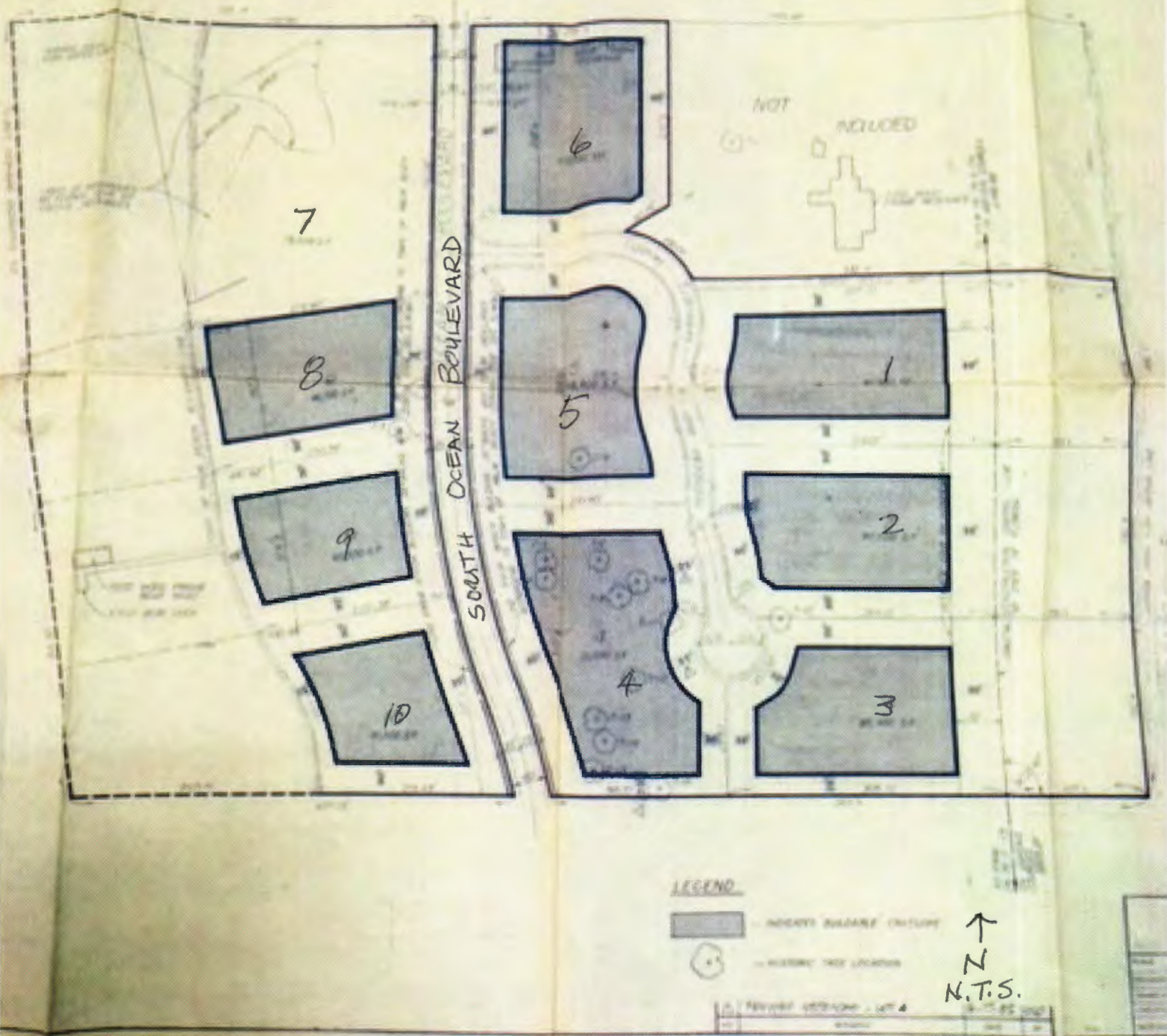


EXHIBIT E
SETBACK EXHIBIT
THE BLOSSOM ESTATE



TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Development Review - Other

Agenda Title

RESOLUTION NO. 45-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating, Abandoning, and Rededicating a Portion of an Existing Private Right-of-Way Known as Blossom Way, in the Town of Palm Beach, Florida.

Presenter

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

Supporting Documents

- [Memorandum dated March 17, 2016, from H. Paul Brazil, P.E., Director of Public Works](#)
- [Resolution No. 45-2016](#)
- [Legal Ad](#)
- [Dedication of New Blossom Way Cul-De-Sac](#)
- [Application for Partial Abandonment](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: H. Paul Brazil, P.E., Director of Public Works

Re: Authorization to Vacate, Abandon, and Rededicate a Portion of an Existing Private Right-of-Way Known as Blossom Way
Resolution No. 45-2016

Date: March 17, 2016

STAFF RECOMMENDATION

Staff recommends that Town Council approve Resolution No. 45-2016 authorizing the vacating, abandonment, and rededication of a portion of the private right-of-way known as Blossom Way in the Blossom Estates subdivision. If Town Council approves the abandonment and rededication of the private right-of-way, said approval should be with the condition that the owner shall pay all fees related to implementing the vacating, abandonment, and rededication, including but not limited to recording fees and utility relocation.

GENERAL INFORMATION

In accordance with Town Code of Ordinances, Chapter 106, Article IV, the owner of the Lots 1-4 of Blossom Estates Subdivision has made application to abandon and rededicate a portion of the private right-of-way known as Blossom Way. The partial abandonment is shown as Exhibit "A-1" of the proposed resolution. The partial right of way to be rededicated is shown as Exhibit "A-2". An application fee of \$1,000 was received with the application for partial abandonment. The relocated cul-de-sac will be constructed to the same size as the existing one which meets the service requirements of Public Works.

All utilities will be reimbursed for any and all costs associated with the the abandonment and rededication as described by the applicant.

The applicant's attorney has provided copies of executed and witnessed consent letters from all of the existing property owners of Blossom Estates to this partial abandonment.

No public property is being gained by owner by virtue of the abandonment of the private right-of-way, therefore, a privilege fee is not applicable.

FUNDING/FISCAL IMPACT

There is no fiscal impact to the Town.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachments

cc: Jane Struder, Director of Finance
Eric B. Brown, P.E., Assistant Director of Public Works
William K. Francis, P.E., Town Engineer
Charles R. Langley, P.E., Planning, Zoning & Building Project Engineer
Allen Powery, Public Works Inspector

RESOLUTION NO. 45-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, VACATING, ABANDONING, AND REDEDICATING A PORTION OF AN EXISTING PRIVATE RIGHT-OF-WAY KNOWN AS BLOSSOM WAY, IN THE TOWN OF PALM BEACH, FLORIDA.

* * * * *

WHEREAS, the owner of Lots 1-4 of the Blossom Estates Subdivision requested a partial abandonment of Blossom Way; and

WHEREAS, the owner of Lots 1-4 has agreed to pay the cost of all utility adjustments associated with this partial abandonment; and

WHEREAS, all existing property owners of Blossom Estates have consented to this partial abandonment; and

WHEREAS, the Town Council of the Town of Palm Beach does hereby find and determine that the partial abandonment does not negatively impact existing property owners nor does it negatively impact the provision of Town services, and

WHEREAS, it is necessary that there be a rededication of a private right of way as described herein, and

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

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

Section 2. That the partial private right of way described and illustrated on Exhibit "A-1" along Blossom Way is hereby vacated and abandoned.

Section 3. That the private right-of-way described and illustrated on Exhibit "A-2" along Blossom Way is hereby rededicated as a private right-of-way for the use and benefit of the Blossom Estates homeowners.

Section 4. The Town Clerk is hereby authorized to advertise and record the Resolution pursuant to law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on this 13th day of April 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

NOTICE IS HEREBY GIVEN that the Town Council of the Town of Palm Beach, Florida, at a regular meeting to be held on April 12, 2016, beginning at 9:30 a.m. in the Council Chambers of the Town Hall, 360 South County Road, Palm Beach, Florida will have on the Agenda the following:

PETITION FOR THE PARTIAL ABANDONMENT OF A PORTION OF BLOSSOM WAY IN THE BLOSSOM ESTATES SUBDIVISION IN THE TOWN OF PALM BEACH, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PRIVATE RIGHT OF WAY TO BE PARTIALLY ABANDONED:

BLOSSOM WAY WILL DECREASE IN LENGTH APPROXIMATELY 150 FEET AND WILL CONTINUE TO TERMINATE IN A CUL-DE-SAC.

