



TOWN OF PALM BEACH

TOWN MANAGER'S OFFICE

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

MARCH 21, 2018

9:30 AM

Town Council Meeting

Welcome!

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

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
Julie Araskog
Lew Crampton
Bobbie Lindsay
Danielle H. Moore
Margaret A. Zeidman

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VI. APPROVAL OF AGENDA

VII. PUBLIC HEARINGS

- A. RESOLUTION NO. 23-2018 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 137 Seaspray 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 No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach. Page 12

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeal Page 39
446 North Lake Way
Case # 054-2017
Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 4, 2018 from James Green

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. SITE PLAN REVIEW #1-2017 The application of 235 Via V PB Page 54 LLC (Stuart Kapp, Manager); relative to property commonly known as **235 Via Vizcaya.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 7,444 square foot two-story, single family residence on a non-conforming platted lot which is 15,344 square feet in area in lieu of the 20,000 square foot minimum area required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58 feet in depth in lieu of the 150 foot minimum required. [Attorney: Frank Lynch, Esq.] [The Architectural Commission deferred the project for one month to the March 28, 2018 meeting. Carried 7-0] **Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 14, 2018 from Francis Lynch**
- b. VARIANCE #21-2017 The application of Vera Alfieri Monforte; Page 56 relative to property commonly known as **218 Miraflores Dr.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to construct a 1,230 square foot second story addition on the west side of the one story residence that will create two bedrooms, a gym and two bathrooms. The following variances are being requested: 1) lot coverage of 33.7% in lieu of the 30% maximum allowed for a two

story residence, 2) a west side yard setback of 13 feet in lieu of the 15 foot minimum required, 3) a rear yard setback of 13.91 feet in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the February 28, 2018 meeting. Carried 6-1.]

- c. **Z-17-00034 SITE PLAN REVIEW** Zoning District: R B Low Density Residential. The application of SHULMAN ALAN L, Owner, relative to property located at **377 N LAKE WAY**, legal description on file, is described below. Site Plan Review to allow the construction of a 7,465 square foot two story, single family residence on a non conforming platted lot which is 89.11 feet in width in lieu of the 100 foot minimum width required in the R B Zoning District. [Applicant's Representative Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed site plan review will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the February 28, 2018 meeting. Carried 7-0.]

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- d. **Z-17-00042 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: R-A Estate Residential. The application of OCEAN VILLA HOLDINGS LLC, Owner, relative to property located at **1700 S OCEAN BLVD**, legal description on file, is described below. Site Plan Review to allow construction of a new 8,917 square foot two-story residence on a non-conforming platted lot which is 15,005 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District and 100 feet in depth in lieu of the 150 foot minimum depth required in the R-A Zoning District. The following variance is being requested in conjunction with this application: 1) A request to have a building height plane setback of 53 feet in lieu of the 59 foot minimum setback required. 2) A request to allow the existing 3-4 foot wall to remain as screening for the proposed swimming pool in lieu of the 6 foot minimum height required when a swimming pool is located in the street side yard. 3) A request to eliminate the requirement to have a 6 foot tall hedge on the outside of the required wall. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission deferred the project to the March 28, 2018 meeting. Carried 7-0.] **Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 13, 2018 from Maura Ziska**

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- e. **Z-17-00052 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: RB Low Density Residential The application of CARLSON GUSTAV TRUST &, Owner, relative to property located at **280 ORANGE GROVE RD**, legal description on file, is described below. 1) Site Plan Review to allow the renovation of an

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existing one story residence by demolishing more than 50% cubic footage and raising the finished floor elevation of the house to 7.5 NGVD on a lot with a width of 75 feet in lieu of the 100 foot minimum required In the R-B Zoning District and an area of 8,156.25 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. 2) A variance is being requested to allow the construction of a 116 square foot one story addition for a bathroom/bedroom that is proposed to have a 5.4 foot west side yard setback in lieu of the 12.5 foot minimum setback required for a one story structure. 3) A variance is being requested to allow the existing residence to remain non-conforming with no garage provided. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed site plan review with variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the February 28, 2018 meeting Carried 7-0.]

- f. **Z-17-00058 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of GILBERT MARK D &, Owner, relative to property located at **323 CHILEAN AVE**, legal description on file, is described below. 1) A variance request to allow construction of a new 5,393.45 square foot, two story single family residence on a parcel that is 9,375 square feet in area in lieu of the 10,000 square foot minimum required in the R-C Zoning District. The proposal is to replicate the previously approved renovation of the landmarked residence. The Town Council and Landmarks Preservation Commission approved the project in January 2017. 2) A variance request to allow a 7.28 foot west side yard setback in lieu of the 10 foot minimum required in the R-C Zoning District for the new two (2) car garage. [Applicant's Representative: Maura Ziska Esq] [Landmark Preservation Commission Recommendation: Implementation of the proposed special exception, site plan review and variances will not cause negative architectural impact to the subject landmarked property. Carried 4-3. The Landmarks Commission deferred this project to the April 18, 2018 meeting to allow staff to obtain a peer review of the structural engineering report submitted by the applicant. Carried 7-0.]

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- g. **Z-17-00059 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-B Low Density Residential The application of REGALBUTO JASON, Owner, relative to property located at **160 SEABREEZE AVE**, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a new 3,629.46 square foot two story single family residence on a lot that is 62.5 feet in width in lieu of the 100 foot minimum required and 7,656.25 square feet in area in lieu of the 10,000 square foot

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minimum required in the R-B Zoning District. The applicant is also planning to enclose an existing staircase in the guest house garage located in the rear of the property. The following variances are being requested in conjunction with this application: 1) a cubic content ratio ("CCR") of 5.74 in lieu of the 4.235 maximum allowed in the R-B Zoning District for a lot that is 7,656.25 feet in area. 2) a lot coverage of 32.41 % in lieu of the 30 % maximum allowed in the R-B Zoning District for a two story residence. 3) on east side yard setback of 6.2 feet in lieu of the 15 foot minimum required for a two story residence. 4) a west side yard setback of 11.5 feet in lieu of the 15 foot minimum required for a two story residence. 5) an east side yard setback of 7.5 feet in lieu of the 12.5 minimum required for the one-story covered terrace. 6) a landscaped open space of 42.6% in lieu of the 45% minimum required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed special exception, site plan review and variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the architectural portion of the project at the January 24, 2018 meeting. Carried 5-2. The Architectural Commission conditionally approved the landscape portion of the project at the January 24, 2018 meeting. Carried 7-0. All approval conditions are related to the architecture and landscape only.]

- h. **Z-17-00060 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: C-OPI Office, Professional and Institutional The application of JHD ASSOCIATES LLC, Owner, relative to property located at **230 ROYAL PALM WAY SUITE: SITE**, legal description on file, is described below. *PLEASE NOTE: THIS PROJECT ENCOMPASSES 230 AND 240 ROYAL PALM WAY* 1) Site Plan Review to allow the construction of three (3) carport awnings totaling 6,359 square feet to provide covered parking for 38 parking spaces in the existing parking lot behind the building. The following variances are being requested to allow construction of the awnings: a) lot coverage of 40.2% in lieu of the 24.3% existing and the 25% maximum allowed in the C-OPI Zoning District. b) rear yard setback of 5.17 feet in lieu of the 10 foot minimum required In the C-OPI Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances and site plan review will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project as amended at the February 28, 2018 meeting, with the awnings on the west and south perimeter spaces only. Carried 7-0.]

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- i. **Z-17-00063 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of ROSS CAROLYN H EST, Owner, relative to

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property located at **201 SANFORD AVE**, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a 4,699 square foot two-story, single family residence on a portion of a platted lot which is 98.47 feet in width in lieu of the 100 foot minimum required In the R-B Zoning District. [Applicant's Representative: Maura Ziska, Esq] [The Architectural Commission approved this project at the February 28, 2018 meeting. Carried 7-0.]

j. **Z-17-00054 SPECIAL EXCEPTION WITH SITE PLAN** Page 79

REVIEW AND VARIANCE Zoning District: C-TS Town-Serving Commercial The application of VIA 313 1/2 WORTH AVENUE LTD, Owner, relative to property located at **313 1/2 WORTH AVE SUITE: B 3**, legal description on file, is described below. 1) Special Exception with Site Plan Review is being requested to modify a previous approval (which granted Bice Ristorante 46 outdoor seats) to increase the number of outdoor seats from 46 to 82 (an additional 36 seats) for the seasonal months of November through April only. 2) A variance is being requested to provide zero (0) on-site parking spaces in lieu of the required 12 parking spaces that would be required for the additional 36 seats. [Applicant's Representative: Maura Ziska Esq]
Consideration of Proposed Declaration of Use Agreement

k. **MODIFIED Z-17-00066 SITE PLAN REVIEW** Zoning Page 95

District: C-TS Town-Serving Commercial The application of VIA 313 1/2 WORTH AVENUE LTD, Owner, relative to property located at **313 1/2 WORTH AVE SUITE: SITE**, legal description on file, is described below. 1. Request for special exception approval to allow a two (2) story trellis. 2. Request site plan review to modify the Via Bice as follows: a. New mosaic pavers in the Via; b. New 2,240 square foot 2 story trellis with retractable awning above; c. New landscaping and lighting; d. New stone entry with awning on Peruvian Avenue; e. Removal of existing canvas awnings f. New 37.5 square foot addition to existing bay window.[Applicant's Representative: Maura Ziska Esq] [The Architectural Commission generally thought the redesign was a positive step forward in the right direction. Some of the topics debated by the Commissioners were the following: 1) Whether the front facing façade was too modern, 2) Whether the pergolas took away from the Via, 3) Whether the tile pattern on the floor was the correct design, 4) Whether the retractable awnings were appropriate, 5) The height of the pergolas. They all agreed that accessibility at the entrance was necessary.

2. New Business

a. **Z-18-00067 VARIANCE(S)** Zoning District: R C Medium Density Residential Page 99

The application of SADECA REALTY LLC, Owner, relative to property located at **138 ROOT TRL SUITE: SITE**, legal description on file, is described below. Request a variance to allow a seventeen (17) foot wide sliding driveway gate with a 2.58 foot setback from the edge of pavement in lieu of the 18 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Landmark Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property. Carried 7-0]

- b. **Z-18-00068 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: R B Low Density Residential The application of 1280 NORTH LAKE WAY LLC, Owner, relative to property located at **1280 N LAKE WAY**, legal description on file, is described below. 1. Site Plan Review to allow the construction of a 7,431 square foot two story, single family residence on a non conforming platted lot which is 87.95 feet in width in lieu of the 100 foot minimum width required in the R B Zoning District. 2. A variance request to allow the two story residence with a point of measurement of 8.5 feet North American Vertical Datum ("NAVD") for cubic content ratio ("CCR") in lieu of the 7.4 foot NAVD required when determining cubic content ratio on lots abutting the Lake Trail. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission deferred this project for one month to the March 28, 2018 meeting for restudy. Carried 7-0.] **Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 13, 2018 from Maura Ziska** Page 102
- c. **Z-18-00069 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: R-D(2) High Density Residential The application of ALBERT ULF L, Owner, relative to property located at **425 WORTH AVE SUITE: PH C**, legal description on file, is described below. A site plan modification request with variances to allow a 58 square foot addition to the laundry room and a 815 square foot trellis addition on the penthouse level of an existing six story building in the R D(2) Zoning District. The following variances are being requested to allow the additions: 1. allow a building height for the additions to be 58.5 feet (to match existing) in lieu of the 35 foot maximum allowed. 2. allow the additions to the existing 6th floor penthouse in lieu of the 3 story maximum allowed. 3. allow a front yard setback of 60.0' for the addition on the north side in lieu of the 117 foot minimum required (height of existing building x number of street yards). 4. allow a front yard setback of 22.7' for the trellis on the south stde in lieu of the 126.5' minimum required (height of existing building x number of street yards). 5. allow a side yard setback of 46.5' for the trellis in lieu of the 58.5 foot minimum required (due to height of existing building). [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural Page 104]

impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the February 28, 2018 meeting. Carried 7-0.]

- d. **Z-18-00070 SITE PLAN REVIEW** Zoning District: R D(2) High Density Residential The application of WINTHROP HOUSE COND, Owner, relative to property located at **100 WORTH AVE SUITE: SITE**, legal description on file, is described below. Request for Site Plan Review to remove and place existing planters on the 5th floor rooftop/sundeck of the condominium building. [Applicant's Representative: Maura Ziska Esq] Page 108
- e. **Z-18-00071 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: B A Beach Area The application of TRAVERSE NORMAN &, Owner, relative to property located at **1744 S OCEAN BLVD**, legal description on file, is described below. 1. Request a special exception to permit the construction of a +/- 75 foot tunnel for pedestrian access under South Ocean Boulevard to connect the house to the beach parcel on the east side of South Ocean Boulevard. The application proposes to divert traffic onto the applicant's property so there will not be a need to close the road. 2. A variance to allow the tunnel and associated stairs to have a setback of 47.25 feet from the designated Ocean Bulkhead Line established in Chapter 62 in lieu of the 150 foot minimum setback required. [Applicant's Representative: Maura Ziska Esq] **Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 13, 2018 from Maura Ziska** Page 111
- f. **Z-18-00072 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: R A Estate Residential The application of SHADOWBROOK LAND TRUST &, Owner, relative to property located at **110 VIA VIZCAYA**, legal description on file, is described below. Site Plan Review to allow the construction of a 5,084 square foot two story, single family residence on a non conforming lot which is 100 feet in width in lieu of the 125 foot minimum width required; 100 feet in depth in lieu of the 150 foot minimum required and 10,000 square feet in area in lieu of the 20,000 square foot minimum required in the R A Zoning District. The following variances are being requested in conjunction with this application: 1. A variance request to have a building height plane setback of 30 feet in lieu of the 45.81 foot setback required for a building that is 22' feet 6 5/8" inches tall. 2. A variance for lot coverage to be 28% in lieu of the 25% maximum allowed in the R A Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission deferred this project to the March 28, 2018 meeting. Carried 7-0.] **Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 13, 2018 from Maura Ziska** Page 113

- g. **Z-18-00073 SITE PLAN REVIEW** Zoning District: R B Low Density Residential The application of PALAMAD LLC, Owner, relative to property located at **305 MADDOCK WAY**, legal description on file, is described below. Section 134 843(b) An application for a Site Plan Review to construct new two story 9,141 s.f. residence, swimming pool and pool cabana on a platted non conforming lot with a lot width of 25 feet in lieu of the 100 foot minimum required in the R-B Zoning District. [Applicant's Representative: Peter Broberg] [The Landmark Commission deferred this project to the April 18, 2018 meeting to allow staff to obtain a peer review of the structural engineering report submitted by the applicant. Carried 7-0.]

IX. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 04-2018 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Definitions And Rules Of Construction, By Creating A Definition For Tow-Away Signs; At Article II, Administration, Section 134-38 By Increasing And Creating Additional Fees For Land Development Services; Section 134-145 Modifying The Hearing Procedure For Administrative Appeals; Section 134-261 Creating An Initial Review Procedure For Zoning Text Amendments; At Article IV, Nonconformities, Section 134-417, Enlargement, And 134-419, Enlargement, Extension, Reconstruction Or Alteration, By Creating A New Demolition Threshold, Including Additional Provisions For Alterations And Repairs And Clarifying Language For Raising Nonconforming Buildings And/Or Structures; At Article VI, District Regulations, Sections 134-788, 134-838 And 134-888, Accessory Uses, And Sections 134-789, 134-839 And 134-889, Prohibited Uses By Creating Regulations To Conditionally Allow Construction Related Employee Off-Street Parking At Private Social, Swimming, Golf, Tennis And Yacht Clubs In The R-Aa, R-A And R-B Residential Zoning Districts; Sections 134-796, 134-846 And 134-893, Exceptions To Height Limitations, By Allowing Solar Material On Roofs Of Buildings Provided There Is Either Architectural Commission Or Landmark Preservation Commission Approval In The R-Aa, R-A And R-B Residential Zoning Districts; Sections 134-840 And 134-890, Special Exception Uses And At Article VIII, Supplementary District Regulations, Section 134-1698, Structures, Signs And Landscape Material West Of Lake Trail, By Allowing Essential Services West Of Lake Trail As A Special Exception Use In The R-A And R-B Residential Zoning Districts; At Article VI, District Regulations, Section 134-893, Lot, Yard And Bulk Regulations By Clarifying That First Floor, Unenclosed Loggias, Pergolas, Porches Terraces And Covered Patios In The R-B Zoning District Are Allowed An Additional 5% Cubic Content; At 134-895, Same, Exceptions From Yard Regulations, By Modifying The Provision To Ensure That

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Additional 3% Lot Coverage For An Awning Or Open Trellis Is Not Counted In The Cubic Content Ratio Calculations; At Article VIII, Supplementary District Regulations, Section 134-1607, Permitted Exceptions, By Allowing Solar Material On The Roof Of A Building Or Structure In All Other Zoning Districts Other Than R-Aa, R-A And The R-B Zoning Districts Provided That Said Material Is Approved By The Architectural Commission Or Landmark Preservation Commission; Section 134-1757, Swimming Pools, By Allowing Raised Spas/Hot Tubs And Infinity Pools; Section 134-1759, Tennis, Shuffleboard And Racquetball Courts, By Reordering The Existing Regulations To Eliminate Redundant Language; At Article XI, Signs, Adding Sections 134-2410 And 134-2449 By Creating Regulations For Tow-Away Signs In Residential And Commercial Zoning Districts; Sections 134-2411 And 134-2450 By Creating Regulations Allowing Governmental Signs In All Residential And Commercial Zoning Districts; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date

X. ANY OTHER MATTERS

XI. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 3:30 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 23-2018 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 137 Seaspray 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 No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated March 5, 2018 From John Lindgren**
- ▣ **Resolution No. 23-2018**
- ▣ **137 Seaspray Avenue Designation Report**
- ▣ **Excerpt of Landmarks Preservation Commission Meeting Minutes from February 21, 2018**
- ▣ **Designation Procedure**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

From: John Lindgren, Planning Administrator

Re: Landmark Designation of 137 Seaspray Avenue
Resolution No. 23-2018

Date: March 5, 2018

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 137 Seaspray Avenue as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the February 21, 2018, meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

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

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

OWNER CONSENT

The property owner, Jerome H. Pennock, Trustee of the Jerome H. Penock Revocable Trust, was properly notified of the hearing before the Landmarks Preservation Commission. No person attended for the owner, nor were any comments received from the owner.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 23-2018 relating to 137 Seaspray Avenue, and has approved it as to legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
Murphy Stillings, LLC

RESOLUTION NO. 23-2018

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 137 SEASPRAY 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 NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

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

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

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

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

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

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

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **137 Seaspray Avenue** and the property to be landmarked is legally described as follows:

East 15 feet of Lot 498 and Lots 500 and 502 of Poinciana Park, Second Addition to the Town of Palm Beach, Florida, according to the plat thereof recorded in Plat Book 6, Page 86.

