



# 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, FEBRUARY 13, 2013

9:30 AM

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

### I. CALL TO ORDER AND ROLL CALL

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

### II. INVOCATION AND PLEDGE OF ALLEGIANCE

### III. COMMENTS OF MAYOR GAIL L. CONIGLIO

### IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

### V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE

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

VI. APPROVAL OF AGENDA

VII. PUBLIC HEARINGS

- A. RESOLUTION NO. 25-2013 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 127 Dunbar Road Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.  
[John Page, Director of Planning, Zoning and Building] Page 8
- B. RESOLUTION NO. 26-2013 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 256 South Ocean Boulevard Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.  
[John Page, Director of Planning, Zoning and Building] Page 49

VIII. DEVELOPMENT REVIEWS

- A. Appeals  
**TIME CERTAIN: NOT BEFORE 11:00 A.M**
1. Appeals of Landmarks Preservation Commission's Decision Regarding COA#023-2012 (Del Frisco Restaurant) by William Cooley, Palm Beach Towers, and Lory Volk.  
[John Page, Director of Planning, Zoning and Building] Page 79
2. Appeal of Landmarks Preservation Commission's Decision Regarding COA#004-2013 (Brown Harris Stevens) by Palm Beach Towers. [John Page, Director of Planning, Zoning and Building] Page 179
- B. Time Extensions & Waivers
1. Request for Waiver of Section 42-199, Hours of Construction Work, at 401 Worth Avenue Per Letter Dated January 16, 2013, from Donald B. Scott, Jr. Page 224



2. Request for Waiver of Section 42-199, Hours of Construction Work, at 301 Worth Avenue (Chanel) Per Letter Dated January 23, 2013, from Ean Bressack. Page 231
  
3. Request for Waiver of Section 42-199, Hours of Construction Work, at 411 S. County Road (J.P. Morgan Chase Bank) Per Letter Dated January 17, 2013, from Jorge Mitjans. Page 235
  
- C. Variances, Special Exceptions, and Site Plan Reviews
  1. Old Business
    - a. **VARIANCE #4-2013** The application of Virginia L. Mortara; relative to property commonly known as **319 El Vedado Road**; described as Lot 52 and the West 25 feet of Lot 53, REVISED PLAT OF JUNGLE POINT ADDITION TO THE TOWN OF PALM BEACH, according to the plat thereof as recorded in Plat Book 18, Page 21, of the Public Records of Palm Beach County, Florida; located in the R-A Zoning District. The applicant is requesting variances to allow construction of a 30 foot by 6 foot marginal dock located 10 feet from the West side yard property line in lieu of the 25 foot minimum set back required; to allow a 30 foot by 6 foot marginal dock located 10 feet from the Northern neighbor's South side property line in lieu of the 25 foot minimum set back required; to allow a vessel to be docked at the proposed dock, which vessel would extend beyond the Applicant's North neighbor's side property line, but not the Applicant's side property line.  
[Attorney: M. Daniel Logan]  
*Deferred from the January 9, 2013, Town Council Meeting* Page 240
  
    - b. **VARIANCE #5-2013** The application of 101 Indian Road, LLC, Robert G. Fessler, Manager/Member; relative to property commonly known as **101 Indian Road**; described as Lengthy legal description in file; located in the R-A Zoning District. The proposal is to build a new, two story house with the following variances being requested: to allow the south side yard setback for the proposed residence to be 15 feet in lieu of the 30 foot minimum required for lots in excess of 60,000 square feet; to allow a north side yard setback for the proposed residence to be 25.67 feet in lieu of the 30 foot minimum required; to allow the proposed residence to be 25 feet from the Town Bulkhead Line in lieu of the 51.6 foot minimum required when calculating the average of the houses to the north and

south's setback from the Town Bulkhead Line; to allow the overall building height to be 52.33 feet NGVD in lieu of the 48.39 maximum allowed when comparing the heights of the houses to the north and south.

[Attorney: Maura A. Ziska]

*Deferred from the January 9, 2013, Town Council Meeting*

[ARCOM Recommendation: ARCOM motion to recommend approval of the variance failed 3-2 as there were not enough members present to obtain the four affirmative votes necessary.]

## 2. New Business

- a. **VARIANCE #7-2013** The application of The Society of the Four Arts, Inc., Ervin Duggan, President; relative to property commonly known as **1, 2, 3, and 4 FOUR ARTS PLAZA AND 240 COCOANUT ROW**; described as Lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting variances to permit sixteen (16) square feet of signage in lieu of the six (6) square feet of signage permitted by Section 134-2405(1) on the Cocoanut Row frontage of the Eugene "Fritz" Dixon Education Building at the Society of the Four Arts campus; to allow a two (2) square foot sign on the south elevation of the Eugene "Fritz" Dixon Education Building at the Society of the Four Arts campus, where signage is not permitted by the Zoning Code; to allow two (2) signs, of 2.5 square feet each, on the Seaview Avenue frontage of the Eugene "Fritz" Dixon Education Building at the Society of the Four Arts campus, where the Zoning Code only permits one (1) sign. [Attorney: Harvey E. Oyer, III]  
[Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject landmark property. Carried 7-0 with slight redesign of the sign facing Cocoanut Row.]
- b. **VARIANCE #8-2013** The application of Terry and Bonita Alfuth; relative to property commonly known as **237 OLEANDER AVENUE**; described as Lots 14 and 15, Daisy E. Erbs Addition, according to the Plat thereof as recorded in the Plat Book 9, Page 75, Public Records of Palm Beach County, Florida; located in the R-C Zoning District. The applicant is requesting variances to construct a 278.52 square foot one car garage addition onto the existing residence. The proposed addition would require the

following variances to be requested: a west side yard setback of 3 feet in lieu of the 10 foot minimum required and 15.7 feet existing; a rear yard setback of 11.6 feet in lieu of the 15 foot minimum required and 11.6 feet existing; a front yard setback of 22.39 feet in lieu of the 25 foot minimum required and the 15.1 feet existing; and to allow lot coverage of 33.39% in lieu of the 30% maximum allowed and the 23.45 existing. [Attorney: Maura Ziska]  
[ARCOM Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0]

D. Other

1. Royal Poinciana Plaza

**TIME CERTAIN: NOT BEFORE 1:30 PM**

a. Update on theatre. [Adam Munder]

- b. **SITE PLAN REVIEW #1-2013** The application of James M. Crowley, Esq. or John W. Little, III, Esq. on behalf of Sterling Palm Beach LLC; relative to property commonly known as **340 Royal Poinciana Way**; described as Lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting a site plan review modification to the Royal Poinciana Plaza parking lot due to the realignment of the new Flagler Memorial Bridge. The Florida Department of Transportation has condemned 8,388 square feet of the Plaza's property for the realignment. The request is to restripe the Plaza, specifically the remaining portion of the northwest side of the property, to capture as many off-street parking spaces as possible of those which were lost. The redesign will result in 208 parking spaces in the northwest portion of the Royal Poinciana Plaza. [Attorneys: James M. Crowley, John W. Little]  
[John Page, Director of Planning, Zoning and Building]  
*Deferred from the January 9, 2013 Town Council Meeting*

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2. Modification of Condition of Approval Regarding Temple Emanuel Zoning Application (Special Exception No. 8-2012 with Site Plan Review and Variance), 190 North County Road and 224, 226 and 234 Seminole Avenue. [John C. Randolph, Town Attorney]

Page 282

3. Consideration Of The Testa Family, Inc., Comprehensive Plan And Zoning Text Amendment Application To Create An Overlay

Page 305

Within The Five Acres Of Land Between Bradley Place And North County Road And Royal Poinciana Way And Sunset Avenue. The Application Was Previously Deferred April 2012 To The February 2013 Council Meeting In Order For The Newly Established Royal Poinciana Way Committee To Study Regulations For This Area.  
[John Page, Director of Planning, Zoning and Building]  
*Deferred from the April 11, 2012 Town Council Meeting*  
**Request for deferral to the April 10, 2013 Town Council Meeting**

4. The Palm House

- a. Declaration of Use Agreement Modification. Page 308  
[John Page, Director of Planning, Zoning and Building]
- b. Request for Waiver of Section 42-199, Hours of Construction Work, at 160 Royal Palm Way Per Letter Page 319  
Dated January 31, 2013, from Maura Ziska.

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](http://www.townofpalmbeach.com)) and selecting "Your Government" and then selecting "Audio (Live and Archived)." 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.
- 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: February 13, 2013

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## Section of Agenda

Public Hearings

## Agenda Title

RESOLUTION NO.25-2013 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 127 Dunbar Road Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum dated February 1, 2013 from John S. Page, Director of Planning, Zoning and Building
- Resolution No. 25-2013
- Designation Report for 127 Dunbar Road
- Letter from property owner, John Eberhardt
- Excerpt from the LPC Minutes of January 16, 2013
- Article IV Designation Procedure

# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Landmark Designation of 127 Dunbar Road  
**Resolution No. 25 – 2013**

Date: February 1, 2013

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## **STAFF RECOMMENDATION**

Staff recommends ratification of the property known as 127 Dunbar Road as a Town landmark.

## **LANDMARKS PRESERVATION COMMISSION RECOMMENDATION**

At the Public Hearing for Designation held during the January 16, 2013 meeting of the Landmarks Preservation Commission, the Commission voted unanimously 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 (2) Is identified with historic personages or with important events in national, state or local history;
  - Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmen; and,
  - Sec. 54-171 (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

Landmark Designation of 127 Dunbar Road

**Resolution No. 25- 2013**

February 1, 2013

Page 2

**OWNER CONSENT**

Please be advised that the property owner has notified the Town, by letter, of his objection to the landmark designation of his property at 127 Dunbar Road. The property owner was represented by legal counsel and an expert witness at the LPC Designation Hearing of January 16, 2013 to oppose the designation. Please see the attached letter from the property owner.

**FUNDING/FISCAL IMPACT**

No direct funding is needed for this action.

**COMPREHENSIVE PLAN**

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

**TOWN ATTORNEY REVIEW**

Please be advised that the Town Attorney has reviewed Resolution No. 25 - 2013 relating to 127 Dunbar Road, and has approved it as to legal form and sufficiency.

attachments

JSP:cmd

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



## **RESOLUTION NO. 25 - 2013**

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

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

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

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

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

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

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

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **127 Dunbar Road** and the property to be landmarked is legally described as follows:

**LOTS 38 AND 39 IN ADAMS ADDITION TO THE TOWN OF PALM BEACH, FLORIDA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 68, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA**

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

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of February, 2013.

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Gail L. Coniglio, Mayor

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William J. Diamond, Town Council Member

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Richard M. Kleid, Town Council Member

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Michael J. Pucillo, Town Council Member

**ATTEST:**

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David A. Rosow, Town Council Member

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Susan A. Owens, MMC, Town Clerk

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Robert N. Wildrick, Town Council Member

# **127 Dunbar Road**



## **DESIGNATION REPORT**

**Wednesday, January 16, 2013**

**Landmark Preservation Commission**

**Palm Beach, Florida**

# **DESIGNATION REPORT**

## **127 Dunbar Road**

### **Table of Contents**

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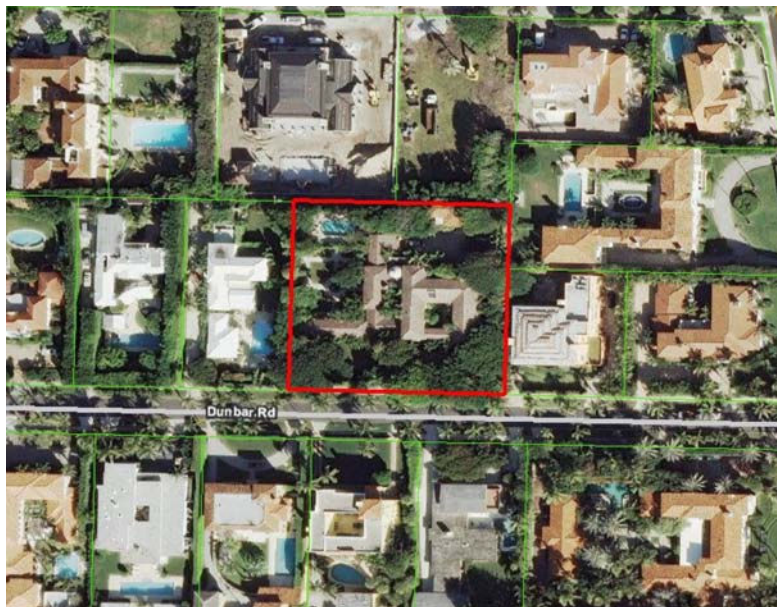
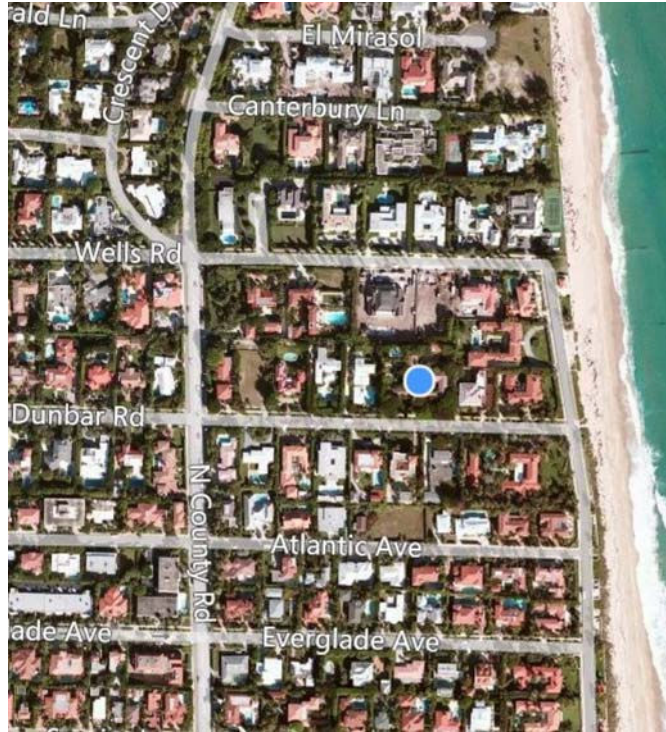
Report produced by Murphy Stillings, LLC