This application for abandonment has been filed by Blossom Way Holdings LLC, 131 S. Dearborn Street, Chicago, IL 60603. ALL PERSONS INTERESTED in this matter may appear before the Town Council of the Town of Palm Beach at the time and place aforesaid and be heard.

SHOULD ANY INTERESTED PARTY SEEK TO APPEAL ANY DECISION MADE BY THE TOWN COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC HEARING, SAID PARTY WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE MAY NEED TO INSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED. 286.0105, F.S.

H. Paul Brazil, P.E.
Director, Department of Public Works
Town of Palm Beach

PREPARED BY/RECORD AND RETURN
TO: KOCHMAN & ZISKA, PLC Maura Ziska,
Esq.
222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Property Control Number:
50-43-44-02-10-000-0010
Florida documentary stamp tax: \$0.70

DEDICATION OF NEW BLOSSOM WAY CUL-DE-SAC

The undersigned, on behalf of BLOSSOM WAY HOLDINGS LLC, a Delaware limited liability company, the owner of the property indicated by the property control number listed above, and as herein described, hereby dedicates and grants to the Blossom Estate Homeowner's Association , Inc., 505 S. Flagler Drive, Suite 1010, West Palm Beach, Florida 33401 the property described in Exhibit "A", to serve as the new right of way cul-de-sac for Blossom Way, for the use and benefit of the Blossom Estate Homeowner's Association, Inc. and more particularly for the owners of lots in The Blossom Estate, pursuant to Replat of The Blossom Estate, under Plat Book 54, Pages 127-128, of the public records of Palm Beach County, Florida,

WITNESS, the following signature for this Dedication as of _____
2016.

Witness the following signatures:

OWNER:

Blossom way Holdings LLC, a
Delaware limited liability
company

Witness

Print Name

By: KP Holdings L.L.C., an Oregon

Witness

limited liability company, its sole

1

member

Print Name

By: _____
Gerald A. Beeson, Manager

STATE OF ILLINOIS
COUNTY OF COOK

THE FOREGOING INSTRUMENT was acknowledged before me, the undersigned authority,
this day of 2016, by Gerald A. Beeson, as Manager of KP Holdings,

_____,
L.L.C., an Oregon limited liability company, the sole member of Blossom Way Holdings LLC,
formerly PBH LLC, a Delaware limited liability company, on behalf of the company. He is
either ☐ personally known to me or ☐ produced his _____ (state) driver's license as
identification.

Signature of Notary
Name:

Commission
No. Expiration Date:

[STAMP OR SEAL]

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York
*Also admitted in Michigan

Esperanté

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

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

VIA EMAIL AND HAND DELIVERY

March 7, 2016

Paul Brazil, P. E.
Director of Public Works
and
Chuck Langley, P. E.
Project Engineer
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RECEIVED

MAR 07 2016

Town of Palm Beach
PZB Dept

RE: Partial Abandonment of Blossom Way Cul-de-sac

Dear Mr. Brazil and Mr. Langley:

This correspondence is in response to Mr. Langley's email dated March 4, 2016 in which he requested additional information to process our request to partially abandon the Blossom Way cul-de-sac. In my prior meetings with Paul Brazil, it was not a requirement to get the consent of the utility companies since Blossom Way is a private road and not a town right of way. Please confirm this to be the case. I have again attached the letters of consent from the property owners within the subdivision and the exhibit to the consents are sketches depicting the existing cul-de-sac and the proposed cul-de-sac. I believe the Town sends the letters to the neighbors and not the applicant? That has been the procedure in the past.

Per your request, I have attached a copy of the beach access resolution abandoning the old access and the dedication of the new beach access, both of which were recorded last month. Finally, I have attached a check for \$1000 for the abandonment fee.

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

Sincerely yours,



Maura A. Ziska

/maz

Attachments

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel* •

*Also admitted in New York
• Also admitted in Michigan

December 29, 2015

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

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

Gerald A. Beeson, Manager
Blossom Way Holdings LLC
c/o Citadel LLC
131 South Dearborn Street
Chicago, IL 60603

Re: Lots 1, 2, 3, and 4 Replat of The Blossom Estate
Request for Consent for partial abandonment of Blossom Way and Sixth
Amendment to the Blossom Estate Subdivision Agreement

Dear Mr. Beeson:

I represent Blossom Way Holdings LLC, who owns Lots 1, 2, 3, 4 and 6 in the Blossom Estates subdivision. My client is planning to combine Lots 1, 2, 3 and 4 into one parcel and develop the land with a single family residence. Since there will not be a need for Blossom Way to extend as far south into the subdivision as it currently exists, the plan would be to shorten the road and relocate the cul-de-sac to the north. I have attached a plan (Exhibit "A") that shows the existing conditions and the proposed design of the road. Since you are an owner in the subdivision, we will need your consent for this partial abandonment of the right of way. There is also a plan to add a vehicle entrance on South Ocean Boulevard on Lot 4 to serve as the main entrance to the new residence. This requires your consent as well as we need to modify the subdivision agreement. I have also attached a copy of the proposed language for the Sixth Amendment to the Blossom Estate Subdivision Agreement (Exhibit "B").

I am happy to discuss both of these changes with you in person or on the phone. Please let me know if you have any questions and otherwise, if not, please sign the attached consent in the presence of two (2) witnesses and a notary public, and return the original completed, signed letter to me.

I look forward to hearing from you. Thank you.

Very truly yours,


Maura Ziska

Enclosures

January 5, 2016
Page 2

I, Gerald Beeson, Manager of Blossom Way Holdings LLC, and owner of Lots 1, 2, 3, 4 and 6 of the Replat of The Blossom Estate, on behalf of the company, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida, give my consent to:

- 1) the partial abandonment of the Blossom Way right of way as depicted in Exhibit "A" and
- 2) the Sixth Amendment to the Blossom Estate Subdivision Agreement as attached hereto as Exhibit "B".

Witnesses:

Patricia A. Stasny
Print Name: PATRICIA A STASNY

Sara E. Cordt
Print Name: SARA E. CORDT

Barbara G. Horne
Print Name: BARBARA A. HORNE

Blossom Way Holdings LLC
a Delaware limited liability company

By: KP Holdings L.L.C. an Oregon limited liability company, its sole member

By: Gerald A. Beeson, Manager

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing consent was acknowledged before me this 6th day of Jan, 2016, by Gerald A. Beeson, Manager of KP Holdings, L.L.C., sole member of Blossom Way Holdings LLC, the owner of Lots 1, 2, 3, 4 and 6, Replat of The Blossom Estate, on behalf of the company, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida. Mr. Beeson is either ☒ personally known to me, or ☐ produced his _____ (state) driver's license as identification.

[Notary Stamp/Seal]



Barbara G. Horne
Notary Signature
Printed name: BARBARA A. HORNE

Commission No. 646631
Expiration Date: March 17, 2018

KOCHMAN & ZISKA PLC

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

*Also admitted in New York
*Also admitted in Michigan

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

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

December 29, 2015

Mr. and Mrs. Hertog
10 Blossom Way
Palm Beach, FL 33480

Re: Lots 1, 2, 3, and 4 Replat of The Blossom Estate
Request for Consent for partial abandonment of Blossom Way and Sixth
Amendment to the Blossom Estate Subdivision Agreement

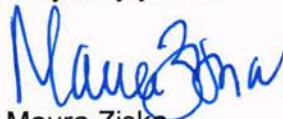
Dear Mr. and Mrs. Hertog:

I represent Blossom Way Holdings LLC, who owns Lots 1, 2, 3, 4 and 6 in the Blossom Estates subdivision. My client is planning to combine Lots 1, 2, 3 and 4 into one parcel and develop the land with a single family residence. Since there will not be a need for Blossom Way to extend as far south into the subdivision as it currently exists, the plan would be to shorten the road and relocate the cul-de-sac to the north. I have attached a plan (Exhibit "A") that shows the existing conditions and the proposed design of the road. Since you are an owner in the subdivision, we will need your consent for this partial abandonment of the right of way. There is also a plan to add a vehicle entrance on South Ocean Boulevard on Lot 4 to serve as the main entrance to the new residence. This requires your consent as well as we need to modify the subdivision agreement. I have also attached a copy of the proposed language for the Sixth Amendment to the Blossom Estate Subdivision Agreement (Exhibit "B").

I am happy to discuss both of these changes with you in person or on the phone. Please let me know if you have any questions and otherwise, if not, please sign the attached consent in the presence of two (2) witnesses and a notary public, and return the original completed, signed letter to me.

I look forward to hearing from you. Thank you.