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

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

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 21st day of March, 2018.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member

137 Seaspray Avenue



DESIGNATION REPORT

December 20, 2017

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

137 Seaspray Avenue

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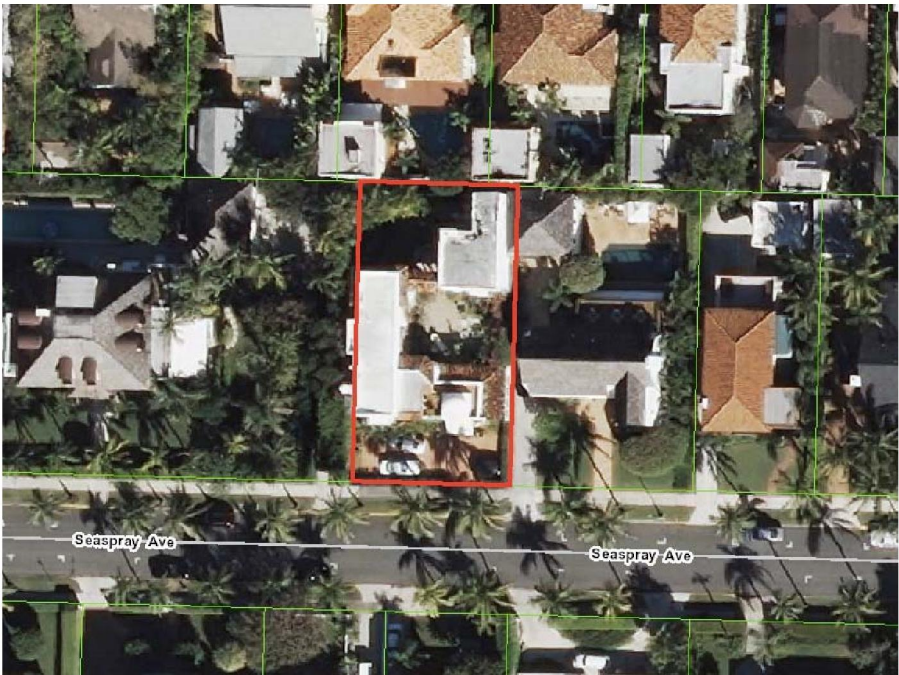
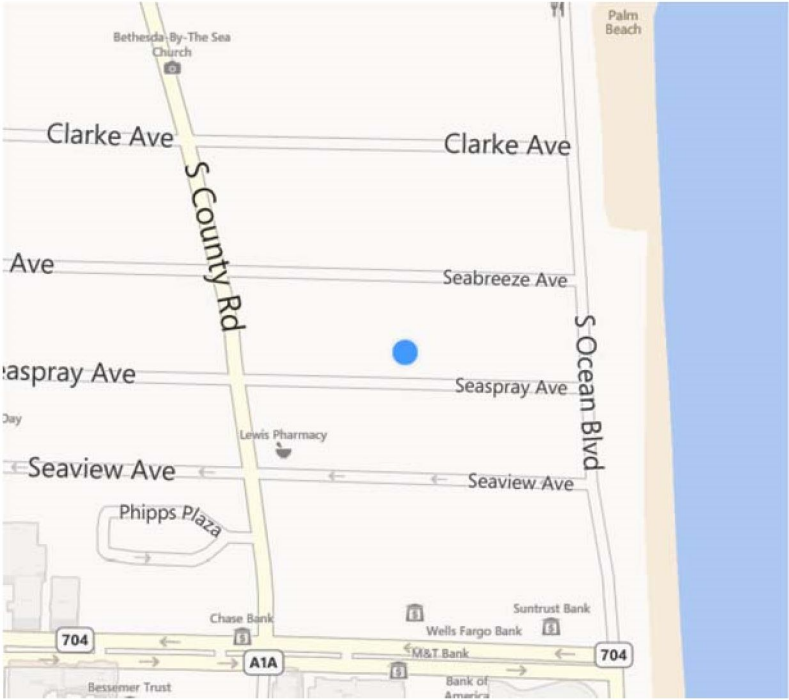
Report produced by Murphy Stillings, LLC

I. General Information

Location:	137 Seaspray Avenue Palm Beach, Florida
Date of Construction:	1924
Historic Name:	Pascua de Flores
First Owner:	Mr. and Mrs. H. Hardcastle Pennock
Architect:	Theodore A. Rowley
Builder/Contractor:	Theodore A. Rowley
Present Owner:	Jerome H. Pennock, Trustee of the Jerome H. Pennock Revocable Trust
Present Use:	Single Family Dwelling
Present Zoning:	RB
Palm Beach County Tax Folio Number:	50-43-43-22-07-000-4981
Current Legal Description:	East 15 feet of Lot 498 and Lots 500 and 502 of Poinciana Park, Second Addition to the Town of Palm Beach, Florida, according to the plat thereof recorded in Plat Book 6, Page 86.

II. Location Map

137 Seaspray Avenue



III. Architectural Information

137 Seaspray Avenue is an outstanding example of the Moorish Revival architectural style in Palm Beach. It is located on an interior lot on the north side of Seaspray Avenue between South County Road and South Ocean Boulevard. The house and accessory structure were designed by Theodore A. Rowley in 1924. The building permit shows that Rowley was both the builder and the owner of the property. The residence was constructed for approximately \$12,000 to \$13,000.¹ At some point following the building permit being issued the property and designs for the residence were sold to H. Hardcastle and Carol Pennock who named the home “Pascua de Flores”.²



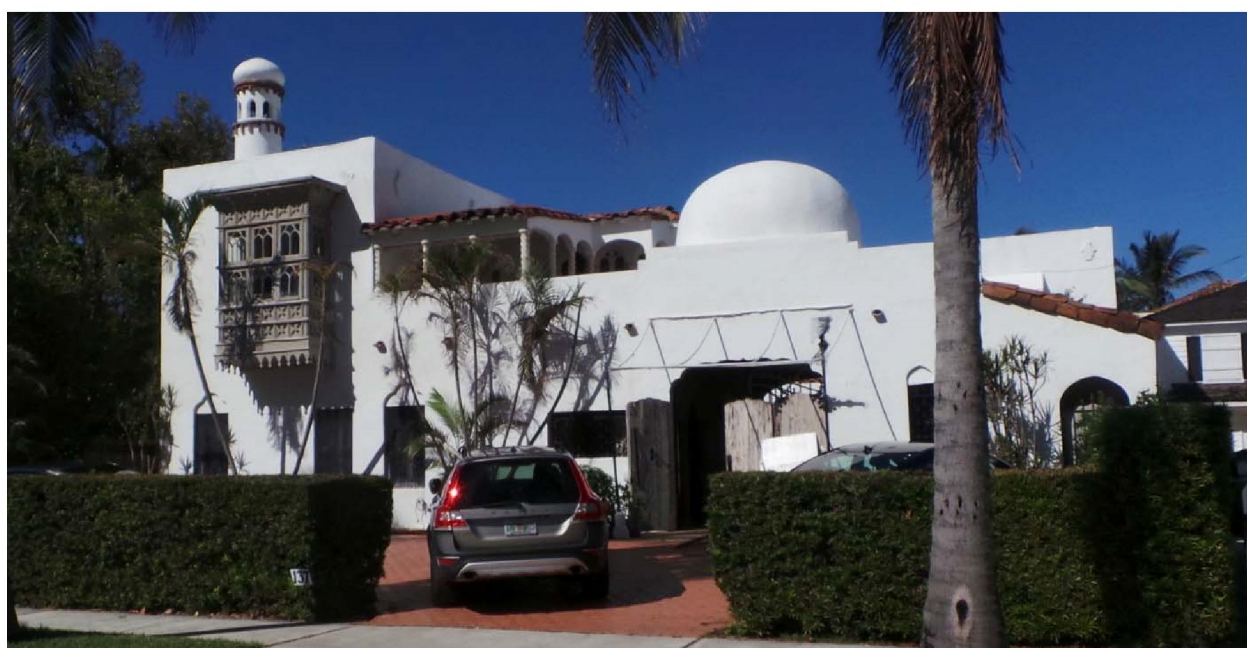
Moorish Revival architecture was inspired by the architecture of North Africa, Spain, Portugal, Turkey and the Middle East. The Moorish Revival began in the mid-nineteenth century as a result of Victorian interest in the Middle and Far East and continued through the first half of the twentieth century. It is one of the most exotic architectural styles used by Palm Beach architects during the 1920s. The style shows great variety in form and detailing but is united by defining characteristics which include: minarets, domes, stucco exteriors,

¹ Town of Palm Beach Building Permit #278 dated May 24, 1924.

² West Palm Beach City Directory, 1929.

decorative tile work, flat roofs with parapets, wood and metal balconies, and arches often in a horseshoe shape. The style can be rectangular, U-shaped or asymmetrical in form.

137 Seaspray Avenue displays many Moorish Revival elements that are focal points to the residence. These include a dome, a minaret topped with an onion dome and a decorative wood oriel window. The residence was constructed of hollow clay tile surfaced with stucco. The one and two-story residence has an asymmetrical plan with a courtyard. The residence has primarily flat roofs that are highlighted by shed roofs surfaced with barrel tiles.



The one-story eastern portion of the south façade contains recessed gothic arches above window openings while the western two-story portion of this façade has recessed trefoil arches above window openings. The western two-story portion's simple stucco façade is punctuated by a decorative wood oriel window. A second story porch is sheltered by a barrel tile shed roof supported by Solomonian columns. A minaret topped with an onion dome is located at the southwest corner of the residence emphasizing the residence's asymmetrical design.

The entrance to the residence is through a pair of wood gates and a pair of metal gates. An awning supported by lantern posts shelters the entrance and it is highlighted by a dome.



Since its construction, few alterations and additions have been made to the residence.³ An addition with two additional bedrooms was built in 1927.⁴ A 10' x 12' storage building was constructed in 1947.⁵ In 1985, the cypress entrance gates were installed as well as a parking area.⁶ In addition, there were maintenance repairs made to the property, such as re-roofing and interior renovations. The residence retains its original architectural integrity and significant architectural features.

IV. Historical Information

The early 1920s was a period of tremendous growth in the Town of Palm Beach. The Island had become the winter resort of America's most influential families and the building boom was radically changing the face of the small community. By 1920, Ocean Boulevard was completed and motorists from the north were driving down to enjoy the popular winter resort town. Housing styles reflected exotic tastes, lavish lifestyles and whimsical details. As Addison Mizner and other prominent Palm Beach architects were designing large estates along the ocean and lake in the Mediterranean Revival style, demand for hotels, apartments and smaller residences grew. Many of these smaller homes were taking their design cues from the larger estates and were being built in revival styles.

³ Town of Palm Beach Building Permit records 1924-2017.

⁴ Town of Palm Beach Building Permit #720 dated August 24, 1927.

⁵ Town of Palm Beach Building Permit #647 dated January 14, 1947.

⁶ Town of Palm Beach Building Permit # B19600 dated January 2, 1985 and #20430 dated May 22, 1985.

The Moorish Revival style was one of the exotic architectural variations that became popular in South Florida during the Land Boom of the 1920s. While rare in Palm Beach, the style was used throughout South Florida, with the largest concentration in Opa Locka in Dade County. 137 Seaspray Avenue is a very good representation of this architectural trend.

The house at 137 Seaspray Avenue is located in the Poinciana Park Subdivision. Poinciana Park was platted and largely developed by Oscar A. Jose and his City Builders Realty Company. In 1914, Oscar A. Jose and his family began to spend their annual winter vacations in Palm Beach. Jose, a successful Indianapolis developer, created Poinciana Park by purchasing tracts of land from the lake to the ocean south of the Breakers and the Royal Poinciana Hotel. These became the “Sea” streets with Sea Breeze platted in 1914 followed by Sea Spray in 1918 and the north side of Sea View in 1923.⁷ A brochure designed and distributed by City Builders Realty Company titled “Poinciana Park, The Preferred Location,” goes into great detail about the many advantages of wintering in Palm Beach and the benefits of owning or leasing a house in centrally located Poinciana Park, close to all of the town’s amenities but removed from the “rush and bustle of the hotel center.”⁸ Jose was one of the early developers to recognize the potential in Palm Beach for building something other than a grand estate or spending the season at a hotel. Poinciana Park was an attempt to make Palm Beach more family oriented and the Palm Beach life-style accessible to the “upper-middle class.”⁹ The residence at 137 Seaspray Avenue is a good example of this development.

Theodore A. Rowley had designed the Moorish Revival residence at 137 Seaspray Avenue as his personal residence. However, as stated in the Palm Beach Post, Rowley “consented to allow Mr. Pennock to build from his plans, as his own plans were uncertain. It is truly one of the loveliest houses in Palm Beach and has had many visitors since its completion.”¹⁰ H. Hardcastle Pennock and his wife Carol were seasonal residents of Palm Beach since 1920.¹¹ Pennock was the General Manager of the Equitable Life Insurance Company in New York City. Prior to occupying the residence at 137 Seaspray Avenue, the Pennock’s lived at 230 Chilean Avenue. One of the Pennock’s next-door neighbors on Chilean Avenue was

⁷ Sea Breeze, Sea Spray and Sea View were the original spellings of the Poinciana Park Avenues

⁸ “Poinciana Park, The Preferred Location,” Brochure distributed by City Builders Realty. No Date. Located in the Poinciana Park file at the Preservation Foundation of Palm Beach.

⁹ “Preservationist’s Home Gets Landmarks’ OK,” Palm Beach Daily News, 22 January 1998.

¹⁰ “Here and There,” Palm Beach Post, 20 December 1930.

¹¹ “Carol Pennock Dies at 101,” Palm Beach Daily News, 5 November 1987.

Theodore Rowley.¹² It is possible that this relationship was the basis for the Pennock's succession of Rowley's Moorish Revival design.

The residence has remained in the Pennock Family since its construction. After the death of H. Hardcastle Pennock in 1935 and Carol Pennock in 1987, their son Jerome H. Pennock took ownership of the property. Jerome Pennock lived most of his life in Palm Beach. After graduating from The Wharton School of the University of Pennsylvania he had a career in the life insurance industry and also was an inventor.¹³

V. Architects Biography

Theodore A. Rowley

Theodore A. Rowley was born in 1856 in Detroit, Michigan and lived in Chicago, Illinois. He started coming to Palm Beach for the winter in 1895 with his wife Estelle (Stella) M. Rowley. He was a "well known architectural designer and winter resident of Palm Beach for 35 years."¹⁴ Rowley was billed as a designer and producer of modern and antique architectural parts. He had his own cast stone foundry, similar to Mizner Industries, producing doors, gateways, balconies, fountains, pergolas, arbors, mantels, columns, "and all artistic detailing pertaining to complete villa and gardening furnishings."¹⁵ His garden furniture is said to have graced many estate gardens in the Palm Beaches.¹⁶ Theodore Rowley also designed 334 Peruvian Avenue, which was built in 1922 in the Mediterranean Revival style. 334 Peruvian Avenue was Landmarked by the Town of Palm Beach in 1982. Rowley died in 1930.

VI. Statement of Significance

137 Seaspray Avenue is an outstanding example of the Moorish Revival style of architecture in Palm Beach. The residence exhibits many of the features that are characteristic of a Moorish Revival design, a rare style in Palm Beach. The residence is also representative of a time of significant growth in Palm Beach and more specifically the Poinciana Park subdivision.

¹² West Palm Beach City Directory, 1920-1930.

¹³ Jerome Hardcastle Pennock Obituary, Palm Beach Daily News, 26 October 2017.

¹⁴ "T.A. Rowley is Dead Here," Palm Beach Post, 20 December 1930.

¹⁵ "Interior of Northern Indoor Studio," Palm Beach Post, 14, March 1920.

¹⁶ "Here and There," Palm Beach Post, 30 April 1925.

VII. Criteria For Designation

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

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

The house at 137 Seaspray Avenue was constructed during the Florida Boom Time Era of the 1920s. It was a time of significant population growth in Palm Beach. Land was being developed and many houses of varying sizes were built to fulfill the growing demand. Many of these smaller houses were looking to the larger estates for design inspiration. Housing styles reflected exotic tastes and lavish lifestyles. 137 Seaspray Avenue embraced the exotic revival trend with its Moorish Revival design. The residence is a very good example of the early fabric of Palm Beach and Poinciana Park subdivision.

(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.”

137 Seaspray Avenue is an excellent example of the Moorish Revival style. The Moorish Revival style was one of the exotic architectural variations that were popular in the Boom Times of the 1920s. The residence exhibits many of the style’s distinctive characteristics including: a stucco exterior, decorative tile work, a minaret, a dome, an oriel window, columns, arches, and a asymmetrical plan. 137 Seaspray Avenue is a rare example of this architectural style in Palm Beach and, therefore, is valuable for study.

VIII. Selected Bibliography

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Historical Society of Palm Beach County. Pennock File.

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

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

The Palm Beach Daily News. Archived Articles Online and Articles from the files of the Historical Society of Palm Beach County and the Preservation Foundation of Palm Beach.

The Palm Beach Post. Archived Articles Online and Articles from the files of the Historical Society of Palm Beach County and the Preservation Foundation of Palm Beach.

The Preservation Foundation of Palm Beach. Poinciana Park Files and 137 Seaspray Avenue House File.

Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1952 revised. City of West Palm Beach Public Library, Florida Room.

Town of Palm Beach. Building Permits, 1924–2017.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1920-1996.

IX. Florida Master Site File Form



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB06734
 Recorder # Jane S. Day
 Field Date 10/6/2010
 Form Date 10/17/2010
 Form No 201010
 Form No = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Jerome Pennock, 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
<u>137</u>		<u>Seaspray</u>	<u>Avenue</u>	

Cross Streets (nearest between) South Ocean Blvd. & S. County Rd.
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES
 County Palm Beach Tax Parcel #(s) 50-43-43-22-07-000-4981
 Subdivision Name Poinciana park Block _____ Lot 498-502
 Ownership Private Individual
 Name of Public Tract (e.g. park) _____
 Route to (especially if no street address) On the north side of Seaspray Ave. between S. Ocean Blvd. and S. County Rd.

MAPPING

USGS 7.5' Map Name _____ Publication Date _____ >> PAIM BEACH;1983
 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 Moorish Revival Other Style _____
 Exterior Plan Irregular Other Exterior Plan _____
 Number of Stories 2
 Structural System(s) _____ >> Concrete block
 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) _____ >> Flat
 Other Roof Type(s) _____
 Roof Material(s) _____ >> Tar & gravel
 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) west exterior

Page 1 of 3

HISTORICAL STRUCTURE FORM

8PB06734

DESCRIPTION (continued)

Window Descriptions casement

Main Entrance Description (stylistic details) Through a porte cochere into an inner courtyard

Porches: #open 3 #closed #incised Location(s) open courtyard- se, 2nd floor oriel window, 2nd floor -w

Porch Roof Types(s) shed roof on 2nd floor terrace, flat on oriel window

Exterior Ornament scuppers, parapet, spiral columns, minaret, oriel window

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 1924

Architect (last name first): Rowley, Theodore

Builder (last name first): Rowley, Theodore

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;1924;

Other Structure Uses

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

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods

SURVEYOR'S EVALUATION OF SITE

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

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? INSUFF. INFO

Area(s) of historical significance >> Architecture

Other Historical Associations

Explanation of Evaluation (required) This Moorish African fantasy, quite unique in Palm Beach, is representative of the exotic revivals popular during the 1920s.

HISTORICAL STRUCTURE FORM

8PB06734

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 Dr., Boca Raton, FL 33432 561-362-4473
 Recorder Affiliation Research Atlantica Other Affiliation Town of Palm Beach
 Is a Text-Only Supplement File Attached (Surveyor Only)? _____

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

Cultural Resource Type: <u>SS</u> Electronic Form Used: <u>8110</u> Form Type Code: <u>SCRM</u> Form Quality Ranking: <u>NEW</u> Form Status Code: <u>SCAT</u> Supplement Information Status: <u>NO SUPPLEMENT</u> Supplement File Status: <u>NO SUPPLEMENT FILE</u>	SHPO's Evaluation of Resource _____ Date _____ FMSF Staffer: _____ Computer Entry Date: <u>11/15/2004</u>
Form Comments: _____	

REQUIRED PAPER ATTACHMENTS

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

Item 2: 137 Seaspray Avenue

Owner: The Estate of Jerome H. Pennock

Call for disclosure of ex parte communication: Disclosure by several members.

Ms. Hufty indicated that she believes the owner listed for the property was incorrect and a new owner had recently purchased the home.

Ms. Fairfax declared a conflict of interest for the designation.

Mr. Cooney asked for confirmation that the Town had proof of publication and notice with regard to this landmark designation hearing. Ms. Churney provided confirmation.