## **I. General Information**

|                                       |                                                                                                                                    |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Location:                             | 127 Dunbar Road<br>Palm Beach, Florida 33480                                                                                       |
| Date of Construction:                 | 1920 - 1921                                                                                                                        |
| Principal Architect:                  | The original 1920 House was designed and built by Cooper C. Lightbown. The 1928 and 1930 Additions were designed by Maurice Fatio. |
| Principal Contractor                  | Cooper C. Lightbown                                                                                                                |
| Present Owner:                        | John H. Eberhardt                                                                                                                  |
| Present Use:                          | Residential                                                                                                                        |
| Present Zoning:                       | RB                                                                                                                                 |
| Palm Beach Count<br>Tax Folio Number: | 50-43-43-14-07-000-0380                                                                                                            |
| Current Legal<br>Description:         | Adams Addition Lots 38 & 39                                                                                                        |

## II. LOCATION MAP

### 127 Dunbar Road





### III. Architectural Information:

The residence at 127 Dunbar Road, originally known as Villa Firenze, was built by Cooper C. Lightbown in 1920-1921 and is an excellent example of Mediterranean Revival architecture. Addison Mizner first popularized this style in Palm Beach with his 1918 design for the Everglades Club followed by El Mirasol, the 1919 oceanfront estate for Edward and Eva Stotesbury. Cooper C. Lightbown was the building contractor for both of these projects as well as numerous other Mizner designs during the 1920s Boom Era.

Mediterranean Revival style architecture is an eclectic design style that was inspired by Spanish, Italian, North African and Moorish structures and became popular in Florida and California during the 1920s. Buildings of this style are often decorated with ornate cast-stone columns, pilasters and window surrounds. Arched openings, windows of varying sizes and shapes, asymmetrical massing and balconies are also common features. In addition, stone or stucco facades, decorative wrought ironwork, tile floors, pecky cypress ceilings and clay barrel tile roofs are typical features of Mediterranean Revival style buildings.



Villa Firenze, prior to 1928



Villa Firenze was originally a two-story U-shaped residence with a one-story columned porch connecting the wings of the south facade. The building is constructed of concrete blocks covered with smooth stucco and scored to look like stone blocks. The connecting hipped roofs are covered in red clay barrel tiles. The façade of the west section has double-hung wood arched windows with decorative iron bars on the first floor and a balcony with a cast-stone balustrade, urns and double wood doors above. The façade of the east section has wood casement windows with ornate cast stonework in the arches above, cast stone pilasters with whimsical carved capitals and decorative stonework winding below. The second story has a balcony that matches that of the west section.

The columned porch connecting the two wings is no longer extant and in its place is a two-story addition that was constructed in two phases. In 1928, the owners, Mr. and Mrs. John Shepard, Jr., hired Maurice Fatio to design the second story addition on the south façade (Treanor and Fatio Commission 163 Drawing No. 101).<sup>1</sup> This addition connected the second-story of the east and west wings of the original building and turned the U-shaped open courtyard design into a residence built around a courtyard. Fatio was known to use central courtyards to provide open space protected from ocean winds.



South Façade, prior to 1974

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<sup>1</sup> Treanor and Fatio, Commission 163, Drawing No. 101, 1928. Architectural Drawings located at the Historical Society of Palm Beach County.

The façade of this addition was constructed of concrete block covered with scored stucco to match the original exterior. In addition, cast-stone embellishments and arched windows were used to reflect the original design. There is a detailed drawing of a cast-stone capitol of a young boy that is still extant on the second story pilasters (Treanor and Fatio Commission 163 Drawing No. 301).<sup>2</sup> The original one-story columned porch connecting the two wings was enclosed sometime in the past 40 years.<sup>3</sup> Like the second story addition this addition was constructed of concrete block covered with scored stucco and included arched windows and doors to reflect the original Mediterranean Revival style.



South Façade, Showing First and Second Story Additions

The east façade of the house is equally, if not more, ornate than the south façade and was likely constructed as the front façade with its very elaborate entryway. In addition, the east façade would have had ocean views when it was constructed in 1920 -1921. There is a large scored stucco porte cochere and an intricately carved entryway with a decorative arch with twisted columns, fanciful cast pilasters and a large paneled wood door with a carved sunburst. The ceiling and east wall of the porte cochere are painted with murals and lavish scenes (the porte cochere was likely open to the east with the east wall then being a later addition). The section

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<sup>2</sup> Treanor and Fatio, Commission 163 Drawing No. 301. Drawings located at the Historical Society of Palm Beach County.

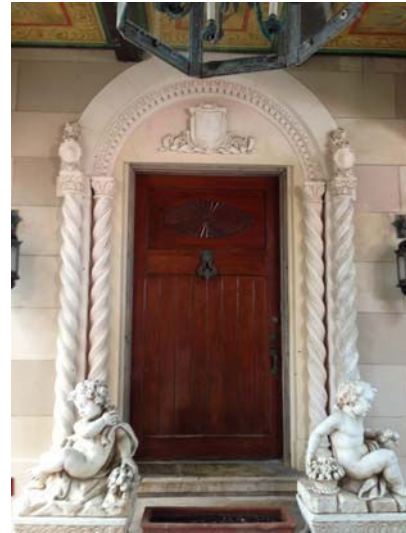
<sup>3</sup> A photo from ca. 1973 in Landmark Architecture of Palm Beach shows the first-story porch on page 50.



south of the entry has wood casement windows with ornate carved stonework in the arches above, cast stone pilasters with whimsical carved capitals and decorative stonework winding below to match those on the east section of the south façade. The section north of the entry has very decorative cast stonework around and below the windows. The second story of these sections have 6/6 double-hung wood sash windows.



Porte Cochere



Entryway, East Facade



Window, South of Entryway



Windows, North of Entryway

The rear of the house has mixed fenestration of 6/6 and 4/4 double-hung wood sash windows. Like the rest of the house these wood windows all appear to be original. There is a wood staircase and balcony that is a later addition.

Behind the main house there is a two story garage apartment that was constructed in 1920 -1921 when the original house was built. It is constructed of concrete block covered in stucco and has wood casement windows, sliding wood and glazed garage doors that appear to be original, a tiled staircase leading to the second floor and a roof covered with clay barrel tiles with slight eave overhangs and carved wood brackets below.

When Mr. & Mrs. John Shepard, Jr. purchased the house in 1922 they also purchased the lot to the west and in 1930 they again hired Maurice Fatio to design an addition to their house. This time the Shepards hired Fatio to design a loggia, a pavilion, garden walls and fountains (Treanor and Fatio Commission 204).<sup>4</sup> The flanking loggia and pavilion, which were constructed of clay tile covered with stucco, were beautifully executed in the Mediterranean Revival style to compliment the design of the original dwelling. Along with the gardens and fountains they provide wonderful indoor/outdoor space so appropriate for the subtropical Palm Beach climate. Fatio used large arched openings with decorative columns and pilasters, ornate ironwork, tile floors, and elaborate wood ceilings to enhance his designs.



South Facade of Loggia Addition with Ironwork Removed

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<sup>4</sup> Treanor and Fatio Commission 204,1930. Architectural Drawings located at the Historical Society of Palm Beach County.

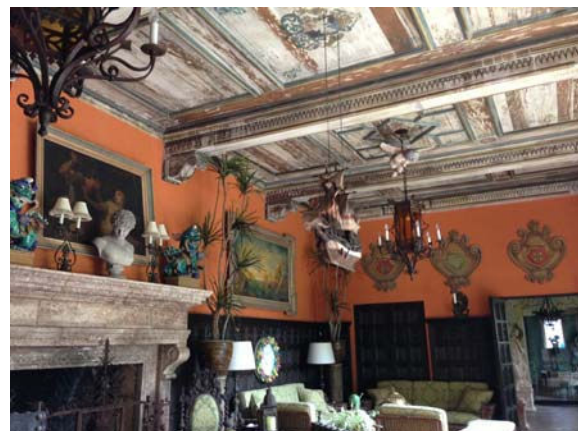




Loggia, Looking South From Courtyard



Pavilion, Looking Southeast From Courtyard



Pavilion, Interior

When Fatio designed the addition he relocated the driveway from the east side of the house to the space between the original dwelling and the loggia and pavilion addition. He connected the two sections of the house with a wide barrel tiled porch over the driveway to keep the elements out and to provide good circulation between the older and newer sections of the dwelling. In the 1980s, the current owner redirected the driveway to extend across the front of the house and then flank the east side going under the porte cochere north to the rear of the house where the garage and garage apartment are located.

## IV. Historical Information

The house at 127 Dunbar Road, originally known as “Villa Firenze,” was built by Cooper C. Lightbown, a building contractor and the second mayor of the Town of Palm Beach. When Cooper Lightbown arrived in Palm Beach in 1912, Palm Beach was poised to enter a huge boom era. The population was increasing dramatically and Lightbown became wealthy by selling land and building resort homes for affluent northerners. In 1916, before the arrival of Addison Mizner, Cooper Lightbown was building Spanish style houses for his northern clients, most notably the Phipps family. By 1918 he was an accomplished builder and Mizner hired him to build the Everglades Club followed by the Stotesbury Estate and numerous other commissions. The two men developed a good working relationship and Lightbown quickly learned Mizner’s building techniques.

On August 2, 1920, Cooper C. Lightbown took out a permit to build a house for himself at 127 Dunbar Road. Permit 14820 shows that the residence and garage were to cost \$25,000.<sup>5</sup> Construction on the house began in late 1920 and Cooper apparently served as both architect and builder of the project. Cooper Lightbown’s Mediterranean Revival style design for 127 Dunbar Road was likely a combination of his own and Mizner’s Spanish and Italian influences with its original U-shape open courtyard, varied fenestration, cast stone columns and pilasters, balconies, ironwork, clay barrel tile roofs, and decorative detailing at the windows and doors.

In March of 1922, John Shepard Jr. and his wife Maude purchased the house from Lightbown. The sale and the house were described in a Palm Beach Post article dated March 21, 1922,

“Mr. and Mrs. John Shepard, Jr. of Providence, Rhode Island and Lennox, Massachusetts, have purchased from Cooper C. Lightbown, mayor of Palm Beach, his residence on Dunbar Road known as Villa Firenze. The consideration was in the neighborhood of \$80,000. Mr. Lightbown stated, ‘Mr. Shepard is the head of the Department Stores in Boston and Providence, and has been an annual visitor to Palm Beach for many years. He is also an active golfer and has competed in several golf tournaments held in Palm Beach for the past season.’

Villa Firenze is a beautiful residence of Spanish architecture and was completed by Mr. Lightbown. There are six master bedrooms equipped with five master baths in the owner’s portion of the house, and the service part of the residence is comprised of five servants’ rooms and two baths. All first floor rooms, including the loggia,

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<sup>5</sup> Town of Palm Beach Permit No. 14820, 2 August 1920.

living room, dining room, baths, kitchen and patios have marble and tile floors, and the interior of this home has been mentioned as being one of the most beautiful in Palm Beach.

Mr. Shepard has also arranged to purchase the 100-foot lot west of Villa Firenze to afford him more facilities for beautifying his estate by planting gardens with tropical plants. Mr. Lightbown is not only mayor of Palm Beach, but is one of the biggest builders of fine homes in the state.”<sup>6</sup>

Mr. & Mrs. John Shepard, Jr. were seasoned visitors to Palm Beach, having spent seventeen winters at the Royal Poinciana Hotel before purchasing Villa Firenze from Lightbown. Soon after purchasing the house they renamed it Casa del Pastor. During the boom years of the 1920s many affluent northerners built or purchased homes in Palm Beach and the old hotels began to lose their previous high social standing. “The opening of the Everglades Club with its carefully selected membership and the Stotesbury’s decision to build a large oceanfront villa together created a new era in the history of the resort.”<sup>7</sup> The Shepards were a part of this new era of resort living in what was becoming a winter colony.