Very truly yours,


Maura Ziska

Enclosures

December 29, 2015

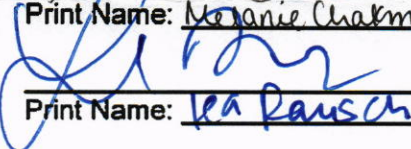
Page 2

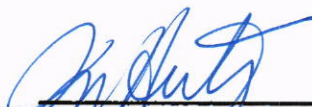
We, Roger Hertog and Susan Hertog, owners of Lot 5 of the Replat of The Blossom Estate, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida, give our consent to:

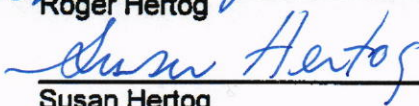
- 1) the partial abandonment of the Blossom Way right of way as depicted in Exhibit "A" and
- 2) the Sixth Amendment to the Blossom Estate Subdivision Agreement as attached hereto as Exhibit "B".

Witnesses:


Print Name: Melanie Chalmers


Print Name: Lea Rauson


Roger Hertog

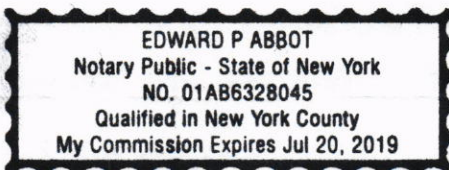

Susan Hertog

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing consent was acknowledged before me this 5 day of 1, 2016, by Roger Hertog and Susan Hertog, owners of Lot 5 of the Replat of The Blossom Estate, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida. Mr. and Mrs. Hertog are either [☒] personally known to me, or [☐] produced their _____ (state) driver's licensed as identification.

[Notary Stamp/Seal]




Notary Signature

Printed name: Edward Abbot

Commission No. 01AB6328045

Expiration Date: 7/20/19

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel**

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

December 29, 2015

Thomas P. Peterffy, as Trustee
Thomas P. Peterffy Amended and Restated
Revocable Trust dated September 13, 2007
1255 South Ocean Boulevard
Palm Beach, FL 33480

Re: Lots 1, 2, 3, and 4 Replat of The Blossom Estate
Request for Consent for partial abandonment of Blossom Way and Sixth
Amendment to the Blossom Estate Subdivision Agreement

Dear Mr. Peterffy:

I represent Blossom Way Holdings LLC, who owns Lots 1, 2, 3, 4 and 6 in the Blossom Estates subdivision. My client is planning to combine Lots 1, 2, 3 and 4 into one parcel and develop the land with a single family residence. Since there will not be a need for Blossom Way to extend as far south into the subdivision as it currently exists, the plan would be to shorten the road and relocate the cul-de-sac to the north. I have attached a plan (Exhibit "A") that shows the existing conditions and the proposed design of the road. Since you are an owner in the subdivision, we will need your consent for this partial abandonment of the right of way. There is also a plan to add a vehicle entrance on South Ocean Boulevard on Lot 4 to serve as the main entrance to the new residence. This requires your consent as well as we need to modify the subdivision agreement. I have also attached a copy of the proposed language for the Sixth Amendment to the Blossom Estate Subdivision Agreement (Exhibit "B").

I am happy to discuss both of these changes with you in person or on the phone. Please let me know if you have any questions and otherwise, if not, please sign the attached consent in the presence of two (2) witnesses and a notary public, and return the original completed, signed letter to me.

I look forward to hearing from you. Thank you.

Very truly yours,



Maura Ziska

Enclosures

December 29, 2015

Page 2

I, Thomas P. Peterffy, as Trustee of the Thomas P. Peterffy Amended and Restated Revocable Trust dated September 13, 2007 and owner of Lots 7 and 8 of the Replat of The Blossom Estate, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida, give my consent to:

- 1) the partial abandonment of the Blossom Way right of way as depicted in Exhibit "A" and
- 2) the Sixth Amendment to the Blossom Estate Subdivision Agreement as attached hereto as Exhibit "B".

Witnesses:

Pamela Berry
Print Name: Pamela Berry
Stephanie Acunato
Print Name: Stephanie Acunato

Thomas P. Peterffy
Thomas P. Peterffy, as Trustee of the
Thomas P. Peterffy Amended and Restated
Revocable Trust dated 9/13/2007

STATE OF New York
COUNTY OF New York

The foregoing consent was acknowledged before me this 8 day of January, 2016, by Thomas P. Peterffy, as Trustee of the Thomas P. Peterffy Amended and Restated Revocable Trust dated September 13, 2007 and owner of Lots 7 and 8 of the Replat of The Blossom Estate, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida. Mr. Peterffy is either ☒ personally known to me, or [] produced his _____ (state) driver's license as identification.

[Notary Stamp/Seal]

BRADFORD L. JACOBOWITZ
NOTARY PUBLIC-STATE OF NEW YORK
No. 02JA4976627
Qualified in Westchester County
My Commission Expires October 27, 2019

Bradford L. Jacobowitz
Notary Signature
Printed name: Bradford L. Jacobowitz
Commission No. 02JA4976627
Expiration Date: October 27, 2019

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel* •

*Also admitted in New York

• Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

December 29, 2015

1275 South Ocean Boulevard LLC
c/o Goulson & Storrs
885 3rd Avenue Suite 8
New York, NY 10022

Re: Lots 1, 2, 3, and 4 Replat of The Blossom Estate
Request for Consent for partial abandonment of Blossom Way and Sixth
Amendment to the Blossom Estate Subdivision Agreement

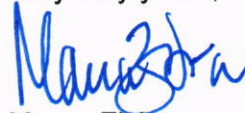
Dear Mr. Lurie:

I represent Blossom Way Holdings LLC, who owns Lots 1, 2, 3, 4 and 6 in the Blossom Estates subdivision. My client is planning to combine Lots 1, 2, 3 and 4 into one parcel and develop the land with a single family residence. Since there will not be a need for Blossom Way to extend as far south into the subdivision as it currently exists, the plan would be to shorten the road and relocate the cul-de-sac to the north. I have attached a plan (Exhibit "A") that shows the existing conditions and the proposed design of the road. Since you are an owner in the subdivision, we will need your consent for this partial abandonment of the right of way. There is also a plan to add a vehicle entrance on South Ocean Boulevard on Lot 4 to serve as the main entrance to the new residence. This requires your consent as well as we need to modify the subdivision agreement. I have also attached a copy of the proposed language for the Sixth Amendment to the Blossom Estate Subdivision Agreement (Exhibit "B").

I am happy to discuss both of these changes with you in person or on the phone. Please let me know if you have any questions and otherwise, if not, please sign the attached consent in the presence of two (2) witnesses and a notary public, and return the original completed, signed letter to me.

I look forward to hearing from you. Thank you.

Very truly yours,



Maura Ziska

Enclosures

December 29, 2015
Page 2

I, Jeffrey Lurie, as member/owner of the 1275 South Ocean Boulevard LLC and owner of Lot 9 of the Replat of The Blossom Estate, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida, give my consent to:

- 1) the partial abandonment of the Blossom Way right of way as depicted in Exhibit "A" and
- 2) the Sixth Amendment to the Blossom Estate Subdivision Agreement as attached hereto as Exhibit "B".

Witnesses:

[Signature]
Print Name: Katy Moroz

[Signature]
Print Name: GARY RICHARDSON

1275 South Ocean Boulevard LLC,
a Delaware limited liability company

By: [Signature]
Name: JEFFREY LURIE
Title: MEMBER

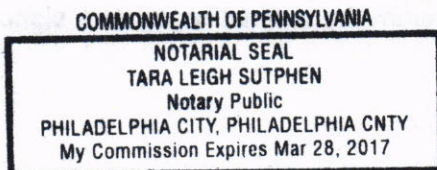
STATE OF Pennsylvania

COUNTY OF Philadelphia

The foregoing consent was acknowledged before me this 7 day of 2, 2016, by Jeffrey Lurie, as owner of the 1275 South Ocean Boulevard LLC and owner of Lot 9 of the Replat of The Blossom Estate, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida. Mr. Lurie is either ☒ personally known to me, or ☐ produced his/her _____ (state) driver's license as identification.

[Notary Stamp/Seal]

[Signature]
Notary Signature
Printed name: TARA LEIGH SUTPHEN



Commission No. 1275690
Expiration Date: 3/28/2017

RECEIVED

FEB 10 2016

SMITH ARCHITECTURAL
GROUP, INC.

