

TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

TOWN COUNCIL MEETING

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

AGENDA

WEDNESDAY, APRIL 13, 2011

9:30 AM

For information regarding procedures for monitoring or participating in Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
David A. Rosow, President
Robert N. Wildrick, President Pro Tem
William J. Diamond
Richard M. Kleid
Michael J. Pucillo

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

VI. APPROVAL OF AGENDA

VII. PUBLIC HEARING

- A. RESOLUTION NO. 42-11 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 300 Barton Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.
[John Page, Director of Planning, Zoning, and Building]

Page 8

VIII. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 1-11 An Ordinance Of The Town Council Of the Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010, With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 2.3.1 As It Addresses Square Footage Thresholds For Town-Serving Businesses; Providing For Severability; Repealing All Ordinances Or Part Of Ordinances In Conflict Hereof; Providing For Codification; And Providing an Effective Date.
[John Page, Director of Planning, Zoning, and Building]

Page 32

2. ORDINANCE NO. 2-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-2 By Amending The Definition Of Town-Serving By Increasing The Square Foot Threshold In Certain Commercial Zoning Districts; Section 134-229 By Exempting Hotel, Motel and Timeshare Uses And The C-OPI Zoning District From The Town-Serving Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 And 134-1304 By Increasing The Town-Serving Square Foot Threshold And Changing The Term Occupational License To Business Tax

Page 70

Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-1259 By Changing The Term Occupational License To Business Tax Receipt In The C-PC Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.
[John Page, Director of Planning, Zoning, and Building]

3. ORDINANCE NO. 3-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010 With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 7.3 As It Addresses Rebuilding Structures Located Seaward Of The Coastal Construction Control Line (CCCL), And Permitting Nonconforming Building And Structures To Be Rebuilt Provided Certain Conditions Are Met; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Hereof; Providing For Codification; And Providing For An Effective Date.
[John Page, Director of Planning, Zoning, and Building]

Page 81

4. ORDINANCE NO. 4-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, At Sections 134-419 and 134-420 By Amending the Provisions To Clarify the Regulations for Raising A Nonconforming Building To Meet the Minimum Flood Elevation Requirements and Allow A Nonconforming Building or Structure To Be Rebuilt Within A Defined Time Limit If Unintentionally Damaged Or Destroyed By Act of Terrorism Or War, Or By Fire Or Act Of God Or Nature; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.
[John Page, Director of Planning, Zoning, and Building]

Page 92

IX. DEVELOPMENT REVIEWS

- A. Appeals
- B. Time Extensions & Waivers

1. Request for Waiver of Section 42-199, Hours of Construction Work, at 120 Sunset Avenue (Leverett House) (Per Letter Dated March 24, 2011 from Jay Denger)

Page 99

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

None

2. New Business

- a. **SPECIAL EXCEPTION #9-2011** The application of Raphael Yakoby; relative to property commonly known as **137 Woodbridge Road**; described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a Special Exception to allow a set of driveway gates on Woodbridge Road (which is a dead end street) with a 7.92 foot setback from the street pavement in lieu of the 18 foot minimum required.

[Attorney: Maura A. Ziska]

- b. **SPECIAL EXCEPTION #10-2011** The application of Wells Fargo Bank, NA and Wells Fargo Advisors, LLC; relative to property commonly known as **239, 251 & 255 South County Road**; described as lengthy legal description on file; located in the C-TS/C-B Zoning Districts. The applicant is requesting Modifications to Special Exception #21-2010 to include the entire bank space of 26,881 square feet for Wells Fargo Bank, NA and 2,564 square feet for Wells Fargo Advisors, LLC and to eliminate the condition of approval that the applicant meet all conditions related to signage placed on the 255 South County Road property when the property was designated as a landmark. [Attorney: Harvey E. Oyer III]

- c. **SITE PLAN REVIEW #6-2011 WITH SPECIAL EXCEPTION AND VARIANCES** The application of Little Broad Beach Partners; relative to property commonly known as **95 North County Road**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a modification to the Site Plan and two Special Exception approval requests to convert the existing post office building located at 95 North County Road into an office building which will result in a second floor interior addition and will expand the current gross square footage from 10,656 square feet (5,651 gross leasable square feet) to 14,495 gross square footage (11,255 gross leasable square feet). The Special Exception requests are to expand the second floor area and to have an office

Page 104

which exceeds 2,000 square feet. Since the proposed office is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is town serving. The site plan will be modified by eliminating the access driveway on the east side of the property and relocating it to the south side of the property and will also change the parking configuration. A Variance is requested to allow an office use on the first floor in the C-TS Zoning District which does not meet all of the conditions of subsection (18). The variance is to allow a first floor office use which does not meet the requirement that more than 50% of the existing first floor tenant spaces within 300 feet in the same zoning district are required to be office uses. Variances are also requested from the requirement to provide seventeen (17) additional off-street parking spaces above the amount calculated by the principal of equivalency zoning requirement to convert a 5,651 square foot post office to a 11,255 square foot office building in the C-TS Zoning District and to not provide a loading berth as required in Section 134-2211 of the Zoning Code.

[Attorney: Maura A. Ziska]

- d. **VARIANCE #7-2011** The application of Sidney Spiegel, Trustee and Sterling Group Palm Beach, LLC; relative to property commonly known as **340 Royal Poinciana Way**; described as lengthy legal description on file; located in the CPC Zoning District. The applicant is requesting to modify a condition of approval of Variance #12-2008 which required the Applicant remove all reserved and assigned parking spaces throughout the plaza along with the associated signage by October 10, 2008. The request is to allow Dr. Francis P. Conroy, DMD to retain 4 designated parking spaces until October 31, 2012.

[Attorney: Maura A. Ziska]

- e. **VARIANCE #8-2011** The application of Raymond W. Royce, Attorney for Owner; relative to property commonly known as **756 Slope Trail**; described as Lot 120 Mark Rafalsky Tract, Plat Book 11, Page 51, Public Records of Palm Beach County; located in the R-B Zoning District. The applicant is requesting a variance from the provisions of Section 134-1729 (b) 1 which do not allow the placement of a generator of over 60kw in the setback applicable to the principal structure. The applicant wishes to place an 80kw generator 5.5 feet in lieu of the 12.5 foot

minimum setback required.
[Attorney: Raymond W. Royce]

D. Other

- a. Special Exception 17-2010
Reconsideration of Conditions of Approval.
[John Page, Director of Planning, Zoning, and Building]

Page 107

X. ANY OTHER MATTERS

XI. ADJOURNMENT

PLEASE TAKE NOTE:

- 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.
- The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and selecting "Your Government" and then selecting "Live Meeting Audio." If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting under "Agendas, Minutes, and Audio."
- 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.
- 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.
- 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.
- A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 42-11 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 300 Barton Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated March 30, 2011 from John S. Page, Director of Planning, Zoning and Building
- Resolution No. 42-11
- Designation Report for 300 Barton Avenue
- Excerpt from Minutes of March 16, 2011 LPC Meeting
- Applicable Town of Palm Beach Code

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Landmark Designation of 300 Barton Avenue
Resolution No. 42-11

Date: March 30, 2011

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 300 Barton Avenue as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the March 16, 2011 meeting of the Landmarks Preservation Commission, the Commission voted to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

Sec. 54-161 (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.

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.

Landmark Designation of 300 Barton Avenue
Resolution No. 42-11
March 30, 2011
Page 2

FUNDING/FISCAL IMPACT

No direct funding is needed for this action.

COMPREHENSIVE PLAN

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

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 42-11 relating to 300 Barton Avenue, and has approved it as to legal form and sufficiency.

attachments

JSP:cmd

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

RESOLUTION NO. 42-11

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

WHEREAS, pursuant to the provisions of Ordinance 2-84, (Chapter 54, Article IV, Code of Ordinances of the Town of Palm Beach) the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and recommended to the Town Council that certain property described herein be designated as a landmark as described in said Ordinance and Code; and

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

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

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

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

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

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance 2-84, and the provisions of the Town Code described herein, is known as 300 Barton Avenue and the property to be landmarked is legally described as follows:

PRIMAVERA ESTATES (MIDDLE SECTION) LOT 40

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

Section 5. Within thirty (30) days from the date of this Resolution, the Landmarks Preservation Commission shall cause to be filed in the Office of the Recorder of Deeds in and for Palm Beach County, Florida, a certificate that the above-described property comprises a landmark, as defined in and subject to the provisions of Ordinance 2-84 and the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of April , 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, Town Clerk

Michael J. Pucillo, Town Council Member

300 Barton Avenue



DESIGNATION REPORT

Wednesday, March 16, 2011

**Landmarks Preservation Commission
Palm Beach, Florida**

DESIGNATION REPORT

300 Barton Avenue

Table of Contents

I.	General Information	2
II.	Architectural Information	3
III.	Historical Information	3
IV.	Statement of Significance	4
V.	Criteria for Designation	4
VI.	Architects Biographies	5
VII.	Selected Bibliography	6
VIII.	Florida Master Site File Form with Map	7

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

I. GENERAL INFORMATION

Location: 300 Barton Avenue
Palm Beach, Florida

Date of Construction: 1933

Principal Designer: 1933 Volk & Maass

Present Owner: Peter E. Madden

Present Use: Residential

Present Zoning: RB

**Palm Beach County
Tax Folio Number:** 50-43-43-22-04-000-0400

**Current Legal
Description:** Primavera Estates (Middle Sec) LT 40

Evaluation in the "Historic Building Survey of Palm Beach, 2010": Designed in 1933 by the well known firm of Volk and Maass, this Georgian Revival style house is worthy of further study.

III. ARCHITECTURAL INFORMATION

Building permit #10233 was issued to Arnold Construction Company by the Town of Palm Beach on December 6, 1933 to build a residence and garage for Herbert S. and Rose Johnson. The material to be used was listed as tile with a tile roof. The cost quoted was \$34,000. Although no architect is listed on the building permit, a further review of the records in the Town of Palm Beach Planning, Zoning and Building Department indicates that the elevations were drawn by Gustav Mass and checked by John L. Volk. The project was Job No. 601 for the firm Volk and Maass.¹

An architectural review of the house indicates that 300 Barton Avenue was designed in the Georgian Revival style. This refers to a style based on forms following classical principles of design developed by Andrea Palladio during the Italian Renaissance and later popularized in England during the eighteenth century under the reign of King George. In Palm Beach, the style often exhibits other British colonial influences. In this example, Volk and Maass departed from the typical symmetrical form of the style with a two story asymmetrical plan divided by a double belt course.

The fenestration on the north facade of 300 Barton Avenue is regular although not symmetrical. Casement windows are stacked one on top of the other. The front door is the focus of the design. It is placed off center toward the west, with four windows east of the entry (two on the first floor and two on the second) and two windows to the west. The first floor windows have curved tops with keystones above. The second floor windows are rectangular. All of the windows on the north are shuttered. The entry itself is a double door pulled slightly out from the main block of the house. A decorative railing in a classical style tops the doorway with a seventh window above.

The roof of the house is a hip roof covered with dark tiles. The eaves are slightly flared. A chimney is positioned on the outside eastern wall.

The form of 300 Barton is in the shape of an L, designed around an outdoor garden space. This plan allows the living room to have windows on both the north and south of the room with a fireplace on the end wall. An outside second floor terrace with a loggia below joins the interior and exterior spaces. Behind the main house there is a two story garage building with guest rooms above.

At the time this house is being proposed for designation as a landmark of the Town of Palm Beach, 300 Barton Avenue is undergoing a complete restoration. Thomas Kirchhoff is the architect for the project and the owner has applied for the Tax Abatement program.

IV. HISTORICAL INFORMATION

The firm of Volk and Mass had offices in Phipps Plaza and the partnership lasted from 1927 to 1934. The two architects designed a number of important structures during this time period

¹Building Permit # 10233, December 6, 1933. On file with the Town of Palm Beach Planning, Zoning and Building Department.

including houses for Charles Hall and Vincent Bendix in the Mediterranean Revival style. But after the hurricane of 1928 and the failure of the Florida banking institution, John Volk wrote, "When the market crashed and the Depression followed, there wasn't a client in sight who wanted to build the elaborate Spanish house. Everyone was broke. Those who weren't didn't want to make a show of their money. It was a challenge for me. So I began designing British Colonial houses that could be built for forty-five cents a square foot."² The house at 300 Barton Avenue is one of these simpler structures and an example of how the economic conditions of a time period influence style.

Over the years, nothing has been done to change the integrity of the original architectural design. The property was re-roofed in 1957 and 1980. In 1960, John Volk, added a store room, maid's room and bath on the second floor of the existing south wing. An elevator was also installed in 1960.³

V. STATEMENT OF SIGNIFICANCE

The house at 300 Barton Avenue is a good example of the Georgian Revival style of architecture as interpreted by the architectural firm of Volk and Maass in 1933. The restrained ornamentation is typical of works completed in the economic hard times of the 1930s, and its placement on an important street adds to its importance by contributing to the scale of the neighborhood.

VI. CRITERIA FOR DESIGNATION

Chapter 54 of the Code of Ordinances of the Town of Palm Beach (Historic Preservation Ordinance) outlines the criteria for designation of historic structures and districts, and suggests that at least one criterion must be met to justify the designation. Listed below are criteria which relate to this property and justification for designation:

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."

300 Barton Avenue is a good example of a Georgian Revival style of architecture as designed by the firm of Volk and Maass in 1933. The house has all of the classical features of the style and the fact that alterations to the property during the 1960s were completed by John L. Volk add to

²Lillian Jane Volk, Lillian, Lory Armstrong Volk and William Dale Waters, John L. Volk, Palm Beach Architect, (Palm Beach: John L. Volk Foundation, Inc., 2001) p. 39.

³ Building Permits #6557, 23060 and others. On file with the Town of Palm Beach Planning, Zoning and Building Department.

its importance.

(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."

John L. Volk was indeed an architect who influenced his age. Blessed with a long career that lasted from 1925 until his death in 1984, Mr. Volk was not only prolific in output but capable of working in many styles and architectural types. This example of his work is important because it represents the time period of his brief partnership with Gustav Maass and his mastery of the Georgian Revival style which is widely associated with his name.

VII. ARCHITECT'S BIOGRAPHY

John L. Volk

John Volk has been called the last of the "original" Palm Beach architects. He was one of an elite group of early 1920s architects which included Addison Mizner, Maurice Fatio, and Marion Sims Wyeth who developed the architectural styles of the island that came to be known as the "Palm Beach Style". His designs included the Royal Poinciana Playhouse and Plaza, the conversion of the Four Arts Gallery, the Florida Capital Building on Royal Palm Way and several shops on Worth Avenue including the Everglades Colonnade.

Volk was born in Graz, Austria in 1901. He came to the United States with his parents at the age of nine and grew up in New York. He attended the Columbia University School of Architecture and the Ecole des Beaux Arts. Volk opened his office in Palm Beach in 1925.

Volk designed more than 1000 houses, theaters, clubs, shops, and other buildings and lived in Palm Beach from 1925 to his death in 1984. He designed homes for some of the wealthiest and most powerful people in America over his 58 year career in Palm Beach including Colonel Robert McCormack, William Paley, George Vanderbilt, Nicholas DuPont, Henry Ford II, Herbert Pulitzer, Matthew Mellon, George Storer, Horace Dodge II, and John S. Phipps

Included in the designs of John Volk are some of the most prominent buildings in the Palm Beach area including the First National Bank, the Royal Poinciana Plaza, the center section of the Town Hall, the Beach Club, Good Samaritan Hospital, and the golf terrace and orange gardens of the Everglades Club. He also extensively modified and rebuilt the Bath and Tennis Club after a major hurricane.

Numerous other buildings are the result of Mr. Volk's labor and it must be noted that no particular style can be exclusively associated with Mr. Volk. Unlike other talented architects who developed or refined specific styles, John Volk understood and perfected many varying architectural styles from the popular Mediterranean Revival to Contemporary Design.