John Shepard, Jr. was born in 1857 and at the age of 23 he began his career building a retail store in Providence, Rhode Island. He expanded the business to Boston and conducted the stores under the names The Shepard Stores, Providence and Boston. He became one of the outstanding merchants of New England and the entire country, and diversified his holdings into companies in merchandizing, broadcasting and real estate.<sup>8</sup> The Shepard Broadcasting system was one of the early privately owned broadcasting services on the east coast and he was chairman of the board of the Yankee network, which included nine radio stations. His two sons, John Shepard III and Robert Shepard, took over managing the Shepard stores, while he ventured into the other businesses.<sup>9</sup>

Mr. & Mrs. Shepard were early leaders in the “social colony” of Palm Beach and hosted many high society parties at Casa del Pastor, most notably their New Year’s Eve party which was also John Shepard’s birthday. John Shepard was particularly active in the early Palm Beach clubs serving as President of the Sailfish Club and being a founding member of the Everglades Club, Gulf Stream Club, Bath and Tennis Club, Oasis Club, and the Old Guard Society. John and Maude Shepard

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<sup>6</sup> “C.C. Lightbown Sells Villa on Dunbar Road,” Palm Beach Post 21 March 1922.

<sup>7</sup> Donald W. Curl, Palm Beach County: An Illustrated History (Northridge, CA: Windsor Publications, 1986) 65.

<sup>8</sup> “New Mayor of Palm Beach Has Great Business Record,” The Palm Beach Times 10 March 1930.

<sup>9</sup> Ibid.

were avid golfers as well as very civic minded and philanthropic. In 1929, during the depths of the Depression, they generously loaned the Palm Beach County School Board \$30,000 to build the Palm Beach Junior High School.<sup>10</sup>

In 1930, John Shepard Jr. was elected the fourth mayor of the Town of Palm Beach. Despite no opposing candidate, there was an exceptionally large voter turnout and in his acceptance speech he thanked the residents for their vote of confidence and promised great improvements in the town over the next few years. During his five year tenure as mayor, Shepard extended beatification to the resort town by widening streets, planting trees and working closely with the Garden Club to make the town more attractive for residents and visitors. And unlike a number of other southern resort towns, Shepard's successful management of the town finances kept Palm Beach solvent during the recessionary thirties.<sup>11</sup>

After serving as mayor, John Shepard, Jr. remained active in Palm Beach social and public affairs. When he turned 80 years old, John Shepard established the Octogenarian luncheons, which became an annual event at Casa del Pastor. In an interview in 1941, Shepard urged fellow Palm Beachers to spend all they could afford and entertain as extensively as possible to support the local businesses and to help the government secure taxes.<sup>12</sup> He also established the Shepard Foundation, Inc., which provided funds to persons unable to provide medical and surgical care for themselves. John Shepard, Jr. died at Casa del Pastor in December of 1948 at the age of 92. The leaders of Palm Beach, including Joseph F. Gunster, were honorary pallbearers.

Mrs. John Shepard Jr. was listed as living at Casa del Pastor until 1951. Sometime in the early to mid-1950s Countess Francesco Mario Guardabassi purchased 127 Dunbar Road. The Guardabassi's had been coming to Palm Beach since the 1920s. Captain Francesco Mario Guardabassi was a World War I hero and was awarded honors for his diplomatic achievements promoting American and Italian amity. He was also a former Metropolitan Opera singer and notable painter. In the 1920s he served as Director of Art at the Alba Hotel in Palm Beach.<sup>13</sup> Articles from the various Palm Beach newspapers indicate that the Guardabassi's frequently spent their seasons in Palm Beach and entertained for the notable members of the Island's high society.

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<sup>10</sup> "Shepard Services to be Held Today," Palm Beach Daily News 23 December 1948.

<sup>11</sup> Shirley Johnston, Palm Beach Houses, New York: Rizzoli International Publications, 1991, p.104.

<sup>12</sup> "Former Mayor Shepard Gives Timely Interview on Season," Palm Beach Daily News 20 December 1941.

<sup>13</sup> "Captain Guardabassi At Alba Is Director of Art, War Hero," Palm Beach Times 15 February 1926.



There are two photos in the Florida Memory Photographic Collection dated November 27, 1956 of Countess Guardabassi at 127 Dunbar Road. One was taken on the front lawn and shows the arcaded cloister with the original ironwork as well as the façade of the dwelling.<sup>14</sup> The other was taken in the back gardens and the description given is “The outside court is shown at the home of Countess Francesco Mario Guardabassi with the outdoor dining room behind the arches. The driveway separates the court and dining room from the house.”<sup>15</sup> The Guardabassi’s lived in the house until the early 1970s when it was purchased by the current owner. Town of Palm Beach permits indicate that the Guardabassi’s made repairs to the chimney, balconies and roof but did no major work to the house.

The current owner, John H. Eberhardt, has owned 127 Dunbar Road for approximately 40 years. During his ownership he added numerous fountains and renamed the house “Villa Fontana.” According to several articles written about Villa Fontana, John Eberhardt was a “scenic designer who has created lavish interiors filled with hand-painted details and exquisite antiques gathered from around the globe.”<sup>16</sup>

An article written in 2007 and titled, “John Eberhardt: The Artist, The Collector, The Visionary,” the author writes,

“John Eberhardt; owner, creator, scenic artist, architect, antique connoisseur. The Man behind the Vision. The Genius who has given Palm Beach, Florida his mansion ‘Villa Fortuna’ and Fire Island, New York ‘The Belvedere’ which is now a boutique hotel. The two enchanting and spectacular mansions are full of antiques that John has collected from his travels around the world.

At the young age of fifteen, John’s extraordinary artistic talents were honed by creating theatre sets for the New York City Opera House and then by working for CBS during the early years of television, where he designed and constructed stage sets.

Villa Fontana truly looks like a breath-taking yet remarkable livable museum. John’s genius as a scenic artist is evident in the extraordinary paintings and finishes and his artistic flare has touched every wall, ceiling and floor. John’s talent for

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<sup>14</sup> State Archives of Florida, Florida Memory #74056.

<sup>15</sup> State Archives of Florida, Florida Memory #74054.

<sup>16</sup> “Creating an Oasis: Hands on Approach,” *Grandeur*,” Palm Beach Daily News (Special Advertising Section) 16 February 2007.

collecting antiques is shown in every treasure he has selected and each grand room is truly a treasure trove.”<sup>17</sup>

In 1985, John Eberhardt took out permits to add a swimming pool and an outdoor staircase. In 1987, he took out permits to add a wall, gate posts and an iron gate and in 1989 he took out permits to alter the driveway and add a new wall. The wall spans the southern border of the property along Dunbar Road breaking for the driveway where there is a large stone fountain and farther to the east for an ornate pedestrian gate. Sometime after the driveway was rerouted in front of the house and flanking the east side the porch that covered the driveway between the two sections of the house was enclosed with mostly glass walls. And at some point the decorative ironwork that was on the arcaded cloister of the 1930 Fatio addition was removed and multi-light arched wood doors with stained glass were installed. It was likely at this time that the first floor addition on the south façade was completed for multi-light arched wood windows and doors with stained glass were also installed. The most recent addition appears to be the domed room constructed in 1991 and built on the northwest portion of the house.

## **V. Architects Biographies**

### **Cooper C. Lightbown**

Cooper C. Lightbown was born November 30, 1886, in Washington DC., the fifth child and son of Charles and Ella Lightbown. Cooper grew up in row houses that his father had built. Cooper became a carpenter and worked with some of his brothers in the building trades as a young man. In 1910, he married Dyoll Prathers and was working as a carpenter and building contractor. They had two sons Cooper C. Lightbown, Jr. born in 1912 and Donald L. Lightbown, born in 1916. In February 1912, the Washington Post had an article about a large Mission-style home that Cooper and Dyoll were constructing for themselves in Chevy Chase, Maryland. However, later in 1912, Cooper and Dyoll travelled to Palm Beach for Cooper to build a home for a man from Washington, DC, and they decided to stay.<sup>18</sup>

Palm Beach was poised to enter a huge building boom era when Cooper and Dyoll arrived. Cooper entered the construction and real estate business and became

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<sup>17</sup> “John Eberhardt: The Artist, The Collector, The Visionary,” Author Unknown. In 127 Dunbar Road file at the Preservation Foundation of Palm Beach.

<sup>18</sup> Letter from Bryan Bernard. Letter in Cooper C. Lightbown file at the Historical Society of Palm Beach County.

wealthy selling land and building winter resort homes for affluent northerners. His successful real estate and investment company was in partnership with E. A. Wadsworth. On several of his early Palm Beach buildings he, like other builders of that era, worked as both architect and contractor. In 1918, Cooper was hired by Addison Mizner to build the Everglades Club followed by the Stotesbury Estate in 1919 and numerous commissions in the early 1920s. According to many accounts, Cooper C. Lightbown was the contractor that made Addison Mizner and Paris Singer's dream resort come into being.

In 1919, Cooper's brother Millard Lightbown, who was also a builder, moved to Palm Beach. For a number of years the brothers shared an office and worked together on several construction projects. In 1920, Cooper and Dyoll divorced and in late 1921 he married Ella Murray Stephenson, a widow from Washington, DC. After selling 127 Dunbar Road to the Shepards in 1922, Cooper and Ella lived at Villa Mura 115 Royal Palm Way. They became active in the social life of Palm Beach and were instrumental in organizing the Animal Rescue League. Cooper was an outgoing and gregarious man and had become a leading promoter of Palm Beach. In 1922, he was elected mayor of the Town of Palm Beach over the incumbent. During his 6-year term he made important decisions on town zoning that kept business and residential districts apart.<sup>19</sup>

In 1922, he and Ella travelled to Italy, France, Spain, Switzerland and England to vacation and study architecture. Upon his return he gave a talk to the Minute Men of Congregational Church. In the talk he stated,

"Going to Spain to study architectural types by which Palm Beach might profit is time wasted. In all my travels through Spain from the French border to Gibraltar I didn't see a single house that would compare with the Stotesbury place here. In another year Palm Beach will have three or four show homes finer than anything to be seen in Spain, the king's palace not excepted. I was never so disappointed in my life as I was in the royal home in Madrid."

"The style of architecture which is being developed in Palm Beach is unique. It certainly is not Spanish – it comes nearer being Italian. But the combination of ideas worked out by the school of architects of which Addison Mizner is the pre-eminent exponent, is typically Palm Beach. I believe the day is coming when it will be referred to as the Mizner school of architecture and students will come here from all parts of the world to study it, just as now they go to Europe."<sup>20</sup>

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<sup>19</sup> Shirley Johnston, Palm Beach Houses (New York: Rizzoli International Publications, 1991) 104.

<sup>20</sup> "Castles in Spain are Drab Huts beside Palm Beach, Lightbown Says," Palm Beach Post 26 May 1923.

By 1923, Cooper C. Lightbown had acquired more than \$1 million worth of work, capturing Mizner's huge Everglades Club, El Mirasol, Warden House, and Casa Bendita projects. By 1925, he was inundated with work, which grossed nearly \$14 million before the market plummeted in 1926. Luckily, Cooper C. Lightbown was virtually unscathed by the land bust by virtue of his commissions to build Mar-A-Lago and the Bath and Tennis Club, both designed by Joseph Urban. In addition to Mizner and Urban commissions, Lightbown was also a contractor for at least two of Marion Sims Wyeth projects.<sup>21</sup>

In May of 1926, a newspaper article stated, "Mr. & Mrs. Cooper C. Lightbown started Friday evening for Washington where Mr. Lightbown is building a new home for their permanent pied a terre and later they will go to their farm at Ridgefield, Connecticut for the summer."<sup>22</sup> Despite starting construction on their home in Washington, DC, the Lightbowns returned to Palm Beach for two more seasons as Cooper was re-elected mayor of Palm Beach in 1926 and he had Mar-A-Lago and other building contracts to complete. During these last few years in Palm Beach, Cooper organized a group of local businessmen to raise money for an airport to be located between Belvedere Road and Southern Boulevard in West Palm Beach. In his honor the Palm Beach airfield was named Lightbown Municipal Airport. The airfield changed names many times and today it has grown to become the Palm Beach International Airport.

In 1928, after his last term as mayor, Cooper and Ella Lightbown returned to Washington, DC. Cooper continued in the real estate and construction business, and was successful despite the Depression. The 1930 Census shows the family living in a \$75,000 house on Colorado Avenue in NW Washington, DC. Cooper was an avid golfer and became the President of the Congressional Country Club in 1935. After a brief illness he died in 1941.

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<sup>21</sup> Rutherford S. Pierrepont house on Jungle Road and Clara Frazier house on Ocean Boulevard South.

<sup>22</sup> Palm Beach Pickups, 9 May 1926.