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

December 29, 2015

1275 South Ocean Boulevard LLC
c/o Goulson & Storrs
885 3rd Avenue Suite 8
New York, NY 10022

Re: Lots 1, 2, 3, and 4 Replat of The Blossom Estate
Request for Consent for partial abandonment of Blossom Way and Sixth
Amendment to the Blossom Estate Subdivision Agreement

Dear Mr. Lurie:

I represent Blossom Way Holdings LLC, who owns Lots 1, 2, 3, 4 and 6 in the Blossom Estates subdivision. My client is planning to combine Lots 1, 2, 3 and 4 into one parcel and develop the land with a single family residence. Since there will not be a need for Blossom Way to extend as far south into the subdivision as it currently exists, the plan would be to shorten the road and relocate the cul-de-sac to the north. I have attached a plan (Exhibit "A") that shows the existing conditions and the proposed design of the road. Since you are an owner in the subdivision, we will need your consent for this partial abandonment of the right of way. There is also a plan to add a vehicle entrance on South Ocean Boulevard on Lot 4 to serve as the main entrance to the new residence. This requires your consent as well as we need to modify the subdivision agreement. I have also attached a copy of the proposed language for the Sixth Amendment to the Blossom Estate Subdivision Agreement (Exhibit "B").

I am happy to discuss both of these changes with you in person or on the phone. Please let me know if you have any questions and otherwise, if not, please sign the attached consent in the presence of two (2) witnesses and a notary public, and return the original completed, signed letter to me.

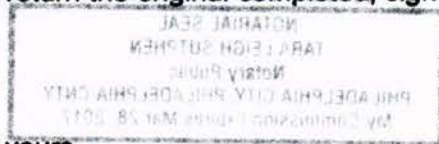
I look forward to hearing from you. Thank you.

Very truly yours,



Maura Ziska

Enclosures



KOCHMAN & ZISKA PLC

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

*Also admitted in New York
*Also admitted in Michigan

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

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

December 29, 2015

Anna Murdoch-Mann
1285 South Ocean Boulevard
Palm Beach, FL 33480

Re: Lots 1, 2, 3, and 4 Replat of The Blossom Estate
Request for Consent for partial abandonment of Blossom Way and Sixth
Amendment to the Blossom Estate Subdivision Agreement

Dear Mrs. Mann:

I represent Blossom Way Holdings LLC, who owns Lots 1, 2, 3, 4 and 6 in the Blossom Estates subdivision. My client is planning to combine Lots 1, 2, 3 and 4 into one parcel and develop the land with a single family residence. Since there will not be a need for Blossom Way to extend as far south into the subdivision as it currently exists, the plan would be to shorten the road and relocate the cul-de-sac to the north. I have attached a plan (Exhibit "A") that shows the existing conditions and the proposed design of the road. Since you are an owner in the subdivision, we will need your consent for this partial abandonment of the right of way. There is also a plan to add a vehicle entrance on South Ocean Boulevard on Lot 4 to serve as the main entrance to the new residence. This requires your consent as well as we need to modify the subdivision agreement. I have also attached a copy of the proposed language for the Sixth Amendment to the Blossom Estate Subdivision Agreement (Exhibit "B").

I am happy to discuss both of these changes with you in person or on the phone. Please let me know if you have any questions and otherwise, if not, please sign the attached consent in the presence of two (2) witnesses and a notary public, and return the original completed, signed letter to me.

I look forward to hearing from you. Thank you.

Very truly yours,


Maura Ziska

Enclosures

December 29, 2015

Page 2

I, Anna Murdoch-Mann, owner of Lot 10 of the Replat of The Blossom Estate, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida, give my consent to:

- 1) the partial abandonment of the Blossom Way right of way as depicted in Exhibit "A" and
- 2) the Sixth Amendment to the Blossom Estate Subdivision Agreement as attached hereto as Exhibit "B".

Witnesses:

Gilma Tovar
Print Name: GILMA TOVAR
William H. Mann
Print Name: WILLIAM H. MANN

Anna Murdoch-Mann
Anna Murdoch-Mann

STATE OF FLORIDA

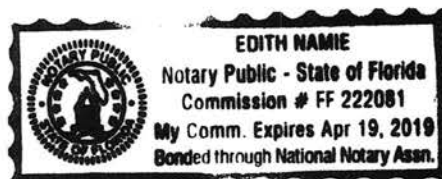
COUNTY OF PALM BEACH

The foregoing consent was acknowledged before me this 11 day of Jan. 2016 by Anna Murdoch-Mann, owner of Lot 10 of the Replat of The Blossom Estate, per Plat Book 54, page 127, Public Records of Palm Beach County, Florida. Mrs. Mann is either ☒ personally known to me, or ☐ produced her _____ (state) driver's license as identification.

[Notary Stamp/Seal]

Edith Namie
Notary Signature
Printed name: Edith Namie

Commission No. FF-222081
Expiration Date: April 19, 2019



ATLANTIC OCEAN

Site Plan

BEACH

TOWN OF PALM BEACH
BULKHEAD LINE

60 BLOSSOM WAY
(NOT INCLUDED IN
BLOSSOM ESTATE
SUBDIVISION)

NEW 5'-0" WIDE
BEACH ACCESS
EASEMENT

NEW PROPOSED
LANDSCAPE

NEW 6'-0" WIDE
BEACH ACCESS
GATE EASEMENT

EXISTING CONC
CURBS

EXISTING
STRUCTURE

Lot 2

20-50 BLOSSOM WAY
(SUBJECT PROPERTY)

SITE RETAINING
WALLS

10'-0" UTILITY
EASEMENT

EXISTING
STRUCTURE

Lot 3

PORTION OF BLOSSOM
WAY AND CUL-DE-SAC
TO BE REMOVED

Lot 4

10 BLOSSOM WAY
(EXISTING RESIDENCE)

NEW BLOSSOM WAY
PROPOSED ENTRANCE

Lot 6

70 BLOSSOM WAY
(EXISTING RESIDENCE)

SOUTH OCEAN BOULEVARD

NEW PROPOSED SOUTH
OCEAN BOULEVARD
ENTRANCE W/
TURN-AROUND

GATE SETBACK
50'-0"

BLDO SETBACK
15'-0"

EXHIBIT "A" - 2

RESOLUTION NO. 6-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING FOR THE ABANDONMENT OF THE EXSTING PEDESTRIAN ACCESS EASEMENT ON THE NORTH FIVE FEET OF LOT 3, AND DEDICATING A NEW PEDESTRIAN ACCESS EASEMENT ON THE NORTH FIVE FEET OF LOT 1, REPLAT OF THE BLOSSOM ESTATE AS RECORDED IN PLAT BOOK 54, PAGES 127 AND 128, PALM BEACH, FLORIDA; AND, PROVIDING FOR MODIFIED DEDICATION LANGUAGE FOR SAID EASEMENT.

WHEREAS, the owner of the land and property hereinafter described has petitioned the Town of Palm Beach to abandon an easement for pedestrian access from Blossom Way to the Atlantic Ocean currently located over and across the land owned by Blossom Way Holdings LLC, and to relocate the easement onto land owned by Blossom Way Holdings LLC, all located in The Blossom Estate, as more fully hereinafter described; and

WHEREAS, the owners of all lots in Replat of the Blossom Estate, as the members of Blossom Estate Homeowner's Association, Inc., ("Association") and the Blossom Estate Homeowner's Association have agreed to the abandonment of the existing pedestrian beach access easement in exchange for the relocation and new dedication of an easement for pedestrian access from Blossom Way to the Atlantic Ocean within The Blossom Estate; and

WHEREAS, the Town Council of the Town of Palm Beach does hereby find and determine that the necessity for an easement for pedestrian access to the Atlantic Ocean will be satisfied by the relocation of the beach access easement within The Blossom Estate;

WHEREAS, the Town Council, at the recommendation of Staff, has approved the abandonment and relocation of the pedestrian beach access easement on the condition that the Blossom Estate property owners and Association amend the easement dedication language to

provide the Town and the State of Florida access through that easement for monitoring turtle nesting and beach renourishment.

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

Section 1. That certain Easement for Pedestrian Access to Atlantic Ocean, shown on The Replat of The Blossom Estate, Palm Beach, Florida, being on the north five feet of Lot 3 and more particularly described as follows:

LEGAL DESCRIPTION:

The easement for pedestrian access to Atlantic Ocean lying within Lot 3, of *REPLAT OF THE BLOSSOM ESTATE*, according to the Plat thereof, as recorded in Plat Book 54, Page(s) 127, of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

BEGIN at the Northwest corner of said Lot 3, said point lying on a curve concave to the West having a radius of 40.00 feet, a central angle of 09°17'29" and a chord bearing of South 38°08'40" East; thence Southerly, along the arc of said curve, a distance of 6.49 feet; thence South 88°38'54" along a line 5 feet South of and parallel with the North line of said Lot 3, a distance of 15.08 feet to a point; thence South 56°38'35" East a distance of 5.66 feet to a point; thence North 61°10'41" East a distance of 5.97 feet to a point; thence South 88°38'54" East, along said parallel line, a distance of 397 feet, more or less, to the East line of said Lot 3 and the mean high water line of the Atlantic Ocean; thence Northerly, along said East line, a distance of 5 feet, more or less, to the Northeast corner of said Lot 3; thence North 88°38'54" West, along said North line, a distance of 426 feet, more or less, to said Northwest corner and the POINT OF BEGINNING.