Emily Stillings, MurphyStillings, LLC, testified to the architecture and history for the rare 1924 Moorish Revival Style home. Ms. Stillings pointed out the design features and history of this home. Ms. Stillings indicated that there is only one other Moorish Style home landmarked in the Town. Ms. Stillings testified that the building met the following criteria for designation as a landmark:

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

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

Mr. Cooney asked for public comment. There were no comments heard at this time.

Mr. Cooney expressed his enthusiasm to support the designation of this residence.

Mr. Silvin asked if the new owners were supportive of the designation. Ms. Stillings responded stated she thought they were in support with the designation but had not spoken directly with them.

Ms. Albarran was in support of the landmark designation.

Ms. Coleman asked if the awning and portico would be part of the landmark designation. Mr. Cooney stated the owners could ask to change these features but it was being landmarked in its current condition.

Many of the Commissioners were pleased to recommend this home to the Town Council for landmark status.

Motion made by Ms. Albarran and seconded by Mr. Segraves to make the designation report a part of the record. Motion carried with all in favor.

A second motion made by Ms. Albarran and seconded by Ms. Hufty to recommend 137 Seaspray Avenue to the Town Council for designation as a Landmark of the Town of Palm Beach based on criteria 1 and 3 in Section 54-161. Motion carried with all in favor.

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

ARTICLE IV. - DESIGNATION PROCEDURE

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

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

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

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

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

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

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

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

(Code 1982, § 16-38)

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

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

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

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

(Code 1982, § 16-42)

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

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

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

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

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Appeals

Agenda Title

ARCOM Appeal

446 North Lake Way

Case # 054-2017

Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 4, 2018 from James Green

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated March 15, 2018 From Paul Castro**
- ▣ **Letter Dated February 5, 2018 From James Green**
- ▣ **Letter Dated March 4, 2018 From James Green**
- ▣ **Letter Dated March 9, 2018 From James Green**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

From: John Lindgren, Planning Administrator

Re: Landmark Designation of 137 Seaspray Avenue
Resolution No. 23-2018

Date: March 5, 2018

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 137 Seaspray Avenue as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the February 21, 2018, meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

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

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

OWNER CONSENT

The property owner, Jerome H. Pennock, Trustee of the Jerome H. Penock Revocable Trust, was properly notified of the hearing before the Landmarks Preservation Commission. No person attended for the owner, nor were any comments received from the owner.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 23-2018 relating to 137 Seaspray Avenue, and has approved it as to legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
Murphy Stillings, LLC

RECEIVED

FEB 05 2018

JAMES K. GREEN, P.A.
LAWYERS

Town of Palm Beach
PZB Dept

JAMES K. GREEN
NINA M. ZOLLO
ANNE F. O'BERRY
NANCY F. UDELL, OF COUNSEL

SUITE 1650, ESPERANTE
222 LAKEVIEW AVENUE
WEST PALM BEACH, FLORIDA 33401
561.659.2029
FACSIMILE 561.655.1357

VIA HAND DELIVERY

February 5, 2018

Kathleen Dominguez, Town Clerk
Palm Beach Town Hall
360 South County Road
Palm Beach, FL 33480

Re: Appeal of January 24, 2018 Architectural Commission Decision on Item No. B-054-2017, deferring decision on application to approve construction of a new residence at 446 North Lake Way, Palm Beach, FL 33480

Dear Ms. Dominguez:

Pursuant to Section 18-177 of the Palm Beach Code of Ordinances, Stephen Levin (the "Property Owner"),¹ through the undersigned counsel, hereby files this appeal with the Town Clerk of the decision by the Palm Beach Architectural Commission ("ARCOM") at their January 24, 2018 meeting to defer, over objection, decision on the Property Owner's application for ARCOM review and approval of the construction of a new residence at 446 North Lake Way, Palm Beach, Florida 33480 (the "Property").

Enclosed is a check in the amount of \$320.00 made payable to the Clerk of the Town of Palm Beach to cover the required cost of filing this appeal.

I. Background Information regarding the Property and the Application

The Property is bounded on the east by a residential property and a utility station, on the west by the Intracoastal Waterway, on the south by a residential property, and on the north by another residential property. The Property is located in the Town's R-B Zoning District. Presently, an empty lot is located at the Property.

On May 23, 2017, the Property Owner made an initial application ("Initial Application"), Item No. B-054-2017 New Residence, proposing to construct a two-story contemporary home totaling 11,097 square feet, and a one-story accessory garage with a swimming pool and associated landscaping. The proposed building was white and natural travertine stone, with a gray flat built-up roof. (Initial Application). Since the initial design and first presentation on June 28, 2017 before ARCOM, the Property Owner proposed a number of changes based on the comments of ARCOM's members during that and subsequent ARCOM hearings.²

¹ The successor in interest to Mr. Levin and current owner of the property is 446 North Lake Way, LLC.

²Two ARCOM members, Anne Vanneck and Alexander Ives, were opposed to any contemporary home at this location, even though all four proposed designs required no variances and met all setbacks.

One member at the first ARCOM hearing stated that “the neighbors on both sides agree that this is something that they like in the neighborhood.” Another liked the setback for the proposed home, but suggested removing the gate to provide an unobstructed view of the water feature. He also reminded the commissioners about other contemporary homes in the area and was in favor of the design. Another said that a low-key contemporary home can work next to the Vicarage if it is properly landscaped. Another questioned the gate, suggested a restudy, and also suggested using a lighter tabby for the driveway. Another stated she thought the design was cold and similar to a hotel but appreciated that the house was set back from the road. She suggested some plantings in front of the water feature to soften the view. Another said, “I think that the design is elegant. And, I am not a person that jumps right into bed with a contemporary. I am very traditional, so that speaks highly of the design.” That member further stated: “In terms of its fitting into the area, I really spent a lot of time on that and researched the contemporary buildings down the street and we have such an eclectic mix of homes and I think this definitely fits the area.”

The application was deferred for a major restudy. http://townofpalmbeach.granicus.com/MediaPlayer.php?view_id=5&clip_id=1877, beginning at 6:17:30.

On September 27, 2017, the Property Owner made a second, revised application (“Second Application”), Item No. B-054-2017 New Residence, proposing to construct a two-story contemporary home, with a garage, swimming pool and associated landscaping. The color of the stone was changed, with a gray flat built-up roof. (Second Application). Since the initial design and first presentation on June 28, 2017 before ARCOM, the Property Owner proposed a number of extensive changes to the home’s design addressing concerns raised by ARCOM members:

1) In response to the concern that the house appears more commercial than residential, four changes were made to the design: (a) the large gridded overhangs at the one-story garage on the east, at the covered entry to the house, and at the rear of the house have been removed; (b) to reduce the mass of the home, 2’-0” projecting eaves have been placed at the second story windows. By projecting out from the house, when viewed from eye level, the mass of the house is reduced; (c) the stone on the exterior of the home has been changed from a beige color to an earthy brown color for greater warmth; and (d) the color of the windows has been changed from a putty color to a warm bronze color.

2) In response to a comment that the north and south (side) elevations were not rhythmic enough, the proportions of stone and stucco and placement of the windows have been made more regular.

3) The rear covered loggia is now anchored by stucco to the ground rather than stone.

4) The gates for the property have been redesigned.

5) The color of the driveway has been changed from dark gray to the tabby color like at the Town Hall.

The Applicant went through the criteria and demonstrated how its application met each of the criteria.

ARCOM responded with another round of compliments and critiques:

Mr. Schreier presented the proposed modifications for the new residence.

Mr. Ives stated that the changes were thoughtful. He questioned the design and whether it fit into the Town.

Mr. Corey thought the proposed home was too commercial looking and said he could not support the design. He thought the home was too dissimilar to the surrounding homes.

Ms. Grace was in favor of the changes with the exception of the pergola. She suggested some changes to the landscape.

Ms. Vanneck thought the changes were not significant enough and questioned whether the home belonged in the Town.

Mr. Small thought the changes made were positive. He asked the architect about a contemporary home in the area, south of the project and suggested that the proposed project was not dissimilar.

Mr. Garrison thought the design was well done and thought the home would never be seen from the street.

Ms. Catlin thought the design was elegant and graceful and thought it did fit into the neighborhood. She thought there might be a problem with how the home presented itself.

Mr. Sammons thought the home was grossly over-scaled and looked too commercial.

A motion was made by Ms. Vanneck and seconded by Mr. Ives to defer the project for two months to the November 29, 2017 meeting for restudy. The motion carried with all in favor.

The application was therefore deferred a second time. http://townofpalmbeach.granicus.com/MediaPlayer.php?view_id=5&clip_id=1903, beginning at 4:08:22.

On November 29, 2017, the Property Owner hired a new designer, Associate Architect Daniel Menard ("Mr. Menard"), and made a third, revised application ("Third Application"), Item No. B-054-2017 New Residence, proposing to construct a two-story contemporary home, with a garage, swimming pool and associated landscaping. (Third Application). Since the second design and second presentation on September 27, 2017 before ARCOM, the Property Owner proposed a number of changes based on the comments of ARCOM's members. The members made the following comments in response:

Mr. Small asked the architect if he considered an alternate placement for the garage. The attorney for the applicant stated that the neighbor to the north asked if the proposed garages could face each other, rather than face north. Mr. Small stated that he would be in favor of an alternate garage to the north, across from the currently proposed garage structure. Mr. Menard responded that the neighbor to the north requested that the garages be placed on the south side of the site.

Mr. Corey was in favor of the scale, size and site plan and thought they worked well. He indicated that the design changes were a step in the right direction. Mr. Corey expressed concern about the fenestration on the elevations facing the Lake Trail.

Ms. Shiverick agreed with Mr. Corey's assessment of the project, except that she was in favor of the fenestration. She suggested removing all of the stone, with the exception of the stone on the fireplace, from the proposed home. She requested a sample of the paint colors.

Ms. Grace thought the redesign was a big improvement. She was in favor of both garages on the south side and the proposed stone on the home. She suggested restudying the overall mass and the fenestration on the west side.

Mr. Sammons questioned whether the changes were significant. He suggested a restudy of the mass and volume of the proposed home. He also suggested adding a courtyard to allow light into the middle of the home.

Mr. Vila thought the proposed home needed more light and air.

The Applicant again went through the ARCOM criteria and demonstrated how its application met each of the criteria.

The application was deferred a third time. http://townofpalmbeach.granicus.com/MediaPlayer.php?view_id=5&clip_id=1932, beginning at 3:56:20.

On January 24, 2018, the Property Owner made a fourth, revised application ("Fourth Application"), Item No. B-054-2017 New Residence, proposing to construct a two-story contemporary home, with a garage, swimming pool and associated landscaping. (Fourth

Application). Since the third design and third presentation on November 29, 2017 before ARCOM, the Property Owner proposed a number of changes based on the comments of ARCOM's members, including re-orienting the home to the south and opening the center for more light. http://townofpalmbeach.granicus.com/MediaPlayer.php?view_id=5&clip_id=1959, beginning at 22:35.

The Applicant again went through the ARCOM criteria and demonstrated how its application met each of the criteria.

On January 24, 2018, the application was again deferred, over the applicant's objection, a fourth time.

II. ARCOM Has a Duty to Decide and Approve

ARCOM's actions at the January 24, 2018 meeting were flawed in several respects. First, ARCOM exceeded its authority and the scope of its review by unreasonably withholding approval where all the ARCOM criteria had been met. *See Park of Commerce Associates v. City of Delray Beach*, 606 So. 2d 633, 635 (Fla. 4th DCA 1992) (on rehearing *en banc*), *aff'd*, 636 So. 2d 12 (Fla. 1994) (holding that "a city cannot unreasonably withhold approval once the legislatively adopted legal requirements have been met" and that the official approval of a site plan application cannot "depend upon the whim or caprice of the public body involved"); *City of Tampa v. City Nat. Bank of Florida*, 974 So. 2d 408, 413-414 (Fla. 2d DCA 2007) (holding that the Tampa architectural review commission had exceeded its authority in restricting the height of applicant's proposed building because "[t]he language of the enabling statute is a telling limitation on the powers of the ARC" and no such power had been granted to it).

Second, ARCOM's actions were inconsistent and not in conformity with the Palm Beach Code of Ordinances (the "Code"). *See* Section 18-177 of the Code (providing that appeals "shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this Code"). Section 18-205(b) of the Code provides that if the criteria set forth in 18-205(a) are met:

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

Under Florida law, agencies, like ARCOM, "have no inherent or common law powers." *College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd.*, 948 F. Supp. 400, 412 (D.N.J. 1996) (citing *Kizar v. Wittenberg*, 398 So. 2d 1002, 1003 (Fla. 5th DCA 1981), and *State ex rel. Greenberg v. Florida State Bd. of Dentistry*, 297 So. 2d 628, 636 (Fla. 1st DCA 1974), *cert. dismissed*, 300 So. 2d 900 (Fla. 1974)). Instead, they have "only those powers specifically granted to them by the legislature." *College Sav. Bank*, 948 F. Supp. at 412. *See also Atl. City*

Elec. Co. v. FERC, 295 F.3d 1, 8 (D.C. Cir. 2002) (“In the absence of statutory authorization for its act, an agency’s action is plainly contrary to law and cannot stand.”) (internal quotation marks and citations omitted).

Here, two ARCOM members, Ms. Vanneck and Mr. Ives, were opposed to any contemporary home at this location, next to the Vicarage,³ even though all four proposed designs required no variances, met all setbacks, and met all the ARCOM criteria. Even though contemporary style homes are listed as one of the “predominant” styles in Palm Beach in ARCOM’s Guidelines Approved by the Architectural Commission 1/25/95 and modified by staff 2/10/97, <https://www.townofpalmbeach.com/DocumentCenter/View/109> (“ARCOM Guidelines”), ARCOM Chair Anne Vanneck stated at the January 24, 2018 meeting that she held the design for contemporary homes to a higher standard. This is despite the fact that neither the ARCOM code nor guidelines allow such a heightened burden. According to the ARCOM Guidelines:

International style is one of the prevalent contemporary styles found in Palm Beach and is usually represented by one and two-story flat roofed asymmetrical structures with larger amounts of undivided fenestration (up to 30% of the surface) and materials which vary from cement block to aluminum panels to horizontal brick with many other variations. Since, due primarily to the flat roof, larger size, and increased fenestration, this style can appear quite diverse from other styles prominent in Palm Beach, it is suggested that the proposed project be of comparable scale to other houses in order to maintain the harmony and balance of the neighborhood. When neighborhood styles are very diverse, careful attention should be paid by the project’s architect to blend the project’s building height and gross square footage with neighboring structures, and to create a drought resistant, comparable landscaping and site plan to decrease the impact of an incompatible style.

ARCOM Guidelines at 2. Here, although the proposed project was smaller in scale than its neighboring structures, the Vicarage was not visible from the north, south, east or west, and the Applicant addressed each and every concern in ARCOM’s guidelines for contemporary homes, Ms. Vanneck imposed a higher standard on this application than on other designs.

Third, stalling approval of a matter before ARCOM is arbitrary and capricious. Some members liked the waterfall entrance in the first design, while some did not. Some liked the first design’s placement on the lot, while others thought there was too much glass visible from the Lake Trail. Some liked the third design; others criticized it for not having enough light in the center. When, in the fourth design, the Applicant created a courtyard space in the center to allow more light (as suggested by ARCOM members), others criticized it for not having enough curves with portholes. Employment of a shifting rationale as a basis for denying an application bespeaks arbitrariness. *See, e.g., Houston v. Unum Life Ins. Co. of America*, 246 Fed. Appx. 293 (6th Cir. 2007) (holding that insurer’s shifting rationale for denying coverage and its inexplicable reversal of its own conclusion was unreasoned, unprincipled, arbitrary and capricious). As the

³ Notably, the Vicarage is not visible from either the street or the Lake Trail.

court observed in *Sweeney v. Mack*, 625 So. 2d 15 (Fla. 5th DCA 1993), “[e]ven if ... an architectural review committee is given the absolute power to approve or to disapprove building plans, such power cannot be exercised unreasonably or arbitrarily.” *Id.* at 16 (citing *Young v. Tortoise Island Homeowner’s Ass’n, Inc.*, 511 So. 2d 381, 384 (Fla. 5th DCA 1987)). See McLaren and Glasgow, “Success in Litigating Local Permit Denials: Alternative Theories of Obtaining Justice,” 86 *Fla. Bar J.* 20, 24 (Dec. 2012) (hereinafter “*Permit Denials*”) (“If a person of common intelligence reviewing the ordinance cannot determine what must be done in order to meet the required criteria, ... it is vulnerable to subjective discretion on the part of the quasi-judicial board, and can be applied in an arbitrary and discriminatory fashion”).

ARCOM is required to apply criteria that do not permit decision makers to “act upon whim, caprice or in response to pressures which do not permit ascertainment or correction.” *Friends of Great Southern, Inc. v. City of Hollywood ex rel. City Com’n*, 964 So. 2d 827, 830 (Fla. 4th DCA 2007) (quoting *Nostimo, Inc. v. City of Clearwater*, 594 So. 2d 779, 781 (Fla. 2d DCA 1992)). See *Broward County v. Narco Realty, Inc.*, 359 So. 2d 509, 510 (Fla. 4th DCA 1978) (“the official approval of a plat application [should not] depend upon the whim or caprice of the public body involved”). As stated in *Effie, Inc. v. City of Ocala*, 438 So. 2d 506 (Fla. 5th DCA 1983):

the owner or purchaser of property so zoned has a right to know what the requirements are that he must comply with in order to implement the permitted use; these requirements must be of uniform application, and once the requirements are met, the governing body may not refuse the application. ... Any other interpretation promotes the evil which the decisions seek to avoid – that councilmen can act upon whim, caprice or in response to pressures which do not permit of ascertainment or correction.

Id. at 509 (citation omitted). See *Park of Commerce v. Delray Beach*, 606 So. 2d at 635 (holding that property owners are entitled to notice of the conditions they must meet to obtain approval in accord with zoning and other regulations; “[t]hose conditions should be set out in clearly stated regulations” and “[c]ompliance with those regulations should be capable of objective determination in an administrative proceeding”). ARCOM’s actions, viewed cumulatively, were arbitrary and capricious and should be reversed.

Fourth, ARCOM’s arbitrary insertion of differing and higher standards for contemporary designs violates the Property Owner’s right to due process, particularly given the time and expense incurred by the Property Owner in responding to ARCOM’s concerns. See *ABC Liquors, Inc. v. City of Ocala*, 366 So. 2d 146, 149 (Fla. 1st DCA 1979) (“Any standards, criteria, or requirements which are subject to whimsical or capricious application or unbridled discretion will not meet the test of constitutionality.”); *Park of Commerce*, 606 So. 2d at 635 (Farmer, J., specially concurring) (“land ownership is at the core of our constitutional freedoms and thus the power of government must be exercised with a healthy regard for that right”); *Permit Denials*, 86 *Fla Bar J.* at 25 (observing that “[w]hile the federal courts have eroded the ability of landowners to bring substantive due process claims to protect property rights under the Fifth and 14th Amendments, Fla. Const. art. I, §9 is alive and well to protect property owners from arbitrary and/or capricious government actions that adversely affect property rights”).

(citing *Chicago Title Ins. Co. v. Butler*, 770 So. 2d 1210, 1214 (Fla. 2000)); see also *North Bay Village v. Blackwell*, 88 So. 2d 524, 526 (Fla. 1956) (“An ordinance whereby the City Council delegates to itself the arbitrary and unfettered authority to decide where and how a particular structure shall be built or where located without at the same time setting up reasonable standards which would be applicable alike to all property owners similarly conditioned, cannot be permitted to stand as a valid municipal enactment.”); *City of Margate v. Amoco Oil Co.*, 546 So. 2d 1091, 1094 (Fla. 4th DCA 1989) (holding that “[w]here a governmental body acts arbitrarily to avoid its duty by delaying the matter so as to effectuate a change in the law adverse to the application, it is proper for the court to disregard the newly enacted limitations”); *City of Gainesville v. GNV Invests., Inc.*, 413 So. 2d 770 (Fla. 1st DCA 1982) (where property owner’s site plan petition to construct a permitted skate center on property zoned “shopping center” met all technical requirements of city’s ordinances regarding site plan approval, city plan board’s denial of petition for site plan approval was unlawful and arbitrary).