### **Cooper C. Lightbown Projects\***

| <b><u>Owner</u></b> | <b><u>Date, Address, Price</u></b>                                                                   |
|---------------------|------------------------------------------------------------------------------------------------------|
| John S. Phipps      | 1916; “Las Incas” Ocean Boulevard North, ¼ mile north of Sunset Ave. (\$20,000)                      |
| H. Carnegie Phipps  | 1916; “Heamaw” Ocean Boulevard North, ½ mile north of Sunset Ave. (\$35,000)                         |
| M.T. Grace          | 1916; Ocean Boulevard North (\$20,000)                                                               |
| Paris Singer        | 1918-1926; Everglades Club (Mizner architect)                                                        |
| Stotesbury          | 1919; “El Mirasol” Ocean Drive North (Mizner architect)                                              |
| Charles A. Munn     | 1919; “Armado” Ocean Drive north of Phipps and Grace homes (\$75,000)                                |
| T. Frelinghuysen    | 1919; Barton Avenue (\$100,000)                                                                      |
| S.C. Brackett       | 1919; Primavera Estates (20,000)                                                                     |
| Gus’s Bath New Bldg | 1920; Ocean Boulevard at corner of Worth Avenue (Harvey & Clarke Architects)                         |
| Cooper C. Lightbown | 1920; “Villa Firenze” 127 Dunbar Road (\$25,000)                                                     |
| Cooper C. Lightbown | 1920; Office Oceanfront of Adams Estate                                                              |
| Cooper C. Lightbown | 1920; Office on Lake Trail                                                                           |
| Alfred G. Kay       | 1921; “Audita” South Ocean Boulevard (\$40,000)                                                      |
| John S. Phipps      | 1921; “Casa Bendita” Ocean Boulevard North (\$150,000) (John H and Hubert Phipps also resided there) |

|                   |                                                                         |
|-------------------|-------------------------------------------------------------------------|
| W. J. Warden      | 1922; Warden House 112 Seminole Avenue (Mizner, Architect) (\$100,000)  |
| R. S. Pierrepont  | 1922; “Invierno” Jungle Road (Marion Sims Wyeth, architect) (\$40,000)  |
| Addison Mizner    | 1922; Ocean Boulevard south of the El Bravo Estates (Mizner, architect) |
| Joseph Cudahy     | 1922; Grace Trail 2nd E of Palm Beach Ave. (\$35,000)                   |
| Joshua Cosden     | 1923; Playa Riente North Ocean Blvd (Mizner, architect) (\$300,000)     |
| Clara Frazier     | 1924; 115 Ocean Boulevard South, Palm Beach (Wyeth, architect)          |
| Millard Lightbown | 1924; 125 E. Lakewood Road, West Palm Beach                             |
| E.F. Hutton       | 1927; Mar-A-Lago, South Ocean Avenue (Joseph Urban, architect)          |
| Biddle/Hutton     | 1926; Bath & Tennis Club (Joseph Urban, architect)                      |

\*These are buildings Murphy Stillings found documented in newspaper articles from 1916 – 1930 and books on Palm Beach history and architecture. There are likely more buildings that Cooper C. Lightbown constructed in Palm Beach and West Palm Beach that are not documented here. And the addresses are vague from the 1910s – 1930s as many buildings did not have specific address numbers.



## **Maurice Fatio\***

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

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

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

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

Fatio's many commissions for houses and commercial buildings in Palm Beach were based on his reputation in New York as well as his charm, good looks, and European manner. During his career in Florida, Fatio designed in many diverse styles. Mediterranean Revival, more specifically, Italianate houses incorporating tower blocks, were designed for William McAneeny (195 Via Del Mar), the Coopers (801 South County Road), Mortimer Schiff (920 South Ocean Boulevard), and Daniel McCarthy (550 South Ocean Boulevard). More horizontal, symmetrical and formal Florentine houses were designed for Otto Kahn (690 North County Road) and Joseph Widner (1500 South Ocean Boulevard) all between 1928 and 1930.

In addition to Fatio's many commissions for houses and commercial buildings, he also was hired to design additions and alterations to numerous existing buildings. Despite the 1926 Florida land bust, 1928 was an extremely busy year for Maurice Fatio. In a letter written on April 14, 1928, Fatio states, "I find myself with nineteen building sites and a work volume three times bigger than last year's. It is the best year which we have ever had - about two million dollars in

construction.”<sup>23</sup> At least ten of these projects, including the addition for 127 Dunbar Road, were additions to existing residences.

In the mid-30s, Fatio began designing in the Georgian and British Colonial styles. Large commissions for Albert Worswick (1860 South Ocean Boulevard), E. F. Hutton (1768 South Ocean Boulevard), and Wolcott Blair (1960 South Ocean Boulevard) with their simple materials and uncluttered lines reflected the sober, economic climate and set the pace for the smaller Colonial and Regency commissions that followed them.

During this time, Fatio also worked in the modern style, producing such modern masterpieces as "The Reef" built for Mrs. Barclay Douglas (Jo Hartford). Other modern houses were designed for Messmore Kendall, aviator pioneer Grover Loening, and Prince and Princess Zalstem-Zalesky (Evangeline Johnson Merrill). World War II brought a halt to construction in Palm Beach. Although Fatio was already beginning to suffer from cancer, he entered the Office of Strategic Services in June of 1943. He died of cancer later that same year, on December 2, 1943.

\*This biography of Maurice Fatio was provided by Jane Day with an addition about the house at 127 Dunbar Road by Murphy Stillings, LLC.

## **VI. Statement of Significance**

The house located at 127 Dunbar Road is a fine example of a Mediterranean Revival style residence that was constructed in Palm Beach in 1920-1921. It is a good representation of the design work of Cooper C. Lightbown, an accomplished builder who was responsible for constructing many of the great Mediterranean Revival style buildings in Palm Beach during the 1920s. The house had two important additions by renowned architect Maurice Fatio in 1928 and 1930. In addition, 127 Dunbar Road was home to both Cooper C. Lightbown, the second mayor of the Town of Palm Beach (1922 -1928) and John Shepard Jr., the fourth mayor of the Town of Palm Beach (1930-1935).

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<sup>23</sup> Alexander Fatio, Maurice Fatio, Architect (Stuart, Florida: Southeastern Printing, 1992) 62.

## 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 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, country or town.”**

The house at 127 Dunbar Road is a good example of Mediterranean Revival style architecture that became popular in Florida during the 1920s. During the boom years of the 1920s many affluent northerners hired important architects to build houses in Palm Beach and the old hotels began to lose their previous high social standing creating a new era in the history of the resort town. 127 Dunbar Road was representative of this new era, particularly when the Shepards purchased the house in 1922, ending their 17 years of spending the winter season at the Royal Poinciana Hotel.

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

The house at 127 Dunbar Road was built and owned by Cooper C. Lightbown, the second mayor of the Town of Palm Beach and Addison Mizner’s choice contractor for many of his grand Palm Beach projects, beginning in 1918 with the Everglades Club. He was also the contractor for Mar-A- Lago and the Bath and Tennis Club. 127 Dunbar Road was also the long-time home of John Shepard, Jr., a very successful businessman and the fourth mayor of the Town of Palm Beach.

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

The residence at 127 Dunbar Road is an excellent example of Mediterranean Revival style architecture and it features many of the design elements characteristic of this style. Those elements found on 127 Dunbar Road include ornate cast-stone columns, pilasters and window surrounds, arched openings, asymmetrical massing, windows of varying sizes and shapes, balconies, stucco facades, decorative wrought ironwork, tile floors, pecky cypress ceilings and clay barrel tile roofs. The 1930 addition of the loggia and pavilion were skillfully executed in the

Mediterranean Revival style to compliment the design of the original dwelling by using large arched openings with decorative columns and pilasters, ornate ironwork, stucco facades, tile floors, clay barrel tile roofs and elaborate wood ceilings.

**(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.”**

127 Dunbar Road is a very good representation of the design work of Cooper C. Lightbown, a master builder who was responsible for constructing many of the great Mediterranean Revival style buildings in Palm Beach during the 1920s. He was Mizner’s chief contractor and also was a builder for Joseph Urban and Marion Sims Wyeth projects. The house also had two significant additions by architect Maurice Fatio who has always been recognized as one of the most important architects to have practiced in the Town of Palm Beach.

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## IX. FLORIDA MASTER SITE FILE FORM



### HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB06488  
 Recorder # Jane S. Day  
 Field Date 7/20/2010  
 Form Date 9/19/2010  
 Form No 201007  
 Form No = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

#### GENERAL INFORMATION

Site Name (address if none) John Eberhardt, House Multiple Listing (DHR only) \_\_\_\_\_  
 Other Names \_\_\_\_\_ >> Villa Fontana  
 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>127</u> |           | <u>Dunbar</u> | <u>Road</u> |                  |

Cross Streets (nearest/between) North Ocean Blvd. & North County Rd.  
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES  
 County Palm Beach Tax Parcel #(s) 50-43-43-14,07-000-0380  
 Subdivision Name Adams Addition Block \_\_\_\_\_ Lot 38, 39  
 Ownership Private Individual  
 Name of Public Tract (e.g., park) \_\_\_\_\_  
 Route to (especially if no street address) On the north side of Dunbar Road between N. Ocean Blvd. and N. County Rd.

#### MAPPING

USGS 7.5' Map Name \_\_\_\_\_ Publication Date \_\_\_\_\_ >> PAIM BEACH;1986  
 Township: \_\_\_\_\_ Range: \_\_\_\_\_ Section: \_\_\_\_\_ 1/4 section: \_\_\_\_\_ >> 43S ;43E ;14;UNSP  
 Irregular Section Name: \_\_\_\_\_  
 Landgrant \_\_\_\_\_  
 UTM: Zone \_\_\_\_\_ Easting \_\_\_\_\_ Northing \_\_\_\_\_  
 Plat or Other Map (map's name, location) \_\_\_\_\_

#### DESCRIPTION

Style Mediterranean Revival Other Style \_\_\_\_\_  
 Exterior Plan Irregular Other Exterior Plan \_\_\_\_\_  
 Number of Stories 2  
 Structural System(s) \_\_\_\_\_ >> Masonry - General  
 Other Structural System(s) \_\_\_\_\_  
 Foundation Type(s) \_\_\_\_\_ >> Unspecified by recorder  
 Other Foundation Types \_\_\_\_\_  
 Foundation Material(s) \_\_\_\_\_ >> Unspecified  
 Other Foundation Material(s) \_\_\_\_\_  
 Exterior Fabric(s) \_\_\_\_\_ >> Stucco  
 Other Exterior Fabric(s) \_\_\_\_\_  
 Roof Type(s) \_\_\_\_\_ >> Hip  
 Other Roof Type(s) \_\_\_\_\_  
 Roof Material(s) \_\_\_\_\_ >> Spanish tile  
 Other Roof Material(s) \_\_\_\_\_  
 Roof Secondary Structure(s) (dormers etc) \_\_\_\_\_ >> \_\_\_\_\_  
 Other Roof Secondary Structure(s) \_\_\_\_\_  
 Number of Chimneys 2  
 Chimney Material Brick  
 Other Chimney Material(s) stucco on exterior  
 Chimney Location(s) offset, lateral slope

Page 1 of 3

# HISTORICAL STRUCTURE FORM

8PB06488

## DESCRIPTION (continued)

Window Descriptions foliage and fence prevent clear viewing

Main Entrance Description (stylistic details) on the south facade with a cast stone surround

Porches: #open 3 #closed      #incised      Location(s) cloister - s, 2nd floor balcony - s, 5 bay portico

Porch Roof Types(s)     

Exterior Ornament cast stone, wrought iron, columns, fountains

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) This house is surrounded by a large stone wall and has heavy landscaping. The wall is not original to the house.

Archaeological Remains (describe): none observed

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

Narrative Description (optional)     

## HISTORY

Construction year 1922

Architect (last name first): Lightbown, C.C.

Builder (last name first): Lightbown, C.C.

### Changes in Locations or Conditions

| Type of Change | Year of Change      | Date Change Noted | Description of Changes |
|----------------|---------------------|-------------------|------------------------|
| >> Addition    | 1928; July 25, 2004 | Treanor and Fatio |                        |

### Structure Use History

Use      Year Use Started      Year Use Ended      >> Private residence; 1920;

Other Structure Uses     

Ownership History (especially original owner, dates, profession, etc.) This house was built by early Palm beach Mayor Cooper Lightbown for John Shepard who also later became Mayor.

## RESEARCH METHODS

Research Methods      >> Examine local property records

Other research methods     

## SURVEYOR'S EVALUATION OF SITE

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

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? INSUFF. INFO

Area(s) of historical significance      >> Architecture

Other Historical Associations     

Explanation of Evaluation (required) This Mediterranean Revival style house built during the Boom years of the 1920s, with an addition by Treanor and Fatio is worthy of local designation. It's historic association with Shepard & Lightbown is important.

Page 2 of 3

# HISTORICAL STRUCTURE FORM

8PB06488

## 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. 33532 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>                   | SHPO's Evaluation of Resource<br>_____<br>Date _____ |
| Electronic Form Used: <u>8110</u>                   |                                                      |
| Form Type Code: <u>NORM</u>                         |                                                      |
| Form Quality Ranking: <u>NEW</u>                    |                                                      |
| Form Status Code: <u>SCAT</u>                       |                                                      |
| Supplement Information Status: <u>NO SUPPLEMENT</u> | FMSF Staffer: _____                                  |
| Supplement File Status: <u>NO SUPPLEMENT FILE</u>   | Computer Entry Date: <u>9/19/2010</u>                |
| Form Comments: _____<br>_____<br>_____              |                                                      |

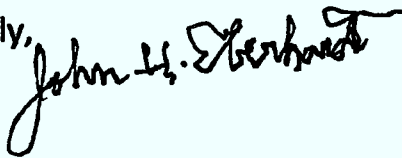
John H. Eberhardt  
127 Dunbar Road  
Palm Beach, FL

Dear Landmarks Commissioners:

I do not support the efforts to designate my home as an historic property. I have worked on my house for almost forty years and I have made significant changes to the property. At the time I bought the house, it was very plain and empty. I made the property my hobby and I painted the walls and ceilings to add character to the house. I had the dome and breezeway constructed in the early 1990s to enhance the look of the house from the south façade. I have changed the configuration of the property by relocating the driveway to the east side of the property, and I constructed the wall that is visible from Dunbar Road. I have added fountains and altered the porte cochere with decorative paintings.