Gustav A. Maass

Gustav A. Maass grew up in Birmingham Alabama. In 1917 he graduated from the University of Pennsylvania in Philadelphia with a Bachelor of Science in Architecture. Returning to Birmingham in 1919 he directed the architectural department of the Tennessee Coal and Iron Company, a subsidiary of United States Steel Corporation. Later Maass worked for the firm of Warren, Knight and Davis designing public and commercial buildings.

In 1921, Maass came to West Palm Beach and became associated with the firm of Harvey and Clarke. Harvey and Clarke were the architects for the Seaboard Railway and as one of their associates Maass designed the Seaboard Railway Station in Delray Beach which is on the National Register of Historic Places.

Perhaps Maass is most well known for his association with John L. Volk. The two formed a partnership that lasted from 1927 to 1934 and was headquartered in Phipps Plaza. During this time the two famous architects designed homes for Jacob H. Marx, J.H. Behrens, Charles M. Hayes and Charles Hall among others.

Over the course of his career, Maass designed projects in Palm Beach, Delray Beach, Boca Raton and West Palm Beach. Mr. Maass died on April 22, 1964.

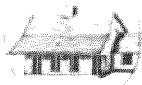
IX. SELECTED BIBLIOGRAPHY

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

Palm Beach County Property Appraiser

Town of Palm Beach Building and Zoning Department.

Volk, Lillian Jane, Lory Armstrong Volk and William Dale Waters, John L. Volk, Palm Beach Architect. Palm Beach: John L. Volk Foundation, Inc., 2001.



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site #8 PB04115
Recorder # Jane S. Day
Field Date 9/17/2010
Form Date 10/2/2010
FormNo 201009
FormNo = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Jane Janssen, House

Multiple Listing (DHR only)

Other Names

>>

Survey or Project Name Palm Beach Historic Sites Survey, Phase V

Survey#

National Register Category Building(s)

LOCATION & IDENTIFICATION

Address

Street No.	Direction	Street Name	Street Type	Direction Suffix
300		Barton	Avenue	

Cross Streets (nearest/ between) Central Ave & Cocoanut Row

City / Town (within 3 miles) Town of Palm Beach

In Current City Limits? YES

County Palm Beach

Tax Parcel #(s) 50-43-43-22-04-000-0400

Subdivision Name Prima Vera Estates

Block

Lot 40

Ownership Private Individual

Name of Public Tract (e.g., park)

Route to (especially if no street address) On the southwest corner of Central Ave & Barton Ave

MAPPING

USGS 7.5' Map Name

Publication Date

>> PALM BEACH; 1946

Township:

Range:

Section:

1/4 section:

>> 43S ; 43E ; 22 ; UNSP

Irregular Section Name:

Landgrant

UTM: Zone

Easting

Northing

Plat or Other Map (map's name, location)

DESCRIPTION

Style Georgian Revival

Other Style

Exterior Plan Irregular

Other Exterior Plan

Number of Stories 2

Structural System(s)

>> Masonry - General

Other Structural System(s)

Foundation Type(s)

>> Continuous

Other Foundation Types

Foundation Material(s)

>> Concrete Block

Other Foundation Material(s)

Exterior Fabric(s)

>> Stucco

Other Exterior Fabric(s)

Roof Type(s)

>> Hip

Other Roof Type(s)

Roof Material(s)

>> Concrete tile

Other Roof Material(s)

Roof Secondary Structure(s) (dormers etc)

>>

Other Roof Secondary Structure(s)

Number of Chimneys 1

Chimney Material Brick

Other Chimney Material(s) STUCCO ON EXTERIOR

Chimney Location(s) East exterior wall

HISTORICAL STRUCTURE FORM

8PB04115

DESCRIPTION (continued)

Window Descriptions casement

Main Entrance Description (stylistic details) On the north facade with columns and a balcony above

Porches: #open 2 #closed #incised Location(s) entry - n, 2nd floor balcony - n

Porch Roof Types(s)

Exterior Ornament shutters, quions, double belt course, lintels, keystones, decorative metal railing

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 1933

Architect (last name first): Volk & Maass

Builder (last name first): Arnold Construction Co.

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; 1933;
Other Structure Uses <u></u>			

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

YES

Name of Local Register if Eligible Town of Palm Beach Landmark

Individually Eligible for National Register? INSUFF. INFO

INSUFF. INFO

Potential Contributor to NR District? INSUFF. INFO

INSUFF. INFO

Area(s) of historical significance

>> Community planning & development

Other Historical Associations

Explanation of Evaluation (required) Designed in 1933 by the well known firm of Volk and Maass, this Georgian Revival style house is worthy of further study.

HISTORICAL STRUCTURE FORM

8PB04115

DOCUMENTATION (Photos, Plans, etc.)

Photographic Negatives or Other Collections Not Filed with FMSF including Field Notes, Plans, other important Documents

Document type: _____

Maintaining Organization: _____

File or Accession #: _____

Descriptive Information: _____

>> _____

RECORDER INFORMATION

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

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

Recorder Affiliation Research Atlantica

Other Affiliation Town of Palm Beach

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

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

Cultural Resource Type:

Electronic Form Used:

Form Type Code:

Form Quality Ranking:

Form Status Code:

Supplement Information Status:

Supplement File Status:

Form Comments: _____

SHPO's Evaluation of Resource

Date

FMSF Staffer:

Computer Entry Date:

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"

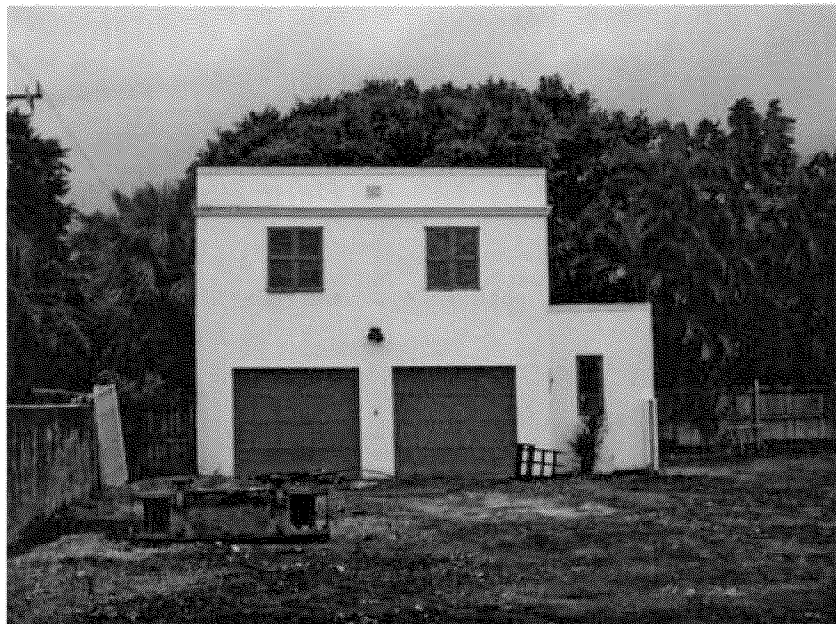
PB04115-201009

Supplementary Printout

- > **USGS map name/year of publication or revision:**
 - PALM BEACH;1946
 - PALM BEACH;1983
- > **Township/Range/Section/Qtr:**
 - 43S ;43E ;22;UNSP
- > **Structural system(s):**
 - Masonry - General
- > **Foundation types:**
 - Continuous
- > **Foundation materials:**
 - Concrete Block
- > **Exterior fabrics:**
 - Stucco
- > **Roof types:**
 - Hip
- > **Roof materials:**
 - Concrete tile
- > **Roof secondary structures (dormers etc):**
- > **Change status/year changed/date noted/nature:**
- > **Original, intermediate, present uses/year started/year ended:**
 - Private residence;1933;
- > **Research methods:**
 - Examine local property records
 - Sanborn maps
 - FL Master Site File-Manuscripts
 - Informal inspection
- > **Area(s) of historical significance:**
 - Community planning & development
 - Architecture
- > **Repositories: Collection/Housed/Accession#/Describe**
- > **[Other name(s)]:**



The rear of 300 Barton including the southwest wing of the house.



The garage on the south side of the property.

EXCERPT FROM MINUTES
OF THE
LANDMARKS PRESERVATION COMMISSION
MEETING OF
MARCH 16, 2011

Item 2: 300 Barton Avenue
Owner: Peter E. Madden

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

Dr. Day testified to the architecture, architect and history relative to this 1933 Georgian Revival style home designed by Volk and Maass, as reflected in the Designation Report for 300 Barton Avenue. She noted that the new property owner plans to restore/renovate the home, (a project which will be reviewed later today), and a letter from a neighbor has been submitted to the Town in support of the owner's plans for restoration of the home. Dr. Day testified that this property meets the following criteria for landmark designation:

(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;

(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."

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

MOTION SECONDED BY MRS. ALBARRAN.

MOTION CARRIED UNANIMOUSLY.

Dr. Day and Mr. Cooney thanked the new property owners for volunteering the property for landmark designation, and for undertaking a restoration/renovation of the property.

MOTION BY MR. MOORE THAT 300 BARTON AVENUE BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MS. DIVER.

MOTION CARRIED UNANIMOUSLY.

ARTICLE IV. DESIGNATION PROCEDURE**Sec. 54-161. Criteria for landmarks and landmark sites.**

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

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

(Code 1982, § 16-38)

Sec. 54-162. Creation of historic districts.

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

- (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
- (2) Is identified with historic personages or with important events in national, state or local history.
- (3) Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style or methods of construction or use of indigenous materials or craftsmanship.
- (4) Is representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.
- (5) Constitutes a unique area of architecture, landscaping and planning.

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

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

(Code 1982, § 16-42)

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

- (a) The following procedure shall be adhered to by the commission in designating any building, building site or district that is worthy of preservation:
 - (1) The commission shall consider for landmark designation any property proposed by the owner of record or by a member of the commission.
 - (2) Notice of a proposed designation shall be sent by certified mail to the owner of record of property proposed for designation as a landmark or landmark site and to each owner of record of property in a district proposed for designation as an historic district, describing the property proposed and announcing a public hearing by the commission to consider such a designation to be held not less than 30 days after the mailing of such notice.
 - (3) The commission shall also cause notice of each such proposed designation to be posted at least 30 days prior to the public hearing on the bulletin board in the lobby of the town hall, and in addition the commission shall cause such notice to be published in

a newspaper having general circulation in the town.

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

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

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

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

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

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

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

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

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

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

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

(Code 1982, § 16-43)

Sec. 54-165. Voluntary restrictive covenants.

The owner of any landmark or landmark site may, at any time following the designation of his property, enter into a restrictive covenant on the property after negotiation with the commission. The commission may assist the owner in preparing such a covenant in the interest of preserving the

landmark or the landmark site. The owner shall record such covenant in the office of the county recorder of deeds and shall notify the town clerk, building official and town council and may notify the office of the countyproperty appraiser of such covenant and the conditions thereof.

(Code 1982, § 16-48)

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

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 1-11 An Ordinance Of The Town Council of the Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010, With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 2.3.1 As It Addresses Square Footage Thresholds For Town-Serving Businesses; Providing For Severability; Repealing All Ordinances Or Part Of Ordinances In Conflict Hereof; Providing For Codification; And Providing an Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated March 28, 2011
- Ordinance No. 1-11
- Exhibit A, The Town-Serving Report prepared by LaRue Planning and Management Services, Inc.

TOWN OF PALM BEACH

Information for Town Council Meetings on: April 13, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Modifications and Changes to the Town-Serving Regulations in the Town's Comprehensive Plan and Chapter 134, Zoning.

ORDINANCE NO. 1-11

Date: March 28, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 1-11 on first reading to transmit proposed comprehensive plan amendments to the Florida Department of Community Affairs. In addition, staff recommends that the Council approve companion Ordinance No. 2-11, on first reading.

PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY RECOMMENDATION

The Planning and Zoning Commission/Local Planning Agency, at its meeting of February 22, 2011, recommended by a 7-0 vote, approval of Ordinance Nos. 1-11 and 2-11 which modify the comprehensive plan and zoning code regulations for Town-serving regulations, as modified by the Town Council.

GENERAL INFORMATION

On October 19, 2010, the Planning and Zoning Commission, as the Local Planning Agency (LPA), considered and made recommendations on proposed modifications to the Town-serving regulations. The recommendations to the Town Council were as follows:

1. Retain the Town-serving provisions in the C-WA zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
2. Retain the Town-serving provisions in the C-TS zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.

3. Eliminate the Town-serving provisions in the C-OPI zoning district. Retain the Town-serving provisions in the C-B zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
4. Retain the existing Town-serving provisions in the C-PC zoning district.
5. Eliminate the Town-serving provisions for short-term occupancy uses such as hotels, motels and timesharing in the multi-family residential zoning districts (PUD-A, R-C, R-D(1) and R-D(2)).
6. Retain existing “Town-serving” special exception criteria for all special exception uses, not just to commercial uses as is recommended in the Study.
7. Eliminate the necessity to certify each year that a business is “Town-serving”, but retain the right to request substantiating documentation if the Town has reason to believe that the business is not continuing to meet the “Town-serving” criteria.
8. Process the necessary comprehensive plan amendments required to complete the changes to the land development regulations identified above.

The Town Council, at its November 10, 2010 meeting, considered the LPA’s recommendations and the presentation by Mr. William Brisson, LaRue Planning and Management Services, Inc. The Council concurred with all of the LPA’s recommendations with the exception to allow an increase in the Town-serving threshold in the Commercial Worth Avenue (C-WA) to 4,000 square feet gross leasable area in lieu of the 3,000 square feet recommended by the LPA. On February 22, 2011, the LPA by a vote of 7-0 recommended approval of the attached Ordinance Nos. 1-11 and 2-11 which address the necessary comprehensive plan amendments and zoning text amendments to adopt the proposed changes.

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

March 28, 2011
Page 3

TOWN ATTORNEY REVIEW

Ordinance No. 1-11 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachments

PBE:jsp:pc

cc: Planning and Zoning Commission
Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building Department
Paul W. Castro, AICP, Zoning Administrator
John Lingdren, AICP, Planning Administrator
pf

ORDINANCE NO. 1-11

An Ordinance Of The Town Council of the Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010, With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 2.3.1 As It Addresses Square Footage Thresholds For Town-Serving Businesses; Providing For Severability; Repealing All Ordinances Or Part Of Ordinances In Conflict Hereof; Providing For Codification; And Providing an Effective Date.

WHEREAS, the Town proposes to amend its Comprehensive Plan in accordance with the requirements of the 1993 Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, the Town created the Town of Palm Beach Comprehensive Plan with the adoption of Ordinance No. 11-89, and last amended the Comprehensive Plan on August 11, 2010 with the adoption of Ordinance No. 3-10; and

WHEREAS, the Town is amending the Data & Analysis and Goals, Objectives, and Policies (GOPs) portions of the Future Land Use Element of the Town's Comprehensive Plan, specifically Policy 2.3.1 as it relates to square-footage thresholds for town-serving businesses; and

WHEREAS, after considering the data in the Report from LaRue Planning and Management Services, Inc. (Exhibit "A" attached) and reviewing the proposed amendments to the Town's Comprehensive Plan at their February 22, 2011 meeting, the Planning and Zoning Commission, acting as the Local Planning Agency (LPA), recommended approval and transmittal of the amendments to the Florida Department of Community Affairs (DCA); and

WHEREAS, after considering the data in the Report from LaRue Planning and Management Services, Inc. and reviewing the proposed amendments to the Town's Comprehensive Plan, the Town Council determined that there should be a change in the Town-serving threshold in different commercial zoning districts.

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

Section 1. INCORPORATION OF RECITALS

The above recitals are incorporated as fully set herein.

Section 2. FINDINGS

The proposed amendments to the Data & Analysis and Goals, Objectives, and Policies (GOPs) portions of the Future Land Use Element of the Town's Comprehensive Plan, specifically Policy 2.3.1 as it relates to square-footage thresholds for town-serving businesses, as more particularly described in Section 3 below, have been determined by the Town Council to promote the public health, safety and welfare, and is consistent with the requirements of Chapter 163 Florida Statutes, Chapters 9J-5 and 9J-11 of the Florida Administrative Code, and all elements of the adopted Comprehensive Plan.