For the foregoing reasons, ARCOM should be equitably estopped from revisiting matters that it had already approved at earlier hearings. As explained in *Hollywood Beach Hotel Co. v. City of Hollywood*, 329 So. 2d 10 (Fla. 1976):

Every citizen has the right to expect that he will be dealt with fairly by his government. ... ‘Unfair dealing’ by a municipality can also serve as the basis for the invokement of equitable estoppel. *City of Jacksonville v. Wilson*[, 157 Fla. 838, 27 So. 2d 108 (1946)]. While a City Commission certainly possesses the prerogative of deciding to defer action on such a proposal over a long period of time, it must assume the attendant responsibility for the adverse effect it knows or should know its deliberate inaction will have upon the parties with whom it is dealing. In the instant case, the course of inaction chosen by the City and its subsequent arbitrary actions must necessarily be equated with ‘unfair dealing.’

Id. at 18 (citations omitted). See *City of Lauderdale Lakes v. Corn*, 427 So. 2d 239, 243-44 (Fla. 4th DCA 1983) (holding that city was equitably estopped from denying property owner’s rights based on change in zoning ordinance where owner relied in good faith upon then-existing zoning to induce him to request annexation of his property and not only expended considerable sums of money but also substantially changed the nature and contour of the land and its drainage system because of that reliance).

Moreover, because zoning regulations are in derogation of private rights of ownership, the ordinance should be interpreted in favor of the property owner. *Rinker Materials Corp. v. City of North Miami*, 286 So. 2d 552, 553 (Fla. 1973).

III. Summary and Request for Relief

ARCOM exceeded its authority and the scope of its review, and abused its discretion, in deferring approval *for the fourth time* based upon a litany of ever-changing items and shifting rationales for its repeated deferrals. This Council should consider its precedent in B-011-2012 (273 Tangier) where the Town Council sent a strong message to ARCOM:

Several Council members expressed favorable opinion after viewing the new perspectives, yet noted that the appeal must be based solely on materials that had been previously submitted to ARCOM. The Council did not approve architectural plans. They remanded the issue back to ARCOM, instructed the architect to share the new perspectives with the Commission, expressed optimism for obtaining approval, and made clear their intention that ARCOM should be very specific about potential plan alterations if another deferral or a denial should occur. Per records from the Town Clerk, the Council took the following action:

ACTION: REMANDED BACK TO ARCOM WITH THE INSTRUCTIONS THAT, IF THE APPLICATION IS DENIED OR DEFERRED, ARCOM BE SPECIFIC IN THEIR REASONING SO THAT THE APPLICANT CAN ADEQUATELY ADDRESS ARCOM'S CONCERNS, AND THAT THE 3-D RENDERINGS OF THE PROJECT BE INCLUDED IN THEIR DELIBERATIONS.

See attached. (Notably, the Town Council did not grant the appeal because the Applicant presented new evidence on appeal, i.e., 3-D renderings, that had not been presented first to ARCOM. Here, however, the Applicant did first present the 3-D renderings to ARCOM, and there is no need for a remand—just reversal.)

Request is therefore made by the Property Owner and undersigned counsel that the Town Council: (1) reverse ARCOM's January 24, 2018 decision to defer the Application, and (2) direct ARCOM to approve the architecture at its next regularly scheduled ARCOM meeting.

Respectfully submitted,

/s/ James K. Green, Esq.
Florida Bar No: 229466
James K. Green, P.A.
222 Lakeview Avenue
Suite 1650, Esperanté
West Palm Beach, FL 33401
(561) 659-2029 (telephone)
(561) 655-1357 (facsimile)
jkg@jameskgreenlaw.com

Counsel for Appellant

ccs: Mayor Gail L. Coniglio
Honorable Richard M. Kleid, President
Danielle H. Moore, President *Pro Tem*
Julie Araskog, Council Member
Bobbie Lindsay, Council Member
Margaret Zeidman, Council Member
John C. Randolph, Esq.



273 Tangier Avenue
John Page to: Cindy Delp
Cc: John Lindgren

05/16/2012 12:09 PM

History: This message has been forwarded.

Cindy: Please forward this message to ARCOM members as an update. Thanks. JP

ARCOM members:

Maura Ziska, attorney for the owners at 273 Tangier Avenue, appealed your most recent deferral of the partial second story addition at this address to the Town Council for their consideration on 5/9/12. Attorney Ziska and Architect Bromoehl attended the Council meeting and outlined recent history at the site. They expressed frustration with continual deferrals (three), and noted that ARCOM failed to give clear direction regarding changes at time of the most recent deferral in April.

Staff explained the time and care that ARCOM had given the project, but noted that the majority of members remain concerned about the "disconnect" between the first and second floors. Mr. Vila attended and spoke in greater detail about the various issues that have prevented the Commission from approving the proposed project. Mr. Bromoehl shared several 3-dimensional perspectives of the proposed home (not previously submitted to ARCOM). Several Council members expressed favorable opinion after viewing the new perspectives, yet noted that the appeal must be based solely on materials that had been previously submitted to ARCOM. The Council did not approve architectural plans. They remanded the issue back to ARCOM, instructed the architect to share the new perspectives with the Commission, expressed optimism for obtaining approval, and made clear their intention that ARCOM should be very specific about potential plan alterations if another deferral or a denial should occur. Per records from the Town Clerk, the Council took the following action:

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The applicant will be bringing the project back to ARCOM at the May 25 meeting, and the presentation will include the 3-D renderings that were shown to Town Council. Besides the architecture, this application also includes a pool, landscape and hardscape, which has been presented to the Commission at the past meetings.

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

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from Town of Palm Beach officials and employees regarding municipal business are open records available to the public and media upon request. Under Florida law e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by telephone or in writing. If you have received this message in error, please notify us immediately by replying to this message, and please delete it from your computer. Thank you.

From: [John Lindgren](#)
To: [Kathleen Ruderman](#)
Cc: [Paul Castro](#)
Subject: RE: 446 North Lake Way appeal--my client requests that we continue the March appeal hearing (which has not been set) to April
Date: Monday, March 12, 2018 11:40:21 AM

K,

See below. Keep on agenda, about agenda should reflect that the appellant is requesting that their appeal be deferred until the April development review Town Council meeting.

John

John Lindgren, AICP Planning Administrator

Town of Palm Beach
Planning, Zoning & Building Department
360 S. County Road
Palm Beach, FL 33480
Phone: 561-227-6414
www.townofpalmbeach.com

From: Randolph, John C. [mailto:JRandolph@jonesfoster.com]
Sent: Thursday, March 08, 2018 4:03 PM
To: Kirk Blouin <KBlouin@PalmBeachPolice.com>
Cc: Jay Boodheshwar <JBoodheshwar@TownofPalmBeach.com>; John Lindgren <JLindgren@TownofPalmBeach.com>
Subject: FW: 446 North Lake Way appeal--my client requests that we continue the March appeal hearing (which has not been set) to April

Kirk,

Please see the attached request that the appeal scheduled for the March meeting of the Town Council be deferred to April. I see no problem in granting this request.

Thank you.

JOHN C. RANDOLPH



John C. Randolph Attorney

Telephone: 561.650.0458 | Fax: 561.650.5300 | jrandolph@jonesfoster.com

Jones, Foster, Johnston & Stubbs, P.A.

Flagler Center Tower, 505 South Flagler Drive, Suite 1100, West Palm Beach, Florida 33401

561-659-3000 | www.jonesfoster.com

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From: James K. Green <jkg@jameskgreenlaw.com>

Sent: Sunday, March 04, 2018 11:13 AM

To: Randolph, John C. <JRandolph@jonesfoster.com>

Subject: 446 North Lake Way appeal--my client requests that we continue the March appeal hearing (which has not been set) to April

This message originated from outside your organization

Dear Skip,

Based upon the feedback at last week's ARCOM meeting, it may not be necessary to pursue this appeal from ARCOM to the Town Council if the new design is approved by ARCOM at its meeting later this month.

Accordingly, my client requests that we continue the March appeal hearing (which has not been set) to April.

Jim

James K. Green, Esq.

JAMES K. GREEN, P.A.

Suite 1650, Esperantè

222 Lakeview Ave.

West Palm Beach, FL 33401

Telephone: 561-659-2029

Facsimile: 561-655-1357

Email: jkg@jameskgreenlaw.com

jameskgreenlaw.com

 Please consider the environment before printing this e-mail.

JAMES K. GREEN, P.A.

LAWYERS

JAMES K. GREEN
NINA M. ZOLLO
ANNE F. O'BERRY
NANCY A. UDELL, OF COUNSEL

SUITE 1650,
ESPERANTE'
222 LAKEVIEW
AVENUE
WEST PALM BEACH,
FLORIDA 33401
561.659.2029
FACSIMILE 561.655.1357

March 9, 2018

John S. Randolph, Esq.
Jones, Foster, Johnston & Stubbs
505 South Flagler Drive
Suite 1100
West Palm Beach, Florida 33401

Re: *Appeal by 446 North Lake Way, LLC to Town Council*

Dear Skip:

This is to confirm our telephone conversation today regarding the applicant/appellant's request to defer the oral argument on the above appeal pending the outcome of the March ARCOM hearing. The applicant/appellant hereby waives the 45 day period set forth in the Town Ordinance for deciding the appeal. Accordingly, we request that this be placed on the Town Council Agenda, if necessary, for April 2018.

Sincerely,

/s/

James K. Green

JKG/kr

cc. Town Clerk

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

SITE PLAN REVIEW #1-2017 The application of 235 Via V PB LLC (Stuart Kapp, Manager); relative to property commonly known as **235 Via Vizcaya.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 7,444 square foot two-story, single family residence on a non-conforming platted lot which is 15,344 square feet in area in lieu of the 20,000 square foot minimum area required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58 feet in depth in lieu of the 150 foot minimum required. [Attorney: Frank Lynch, Esq.] [The Architectural Commission deferred the project for one month to the March 28, 2018 meeting. Carried 7-0] **Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 14, 2018 from Francis Lynch**

Presenter

ATTACHMENTS:

- ▣ **Letter Dated March 14, 2018 From Francis Lynch**

The Law Offices of
BRETON, LYNCH, EUBANKS & SUAREZ-MURIAS, P.A.

Peter L. Breton
Francis X. J. Lynch
John R. Eubanks, Jr.
Marta M. Suarez-Murias
Robert J. Sniffen – Of Counsel
Jack Schramm Cox, Chartered – Of Counsel

www.blesmlaw.com
Sender's Direct Line: (561) 721-4004
E-Mail: flynych@blesmlaw.com

605 North Olive Avenue, 2nd Floor
West Palm Beach, FL 33401
Phone: (561) 721-4000
Facsimile: (561) 721-4001

March 14, 2018

VIA E-MAIL

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

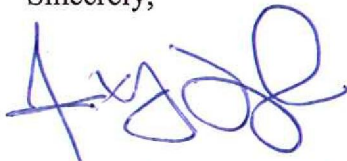
Re: 235 Via Vizcaya
Site Plan Review #1-2017

Dear Paul:

We request a deferral of the above matter as applicant has not yet received ARCOM approval. We ask that this be deferred to the April 11, 2018 Town Council meeting.

Should you have any questions or comments, please feel free to contact me.

Sincerely,



FRANCIS X. J. LYNCH

FXJL/kh

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

VARIANCE #21-2017 The application of Vera Alfieri Monforte; relative to property commonly known as **218 Miraflores Dr.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to construct a 1,230 square foot second story addition on the west side of the one story residence that will create two bedrooms, a gym and two bathrooms. The following variances are being requested: 1) lot coverage of 33.7% in lieu of the 30% maximum allowed for a two story residence, 2) a west side yard setback of 13 feet in lieu of the 15 foot minimum required, 3) a rear yard setback of 13.91 feet in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the February 28, 2018 meeting. Carried 6-1.]

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00034 SITE PLAN REVIEW Zoning District: R B Low Density Residential. The application of SHULMAN ALAN L, Owner, relative to property located at **377 N LAKE WAY**, legal description on file, is described below. Site Plan Review to allow the construction of a 7,465 square foot two story, single family residence on a non conforming platted lot which is 89.11 feet in width in lieu of the 100 foot minimum width required in the R B Zoning District. [Applicant's Representative Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed site plan review will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the February 28, 2018 meeting. Carried 7-0.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum dated March 13, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- ▣ **Comments of the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-17-00034 SITE PLAN REVIEW**
377 N LAKE WAY

Date: March 13, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Site Plan Review to allow the construction of a 7,465 square foot two-story, single family residence on a non-conforming platted lot which is 89.11 feet in width in lieu of the 100 foot minimum width required in the R-B Zoning District.

ADDRESS: 377 N LAKE WAY

OWNER: SHULMAN ALAN L

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-14-06-000-0090

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: REVISED PL OF STOTESBURY PARK LTS 9 & 9-A

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/22/17

APPLICATION NO.: Z-17-00034 **APPLICATION TYPE:** SITE PLAN REVIEW

ADDRESS: 377 N LAKE WAY

DESCRIPTION: Site Plan Review to allow the construction of a 7,465 square foot two-story, single family residence on a non-conforming platted lot which is 89.11 feet in width in lieu of the 100 foot minimum width required in the R-B Zoning District.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	8/28/2017	No Comments.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	9/15/2017	Comply with stormwater and driveway sight triangle requirements.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	8/22/2017	There are no fire code concerns with the proposed 7,465 square foot house.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	8/29/2017	This project requires ARCOM review and approval as a major combination project. This site is also a known or potential archaeological site, therefore the applicant must comply with the Town's archaeological ordinance.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	8/18/2017	No Comment
PZB DIRECTOR	Director, Planning, Zoning & Building	8/22/2017	New home construction is proposed on a non-conforming lot, necessitating Site Plan Review. ARCOM approval is also required.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	8/18/2017	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	9/14/2017	I have no comment on the proposed site plan review application as said house meets all Zoning Code requirements.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00042 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: R-A Estate Residential. The application of OCEAN VILLA HOLDINGS LLC, Owner, relative to property located at **1700 S OCEAN BLVD**, legal description on file, is described below. Site Plan Review to allow construction of a new 8,917 square foot two-story residence on a non-conforming platted lot which is 15,005 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District and 100 feet in depth in lieu of the 150 foot minimum depth required in the R-A Zoning District. The following variance is being requested in conjunction with this application: 1) A request to have a building height plane setback of 53 feet in lieu of the 59 foot minimum setback required. 2) A request to allow the existing 3-4 foot wall to remain as screening for the proposed swimming pool in lieu of the 6 foot minimum height required when a swimming pool is located in the street side yard. 3) A request to eliminate the requirement to have a 6 foot tall hedge on the outside of the required wall. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission deferred the project to the March 28, 2018 meeting. Carried 7-0.] **Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 13, 2018 from Maura Ziska**

Presenter

ATTACHMENTS:

- **Letter Dated March 13, 2018 From Maura Ziska**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

*Also admitted in New York

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

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

VIA E-MAIL

March 13, 2018

Paul Castro
Kelly Churney
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Z-17-00042 – 1700 South Ocean Blvd

Dear Paul and Kelly:

Please defer the above referenced matters from the March 21, 2018 Town Council agenda to the April 11, 2018 Town Council agenda. The reason for the deferral is due to ARCOM deferring the project at the February 28, 2018 meeting. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Maura A. Ziska

MAZ/jch
cc: Architect

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00052 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: RB Low Density Residential The application of CARLSON GUSTAV TRUST &, Owner, relative to property located at **280 ORANGE GROVE RD**, legal description on file, is described below. 1) Site Plan Review to allow the renovation of an existing one story residence by demolishing more than 50% cubic footage and raising the finished floor elevation of the house to 7.5 NGVD on a lot with a width of 75 feet in lieu of the 100 foot minimum required In the R-B Zoning District and an area of 8,156.25 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. 2) A variance is being requested to allow the construction of a 116 square foot one story addition for a bathroom/bedroom that is proposed to have a 5.4 foot west side yard setback in lieu of the 12.5 foot minimum setback required for a one story structure. 3) A variance is being requested to allow the existing residence to remain non-conforming with no garage provided. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed site plan review with variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the February 28, 2018 meeting Carried 7-0.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum dated March 13, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- ▣ **Comments of the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-17-00052 SITE PLAN REVIEW WITH VARIANCE(S)**
280 ORANGE GROVE RD

Date: March 13, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

1) Site Plan Review to allow the renovation of an existing one story residence by demolishing more than 50% cubic footage and raising the finished floor elevation of the house to 7.5 NGVD on a lot with a width of 75 feet in lieu of the 100 foot minimum required in the R-B Zoning District and an area of 8,156.25 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. 2) A variance is being requested to allow the construction of a 116 square foot one story addition for a bathroom/bedroom that is proposed to have a 5.4 foot west side yard setback in lieu of the 12.5 foot minimum setback required for a one story structure. 3) A variance is being requested to allow the existing residence to remain non-conforming with no garage provided.

ADDRESS: 280 ORANGE GROVE RD

OWNER: CARLSON GUSTAV TRUST &

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-03-14-000-0230

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: PLAT OF NEW SIEARS TRACT LT 23

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 11/30/17

APPLICATION NO.: Z-17-00052 **APPLICATION TYPE:** SITE PLAN REVIEW WITH VARIANCE(S)

ADDRESS: 280 ORANGE GROVE RD

DESCRIPTION:

1) Site Plan Review to allow the renovation of an existing one story residence by demolishing more than 50% cubic footage and raising the finished floor elevation of the house to 7.5 NGVD on a lot with a width of 75 feet in lieu of the 100 foot minimum required in the R-B Zoning District and an area of 8,156.25 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. 2) A variance is being requested to allow the construction of a 116 square foot one story addition for a bathroom/bedroom that is proposed to have a 5.4 foot west side yard setback in lieu of the 12.5 foot minimum setback required for a one story structure. 3) A variance is being requested to allow the existing residence to remain non-conforming with no garage provided.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	11/17/2017	7.5 ft NGVD will not meet new FBC requirements if this work is permitted after 12/31/17. In addition all new elevation references should be made in NAVD the new FEMA map standard.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/17/2017	Revised site will be required to comply with any stormwater threshold requirements under Sec.86-95 of Town Code.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/30/2017	There are no fire code concerns with this project
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/31/2018	This project will require review and approval by the Architectural Commission (ARCOM) as a major noticed combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	11/17/2017	No Comment
PZB DIRECTOR	Director, Planning, Zoning & Building	12/4/2017	An existing home is being renovated and properly elevated to comply with floodplain standards. It is proposed to expand the footprint by 116 sq. ft., necessitating a west side yard setback variance. Applicant just justify the necessity for the side yard setback variance.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	12/4/2017	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/28/2017	There is no hardship for the variances that are being requested. The applicant should be required to meet all Zoning Code requirements when demolition of the proposed house exceeds 50% by cubic footage.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00058 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) Zoning District: R-C Medium Density Residential The application of GILBERT MARK D &, Owner, relative to property located at **323 CHILEAN AVE**, legal description on file, is described below. 1) A variance request to allow construction of a new 5,393.45 square foot, two story single family residence on a parcel that is 9,375 square feet in area in lieu of the 10,000 square foot minimum required in the R-C Zoning District. The proposal is to replicate the previously approved renovation of the landmarked residence. The Town Council and Landmarks Preservation Commission approved the project in January 2017. 2) A variance request to allow a 7.28 foot west side yard setback in lieu of the 10 foot minimum required in the R-C Zoning District for the new two (2) car garage. [Applicant's Representative: Maura Ziska Esq] [Landmark Preservation Commission Recommendation: Implementation of the proposed special exception, site plan review and variances will not cause negative architectural impact to the subject landmarked property. Carried 4-3. The Landmarks Commission deferred this project to the April 18, 2018 meeting to allow staff to obtain a peer review of the structural engineering report submitted by the applicant. Carried 7-0.]