I am concerned about government intrusion into my property rights and the effect a designation will have on the value of my home. I ask that you respect my wishes as a property owner and I request that you do not designate my property as a landmark against my will.

Sincerely,

A handwritten signature in black ink that reads "John H. Eberhardt". The signature is written in a cursive style with a large, stylized "J" and "E".

John H. Eberhardt

**EXCERPT FROM THE MINUTES OF THE LANDMARKS PRESERVATION COMMISSION**  
**MEETING OF JANUARY 16, 2013**

**IX. DESIGNATION HEARINGS:**

Item 2: 127 Dunbar Road

Owner: John H. Eberhardt, John H. Eberhardt TR, John Eberhardt TR TITL HLDR

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

*Let the record show that Mr. Feldkamp left the meeting.*

Janet Murphy, Murphy Stillings LLC, Staff Preservation Consultant, testified to the history, architecture, contractor and architect involved with this 1920 residence designed and built by Cooper C. Lightbown, Contractor, with later additions by Maurice Fatio. Ms. Murphy stated that this property meets the following criteria for landmark designation:

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

Sec. 54-161 (2) Is identified with historic personages or with important events in national, state or local history;

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

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

Mrs. Delp verified proof of publication and proper legal service.

**MOTION BY MR. FELDKAMP THAT THE DESIGNATION REPORT BE MADE PART OF THE RECORD.**

**MOTION SECONDED BY MRS. ALBARRAN.**

**MOTION CARRIED UNANIMOUSLY.**

Ms. Murphy entered the curriculum vitae for herself and for Emily Stillings into the record.

Attorney James Crowley with Gunster Yoakley, attorney for the property owner, stated that their expert witness, Dr. John Garner, would testify as to the changes to this house and how those changes have impacted the function of the house as it was originally intended. Mr. Crowley also testified regarding the property owner, Mr. Eberhardt, who is a very talented artist and set designer. He explained that the house bears Mr. Eberhardt's artistic flair in many areas. The house, according to Mr. Crowley, is in a state of disrepair. The owner, who objects to the designation, is concerned about the effect of landmarking on his property values, and fears the imposition of "deterioration by neglect" due to the condition of his home. Mr. Crowley introduced Dr. Garner, testified to his vitae, and submitted Dr. Garner's report entitled, 127 Dunbar Road, The Eberhardt Residence, Response to the Landmark Designation Report into the record.

Dr. John Garner provided his presentation to refute the Town's Designation Report, and the designation criteria upon which it was based. He stressed his opinion that the house, as it exists today, bears the stamp of the current owner, and would not be recognized by the original builder or subsequent owner, and that certain additions and material changes have negatively impacted the property.

Under commission comments, most members felt that the property retains its integrity despite the changes which have been made. As to the owner's concern regarding property values, it was stated that property values increase anywhere from 5% to 35% when a property is landmarked. Commission members responded in support of the designation and responded to Dr. Garner's comments.

Mr. Lindgren read Mr. Eberhardt's letter into the record wherein he objected to the landmarking.

Alexander Ives, Executive Director of the Preservation Foundation of Palm Beach, testified that properties change over time, but the important issue is whether a property's architectural integrity remains. He added that when a property is landmarked, it also serves to preserve the character of a neighborhood.

**MOTION BY MRS. ALBARRAN THAT THE PROPERTY AT 127 DUNBAR RD. BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. SANCHEZ.**

**MOTION CARRIED UNANIMOUSLY.**



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

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**ARTICLE IV. - DESIGNATION PROCEDURE**

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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 on: February 13, 2013

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## Section of Agenda

Public Hearings

## Agenda Title

RESOLUTION NO. 26-2013 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 256 South Ocean Boulevard Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum dated February 1, 2013 from John S. Page, Director of Planning, Zoning and Building
- Resolution No. 26-2013
- Designation Report for 256 S Ocean Blvd
- Excerpt from the LPC Minutes of January 16, 2013
- Article IV Designation Procedures

# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Landmark Designation of 256 South Ocean Boulevard  
**Resolution No. 26 – 2013**

Date: February 1, 2013

---

## **STAFF RECOMMENDATION**

Staff recommends ratification of the property known as 256 South Ocean Boulevard as a Town landmark.

## **LANDMARKS PRESERVATION COMMISSION RECOMMENDATION**

At the Public Hearing for Designation held during the January 16, 2013 meeting of the Landmarks Preservation Commission, the Commission voted unanimously 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 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmen; and,  
  
Sec. 54-171 (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

Landmark Designation of 256 South Ocean Boulevard

**Resolution No. 26- 2013**

February 1, 2013

Page 2

**OWNER CONSENT**

Please be advised that the Town's consultants have made several attempts to contact the property owner of 256 South Ocean Boulevard, but those attempts have been unsuccessful to date. It should be noted that all correspondence sent by the Town, via certified mail to the property owner, has been received. The Town has not received any correspondence from the property owner in response.

**FUNDING/FISCAL IMPACT**

No direct funding is needed for this action.

**COMPREHENSIVE PLAN**

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

**TOWN ATTORNEY REVIEW**

Please be advised that the Town Attorney has reviewed Resolution No. 26 - 2013 relating to 256 South Ocean Boulevard, and has approved it as to legal form and sufficiency.

attachments

JSP:cmd

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

## **RESOLUTION NO. 26 - 2013**

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

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

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

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

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



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

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

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **256 South Ocean Boulevard** and the property to be landmarked is legally described as follows:

**AS LEGALLY DESCRIBED ON THE ATTACHED WARRANTY DEED, EXHIBIT “A”**

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 the Town Council of the Town of Palm Beach assembled this 13th day of February, 2013.

\_\_\_\_\_  
Gail L. Coniglio, Mayor

\_\_\_\_\_  
William J. Diamond, Town Council Member

\_\_\_\_\_  
Richard M. Kleid, Town Council Member

\_\_\_\_\_  
Michael J. Pucillo, Town Council Member

**ATTEST:**

\_\_\_\_\_  
David A. Rosow, Town Council Member

\_\_\_\_\_  
Susan A. Owens, MMC, Town Clerk

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

# **256 South Ocean Boulevard**



## **DESIGNATION REPORT**

**Wednesday, January 16, 2013**

**Landmark Preservation Commission**

**Palm Beach, Florida**

# **DESIGNATION REPORT**

## **256 South Ocean Boulevard**

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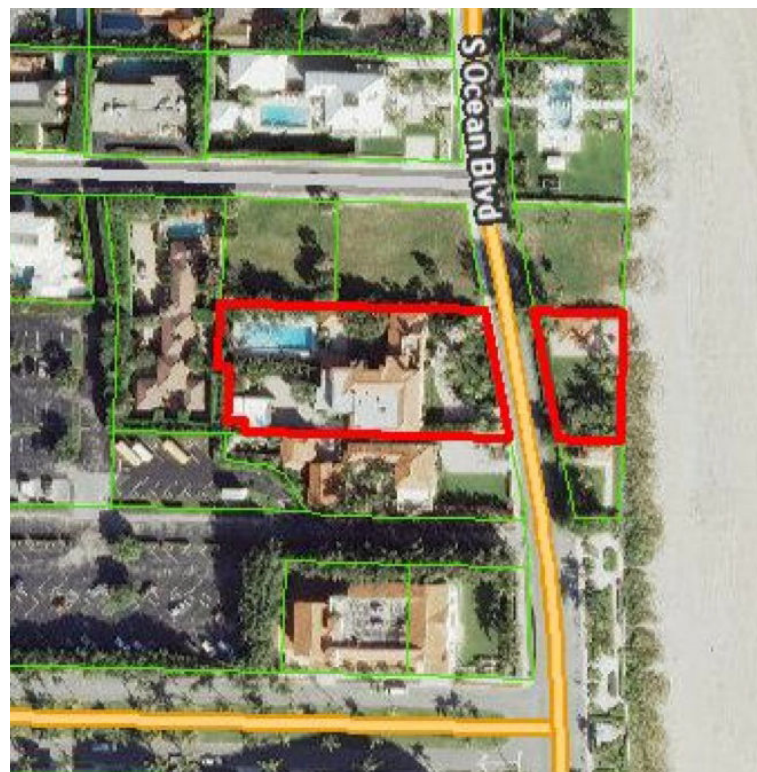
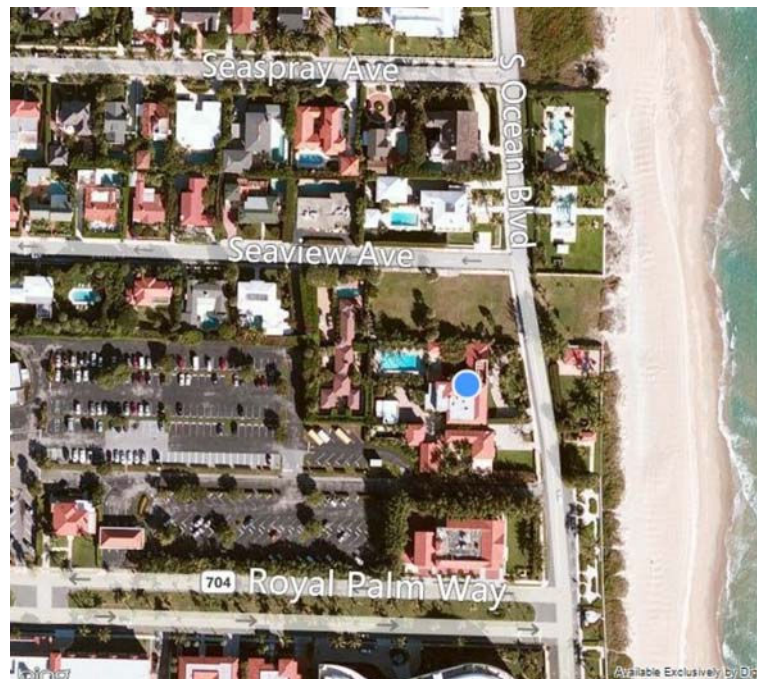
Report produced by Murphy Stillings, LLC

## **I. General Information**

|                                        |                                                                                                                                                                     |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Location:                              | 256 South Ocean Boulevard<br>Palm Beach, Florida                                                                                                                    |
| Date of Construction:                  | Prior to 1924 and 1928 Additions                                                                                                                                    |
| First Owner:                           | Charles M. Hayes                                                                                                                                                    |
| Architect:                             | Volk and Maass                                                                                                                                                      |
| Builder/Contractor:                    | Arnold Construction Company                                                                                                                                         |
| Present Owner:                         | Lauri K. Welteroth                                                                                                                                                  |
| Present Use:                           | Residential                                                                                                                                                         |
| Present Zoning:                        | R B                                                                                                                                                                 |
| Palm Beach County<br>Tax Folio Number: | 50-43-43-23-00-004-0060                                                                                                                                             |
| Current Legal Description:             | Part of South ½ of Subdivision N of Government<br>Lot 4 in DB676P138 & Part of South 1/2 of<br>Subdivision N of Government Lot 4 in<br>DB162P406 / Less Lot In DB16 |

## II. Location Map

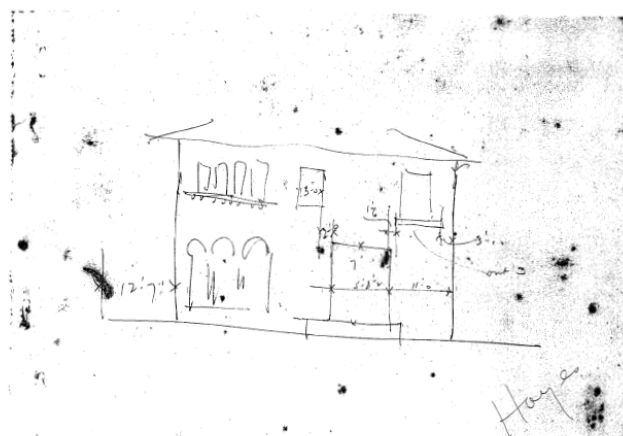
### 256 South Ocean Boulevard



### III. Architectural Information

The house at 256 South Ocean Boulevard is a good example of the Mediterranean Revival style of architecture that was popular in Palm Beach during the Land Boom of the 1920s. Mediterranean Revival style architecture is an eclectic design style that was inspired by Spanish, Italian, North African and Moorish structures and became popular in Florida and California during the 1920s. Buildings of this style are often decorated with ornate cast-stone columns, pilasters and window surrounds. Arched openings, balconies, asymmetrical massing and windows of varying sizes and shapes are also common features. In addition, stone or stucco facades, decorative wrought ironwork, tile floors, pecky cypress ceilings and clay barrel tile roofs are typical features of Mediterranean Revival style buildings.