Section 3. AMENDMENT OF COMPREHENSIVE PLAN

The Data & Analysis (first two paragraphs below found on pages I-5 and I-9) and the GOPs in the Future Land Use Element in the Town of Palm Beach Comprehensive Plan are hereby amended as follows (added language underlined; removed language ~~stricken~~):

The Town's Zoning Ordinance has established ~~2,000~~ 4,000 square-feet as the maximum gross leasable area for commercial establishments in certain districts. To be granted a waiver from this provision, the applicant must demonstrate that the business is Town-serving; that adequate parking is available to support the request for increased floor area; and, that a hardship exists which prevents them from conducting their Town-serving business within ~~2,000~~ 4,000 square-feet or less. The most common waivers have been for financial institutions and professional office space.

4. The dominant character of the Town's commercial sector is one of small scale. The vast majority of the commercial uses in the Town each encompass ~~2,000~~ 4,000 square-feet or less of gross leasable area. Despite the reputation of Worth Avenue and the presence of some large retail anchors and office uses in the Town, the overall character of the Town's commercial areas is one of small business concerns which, individually, would not normally be expected to draw the majority of its patrons from beyond the Town's limits.

POLICY 2.3.1

The following definitions shall pertain to the application of the non-residential land use designations and associated policies:

- a. "Town-serving" shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of

persons not defined as Town persons. Commercial establishments (other than those uses in the “Commercial – Office, Professional & Institutional” (C-OPI) zoning district, which are not required to meet town-serving requirements) of 2,000 square-feet or less of gross leasable area in the “Commercial – Planned Center” (C-PC) zoning district, 3,000 square-feet or less of gross leasable area in the C-TS and C-B zoning districts, and 4,000 square-feet or less of gross leasable area in the C-WA zoning district are assumed to meet the intent of the first part of this definition.

Section 4. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance for any reason, is held to be unconstitutional, void or otherwise invalid, the validity of the remaining portions of this Ordinance shall not be effected thereby.

Section 5. EFFECTIVE DATE

The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administrative Commission finding the amendment in compliance in accordance with Chapter 163.3187(3)(C), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 13th day of April 2011, and for second and final reading on this ____ day of _____ 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

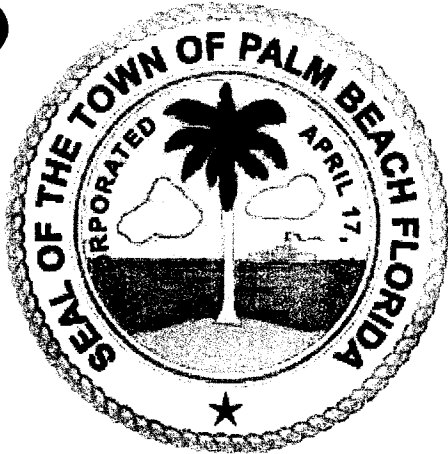
Richard M. Kleid, Town Council Member

Susan A. Owens, Town Clerk

Michael J. Pucillo, Town Council Member

EXHIBIT “A”

The Town of Palm Beach
Town-Serving Report
prepared by
LaRue Planning and Management Services, Inc.



Town of Palm Beach

Study of “Town – Serving” Provisions

September 30, 2010

Prepared by:



**LaRue Planning
& Management Services, Inc.**

1375 Jackson Street, Suite 206
Fort Myers, FL 33901
239-334-3366

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TABLE OF CONTENTS

I. BACKGROUND TO THE "TOWN-SERVING" CONCEPT.....	1
II. BASIC FINDINGS: 1979-80 COMMERCIAL DISTRICT STUDY.....	2
III. CURRENT MIX OF USES BY ZONING DISTRICT TYPE OF USE, AND SQUARE FOOTAGE.....	5
C-TS, TOWN-SERVING DISTRICT.....	9
C-WA, WORTH AVENUE DISTRICT.....	10
CB, OFFICE DISTRICT.....	11
C-OPI, OFFICES, PROFESSIONAL AND INSTITUTIONAL DISTRICT.....	12
C-PC, PLANNED CENTER DISTRICT.....	13
IV. COMPARISON OF 1979 and 2009 PATTERNS.....	14
TOWN CENTER COMMERCIAL AREA.....	14
ROYAL POINCIANA COMMERCIAL AREA.....	18
V. APPROVALS OF SPECIAL EXCEPTIONS BETWEEN 1990 & 2009 FOR BUSINESSES OVER 2,000 SF.....	20
VI. OTHER RELEVANT FACTORS AND CHANGES SINCE 1980.....	23
VII. CONCLUSIONS AND RECOMMENDATIONS.....	24
CONCLUSIONS.....	24
1. Relevancy of the "Town-Serving" concept and continued need for a "Town Serving" provision.....	24
2. Ramifications of eliminating the "Town-Serving" provision.....	25
3. Are there better alternatives to the "Town-Serving" provision?.....	26
RECOMMENDATIONS.....	26
Table 1 Commercial Retail and Service Anchor Establishments Major Commercial Areas 1979-80.....	3
Map, Commercial Zoning, 1979.....	4
Table 2 Square Footage of Commercial Retail Service Establishments 1979-80.....	5
Map, Commercial Zoning, 2009.....	6
Table 3 Business Square Footage by Zoning District 2009.....	7
Table 4 Distribution of Business by Zoning District 2009.....	8
Table 5 Gross Leasable Area of Businesses C-TS District 2009.....	9
Table 6 Gross Leasable Area of Businesses C-WA District 2009.....	10
Table 7 Gross Leasable Area of Businesses C-B District 2009.....	11
Table 8 Gross Leasable Area of Businesses C-OPI District 2009.....	12
Table 9 Gross Leasable Area of Businesses C-PC District 2009.....	13
Table 10 Number and Size of Businesses by Zoning District Town Center Commercial Area 1979 and 2009.....	15
Table 11 C-WA District Business by Type and Square Footage 1979 and 2009.....	16
Table 12 C-TS District (Town Center Commercial Area) Businesses by Type and Square Footage 1979 and 2009 ...	17
Table 13 Number and Size of Businesses by Zoning District Royal Poinciana Commercial Area 1979 and 2009.....	18
Table 14 Royal Poinciana Commercial Area Businesses of 4,000 and More Square Feet by Type and Square Footage 1979 and 2009.....	19
Table 15 Approvals Businesses in Excess of 2,000 Square Feet Town of Palm Beach, Florida 1990-2009.....	20
Table 16 Special Exception Approvals Businesses in Excess of 2,000 Square Feet by Type of Use Town of Palm Beach, Florida 1990 - 2000.....	21
Table 17 Special Exception Approvals Businesses in Excess of 2,000 Square Feet by Zoning District Town of Palm Beach, Florida 1990-2009.....	22

I. BACKGROUND TO THE "TOWN-SERVING" CONCEPT

At the Town Council meeting on January 9, 1979, Mrs. Barbara Hoffstot, representing the Garden Club, made a presentation to the Council concerning the changing condition of the Town and the Garden Club's dismay at the collapse of services to the residents including the then recent loss of small local oriented retail and service businesses. She noted the demise of a gas station, car repair shop, bakery, fish market, florist, hardware store, hotel, small restaurant, water/ice business and a landscape company. It was this initial presentation that ignited the Town Council's concern over what was perceived to be an evolving trend that was changing the character of the Town's commercial sector.

In April of 1979 the Town Manager, George Frost, provided a memorandum to the Town Council outlining the basis for adopting Ordinance No. 5-79 implementing a Commercial Moratorium. In this memorandum the following paragraphs described the purpose of the study of the Town's commercial development that ultimately formed the basis for the "Town-Serving" provision and associated limitation on gross floor area for commercial uses in the Town.

- "9. Review the existing composition of commercial development in the C-A and C-B Zoning Districts with the intent of encouraging and providing a necessary balance of 'personal service' commercial uses for residents of the Town and discouraging high-volume retail and other commercial uses whose principal purposes are to serve other than residents of the Town."
- "3. Via memoranda dated March 28 and April 3rd on topics of the 1980 Zoning Hearings, Mr. Adley has been requested to study and recommend on the creation of a new commercial zoning district(s) and other relevant techniques and approaches which would differentiate between various types of commercial uses and which would give different treatment to commercial uses providing services to the immediate residential neighborhood..."

In a memorandum dated April 28, 1979 from Harry C. Adley, President of Adley Associates, Inc., the Town's Planning and Zoning Consultant, to the Town Manager, the primary objective of the study to be conducted during the Commercial Moratorium was described as follows:

"1. Primary Objective: Modification of Character of Town's Commercial Areas

To halt, and where possible reverse, the trend by which the Town's commercial districts are changing from a "Town-Serving" function to a region-serving function, changes which are resulting in an increase in traffic congestion, parking demand, loss of convenience to the Townspeople and related problems."

II. BASIC FINDINGS: 1979-80 COMMERCIAL DISTRICT STUDY

Adley Associates, Inc. conducted its study of the uses in the Town's commercial areas during the late summer of 1979 and provided initial findings in October of that year. In December of 1979, the firm presented its "Summary of Research and Findings" for the Commercial District Study. These findings served as the basis for establishing the "Town-Serving" concept and requirement to obtain approval of a special exception to expand an existing commercial use, or establish a new commercial use, involving over 2,000 square feet of gross leasable area (GLA).

Market analysis based on population and spending patterns indicated that the square footage of retail and service type commercial uses in the Town were not likely supportable by the local population. It was also suggested that the loss of small local serving businesses at that time was due to rising rents and property values spurred by competition from larger businesses eager to take advantage of a Palm Beach location and name.

Much of the original Commercial District study dealt with trying to determine the character of the Town's commercial sector and the extent to which "region serving" businesses were located in the commercial districts. However, early on it was suggested, based on general marketing patterns and local knowledge of the character and makeup of commercial establishments in the Town, that commercial uses of over 4,000 square feet were the uses most likely to be serving a market beyond the Town limits.

Inventory of the businesses in the Town indicated that about 80% of the retail and service businesses in the Town contained 2,000 square feet or less of gross floor area. Consequently, the Town determined that it was prudent to set this as the threshold beyond which substantiation would be required to show that the majority of customers of the business could be expected to be "Townpersons". The definition of "Townpersons" included all full-time or seasonal residents living in, or employees working in, or visitors staying overnight in the Town.

Businesses of 2,000 square feet or less were therefore automatically considered "Town-Serving" by virtue of their small size, which was the defining and predominant characteristic among businesses in the Town. A business over 2,000 square feet that could substantiate that the majority of its customers were "Townpersons," was also deemed to be "Town-Serving." While the investigation into the sizes and character of businesses in the Town in 1979-80 was limited to the type and sizes of retail and service businesses in the Town, it was also found that much of the competition for commercial space was due to demand for office space. Occupational license information for 1979 indicated that there were slightly over 400 office-type businesses in the Town. The gross floor area of these businesses was not identified at that time.

At the time the Commercial District Study was undertaken, there were only two commercial zoning districts in the Town, C-A and C-B. The C-B district encompassed only a very small area along Royal Palm Way between South County Road and South Ocean Boulevard. While there was, and still is, a small area of commercial zoning in the vicinity of South Ocean Boulevard and the Lake Worth Bridge, the primary commercial areas in the Town were located, as they are now in two areas of the Town - the Town Center and Royal Poinciana areas. These two areas are identified on the map on the following page.

The Town Center area included Worth Avenue, Peruvian Avenue, South County Road and Royal Palm Way, all zoned C-A, as well as the small area along Royal Palm Way zoned C-B. This area was referred to in the 1979-80 study as the "Worth Avenue Commercial District". The other commercial concentration was mainly in the vicinity of the Royal Poinciana Plaza and along Royal Poinciana Way, Bradley Place, Sunrise and Sunset Avenues, and North County Road. This area was referred to as the "Royal Poinciana Commercial District" in the 1979-80 Study.

The number, type and scale of the larger retail and service establishments in each of these two areas are illustrative of each district's character. The Town Center area was the larger of the two with about 450,000 square feet of retail and service space compared to about 180,000 square feet in the Royal Poinciana area. The former was overwhelmingly devoted to shoppers' type goods and, as can be seen in the Table 1, more and larger retail anchor stores (except for the Publix supermarket which is considered a convenience-oriented retail outlet).

Table 1
Commercial Retail and Service Anchor Establishments
Major Commercial Areas
1979-80

TOWN CENTER AREA		ROYAL POINCIANA AREA	
Anchor Stores	Square Footage	Anchor Stores	Square Footage
Saks Fifth Ave.	16,380	Publix	32,000
Brinkley's Grocery	9,750	Sara Fredericks	10,286
Bonwit Teller	9,576	Stanley Nelson Boutique	4,679
Frances Brewster	8,550	Worrills	10,136
Gucci	5,400		
Sara Fredericks	5,225		
Maus-Hoffman	4,320		
Stagg Ltd.	4,240		
Major Restaurants	Square Footage	Major Restaurants	Square Footage
Taboo	9,678	Restaurant Pappagallo	4,725
Nandos	6,300	Capriccio	4,679
Petit Marmite	5,796	Maurice	4,642
Mandarin	5,400	Testa's	4,125
Flame	4,500	O'Hara's	4,125
Source: 1979-90 Commercial District Study, Adley Associates, Inc. LaRue Planning & Management Services, Inc.			

[illegible]

 C-A
 C-B

A black and white map of a city grid. A large circle is drawn around a central portion of the map. Within this circle, a smaller circle highlights a specific building. The building is labeled 'OCEAN'. The map shows a grid of streets with various labels. The streets labeled include: PEANUTS, BARTON, CLARK, LAITER, SAGE, SEASIDE, SEAWAY, ROYAL PALM, BRADLEY, AUSTRALIAN, OCEAN, PERUVIAN, and OCEAN. The building highlighted is located at the intersection of SEAWAY and OCEAN. The map also shows a large body of water on the left side, labeled 'LAKE'. The map is oriented with North at the top.

The inventory of retail and service uses in 1979 excluded offices, financial institutions and hotels. Using raw data from the 1979 inventory of retail and service uses, the information in the following table indicates that about 76% of the uses were comprised of 2,000 square feet or less. This is reasonably consistent with the initial estimate of about 80% during the 1979-80 study.