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00059 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) Zoning District: R-B Low Density Residential The application of REGALBUTO JASON, Owner, relative to property located at **160 SEABREEZE AVE**, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a new 3,629.46 square foot two story single family residence on a lot that is 62.5 feet in width in lieu of the 100 foot minimum required and 7,656.25 square feet in area in lieu of the 10,000 square foot minimum required in the R-B Zoning District. The applicant is also planning to enclose an existing staircase in the guest house garage located in the rear of the property. The following variances are being requested in conjunction with this application: 1) a cubic content ratio ("CCR") of 5.74 in lieu of the 4.235 maximum allowed in the R-B Zoning District for a lot that is 7,656.25 feet in area. 2) a lot coverage of 32.41 % in lieu of the 30 % maximum allowed in the R-B Zoning District for a two story residence. 3) on east side yard setback of 6.2 feet in lieu of the 15 foot minimum required for a two story residence. 4) a west side yard setback of 11.5 feet in lieu of the 15 foot minimum required for a two story residence. 5) an east side yard setback of 7.5 feet in lieu of the 12.5 minimum required for the one-story covered terrace. 6) a landscaped open space of 42.6% in lieu of the 45% minimum required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed special exception, site plan review and variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the architectural portion of the project at the January 24, 2018 meeting. Carried 5-2. The Architectural Commission conditionally approved the landscape portion of the project at the January 24, 2018 meeting. Carried 7-0. All approval conditions are related to the architecture and landscape only.]

Presenter

ATTACHMENTS:

- **Memorandum dated March 13, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- **Comments of the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-17-00059 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIATION
160 SEABREEZE AVE**

Date: March 13, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Special Exception with Site Plan Review to allow the construction of a new 3,629.46 square foot two story single family residence on a lot that is 62.5 feet in width in lieu of the 100 foot minimum required and 7,656.25 square feet in area in lieu of the 10,000 square foot minimum required in the R-B Zoning District. The following variances are being requested in conjunction with this application:

- 1) a cubic content ratio ("CCR") of 7.08 In lieu of the 4.24 maximum allowed in the R-B Zoning District for a lot that is 7,656.25 feet in area.
- 2) a lot coverage of 32.41% in lieu of the 30% maximum allowed in the R-B Zoning District for a two story residence.
- 3) east side yard setback of 6.2 feet in lieu of the 15 foot minimum required for a two story residence.
- 4) a west side yard setback of 11.5 feet In lieu of the 15 foot minimum required for a two story residence.
- 5) an east side yard setback of 7.5 feet in lieu of the 12.5 minimum required for the one-story covered terrace.

ADDRESS: 160 SEABREEZE AVE

OWNER: REGALBUTO JASON

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-22-06-000-1730

ZONING DISTRICT: R-B Low Density Residential

Page Two

LEGAL DESCRIPTION: POINCIANA PARK LTS 173, 175 & W 1/2
OF LT 177

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/4/18

APPLICATION NO.: Z-17-00059 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)

ADDRESS: 160 SEABREEZE AVE

DESCRIPTION:

Special Exception with Site Plan Review to allow the construction of a new 3,629.46 square foot two story single family residence on a lot that is 62.5 feet in width in lieu of the 100 foot minimum required and 7,656.25 square feet in area in lieu of the 10,000 square foot minimum required in the R-B Zoning District. The following variances are being requested in conjunction with this application:

- 1) a cubic content ratio ("CCR") of 7.08 In lieu of the 4.24 maximum allowed in the R-B Zoning District for a lot that is 7,656.25 feet in area.
- 2) a lot coverage of 32.41% in lieu of the 30% maximum allowed in the R-B Zoning District for a two story residence.
- 3) east side yard setback of 6.2 feet in lieu of the 15 foot minimum required for a two story residence.
- 4) a west side yard setback of 11.5 feet In lieu of the 15 foot minimum required for a two story residence.
- 5) an east side yard setback of 7.5 feet in lieu of the 12.5 minimum required for the one-story covered terrace.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	12/21/2017	No comments.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/30/2018	To comply with Town Standards, all driveways shall be a minimum distance of six feet (6') from the property line. All driveways shall have minimum sight visibility triangles established measuring eight feet (8') by 15 feet on each side of the driveway. Residential driveway widths shall not exceed 14-foot wide.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	1/9/2018	There are no Fire Code concerns with this proposal
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/4/2018	This project will require ARCOM review and approval as a major combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/21/2017	No Comment
PZB DIRECTOR	Director, Planning, Zoning & Building	1/4/2018	Owner must provide hardship justifying the necessity of 5 separate variances. A new home can be designed without the need for variances.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	1/4/2018	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/30/2018	The proposed house to be built on a nonconforming lot should be designed to meet the existing Zoning Code provisions. The proposed cubic content ratio far exceeds the maximum allowed by Code. The lot coverage also should be required to meet the existing Code requirement. The side yard setbacks based on the width of the lot should be considered as the lot is narrow.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00060 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: C-OPI Office, Professional and Institutional The application of JHD ASSOCIATES LLC, Owner, relative to property located at **230 ROYAL PALM WAY SUITE: SITE**, legal description on file, is described below. *PLEASE NOTE: THIS PROJECT ENCOMPASSES 230 AND 240 ROYAL PALM WAY* 1) Site Plan Review to allow the construction of three (3) carport awnings totaling 6,359 square feet to provide covered parking for 38 parking spaces in the existing parking lot behind the building. The following variances are being requested to allow construction of the awnings: a) lot coverage of 40.2% in lieu of the 24.3% existing and the 25% maximum allowed in the C-OPI Zoning District. b) rear yard setback of 5.17 feet in lieu of the 10 foot minimum required In the C-OPI Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances and site plan review will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project as amended at the February 28, 2018 meeting, with the awnings on the west and south perimeter spaces only. Carried 7-0.]

Presenter

ATTACHMENTS:

- **Memorandum dated March 13, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- **Comments of the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-17-00060 SITE PLAN REVIEW WITH VARIANCE(S)**
230 ROYAL PALM WAY SUITE: SITE

Date: March 13, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

PLEASE NOTE: THIS PROJECT ENCOMPASSES 230 AND 240 ROYAL PALM WAY

1) Site Plan Review to allow the construction of three (3) carport awnings totaling 6,359 square feet to provide covered parking for 38 parking spaces in the existing parking lot behind the building. The following variances are being requested to allow construction of the awnings: a) lot coverage of 40.2% in lieu of the 24.3% existing and the 25% maximum allowed in the C-OPI Zoning District. b) rear yard setback of 5.17 feet in lieu of the 10 foot minimum required In the C-OPI Zoning District.

ADDRESS: 230 ROYAL PALM WAY SUITE: SITE

OWNER: JHD ASSOCIATES LLC

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-23-05-025-0390

ZONING DISTRICT: C-OPI Office, Professional and Institutional

LEGAL DESCRIPTION: ROYAL PARK ADD LT 39 BLK E

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/4/18

APPLICATION NO.: Z-17-00060 **APPLICATION TYPE:** SITE PLAN REVIEW WITH VARIANCE(S)

ADDRESS: 230 ROYAL PALM WAY SUITE: SITE

DESCRIPTION:

PLEASE NOTE: THIS PROJECT ENCOMPASSES 230 AND 240 ROYAL PALM WAY

1) Site Plan Review to allow the construction of three (3) carport awnings totaling 6,359 square feet to provide covered parking for 38 parking spaces in the existing parking lot behind the building. The following variances are being requested to allow construction of the awnings: a) lot coverage of 40.2% in lieu of the 24.3% existing and the 25% maximum allowed in the C-OPI Zoning District. b) rear yard setback of 5.17 feet in lieu of the 10 foot minimum required in the C-OPI Zoning District.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	12/21/2017	No comments.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	3/15/2018	Parking stalls are non-compliant: An off-street parking space shall have minimum dimensions of nine feet in width and 18 feet in length for the parking of each automobile, exclusive of access drives or aisles thereto. With the introduction of a 12" diameter concrete bollard on both sides of a parking stall, these specific parking spots are narrower than 8-Foot (bollard on both sides 5-foot in from entering the stall). The remainder of the spots are 8'-6" +/- Foot wide (a bollard on one side or the other 5-foot back from the entrance to the stall).
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	1/9/2018	There are no Fire Code concerns with this proposal
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/4/2018	This project will require ARCOM review and approval as a major combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/21/2017	No Comment
PZB DIRECTOR	Director, Planning, Zoning & Building	1/4/2018	There has been some precedent for allowing carport awnings in Town, yet it appears the existing parking spaces are nonconforming in width. Owner must justify the necessity for the variances.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	1/4/2018	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	3/15/2018	There appears to be no hardship to approve the proposed variances.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00063 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: R-B Low Density Residential The application of ROSS CAROLYN H EST, Owner, relative to property located at **201 SANFORD AVE**, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a 4,699 square foot two-story, single family residence on a portion of a platted lot which is 98.47 feet in width in lieu of the 100 foot minimum required In the R-B Zoning District. [Applicant's Representative: Maura Ziska, Esq] [The Architectural Commission approved this project at the February 28, 2018 meeting. Carried 7-0.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum dated March 13, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- ▣ **Comments of the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-17-00063 SPECIAL EXCEPTION**
201 SANFORD AVE

Date: March 13, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Special Exception with Site Plan Review to allow the construction of a 4,699 square foot two-story, single family residence on a portion of a platted lot which is 98.47 feet in width in lieu of the 100 foot minimum required in the R-B Zoning District.

ADDRESS: 201 SANFORD AVE

OWNER: ROSS CAROLYN H EST

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-14-05-000-0021

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: WALTON ADD PB REV LT 2 /LESS W 2.5 FT/ & LT
2-A

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/4/18

APPLICATION NO.: Z-17-00063 **APPLICATION TYPE:** SPECIAL EXCEPTION

ADDRESS: 201 SANFORD AVE

DESCRIPTION: Special Exception with Site Plan Review to allow the construction of a 4,699 square foot two-story, single family residence on a portion of a platted lot which is 98.47 feet in width in lieu of the 100 foot minimum required in the R-B Zoning District.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	12/21/2017	No comments.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	3/15/2018	The required sketch of a Stormwater System and coordination with Landscape Architect have been provided. The exfiltration calculations are not checked at this level of review.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	1/9/2018	There are no Fire Code concerns with this proposal
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/4/2018	This project will require ARCOM review and approval as a major combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	12/21/2017	No Comment
PZB DIRECTOR	Director, Planning, Zoning & Building	1/4/2018	No comment (no variances requested to build a new home on this non-conforming lot).
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	1/4/2018	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	12/29/2017	The proposed house meets all of the lot, yard and bulk requirements in the Zoning Code with the exception of not meeting the minimum lot width. The Zoning Division has not comments.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00054 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND

VARIANCE Zoning District: C-TS Town-Serving Commercial The application of VIA 313 1/2 WORTH AVENUE LTD, Owner, relative to property located at **313 1/2 WORTH AVE SUITE: B 3**, legal description on file, is described below.1)

Special Exception with Site Plan Review is being requested to modify a previous approval (which granted Bice Ristorante 46 outdoor seats) to increase the number of outdoor seats from 46 to 82 (an additional 36 seats) for the seasonal months of November through April only. 2) A variance is being requested to provide zero (0) on-site parking spaces in lieu of the required 12 parking spaces that would be required for the additional 36 seats. [Applicant's Representative: Maura Ziska Esq]

Consideration of Proposed Declaration of Use Agreement

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated March 12, 2018 From Paul Castro**
- ▣ **Amendment to the Declaration of Use Agreement**
- ▣ **Memorandum dated March 13, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- ▣ **Comments of the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

From: Paul Castro, Acting Planning, Zoning and Building Director

Re: Z-17-00054, Special Exception, Proposed Amendment to the Declaration of Use Agreement for Bice Ristorante, 313 ½ Worth Avenue

Date: March 12, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the proposed Amendment to the Declaration of Use Agreement for Bice Ristorante.

GENERAL INFORMATION

At the February 14, 2018 meeting, the Council conditionally approved the subject application to expand the existing outdoor seating by moving 36 additional inside seats, outside during good weather conditions. The maximum number of approved outdoor seats that can be relocated outside is 82. As part of the approval, the applicant is required to amend the existing Declaration of Use Agreement to include the maximum seating and the floor plans which identifies the area and minimum aisle way clearances for outdoor seating.

Staff has made minor changes to the applicant's draft Amendment to the Declaration of Use Agreement which they agree to (See Exhibit A). Both Staff and the applicant are prepared to address the Agreement at the meeting.

If you have any questions about the proposed Agreement please contact me at 227-6406.

TOWN ATTORNEY REVIEW

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

cc: Jay Boodheshwar, Deputy Town Manager
zf & pf

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

AMENDMENT TO DECLARATION OF USE AGREEMENT
by
THE TOWN OF PALM BEACH
and
313 WORTH AVE, LLC d/b/a BICE RISTORANTE

Dated: _____, 2018

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AMENDMENT OF DECLARATION OF USE AGREEMENT

THIS AMENDMENT TO DECLARATION OF USE AGREEMENT (“Amendment”) is made and entered into this ____ day of _____, 2018 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter the “Town”), and 313 WORTH AVE, LLC d/b/a BICE RISTORANTE (hereinafter the “Restaurant”) which terms “Town” and “Restaurant” will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

W I T N E S S E T H:

WHEREAS, the Town and Owner heretofore entered into a Declaration of Use Agreement made on February 13, 2012 and recorded in Official Records Book 25029, Page 1219, of the Public Records of Palm Beach County; and

WHEREAS, the Town Council on February 14, 2018 conditionally approved a portion of Z-17-00054, said portion being the Special Exception to allow the restaurant “Bice Ristorante” to relocate an additional 36 interior seats to the outdoor seating area;

WHEREAS, the Restaurant withdrew the off-street parking Variance related to adding said seats rather than relocating them from inside the Restaurant’s tenant space;

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

ARTICLE I

RECITALS

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

ARTICLE II

OUTDOOR SEATING

The condition outlined in Article IV and Exhibit “B” of the Declaration of Use Agreement dated February 13, 2012 are modified as follows

The outdoor seating shall be limited to a maximum of 82 seats which may only be taken from the 198 seat inside capacity of Bice Restorante. Said outdoor seating shall meet the minimum clearances and aisle widths as identified on Sheet A-3 prepared by Architectural Consultants, Inc., dated February 6, 2018 attached hereto as the new Exhibit “B”.

ARTICLE III

PROVISIONS FOR NOTICE

For the issuance of any notice regarding the terms of this Amendment, notice shall be provided.

To the Town Manager:

The Town of Palm Beach, Town Hall
360 S. County Road
Palm Beach, FL 33480

To the Restaurant:

Jose Gonzalez
313 ½ Worth Avenue
Palm Beach, FL 33480

ARTICLE IV

REMEDIES FOR VIOLATION

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

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

2. In addition to the above, the Town shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered in the Town's Code of Ordinances; and (c) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County for the State of Florida. In the event the Town is required

to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

ARTICLE V

PROVISIONS TO RUN WITH LAND/RECORDING

This Amendment shall run with the Land and shall be binding upon the restaurant and it's successors and assigns. This Amendment shall be recorded by the Owner in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Amendment shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VI

ENTIRE AGREEMENT

This Amendment represents the entire agreement between the parties as to the subject matter set forth in this Amendment and may not be amended except by written agreement executed by both parties. All previous provisions of the Declaration of Use recorded in Official Records Book 25029, Page 1219, of the Public Records of Palm Beach County remain intact.

ARTICLE VI

MISCELLANEOUS

Wherever the word "laws" appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities. This Amendment may not be amended except by written instrument signed by all parties hereto. Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this reference made a part hereof. This Agreement shall be binding upon the parties hereto and upon their successors and assigns. In the event of the invalidity of any provision of this Agreement, same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

Except as modified by this Amendment, all the terms and conditions of the aforesaid Declaration remain in full force and effect.

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

Signed, sealed and delivered
In the presence of:

TOWN OF PALM BEACH:

By: _____
Gail Coniglio, Mayor

By: _____
_____, President
Town Council

By: _____
Kirk Blouin
Town Manager

RESTAURANT:
313 WORTH AVE, LLC d/b/a BICE
RISTORANTE

By: _____
Print Name _____
Its: _____

APPROVED AS TO LEGAL FORM AND
SUFFICIENCY:

John C. Randolph
Town Attorney

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Gail Coniglio, Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public-State of Florida
Commission Number: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Richard M. Kleid, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public-State of Florida
Commission Number: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Kirk Blouin, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public-State of Florida
Commission Number: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____
_____. Who is personally known to me or has produced
_____ as identification.

(SEAL)

Notary Public-State of _____

Commission Number: _____

Commission Number: _____

00037949.DOC

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-17-00054 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**
313 1/2 WORTH AVE SUITE: B 3

Date: March 13, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

1) Special Exception with Site Plan Review is being requested to modify a previous approval (which granted Bice Ristorante 46 outdoor seats) to increase the number of outdoor seats from 46 to 82 (an additional 36 seats) for the seasonal months of November through April only. 2) A variance is being requested to provide zero (0) on-site parking spaces in lieu of the required 12 parking spaces that would be required for the additional 36 seats.

ADDRESS: 313 1/2 WORTH AVE SUITE: B 3

OWNER: VIA 313 1/2 WORTH AVENUE LTD

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-23-05-014-0190

ZONING DISTRICT: C-TS Town-Serving Commercial

LEGAL DESCRIPTION: ROYAL PARK ADD LTS 19 THRU 23 & N
92.45 FT OF W 13 FT & SLY 33.79 FT OF WLY 8.2
FT OF LT 24 & TH PT OF LTS 33 THRU 38 AS IN
OR1649P1237 (LESS OR5635P125) BLK 14

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 11/30/17

APPLICATION NO.: Z-17-00054 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW

ADDRESS: 313 1/2 WORTH AVE SUITE: B 3

DESCRIPTION:

1) Special Exception with Site Plan Review is being requested to modify a previous approval (which granted Bice Ristorante 46 outdoor seats) to increase the number of outdoor seats from 46 to 82 (an additional 36 seats) for the seasonal months of November through April only. 2) A variance is being requested to provide zero (0) on-site parking spaces in lieu of the required 12 parking spaces that would be required for the additional 36 seats.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	12/7/2017	No comment.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/20/2017	No comment.



PLANNING, ZONING AND BUILDING DEPARTMENT

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 11/30/17

FIRE RESCUE
DEPARTMENT

Martin DeLoach, Fire Marshal

12/1/2017

The Life Safety code addresses open courts in Chapter 7 subsection 7.7.1.1. The lay out that is proposed identifies the minimum space that is required for exit pathways. Unfortunately, when you add people into the spaces the minimum width, could not be maintained as required. The proposed seating plan reflects the way the business had expanded their seating without approval from the town last year. This was brought to our attention through complaints called into the fire prevention office. The operation of the business with the seating that is proposed, provided less than the required exit corridor width for people to exit the open air seating area. The proposed expansion of the open-air dining area, still confines the people within the walls of the buildings and would not allow safe exiting from the area, in the case of an emergency. This also restricted the entrance and exiting from some of the other businesses that use the court for customers to have access to their businesses.

NFPA 101 Chapter 7 Means of Egress

7.1.10.2 Furnishings and Decorations in Means of Egress.

7.1.10.2.1

No furnishings, decorations, or other objects shall obstruct exits or their access thereto, egress therefrom, or visibility thereof.

7.1.10.2.2

No obstruction by railings, barriers, or gates shall divide the means of egress into sections appurtenant to individual rooms, apartments, or other occupied spaces. Where the authority having jurisdiction finds the required path of travel to be obstructed by furniture or other movable objects, the authority shall be permitted to require that such objects be secured out of the way or shall be permitted to require that railings or other permanent barriers be installed to protect the path of travel against encroachment.