The existing residence at 256 South Ocean Boulevard was built in 1928 as an addition to an earlier structure located on the property. The original structure was constructed prior to 1924. It was shown on 1924 Sanborn Insurance Map as a two-story residence with a U-shaped configuration.<sup>1</sup> No other information on the original structure could be located except for notes on the architectural drawings for additions and alterations by the architectural firm of Volk and Maass. A sketch by John L. Volk shows the main elements of the original structure. It was two stories with a hip roof, a set of three arched windows on the first floor along with the main entrance. The second floor had a band of four rectangular windows and a balcony.



Sketch by John L. Volk of 256 South Ocean Boulevard

Courtesy of the John L. Volk Foundation

---

<sup>1</sup> Sanborn Insurance Map, 1924. Preservation Foundation of Palm Beach.



In 1928, the firm of Volk and Maass was commissioned to design alterations and additions to the residence by the owners Charles and Ella Hayes. Permit 12528 was issued to the Arnold Construction Company of West Palm Beach for the construction in the amount of \$32,500.

The alterations to the original structure included removing the arched windows and entrance on the first floor. The window openings and balcony on the second floor were retained. The first floor openings were replaced with a set of five, ogee arch openings containing fixed glass, engaged columns and cast stone surrounds. Rectangular recessions with decorative iron grilles are located on each side of the arched openings.

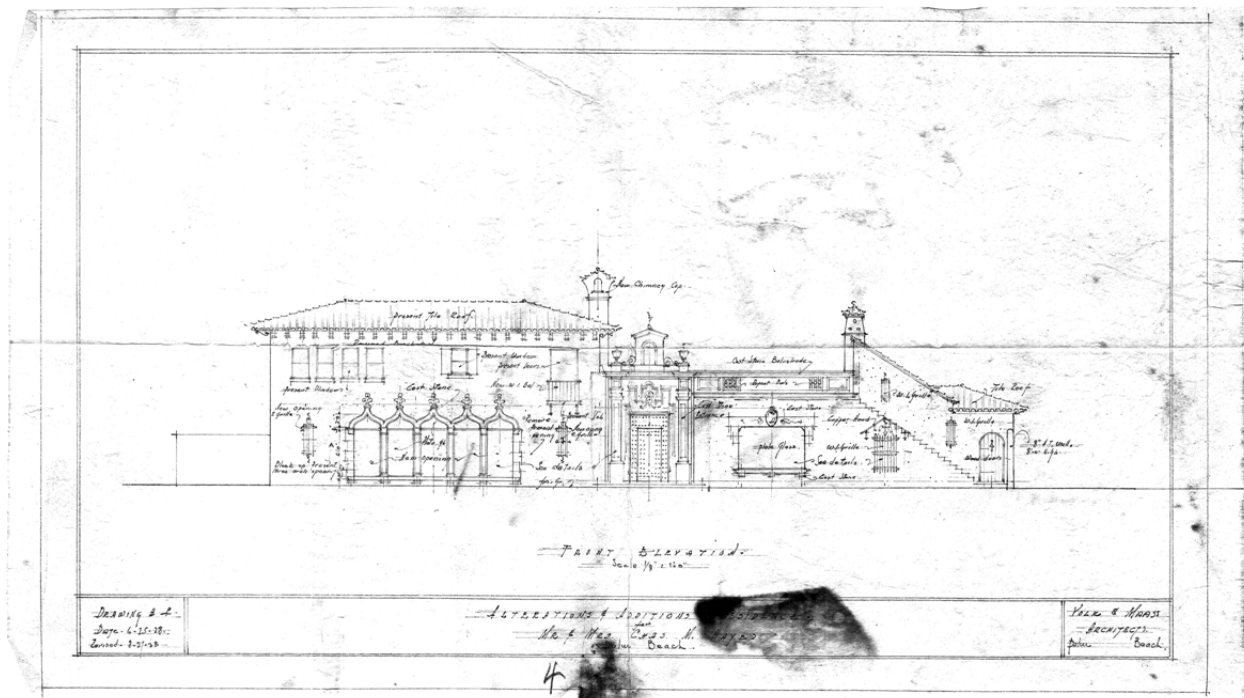
Volk and Maass also designed an addition attached to the north end of the original structure. The addition was constructed of hollow tile covered with stucco. The main façade of the addition includes an incised entrance with an ornate cast stone surround crowned with a pediment and urns. To the north of the entrance is a large



plate glass window with an ornate cast stone patterned lintel with a coat of arms. At the north end of the addition are openings with decorative iron grilles and an arched, wood door. An interior staircase with a barrel tile

Main Façade between 1928 and 1931  
Palm Beach County Historical Society

gable roof leads to a roof deck with a cast stone balustrade. The barrel tile hip roofs feature exposed rafters and the gable roof of the staircase features a scalloped molding. The residence has two stucco covered brick chimneys with decorative chimney caps. The fenestration of 256 South Ocean Boulevard is irregular. The main façade contains 6/6 sash windows, fixed glass windows and French doors. Two, barrel tile, hip roof pavilions were constructed to the west of the residence along with a swimming pool. An accessory structure built prior to 1928 is located at the southwest corner of the property.



Volk and Maass Commission No. 575, 1928

Courtesy of the John L. Volk Foundation

On the east end of the property, across South Ocean Boulevard, is a one story cabana. It was constructed in 1947 for the owner Benjamin Collings. According to Permit 14747 it is a stucco covered wood frame building with a barrel tile hip roof. Other alterations to the property over time included interior alterations, window and door replacement and re-roofing.<sup>2</sup>

<sup>2</sup> Town of Palm Beach Building Permits.



East Façade – Ogee Arched Windows



East Façade - Entrance



East Façade – Decorative Lintel Over Window



West Façade of Cabana

#### IV. Historical Information

The 1920s was a period of tremendous growth in the Town of Palm Beach. The Island had become the winter resort of America's most influential families and the building boom was radically changing the face of the small community. The 1924 Sanborn Insurance Map shows 256 South Ocean Boulevard as a two story dwelling with a U-shaped configuration. However, no other information on the structure could be located. According to the Palm Beach County, Clerk of the Circuit Court records the property was owned by Franklin Pettit from April 1924 until April

1925. Franklin Pettit was the president of the Realty Company of America. He was a land developer and investor in New York City.<sup>3</sup> It is possible that the original residence was constructed on speculation as an investment opportunity.

Charles M. Hayes purchased the property in April of 1925. He was the president of the Chicago Motor Club from 1914 until his death in 1957. Founded in 1906, the Chicago Motor Club promoted automobile ownership and advocated on behalf of motorists, good roads and traffic safety. Under Hayes leadership the Chicago Motor Club became a chapter of the American Automobile Association (AAA) and he was elected vice-president of the AAA. In 1928, the Chicago Motor Club Building, an exceptional example of an Art Deco style skyscraper, was designed by the architecture firm of Holabird and Root.<sup>4</sup> It was listed in the National Register of Historic Places in 1978 and designated by the City of Chicago this year. Hayes is also credited with starting the AAA School Safety Patrol in 1920 due to an accident he witnessed involving school children and a speeding car.<sup>5</sup>

Charles M. and Ella Hayes are listed in the 1927 City Directory as the residents at 256 South Ocean Boulevard. This is the first time the house at 256 South Ocean Boulevard is listed in the City Directories. They named the residence “Villa Charmae”, but it was also known as “Charmae by the Sea.” On August 25, 1928, a permit was issued to the Arnold Construction Company of West Palm Beach to build an addition and make alterations to 256 South Ocean Boulevard for \$32,500. Architectural drawings are on file with the permit by the architectural firm of Volk and Maass, dated June and August of 1928. There are also drawings by William Manley King dated August 1928 in the Town’s archives. However, it is the drawings by Volk and Maass that are representative of what was constructed at the property. A newspaper article dated December 19, 1928, describes the alterations and additions to the residence,

“A home beautiful to the extent that connoisseurs that have seen it declare it to be gorgeous in its simplicity – every angle showing a ready adaption to home-loving people, who count comfort and beauty of surroundings as the greatest requisites – so constructed and planned that it will vie with the mythical Ponce de Leon fountain of youth as pertaining to sunlight, ocean breezes and health and a positive practicability in everything that is beautiful, from the swimming pool to the easily accessible semi-circular driveway off the Ocean Boulevard.”<sup>6</sup>

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<sup>3</sup> “Hotel Gotham Sold and Lease Renewed,” New York Times 22 December 1914.

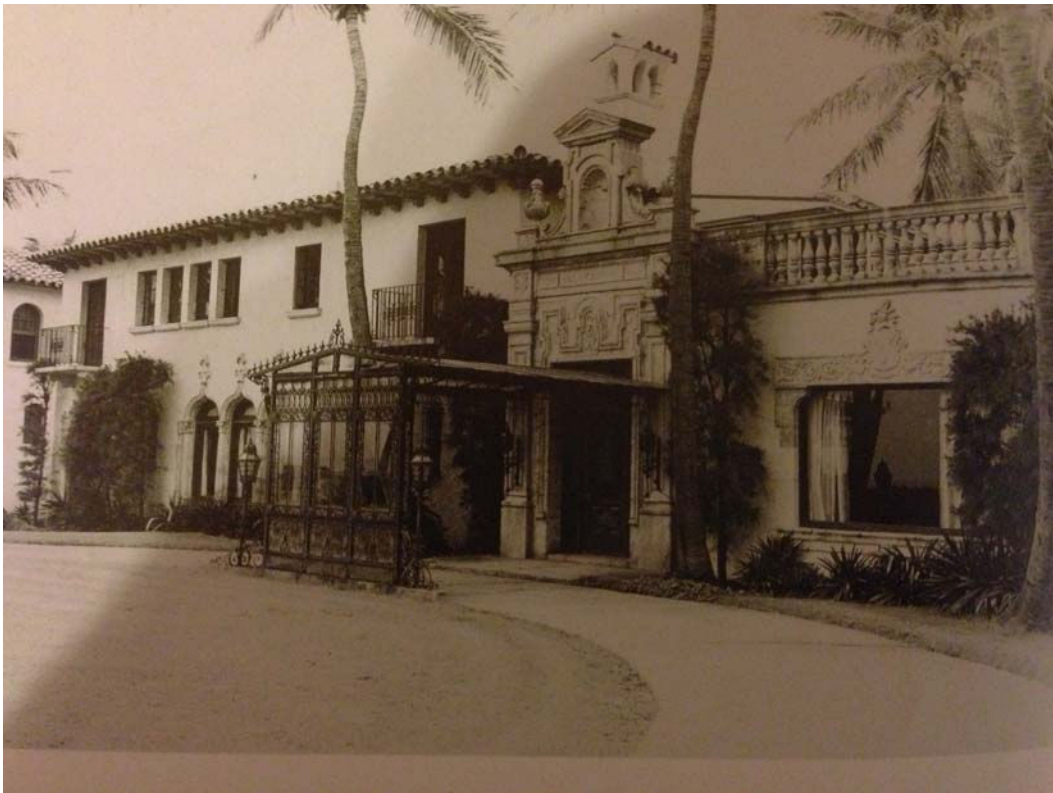
<sup>4</sup> Chicago Motor Club Building Report, City of Chicago. May 2011.

<sup>5</sup> “AAA School of Safety Patrol Celebrates 90 Years of Keeping Children Safe on the Way to School,” AAA Website 16 April 2010.

<sup>6</sup> “Many New Homes Being Constructed,” 19 December 1928. Historical Society of Palm Beach County, Hayes File.



In 1931, a steel and glass porte cochere was designed for the Hayes at the front entrance of the residence. The cost of construction listed on Permit 831 was \$1,500. The porte cochere was removed at an unknown time. The Hayes' owned the property until 1944.



East Façade with the Steel and Glass Porte Cochere.

Image from Palm Beach: Then and Now

From 1944 to 1950 the residence changed hands twice. In 1944, the residence was sold to Colonel John W. Flanagan who owned the property until 1946. While he lived there, he commissioned John L. Volk to design a large formal garden at the rear of the residence. This garden was to be located on a lot to the west of the house running perpendicular to the residence's lot with frontage on Seaview Avenue.<sup>7</sup> It is unknown if this garden was created for a house is now located on the lot. The residence was sold to Benjamin and Bess Collings in 1946 who owned it until 1950. The Collings had the beach cabana, on the east side of South Ocean

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<sup>7</sup> John L. Volk Commission No. 622, 1945. John L. Volk Foundation.

Boulevard, constructed in 1947. Permit 14747 lists Benjamin Collings as both the owner and builder of the cabana.

In 1951, Bess Collings, who had been widowed, sold the property to John Holliday Perry. John H. Perry was the owner of numerous newspaper publications from Jacksonville to Delray Beach, including the Palm Beach Post, the Palm Beach Times and the Palm Beach Daily News and Life. The Perry's renamed the residence "Fourth Estate." John H. Perry was very interested in promoting the development of Florida. He wrote editorials about the lack of roadways and poor road conditions. He also co-wrote Florida in the Making with Frank Parker Stockbridge, which was published in 1926. Both John H. Perry and his wife Dorothy were active in Palm Beach life. They were members of the Everglades Club, the Bath and Tennis Club and the Gulfstream Club. He was also the first lecture chairman for the Society of the Four Arts.<sup>8</sup> While John H. Perry died in December 1952, the residence was still owned by the Perry's until 1956.