Table 2
Square Footage of
Commercial Retail and Service Establishments
1979-80

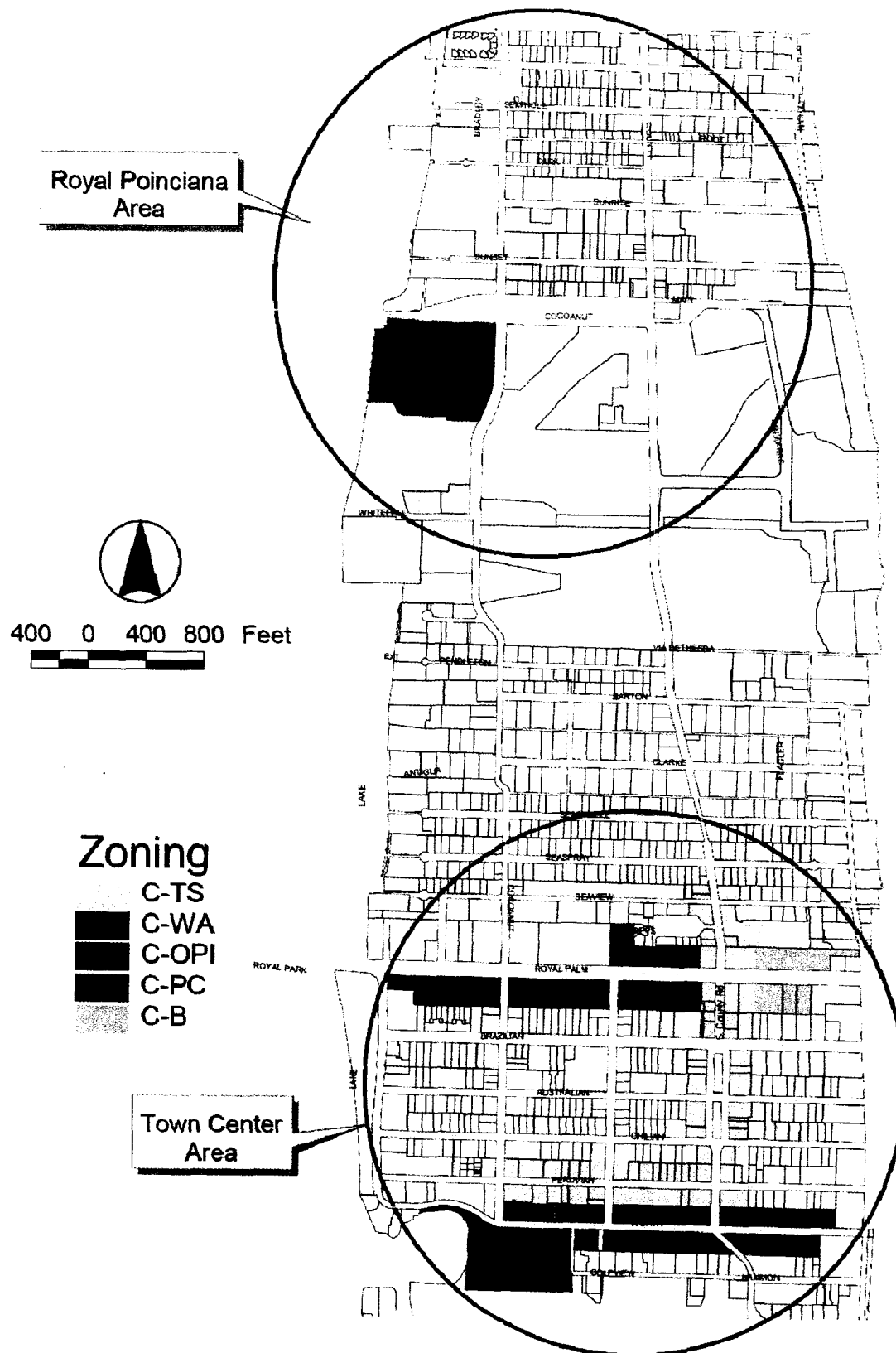
	"WORTH AVENUE"		"ROYAL POINCIANA"		TOTAL	
Square Feet	Number	Percent	Number	Percent	Number	Percent
Up to 2,000	177	78.7	57	69.5	234	76.2
2,001 to 4,000	32	14.2	15	18.3	47	15.3
Over 4,000	16	7.1	10	12.2	26	8.5
Total	225	100.0	82	100.0	307	100.0
Average	1,598		2,243		1,770	
Median	1,080		1,332		1,152	
Source: 1979-90 Commercial District Study, Adley Associates, Inc. LaRue Planning & Management Services, Inc.						

III. CURRENT MIX OF USES BY ZONING DISTRICT, TYPE OF USE, AND SQUARE FOOTAGE

Since 1980, there have been five commercial zoning districts in the Town. The C-A district was divided into the first four districts listed below. The C-B district involves the same geographic area as in 1980. The map on the following page shows the delineation of the Town's five commercial zoning districts listed below.

- C-TS, Commercial – Town-Serving
- C-WA, Commercial – Worth Avenue
- C-OPI, Commercial – Offices, professional and institutional
- C-PC, Commercial – Planned center
- C-B, Commercial – Offices

COMMERCIAL ZONING, 2009



Unlike the 1979-80 study which relied on physical visits to the site of each business to estimate its square footage based on a rough measurement of the geometry of the specific building or unit, the 2009 information is taken from the Town's computerized records of Business Tax Receipts.

Obvious examples of businesses with multiple BTRs (e.g., a restaurant that also carried a BTR for its nightclub or catering operation, or for individual lawyers within a firm which had been issued a BTR), were deleted from the list. Hotels and offices were not included in the 1979 inventory. Therefore hotels and the very largest banks and brokerage and administrative offices have been excluded from the 2009 inventory of the C-TS and C-WA zoning districts. However, since banks and offices have been subject to the need for a special exception to exceed 2,000 square feet, these smaller banks and offices up to 10,000 square feet are included in the 2009 inventory. This leaves 639 BTRs of which 473 (74%) contain complete information. It is these 463 businesses upon which the information in Tables 3 through 9 and associated analyses are based.

**Table 3
BUSINESS SQUARE FOOTAGE
BY ZONING DISTRICT
2009**

DISTRICT	TOTAL BTRs ⁽²⁾	BTRs WITH DATA ⁽¹⁾		TOTAL SQ. FT.	AVERAGE SQ. FT.
		NUMBER	PERCENT		
C-TS	266	180	68%	256,096	1,423
C-WA	233	181	78%	397,120	2,194
C-OPI	79	62	78%	193,640	3,123
C-PC	47	39	83%	105,718	2,711
C-B	14	11	79%	25,748	2,341
TOTAL	639	473	74%	978,322	2,068
⁽¹⁾ Based on active BTRs for which square footage data is available, but with obvious duplications removed. ⁽²⁾ Includes all BTRs but with obvious duplications removed. Source: Business Tax Receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.					

Among the 473 businesses included in the analysis, the average size was computed to be 2,068 square feet of gross leasable area. As would be expected based on the intended character of the zoning districts, the lowest average is found in the C-TS district and the highest in the C-OPI and C-PC districts. Because of the small number of uses in the C-B District, data for this district has little significance in this analysis.

As can be seen in Table 4, almost 78% of the businesses contain 2,000 square feet or less and almost 89% contain fewer than 4,000 square feet. Again the C-TS District has the largest percentage of small businesses with over 84% containing 2,000 or fewer square feet and just under 92% of the businesses have less than 4,000 square feet. A substantial majority of businesses in all districts have less than 4,000 square feet of gross leasable area.

Table 4
DISTRIBUTION OF BUSINESSES BY SQUARE FOOTAGE CATEGORY
BY ZONING DISTRICT
2009

SQUARE FEET	C-TS	C-WA	C-OPI	C-PC	C-B	TOTAL		
						NUMBER	PERCENT	CUMULATIVE
2,000 & Under	152	145	39	23	9	368	77.8%	77.8%
2,001- 2,999	9	12	5	5	1	32	6.8%	84.6%
3,000 - 3,999	4	6	9	1	0	20	4.2	88.8%
4,000 - 4,999	6	3	0	3	0	12	2.5%	91.3%
5,000 - 5,999	2	4	2	4	0	12	2.5%	93.9%
6,000 - 6,999	4	2	1	1	0	8	1.7%	95.6%
7,000 - 7,999	2	1	1	0	0	4	0.8%	96.4%
8,000 - 8,999	0	0	0	0	0	0	0.0%	96.4%
9,000 - 9,999	0	4	0	0	0	4	0.8%	97.3%
10,000 - 12,999	0	1	1	2	0	4	0.8%	98.1%
13,000 or more	1	3	4	0	1	9	1.9%	(1)
TOTAL	180	181	62	39	11	473	(1)	
2,000 or less	84.4%	80.1%	63.9%	59.0%	81.8%	77.2%		
Less than 4,000	91.7%	90.1%	86.9%	74.4%	90.1%	88.8%		

(1) Parts to not add to 100.0 due to internal rounding

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Service, Inc

C-TS, TOWN-SERVING DISTRICT

The average square footage of retail and service businesses in the C-TS District is 1,427 square feet and the vast majority of uses contain 2,000 square feet or less. Almost 92% contain less than 4,000 square feet (See Table 5). The largest retail and service uses in the C-TS are the Palm Ballroom (which is now vacant) at 235 Sunrise Avenue and the Bank of America at 140 North County Road. Including the Palm Ballroom (which held BTRs for restaurant, catering and nightclub operations) there are six restaurants in the C-TS District. Restaurants are the most prevalent uses with over 4,000 square feet in the C-TS District.

Table 5
GROSS LEASABLE AREA OF BUSINESSES
C-TS DISTRICT
2009

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Club Collette	6,734	2,000 & Under	152	84.4%
Café L'Europe	6,774	2,001 — 2,999	9	5.0%
Palm Beach Historic Inn	7,000	3,000 — 3,999	4	2.2%
Bank of America	7,700	4,000 — 4,999	6	3.3%
The Palm Ballroom	14,000	5,000 — 5,999	2	1.1%
		6000 — 6,999	4	2.2%
		7000 — 7,999	2	1.1%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	0	0.0%
		13,000 or more	1	0.6%
TOTAL			180	(1)
TOTAL SF		256,096		
AVERAGE SF		1,423		

(1) Parts do not add to 100.0 due to internal rounding

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

C-WA, WORTH AVENUE DISTRICT

Table 6 provides data for businesses in the C-WA, Worth Avenue District. Worth Avenue remains primarily a location for high-end shopping goods. Larger businesses are more prevalent and of considerably greater size in the C-WA District than in the C-TS District. The average square footage is over 1½ times that prevailing in the C-TS District. There are 18 businesses with over 4,000 square feet in this District. The largest are Neiman Marcus (49,917 square feet) and Saks Fifth Avenue (48,661 sf). Both are located on Worth Avenue east of South County Road. Neiman Marcus was first approved in 1998 and the expansion of Saks Fifth Avenue was also approved in 1998. Fourteen (14) of the businesses with 4,000 or more square feet are merchants, two are restaurants and two are banks.

Table 6
GROSS LEASABLE AREA OF BUSINESSES
C-WA DISTRICT
2009

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Tiffany and Company	11,360	2,000 & Under	145	80.1%
Polo Ralph Lauren	15,816	2,001 — 2,999	12	6.6%
Neiman Marcus	49,917	3,000 — 3,999	6	3.3%
Saks Fifth Avenue	48,661	4,000 — 4,999	3	1.7%
		5,000 — 5,999	4	2.2%
		6000 — 6,999	2	1.1%
		7000 — 7,999	1	0.6%
		8000 — 8,999	0	0.0%
		9000 — 9,999	4	2.2%
		10,000 — 12,999	1	0.6%
		13,000 or more	3	1.7%
TOTAL			181	(1)
TOTAL SF		397,120		
AVERAGE SF		2,194		

(1) Parts do not add to 100.0 due to internal rounding

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

CB, OFFICE DISTRICT

The C-B District was retained from the original zoning in 1979. It was intended to provide for office type uses in structures compatible with nearby residential neighborhoods. It is fully developed in office type uses including banks, law, real estate, business and administrative offices. It is also the home of the Palm House (formerly the Heart of Palm Beach Hotel). Because of its small size and limited scope of uses, the C-B District has little relevance to this study of the "Town-Serving" provision. The data provided on Table 7, following, are provided in support of this assertion.

Table 7
GROSS LEASABLE AREA OF BUSINESSES
C-B DISTRICT
2009

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Palm Beach Board of Realtors Inc	2,970	2,000 & Under	9	81.8%
U S Trust	13,300	2,001 — 2,999	1	9.1%
		3,000 — 3,999	0	0.0%
		4,000 — 4,999	0	0.0%
		5,000 — 5,999	0	0.0%
		6000 — 6,999	0	0.0%
		7000 — 7,999	0	0.0%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	0	0.0%
		13,000 or more	1	9.1%
TOTAL			11	100.0%
TOTAL SF		25,748		
AVERAGE SF		2,341		
Source: Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.				

C-OPI, OFFICES, PROFESSIONAL AND INSTITUTIONAL DISTRICT

The C-OPI District is located along both sides of Royal Palm Way, the central entrance to the Town from the mainland via the Royal Park Bridge. It is characterized by banks and other financial institutions, law and real estate firms, and business and administrative offices. In prior years some restaurants were located in this district, but have since been replaced by office type uses. This district has the highest average size per business (3,123 square feet) and has a considerably lower percentage of businesses of 2,000 square feet or less than the neighboring C-TS and C-B districts and the nearby C-WA District. Except for the Rehabilitation Center, the largest businesses are all financial and related institutions.

Table 8
GROSS LEASABLE AREA OF BUSINESSES
C-OPI DISTRICT
2009

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
UBS Financial Services Inc	11,000	2,000 & Under	39	62.9%
Merrill Lynch Pierce Fenner & Smith	14,164	2,001 — 2,999	5	8.1%
Morgan Stanley and Co Inc	14,318	3,000 — 3,999	9	14.5%
JP Morgan Securities	22,185	4,000 — 4,999	0	0.0%
Rehabilitation Center for Children and Adults	30,000	5,000 — 5,999	2	3.2%
		6000 — 6,999	1	1.6%
		7000 — 7,999	1	1.6%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	1	1.6%
		13,000 or more	4	6.5%
TOTAL			62	100.0%
TOTAL SF		193,640		
AVERAGE SF		3,123		

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

C-PC, PLANNED CENTER DISTRICT

The Poinciana Plaza is considered a planned commercial center and its most recognizable fixture has been the Royal Poinciana Playhouse which was recently given Landmark status by the Town. Apart from the now vacant Playhouse, the C-PC District is largely devoted to office type uses including administrative/business, real estate and property management, law, consulting and banks (19) and medical offices (11). The remaining uses are retail merchants (9), services (5) and restaurants (3). The largest use is the law firm of Alley Maass Rogers & Lindsay with 12, 256 square feet (see Table 9) While most of the uses (59%) do not exceed 2,000 square feet in gross leasable area, this percentage is even less than that recorded for the C-OPI District.

Table 9
GROSS LEASABLE AREA OF BUSINESSES
C-PC DISTRICT
2009

C-PC DISTRICT				
LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Palm Beach Grill	6,515	2,000 & Under	23	59.0%
Island Hospitality Mgt Inc	10,000	2,001 — 2,999	5	12.8%
Alley Maass Rogers & Lindsay PA	12,256	3,000 — 3,999	1	2.6%
		4,000 — 4,999	3	7.7%
		5,000 — 5,999	4	10.3%
		6000 — 6,999	1	2.6%
		7000 — 7,999	0	0.0%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	2	5.1%
		13,000 or more	0	0.0%
TOTAL			39	(1)
TOTAL SF		105,718		
AVERAGE SF		2,711		

(1) Parts do not add to 100.0 due to internal rounding.

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

IV. COMPARISON OF 1979 and 2009 PATTERNS

The information contained in the 1979-80 Commercial Study is not directly comparable to that collected for 2009. This is because there was only one major commercial zoning district in 1979, the C-A District. Consequently, the 1979 inventory was developed on a geographic basis, separating the Town Center commercial area from the Royal Poinciana commercial area. The Towns current commercial zoning employs five different zoning districts one of which, the C-TS District, is located in both the Town Center and Royal Poinciana areas. The Town Center area contains the C-WA, C-TS, C-B and the C-OPI Districts. The Royal Poinciana area now contains the C-TS District and the C-PC District. The following discussion will compare these areas to the extent that valid comparisons can be made.

TOWN CENTER COMMERCIAL AREA

Because the C-B and C-OPI districts are limited primarily to office type uses for which we have little 1979 data, for the purposes of this analysis these districts are excluded. The Town Center area includes all uses in the C-WA District as well as uses in the C-TS District along Peruvian Avenue, South County Road and parts of Phipps Plaza.

As can be seen in Table 10, overall the average business size in this area has increased by 18% since 1979. This is largely due to changes along Worth Avenue where average size has risen by 28%. The new Nieman Marcus store and the expansion of Saks Fifth Avenue combined with other large stores has resulted in a 64% increase in businesses of 4,000 square feet or more since 1979. More dramatic, however, is the fact that the total square footage associated with these types of businesses has increased to almost 2 1/2 times what it was in 1979, from 81,738 square feet to 197,480 square feet.

A listing of retail and service businesses located in the C-WA District and having 4,000 square feet or more of gross leasable in 1979 and 2009 is provided in Table 11.

Change in the C-TS district has been relatively modest, with average square footage per business increasing less than 7% since 1979. A listing of retail and service businesses of 4,000 square feet or more located in the Town Center C-TS District is provided in Table 12.