7.3.4 Minimum Width.

7.3.4.1

The width of any means of egress, unless otherwise provided in 7.3.4.1.1 through 7.3.4.1.3, shall be as follows:

(1) Not less than that required for a given egress component in this chapter or Chapters 11 through 43

(2) Not less than 36 in. (915 mm) where another part of this chapter and Chapters 11 through 43 do not specify a minimum width

7.7 Discharge from Exits.

7.7.1 * Exit Termination.

Exits shall terminate directly, at a public way or at an exterior exit discharge, unless otherwise provided in 7.7.1.2 through 7.7.1.4.

7.7.1.1

Yards, courts, open spaces, or other portions of the exit discharge shall be of the required width and size to provide all occupants with a safe access to a public way. I have no comment regarding this project.

PZB - PLANNING AND
ARCHITECTURAL REVIEW

John Lindgren, Planning
Administrator-Project Manager

1/4/2018



PLANNING, ZONING AND BUILDING DEPARTMENT

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 11/30/17

POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	11/21/2017	No Comment
PZB DIRECTOR	Director, Planning, Zoning & Building	12/4/2017	Code Enforcement has been called to this site many times to correct excessive outdoor seating complaints. Excessive outdoor seating interferes with safe, orderly public passage through the via. Adding more seats also requires additional off-street parking. A variance exempting the additional, required parking is also requested. Applicant must justify the necessity for the hardship.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	12/4/2017	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/28/2017	The special exception request should not be approved to add additional seating to the restaurant. There is no hardship on the proposed variance. If the applicant wants more outside seating, the seats should be taken from the inside capacity of the restaurant.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - Old Business

Agenda Title

MODIFIED Z-17-00066 SITE PLAN REVIEW Zoning District: C-TS
Town-Serving Commercial The application of VIA 313 1/2 WORTH AVENUE LTD, Owner, relative to property located at **313 1/2 WORTH AVE SUITE: SITE**, legal description on file, is described below. 1. Request for special exception approval to allow a two (2) story trellis. 2. Request site plan review to modify the Via Bice as follows: a. New mosaic pavers in the Via; b. New 2,240 square foot 2 story trellis with retractable awning above; c. New landscaping and lighting; d. New stone entry with awning on Peruvian Avenue; e. Removal of existing canvas awnings f. New 37.5 square foot addition to existing bay window. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission generally thought the redesign was a positive step forward in the right direction. Some of the topics debated by the Commissioners were the following: 1) Whether the front facing façade was too modern, 2) Whether the pergolas took away from the Via, 3) Whether the tile pattern on the floor was the correct design, 4) Whether the retractable awnings were appropriate, 5) The height of the pergolas. They all agreed that accessibility at the entrance was necessary.

Presenter

ATTACHMENTS:

- **Memorandum dated March 13, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-17-00066 SITE PLAN REVIEW**
313 1/2 WORTH AVE SUITE: SITE

Date: March 13, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Request for site plan review to modify the Via Bice as follows:

- 1) New mosaic pavers in the Via;
- 2) New 2,240 square foot trellis with retractable awning above;
- 3) New landscaping and lighting;
- 4) New stone entry with awning on Peruvian Avenue;
- 5) Removal of existing canvas awnings
- 6) New 37 .5 square foot addition to existing bay window.

ADDRESS: 313 1/2 WORTH AVE SUITE: SITE

OWNER: VIA 313 1/2 WORTH AVENUE LTD

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-23-05-014-0190

ZONING DISTRICT: C-TS Town-Serving Commercial

LEGAL DESCRIPTION: ROYAL PARK ADD LTS 19 THRU 23 & N
92.45 FT OF W 13 FT & SLY 33.79 FT OF WLY 8.2
FT OF LT 24 & TH PT OF LTS 33 THRU 38 AS IN
OR1649P1237 (LESS OR5635P125) BLK 14

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/4/18

APPLICATION NO.: Z-17-00066 **APPLICATION TYPE:** SITE PLAN REVIEW

ADDRESS: 313 1/2 WORTH AVE SUITE: SITE

DESCRIPTION:

Request for site plan review to modify the Via Bice as follows:

- 1) New mosaic pavers in the Via;
- 2) New 2,240 square foot trellis with retractable awning above;
- 3) New landscaping and lighting;
- 4) New stone entry with awning on Peruvian Avenue;
- 5) Removal of existing canvas awnings
- 6) New 37 .5 square foot addition to existing bay window.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	1/3/2018	No Comments at this time.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	1/31/2018	A sketch of the drainage system and coordination with the Landscape Architect are required.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	1/9/2018	There are no Fire Code Concerns with this application
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/4/2018	This project will require ARCOM review and approval as a major project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	1/4/2018	No Comment
PZB DIRECTOR	Director, Planning, Zoning & Building	1/4/2018	Proposed changes are significant, and must be approved by either Landmarks or ARCOM, whichever is appropriate. Bice restaurant recently applied for additional outdoor seating (to be heard by Council in January). Does adequate ingress/egress space exist for public safety purposes?
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	1/4/2018	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/30/2018	The applicant may need a variance for lot coverage. Staff will verify prior to the meeting date. I have no comments on the site improvements.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00067 VARIANCE(S) Zoning District: R C Medium Density Residential
The application of SADECA REALTY LLC, Owner, relative to property located at **138 ROOT TRL SUITE: SITE**, legal description on file, is described below. Request a variance to allow a seventeen (17) foot wide sliding driveway gate with a 2.58 foot setback from the edge of pavement in lieu of the 18 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Landmark Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property. Carried 7-0]

Presenter

ATTACHMENTS:

- ▣ **Memorandum dated March 15, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- ▣ **Comments of the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-18-00067 VARIANCE(S)**
138 ROOT TRL SUITE: SITE

Date: March 15, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Request a variance to allow a seventeen (17) foot wide sliding driveway gate with a 2.58 foot setback from the edge of pavement in lieu of the 18 foot minimum required.

ADDRESS: 138 ROOT TRL SUITE: SITE

OWNER: SADECA REALTY LLC

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-14-00-002-0060

ZONING DISTRICT: R-C Medium Density Residential

LEGAL DESCRIPTION: 14-43-43, E 50 FT OF W 578.7 FT OF SUB P OF
GOV LT 2

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/23/18

APPLICATION NO.: Z-18-00067 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 138 ROOT TRL SUITE: SITE

DESCRIPTION:

Request a variance to allow a seventeen (17) foot wide sliding driveway gate with a 2.58 foot setback from the edge of pavement in lieu of the 18 foot minimum required.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	1/22/2018	No Comments.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	3/15/2018	No Comments
FIRE RESCUE DEPARTMENT			No Comment
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/31/2018	This project will require review and approval (certificate of appropriateness - COA) by the Landmarks Preservation Commission (LPC) as a noticed combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	1/19/2018	No Comment
PZB DIRECTOR			No Comment
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	1/23/2018	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/24/2018	There appears to be no hardship for the proposed variance to have the gates so close to the street.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00068 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: R B Low Density Residential The application of 1280 NORTH LAKE WAY LLC, Owner, relative to property located at **1280 N LAKE WAY**, legal description on file, is described below. 1. Site Plan Review to allow the construction of a 7,431 square foot two story, single family residence on a non conforming platted lot which is 87.95 feet in width in lieu of the 100 foot minimum width required in the R B Zoning District. 2. A variance request to allow the two story residence with a point of measurement of 8.5 feet North American Vertical Datum ("NAVD") for cubic content ratio ("CCR") in lieu of the 7.4 foot NAVD required when determining cubic content ratio on lots abutting the Lake Trail. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission deferred this project for one month to the March 28, 2018 meeting for restudy. Carried 7-0.] **Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 13, 2018 from Maura Ziska**

Presenter

ATTACHMENTS:

- ▣ **Letter Dated March 13, 2018 From Maura Ziska**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

*Also admitted in New York

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

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

VIA E-MAIL

March 13, 2018

Paul Castro
Kelly Churney
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Z-18-00068 – 1280 N Lake Way

Dear Paul and Kelly:

Please defer the above referenced matters from the March 21, 2018 Town Council agenda to the April 11, 2018 Town Council agenda. The reason for the deferral is due to ARCOM deferring the project at the February 28, 2018 meeting. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,


Maura A. Ziska

MAZ/jch
cc: Architect

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00069 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: R-D(2) High Density Residential The application of ALBERT ULF L, Owner, relative to property located at **425 WORTH AVE SUITE: PH C**, legal description on file, is described below. A site plan modification request with variances to allow a 58 square foot addition to the laundry room and a 815 square foot trellis addition on the penthouse level of an existing six story building in the R D(2) Zoning District. The following variances are being requested to allow the additions: 1. allow a building height for the additions to be 58.5 feet (to match existing) in lieu of the 35 foot maximum allowed. 2. allow the additions to the existing 6th floor penthouse in lieu of the 3 story maximum allowed. 3. allow a front yard setback of 60.0' for the addition on the north side in lieu of the 117 foot minimum required (height of existing building x number of street yards). 4. allow a front yard setback of 22.7' for the trellis on the south side in lieu of the 126.5' minimum required (height of existing building x number of street yards). 5. allow a side yard setback of 46.5' for the trellis in lieu of the 58.5 foot minimum required (due to height of existing building). [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the February 28, 2018 meeting. Carried 7-0.]

Presenter

ATTACHMENTS:

- **Memorandum dated March 15, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- **Comments of the Development Review Commission**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-18-00069 SITE PLAN REVIEW WITH VARIANCE(S)**
425 WORTH AVE SUITE: PH C

Date: March 15, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

A site plan modification request with variances to allow a 58 square foot addition to the laundry room and a 815 square foot trellis addition on the penthouse level of an existing six story building in the R-D(2) Zoning District. The following variances are being requested to allow the additions: 1. allow a building height for the additions to be 58.5 feet (to match existing) in lieu of the 35 foot maximum allowed. 2. allow the additions to the existing 6th floor penthouse in lieu of the 3 story maximum allowed.

3. allow a front yard setback of 60.0' for the addition on the north side in lieu of the 117 foot minimum required (height of existing building x number of street yards).

4. allow a front yard setback of 22.7' for the trellis on the south side in lieu of the 126.5' minimum required (height of existing building x number of street yards).

5. allow a side yard setback of 46.5' for the trellis in lieu of the 58.5 foot minimum required (due to height of existing building).

ADDRESS: 425 WORTH AVE SUITE: PH C

OWNER: ALBERT ULF L

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-27-68-000-6030

ZONING DISTRICT: R-D(2) High Density Residential

LEGAL DESCRIPTION: VILLAS INC PENTHOUSE C

Page Two

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf

**PLANNING, ZONING AND BUILDING DEPARTMENT**

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/23/18

APPLICATION NO.: Z-18-00069 **APPLICATION TYPE:** SITE PLAN REVIEW WITH VARIANCE(S)

ADDRESS: 425 WORTH AVE SUITE: PH C

DESCRIPTION:

A site plan modification request with variances to allow a 58 square foot addition to the laundry room and a 815 square foot trellis addition on the penthouse level of an existing six story building in the R-D(2) Zoning District. The following variances are being requested to allow the additions: 1. allow a building height for the additions to be 58.5 feet (to match existing) in lieu of the 35 foot maximum allowed. 2. allow the additions to the existing 6th floor penthouse in lieu of the 3 story maximum allowed. 3. allow a front yard setback of 60.0' for the addition on the north side in lieu of the 117 foot minimum required (height of existing building x number of street yards). 4. allow a front yard setback of 22.7' for the trellis on the south side in lieu of the 126.5' minimum required (height of existing building x number of street yards). 5. allow a side yard setback of 46.5' for the trellis in lieu of the 58.5 foot minimum required (due to height of existing building).

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	3/15/2018	No Comments.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	3/15/2018	No Comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	3/14/2018	No fire code concerns with this proposed project
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/31/2018	This project will require review and approval by the Architectural Commission (ARCOM) as a major noticed combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	1/22/2018	No Comment
PZB DIRECTOR			
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	1/23/2018	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	3/15/2018	The applicant needs to demonstrate the hardship based on the Zoning Code provisions to the satisfaction of the Town Council.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00070 SITE PLAN REVIEW Zoning District: R D(2) High Density Residential The application of WINTHROP HOUSE COND, Owner, relative to property located at **100 WORTH AVE SUITE: SITE**, legal description on file, is described below. Request for Site Plan Review to remove and place existing planters on the 5th floor rooftop/sundeck of the condominium building.
[Applicant's Representative: Maura Ziska Esq]

Presenter

ATTACHMENTS:

- ▣ **Memorandum dated March 13, 2018 from Paul Castro, Interim Director of Planning, Zoning and Building**
- ▣ **Comments of the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 21, 2018

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Paul W. Castro, Acting Director, Planning, Zoning & Building Department

Subject: **Z-18-00070 SITE PLAN REVIEW**
100 WORTH AVE SUITE: SITE

Date: March 13, 2018

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

Request for Site Plan Review to remove and place existing planters on the 5th floor rooftop/sundeck of the condominium building.

ADDRESS: 100 WORTH AVE SUITE: SITE

OWNER: WINTHROP HOUSE COND

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-26-05-000-0000

ZONING DISTRICT: R-D(2) High Density Residential

LEGAL DESCRIPTION:

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

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

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 1/23/18

APPLICATION NO.: Z-18-00070 **APPLICATION TYPE:** SITE PLAN REVIEW

ADDRESS: 100 WORTH AVE SUITE: SITE

DESCRIPTION: Request for Site Plan Review to remove and place existing planters on the 5th floor rooftop/sundeck of the condominium building.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	1/23/2018	No comments at this time.
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	3/15/2018	No Comments
FIRE RESCUE DEPARTMENT			No Comment
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	1/31/2018	This project will require review and approval by the Architectural Commission (ARCOM) as a major noticed combination project if the existing wall and/or rail is required to be raised to meet building code and safety requirements.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	1/23/2018	May need right-of-way construction parking permits.
PZB DIRECTOR			
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	1/23/2018	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	1/24/2018	The applicant is required to more clearly describe the scope of work in the application. This project is also a special exception with site plan review. At this time, there is not an adequate description of the request. In addition, it appears that with the renovation of the proposed fifth floor terrace that the applicant will be required to raise the balustrade to meet the current life safety code. The is require variances which have not been requested in this application. If this is correct, the applicant is also required to revise the application to add raised balustrade and varinaces in the application request.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00071 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) Zoning District: B A Beach Area The application of TRAVERSE NORMAN &, Owner, relative to property located at **1744 S OCEAN BLVD**, legal description on file, is described below. 1. Request a special exception to permit the construction of a +/- 75 foot tunnel for pedestrian access under South Ocean Boulevard to connect the house to the beach parcel on the east side of South Ocean Boulevard. The application proposes to divert traffic onto the applicant's property so there will not be a need to close the road. 2. A variance to allow the tunnel and associated stairs to have a setback of 47.25 feet from the designated Ocean Bulkhead Line established in Chapter 62 in lieu of the 150 foot minimum setback required. [Applicant's Representative: Maura Ziska Esq]
Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 13, 2018 from Maura Ziska

Presenter

ATTACHMENTS:

- **Letter Dated March 13, 2018 From Maura Ziska**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

*Also admitted in New York

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

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

VIA E-MAIL

March 13, 2018

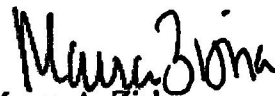
Paul Castro
Kelly Churney
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Z-18-00071 – 1744 South Ocean Blvd.

Dear Paul and Kelly:

Please defer the above referenced matters from the March 21, 2018 Town Council agenda to the April 11, 2018 Town Council agenda. The reason for the deferral is to re-advertise the zoning request and allow additional time for updated information to be procured from FDOT. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,


Maura A. Ziska

MAZ/jch
cc: Architect

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00072 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: R A Estate Residential The application of SHADOWBROOK LAND TRUST &, Owner, relative to property located at **110 VIA VIZCAYA**, legal description on file, is described below. Site Plan Review to allow the construction of a 5,084 square foot two story, single family residence on a non conforming lot which is 100 feet in width in lieu of the 125 foot minimum width required; 100 feet in depth in lieu of the 150 foot minimum required and 10,000 square feet in area in lieu of the 20,000 square foot minimum required in the R A Zoning District. The following variances are being requested in conjunction with this application: 1. A variance request to have a building height plane setback of 30 feet in lieu of the 45.81 foot setback required for a building that is 22' feet 6 5/8" inches tall. 2. A variance for lot coverage to be 28% in lieu of the 25% maximum allowed in the R A Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission deferred this project to the March 28, 2018 meeting. Carried 7-0.]
Request for Deferral to April 11, 2018 Town Council Meeting per Letter Dated March 13, 2018 from Maura Ziska

Presenter

ATTACHMENTS:

- ▣ **Letter Dated March 13, 2018 From Maura Ziska**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

*Also admitted in New York

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

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

VIA E-MAIL

March 13, 2018

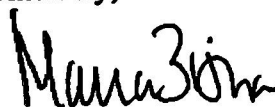
Paul Castro
Kelly Churney
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Z-18-00072 – 110 Via Vizcaya

Dear Paul and Kelly:

Please defer the above referenced matters from the March 21, 2018 Town Council agenda to the April 11, 2018 Town Council agenda. The reason for the deferral is due to ARCOM deferring the project at the February 28, 2018 meeting. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Maura A. Ziska

MAZ/jch
cc: Architect

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Development Review - New Business

Agenda Title

Z-18-00073 SITE PLAN REVIEW Zoning District: R B Low Density Residential The application of PALAMAD LLC, Owner, relative to property located at **305 MADDOCK WAY**, legal description on file, is described below. Section 134 843(b) An application for a Site Plan Review to construct new two story 9,141 s.f. residence, swimming pool and pool cabana on a platted non conforming lot with a lot width of 25 feet in lieu of the 100 foot minimum required in the R-B Zoning District. [Applicant's Representative: Peter Broberg] [The Landmark Commission deferred this project to the April 18, 2018 meeting to allow staff to obtain a peer review of the structural engineering report submitted by the applicant. Carried 7-0.]

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 21, 2018

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 04-2018 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Definitions And Rules Of Construction, By Creating A Definition For Tow-Away Signs; At Article II, Administration, Section 134-38 By Increasing And Creating Additional Fees For Land Development Services; Section 134-145 Modifying The Hearing Procedure For Administrative Appeals; Section 134-261 Creating An Initial Review Procedure For Zoning Text Amendments; At Article IV, Nonconformities, Section 134-417, Enlargement, And 134-419, Enlargement, Extension, Reconstruction Or Alteration, By Creating A New Demolition Threshold, Including Additional Provisions For Alterations And Repairs And Clarifying Language For Raising Nonconforming Buildings And/Or Structures; At Article VI, District Regulations, Sections 134-788, 134-838 And 134-888, Accessory Uses, And Sections 134-789, 134-839 And 134-889, Prohibited Uses By Creating Regulations To Conditionally Allow Construction Related Employee Off-Street Parking At Private Social, Swimming, Golf, Tennis And Yacht Clubs In The R-Aa, R-A And R-B Residential Zoning Districts; Sections 134-796, 134-846 And 134-893, Exceptions To Height Limitations, By Allowing Solar Material On Roofs Of Buildings Provided There Is Either Architectural Commission Or Landmark Preservation Commission Approval In The R-Aa, R-A And R-B Residential Zoning Districts; Sections 134-840 And 134-890, Special Exception Uses And At Article VIII, Supplementary District Regulations, Section 134-1698, Structures, Signs And Landscape Material West Of Lake Trail, By Allowing Essential Services West Of Lake Trail As A Special Exception Use In The R-A And R-B Residential Zoning Districts; At Article VI, District Regulations, Section 134-893, Lot, Yard And Bulk Regulations By Clarifying That First Floor, Unenclosed Loggias, Pergolas, Porches Terraces And Covered Patios In The R-B Zoning District Are Allowed An Additional 5% Cubic Content; At 134-895, Same, Exceptions From Yard Regulations, By Modifying The Provision To Ensure That Additional 3% Lot Coverage For An Awning Or Open Trellis Is Not Counted In The Cubic Content Ratio Calculations; At Article VIII, Supplementary District Regulations, Section

134-1607, Permitted Exceptions, By Allowing Solar Material On The Roof Of A Building Or Structure In All Other Zoning Districts Other Than R-Aa, R-A And The R-B Zoning Districts Provided That Said Material Is Approved By The Architectural Commission Or Landmark Preservation Commission; Section 134-1757, Swimming Pools, By Allowing Raised Spas/Hot Tubs And Infinity Pools; Section 134-1759, Tennis, Shuffleboard And Racquetball Courts, By Reordering The Existing Regulations To Eliminate Redundant Language; At Article XI, Signs, Adding Sections 134-2410 And 134-2449 By Creating Regulations For Tow-Away Signs In Residential And Commercial Zoning Districts; Sections 134-2411 And 134-2450 By Creating Regulations Allowing Governmental Signs In All Residential And Commercial Zoning Districts; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated March 14, 2018 from Paul Castro**
- ▣ **Ordinance No. 4-2018**

TOWN OF PALM BEACH

Information for Town Council Meetings on: March 21, 2018

To: Mayor and Town Council

From: Paul Castro, Acting Director of Planning, Zoning & Building

Re: Proposed Modifications and Changes to Chapter 134, Zoning
Ordinance No. 4-2018

Date: March 14, 2018

STAFF RECOMMENDATION

Staff recommends that the Local Planning Agency recommend approval and that the Town Council approve Ordinance No. 4-2018 at first reading.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its October 17, 2017, November 28, 2017, December 19, 2017 and January 22, 2018 meetings, recommended approval of proposed Zoning Code modifications as outlined herein.