## **V. Architects Biography\***

### **John L. Volk**

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

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

Volk designed more than 1000 houses, theaters, clubs, shops, and other buildings and lived in Palm Beach from 1925 to his death in 1984. He designed homes for some of the wealthiest and most powerful people in America over his 58 year

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<sup>8</sup> "John H. Perry, Sr., Newspaper Publisher and Owner, Dies Here," Palm Beach Post 5 December 1952.

career in Palm Beach including Colonel Robert McCormack, William Paley, George Vanderbilt, Nicholas DuPont, Henry Ford II, Herbert Pulitzer, Matthew Mellon, George Storer, Horace Dodge II, and John S. Phipps

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

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

### **Gustav A. Maass**

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

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

Perhaps Maass is most well known for his association with John L. Volk. The two formed a partnership that lasted from 1927 to 1935 and was headquartered in Phipps Plaza. During this time the two famous architects designed homes for Jacob H. Marx, J.H. Behrens and Charles Hall among others.

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

\*Biographies were provided by Dr. Jane Day



## VI. Statement of Significance

The house at 256 South Ocean Boulevard is an excellent example of Mediterranean Revival style of architecture, popular in Palm Beach during the Land Boom of the 1920s. It is also significant for having major alterations and additions designed by the noted architecture firm of Volk and Maass. The residence fulfills criteria (3) embodying distinguishing characteristics of an architectural style, and criteria (4) representing the notable work of a master architect.

## 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 criteria which relate to this property and justification for designation:

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

The residence at 256 South Ocean Boulevard is an excellent example of Mediterranean Revival style architecture and it features many of the design elements characteristic of this style. Those elements found on 256 South Ocean Boulevard include ornate cast-stone window and door surrounds, arched openings, asymmetrical massing, windows of varying sizes and shapes, balconies, stucco facades, decorative wrought ironwork and clay barrel tile roofs. The 1928 alterations and additions were skillfully executed in the Mediterranean Revival style.

**(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.”**

256 South Ocean Boulevard is a very good representation of the design work of the architecture firm Volk and Maass. During the partnership of Volk and Maass, which lasted from 1927 to 1935, the

two famous architects designed homes for Jacob H. Marx, J.H. Behrens and Charles Hall among others. John L. Volk has always been recognized as one of the most important architects to practice in the Town of Palm Beach. His Palm Beach career started in the Town in 1924 and lasted until his death in 1984. Unlike other talented architects who developed or refined specific styles, John Volk understood and perfected many varying architectural styles from the popular Mediterranean Revival to contemporary designs. Gustav Maass designed many buildings in the Palm Beach area, primarily in the Mediterranean Revival style.

## VIII. Selected Bibliography

“AAA School of Safety Patrol Celebrates 90 Years of Keeping Children Safe on the Way to School,” AAA Website 16 April 2010.

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“Hotel Gotham Sold and Lease Renewed,” New York Times 22 December 1914.

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

O’Sullivan, Maureen and Dianna Shpritz. Palm Beach: Then and Now. West Palm Beach, Florida: Lickle Publishing Inc., 2003.

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.

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

Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1924. Preservation Foundation of Palm Beach.

Town of Palm Beach. Building Permits, 1920 – 1999.

Volk and Maass Commission No. 575, 1928 John L. Volk Foundation.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1918-1966.

## IX. Florida Master Site File Form



### HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB06596  
 Recorder # Day, Jane S.  
 Field Date 10/6/2010  
 Form Date 11/28/2004  
 Form No 201010  
 Form No = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

#### GENERAL INFORMATION

Site Name (address if none) Lauri Welteroth, House Multiple Listing (DHR only) \_\_\_\_\_  
 Other Names \_\_\_\_\_ >> Bel Sueno  
 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>256</u> | <u>South</u> | <u>Ocean</u> | <u>Boulevard</u> |                  |

Cross Streets (nearest/ between) Seaview Ave. & Royal Palm Way  
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES  
 County Palm Beach Tax Parcel #(s) 50-43-43-23-00-004-0060  
 Subdivision Name \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_  
 Ownership Private Individual  
 Name of Public Tract (e.g., park) \_\_\_\_\_  
 Route to (especially if no street address) On the west side of South Ocean Boulevard between Seaview Avenue and Royal Palm Way

#### MAPPING

USGS 7.5' Map Name \_\_\_\_\_ Publication Date \_\_\_\_\_ >> PALM BEACH;1946 pr 1983  
 Township: \_\_\_\_\_ Range: \_\_\_\_\_ Section: \_\_\_\_\_ 1/4 section: \_\_\_\_\_ >> 43R / 43R / 23; Irrelevant-Irregular  
 Irregular Section Name: \_\_\_\_\_  
 Landgrant \_\_\_\_\_  
 UTM: Zone \_\_\_\_\_ Easting \_\_\_\_\_ Northing \_\_\_\_\_  
 Plat or Other Map (map's name, location) \_\_\_\_\_

#### DESCRIPTION

Style Mediterranean Revival Other Style \_\_\_\_\_  
 Exterior Plan Irregular Other Exterior Plan \_\_\_\_\_  
 Number of Stories 2  
 Structural System(s) \_\_\_\_\_ >> Hollow clay tile  
 Other Structural System(s) \_\_\_\_\_  
 Foundation Type(s) \_\_\_\_\_ >> Unspecified by recorder  
 Other Foundation Types \_\_\_\_\_  
 Foundation Material(s) \_\_\_\_\_ >> Unspecified  
 Other Foundation Material(s) \_\_\_\_\_  
 Exterior Fabric(s) \_\_\_\_\_ >> Stucco  
 Other Exterior Fabric(s) \_\_\_\_\_  
 Roof Type(s) \_\_\_\_\_ >> Hip  
 Other Roof Type(s) gable  
 Roof Material(s) \_\_\_\_\_ >> Barrel tile  
 Other Roof Material(s) \_\_\_\_\_  
 Roof Secondary Structure(s) (dormers etc) \_\_\_\_\_ >> \_\_\_\_\_  
 Other Roof Secondary Structure(s) \_\_\_\_\_  
 Number of Chimneys 2  
 Chimney Material Brick  
 Other Chimney Material(s) stucco  
 Chimney Location(s) central, north

# HISTORICAL STRUCTURE FORM

8PB06596

## DESCRIPTION (continued)

Window Descriptions 6/6 DHS, fixed, French doors, leaded cathedral

Main Entrance Description (stylistic details) covered incised entrance with cut coral stone surround

Porches: #open 1 #closed      #incised      Location(s) 2 2nd floor balconies

Porch Roof Types(s)     

Exterior Ornament ogee arches, engaged columns, exposed rafters, dec. lintels

Interior Plan Irregular

Other Interior Plan     

Condition Excellent

### Structure Surroundings

Commercial: NONE of this category

Residential: MOSTLY 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 1929

Architect (last name first): Volk and Maass

Builder (last name first): unknown

### 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; 1929;

Other Structure Uses     

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

## RESEARCH METHODS

Research Methods      >> Examine local property records

Other research methods     

## SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? YES

Name of Local Register if Eligible Palm Beach Landmarks

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? NO

Area(s) of historical significance     

>> Architecture

Other Historical Associations     

Explanation of Evaluation (required) This is a good example of the Mediterranean Revival style of architecture designed by Volk and Maass. It is eligible for local designation.



# HISTORICAL STRUCTURE FORM

8PB06596

## DOCUMENTATION (Photos, Plans, etc.)

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

Document type: \_\_\_\_\_ Maintaining Organization: \_\_\_\_\_  
File or Accession #: \_\_\_\_\_ Descriptive Information: \_\_\_\_\_  
>> \_\_\_\_\_

## RECORDER INFORMATION

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

## \*\*\*\*\* MASTER SITE FILE USE ONLY \*\*\*\*\*

|                                                     |                                                      |
|-----------------------------------------------------|------------------------------------------------------|
| Cultural Resource Type: <u>SS</u>                   | SHPO's Evaluation of Resource<br>_____<br>Date _____ |
| Electronic Form Used: <u>8110</u>                   |                                                      |
| Form Type Code: <u>NORM</u>                         |                                                      |
| Form Quality Ranking: <u>NEW</u>                    |                                                      |
| Form Status Code: <u>SCAT</u>                       |                                                      |
| Supplement Information Status: <u>NO SUPPLEMENT</u> | FMSF Staffer: _____                                  |
| Supplement File Status: <u>NO SUPPLEMENT FILE</u>   | Computer Entry Date: <u>11/28/2004</u>               |
| Form Comments: _____<br>_____<br>_____              |                                                      |

### 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"

**EXCERPT FROM THE MINUTES OF THE LANDMARKS PRESERVATION COMMISSION**  
**MEETING OF JANUARY 16, 2013**

**Item 1: 256 South Ocean Boulevard**

Owner: Lauri K. Weltroth

Call for disclosure of ex parte communication: No disclosures

Emily Stillings, Murphy Stillings LLC, Staff Preservation Consultant, testified to the history, architecture, and architect involved with this Mediterranean Revival style residence which had alterations and additions by Volk and Maass in 1928. Ms. Stillings stated that this property meets the following criteria for landmark designation:

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

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

Mrs. Delp verified proof of publication and proper legal service.

**MOTION BY MRS. ALBARRAN THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. STRAWBRIDGE.**

**MOTION CARRIED UNANIMOUSLY.**

Ms. Stillings stated that she had attempted to contact with the owner several times, but was not successful.

**MOTION BY MS. DIVER THAT THE PROPERTY AT 256 SOUTH OCEAN BOULEVARD BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. MOORE.**

**MOTION CARRIED UNANIMOUSLY.**

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

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**ARTICLE IV. - DESIGNATION PROCEDURE**

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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 on: February 13, 2013

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## Section of Agenda

Appeals

## Agenda Title

Appeals of Landmarks Preservation Commission's Decision Regarding COA#023-2012 (Del Frisco Restaurant) by William Cooley, Palm Beach Towers, and Lory Volk.

**TIME CERTAIN: NOT BEFORE 11:00 AM**

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum Dated January 31, 2013 from John S. Page
- Landmarks Preservation Commission Meeting Minutes Dated January 16, 2013
- Letter Dated January 16, 2013 from William O. Cooley
- Letter Dated January 25, 2013 from Lory Volk
- Letter Dated January 25, 2013 from John R. Eubanks, Jr.
- Power of Attorney



# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: LPC Appeals from: William Cooley; John L. Volk Foundation; Palm Beach Towers  
Certificate of Appropriateness (COA) #023-2012  
Del Frisco's Restaurant, 340 Royal Poinciana Way

Date: January 31, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council consider and rule upon three appeals (submitted separately from William Cooley, the John L. Volk Foundation, and Palm Beach Towers) objecting to the Landmarks Preservation Commission's decision of January 16, 2013, approving the application of Sterling Palm Beach LLC to restore and rehabilitate Suites 300-308 in the Royal Poinciana Plaza for use as Del Frisco's Restaurant.

## **GENERAL INFORMATION**

The Town Council considered a Special Exception with Variance application from Sterling Palm Beach for the Del Frisco's Restaurant on November 16, 2012. At such time, a special exception was approved authorizing the restaurant, yet an off-street parking variance was denied. As a result, the restaurant is permissible subject to conditions of approval as contained within the application, yet must be made to comply with all applicable parking requirements.

Chapter 54 of the Palm Beach Code of Ordinances, Section 54-41, allows "the applicant or any interested party" to file an appeal to the town council within ten days of the Commission action. All three appeals were thus filed.

Prior to the Commission meeting of January 16, 2013, several persons questioned whether it was proper for the commission to consider the COA application due to unresolved site plan/parking questions. Based on advice I received from Town Attorney Randolph, I explained that because Town Council approval for the special exception (restaurant) had been previously approved, it was proper for the Commission to consider structural changes to the landmarked property.

Royal Poinciana Plaza has been designated as a local landmark. Structural alterations to the property must be approved by the Landmarks Preservation Commission. Sterling Palm Beach LLC submitted application documents in order to convert existing retail/office space into an

approximate 7,700 square foot restaurant at the northeast corner of the Plaza. The case was first heard by the Commission on December 19, 2012. Commissioners were dissatisfied with the quality and detail of architectural drawings at that time, and deferred the application for one month.

Minutes of the January 16, 2013 meeting are attached. The revised project description is lengthy, but includes restoration, rehabilitation (including window and door changes), interior demolition, signs and awning changes. Following the December deferral, the issue was considered again on January 16, 2013. Architect Keith Spina presented architectural changes to the Commission. His presentation included original drawings of the Plaza and he explained how the proposed changes were stylistically appropriate to the entire property. Graphic inconsistencies, noted at time of deferral in December, had been corrected. He presented, and Commissioners discussed, individual elements of the proposed building changes, including entry details, awnings and supporting posts, window treatments, impact glass, south elevation glass pane design, and the possibility of adding a new French door to the curved wall abutting the interior courtyard.