Table 10
NUMBER AND SIZE OF BUSINESSES BY ZONING DISTRICT
TOWN CENTER COMMERCIAL AREA
1979 AND 2009

C-WA DISTRICT				
GLA (SF)	1979		2009	
	Number	Percent	Number	Percent
2,000 & Less	106	80.9%	145	80.1%
2,001 — 3,999	14	10.7%	18	9.9%
4,000 & Over	11	8.4%	18	9.9%
TOTAL	131	100.0%	181	(1)
AVERAGE	1,715		2,194	
C-TS DISTRICT				
2,000 & Less	70	77.8%	118	84.9%
2,001 — 3,999	17	18.9%	10	7.2%
4,000 & Over	3	3.3%	11	7.9%
TOTAL	90	100.0%	139	100.0%
AVERAGE	1,345		1,434	
TOTAL TOWN CENTER COMMERCIAL AREA				
2,000 & Less	176	79.6%	263	82.2%
2,001 — 3,999	31	14.0%	28	8.8%
4,000 & Over	14	6.3%	29	9.1%
TOTAL	221	(1)	320	(1)
AVERAGE	1,577		1,864	
(1) Does not add to 100.0 % due to internal rounding.				
Source: 1979 Commercial District Study, Adley Associated, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc				

Table 11
C-WA DISTRICT
BUSINESSES BY TYPE AND SQUARE FOOTAGE
1979 and 2009

1979		
BUSINESS NAME	GLA (sf)	TYPE
Saks Fifth Avenue	16,380	Merchant
Frances Brewster	8,550	Merchant
Taboo	9,678	Restaurant
Bonwit Teller	9,576	Merchant
Wally Findlay Galleries Inc	8,073	Art Gallery
Petit Marmite	5,796	Restaurant
Gucci	5,400	Merchant
Sara Fredericks	5,225	Merchant
The Flame	4,500	Restaurant
Stagg Ltd.	4,240	Merchant
Maus & Hoffman	4,320	Merchant
Number	11	
Total Square Footage	81,738	
2009		
Neiman Marcus	49,917	Merchant
Saks Fifth Avenue	48,661	Merchant
Polo Ralph Lauren	15,816	Merchant
Tiffany And Company	11,360	Merchant
Chanel	9,526	Merchant
Mary Mahoney	9,200	Merchant
Escada	7,100	Merchant
Taboo	6,334	Restaurant
Brooks Brothers	6,000	Merchant
Trevini Restaurant	5,243	Restaurant
Maus & Hoffman Inc	5,200	Merchant
St John	5,200	Merchant
Wally Findlay Galleries Inc	5,140	Art Gallery
Giorgio Armani	4,683	Merchant
Giorgio's Of Palm Beach	4,100	Merchant
AB Levy Palm Beach	4,000	Merchant
Number	16	
Total Square Footage	197,480	
Source: 1979 Commercial District Study, Adley Associates, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc		

Table 12
C-TS DISTRICT (Town Center Commercial Area)
BUSINESSES BY TYPE AND SQUARE FOOTAGE –
1979 and 2009

1979			
BUSINESS NAME	GLA (sf)	TYPE	ADDRESS
Brinkleys	9,750	Grocery	354 S. County Rd
Mandarin	5,400	Restaurant	323 S County Rd
Courtyard Plaza Interiors	4,125	Interior Decorator	240 S County Rd
Grill & Bar	2,700	Restaurant	264 S County Rd
Number	4		
Total Square Footage	21,975		
2009			
Cafe L'Europe	6,774	Restaurant	331 S County Rd
Club Collette	6,734	Restaurant	215 Peruvian Ave
C Orrico	5,500	Merchant	336 S County Rd
Amici Ristorante & Bar	5,270	Restaurant	375 S County Rd
264 The Grill	4,816	Restaurant	264 S County Rd
Church Mouse	4,759	Merchant	374 S County Rd
Number	6		
Total Square Footage	33,583		
Source: 1979 Commercial District Study, Adley Associates, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc			

ROYAL POINCIANA COMMERCIAL AREA

The Royal Poinciana commercial area includes all uses in the Royal Poinciana Plaza (the C-PC District) and along Royal Poinciana Way, Bradley Place, Sunrise and Sunset Avenues, and North County Road (C-TS District).

As can be seen in Table 13, the average size of businesses in this area has not increased appreciably since 1979. For example, in the C-TS portion of this area, the average was 2,109 in 1979 and 2,113 in 2009. In the C-PC District it was 2,842 in 1979 and 2,711 in 2009. However, we have less confidence in the data for this portion of the C-TS district than other areas of the Town because only 59% of the businesses with BTRs include square footage information for 2009. Nevertheless, while there does not appear to have been a significant change in size of businesses in this area, there has been a marked shift in the character of the Royal Poinciana Plaza from retail/service orientation to more of an office complex.

A listing of retail and service businesses of 4,000 square feet or more located in the Royal Poinciana commercial area in 1979 and 2009 is provided in Table 14.

Table 13
NUMBER AND SIZE OF BUSINESSES BY ZONING DISTRICT
ROYAL POINCIANA COMMERCIAL AREA
1979 AND 2009

C-TS DISTRICT				
GLA (SF)	1979		2009	
	Number	Percent	Number	Percent
2,000 & Less	64	69.6%	34	81.0%
2,001 — 3,999	19	20.6%	3	7.1%
4,000 & Over	9	9.8%	5	11.9%
TOTAL	92	100.0%	42	100.0%
AVERAGE	2,109		2,113	
C-PC DISTRICT				
2,000 & Less	10	58.8%	23	62.2%
2,001 — 3,999	3	17.6%	6	16.2%
4,000 & Over	4	23.5%	10	21.6%
TOTAL	17	(1)	39	100.0%
AVERAGE	2,842		2,711	
(1) Parts do not add to 100.0 due to internal rounding.				
Source: 1979 Commercial District Study, Adley Associates, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc				

Table 14
ROYAL POINCIANA COMMERCIAL AREA
BUSINESSES OF 4,000 AND MORE SQUARE FEET
BY TYPE AND SQUARE FOOTAGE
1979 and 2009

1979			
BUSINESS NAME	GLA (sf)	TYPE	ADDRESS
C-PC DISTRICT			
Sara Fredericks	10,286	Merchant	Royal Poinciana Plaza
Stanley Nelson Boutique	4,679	Interior Deco.	Royal Poinciana Plaza
Cappriccio	4,679	Restaurant	Royal Poinciana Plaza
C-TS DISTRICT			
Publix	32,000	Supermarket	265 Sunset Avenue
Restaurant Pappagallo	4,725	Restaurant	107 Bradley Place
Maurice	4,642	Restaurant	Bradley Place
Testa's	4,125	Restaurant	223 Royal Poinciana Way
Ohara's	4,125	Restaurant	128 North County Rd.
2009			
C-PC DISTRICT			
Alley Maass Rogers & Lindsay Pa	12,256	Law Firm	Royal Poinciana Plaza
Island Hospitality Mgt Inc	10,000	Adm. Office	
Palm Beach Grill	6,515	Restaurant	Royal Poinciana Plaza
Innkeepers USA Trust	5,620	Adm. Office	Royal Poinciana Plaza
Brown Harris Stevens Of Palm Beach	5,125	Real Estate	Royal Poinciana Plaza
Suntrust South Florida NA	5,020	Bank	Royal Poinciana Plaza
Island Dermatology Laser & Anti-Aging	5,000	Medical	50 Cocconut Row
Michael R McCarty's	4,648	Restaurant	50 Cocconut Row
Sotheby's International	4,100	Real Estate	Royal Poinciana Plaza
Murphy Reid LLP	4,062	Law Firm	Royal Poinciana Plaza
C-TS DISTRICT			
Publix	32,000	Supermarket	265 Sunset Avenue
Palm Ballroom (vacant)	14,000	Caterer, Nightclub, Restaurant	235 Sunrise
Bank of America	7,700	Bank	140 North County Rd.
Echo	4,585	Restaurant	230 Sunrise
Island Hotel, Inc.	4,360	Unclassified	235 Sunrise
251 PB	4200	Restaurant	251 Sunrise
Source: 1979 Commercial District Study, Adley Associates, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc			

V. APPROVALS OF SPECIAL EXCEPTIONS BETWEEN 1990 & 2009 FOR BUSINESSES OVER 2,000 SF

The Town provided a handwritten list of 191 special exceptions, each involving more than 2,000 square feet of commercial floor area, that were approved by Town Council during the years 1990 through 2009. Data for the Palm House (formerly the Heart of Palm Beach Hotel) was available but was excluded because hotels were not included in the 1979-80 study. Of the 191 businesses, 161 contained sufficient data for analysis. It should be noted that, according to the Town's Zoning Administrator, no application for a special exception to the 2,000 square foot limitation has been denied since at least 1995.

As can be seen in Table 15, the average approval involved 5,956 square feet. The largest number of approvals was at the lower end of the spectrum. A little less than half (46.6%) involved floor area of less than 4,000 square feet and more than 70% of the approvals involved less than 6,000 square feet.

**Table 15
APPROVALS
BUSINESSES IN EXCESS OF 2,000 SQUARE FEET
TOWN OF PALM BEACH, FLORIDA
1990 - 2009**

TOTAL SQUARE FEET	958,895		
NUMBER OF APPROVALS	161		
AVERAGE SF PER APPROVAL	5,956		
Percent			
Square Footage	Number	By Bracket	Cumulative
2,001 to 2,999	46	28.6%	28.6%
3,000 to 3,999	29	18.0%	36.6%
4,000 to 4,999	26	16.1%	62.7%
5,000 to 5,999	13	8.1%	70.8%
6,000 to 6,999	12	7.5%	78.3%
7,000 to 7,999	6	3.7%	82.0%
8,000 to 8,999	5	3.1%	85.1%
9,000 to 9,999	4	2.5%	87.6%
10,000 to 12,999	12	7.5%	95.1%
13,000 SF or more	8	5.0%	(1)
TOTAL	161	(1)	

(1) Parts do not add to 100.0 due to internal rounding.

Source: Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

The establishments with the greatest amount of floor space were two retail stores, Saks Fifth Avenue and Neiman Marcus. Both were approved in 1998 and are located on Worth Avenue east of South County road. These involved 48,661 and 49,917 square feet, respectively.

While retail/service uses are by far the most prevalent in the list of approved special exceptions, banks and financial institutions consistently involve the greater floor areas. In fact, if the two largest retail approvals cited above are excluded, all retail/services, offices, and restaurants average in the range of 4,000 to 5,000 square feet, whereas banks and financial institutions together average 8,994 square feet, almost twice that of the average of all other uses (4,527).

Table 16
SPECIAL EXCEPTION APPROVALS
BUSINESSES IN EXCESS OF 2,000 SQUARE FEET BY TYPE OF USE
TOWN OF PALM BEACH, FLORIDA
1990 - 2009

Type of Use	#	Avg. SF	Largest (SF)
Banks	24	8,545	19,852 and 22,185
Financial	9	10,188	16,088
Offices	29	4,760	20,730
Restaurants	31	4,409	7,074
Retail/Services	64	5,833	48,661 & 49,917
House of Worship	2	4,072	3,820 & 4,323
TOTAL	159	5,944	
Source: Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc			

Most of the special exception approvals were for businesses located in the C-TS District, followed by the C-WA District. The average square footage was the lowest in the C-TS, followed by the C-WA District, with the highest average occurring in the C-OPI District. There were an inconsequential number of approvals in the C-PC District and none in the C-B District.

Whereas a slim majority of approvals in the C-TS and C-WA Districts involved less than 4,000 square feet, less than half of the approvals in the C-OPI District involved less than 8,000 square feet.

Table 17
SPECIAL EXCEPTION APPROVALS
BUSINESSES IN EXCESS OF 2,000 SQUARE FEET BY ZONING DISTRICT
TOWN OF PALM BEACH, FLORIDA
1990 – 2009

Zoning	#	Avg. SF	Adjusted Avg. & Basis for Adjustment
C-TS	81	4,950	Excludes Publix, 52% < 4,000 sf; 85% < 6,000 sf
C-WA	56	6,405	52% < 4,000 sf; 68% < 6,000 sf; 80% < 8,000 sf
C-OPI	21	9,013	10% < 4,000 sf; 19% < 6,000 sf; 48% < 8,000 sf
C-PC	2	NA	Approvals were for 3,000 sf and 4,648 sf
TOTAL	160		
Source: Town of Palm Beach, 2010 LaRue Planning & Management Services,			

VI. OTHER RELEVANT FACTORS AND CHANGES SINCE 1980

Since the 1979-80 Commercial District Study was conducted and the "Town-Serving" provisions were incorporated into the Town's Zoning Code, eight new shopping malls have been constructed in Palm Beach County. These include:

The Gardens Mall
City Place
Legacy Place
Downtown at the Gardens
Town Center at Boca Raton
Mizner Park
The Mall at Wellington Green
Boynton Mall

While a number of these include some retail outlets that are located in the Town of Palm Beach, two – The Gardens Mall and Town Center at Boca Raton – are high-end malls that cater to the same type of customer as shops in the Town of Palm Beach, particularly those on Worth Avenue. As such, they represent competition for customers living outside the Town who, in the past, had no alternative other than Palm Beach in order to patronize such high-end retailers. High-end tenants in these malls that could be expected to be competition to Worth Avenue merchants include:

The Gardens Mall

Gucci

Hamilton Jewelers

Tourneau

Nordstrom

Louis Vuitton

Lilly Pulitzer

Brooks Brothers

Town Center at Boca Raton

Neiman Marcus

Cartier

Tiffany & Company

Louis Vuitton

Michael Kors

Lilly Pulitzer

Ralph Lauren

The advent of such competition could reduce the extent to which Worth Avenue shops attract residents of, and visitors to, areas outside of the Town of Palm Beach. In fact, these high-end malls pose competition to residents and visitors staying in the Town of Palm Beach as well. Despite its beauty, history and charm, Worth Avenue must compete with the newer malls' climate-controlled facilities. The Avenue's exposure to the elements is, in today's world, a potential drawback. Larger establishments like Neiman Marcus and The Esplanade may work to minimize the loss of local patrons who might otherwise be drawn to the newer climate-controlled malls outside of the Town.

VII. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

The following address each of the issues required to be addressed as set forth on page 3 of the Scope of Services.

1. Relevancy of the "Town-Serving" concept and continued need for a "Town-Serving" provision.

We believe the data and analysis contained in this report indicates that the "Town-Serving" concept is still relevant and useful, however less so and perhaps in a different context, than was perceived to be the case at its inception.

The Town's commercial sector continues to be characterized by small establishments. Fully 78% of the businesses contain less than 2,000 square feet of gross leasable area and 89% contain less than 4,000 square feet.

Despite the C-TS District being the subject of the greatest number of special exception approvals, there has been only a slight increase in the average size of establishments in this district. While smaller businesses continue to be the rule rather than the exception in the C-TS District, and this may be due somewhat to the "Town-serving" provision, it is also due at least in part to the inclusion of office uses in the 2009 inventory. Overall, office-type uses tend to be smaller than other uses in the C-TS District, and office uses were not included in the 1979 inventory. Office uses account for about one-third of the uses in the C-TS District for which data is available.

While small shops still dominate the Worth Avenue Zoning District, it has undergone significant change, particularly with the addition of more and much larger anchor establishments than was the case in 1979. The most notable examples are Neiman Marcus and the enlarged Saks Fifth Avenue, each with almost 50,000 square feet. With these, the 100 block of Worth Avenue is not of the same character as the area further west.

Looking at the C-OPI District, it appears clear to us that the current character of the District as well as the history of special exception approvals indicate that the "Town-Serving" concept has little relevance in the C-OPI District. The uses that predominate in this area are primarily financial institutions and professional offices. While they may rely on the aura of a Palm Beach address, the nature of modern banks and financial institutions in particular rely less and less on physical visitation by its customers, thereby possibly minimizing the potential effects of such businesses on the Town. The history of special exception approvals also indicates that the Town recognizes this characteristic, as the average square footage of such approvals is considerably higher than in other districts.