GENERAL INFORMATION

The Town Council considered the Planning and Zoning Commission's Record and Report at its January 10, 2018 Town Council meeting. The Council directed Staff to draft an ordinance on all zoning items with the exception of the issue related to the demolition threshold for nonconforming buildings and structures. The Council remanded that item back to the Planning and Zoning Commission to re-examine the issue. The Commission held a special meeting on January 22, 2018, and reconsidered the nonconforming building and structure demolition regulations. The Commission recommended the changes identified in Sections 5 and 6 in proposed Ordinance No. 4-2018 (copy attached).

The Commission's recommendation differs from Staff's recommendation. The Commission recommends the demolition threshold for allowing a nonconforming building or structure to remain nonconforming change from the existing Code requirement that is the loss of a maximum of 50% existing cubic footage to a loss of a maximum 50% of the existing square footage area of all walls, windows and doors, or 50% of all roof trusses. Staff recommends a more restrictive threshold change of not allowing more than 50% of the existing square footage area of any wall on an elevation during demolition, excluding operable windows and doors, nor more than 50% of the roof trusses.

A brief description of the proposed zoning issues addressed in Ordinance No. 4-2018, including changes to the demolition threshold for nonconforming buildings and structures, are as follows:

- Increasing the fees for additional variances, initial zoning text amendment proposals and Florida Department of Environmental Protection Permit Zoning compliance letters. Creating fees for unity of title agreements and kitchen agreements are also included.
- Clarifying when the clock starts for filing an appeal of an administrative decision; what is required to be submitted for an appeal; and changing existing language related to the appeal to ensure clarity.
- Creating Zoning Code provisions for Town Council review of initial Zoning Text Amendment Proposals and other minor modifications.
- Creating a different demolition threshold for when a nonconforming building or structure is required to meet Code, and allow additions exceeding 50% of the existing size of a nonconforming structure provided certain conditions are met.
- Conditionally allowing construction parking for Island related projects at private clubs located in Residential Zoning Districts in the Town.
- Allowing solar technology to cover as much roof as possible provided said materials are approved by the Architectural or Landmarks Preservation Commissions, whichever is pertinent.
- Allowing essential services, such as a municipal pump station, to be built west of Lake Trail.
- Clarifying the 5% cubic content ratio credit for unenclosed patios, loggias, porches and terraces. The change would allow those types of elements to be more than 5% of the maximum cubic content ratio allowed provided that the total cubic content does not exceed 5% of the maximum allowed for the house.
- Codifying an administrative determination that the 3% lot coverage credit for awning and open trellises does not count in cubic content ratio in the R-B Zoning District.
- Correcting a hotel density error which incorrectly states that hotel density in the C-B district is 22 units per acre when 26 units is correct. In addition, the word “dwelling” is eliminated because the density is hotel rooms and not dwelling units.
- Correcting a scrivener’s error in a Code title for the R-B district from “large estate” to “low density.”
- Allowing flexibility to allow swimming pool structures, including hot tubs, to exceed a height of more than six inches above grade to allow for infinity pools and waterfall hot

tubs that spill into a pool.

- Removing inconsistent language, and consolidating and eliminating existing redundant language for tennis or shuffleboard courts and similar accessory uses.
- Correcting a scrivener's error related to signs.
- Creating zoning regulations for tow-away signs on private property to eliminate proliferation of signs and to ensure uniformity. This includes a provision to require tow-away signs nonconforming to these new provisions taken down by January 1, 2019.
- Creating a provision to allow historical or governmental signs on public or private property provided approval is given by the Town Council

TOWN ATTORNEY REVIEW

Ordinance No. 4-2018 has been approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Planning and Zoning Commission
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
zf

ORDINANCE NO. 4-2018

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, AS FOLLOWS: AT ARTICLE I, IN GENERAL, SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY CREATING A DEFINITION FOR TOW-AWAY SIGNS; AT ARTICLE II, ADMINISTRATION, SECTION 134-38 BY INCREASING AND CREATING ADDITIONAL FEES FOR LAND DEVELOPMENT SERVICES; SECTION 134-145 MODIFYING THE HEARING PROCEDURE FOR ADMINISTRATIVE APPEALS; SECTION 134-261 CREATING AN INITIAL REVIEW PROCEDURE FOR ZONING TEXT AMENDMENTS; AT ARTICLE IV, NONCONFORMITIES, SECTION 134-417, ENLARGEMENT AND 134-419, ENLARGEMENT, EXTENSION, RECONSTRUCTION OR ALTERATION, BY CREATING A NEW DEMOLITION THRESHOLD, INCLUDING ADDITIONAL PROVISIONS FOR ALTERATIONS AND REPAIRS AND CLARIFYING LANGUAGE FOR RAISING NONCONFORMING BUILDINGS AND/OR STRUCTURES; AT ARTICLE VI, DISTRICT REGULATIONS, SECTIONS 134-788, 134-838 AND 134-888, ACCESSORY USES AND SECTIONS 134-789, 134-839 AND 134-889, PROHIBITED USES BY CREATING REGULATIONS TO CONDITIONALLY ALLOW CONSTRUCTION RELATED EMPLOYEE OFF-STREET PARKING AT PRIVATE SOCIAL, SWIMMING, GOLF, TENNIS AND YACHT CLUBS IN THE R-AA, R-A AND R-B RESIDENTIAL ZONING DISTRICTS; SECTIONS 134-796, 134-846 AND 134-893, EXCEPTIONS TO HEIGHT LIMITATIONS, BY ALLOWING SOLAR MATERIAL ON ROOFS OF BUILDINGS PROVIDED THERE IS EITHER ARCHITECTURAL COMMISSION OR LANDMARK PRESERVATION COMMISSION APPROVAL IN THE R-AA, R-A AND R-B RESIDENTIAL ZONING DISTRICTS; SECTIONS 134-840 AND 134-890, SPECIAL EXCEPTION USES AND AT ARTICLE VIII SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 134-1698, STRUCTURES, SIGNS AND LANDSCAPE MATERIAL WEST OF LAKE TRAIL BY ALLOWING ESSENTIAL SERVICES WEST OF LAKE TRAIL AS A SPECIAL EXCEPTION USE IN THE R-A AND R-B RESIDENTIAL ZONING DISTRICTS; AT ARTICLE VI, DISTRICT REGULATIONS, SECTION 134-893, LOT, YARD AND BULK REGULATIONS BY CLARIFYING THAT FIRST FLOOR, UNENCLOSED LOGGIAS, PERGOLAS, PORCHES TERRACES AND COVERED PATIOS IN THE R-B ZONING DISTRICT ARE ALLOWED AN ADDITIONAL 5% CUBIC CONTENT; AT 134-895, SAME, EXCEPTIONS FROM YARD REGULATIONS, BY MODIFYING THE PROVISION TO ENSURE THAT ADDITIONAL 3% LOT COVERAGE FOR AN AWNING OR OPEN TRELLIS IS NOT COUNTED IN THE CUBIC CONTENT RATIO CALCULATIONS; AT ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 134-1607, PERMITTED EXCEPTIONS, BY ALLOWING SOLAR MATERIAL ON THE ROOF OF A BUILDING OR STRUCTURE IN ALL OTHER ZONING DISTRICTS OTHER THAN R-AA, R-A AND THE R-B ZONING DISTRICTS PROVIDED THAT SAID MATERIAL IS APPROVED BY THE ARCHITECTURAL COMMISSION OR LANDMARK PRESERVATION COMMISSION; SECTION 134-1757, SWIMMING POOLS, BY ALLOWING RAISED

SPAS/HOT TUBS AND INFINITY POOLS; SECTION 134-1759, TENNIS, SHUFFLEBOARD AND RACQUETBALL COURTS BY REORDERING THE EXISTING REGULATIONS TO ELIMINATE REDUNDANT LANGUAGE; AT ARTICLE XI, SIGNS, ADDING SECTIONS 134-2410 AND 134-2449 BY CREATING REGULATIONS FOR TOW AWAY SIGNS IN RESIDENTIAL AND COMMERCIAL ZONING DISTRICTS; SECTIONS 134-2411 AND 134-2450 BY CREATING REGULATIONS ALLOWING GOVERNMENTAL SIGNS IN ALL RESIDENTIAL AND COMMERCIAL ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE

WHEREAS, after public hearings pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended modification to the Code of Ordinances;

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

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

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

Section 1. Article I, IN GENERAL, Section 134-2, Definitions and rules of construction, is hereby amended to read as follows:

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

(a)...

(b) *Definitions* The following words, terms and phrase, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sign, tow-away means a sign which provides notice as required by Florida Statute for any property owner, lessee, or person authorized by a property owner or lessee to tow or remove any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel.

Section 2. Article II, ADMINISTRATION, Section 134-38, Filing fees for rezoning, special exception use, variance, appeal or other matter requiring public hearing, is hereby amended to read as follows:

Sec. 134-38. - Filing fees for rezoning, special exception use, variance, appeal or other matter requiring public hearing.

Upon filing an application requesting rezoning, a special exception use approval, a request for zoning variance, an appeal, or any other matter relating to this chapter which requires a public hearing, the applicant shall deposit with the office of the planning, zoning and building department the following application fees payable to the town:

- (1) Application relating to a PUD \$3,500.00
- (2) Application for a special exception use, or a modification or expansion thereof 1,500.00
Multi-family dwelling and commercial uses 2,000.00
Plus, for each additional special exception request ~~500.00~~ 700.00
- (3) Added requests for zoning variances contained within a special exception or site plan review request ~~500.00~~ 700.00
Plus, for each additional variance request ~~400.00~~ 600.00
- (4) Zoning variance requests involving:
 - a. Uses and structures 1,500.00
 - b. Multi-family dwellings and commercial uses 1,500.00
- (5) Zoning variance requests involving signs, awnings, fences, gateposts and similar incidental accessory items 800.00
- (6) Each additional item of a multiple-point variance request within one zoning variance request application 600.00
- (7) Filing of an application for site plan review pursuant to article III for PUD, multi-family dwelling or commercial building or site additions or modification involving more than 200 square feet 3,000.00
- (8) a. All other site plan review applications, including single-family dwellings and PUD, multi-family and commercial buildings or site additions or modifications of 200 square feet or less which require town council action 1,000.00
b. Administrative site plan review application 500.00
- (9) Comprehensive plan amendment:
 - a. Text 2,500.00
 - b. Future land use map:
 1. Small scale based on state statute 3,000.00
 2. Large scale based on state statute 4,000.00
- (10) Zoning change 3,000.00
- (11) Submittal of initial zoning text amendment proposal ~~400.00~~ 300.00
- (12) Zoning text amendments, if studied, minimum 4,000.00
- (13) Appeal of administrative decision 1,500.00
- (14) Resubmittal of revised plans or information related to an application 800.00
- (15) Lot split 2,000.00
- (16) Zoning waiver 1,500.00

- (17) Administrative supplemental shared parking and exception application and annual renewal fee 500.00
- (18) Administrative outdoor seating renewal fee 50.00
- (19) Unity of Title Agreements.....200.00
- (20) Zoning compliance letters related to Florida Department of Environmental Protection Permits....300.00
- (21) Kitchen Agreements.....150.00

Section 3. Article II, ADMINISTRATION, Sec. 134-145, Hearing procedure, is hereby amended to read as follows:

Sec. 134-145. Hearing procedure.

Any person appealing any decision of an administrative official made under this chapter shall make such appeal within 30 days after rendition of the written order, requirement, decision, or determination ~~from which such appeal is taken that is being appealed~~, or the right to appeal shall be barred. Such appeal shall be filed in writing to the director of planning zoning and building for consideration by to the town council ~~with ten copies thereof filed~~. The filing shall include a recorded disk which contains with all supporting facts, and data and appropriate exhibits, plans, documents and other materials to adequately depict and support the appeal. ~~with the director of planning, zoning and building. Appeals shall be accompanied by proper exhibits, which shall be timely filed, and shall include plans, documents and other materials to adequately depict and support the appeal.~~ Upon receipt of the appeal, the following procedures shall be followed ~~undertaken~~:

- (1) The director of planning, zoning and building shall ~~forthwith~~ examine such appeal and make ~~endorse~~ a his recommendation thereon, and shall forward such recommendation to town council, together with all documents, plans, ~~papers~~, and/or other materials ~~and that constitute constituting the record of upon which the action that is being appealed from was taken.~~
- (2) All appeals will be heard at regular meetings of the town council unless otherwise ordered by the town council and in accordance with sections 134-141, 134-142, 134-201 and 134-226.
- (3) Postponement requests for deferred action on any appeal will be granted for one month only or the next succeeding regular town council meeting, if that should occur on a different date, except for good cause shown.
- (4) When an appeal is deferred or postponed because the town council determines that additional professional advice is necessary, the expense of obtaining such additional professional advice shall be borne by the appellant. The person to render or give such additional professional advice shall be selected by mutual agreement of the town and appellant.

Section 4. Article II, ADMINISTRATION, Sec. 134-261. - Town council actions; submission to planning and zoning commission for recommendations and report, is hereby amended to read as follows:

Sec. 134-261. Town council actions; submission to planning and zoning commission for recommendations and report;

(a) The town council may from time to time on its own motion or on petition, signed by the fee simple property owner of the property involved or authorized designee, agent or representative of the owner by power of attorney filed with the director of the planning, zoning and building department or designee, amend, supplement, change, modify or repeal the regulations, restrictions or district boundaries established in this chapter.

(b) Any proposed amendment, supplement, change, modification or repeal shall first be submitted as an initial review to the director of planning, zoning and building or his designee, who shall submit it to the Town Council for its review and feedback. Should the applicant of a privately initiated text amendment decide to submit same following town council feedback, the director of planning zoning and building or his designee shall submit the application to the planning and zoning commission for its recommendations and report. Upon the filing of the recommendations and report by the planning and zoning commission, the town council shall proceed to hold a public hearing in relation thereto, giving at least 15 days' notice of the time and place of such hearing in a newspaper having a general circulation in the town, and by posting the notice on the official bulletin board of the town hall. If a proposed comprehensive plan amendment, zoning text amendment or zoning change increases the allowable density or intensity, a notice identifying such amendments or changes shall be mailed to all property owners within 1,000 feet from any part of the subject property at the address shown on the county property appraiser's tax records, advising of the day and time of the hearing on such application before the town council. Said notice shall be mailed at least 15 days prior to the date for town council consideration of the proposed amendment(s) or zoning change(s).

(c) If an adverse report is given by the planning and zoning commission, or if a there is a written protest against such proposed amendment, supplement, change, modification or repeal, by an affected party with standing shall be presented in writing to the town clerk, duly signed and acknowledged by the owners of 20 percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the area thereof extending 500 feet therefrom, such amendment supplement, change, modification or repeal shall not become effective except by the favorable vote of three-fifths of all the members of the town council. In the event of a tie vote, the mayor shall cast the deciding vote, which shall constitute the three-fifth's requirement of the town council stated herein.

(d) The planning and zoning commission shall hear applications to rezone property and/or to amend, supplement, change, modify or repeal any article, division or section of this chapter within 60 days of the application being deemed complete by the director of the planning, zoning and building department or designee. Any proposed amendment to change property from one zoning district to another zoning district shall require the favorable vote of at least four members of the town council. A public hearing on the application shall then be held by the town council after public notice of the hearing is given in accordance with law.

Section 5. Article IV, NONCONFORMITIES, Sec. 134-417. Extension or expansion, is hereby amended to read as follows:

Sec. 134-417. Extension or expansion.

A building or structure which is nonconforming with any of the lot, yard and bulk regulations may be enlarged, expanded or extended to occupy a greater area of land provided that the enlargement, expansion or extension complies with all lot, yard and bulk regulations for the zoning district in which the building or structure is located. This section shall not apply to a building or structure which is demolished by more than 50 percent, ~~as determined by cubic footage,~~ as provided for in Sec.134-419(1), in preparation for any proposed enlargement, expansion, or extension of a building or structure.

Section 6. Article IV, NONCONFORMITIES, Sec. 134-419. Enlargement, extension, reconstruction or alteration, is hereby amended to read as follows:

Sec. 134-419. Restoration, demolition, Enlargement, extension, expansion, reconstruction, ~~or alteration or repair.~~

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

(1) *Voluntary demolition, restoration and reconstruction.* A nonconforming building and/or structure may be restored as before, partially demolished, enlarged, extended, expanded, or partially demolished and or reconstructed provided that such ~~demolition,~~ restoration, demolition, enlargement, extension, or expansion or reconstruction does not ~~exceed~~ result in any of the following within five years of passing a final inspection:

- a. the loss of more than 50% of the area in square feet of all perimeter walls, including all windows and doors;
- b. the loss of more than 50% of the area in square feet of all roof trusses (with all the roof measured as though flat);

~~50 percent of its existing cubic footage within five years of passing a final inspection and provided that the demolition, restoration, enlargement, extension or reconstruction of the building and/or structure does not exceed the floor area, gross leasable area and/or cubic footage which existed prior to the demolition, restoration, enlargement, extension, or reconstruction. If there is an enlargement, extension or expansion on a nonconforming building or structure, said enlargement, extension or expansion is required to meet current lot, yard and bulk regulations in Chapter 134, Zoning.~~

All ~~demolition,~~ restoration, demolition, enlargement, extension, expansion 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. In the event such restoration, demolition, enlargement, extension, expansion or reconstruction is not completed within the timeframe 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. Replacement of solely operable windows and/or doors on a nonconforming building or structure is permitted and does not count in the calculation of loss as provided in subsection (1) provided the openings of such windows and/or doors are not enlarged. 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 require the demolition of an exterior wall(s) and/or roof truss square footage as provided for in (1) a and b in this section nor 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, but not exceed, the minimum town flood elevation provided that all of the following conditions are met:

- a. ~~That the~~ there is no increase in 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~~ there is no increase in overall height as measured from the raised finished floor elevation to the top of the roof for pitched roof, and top of the ceiling and parapet for a flat roof is not any taller; ;
- c. ~~The~~ building footprint within the required setbacks is no larger; ; and is no closer to the property line than it was prior to being raised; ; and
- d. ~~That~~ any new additions shall ~~meeting~~ existing lot, yard and bulk regulations.

