



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

WEDNESDAY, MARCH 9, 2011

9:30 AM

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

I. CALL TO ORDER AND ROLL CALL

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE

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

VI. APPROVAL OF AGENDA

VII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 5-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Sections 134-172 To Change The Commencement Of Special Exceptions And Variances From Architectural Commission Or Landmark Preservation Commission Submission To Approval; Section 134-330 To Change The Commencement Of Site Plan Review As Architectural Commission Or Landmark Preservation Commission Submission To Approval; Sections 134-1107 And 134-1109 To Permit Office Uses On The First Floor In The Two Hundred Block Of Peruvian Avenue And Bradley Place In The C-TS Zoning District; Section 134-2175 By Providing An Exemption For The Two Hundred Block Of Peruvian Avenue And Bradley Place In The C-TS Zoning District from Principal Equivalency For Required Parking; Sections 134-2436 And 134-2437 To Provide A Provision To Allow Hanging Business Identification Signs In Commercial Zoning Districts; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.
[John Page, Director of Planning, Zoning, and Building]

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B. First Reading

None

VIII. DEVELOPMENT REVIEWS

A. Appeals

None

B. Time Extensions & Waivers

None

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **SITE PLAN REVIEW #4-2011** The application of 210 Emerald Lane, LLC.; relative to property commonly known as **210 Emerald Lane**; described as Lot 34 of REVISED PLAT OF STOTESBURY PARK, according to the Plat thereof as recorded in Plat Book 20, Page 42, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant is requesting a Site Plan Review to permit construction of a 3,197 square foot two-story single family residence on a platted lot with a width of 90 feet in lieu of the minimum 100 foot lot width required within the R-B District.
[Attorney: M. Timothy Hanlon]
Deferred from the February 16, 2011, Town Council meeting.
- b. **SPECIAL EXCEPTION #6-2011 WITH VARIANCES**
The application of Terry R. Taylor; relative to property commonly known as **780 South Ocean Blvd.**; described as lengthy legal description on file; located in the R-A Zoning District. Variances are requested to install a tennis court with a rear yard setback of 10 feet in lieu of the 35 foot minimum required; to allow an associated 10 foot high fence with a side yard setback of 15 feet in lieu of the 30 foot minimum required and to install light poles at a height of 23 feet in lieu of the 15 foot maximum required. A Special Exception is requested to install night lighting which will meet all requirements in the Code, including a light timer switch to ensure the lights will operated only from 9:00 a.m. to 9:00 p.m. [Attorney: Peter S. Broberg]
Deferred from the February 16, 2011, Town Council meeting.

2. New Business

- a. **SITE PLAN REVIEW #5-2011 WITH VARIANCE** The application of Garrison Lickle, President, Chilton Trust Management; relative to property commonly known as **396 Royal Palm Way**; described as Lots 48, Block D, ROYAL PARK ADDITION to the Town of Palm Beach, Florida, according to the plat thereof as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida; located in the C-OPI Zoning District. The applicant is requesting a Site Plan Review to construct a carport/awning to provide covered parking for seven (7) existing parking spaces on the south side of the existing trust company's parking lot. The Applicant is also redesigning the south

entry façade which will reduce the square footage of the covered entry by 458 square feet and the North entry by changing the existing step design and planter area. The parking lot is also being modified to restripe and add one more parking space and enclose the recycle/trash bin area. The handicap ramp is being relocated into two ramps for access to the building. There will also be landscape modifications to the existing planting areas on the north, west and south sides of the site. A variance is requested to allow a carport/awning to have a seven (7) foot rear yard setback in lieu of the 10 foot minimum required in the C-OPI Zoning District. [Attorney: Maura A. Ziska]
[ARCOM Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject property and that landscaping be added in the area of the covered parking. Carried 6-1.]

- b. **VARIANCE #6-2011** The application of Philip Strathy; relative to property commonly known as **276 Jamaica Lane**; described as Lot 23, of JAMAICA LANE, according to the Plat thereof, as recorded in Plat Book 18 at Page 93, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant is requesting a Variance to allow a one-car canvas carport to be replaced with an enclosed garage which will encroach within the side yard setback. The west side yard setback is being proposed at 5.1 feet in lieu of the 12.5 feet minimum setback required. [Attorney: James C. Paine, Jr., Esq.]