2. Ramifications of eliminating the "Town-Serving" provision.

C-OPI & C-B Districts: We do not believe that eliminating the "Town-Serving" provision in the C-OPI or C-B Districts will have any significant effect upon the Town. This is primarily because of the nature of the businesses located in these districts, specifically as described above. Further, there are already certain limitations in place in these districts on the size and/or appearance of structures in these districts that will inhibit an increase in the size of structures, although it would allow some increase in the size of businesses within them.

C-WA District: Eliminating the "Town-Serving" provision in the C-WA District could result in some increases in the size of businesses, but we find it difficult to envision, after the approval of Saks Fifth Avenue and Neiman Marcus, that any business could not demonstrate that it would meet the "Town-Serving" requirements. Further, with the advent of the Gardens Mall and Town Center at Boca Raton in particular, larger retail establishments in the Town are likely to attract fewer persons from areas outside the Town than may have been the case in 1979 because of the increased availability of more conveniently located high-end retail establishments in competing malls. These factors give credence to the possibility that the "Town-Serving" provision may no longer be necessary or effective in the C-WA District.

C-TS District: With regard to the C-TS District, we believe that, despite some approvals of larger establishments, the "Town-Serving" provision remains valuable, although it would appear that the threshold could be raised to 4,000 square feet without undue effect. A little over half the special exception approvals have been for uses less than 4,000 square feet. In fact, 85% of the approvals for retail and service uses (except restaurants) involved no more than 4,000 square feet. While there can be no objective confirmation, we believe the size limitation as applied in the C-TS District may have encouraged some applicants to limit business sizes to less than may have been the case without the "Town-Serving" provision.

C-PC District: There have been only two special exception approvals for businesses in excess of 2,000 square feet in the C-PC District since 1990. Therefore, there is little basis for modifying the regulations of this district. In fact, the Town has expressed considerable concern in the past over the possibility of creating "increased development opportunities" in the C-PC District because of the possible effect upon the 1979 agreement between Town and the Royal Poinciana Plaza with regard to the continued existence of the Royal Poinciana Playhouse. Consequently, we recommend retaining the "Town-Serving" provision as it now applies to this district.

3. Are there better alternatives to the "Town-Serving" provision?

The current use of gross leasable area allows for a degree of objectivity in determining whether or not a business qualifies as "Town-serving". For this reason, we cannot recommend any alternative approach. We believe that the "Town-Serving" provision is still appropriate and useful in the Town in some instances but that some modification may be warranted. These modifications are incorporated into our recommendations, which follow.

RECOMMENDATIONS

1. **C-WA District:** Eliminate the "Town-Serving" provision in this district. If this is not acceptable, as an alternative we would suggest that the "Town-Serving" provision not apply in the 100 block of Worth Avenue, and that the threshold be increased to uses over 6,000 square feet for the balance of the district.
2. **C-TS District:** Retain the "Town-Serving" provision but increase the threshold to uses over 4,000 square feet, above which it becomes necessary to prove that the majority of its patrons will be "Townpersons".
3. **C-OPI and C-B Districts:** Eliminate the "Town-Serving" provision in these districts.
4. **C-PC District:** Retain the "Town-Serving" provision as it now applies in the C-PC District.
5. Exclude short-term occupancy uses (hotels, motels, bed & breakfasts, and time-sharing) in commercial districts and multi-family residential districts from the "Town-Serving" provision. Such uses are by definition "Town-Serving". The Town's code already limits accessory commercial uses in such uses. For example, Sec. 134-1906 requires that accessory commercial uses in hotels and condominiums be limited to not more than 15% of the total floor area and requires that such accessory commercial uses be entirely located within the principal building with no outside entrances thereto.
6. The "Town-Serving" provision is now applied to any special exception use. This becomes problematic when applied to a use that is not located in a commercial district or which use is not commercial in nature. For example, in the **R-B** district houses of worship, non-profit cultural centers and private and public academic schools are special exceptions and are subject to the provision of Sec. 134-229 that "The proposed use will not attract the principal portion of its customers/clients from off-island locations..." We suggest that the "Town-Serving" special exception criteria should only be applied to commercial enterprises.

7. It appears to us that once a business has proven to the Town Council's satisfaction that it is "Town-Serving" it should not be necessary to prove or certify each year that it continues to qualify. If the information provided initially was adequate, it is entirely likely that the business will be able to substantiate continued compliance. The Town, however, should retain the right to request substantiating documentation by the business if the Town has reason to believe that the business is not continuing to meet the "Town-Serving" criteria.
8. Finally, it should be recognized that the "Town-Serving" concept and the 2,000 square foot limitation is contained in the text of the Future Land Use Element of the Town's Comprehensive Plan which describes the intent and types of uses envisioned as allowable within the Commercial Future Land Use Category. Any change to the "Town-Serving" square foot threshold or to areas and types of uses that may be excluded from this concept will necessitate a text amended to the Comprehensive Plan.

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 2-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-2 By Amending The Definition Of Town-Serving By Increasing The Square Foot Threshold In Certain Commercial Zoning Districts; Section 134-229 By Exempting Hotel, Motel and Timeshare Uses And The C-OPI Zoning District From The Town-Serving Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 And 134-1304 By Increasing The Town-Serving Square Foot Threshold And Changing The Term Occupational License To Business Tax Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-1259 By Changing The Term Occupational License To Business Tax Receipt In The C-PC Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated March 28, 2011
- Ordinance No. 2-11

TOWN OF PALM BEACH

Information for Town Council Meetings on: April 13, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Modifications and Changes to the Town-Serving Regulations in the Town's Comprehensive Plan and Chapter 134, Zoning.

ORDINANCE NO. 2-11

Date: March 28, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 2-11 on first reading to transmit proposed comprehensive plan amendments to the Florida Department of Community Affairs. In addition, staff recommends that the Council approve companion Ordinance No. 1-11, on first reading.

PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY RECOMMENDATION

The Planning and Zoning Commission/Local Planning Agency, at its meeting of February 22, 2011, recommended by a 7-0 vote, approval of Ordinance Nos. 1-11 and 2-11 which modify the comprehensive plan and zoning code regulations for Town-serving regulations, as modified by the Town Council.

GENERAL INFORMATION

On October 19, 2010, the Planning and Zoning Commission, as the Local Planning Agency (LPA), considered and made recommendations on proposed modifications to the Town-serving regulations. The recommendations to the Town Council were as follows:

1. Retain the Town-serving provisions in the C-WA zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
2. Retain the Town-serving provisions in the C-TS zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.

3. Eliminate the Town-serving provisions in the C-OPI zoning district. Retain the Town-serving provisions in the C-B zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
4. Retain the existing Town-serving provisions in the C-PC zoning district.
5. Eliminate the Town-serving provisions for short-term occupancy uses such as hotels, motels and timesharing in the multi-family residential zoning districts (PUD-A, R-C, R-D(1) and R-D(2)).
6. Retain existing “Town-serving” special exception criteria for all special exception uses, not just to commercial uses as is recommended in the Study.
7. Eliminate the necessity to certify each year that a business is “Town-serving”, but retain the right to request substantiating documentation if the Town has reason to believe that the business is not continuing to meet the “Town-serving” criteria.
8. Process the necessary comprehensive plan amendments required to complete the changes to the land development regulations identified above.

The Town Council, at its November 10, 2010 meeting, considered the LPA’s recommendations and the presentation by Mr. William Brisson, LaRue Planning and Management Services, Inc. The Council concurred with all of the LPA’s recommendations with the exception to allow an increase in the Town-serving threshold in the Commercial Worth Avenue (C-WA) to 4,000 square feet gross leasable area in lieu of the 3,000 square feet recommended by the LPA. On February 22, 2011, the LPA by a vote of 7-0 recommended approval of the attached Ordinance Nos. 1-11 and 2-11 which address the necessary comprehensive plan amendments and zoning text amendments to adopt the proposed changes.

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

March 28, 2011
Page 3

TOWN ATTORNEY REVIEW

Ordinance No. 2-11 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachments

PBE:jsp:pc

cc: Planning and Zoning Commission
 Thomas G. Bradford, Deputy Town Manager
 John C. Randolph, Town Attorney
 Susan A. Owens, Town Clerk
 Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building Department
 Paul W. Castro, AICP, Zoning Administrator
 John Lingdren, AICP, Planning Administrator
 pf

ORDINANCE NO. 2-11

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-2 By Amending The Definition Of Town-Serving By Increasing The Square Foot Threshold In Certain Commercial Zoning Districts; Section 134-229 By Exempting Hotel, Motel and Timeshare Uses And The C-OPI Zoning District From The Town-Serving Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 AND 134-1304 By Increasing The Town-Serving Square Foot Threshold And Changing The Term Occupational License To Business Tax Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-1259 By Changing The Term Occupational License To Business Tax Receipt In The C-PC Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

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

WHEREAS, after considering the data in the Report from LaRue Planning and Management Services, Inc., the Local Planning Agency and the Town Council have determined that there should be a change in the Town-serving threshold in different commercial zoning districts;

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

Section 1. Amend ARTICLE I, IN GENERAL, Section 134-2, Definitions and rules of construction, to read rules of construction, to read as follows:

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

Townpersons means all full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the town.

Town-serving means establishments principally oriented to serving the needs of townpersons which would not substantially rely upon the patronage of persons not defined as townpersons. Town-serving establishments, by definition, would typically contain ~~2,000~~ 4,000 or less square feet of interior gross leasable area (GLA) ~~and in the C-WA district, 3,000 or less square feet of interior GLA in the C-TS and C-B districts and 2,000 or less square feet interior GLA in the C-PC district.~~ Establishment would also not engage in advertising designed to attract other than townpersons.

Section 2. Amend Article II, ADMINISTRATION, Sec. 134-229. Requirements for granting, to read as follows:

Sec. 134-229. Requirements for granting.

The requirements of granting a special exception use under this chapter are as follows:

...

(12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

Section 3. Amend Article VI, DISTRICT REGULATIONS, Commercial Town-serving district, Sec. 134-1107, Permitted uses, at subsection (a) and (b) to read as follows:

Sec. 134-1107 Permitted Uses.

(a) *Enumeration; maximum gross leasable area.*

The permitted uses in the C-TS town-serving commercial district, with a maximum of ~~2,000~~ 3,000 square feet gross leasable area (GLA), are as follows:

(1) Antiques.

(2) Apparel and accessories.

b. *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than ~~2,000~~ 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of ~~2,000~~ 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding ~~2,000~~ 3,000 square feet, the contemplated new use shall be subject to prior approval of a

special exception application by the town council before the change is made (refer to section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 3,000 square feet, in a district with a ~~2,000~~ 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 8,000 square feet exists in ~~any of the C-TS or C-WA~~ districts and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the ~~2,000~~ 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than ~~2,000~~ 3,000 square feet.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Commercial Town-serving district, Sec. 134-1109, Special exception uses, at subsection (a)(11) and subsection (b) to read as follows:

Sec. 134-1109. Special exception uses.

(a) The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C-TS town-serving district area as follows:

(11) Any commercial establishment with greater than ~~2,000~~ 3,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

(b) An owner or tenant of a property, located within the C-TS district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 ~~(12)~~ prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing ~~occupational license~~ business tax receipt.

Section 5. Amend Article VI, DISTRICT REGULATIONS, Commercial Worth Avenue district, Sec. 134-1157, Permitted uses, at subsection (a) and (b) to read as follows:

Sec. 134-1157 Permitted uses.

(a) *Enumeration; maximum gross leasable area.*

The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of ~~2,000~~ 4,000 square feet gross leasable area (GLA), are as follows:

(b). *Regulation of existing nonconforming commercial uses.* Any existing uses contained

on the list of permitted uses shown in subsection (a) of this section which contain more than ~~2,000~~ 4,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of ~~2,000~~ 4,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding ~~2,000~~ 4,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 4,000 square feet, in a district with a ~~2,000~~ 4,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of ~~8,000~~ 10,000 square feet exists in ~~any of the C-TS or C-WA districts~~ and the owner wishes to change to an antique store of the same size or subdivide into two ~~4,000~~ 5,000 square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the ~~2,000~~ 4,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than ~~2,000~~ 4,000 square feet.

Section 6. Amend Article VI, DISTRICT REGULATIONS, Commercial Worth Avenue district, Sec. 134-1159, Special exception uses, (a)(11) and (b) to read as follows:

Sec. 134-1159. Special exception uses.

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

(11) Any commercial establishment with greater than ~~2,000~~ 4,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

...

(b) An owner or tenant of a property, located within the C-WA district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 ~~(12)~~ prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing ~~occupational license~~ business tax receipt.

Section 7. Amend Article VI, DISTRICT REGULATIONS, C-PC Planned Center district, Sec. 134-1259, Special exception uses, at subsection (b), to read as follows:

Sec. 134-1259. Special exception uses.

(b) An owner or tenant of a property, located within the C-PC district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 ~~(12)~~ prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing ~~occupational license~~ business tax receipt.

Section 8. Amend Article VI, DISTRICT REGULATIONS, C-B Commercial district, Sec. 134-1302, Permitted uses, at subsection (c) and (d), to read as follows:

Sec. 134-1302. Permitted uses.

(c) There is a maximum gross leasable area. There is a maximum of ~~2,000~~ 3,000 square feet of gross leasable area (GLA)

(d) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than ~~2,000~~ 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of ~~2,000~~ 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding ~~2,000~~ 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 3,000 square feet, in a district with a ~~2,000~~ 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 8,000 square feet exists in ~~any of the C-TS or C-WA C-B districts~~ and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the ~~2,000~~ 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than ~~2,000~~ 3,000 square feet.

Section 9. Amend Article VI, DISTRICT REGULATIONS, C-B Commercial district, Sec. 134-1304, Special exception uses, at subsection (a)(8) and subsection (b) to read as follows:

Sec. 134-1304. Special exception uses.

(a) The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C-B Commercial district area as follows:

(8) Any commercial establishment with greater than ~~2,000~~ 3,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

(b) An owner or tenant of a property, located within the C-B district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 ~~(12)~~ prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing-~~occupational license~~ business tax receipt.

Section 10. Severability.

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

Section 11. Repeal of Ordinances in Conflict.

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

Section 12. Codification.

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

Section 13. Effective Date.

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

PASSED AND ADOPTED in regular, adjourned session assembled on first reading this 13th day of April, 2011, and second and final reading on this ____ day of _____, 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Susan A. Owens, Town Clerk

Richard M. Kleid, Town Council Member

Michael J Pucillo, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 3-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010 With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 7.3 As It Addresses Rebuilding Structures Located Seaward Of The Coastal Construction Control Line (CCCL), And Permitting Nonconforming Building And Structures To Be Rebuilt Provided Certain Conditions Are Met; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Hereof; Providing For Codification; And Providing For An Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated March 28, 2011
- Ordinance No. 3-11

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Modifications and Changes to the Nonconforming Building and Structure Regulations in the Town's Comprehensive Plan and Chapter 134, Zoning.
ORDINANCE NO. 3-11

Date: March 28, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 3-11 on first reading to transmit proposed comprehensive plan amendments to the Florida Department of Community Affairs. In addition staff recommends that the Council approve companion Ordinance No 4-11, on first reading.

PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY RECOMMENDATION

The Planning and Zoning Commission/Local Planning Agency, at its meeting of February 22, 2011, recommended by a 7-0 vote, approval of Ordinance Nos. 3-11 and 4-11 which modify the comprehensive plan and zoning code regulations for the rebuilding of nonconforming buildings and structures in the event of unintentional damage or destruction.

GENERAL INFORMATION

On November 16, 2010, the Planning and Zoning Commission, as the Local Planning Agency (LPA), considered proposed code changes that would allow all nonconforming buildings and structures to be rebuilt to the same size and on the same footprint. After public input and careful consideration, the LPA made the following recommendations:

1. Retain the existing nonconforming provisions which do not allow for voluntary demolition and reconstruction of nonconforming buildings and structures by more than 50% cubic footage.
2. Modify the nonconforming provisions to allow for the reconstruction of all nonconforming buildings and structures in their original location to their original

size and configuration if demolished by more than 50% cubic footage by a natural disaster or fire.