The North line of said Lot 3 is assumed to bear North 88°38'54" West and all other bearings are relative thereto.

Be and the same is hereby vacated and abandoned.

Section 2. In substitution for the easement herein abandoned, there is hereby dedicated to and accepted by the Town of Palm Beach a new Easement for Pedestrian Access to Atlantic Ocean, for the benefit of Blossom Estate Homeowner's Association, the State of Florida and the Town of Palm Beach for sand and turtle monitoring, located on the north five feet of Lot 1 and more particularly described as follows and identified on the attached survey:

LEGAL DESCRIPTION:

The North five feet of Lot 1, *REPLAT OF THE BLOSSOM ESTATE*, according to the Plat thereof recorded in Plat Book 54, Page 127, of the public records of Palm Beach County, Florida, together with a strip of land lying within said Lot 1, six feet (6') in width, the centerline of said strip being more particularly described as follows:

COMMENCE at a point on the North line of said Lot 1 lying 27.7 feet East of the Northwest corner of said Lot 1; Thence South 01°21' 06" West, perpendicular to said North line (the North line of said Lot 1 is assumed to bear South 88°38' 54" East and all other bearings are relative thereto), a distance of 5.00 feet to the **POINT OF BEGINNING** of the hereinafter described centerline; Thence South 01°21' 06" West, a distance of 14.32 feet to a point; Thence radially South 76°42' 55" West a distance of 18.76 feet to a point on the West line of said Lot 1 and the **POINT OF TERMINUS**.

Section. 3. That the dedication language of the new beach access easement read as follows:

3. The 5 foot wide easement for pedestrian access to Atlantic Ocean is hereby dedicated to BLOSSOM ESTATE HOMEOWNERS ASSOCIATION, INC., for its perpetual use and to the State of Florida and the Town of Palm Beach for the monitoring of turtle nesting and the monitoring of sand re-nourishment. Said easement shall be maintained by said Association.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of January 2016.


Gail L. Coniglio
Gail L. Coniglio, Mayor

Michael J. Pucillo
Michael J. Pucillo, Town Council President

Richard M. Kleid
Richard M. Kleid, Council President Pro Tem

Danielle H. Moore
Danielle H. Moore, Town Council Member

Penelope D. Townsend
Penelope D. Townsend, Town Council Member

ATTEST:

Cheryl A. Somers
~~Susan A. Owens, MMC~~, Town Clerk
Cheryl A. Somers, Acting

Robert N. Wildrick
Robert N. Wildrick, Town Council Member



PREPARED BY/RECORD AND RETURN TO:
KOCHMAN & ZISKA, PLC
Maura Ziska, Esq.
222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

CFN 20160057380
OR BK 28113 PG 0600
RECORDED 02/19/2016 10:41:36
Palm Beach County, Florida
AMT 10.00
Doc Stamp 0.70
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0600 - 606; (7pgs)

Property Control Number:
50-43-44-02-10-000-0010
Florida documentary stamp tax: \$0.70

**DEDICATION AND GRANT OF EASEMENT FOR
PEDESTRIAN ACCESS TO ATLANTIC OCEAN**

The undersigned, on behalf of BLOSSOM WAY HOLDINGS LLC, a Delaware limited liability company, the owner of the property indicated by the property control number listed above, and as herein described, hereby dedicates and grants to the Blossom Estate Homeowner's Association, Inc., 505 S. Flagler Drive, Suite 1010, West Palm Beach, Florida 33401, and to the Town of Palm Beach and State of Florida the property described below, to serve as an easement for pedestrian access from Blossom Way to the Atlantic Ocean, for the use and benefit of the Blossom Estate Homeowner's Association, Inc. and more particularly for the owners of lots in The Blossom Estate, pursuant to Replat of The Blossom Estate, under Plat Book 54, Pages 127-128, of the public records of Palm Beach County, Florida, and as pedestrian access for the Town of Palm Beach and State of Florida for monitoring turtle nesting and beach re-nourishment.

EASEMENT FOR PEDESTRIAN ACCESS TO ATLANTIC OCEAN:

The North five feet of Lot 1, **REPLAT OF THE BLOSSOM ESTATE**, according to the Plat thereof recorded in Plat Book 54, Page 127, of the public records of Palm Beach County, Florida, together with a strip of land lying within said Lot 1, six feet (6') in width, the centerline of said strip being more particularly described as follows:

COMMENCE at a point on the North line of said Lot 1 lying 27.7 feet East of the Northwest corner of said Lot 1; Thence South 01°21'06" West, perpendicular to said North line (the North line of said Lot 1 is assumed to

bear South 88°38'54" East and all other bearings are relative thereto), a distance of 5.00 feet to the **POINT OF BEGINNING** of the hereinafter described centerline; Thence South 01°21'06" West, a distance of 14.32 feet to a point; Thence radially South 76°42'55" West a distance of 18.76 feet to a point on the West line of said Lot 1 and the **POINT OF TERMINUS**.

WITNESS, the following signature for this Dedication and Grant of Easement for Pedestrian Access to Atlantic Ocean as of February 9~~th~~, 2016.

Witness the following signatures:

OWNER:

Blossom Way Holdings LLC, a
Delaware limited liability
company

Standa
Witness
Stra E. Cordit
Print Name

Barbara A. Horne
Witness
BARBARA A. HORNE
Print Name

By: KP Holdings L.L.C., an Oregon
limited liability company, its sole
member

By: *[Signature]*
Gerald A. Beeson, Manager

STATE OF ILLINOIS
COUNTY OF COOK

THE FOREGOING INSTRUMENT was acknowledged before me, the undersigned authority, this 9~~th~~ day of February, 2016, by Gerald A. Beeson, as Manager of KP Holdings, L.L.C., an Oregon limited liability company, the sole member of Blossom Way Holdings LLC, formerly PBH LLC, a Delaware limited liability company, on behalf of the company. He is either ☒ personally known to me or ☐ produced his _____ (state) driver's license as identification.



[STAMP OR SEAL]

Barbara A. Horne
Signature of Notary
Name: *BARBARA A. HORNE*

Commission No. *646631*
Expiration Date: *March 17, 2018*

The following owners of the Blossom Estate Subdivision hereby consent to the Town of Palm Beach and State of Florida having pedestrian access to the above dedicated easement for monitoring of turtle nesting and the monitoring of sand re-nourishment:

Witness the following signatures:

[Signature]
Witness
Sara E Condit
Print Name

Barbara G. Horne
Witness
BARBARA A. HORNE
Print Name

OWNER (as to Lots 1-4 and 6):

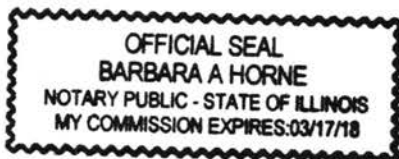
Blossom Way Holdings LLC, a
Delaware limited liability
company

By: KP Holdings L.L.C., an Oregon
limited liability company, its sole
member

By: [Signature]
Gerald A. Beeson, Manager

STATE OF ILLINOIS
COUNTY OF COOK

THE FOREGOING INSTRUMENT was acknowledged before me, the undersigned authority, this 9th day of February, 2016, by Gerald A. Beeson, as Manager of KP Holdings, L.L.C., an Oregon limited liability company, the sole member of Blossom Way Holdings LLC, formerly PBH LLC, a Delaware limited liability company, on behalf of the company. He is either ☒ personally known to me or ☐ produced his _____ (state) driver's license as identification.



[STAMP OR SEAL]

Barbara G. Horne
Signature of Notary
Name: BARBARA A. HORNE

Commission No. 646631
Expiration Date: March 17, 2018

Witness the following signatures:

Melanie Chakmakjian
Witness

Melanie Chakmakjian
Print Name

Lea Rausch
Witness

Lea Rausch
Print Name

OWNER (as to Lot 5):

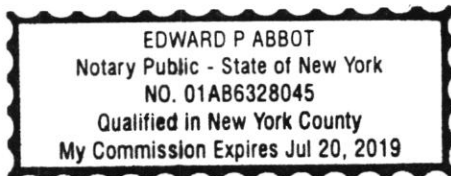
Roger Hertog
Roger Hertog

Susan Hertog
Susan Hertog

Susan Hertog

STATE OF FLORIDA
COUNTY OF PALM BEACH

THE FOREGOING INSTRUMENT was acknowledged before me, the undersigned authority, this 11 day of February, 2016, by Roger Hertog and Susan Hertog. They are either ☒ personally known to me or ☐ produced their _____ (state) driver's license as identification.