D. Other

1. Further Consideration of Revised Plans at 1100 North Ocean Boulevard (Karp/Castle). [Mayor Gail L. Coniglio]

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IX. ANY OTHER MATTERS

X. ADJOURNMENT

PLEASE TAKE NOTE:

- No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and selecting "Your Government" and then selecting "Live Meeting Audio." If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting under "Agendas, Minutes, and Audio."
- If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2011

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 5-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Sections 134-172 To Change The Commencement Of Special Exceptions And Variances From Architectural Commission Or Landmark Preservation Commission Submission To Approval; Section 134-330 To Change The Commencement Of Site Plan Review As Architectural Commission Or Landmark Preservation Commission Submission To Approval; Sections 134-1107 And 134-1109 To Permit Office Uses On The First Floor In The Two Hundred Block Of Peruvian Avenue And Bradley Place In The C-TS Zoning District; Section 134-2175 By Providing An Exemption For The Two Hundred Block of Peruvian Avenue And Bradley Place In The C-TS Zoning District from Principal Equivalency For Required Parking; Sections 134-2436 And 134-2437 To Provide A Provision To Allow Hanging Business Identification Signs In Commercial Zoning Districts; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Ordinance No. 5-11
- Memorandum dated March 3, 2011, from Gay Cinque

ORDINANCE NO. 5-11

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY FLORIDA, AMENDING CHAPTER 134, ZONING, AT SECTIONS 134-172 TO CHANGE THE COMMENCEMENT OF SPECIAL EXCEPTIONS AND VARIANCES FROM ARCHITECTURAL COMMISSION OR LANDMARK PRESERVATION COMMISSION SUBMISSION TO APPROVAL; SECTION 134-330 TO CHANGE THE COMMENCEMENT OF SITE PLAN REVIEW AS ARCHITECTURAL COMMISSION OR LANDMARK PRESERVATION COMMISSION SUBMISSION TO APPROVAL; SECTIONS 134-1107 AND 134-1109 TO PERMIT OFFICE USES ON THE FIRST FLOOR IN THE TWO HUNDRED BLOCK OF PERUVIAN AVENUE AND BRADLEY PLACE IN THE C-TS ZONING DISTRICT; SECTION 134-2175 BY PROVIDING AN EXEMPTION FOR THE TWO HUNDRED BLOCK OF PERUVIAN AVENUE AND BRADLEY PLACE IN THE C-TS ZONING DISTRICT FROM PRINCIPAL EQUIVALENCY FOR REQUIRED PARKING; SECTIONS 134-2436 AND 134-2437 TO PROVIDE A PROVISION TO ALLOW HANGING BUSINESS IDENTIFICATION SIGNS IN COMMERCIAL ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, after a public hearing pursuant to notice as required by law, the Town Local Planning Agency has recommended that Town Council amend Chapter 134, Zoning, of the Code of Ordinances, as herein set forth;

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

Section 1. Amend Article II, ADMINISTRATION, Sec. 134-172 at subsection (h), Hearing procedure, to read as follows

Sec. 134-172. Hearing procedure.

(h) The work or use authorized under an approved variance or special exception application must be commenced within 12 months from the date of the town council approval thereof, and if not so commenced the special exception or variance shall be null and void. Commencement shall be considered as either Landmarks Preservation Commission or Architectural Commission application approval, whichever is appropriate, or the submission of a building permit application if said Commission's approval is not required.

A building permit, if required, must be issued within one year of the date of commencement or said special exception or variance approval shall expire. In addition, all authorized work under the building permit for said approved special exception or variance must be completed within the time frame set forth in section 105.4.1.6. of the Florida Building Code as amended in section 18-242 of the Code of Ordinances or said special exception or variance shall expire.

Section 2. Amend Article II, ADMINISTRATION, Section 134-330 at subsection (c), Action by the town council; deviations; time limit for beginning work, to read as follows:

Sec. 134-330. Action by the town council; deviations; time limit for beginning work.