The Town Council, at its December 15, 2010 meeting, considered the LPA's recommendations and referred the proposal back to the LPA for further consideration. The LPA, at its January 18, 2011 meeting, reconsidered the proposal and directed staff to draft further language which would provide a time limit for which a property owner had to commence the work following destruction. In addition, the LPA recommended revised language further clarifying that involuntary destruction due to war or act of terrorism qualified for reconstruction of nonconforming buildings and structures. On February 22, 2011, the LPA by a 7-0 vote, recommended that the Town Council adopt revised Ordinance Nos. 3-11 and 4-11 which address the necessary comprehensive plan amendments and zoning text amendments for the proposed changes.

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

TOWN ATTORNEY REVIEW

Ordinance No. 3-11 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachments

PBE:jsp:pc

cc: Planning and Zoning Commission
Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building Department
Paul W. Castro, AICP, Zoning Administrator
John Lingdren, AICP, Planning Administrator
pf

ORDINANCE NO. 3-11

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010 With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 7.3 As It Addresses Rebuilding Structures Located Seaward Of The Coastal Construction Control Line (CCCL), And Permitting Nonconforming Building And Structures To Be Rebuilt Provided Certain Conditions Are Met; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Hereof; Providing For Codification; And Providing For An Effective Date.

WHEREAS, the Town proposes to amend its Comprehensive Plan in accordance with the requirements of the 1993 Local Government Comprehensive Planning and Land Development Regulation Act; and,

WHEREAS, the Town created the Town of Palm Beach Comprehensive Plan with the adoption of Ordinance No. 11-89, and last amended the Comprehensive Plan on August 11, 2010 with the adoption of Ordinance No. 3-10; and,

WHEREAS, the Town is amending the Data & Analysis and Goals, Objectives, and Policies (GOPs) portions of the Future Land Use Element of the Town's Comprehensive Plan, specifically Policy 7.3 as it relates to rebuilding nonconforming structures throughout the Town, including east of the Coastal Construction Control Line (CCCL); and,

WHEREAS, after reviewing the proposed amendments to the Town's Comprehensive Plan at their February 22, 2011 meeting, the Planning and Zoning Commission, acting as the Local Planning Agency (LPA), recommended approval and transmittal of the amendments to the Florida Department of Community Affairs (DCA); and,

WHEREAS, after reviewing the proposed amendments to the Town's Comprehensive Plan, the Town Council determined that nonconforming buildings and structures should be permitted to be rebuilt if unintentionally damaged or destroyed by an act of terrorism or war or fire or other casualty, or act of God or nature at the location and to the same size, density and intensity provided certain conditions are met.

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

Section 1. INCORPORATION OF RECITALS

The above recitals are incorporated as fully set herein.

Section 2. FINDINGS

The proposed amendments to the Data & Analysis and Goals, Objectives, and Policies (GOPs) portions of the Future Land Use Element of the Town's Comprehensive Plan, specifically Policy 7.3 as it relates to rebuilding structures (including nonconforming structures) seaward of the CCCL, as more particularly described in Section 3 below, have been determined by the Town Council to promote the public health, safety and welfare, and is consistent with the requirements of Chapter 163 Florida Statutes, Chapters 9J-5 and 9J-11 of the Florida Administrative Code, and all elements of the adopted Comprehensive Plan.

Section 3. AMENDMENT OF COMPREHENSIVE PLAN

The Data & Analysis (language below found on pages I-4 and I-19 through I-21) and the GOPs in the Future Land Use Element in the Town of Palm Beach Comprehensive Plan are hereby amended as follows (added language underlined; removed language ~~stricken~~):

There are remedial and preventative strategies that can be employed to cope with these basic problems. The three most basic land use protection strategies for Palm Beach are to:

- Discourage the amount and type of region-serving commercial development while encouraging Town-serving ones.
- Control the pace, type, and intensity of redevelopment activity in older areas of Town.
- Encourage development and redevelopment at lower density levels than existing zoning allows, except for redevelopment where maintaining previous densities and/or intensities are allowed after unintentional damage or destruction, such as by fire or other casualty, act of terrorism, war or act of God or nature (and with approval from FDEP if building east of the CCCL:).

Single-Family Uses

This is the most predominant land use in the Town. The Future Land Use Plan Map designates 1,103 acres of land for this use of which about 48 acres are vacant. The preferred locations are those with good visual qualities, buffered from annoying traffic influences with easy access to shopping and recreation.

Appropriate uses include estates, single-family homes, residential PUD's and cluster development up to a maximum density of four dwelling units per gross Palm Beach acre (40,000 square feet). Public uses and facilities, public and

private schools, group homes and foster care facilities, essential services, and private group uses and cultural uses are also permitted within this category on a limited basis.

It is estimated that another 85 single-family dwelling units can be accommodated at an average density of 1.8 units per acre. A developed single-family lot can exceed the density that is permitted by code if the density exists, and will not be increased through redevelopment. For a vacant single-family lot in existence for at least 30 years, a single-family home can be built subject to meeting all land development regulations.

Multi-Family Uses

Two multi-family categories, permitting varying densities and uses, are shown on the Future Land Use Plan. In total, the Future Land Use Plan designates about 343 acres of land for this use of which about 8 acres are vacant. Some of these lands are undevelopable, or have been committed to open space associated with other residential units, and most cannot be developed at maximum allowable density due to limited parcel sizes. Consequently, it is estimated that these vacant lands can accommodate about 35 additional multi-family units.

The preferred locations are adjacent to high accessibility corridors; areas with good visual qualities; near commercial centers, and recreation and open space areas to offset effects of higher density.

Multi-Family Moderate Density: Appropriate uses include single-family and two-family homes, townhouses, multi-family units, and residential and mixed-use PUD's up to a maximum density of six dwelling units per gross Palm Beach acre (40,000 square feet); public uses and facilities; public and private schools; private group uses; group homes and foster care facilities; and essential services. The Plan designates about 117 acres of land for this use.

Multi-Family High Density: Appropriate uses include single-family and two-family homes, townhouses, multi-family units, and residential and mixed use PUD's up to a maximum density of thirteen dwelling units per gross Palm Beach acre (40,000 square feet). Hotels up to 26 units/gross Palm Beach acre along with associated accessory commercial uses and time-sharing uses up to 9 units/gross Palm Beach acre may be appropriate under carefully controlled conditions. Other appropriate uses include public uses and facilities, public and private schools, private group uses, group homes and foster care facilities, and essential services. The Plan designates about 226 acres of land for this use.

Nonconforming buildings or structures unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature may exceed what is permitted in this land use category and the land development regulations if rebuilt at the same density and/or intensity, on the same footprint and to the same size and configuration as those nonconforming buildings or structures being replaced. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

Commercial Uses

While only one commercial category is specifically identified on the Future Land Use Plan Map, the Town provides for commercial uses at varying intensities under different zoning categories. The Plan designates about 93 acres for commercial uses, of which only about one-half acre remains vacant. Appropriate uses include a wide range of commercial retail, service, professional and business uses largely intended to serve Town persons; hotels, motels and time-sharing uses; public uses and facilities; public and private schools; private group uses; and residential uses located above the ground floor. Nonconforming buildings or structures unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature may exceed what is permitted in this land use category and the land development regulations if rebuilt at the same density and/or intensity, on the same footprint and to the same size and configuration as those nonconforming buildings or structures being replaced. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

Public Uses

The Plan designates approximately four acres of land for this use. Appropriate uses include public schools, low intensity public facilities at a scale and intensity necessary to primarily serve the needs of Town persons, and owned, operated, franchised, or supervised by a governmental agency. The designation of a property for Public Use on the Future Land Use Plan Map recognizes the current use of the property; and, further, that such properties may also be appropriate for residential or commercial development. The Zoning Ordinance is the tool which indicates those uses which are specifically allowed. Nonconforming buildings or structures unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature may exceed what is permitted in this land use category and the land development regulations if rebuilt at the same density and/or intensity, on the same footprint and to the same

size and configuration as those nonconforming buildings or structures being replaced. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

Recreation Uses

The Plan designates approximately 106 acres of land for this use. This category is intended for low intensity public recreational uses or activities at a scale and intensity necessary to primarily serve the needs of Town persons, and to preserve the natural and scenic resources of the Town. Only public facilities, owned, operated, franchised or supervised by a public governmental entity, are given this designation. Nonconforming buildings or structures unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature may exceed what is permitted in this land use category and the land development regulations if rebuilt at the same density and/or intensity, on the same footprint and to the same size and configuration as those nonconforming buildings or structures being replaced. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

Private Group Uses

The Plan designates approximately 219 acres of land for this use. Appropriate uses include low intensity private clubs, golf and country clubs, houses of worship, museums and non-commercial recreation-type or cultural uses at a scale and intensity intended to primarily serve the needs of Town persons. The designation of a property for Private Group Use on the Future Land Use Plan Map recognizes the current use of the property; and, further, indicates that such properties may also be appropriate for residential or commercial development. The Zoning Ordinance is the tool which indicates those uses which are specifically allowed or prohibited. Nonconforming buildings or structures unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature may exceed what is permitted in this land use category and the land development regulations if rebuilt at the same density and/or intensity, on the same footprint and to the same size and configuration as those nonconforming buildings or structures being replaced. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

Approved PUD

This category represents Planned Unit Developments that have been approved by the Town Council. The Plan designates approximately 168 acres of land for this use. Only the Breaker's PUD contains remaining development potential. If built to maximum density, this PUD could hold another 251 multi-family units and some commercial development. Densities in new PUD's shall be limited to the maximum density allowable in the land use category and zoning district in which they are located prior to their approval, but shall not exceed thirteen units per acre. Nonconforming buildings or structures unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature may exceed what is permitted in this land use category and the land development regulations if rebuilt at the same density and/or intensity, on the same footprint and to the same size and configuration as those nonconforming buildings or structures being replaced. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

Conservation

This category is intended primarily for the spoil islands in Lake Worth and submerged lands located within the Town's boundary and located west of the MHWL in Lake Worth and which comprise about 39 acres. An additional 3-acre conservation parcel is located south of Southern Boulevard in the Blossom Estate subdivision. Both areas are unique, and will be preserved and protected from development and the negative impacts of public use.

Maps I-1 through I-7, comprising the Town's Future Land Use Map Series, provide mapping of future land use, recreation areas and their general service areas, historic sites and districts, beaches and shores, wetlands and estuarine areas, flood plains, and soils, follow. There are no existing or planned waterwells, cones of influence, rivers, bays, fresh water lakes, harbors, or economic mineral deposits in the Town of Palm Beach.

POLICY 7.3

The Town shall continue to ~~require that:~~ allow a D designated landmark structures, single-family dwellings, two-family, townhouse, multi-family, commercial, and public structures or public/private group uses located seaward of the CCCL, which suffer unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature in excess of 50%, may to be rebuilt in their existing locations, at the same density and/or intensity.

on the same footprint and to the same size and configuration as those nonconforming buildings or structures being replaced provided FDEP standards are met when building east of the CCCL. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

- ~~b. Two family, townhouse and multi family structures located seaward of the CCCL, which suffer damage in excess of 50% may be rebuilt seaward of the CCCL provided FDEP standards and all land development regulations of the Town, including current density limitations, are met.~~

Section 4. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance for any reason, is held to be unconstitutional, void or otherwise invalid, the validity of the remaining portions of this Ordinance shall not be effected thereby.

Section 5. EFFECTIVE DATE

The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administrative Commission finding the amendment in compliance in accordance with Chapter 163.3187(3)(C), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 13th day of April, 2011, and for second and final reading on this _____ day of _____ 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, Town Clerk

Michael Pucillo, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 4-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Sections 134-419 And 134-420 By Amending The Provisions To Clarify The Regulations For Raising A Nonconforming Building To Meet The Minimum Flood Elevation Requirements And Allow A Nonconforming Building Or Structure To Be Rebuilt Within A Defined Time Limit If Unintentionally Damaged Or Destroyed By Act of Terrorism Or War, Or By Fire Or Act Of God Or Nature; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated March 28, 2011
- Ordinance No. 4-11

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Modifications and Changes to the Nonconforming Building and Structure Regulations in the Town's Comprehensive Plan and Chapter 134, Zoning.
ORDINANCE NO. 4-11

Date: March 28, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 4-11 on first reading to transmit proposed comprehensive plan amendments to the Florida Department of Community Affairs. In addition staff recommends that the Council approve companion Ordinance No. 3-11, on first reading.

PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY RECOMMENDATION

The Planning and Zoning Commission/Local Planning Agency, at its meeting of February 22, 2011, recommended by a 7-0 vote, approval of Ordinance Nos. 3-11 and 4-11 which modify the comprehensive plan and zoning code regulations for the rebuilding of nonconforming buildings and structures in the event of unintentional damage or destruction.

GENERAL INFORMATION

On November 16, 2010, the Planning and Zoning Commission, as the Local Planning Agency (LPA), considered proposed code changes that would allow all nonconforming buildings and structures to be rebuilt to the same size and on the same footprint. After public input and careful consideration, the LPA made the following recommendations:

1. Retain the existing nonconforming provisions which do not allow for voluntary demolition and reconstruction of nonconforming buildings and structures by more than 50% cubic footage.
2. Modify the nonconforming provisions to allow for the reconstruction of all nonconforming buildings and structures in their original location to their original

size and configuration if demolished by more than 50% cubic footage by a natural disaster or fire.

The Town Council, at its December 15, 2010 meeting, considered the LPA's recommendations and referred the proposal back to the LPA for further consideration. The LPA, at its January 18, 2011 meeting, reconsidered the proposal and directed staff to draft further language which would provide a time limit for which a property owner had to commence the work following destruction. In addition, the LPA recommended revised language further clarifying that involuntary destruction due to war or act of terrorism qualified for reconstruction of nonconforming buildings and structures. On February 22, 2011, the LPA by a 7-0 vote, recommended that the Town Council adopt revised Ordinance Nos. 3-11 and 4-11 which address the necessary comprehensive plan amendments and zoning text amendments for the proposed changes.

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

TOWN ATTORNEY REVIEW

Ordinance No. 4-11 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachments

PBE:jsp:pc

cc: Planning and Zoning Commission
Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building Department
Paul W. Castro, AICP, Zoning Administrator
John Lingdren, AICP, Planning Administrator
pf

ORDINANCE NO. 4-11

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Sections 134-419 And 134-420 By Amending The Provisions To Clarify The Regulations For Raising A Nonconforming Building To Meet The Minimum Flood Elevation Requirements And Allow A Nonconforming Building Or Structure To Be Rebuilt Within A Defined Time Limit If Unintentionally Damaged Or Destroyed By Act of Terrorism Or War, Or By Fire Or Act Of God Or Nature; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

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

WHEREAS, after considering the Staff Report, the Local Planning Agency and the Town Council have determined that nonconforming buildings and structures should be allowed to be rebuilt to the same size, location and density or intensity if damaged or destroyed by an act of nature or fire;

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

Section 1. Amend Article IV, NONCONFORMITIES, Sec. 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 Sec. 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 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 a pitched roof, and top of the ceiling and parapet for a flat roof does not get 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; ~~and~~.
 - d. That any new additions meeting existing lot, yard and bulk regulations.

Section 3. Amend Article IV, NONCONFORMITIES, Sec. 134-420, Destruction or partial destruction, to read as follows:

Sec. 134-420. Unintentional damage or Destruction or partial destruction.

(a) Any nonconforming building or structure which is unintentionally damaged or destroyed, such as by an act of terrorism or war or fire or other casualty, or act of God or nature, to the extent that 50 percent or less, as determined by cubic footage prior to its destruction, can be reconstructed in its original location to its original size and configuration provided that the property owner of said building or structure (i) commences with reasonable promptness following such damage or destruction to obtain the necessary permits and approvals for such reconstruction and thereafter continues with reasonable diligence to obtain such permits and approvals and (ii) begins construction within five years of said unintentional damage or destruction and provided further that for residential use, the property does not exceed the existing density and for commercial use it does not exceed the existing or allowed intensity and/or density by Code.. the following conditions are met. In addition, if said building or structure did not meet the town's

minimum flood elevation requirements, the rebuilt building or structure ~~can~~ shall be raised to meet said requirements if required by law.