Section 7. Article VI, DISTRICT REGULATIONS, Section 134-788, Accessory uses, is hereby amended to read as follows:

Sec. 134-788. Accessory uses.

The accessory uses in the R-AA large estate residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.

(5) Off-street parking at private social, swimming, golf, tennis and yacht clubs, for construction related personal employee vehicular off-street parking for projects within the Town's municipal limits provided such parking is located a minimum of 200 feet from neighboring residential uses and is not visible from a street.

(6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business.

Section 8. Article VI, DISTRICT REGULATIONS, Section 134-789, Prohibited uses, is hereby amended to read as follows:

Sec. 134-789. Prohibited uses.

The specific prohibited uses of buildings or land in the R-AA large estate residential district are as follows:

(1) With the exception of construction related employee parking of personal vehicles for projects within the municipal limits of the Town, No person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.

(2) The use of any portion of any building or accessory building or any land in this district for the accessory use as a museum or frequent or continuing display to the public is prohibited. Additionally, executive/employee/group vacation/retreats are prohibited in this zoning district.

Section 9. Article VI, DISTRICT REGULATIONS, Section 134-796, Exceptions to height limitations, is hereby amended to read as follows:

Sec. 134-796. Exceptions to height limitations.

- (a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-AA large estate residential district are skylights not exceeding three feet above the roof, air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof, radio and television antennas for reception purposes only. Flagpoles and chimneys may be erected to a height not to exceed 40 percent above the building height limit for this district. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flag-pole is not in excess of 70 feet in height and is setback at least 120 feet from any lot line. However, such structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent of the ground floor area of such building or structure. Radio and television antennas, air conditioning equipment, or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened insofar as possible. Solar ~~panels~~ material shall be permitted on the roof provided ~~they do not exceed three feet above the minimum building requirement for elevated stands for said equipment on a roof nor cover more than 30 percent of the roof area.~~ Solar

~~panels shall be required to not be visible from any street.~~ said material is approved by the Architectural Commission or Landmark Preservation Commission.

Section 10. Article VI, DISTRICT REGULATIONS, Section 134-838, Accessory uses, is hereby amended to read as follows:

Sec. 134-838. Accessory uses.

The accessory uses in the R-A estate residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.
- (5) Off-street parking at private social, swimming, golf, tennis and yacht clubs, for construction related personal employee vehicular off-street parking for projects within the Town's municipal limits provided such parking is located a minimum of 200 feet from neighboring residential uses and is not visible from a street.
- (6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business

Section 11. Article VI, DISTRICT REGULATIONS, Section 134-839, Prohibited uses, is hereby amended to read as follows:

Sec. 134-839. Prohibited uses.

The specific prohibited uses of buildings or land in the R-A estate residential district are as follows:

- (1) With the exception of construction related employee parking of personal vehicles for projects within the municipal limits of the Town, No person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) The use of any portion of any building or accessory building or any land in this district for the accessory use as a museum or frequent or continuing display to the public is prohibited.
- (3) Executive/employee/group vacation/retreats are prohibited in this zoning district.

Section 12. Article VI, DISTRICT REGULATIONS, Section 134-840, Special exception uses, is hereby amended to read as follows:

Section 134-840. Special exception uses.

The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the R-A estate residential district are as follows:

- (1) ...
- (2) Public structures, including essential services west of Lake Trail.

Section 13. Article VI, DISTRICT REGULATIONS, Section 134-846, Exceptions to height limitation, is hereby amended to read as follows:

Sec. 134-846. Exceptions to height limitations.

(a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-A large estate residential district are skylights not exceeding three feet above the roof, air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof, radio and television antennas for reception purposes only. Flagpoles and chimneys may be erected to a height not to exceed 40 percent above the building height limit for this district. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is setback at least 120 feet from any lot line. However, such structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent of the ground floor area of such building or structure. Radio and television antennas, air conditioning equipment, or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened insofar as possible. Solar ~~panels material~~ shall be permitted on the roof provided ~~they do not exceed three feet above the minimum building requirement for elevated stands for said equipment on a roof nor cover more than 30 percent of the roof area. Solar panels shall be required to not be visible from any street.~~ said material is approved by the Architectural Commission or Landmark Preservation Commission.

Section 14. Article VI, DISTRICT REGULATIONS, Section 134-888, Accessory uses, is hereby amended to read as follows:

Sec. 134-888. Accessory uses.

The accessory uses in the R-B low density residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.
- (5) Off-street parking at private social, swimming, golf, tennis and yacht clubs, for construction related personal employee vehicular off-street parking for projects within the Town's municipal limits

provided such parking is located a minimum of 200 feet from neighboring residential uses and not visible from a street.

(6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business except such uses as may be associated with the town's operation of its municipal dock, golf course and tennis court facilities.

Section 15. Article VI, DISTRICT REGULATIONS, Section 134-889, Prohibited uses, is hereby amended to read as follows:

Sec. 134-889. Prohibited uses.

The specific prohibited uses of buildings or land in the R-B low density residential district are as follows:

- (1) With the exception of construction related employee parking of personal vehicles for projects within the municipal limits of the Town, No person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) The use of any portion of any building or accessory building or any land in this district for the accessory use as a museum or frequent or continuing display to the public is prohibited.
- (5) Executive/employee/group vacation/retreats are prohibited in this zoning district.

Section 16. Article VI, DISTRICT REGULATIONS, Section 134-890, Special exception uses, is hereby amended to read as follows:

Section 134-890. Special exception uses.

The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the R-B low density residential district are as follows:

- ...
- (2) Public structures, including essential services west of Lake Trail.

Section 17. Article VI, DISTRICT REGULATIONS, Section 134-893, Lot, yard and area requirements-Generally, is hereby amended to read as follows:

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

(a)

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

(1)...

...

(13) *Cubic content ratio.*

a. The maximum cubic content ratio shall be as follows:

(1)....

...

(5) Exceptions. One architectural tower feature involving no habitable space, as otherwise permitted under subsection 134-896(b), shall not be counted in calculating the cubic content of the structure. Unenclosed loggias, pergolas, porches, terraces and covered patios located on the first floor shall be excluded from the calculation of total cubic content up to 5% of allowable cubic content. Portions of unenclosed structures in excess of the 5% maximum, as well as those located above the first floor, shall be included in the calculation of total cubic content ~~Unenclosed covered patios, loggias, balconies, porches or terraces located on the first floor of the structure shall not be counted in calculating the cubic content of a structure, provided the aggregate cubic content of such appurtenances does not exceed five percent of the total cubic content of the structure.~~ Such appurtenances so erected may not in the future be enclosed or converted to permanent additions to the structure if such conversion would increase the cubic content of the structure beyond that allowed by the applicable CCR cubic content ratio.

Section 18. Article VI, DISTRICT REGULATIONS, Section 134-895, Same-Exceptions to yard regulations, is hereby amended to read as follows:

Sec. 134-895. Same-Exceptions to yard regulations.

In the R-B low density residential district, exception to the yard regulations in Section 134-1548 are as follows:

(1)...

...

(3) In this district an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Said Awnings and/or trellises so erected shall not count in the cubic content ratio calculations and shall may not be converted to permanent additions to the principal structure if such conversion would increase lot coverage of the principal structure above the allowed percentage.

...

Section 19. Article VI, DISTRICT REGULATIONS, Section 134-896, Special exceptions to height limitations, is hereby amended to read as follows:

Sec. 134-896. Special exceptions to height limitations.

(a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-B ~~large-estate~~ low density residential district are...

Section 20. Article VI, DISTRICT REGULATIONS, Section 134-896, Special exceptions to height limitations, is hereby amended to read as follows:

Sec. 134-896. Special exceptions to height limitations.

(a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-B low density district are skylights not exceeding three feet above the roof, air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof, radio and television antennas for reception purposes only. Flagpoles and chimneys may be erected to a height not to exceed 40 percent above the building height limit for this district. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is setback at least 120 feet from any lot line. However, such structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent of the ground floor area of such building or structure. Radio and television antennas, air conditioning equipment, or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened insofar as possible. ~~Solar panels material shall be permitted on the roof provided they do not exceed three feet above the minimum building requirement for elevated stands for said equipment on a roof nor cover more than 30 percent of the roof area.~~ said material is approved by the Architectural Commission or Landmark Preservation Commission.

Section 21. Article VI, DISTRICT REGULATIONS, Section 134-1308, Lot, yard and area requirements-Generally, is hereby amended to read as follows:

Sec. 134-1308. Lot, yard and area requirements-Generally.

In the C-B commercial district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

...

.

(4) Density.

a. The maximum density for hotels within C-B commercial district shall be ~~22~~ 26 dwelling units per acre.

Section 22. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1607, Permitted exceptions, is hereby amended to read as follows:

Sec. 134-1607. Permitted exceptions.

Permitted exceptions to height regulations in this chapter in districts other than R-AA, R-A and R-B shall be as follows:

(1) In all zoning district other than R-AA, R-A and R-B districts, structures for the housing of elevators, stairways, tanks, and skylights not exceeding ten percent in total area of the roof area on which they are placed, skylights not more than four feet in height above the roof; ventilating fans not exceeding three feet in height above the roof or similar equipment to operate and maintain a building; air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof; radio and television antennas for reception purposes only; and church steeples, flagpoles and chimneys no more than 40 percent above the height limits for the district within which they are located as prescribed by this chapter. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is set back at least 120 feet from any lot line. Such structures located upon the roof area shall not cover in the aggregate a roof area greater than 15 percent of the ground floor area of such building or structure. Radio and television antennas for reception purposes, air conditioning equipment, the housing of elevators, stairways, tanks, ventilating fans or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened from view in so far as possible. Solar panels material shall be permitted on the roof provided they do not exceed three feet above the minimum building requirement for elevated stands for said equipment on a roof nor cover more than 30 percent of the roof area. Solar panels shall be required to not be visible from any street. said material is approved by the Architectural Commission or Landmark Preservation Commission.

Section 23. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1698, Structures, signs and landscape material west of Lake Trail, is hereby amended to read as follows:

Sec. 134-1698. Structures, signs and landscape material west of Lake Trail

No buildings or other structures of any nature whatsoever, other than buildings or structures for essential services and docks, shall be constructed upon any land lying west of the Lake Trail. except docks. No signs shall be permitted west of the Lake Trail except property protection signs as approved by the Architectural Commission. In addition, a Lake Trail scenic vista shall be maintained for the entire width and depth of all properties that abut the west side of Lake Trail with the exception of those properties used to provide essential services. The following standards shall apply to such properties:

- (1) In no instance shall hedge or bush material be planted or maintained at a height greater than 30 inches above the grade of the trail.
- (2) Except for palm trees, trees shall be planted with a minimum lineal separation perpendicular to Lake Trail of 30 feet from any other tree.

- (3) The trunks of trees shall be maintained at six feet above the grade from where the tree is planted.
- (4) Palm trees may be clustered with one canopy tree and two palm trees, or a maximum of three palm trees, no further apart than eight feet, and a cluster separation perpendicular to Lake Trail of not less than 25 feet.

Section 24. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1757, Swimming pools, is hereby amended to read as follows:

Sec. 134-1757. Swimming pools.

A swimming pool, and if applicable, infinity pool catch basin, and/or a spa/hot tub, not to be enclosed by a structure other than a fence as required or permitted by this Code, may be constructed within every yard area, except the required front yard as prescribed by this chapter. ~~However, Except as provided in this paragraph, no part of the pool structure may protrude more than six inches above the finished ground level, and the walls~~ The exception is that a spa/hot tub shall not exceed a height three feet above the exterior finished grade. In addition, a swimming pool or spa/hot tub may have an infinity edge on not more than one side of said swimming pool or spa/hot tub which can be no higher than three feet above drop into a swimming pool or water trough below said infinity edge. A swimming pool, and if applicable an infinity pool catch basin, and spa/hot tub interior, shall be at least ten feet from the side and rear lot lines and 15 feet from the street side and street rear lot lines. All setbacks as setforth in this section of the Code shall be measured from the waters edge to the property line.

A swimming pool, and if applicable infinity pool catch basin, and/or spa/hot tub in the required street side or street rear yard shall be screened by a continuous hedge six feet in height at the time of planting, located adjacent to and exterior of a solid wall six feet in height and maintained at a minimum of said height. Said hedge shall be located between the street and adjacent to and exterior of a solid wall six feet in height. In the percentage of coverage of a lot by buildings, swimming pools shall not be counted in such computation.

Section 25. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1759, Tennis, shuffleboard and racquetball courts, is hereby amended to read as follows:

Sec. 134-1759. Tennis, shuffleboard and racquetball courts.

- ~~(a) Tennis courts or shuffleboard courts and similar accessory uses, not to be enclosed by a structure, may be constructed within yard areas, except the required front yard, required street side yard or required street rear yard as prescribed by this chapter. However, any walls or fences shall conform with sections 134-791, 134-792, 134-841, 134-842, 134-891, 134-892, 134-946, 134-947, 134-1001, 134-1002, 134-1056, 134-1057, 134-1110, 134-1160, 134-1210, 134-1260, 134-1305 and 134-1726, and the construction of any facility involving the use of a ball backboard or rebound wall or structure in any district of the town and the construction of any tennis court, shuffleboard court or similar use upon any structure in the town shall be subject to an application for special exception. Racquetball courts shall be considered unenclosed accessory structures and may be~~

constructed, provided the court complies with all open yard requirements for the principal structure to which it is accessory and the racquetball court shall be subject to an application for special exception.

- ~~(b) In determining the percentage of coverage of a lot by buildings, tennis, shuffleboard and racquetball courts and similar uses shall not be counted in such computation. Night lighting of outdoor tennis, shuffleboard and racquetball courts and similar uses is prohibited. Every tennis court shall include as an integral part of the construction thereof proper fence or wall enclosures contiguous to the court, such fence or wall enclosures to be at least ten feet in height and not exceeding 12 feet in height. All tennis courts shall be sight screened with plantings at least the same height as the tennis court fence enclosures, where visible from adjacent properties or the public or private street right-of-way. Racquetball courts shall be sight screened with plantings, where visible from adjacent properties or the public or private street right-of-way.~~
- ~~(c) In determining the percentage of coverage of a lot by buildings, tennis, shuffleboard and racquetball courts and similar uses shall not be counted in such computation. Night lighting of racquetball courts and similar uses is prohibited. The town council may permit, as a special exception with site plan review, minimal state of the art night lighting from 9:00 a.m. to 9:00 p.m. for tennis, shuffleboard and croquet courts, provided that the applicant shall demonstrate to the town council that the light and noise created by the tennis court, shuffleboard or croquet court will be adequately mitigated as it relates to adjacent residential structures and vehicular right-of-way. All tennis, shuffleboard and croquet court lighting shall be equipped with a locked, light timer switch to ensure that the lighting will be controlled to operate only within the hours established in this subsection. In addition, all tennis courts shall include as an integral part of the construction thereof proper fence or wall enclosures contiguous to the or courts, such fence or wall enclosures to be at least ten feet in height. All tennis, shuffleboard and croquet courts and their associated lighting shall be sight screened with plantings at least the same height as the fence enclosures and associated lighting, where visible from adjacent properties or the public or private street rights-of-way. Racquetball courts shall be sight screened with plantings, where visible from adjacent properties or public or private street rights-of-way~~
- (a) Tennis, shuffleboard and racquetball courts and similar uses shall not be counted in lot coverage computations.
- (b) Tennis courts or shuffleboard courts and similar accessory uses, not enclosed by a structure, may be constructed within yard areas, except the required front yard, required street side yard and required street rear yard as prescribed by this chapter.
- (c) Tennis courts shall include as an integral part of the construction thereof proper fence or wall enclosures contiguous to the court. Such fence or wall enclosures are to be at least ten feet in height. Said fence or wall enclosure shall be out of the required principal structure setback if said enclosure exceeds the maximum height allowed in Section 134-1666 through 134-1670 of the Code. Where visible from adjacent properties or the

public or private street right-of-way, tennis courts shall be screened with plantings at least the same height as the tennis court fence enclosure.

- (d) The construction of any facility involving the use of a ball backboard or rebound wall in any district of the town shall be subject to an application for special exception as specified in section 134-227 through section 134-233.
- (e) The construction of any tennis court, shuffleboard court or similar use upon any structure in the town shall be subject to an application for special exception as specified in section 134-227 through section 134-233.
- (f) Racquetball courts shall be considered unenclosed accessory structures and may be constructed, provided the court complies with all open yard requirements for the principal structure to which it is accessory and the racquetball court shall be subject to an application for special exception. Racquetball courts shall be screened with plantings, where visible from adjacent properties or the public or private street right-of-way.
- (g) The town council may permit, as a special exception with site plan review, minimal state of the art night lighting from 9:00 a.m. to 9:00 p.m. for tennis, shuffleboard and racquetball courts, provided that the applicant shall demonstrate to the town council that the light and noise created by the tennis court, shuffleboard or racquetball court will be adequately mitigated as it relates to adjacent residential structures and vehicular right-of-way. All tennis, shuffleboard and croquet court lighting shall be equipped with a locked, light timer switch to ensure that the lighting will be controlled to operate only within the hours established in this subsection

Section 26. Article XI, SIGNS, Section 134-2373, General regulations and definitions applicable to permitted signs, is hereby amended to read as follows:

Sec. 134-2373. General regulations and definitions applicable to permitted signs.

Under this article, the following shall apply to all signs:

(1)

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

Section 27. Article XI, SIGNS, Section 134-2410, Tow-away signs, is hereby created to read as follows:

Sec. 134-2410. Tow-away signs.

Tow-away signs shall not be allowed on private property appurtenant to or obviously part of a single-family residence. Tow-away signs for two-family, townhouse, multi-family, and institutional uses shall only be on private property and shall not exceed the minimum size, number and location as provided by Florida Statute. In addition, all tow-away signs shall be uniform in appearance as approved by the Town's Architectural Commission. Tow-away signs on State, County and municipal governmental property shall also meet these requirements. A building permit shall be required for a tow-away sign.

All tow-away signs which become nonconforming as a result of the adoption of this section of the Code shall be removed and replaced to come into compliance with this section of the Code by January 1, 2019, or said sign shall be in violation of the town's code of ordinances.

Section 28. Article XI, SIGNS, Section 134-2411, Governmental signs, is hereby created to read as follows:

Sec. 134-2411. Governmental signs.

Signs for a public purpose for governmental entities such as Federal, State, County or Town shall be permitted on public or private property provided that the number, size, location, appearance and content of said signs are approved by the Town Council at a Town Council meeting.

Section 29. Article XI, SIGNS, Section 134-2449, Tow-away signs, is hereby created to read as follows:

Sec. 134-2449. Tow-away signs.

Tow-away signs for commercial and institutional uses shall only be on private property and shall not exceed the minimum size, number and location as provided by Florida Statute. In addition, all tow-away signs shall be uniform in appearance as approved by the Town's Architectural Commission. Tow-away signs on State, County and municipal governmental property shall also meet these requirements. A building permit shall be required to erect a tow-away sign.

All tow-away signs which become nonconforming as a result of the adoption of this section of the Code shall be removed and replaced to come into compliance with this section of the Code by January 1, 2019, or said sign shall be in violation of the town's code of ordinances.

Section 30. Article XI, SIGNS, Section 134-2450, Governmental signs, is hereby created to read as follows:

Sec. 134-2450. Governmental signs.

Signs for a public purpose for governmental entities such as Federal, State, County or Town governmental agencies shall be permitted on public or private property provided that the number, size, location, appearance and content of said signs are approved by the Town Council at a Town Council meeting.

Section 31. 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 32. 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 33. Codification.

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

Section 34. Effective Date.

This Ordinance shall take effect thirty-one days after its adoption, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 14th day of February, 2018, and for second and final reading on this ____ day of _____, 2018.

Gail L. Coniglio, Mayor

Richard Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Margaret A. Zeidman, Town Council Member

Kathleen Dominguez, Town Clerk

Julie Araskog, Town Council Member