[STAMP OR SEAL]

Edward P. Abbot
Signature of Notary
Name: Edward Abbot

Commission No. 01AB6328045

Expiration Date: 7/20/19

Witness the following signatures:

[Signature]
Witness
ANDRE NEETHLING
Print Name

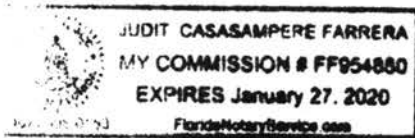
[Signature]
Witness
Christian Bertrand
Print Name

OWNER (as to Lots 7 and 8):

[Signature]
Thomas P. Peterffy, as Trustee of the
Thomas P. Peterffy Amended and
Restated Revocable Trust dated
9/13/2007

STATE OF FLORIDA
COUNTY OF PALM BEACH

THE FOREGOING INSTRUMENT was acknowledged before me, the undersigned authority, this 17 day of February, 2016, by Thomas P. Peterffy, as Trustee of the Thomas P. Peterffy Amended and Restated Revocable Trust dated September 13, 2007. He is either [☒] personally known to me or [] produced his _____ (state) driver's license as identification.



[STAMP OR SEAL]

[Signature]
Signature of Notary
Name: Judit Casasampere Farrera
Commission No. FF954880
Expiration Date: January 27, 2020

Witness the following signatures:

[Signature]
Witness

Katy MOROZ
Print Name

Witness
GARY RICHARDSON

Print Name

OWNER (as to Lot 9):

1275 South Ocean Boulevard LLC,
a Delaware limited liability company

By: [Signature]
Its: Sole Member

STATE OF Pennsylvania
COUNTY OF Philadelphia

THE FOREGOING INSTRUMENT was acknowledged before me, the undersigned authority, this 7 day of February, 2016, by Jeffrey Weie, as Manager of 1275 South Ocean Boulevard, LLC. He is either ☒ personally known to me or ☐ produced his _____ (state) driver's license as identification.

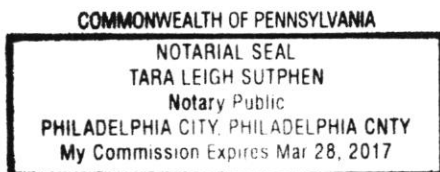
[Signature]
Signature of Notary

Name: TARA LEIGH SUTPHEN

Commission No. 1275690

Expiration Date: 3/28/2017

[STAMP OR SEAL]



Witness the following signatures:



Witness

Richard Brent

Print Name

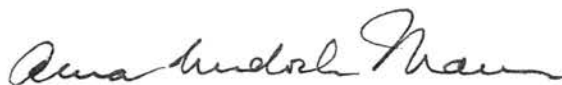
Rosamund Robinson

Witness

ROSAMUND ROBINSON

Print Name

OWNER (as to Lot 10):



Anna Murdoch-Mann

STATE OF FLORIDA
COUNTY OF PALM BEACH

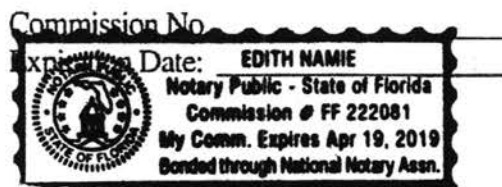
THE FOREGOING INSTRUMENT was acknowledged before me, the undersigned authority, this 11 day of February, 2016, by Anna Murdoch-Mann. She is either [☒] personally known to me or [☐] produced her _____ (state) driver's license as identification.



Signature of Notary

Name: Edith Namie

[STAMP OR SEAL]



TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 13, 2016

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 4-2016 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning; Article IV, Nonconformities, Sec. 134-419, Enlargement, Extension, Reconstruction Or Alteration, By Specifying That Demolition Of A Nonconforming Building Or Structure Cannot Exceed 50 Percent Of Its Existing Cubic Footage Within Five Years Of Passing A Final Inspection; Article IV, Nonconformities, Sec. 134-446 And Article VI, District Regulations, Secs. 134-793, 134-843 And 134-893, Lot, Yard And Area Requirements-Generally, To Require Architectural Commission Complete Review Of A Project Prior To Town Council Consideration Of A Site Plan Review And/Or Special Exception Or Variance To Construct A Single-Family Home On A Nonconforming Lot In The R-AA, R-A, R-B, R-C, R-D(1) And R-D(2) Zoning Districts; Article VI, District Regulations, Secs. 134-793, 134-843, 134-893, 134-948, 134-1004 And 134-1060, Lot, Yard And Area Requirements, By Eliminating The Provision Requiring The Maximum Building Height To Be Calculated Based On A Flat Roof When A Parapet Is Used Above The Maximum Building Height; Article VIII, Supplementary District Regulations, Sec. 134-1729, Generators And Swimming Pool Equipment, To Require A Concrete Block Masonry Finished Wing Wall Around Generators In Required Setbacks And Exempt Temporary Generators From Generator Regulations When Used During Or After A Natural Disaster; Sec. 134-1757, Swimming Pools, By Requiring A Continuous Six Foot High Hedge To Be Maintained At A Minimum Of Six Feet Outside Of The Required Six Foot High Wall For A Swimming Pool In A Street Side Or Street Rear Yard Setback; Amend Sec 134-1728, Air Conditioning And Swimming Pool Heating Equipment, To Require Cooling Towers To Be Screened From Neighbors By A Concrete Block Masonry Wall As Tall As The Cooling Tower; Article XI, Signs, Sec. 134-2372, General Regulations Applicable to Permitted Signs, To Prohibit Light Emitting Diode (LED) Lighting To Outline Any Building, Fence, Wall Or Any

Other Structure And Only Allow Internally Lighted Signs Or Lettering Or Back-Lit Signs By Special Exception Approval From The Town Council And Exempt Front-Lit Signs From The Special Exception Requirement; 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

- [Memorandum Dated March 30, 2016 from John S. Page, Director of Planning, Zoning & Building](#)
- [Ordinance No. 4-2016](#)

TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council Meeting on:
April 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 134, Zoning,
Ordinance No. 4-2016

Date: March 30, 2016

STAFF RECOMMENDATION

Staff recommends that the Local Planning Agency (LPA) consider Ordinance No. 4-2016, amending the Zoning Ordinance. The LPA should then make a recommendation on the proposed Ordinance to the Town Council for its consideration on first reading.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its December 15, 2015 and January 19, 2016 meetings, made recommendations on the proposed Zoning Code modifications.

GENERAL INFORMATION

The Town Council considered the Planning and Zoning Commission's Record and Report at its February 10, 2016 Town Council meeting. The Council directed Staff to draft the following Ordinance for consideration by the Local Planning Agency and Town Council. The proposed Ordinance does the following:

- Requires Architectural Commission completed review prior to Council consideration of a variance, special exception and/or site plan review application to build a single-family home on a nonconforming lot in any of the residential zoning districts. Also housekeeping language regarding raising a nonconforming building to meet the minimum flood elevation.
- Provides that nonconforming buildings or structures cannot be demolished by more than 50% cubic footage within five years of passing a final inspection for work being done.
- Eliminates the requirement in the residential districts that the maximum building height

be based on a flat roof when using a parapet above the maximum building height.

- Exempts temporary generators from the generator requirements when used during or after a natural disaster.
- Requires the six foot high required hedge on the outside of a wall for a swimming pool in a street setback to be maintained at a minimum of six feet.
- Requires a solid masonry stucco finished wing wall around generators in a required setback.
- Prohibits Light Emitting Diode (LED) lights from outlining a building, fence, wall or other structure.
- Continues to only allow internally lighted lettering or signs, and back-lit signs by special exception approval.
- Eliminates front-lit signs from the existing special exception requirement in the Code.