...

(c)The work authorized by town council approval of a site plan review must be commenced within 12 months after the date of town council approval thereof, and if not so commenced town council approval shall thereupon become null and void. Commencement shall be considered either Landmarks Preservation Commission or Architectural Commission approval or the submission of a building permit application if said Commission's approval is not required.

A building permit must be issued within one year of the date of commencement or said site plan review approval shall expire. In addition, all authorized work under the building permit for said approved site plan review must be completed within the construction schedule contained in section 105.4.1.6. of the Florida Building Code as amended in section 18-242 of the Code of Ordinances or said site plan review approval shall expire.

Section 3. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1107 at subsection (a)(3) and (6), Permitted Uses, to read as follows:

Sec. 134-1107. Permitted uses.

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

- (1) Retail and service establishments, such as restaurants, excluding formula restaurants as defined in section 134-2 and bars/lounges, hardware stores, food stores, clothing stores, drugstores, barbershops beauty salons and jewelry stores.
- (2) Offices, executive office suites, professional services, business services and securities and financial brokerage and trust companies located above the first floor.
- (3) Offices, professional services, business services and securities and financial brokerage and trust companies in the 200 block of Peruvian Avenue and Bradley Place.
- (4) Nonprofit cultural centers.
- (5) Professional and studio type schools.

(6) Essential services.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1109 at subsection (a)(18), Special exception uses, to read as follows:

Sec. 134-1109, Special exception uses.

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

- (18) Except as provided for in Sec. 134-1107(3), offices (excluding executive office suites), professional services, business services and securities or financial brokerage and trust companies on the first floor provided that there are at least 50 percent existing office uses on all floors of the building in which the office use is proposed and more than 50 percent existing office uses on the first floor within 300 feet of the proposed office use within the same zoning district.

Section 5. Amend Article IX, OFF-STREET PARKING AND LOADING*, Sec. 134-2175 at subsection (a)(3)(b) and (e), Number of parking spaces required-Generally, to read as follows:

Sec. 134-2175. Number of parking spaces required-Generally.

(a) Under this division the following shall be provided.

(3) Except as provided in subsection (f), at the time any use or occupancy of an existing building is changed to a new use or occupancy having differing off-street parking requirements, the parking requirement for the new use or occupancy shall be computed on the basis of the schedule of off-street parking requirements in the section 134-2176. This requirement shall be compared to the requirements of the existing use or occupancy, and, if the total number of spaces required under the new use or occupancy exceeds that of the existing use or occupancy, the difference shall constitute that number of additional off-street parking spaces to be provided, with adequate provisions for ingress and egress, in accordance with sections 134-2172 and the schedule of off-street parking requirements as prescribed in section 134-2176.

...

(b) Except as provided in subsection (f), a use, building or structure, lawfully in existence at the effective date of this division, which shall be made nonconforming on the effective date of the ordinance from which this division derives or any applicable amendment thereto, may be continued even though off-street parking may not be provided in full compliance with this division, but the degree of nonconformity due to a deficiency in providing the

required off-street parking spaces may not be increased, either by reducing the number of parking spaces which are provided on the effective date of the ordinance from which this chapter is derived or by changing the use or occupancy of an existing building to a use or occupancy which increases the requirement for off-street parking. For existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one space per 200 or 250 square of gross leasable area, whichever is applicable, and which may be required under this chapter to provide additional parking spaces as a result of a change in use, such establishments shall be required only to provide that number of spaces over and above the number of spaces that would have been required at one space per 200 or 250 square feet of floor area gross leasable area, whichever is applicable.

...

(f) In the 200 Block of Peruvian Avenue and Bradley Place in the C-TS zoning district, existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one space per 200 or 250 square feet of gross leasable area, whichever is applicable, shall not be required to provide additional parking spaces as a result of a change from a use which alters the parking ratio from one space per 250 square feet to a use which requires one space for every 200 square feet of gross leasable area.

Section 6. Amend Article XI, SIGNS*, Sec. 134-2436, Building identification or business identification signs, to read as follows:

Sec. 134-2436. Building identification and business signs.