- ~~(1) The structure met the minimum flood elevation requirements prior to such destruction; or~~
- ~~(2) If said structure did not meet the minimum flood elevation requirements prior to such destruction, and said reconstruction exceeds 50 percent of the market value which results in a FEMA requirement that the structure be raised, said structure can be raised to meet the minimum flood elevation.~~

~~(b) A nonconforming structure which is destroyed by fire or act of nature, to the extent of more than 50 percent, as determined by cubic footage prior to its destruction, shall be rebuilt only as a conforming structure except:~~

~~(1) A nonconforming designated landmark, single family dwelling, public structure or public/private group use structure which is entirely west of the coastal construction control line can be reconstructed in its original size and configuration. If said structure did not meet the town's minimum flood elevation requirements, the rebuilt structure can be raised to meet said requirements.~~

~~(2) Any designated landmark, single family dwelling, public structure or public/private group use that~~ (b) If a nonconforming building or structure is located partially or entirely east of the coastal construction control line, said building or structure may be rebuilt to the maximum extent possible in its original location to its original location, size and configuration, density and/or intensity provided it meets all state and federal requirements for a buildings and/or structures located east of the coastal construction control line.

Section 4. 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 5. 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 6. Codification.

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

Section 7. 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 13th day of April, 2011, and for second and final reading on this ____ day of _____ 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Susan A. Owens, Town Clerk

Richard M. Kleid, Town Council Member

Michael J. Pucillo, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

Time Extensions

Agenda Title

Request for Waiver of Section 42-199, Hours of Construction Work, at 120 Sunset Avenue (Leverett House) (Per Letter Dated March 24, 2011, from Jay Denger).

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated March 29, 2011, from John Page
- Letter dated March 24, 2011, from Jay Denger
- Leverett House Transfer Switch Installation Schedule

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Waiver of Town Ordinance- Section 42-199, Hours for construction work
120 Sunset Avenue

Date: March 29, 2011

STAFF RECOMMENDATION

Staff recommends that electrical work be allowed to be performed as requested at the Leveritt House. Staff believes the proposed work will cause minimal disturbance to residents or the surrounding properties. If Town Council decides to approve this waiver the following conditions are recommended:

- All contractor parking and material staging must be on the subject property.
- No machinery or equipment will be operated outside of the building during the hours requested in this waiver.

GENERAL INFORMATION

The Leveritt House, a condominium, submitted a letter on March 24, 2011 requesting a waiver of construction hours as allowed by Town Code 42-199. The work scheduled is to replace the electrical emergency transfer switches in both buildings. The transfer switch automatically shifts the power source from the FPL distribution system to the emergency generators in the event of a power failure. The Leveritt House wishes to complete this work prior to the start of hurricane season.

Once started, the work must be completed before power can be restored to the building. It is necessary to begin the work at 2:00 A.M. to allow Florida Power and Light to perform a necessary two hour shut down to allow the electrical service conductors to be transferred to the new equipment. This schedule will prevent an extended shut-down of electrical power.

attachments

JP/jlt

cc: Jeff Taylor, Building Official
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Robert Walton, Lead Code Enforcement Officer

LEVERETT HOUSE

March 24, 2011

Town of Palm Beach
Attn: Jeff Taylor, Building Official
360 South County Road
Palm Beach, FL 33480

Re: Leverett House Condominium

Dear Mr. Taylor,

Leverett House Condominium Association and Lightning Electric, contractor, are requesting a waiver of the Town Ordinance 42-199, Hours of Construction, to install Emergency Electrical Transfer Switches within our two buildings located at 110 & 120 Sunset Avenue in Palm Beach. The requested hours outside the permitted hours are 2:00 A.M. to 8:00 A.M.

Attached is a site plan showing the location of the work, first in the east building scheduled for May 3, 2011 and then on a different day in the month of May in the west building. Please note that the work during these hours takes place inside the building on the ground floor in the meter room. No machinery or equipment will be run outside the building during these hours.

Also attached is a construction typical schedule for each of the two days.

The work, once started, must be completed so as not to leave Life Safety (hallway lighting, stairway lighting, and fire alarm) down over night. This work is estimated to take 12 – 14 hours each day including FPL completely shutting power down to the building to connect the new services for approximately 2 hours (2:00 p.m. until 4:00 p.m.) The 2:00 A.M. start time is necessary in order to allow for the 2 hours shut-down by FPL to occur in the daylight hours and before the ordinance deadline for work in the afternoon.

Sincerely,



Jay Denger, Association Manager

Encl: Site Plan East & West Meter Rooms
Construction Schedule by Lightning Electric

120 Sunset Avenue, Palm Beach, Florida 33480 Telephone (561) 655-6472 Fax (561) 655-9330

LEVERETT HOUSE

TRANSFER SWITCH INSTALLATION SCHEDULE

This narrative is to outline our plan to finish the installation of the transfer switches. All of the work that can be done without any power outages (FPL shutdowns) has been done. Our updated plan follows:

East Tower

Early start time 2:00 am

5-03-2011

FPL Standby 11:00 am until completion

- Check rotation
- Turn off 400 amp disconnect "ED" for approximately 20-30 minutes, this will shut down elevators, hallway and stairwell lighting. There will be a small generator available onsite for any emergency that might occur during the 20-30 minutes, note the fire alarm panel has 90 minute battery backup.
- Install temporary jumpers from "EB" to panel "EDE"
- Re-energize panel "EDE" (this turns power back on to the elevators, hallway and stairwell lighting)
- Remove existing ATS
- Install lower gutter capturing the generator feeder "EZ"
- Extend conduit for generator start signal thru lower gutter
- Stub 3" conduit up from lower gutter
- Install new ATS "EB"
- Stub two 3" and one 1-1/4" conduit down from upper gutter (already installed) into new ATS "EB"
- Pull wire from "MHD" to "EB"
- Pull wire from "EDE" to "EB"
- Pull wire from "EA" to "EB" (this wire in upper gutter)
- Pull wire from "EB" to j-box for FPL (do not push wire into vault)
- Extend and pull wire "EZ" from lower gutter to "EB"
- Terminate all conductors in "EB" and torque lugs to 95% for inspection
- Splice "EZ" in lower gutter
- With FPL on site and in vault, push feeder for "EB" into vault
- Town of P. B. inspection (complete torquing of lugs for inspector) this is estimated to occur around 1:00 pm

- After the inspection has passed, FPL will shut down power to the entire east building and remove the existing feeders from "ED" and "MHD" then connect the new feeders from "EB" and "EC"(FPL has estimated this will take approximately 2 hours)
- During the building shut down a small generator will be used to supply power to panel "E" this will power the hallway lighting, stairwell lighting and fire alarm panel
- Also during the shut down, remove the temporary jumpers, terminate the new feeders in "EDE" and "MHD" then remove "ED"
- FPL re-energizes building
- Check for correct rotation
- Energize "MHD" and "EDE"
- Remove generator feeding "E" and terminate new feed from "EA" and re-energize "E" (approximately 15 minutes panel "E" will be shut down)

Crew Size 4-5 men

Duration approx. 12-14 hours

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

New Business - < 15 Minutes

Agenda Title

SITE PLAN REVIEW #6-2011 WITH SPECIAL EXCEPTION AND

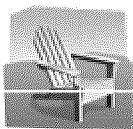
VARIANCESThe application of Little Broad Beach Partners; relative to property commonly known as **95 North County Road**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a modification to the Site Plan and two Special Exception approval requests to convert the existing post office building located at 95 North County Road into an office building which will result in a second floor interior addition and will expand the current gross square footage from 10,656 square feet (5,651 gross leasable square feet) to 14,495 gross square footage (11,255 gross leasable square feet). The Special Exception requests are to expand the second floor area and to have an office which exceeds 2,000 square feet. Since the proposed office is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is town serving. The site plan will be modified by eliminating the access driveway on the east side of the property and relocating it to the south side of the property and will also change the parking configuration. A Variance is requested to allow an office use on the first floor in the C-TS Zoning District which does not meet all of the conditions of subsection (18). The variance is to allow a first floor office use which does not meet the requirement that more than 50% of the existing first floor tenant spaces within 300 feet in the same zoning district are required to be office uses. Variances are also requested from the requirement to provide seventeen (17) additional off-street parking spaces above the amount calculated by the principal of equivalency zoning requirement to convert a 5,651 square foot post office to a 11,255 square foot office building in the C-TS Zoning District and to not provide a loading berth as required in Section 134-2211 of the Zoning Code. [Attorney: Maura A. Ziska]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- E-mail dated April 5, 2011, from Marion Gorelick



Pw: Palm Beach Post Office Application #6--2011 Zoning

04/05/2011 02:43 PM

----- Forwarded

From: "Maura Ziska" <MZiska@floridawills.com>
To: <CKleen@Townofpalmbeach.com>
Date: 04/05/2011 02:32 PM
Subject: FW: Palm Beach Post Office Application #6--2011 Zoning

Please include this in the back up for the Post Office project. Thank you. 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)

This electronic message transmission contains information from the law firm of Kochman & Ziska PLC which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited.

From: mariongorelick@gmail.com [mailto:mariongorelick@gmail.com] **On Behalf Of** Marion Gorelick
Sent: Tuesday, April 05, 2011 2:30 PM
To: Maura Ziska
Subject: Palm Beach Post Office Application #6--2011 Zoning

Dear Maura Ziska Esq.

RE : #6-2011 with Special Exception and Variances.

I am the resident owner of 173 Main Street, which is directly north of the PB Post Office. As one of the persons most affected by the proposal. **I endorse it wholeheartedly and urge your approval of it.**

The conversion of the existing post office into an office building will be a positive improvement to the neighborhood. I have lived across the street for over 20 years. The facility has been a beehive of activity from 4:30 am when the initial mail delivery is brought by a huge commercial truck, to the rear of building. Very loud back up beeps lasts until all mail is unloaded. sleep is almost imposable. As late as midnight, on many occasion fleets of mail delivery trucks are washed, fueled and serviced with high powered pressure hoses.

During the day each mail truck must start its engines and blow its horn, to make sure it works. There is a constant flow of vehicular and pedestrian traffic in and out of the building.

It is obvious that the elimination of these noises from large delivery trucks, and commercial loading dock, and traffic will result in a more tranquil environment for all concerned.

I urge the town council to approve the application, for the better of Palm Beach and Main Street.

Please send this letter to the Town Council.

Sincerely ,

Marion Gorelick
173 Main Street
Palm Beach Fl. 33480
561-832-1238

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

Development Review - Other

Agenda Title

Consideration of Conditions of Approval for Buccan Restaurant,
Special Exception 17-2010, 350 South County Road

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated March 28, 2011

TOWN OF PALM BEACH

Information for Town Council Meeting on: April 13, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Consideration of Conditions of Approval for Buccan Restaurant,
Special Exception #17-2010, 350 South County Road

Date: March 28, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council modify Condition No. 2 below related to the restaurant loading zone and reaffirm all previous conditions of approval as detailed in this memorandum. The proposed modification is as follows:

- Relocate the loading zone on the 200 block of Australian Avenue further east and modify Condition 2 (as identified below) by relocating the required loading zone area for the restaurant from the Palm Beach Gallery Building (aka Bustani) parking lot to the relocated loading zone.

GENERAL INFORMATION

On October 13, 2010, the Town Council conditionally approved the subject zoning application to allow a new restaurant (Buccan) to operate at 350 South County Road. As a condition of approval, the applicant was required to come back to the Town Council six months later to ensure compliance with all conditions. The following are conditions of approval which relate to the operation of the restaurant and their status:

1. The storage and pickup of the restaurant's trash and recyclables shall be in the southeast corner of the Chilean Avenue end of the adjacent Bustani Building Parking Lot.

The applicant is in compliance with this condition.

2. All restaurant deliveries shall be made from the Bustani Building Parking Lot. The building's rear alley shall not be used or accessed by trucks or vehicles for restaurant deliveries. No deliveries shall be made after 7:00 p.m. or before 8:00 a.m.

The applicant has been complying with this condition, however, there have been complaints from the tenants in the building. Deliveries are required not to begin until after 8:00 a.m. This is at a time when most of the other commercial tenants in the building are coming to work and trying to park in the Bustani Building lot. This conflict has created parking problems. Staff recommends that the loading zoning on Australian be moved further east. This will alleviate the parking problems for the tenants and allow unloading for the restaurant

closer to the door. In addition, the movement of the loading zone further east will mitigate impacts to the residential properties to the west.

3. The hours of operation are Monday through Saturday: Lunch 11:30 a.m. to 2:30 p.m. and dinner menu thereafter until 10:00 p.m., Sunday Brunch will be 9:00 a.m. to 3:00 p.m. and dinner menu thereafter until 10:00 p.m. The restaurant will close by midnight Sunday through Thursday and no later than 1:00 a.m. Friday and Saturday nights.

To our knowledge the applicant is in compliance with this condition. The restaurant is currently not open for lunch.

4. The restaurant employees are not permitted to utilize street parking spaces or the adjacent Palm Beach Gallery Building (aka Bustani) Parking Lot.

To our knowledge the applicant is in compliance with this condition.

5. Except as provided in #2 above or in the event of an emergency, no garbage may be placed in or transported through the alley until 8:00 a.m. the next morning. After 10:00 p.m., garbage may be taken to the southeast corner of the Chilean Avenue end of the Bustani Parking Lot via South County Road and Chilean Avenue, but not through the Parking Lot. After 5:00 p.m. all glass, and after 10:00 p.m. all linens, shall be stored inside the building until 8:00 a.m. the next morning.

To our knowledge the applicant is in compliance with this condition.

6. Proof of a maintenance contract providing at least biweekly comprehensive exhaust system cleaning of the roof top exhaust and chimney shall be submitted to the Town on an annual basis. The frequency can be increased if the Director of Planning, Zoning and Building determines that such increase is necessary to maintain the equipment in proper working order.

The applicant shall be required to provide said documentation at the time of renewal of the business tax receipt in October.

7. Except as provided in #2 above or in the event of an emergency, the rear alley and door at the back of the restaurant shall not be utilized by the restaurant between 8:00 p.m. and 8:00 a.m. After 8:00 p.m., employees entering and exiting the restaurant shall not utilize the rear alley door, but may use the front entrance on South County Road. The employees may also use the side door on Australian Avenue and proceed east to South County Road, but in no event may they use the rear alley for ingress or egress after 8:00 p.m.

To our knowledge the applicant is in compliance with this condition.

8. The applicant shall obtain a valet parking permit from the Police Department. The restaurant's valet service shall not use the Apollo Parking Lot. In addition, the valet service shall move the passenger loading and unloading area as far south of the front door as possible.

The applicant is complying with this condition, however, the restaurant has been very busy, generating a large volume of traffic. The neighbors have complained. The parking along the 200 block of Australian and Chilian Avenues has been filling up at night leaving little permit parking for the residents in these areas. The valet operator has been in contact with the Town trying to resolve this problem. The Town is attempting to help alleviate some of the parking pressure by opening up all of the Town official parking spaces on Chilean between 6:00 p.m. and 8:00 a.m. and all but two of the official parking spaces on the west side of Town Hall during that same time.

The applicant is in compliance with all conditions at this time. However, staff recommends that the Town Council modify Condition #2 as identified above and reaffirm all previously enacted provisions of operation as detailed in this memorandum. If you have any questions about this issue please contact Paul Castro, Zoning Administrator at 227-6406.

cc: Thomas Bradford, Deputy Town Manager
Veronica B. Close, Asst. Director, Planning, Zoning & Building
Susan A. Owens, Town Clerk
Jeff Taylor, Building Official
Kirk Blouin, Captain, Police Department
zf & pf