The proposed changes in attached Ordinance No. 4-2016 are in add/delete format. If you have any questions about any of the attached information, please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

Ordinance No. 4-2016 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachment

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

ORDINANCE NO. 4-2016

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning; Article IV, Nonconformities, Sec. 134-419, Enlargement, Extension, Reconstruction Or Alteration, By Specifying That Demolition Of A Nonconforming Building Or Structure Cannot Exceed 50 Percent Of Its Existing Cubic Footage Within Five Years Of Passing A Final Inspection; Article IV, Nonconformities, Sec. 134-446 And Article VI, District Regulations, Secs. 134-793, 134-843 And 134-893, Lot, Yard And Area Requirements-Generally, To Require Architectural Commission Complete Review Of A Project Prior To Town Council Consideration Of A Site Plan Review And/Or Special Exception Or Variance To Construct A Single-Family Home On A Nonconforming Lot In The R-AA, R-A, R-B, R-C, R-D(1) And R-D(2) Zoning Districts; Article VI, District Regulations, Secs. 134-793, 134-843, 134-893, 134-948, 134-1004 And 134-1060, Lot, Yard And Area Requirements, By Eliminating The Provision Requiring The Maximum Building Height To Be Calculated Based On A Flat Roof When A Parapet Is Used Above The Maximum Building Height; Article VIII, Supplementary District Regulations, Sec. 134-1729, Generators And Swimming Pool Equipment, To Require A Concrete Block Masonry Finished Wing Wall Around Generators In Required Setbacks And Exempt Temporary Generators From Generator Regulations When Used During Or After A Natural Disaster; Sec. 134-1757, Swimming Pools, By Requiring A Continuous Six Foot High Hedge To Be Maintained At A Minimum Of Six Feet Outside Of The Required Six Foot High Wall For A Swimming Pool In A Street Side Or Street Rear Yard Setback; Amend Sec 134-1728, Air Conditioning And Swimming Pool Heating Equipment, To Require Cooling Towers To Be Screened From Neighbors By A Concrete Block Masonry Wall As Tall As The Cooling Tower; Article XI, Signs, Sec. 134-2372, General Regulations Applicable to Permitted Signs, To Prohibit Light Emitting Diode (LED) Lighting To Outline Any Building, Fence, Wall Or Any Other Structure And Only Allow Internally Lighted Signs Or Lettering Or Back-Lit Signs By Special Exception Approval From The Town Council And Exempt Front-Lit Signs From The Special Exception Requirement; 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 modification to the Code of Ordinances; and,

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

WHEREAS, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Chapter 134, Zoning, of the Code of Ordinances, be amended as hereinafter set forth; now therefore,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Amend Article IV, NONCONFORMITIES, Section 134-419, Enlargement, extension, reconstruction or alteration, to read as follows:

Sec. 134-419. - Enlargement, extension, reconstruction or alteration.

No nonconforming building or structure shall be enlarged, extended, reconstructed or structurally altered except, as provided for in sections 134-416, 134-417 and 134-418, or when required to do so by law as follows:

(1) *Voluntary demolition, restoration and reconstruction.* A nonconforming building and/or structure may be restored as before, enlarged, extended or partially demolished and reconstructed provided that such demolition, restoration, enlargement, extension or expansion does not exceed 50 percent of its existing cubic footage within five years of passing a final inspection and provided that the demolition, restoration, enlargement, extension or reconstruction of the building and/or structure does not exceed the floor area, gross leasable area and/or cubic footage which existed prior to the demolition, restoration, enlargement, extension, or reconstruction. All demolition, restoration, enlargement, extension or reconstruction shall be completed within the time schedule set forth in the construction schedule section 105.4.1.6 of the Florida Building Code. ~~as amended in section 18-242.~~ In the event such demolition, restoration, enlargement, extension or reconstruction is not completed within the time frame required by the building code, construction shall cease and shall not resume until the town council decides the remedy for noncompliance, and review and approves a completion schedule.

(2) *Alteration and repairs.* Normal maintenance and repair and incidental alteration of a nonconforming building or structure is permitted, provided it does not increase the area, volume or size. A building used for single-family or multi-family residential purposes may be altered in any way to improve interior livability; provided, however, that no alterations shall be made which would increase the number of dwelling units. Single-family dwellings may be added onto or partially demolished in accordance with sections 134-794, 134-844, 134-894, 134-1005 and 134-1060.

(3) *Minimum flood elevation.* A nonconforming building may be raised to meet the minimum town flood elevation provided:

- a. That the height as measured from the raised finished floor to the bottom of the top chord of the roof framing member for a pitched roof and the ceiling of a flat roof does not get any taller.
- b. That the overall height as measured from the raised finished floor elevation to the top of the roof for pitched roof, and top of the ceiling and parapet for a flat roof is not any taller.
- c. The building footprint within the required setbacks is no larger; and is no closer to the property line than it was prior to being raised.

- d. That any new additions meeting existing lot, yard and bulk regulations.

Section 2. Amend Article IV, NONCONFORMITIES, Section 134-446, to read as follows:

Sec. 134-446. - Development and redevelopment of nonconforming residential lots.

(a) Vacant land located in any zoning district which does not conform to the minimum requirements of lot dimension or lot area as required by the schedule of lot, yard and bulk regulations for the district as given in article VI of this chapter may be developed or redeveloped as allowed in subsections (b) and (c) provided that multi-family residential use and single-family residential use does not exceed the maximum density allowed for the site, as identified in Chapter 134 and the Future Land Use Element in the Town's Comprehensive Plan. Development of a single-family residential dwelling unit on a vacant residentially zoned lot which has existed in the same configuration for a minimum of 30 years is allowed subject to subsection (b) or (c), whichever is relevant.

(b) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B and PUD zoning districts shall be subject to an application to the town council for a variance. A variance to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the Town Council until the Architectural Commission has completed review of the project.

(c) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-AA, R-A and R-B zoning districts shall be subject to an application to the town council for special exception and/or site plan review as provided for in subsections 134-793(b), 134-843(b) and 134-893(b). A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the Town Council until the Architectural Commission has completed review of the project.

Section 3. Amend Article VI, DISTRICT REGULATIONS, Sections 134-793, 134-843 and 134-893, to read as follows:

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

- (a) *Schedule of regulations.* In the R-AA large estate residential district, the schedule of lot, yard and area requirements is as given in this section.
- (b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-AA zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, however, that a special exception with site plan review would be required for an unplatted lot and site plan

review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the Town Council until the Architectural Commission has completed review of the project.

In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, that the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

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

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

...

(b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-A zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the Town Council until the Architectural Commission has completed review of the project.

In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, that the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

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

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

...

(b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-B zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the Town Council until the Architectural Commission has completed review of the project.

In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, that the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Section 134-793, 134-843, 134-893, 134-948 134-1004 and 134-1060, to read as follows:

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

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

(1)...

...

(10) *Height and overall height.*

a. The maximum building height is 30 feet, not to exceed two stories.

b. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. ~~When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above.~~ Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

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

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

(1)...

...

(10) *Height and overall height.*

a. The maximum building height is 30 feet, not to exceed two stories.

b. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. ~~When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above.~~ Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

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

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

(1)...

...

(10) *Height and overall height.*

a. The maximum building height is 30 feet, not to exceed two stories.

b. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. ~~When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above.~~ Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

Sec. 134-948. - Lot, yard and area requirements—Generally.

In the R-C medium density residential district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

...

(8) *Height and overall height.*

a. For single-family uses, the maximum building height is two stories, not to exceed 23½ feet.

b. For two-family uses, the maximum building height is two stories, not to exceed 23½ feet.

c. For townhouses, the maximum building height is two stories, not to exceed 23½ feet.

d. For multifamily uses, the maximum building height of a one or two-story building is 23½ feet; See special exception provisions in sections 134-227 through 134-233, section 134-952, and article III of this chapter.

e. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus three feet for a flat roof and eight feet for all other roof styles. ~~When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above.~~ Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

Sec. 134-1004. - Lot, yard and area requirements—Generally.

In the R-D(1) moderate density residential district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

...

(8) *Height and overall height.*

a. For single-family uses, the maximum building height is two stories or 25 feet.

b. For two-family uses, the maximum building height is two stories or 25 feet.

c. For townhouses, the maximum building height is two stories or 25 feet.

d. For multifamily uses, the maximum building height of two-story buildings is 25 feet; the maximum building height of three-story buildings is 35 feet. In this district, the maximum building height for multifamily uses is three stories, with provision for a special exception for up to five stories. See special exception provisions in sections 134-227 through 134-233, section 134-1008, and article III of this chapter.

e. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. ~~When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above.~~ Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

Sec. 134-1060. - Lot, yard and area requirements—Generally.

In the R-D(2) high density residential district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

...