One building identification sign may be provided on the front of each wall of a building which fronts onto a street, provided the building identification sign is installed flat against such wall and does not exceed 20 square feet in area. Additionally, business signs which are installed flat against the street front or street side wall of a building are permitted for each licensed business in a building in accordance with this division. A licensed business within a building arcade or via shall be allowed one hanging business identification sign within the arcade and perpendicular to the building. If the hanging sign is within a via said sign shall be mounted on the wall of the building fronting the via. A hanging business identification sign shall not be above the first floor of the building it is attached to, shall have a minimum of 8 feet of clearance, and shall be calculated as part of the maximum business identification sign area allowed. In addition said hanging business identification sign shall have only the name of the business and shall require either Architectural Commission or Landmark Preservation Commission approval, whichever is pertinent.

Section 7. Amend Article XI, SIGNS*, Sec. 134-2437, Building identification and business identification signs, to read as follows:

Sec. 134-2437. Size of Signs.

The gross surface area of all business signs on a building shall not exceed the following schedule:

<i>Building Street Frontage Per Ground Floor Individual Business Sign Space (in feet)</i>	<i>Maximum Gross Surface Area for Business Signs (in feet)</i>
Less than 18	10
18 and over	20

Note: This permitted gross surface sign area per individual business may be in the form of one sign, or composed of a group of smaller signs which may advertise any licensed individual business with the building, provided their aggregate area does not exceed that area contained in the schedule. The gross surface area of any signs on a building shall not, however, exceed 20 square feet. In addition, any hanging sign, as allowed in Sec. 134-2436, shall not exceed two square feet in area.

Section 8. 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 9. 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 10. Codification.

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

Section 11. Effective Date.

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

PASSED AND ADOPTED in regular, adjourned session assembled on first reading this 16th day of February, 2011, and second and final reading on this 9th day of March, 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, President Pro Tem

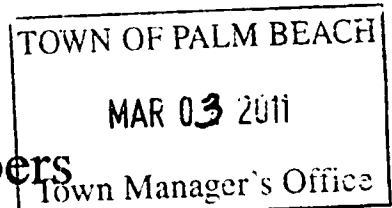
William J. Diamond, Town Council Member

Richard M. Kleid, Town Council Member

Michael J. Pucillo, Town Council Member

ATTEST:

Cheryl Somers, Acting Town Clerk



TO :Mayor and Town Council members
And Mr Castro, PLANNING & Zoning DEPT

From: Gay Cinque, owner, 319 PERUVIAN
AVE

I am requesting that the north side of the
300 block of Peruvian Ave be included in
any change of use given to the 200 block
for the first floor from retail to office, or better
yet office or retail. Office use on the first floor
makes more sense on this side of the street as
few if any shoppers cross over to the north side
of Peruvian.

In these difficult times having the flexibility
of leasing to either office or retail would be
better than having my first floor space sitting
empty along with others on the street.

Thank you for your consideration.

Gay Cinque
3/3/11

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2011

Section of Agenda

Development Review - Other

Agenda Title

Further Consideration of Revised Plans at 1100 North Ocean Boulevard (Karp/Castle).

Presenter

Gail L. Coniglio, Mayor

Supporting Documents

- Letter dated March 3, 2011, from James R. Brindell



GUNSTER

ATTORNEYS AT LAW

TOWN OF PALM BEACH

MAR 03 2011

Town Manager's Office

Our File Number: 00032655.00001
Writer's Direct Dial Number: (561) 650-0511
Writer's E-Mail Address: JBrindell@gunster.com

March 3, 2011

Via Hand Delivery

Paul Rampell, Esq.
Attorney At Law
400 Royal Palm Way
Suite #410
Palm Beach, FL 33480