(8) *Height and overall height.*

a. For single-family uses, the maximum building height is two stories or 25 feet.

b. For two-family uses, the maximum building height is two stories or 25 feet.

c. For townhouses, the maximum building height is two stories or 25 feet.

d. For multifamily uses, the maximum building height of two-story buildings is 25 feet; the maximum building height of three-story buildings is 35 feet. In this district, the maximum building height for multifamily uses is three stories, with provision for a special

exception for up to five stories. See special exception provisions in sections 134-227 through 134-233, section 134-1063, and article III of this chapter.

e. For timesharing uses, the maximum building height is three stories or 35 feet.

f. For hotels, the maximum building height is three stories or 35 feet.

g. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. ~~When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above.~~ Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

Section 5. Amend Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, , Section 134-1729, Generators and Swimming pool heating equipment , to read as follows:

Sec. 134-1729. - Generators and swimming pool equipment.

Except for generators serving a public purpose and owned and operated by the town or temporary generators used during or after a natural disaster such as a tropical storm or hurricane event, and which are therefore exempt from these regulations, portable or permanent generators temporarily or permanently placed on the ground, on a stand or on a trailer, shall not be placed in the required front, street side or street rear yard setbacks; provided, however, not more than one such generator shall be placed in any given required side or rear yard setback.

(1) One portable or permanent generator with an output of not more than 60 KW shall be allowed in a required side or rear yard setback provided said generator meets the following conditions:

a. The generator is set back a minimum of five feet from the property line.

b. The generator shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.

c. The highest point on the generator shall not exceed a maximum of seven feet above the neighboring property owner's grade or zero datum as defined in the appropriate definition of building height in section 134-2.

d. The generator is screened from the neighboring property owners by a concrete block masonry finished wing wall (three-sided wall), at least four feet high or the same height as the generator (including the height of the exhaust muffler), whichever is greater.

e. The generator's exhaust is, as much as practically feasible, vented upwards or directed away from neighboring properties.

f. The generator shall be used only during periods of power outages or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company or for use by power customers during periods of peak demand.

g. The generator shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 p.m. and 3:00 p.m.

h. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.

i. Generators are not permitted on the roof of a building.

(2) A portable or permanent generator may be permanently or temporarily placed on the ground, on a stand, or on a trailer outside of required yard setback areas; provided, however, said generator meets the following conditions:

a. If the generator's output capability is greater than 60KW, it shall be placed on the property only in conformance with the setback requirements applicable to a principal structure.

b. The generator shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.

c. If the generator's output capacity is greater than 100 KW, it shall be subject to site plan review as defined in sections 134-326-134-330 and shall be housed in an enclosed building with landscaping as approved by the architectural commission or landmarks preservation commission, whichever is appropriate.

d. If the generator is greater than 60KW and is 100KW or less, and is visible from a street or public way, it shall be screened from the neighboring properties by a concrete block masonry finished wing wall (three-sided wall), at least four feet high or the same height as the generator (including the height of the exhaust muffler), whichever is greater.

e. If the generator is 60KW or less and is visible from a street or public way, its location shall be subject to approval by the architectural commission or landmarks preservation commission, as applicable. Intervening landscape material shall not be considered when determining a generator's visibility.

f. The generator's exhaust is, as much as practically feasible, vented upwards or directed away from neighboring properties.

g. The generator shall be used only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company.

h. The generator shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 pm. and 3:00 p.m.

i. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.

j. Generators are not permitted on the roof of a building.

(3) Notwithstanding subsection (a), the director or designee may grant a waiver allowing a generator with an output capability in excess of 60KW to be located within a required side or rear yard setback, provided the applicant submits to the town a site plan and evidence or testimony substantiating each of the following conditions:

a. The output of a 60 KW or less generator is incapable of providing enough electricity for the basic necessity of occupying a building and/or protecting interiors or possessions in a building from the damaging effects of prolonged loss of power.

b. The proposed location is not merely for the convenience or preference of the applicant, but that there is no other location outside of the required setbacks that will provide for safe placement of the generator.

c. The proposed location represents the minimum intrusion into the required setback(s) necessary to safely accommodate the generator.

(4) If an administrative waiver is not granted pursuant to subsection (c) the applicant may appeal the administrative decision to the town council pursuant to sections 134-131-134-145.

In addition, swimming pool pumps and filters shall be allowed in a required side or rear yard provided said equipment is placed no closer than five feet from the side or rear property line and is enclosed in a pump house not exceeding a height of four feet. However, any lot that fronts on two or more streets shall be allowed to place one swimming pool filter and pump in a required street side and/or street rear yard setback provided that said swimming pool filter and pump, in combination with a pool heater and/or air conditioning unit does not exceed three pieces of said equipment; is set back a minimum of 25 from the street side or street rear property line; and, is screened from view from the neighboring

property owner by a five-foot high wall and from the street by a minimum five foot high wall and three-foot high hedge.

Section 6. Amend Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, , Section 134-1757, Swimming pools , to read as follows:

Sec. 134-1757. - Swimming pools.

A swimming pool, not to be enclosed by a structure other than a fence as required or permitted by this Code, may be constructed within every yard area, except the required front yard as prescribed by this chapter. However, no part of the pool structure may protrude more than six inches above the finished ground level, and the pool walls shall be at least ten feet from the side and rear lot lines and 15 feet from the street side and street rear lot lines. A swimming pool in the required street side or street rear yard shall be screened by a continuous hedge six feet in height at the time of planting, located adjacent to and exterior of a solid wall six feet in height and maintained at a minimum of said height. Said hedge shall be located between the street and adjacent to and exterior of a solid wall six feet in height. In the percentage of coverage of a lot by buildings, swimming pools shall not be counted in such computation.

Section 7. Amend Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, , Section 134-1728, Air conditioning and swimming pool heating equipment , to read as follows:

Sec. 134-1728. - Air conditioning and swimming pool heating equipment.

(a) No portion of any air conditioning and/or swimming pool equipment shall be located closer than five feet from a side or rear property line. In addition, such air conditioning or swimming pool equipment within ten feet from the side or rear property line shall be completely screened with a wall as high as said equipment from the neighboring property. Except as provided for in subsection (b) of this section, air conditioning and/or swimming pool equipment, in excess of two units or more than four feet in height, as measured above the natural grade or minimum flood elevation, whichever is greater, or occupying more than 25 square feet in total area, shall be considered an enclosed accessory structure and shall be constructed, erected or placed in compliance with all the provisions of the ordinance applicable thereto.

(b) In the R-AA, R-A and R-B zoning districts, where setbacks for principal structures are increased based on a larger lot width, the air conditioning and/or swimming pool equipment which are in excess of number, height and area restrictions identified in subsection a of this section shall only be required to meet the minimum yard setback requirements for an enclosed accessory structure on a minimum size lot in that district.

(c) Cooling towers shall be required to meet the same minimum yard setback requirements as the principal structure-, and shall be screened from the neighbors and/or a street by a three sided, concrete block masonry finished wall at least as high as said cooling

tower. If the required wall is higher than the Code allows in a setback in order to screen the cooling tower from the neighbors and/or a street, said wall shall also meet the minimum yard setback requirement as the principal structure.

(d) No air conditioning or swimming pool equipment shall be allowed in a front yard setback.

(e) Any house that fronts on two or more streets shall be allowed to place air conditioning (excluding cooling towers) and/or swimming pool equipment in each required street side or street rear yard setback provided that the combination of said equipment does not exceed two in each of said setbacks; are not more than four feet in height above the natural grade or the minimum flood elevation, whichever is greater, occupy no more than 25 square feet in total area; and are setback a minimum of 20 feet from the street side or street rear property line and are screened from view by a wall as high as said equipment and three foot high hedge outside said wall.

Section 8. Amend Article XI, SIGNS, Section 134-2372, GENERAL REGULATIONS RELATED TO PERMITTED SIGNS, to read as follows:

Sec. 134-2372. - General regulations applicable to permitted signs.

Under this chapter, the following shall apply to all permitted signs:

(1)...

...

(9) Strip lighting of any nature, including neon tubing, light emitting diode (LED), fluorescent lights, or other similar strip lighting devices, shall not be used to outline any building, fence, wall or any other structure. In addition, strobe or flash lighting and/or neon lighting which draws attention to a tenant space, building or structure is not permitted. Any internally lighted or illuminated sign, lettering or back-lit sign shall not be permitted or erected ~~until~~ unless such illuminated sign has been approved as a special exception use in conformity with sections 14-227 through 134-233, except that ~~¶~~ this shall not apply to front-lit signs or low-level illuminated sign, less than 30 inches in height, indicating only the street number and location of entrance and exit drives of a parking area.

Section 9. 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 10. 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 11. Codification.

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

Section 12. Effective Date.

This Ordinance shall take effect 31 days subsequent to its passage on second and final reading.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 9th day of March 2016, and for second and final reading on this 13th day of April 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member