Re: Karp/Castle Settlement Discussions

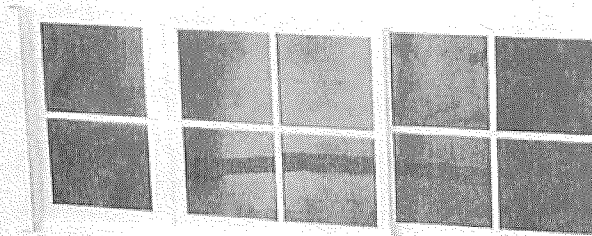
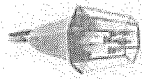
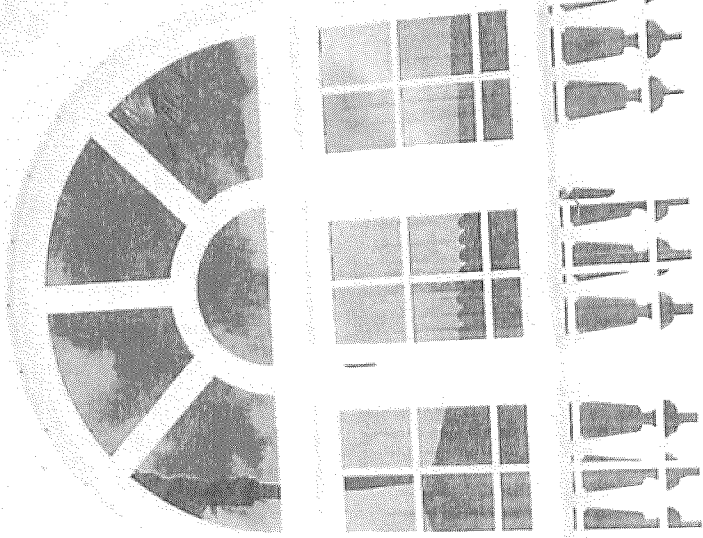
Dear Paul:

We believe that Mr. & Mrs. Karp have been willing to be more accommodating to your clients' wishes than any amount of reason would suggest they should be. The proposed modifications presented in the December 7, 2010 Mediation plan, along with the further proposed changes reflected in the February 19, 2010 Mediation plan go far beyond what any neighbor should be asked to do for another neighbor. This is especially so when all of Mr. & Mrs. Karp's plans have met the Town's Code requirements, and where there has been no demonstration of adverse impacts on the Castles' use of their property.

Your letter to me dated March 2, 2011 and the plan enclosed therewith from Tom Kirchhoff have been reviewed by Mrs. & Mrs. Karp in consultation with Gene Lawrence. Mr. Kirchhoff's proposed plan revisions are unacceptable for several reasons:

- (1) They would eliminate the existing arched window on the south façade of the existing house which is one half of a matching pair (the other one is on the east façade) and which lets sunlight into the family room of the main house; see the attached photos. It is an architectural feature of significant importance to Mr. & Mrs. Karp in the enjoyment of their home.
- (2) The proposed south stairway and elevator would be eliminated thereby allowing access from the guest suite to the first floor of the main house only through the existing garage. The purpose of this stairway and elevator is to allow access by guests to the guest suite without having to go through the main house. Also, Mr. Kirchhoff's proposal would require the demolition of an existing stair and construction of a new stair which is completely unnecessary.

South Facade - Existing



South

EAST

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Thomas G. Bradford, Deputy Town Manager

Re: Approval of Counsel for William Amador vs. Town of Palm Beach and Peter B. Elwell Case No. 50-2011-CA-003092 XXXX MB AB

Date: March 8, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the use of Jones, Foster, Johnston and Stubbs, P.A. (Jones, Foster) to defend the Town and the Town Manager in this litigation.

GENERAL INFORMATION

The Town was served with the Complaint in this matter on March 1, 2011. The case is an action for the alleged violation of the Plaintiff's due process rights as a result of the alleged unlawful termination of his employment as Fire Chief of the Town. Injunctive relief pursuant to the Fire Fighter's Bill of Rights, attorney's fees and damages in excess of \$15,000 have been requested.

Staff believes it is in the Town's best interests to assign this litigation to the firm of Jones, Foster instead of third party administrator provided counsel or counsel selected by the underwriter. This is because Jones, Foster has personnel specializing in employment law and has successfully defended prior employment law claims against the Town.

Margaret Cooper, Esq. will serve as the lead attorney in this matter at Jones, Foster. Ms. Cooper is a shareholder with Jones, Foster and handles a variety of complex commercial and business litigation matters, with particular emphasis on cases involving employment law issues. She is a frequent lecturer in the area of employment law. Ms. Cooper received her B.S. degree from Rollins College in 1972 and her J.D. from Mercer University in 1976. She is admitted to the Florida Bar, the American Bar Association and the Palm Beach County Bar Association.

It is appropriate for the Town to provide defense counsel for Town Manager Peter Elwell, since he was acting in his official capacity when he took the actions that are the subject of this litigation. This is not expected to result in any material increase in costs for the Town, since the Town's interests and the Town Manager's interests are completely aligned in this matter.

The Town's primary insurance coverages are provided through the Preferred Governmental Insurance Trust (PGIT) of which the Town is a member. The Town's third party administrator is Preferred Governmental Claims Solutions (PGCS) a subsidiary of the same parent company that owns PGIT.

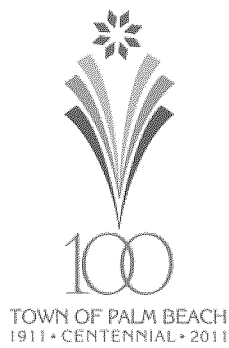
The applicable insurance coverage in this matter is Employment Practices Liability. The affected underwriter is Indian Harbor. The Town has a \$100,000 self insured retention (deductible) for this policy. PGCS, or designee, will issue a coverage summary detailing what coverage applies and the limits of liability. Indian Harbor must also approve the use of Jones, Foster. If Jones, Foster is not approved by Indian Harbor, we will return to you with a recommendation on how to proceed.

Because the possibility exists that the Town may exceed its deductible in this case resulting in a loss for the underwriter it is important to keep Indian Harbor informed of the various events in the case through the reporting procedures established by PGIT for that purpose. Failure to adhere to reporting requirements could be grounds for claim denial. Accordingly, it is requested that the use of Jones, Foster be conditioned upon the firm agreeing to abide by and submit all reports required by the reporting requirements of PGIT.

FUNDING/FISCAL IMPACT

The PGIT attorney rate is \$180 per hour for a partner and \$145 per hour for an associate. Jones, Foster will charge the Town \$235 per hour for a partner and \$210 to \$235 per hour for an associate. The differential cost would continue even if total costs exceed the \$100,000 self-insured retention that must be paid by the Town before coverage kicks in. Because of familiarity with the Town, its officials, its rules and regulations, and the facts of this case, Jones, Foster may be able to provide an effective defense while investing fewer hours than a panel attorney. It is not possible to quantify the total extra cost that might be incurred by the Town.

cc: Karen Temme, Risk Manager
Jane Struder, Finance Director
John C. Randolph, Town Attorney
Margaret Cooper, Esq. Jones, Foster, Johnston & Stubbs



PALM BEACH CENTENNIAL COMMISSION, INC.

340 Royal Poinciana Way • Suite 326 B • Palm Beach, Florida 33480

March 8, 2011

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

Re: Palm Beach Centennial Celebration – April 17, 2011

As you know, the Centennial Commission has been charged with the task of creating a milestone event experience to commemorate the 100th anniversary of the town. In this effort, a large scale community inclusive event has been planned on the grounds of the Flagler Museum on April 17, 2011. At the February Town Council meeting, you granted approval for road closures and parking waivers necessary to have a Centennial parade along Cocoanut road ending at the Flagler Museum. As planning has continued, it has come our attention that additional waivers to certain town ordinances are necessary to accommodate the preparatory requirements for the All-Town Celebration at the Flagler. The Centennial Commission will ensure that the impact on the surrounding community is kept to an absolute minimum and has met with Police Department, Code Enforcement and Building Department representatives.

The Commission thanks the Town Council for their consideration of this request and continued support of this historic event in Palm Beach history. The following outlines various sections of the town code we are requesting waiver to host the event:

Sec. 118-89 Parking of Trucks, Commercial Vehicles Limited.

Setup for the April 17th event will begin on Thursday April 14th. We are requesting your approval to allow trucks with generators and other equipment to remain parked on Whitehall Way for the duration of the setup and event, leaving on April 18th.

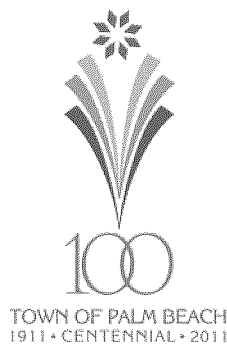
Sec. 42-198. Operation of certain machinery during winter, Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving.

(a) *Prohibited.* During the period of the year commencing on December 1 and ending April 30, and on all Saturdays, Sundays and legal holidays throughout the year, including the Friday immediately after Thanksgiving, no person shall operate or cause to be operated the following machinery or equipment within the town:

(1) Dredges, whether used in making hydraulic fills, dry fills, piledriving or any other purpose.

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Bill Bone, President * Betsy Matthews, Vice President * Ambassador Edward Elson, Vice President * Kevin Johnson, Treasurer
Cynthia Friedman, Secretary * Laurel Baker, Director * Ervin Duggan, Director * Bill Metzger, Director



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- (2) Hammer-driven piledrivers, whether operated from water or land, or from motor truck or tractor, and whether stationary or moveable.
 - (3) Gasoline, diesel and/or steam engines, operated in such a manner as to emit odors or noises offensive or disagreeable to the inhabitants of the town.
 - (4) Dry sandblasting machines and jackhammers.
 - (5) Any other class of machinery or appliance that in its operation would render the enjoyment of property within the town less agreeable than if such appliances or machinery were not operated.
- (b) *Exceptions.*
- (1) It shall be within the discretion of the town council when, in its opinion, the operation of any of the prohibited machinery or appliances mentioned in subsection (a) of this section shall not be overly offensive to the residents or inhabitants of the town, in the vicinity of the equipment's operation, to grant an exception to this section.
 - (2) The operation of equipment relating to essential services of the town and equipment operation during emergency conditions shall be exempt from subsection (a) of this section.
- (Code 1982, § 12-50; Ord. No. 10-05, § 3, 7-12-05; Ord. No. 18-05, § 1, 1-10-06)

Setup for the April 17th event will include stage construction, lighting adjustments and testing on the grounds of the Flagler. Visual effects testing may take place up until 3am on Saturday and Sunday mornings. However, there will be no light spill onto the surrounding properties. Further, all sound will be adjusted through ear pieces during late hour testing, so there will be no audio impact.

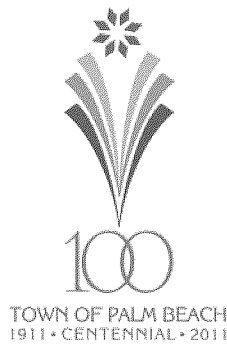
Sec. 42-228. Nonvehicular noise.

In the use of a sound level meter, the following criteria shall be used for determining a violation of the town's ordinances relating to the maximum permissible emissions of noise levels emanating from other than motor vehicles, with the exception of lawn maintenance equipment.

TABLE INSET:

	Maximum Level, dBA	
Area (Geographic)	Day	Night
1	61	55
2	64	58
3	61	55
4	66	60

"Night" as used hereinabove is defined as the hours between 7:00 p.m. and 9:00 a.m.



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Setup for the April 17th event will include audio testing. Some of these may require above average sound allowances after 7pm but before 12am (Thursday, Friday, and Saturday) and after 7am (Sunday). We will make every effort to ensure noise is kept within acceptable limits, but there is a chance that decibel levels may exceed the maximum amount from time to time during the testing.

Closure of the Bike Path.

In addition to the above requests, please note that setup for this event will include obstruction of the bike path in front of the Flagler Museum with minor cabling covered with protective yellow jackets. As a precaution, we request that this section of the bike path be closed for the safety of trail users.

Thank you for considering this request. We look forward to completing the planning for the All-Town Celebration over the next few weeks and are excited about this once in a lifetime community event.

Bill Bone
Centennial Commission Chairman

cc: Peter B. Elwell, Town Manager
Jay Boodheshwar, Director of Recreation
Kirk Blouin, Chief of Police
Daniel Szarzewski, Police Major
Raychel Houston, Code Enforcement
Rob Walton, Code Enforcement
Troy Devine, Event Planner