Commissioners noted that the proposed changes were helpful and appropriate to the overall preservation of the original architecture. Criticism, however, was expressed about the redesign of one particular renovation element. Commissioners were not satisfied with the symmetry of windows/doors at the south elevation, and they offered up re-sizing/reconfiguration suggestions to the architect. Mr. Spina, with assistance from an additional architect in his office, then sketched a redesign of the subject windows/doors as suggested. The hand-drawn redesign was projected onto a screen for Commissioners to see and received favorable reaction. Several members of the audience objected to the redesign, contending that the entire application should be deferred for another month. The Commission disagreed. It was noted that the change affected only one portion of the overall project, the change improved the submitted plans, and that the Commission has always used (and regularly employs) its option of modifying submittals to make them better.

A separate building element, the possibility of adding a new set of French doors in the center of the curved wall facing the interior courtyard, also received criticism from Commissioners. The Commission, with concurrence from the Town's historic preservation consultants, voiced objection to such change, noting that it was not part of the original architecture and that it would upset the symmetry at other similar locations within the Plaza. At such point, the architect voluntarily withdrew said proposed new door opening.

Commissioners expressed their satisfaction with the overall application and its sensitivity to the history of the property. A motion to approve the COA application with modifications was approved unanimously.

## **SPECIAL CONSIDERATIONS**

Regarding objections stated in the three appeals, Town records indicate and/or verify the following:

1. Proper meeting notice was mailed to nearby owners and that notice was correctly published in a local newspaper. All owners within a 250 foot radius were notified of the meeting date, time, place and subject matter. The notice also specifies that plans and other supporting documents are available for inspection at the Planning, Zoning & Building Department in Town Hall.
2. An application was filed with the Planning, Zoning & Building Department and judged to be complete.
3. Brian Kosoy signed the COA application. Also in the COA file, originally executed in September of 2008, is a "Power of Attorney" naming Mr. Kosoy as the "true and lawful attorney-in-fact to have power and authority, in the name, place and stead of the Principal...." signed by Sidney Spiegel.

Attachments:

LPC Minutes (see pages 1-4)  
Cooley Appeal  
John L. Volk Appeal  
Palm Beach Towers Appeal  
Architectural Presentation  
Power of Attorney

cc: John C. Randolph, Town Attorney  
Keith Spina, Architect  
Sterling Palm Beach, LLC  
Landmarks Preservation Commissioners  
William Cooley, Appellant  
Lory Volk, Appellant  
John Eubanks, Appellant



**LANDMARKS PRESERVATION COMMISSION  
IN THE  
TOWN COUNCIL CHAMBERS  
2<sup>ND</sup> FLOOR, TOWN HALL  
360 S COUNTY ROAD, PALM BEACH**

**WEDNESDAY, JANUARY 16, 2013, 9:30 a.m.**

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

**I. CALL TO ORDER: (9:33:07 a.m.)**

Chairman Cooney called the meeting to order at 9:33 a.m.

**II. ROLL CALL: (9:33:17 a.m.)**

|                                      |         |
|--------------------------------------|---------|
| Edward Austin Cooney, Chairman       | PRESENT |
| William P. Feldkamp, Vice Chairman   | PRESENT |
| Dudley L. Moore, Jr., Member         | PRESENT |
| Jacqueline Albarran, Member          | PRESENT |
| William J. Strawbridge Jr., Member   | PRESENT |
| Leslie Diver, Member                 | PRESENT |
| Elizabeth S. Murphy, Member          | PRESENT |
| Jorge Sanchez, Alternate Member      | PRESENT |
| Elizabeth Marshall, Alternate Member | PRESENT |
| Anne Fairfax, Alternate Member       | PRESENT |

Staff members present: John S. Page, Director of Planning, Zoning & Building, John Lindgren, Planning Administrator, John C. Randolph, Town Attorney, Emily Stillings and Janet Murphy, Staff Historic Preservation Consultants, and Cynthia Delp, Secretary to the Landmarks Preservation Commission.

**III. APPROVAL OF THE MINUTES OF THE DECEMBER 19, 2012 MEETING: (9:33:40 a.m.)**

**MOTION BY MR. FELDKAMP FOR APPROVAL OF THE MINUTES.**

**MOTION SECONDED BY MR. MOORE, AND CARRIED UNANIMOUSLY.**

**IV. APPROVAL OF THE AGENDA: (9:33:50 a.m.)**

**MOTION BY MR. FELDKAMP FOR APPROVAL OF THE AGENDA.**

**MOTION SECONDED BY MS. DIVER, AND CARRIED UNANIMOUSLY.**

**V. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY: (9:34:00 a.m.)**

Mrs. Delp administered the oath at this time to all those who wished to speak today.

**VI. COMMENTS FROM THE PUBLIC AND COMMISSION MEMBERS: (Please limit comments to 3 minutes): (9:34:15 a.m.)**

Mr. Page referenced voting conflicts filed last month by Mrs. Albarran and Mr. Sanchez.

Lory Volk offered a testimonial to Patrick Henry Flynn, who had recently passed, extolling his work toward landmarking of the Royal Poinciana Plaza and the Royal Poinciana Playhouse.

**VII. PUBLIC HEARINGS: (9:36:17 a.m.)**

**A. Application for Certificate of Appropriateness #023-2012**

**Restoration/Rehabilitation**

Owner/Applicant: Sterling Palm Beach LLC

Address: 340 Royal Poinciana Way, Suites 300-308

Architect: Glidden Spina & Partners

Project Description: Request approval for restoration, rehabilitation, interior demolition, sign and awning which is further described as: New restaurant of approximately 8,400 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and wall and replace with a new operable Nana Wall system. New awnings and signage will be put in as allowed by Code. On the interior, some portions of the 2nd floor space will be converted to one story space to restore the high ceilings that existed previously. The 2nd floor space will remain as existing at the east end. Other associated changes as presented.

REVISED PROJECT DESCRIPTION: Request approval for restoration, rehabilitation, interior demolition, sign and awning which is further described as: New restaurant of approximately 7,700 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and replace with new French doors. New awnings and signage will be put in as allowed by Code. A door has been added on the north wall to replace an existing window. The second story space will be restored back to a single story space in order to maintain the high ceiling which existed previously. The second floor space at the east end will remain unchanged as existing (space not included in this proposed submittal.)

Please be advised that this project was heard only informally at the August meeting though it had been advertised as a Certificate of Appropriateness at that time. After review, the matter was deferred to the October meeting. At the October meeting, since the matter was deferred by the Town Council to the November Town Council meeting, the matter was deferred to the December LPC meeting. At the December meeting, the project was heard and deferred to the January meeting.

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

ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina & Partners

OTHERS WHO TESTIFIED: Adam Munder, Sterling Palm Beach, Lory Volk, John L. Volk Foundation, Anita Seltzer, 44 Cocoanut Row

First, staff addressed the question of whether it was proper for the commission to hear this project, as that question had been raised by others. Mr. Page stated that on November 16, 2012, the Town Council approved a special exception to allow a restaurant at the site for Del Frisco's. The applicant had also applied for a parking variance at that time, but that was not approved by the Town Council. On January 9, 2013, the Town Council considered a site plan for the Royal Poinciana Plaza because the parking lot of the Plaza is being diminished in size. A "cure plan" was submitted showing a proposed reconfiguration of the lot. The Town Council considered that plan, but deferred the matter to next month. Mr. Page stated that it is the opinion of staff, pursuant to consultation with the Town Attorney, that this application can be heard today. Mr. Randolph confirmed his approval to move forward with the hearing and offered justification for his ruling.

Mr. Spina addressed specific items which were to be re-studied as of the last meeting. First, relative to the east awnings, the plans have been revised to include traditional metal awning posts. Commission members were pleased with this change. Secondly, graphic inaccuracies noted last month were corrected. A third issue concerned measures to block certain windows with colored film (black or white) or some type of window treatment. After discussion, the commission agreed that white louvered blinds are the preferred treatment. Mr. Spina made a point of noting that he had "done his homework" since the last meeting to research original plans for the Plaza. Pursuant to that research he presented revised elevations to mimic the original plans as closely as possible. Impact glass is proposed negating the need for shutters. Upon review of the proposed south elevation, the commission requested changes to the bays, preferring 3 segments to 5. The 3 segment plan includes two large panes of glass flanking either a central large pane of glass or a set of double doors. This commission preference was suggested during the course of the meeting, was quickly sketched by the Glidden Spina design team, and was then projected onto the Elmo projector for view by all.

There was also discussion relative to the proposed addition of a fifth French door planned for the curved wall. Members, along with staff's historic preservation consultants, objected to the insertion of this additional opening. As such, the applicant agreed to remove that fifth opening from the plans. Mr. Sanchez stressed the importance of landscaping at the Plaza, recalling the history of landscaping at the site, but other members felt it was not appropriate to attempt to require landscaping changes with review of this application. Adam Munder, partner of Sterling Palm Beach LLC, stated that he would be happy to walk the property with any of the members and discuss landscaping for the site.

Lory Volk agreed regarding the importance of landscaping at the Plaza. She voiced her disappointment that it has taken so long for the applicant to produce original plans. She presented Samuel Gottscho photos of the Plaza as a long available reference material as well. Mrs. Volk was likewise disappointed that this has resulted in drawings being done "on the fly" for the south elevation at this meeting. She requested that the applicant be asked to return with proper drawings for the south elevation.

**MOTION BY MR. MOORE THAT WE PROCEED AS PROPOSED AND AGREED WITH DRAWINGS "ON THE FLY".**

**MOTION RE-STATED BY MR. FELDKAMP TO APPROVE APPLICATION #023-2012 AS SUBMITTED WITH THE CHANGES ONLY TO THE SOUTH ELEVATION, THE THREE BAYS, EACH LABELED "A" ON DRAWING A-1.1...THE LEFT BAY WILL HAVE A DOUBLE DOOR IN THE CENTER SURROUNDED BY, CENTERED IN THE**



**BAY; THE MIDDLE BAY WILL HAVE A 6 FT. PIECE OF GLASS IN THE CENTER WITH TWO EQUALLY DIVIDED LITES ON THE LEFT AND RIGHT (EACH OF THOSE LIGHTS WOULD BE ROUGHLY 4 FT. WIDE); AND THE EASTERNMOST OF THE 3 BAYS WOULD BE LIKE THE CENTER BAY WITH A 6 FT. PIECE OF GLASS IN THE CENTER AND EQUALLY DIVIDED LITES ON THE LEFT AND RIGHT; THE SECOND CHANGE WOULD BE...THE WINDOWS ON THE NORTH FACADE, WHICH NEED TO BE BLOCKED FOR PLAN REASONS, SHOULD RECEIVE LOUVERS AND BEHIND CLEAR GLASS...WHITE LOUVERS; AND GETTING BACK TO THE THREE SOUTH FACADE BAYS, THE TRANSOM LITES WOULD BE 3-PART, A CENTER SECTION AND EQUAL LEFT AND RIGHT SECTIONS, AS SHOWN IN A SKETCH WHICH WILL BE PART OF THIS TRANSMITTAL; AND THE LAST PROVISIO IS THAT THE CENTER FRENCH DOOR IN THE CURVED PORTION BE ELIMINATED AND REMAIN AS WALL.  
MOTION SECONDED BY MR. MOORE.**

Anita Seltzer expressed her agreement with Mrs. Volk's comments and her equal displeasure at the applicant being allowed to provide an "on the fly" design today. She stressed the requirements of procedure for applications for Certificate of Appropriateness, and questioned the accuracy of this particular application. She cautioned against the commission being placed in a position to approve something even though code compliance and sufficiency has not been met. Mr. Moore responded that the Town Attorney, earlier this morning, had opined that the application was not insufficient.

**MOTION CARRIED UNANIMOUSLY.**

*Let the record show that there was a five-minute recess at 11:00 a.m. Ms. Murphy left the meeting at this time as she was not feeling well.*

**B. Application for Certificate of Appropriateness #001-2013**

**\*LPC TO MAKE RECOMMENDATION RELATIVE TO VARIANCE(S)\***

**Addition and New Accessory Structure**

**Owner/Applicant: Pnina Apolonia Weisfisch**

**Address: 280 North Ocean Boulevard**

**Architect: SKA Architect + Planner, Jacqueline Albarran**

**Project Description: Request approval for addition to historic structure and new accessory structure which is further described as: Extension of existing courtyard loggia and addition of a new pool loggia. All columns, roof, and detailing to match existing loggia. New beach cabana and pool in beach parcel. Cabana to have windows, doors, roofing, stucco, and detailing to match existing main house. Lower south 50% of existing beach wall to 30" in height as required by code. Other associated changes as presented.**

This matter was heard informally at the December meeting for a recommendation relative to the variances. Please note that both Mrs. Albarran and Mr. Sanchez had previously declared a voting conflict with regard to this project. Ms. Marshall and Ms. Fairfax will be voting.

Call for disclosure of ex parte communication: No disclosures

**ARCHITECTURAL PRESENTATION BY: Jacqueline Albarran, SKA Architect & Planner**

Mrs. Albarran testified that since the informal review, the Town Council has approved the variance(s). Since there have been no changes to the project since it was heard informally at the December meeting, Mrs. Albarran just provided a brief recap of the project, focusing on the elevations.

**MOTION BY MR. FELDKAMP TO APPROVE COA-001-2013 AS PRESENTED.  
MOTION SECONDED BY MS. MARSHALL.  
MOTION CARRIED UNANIMOUSLY.**

C. Application for Certificate of Appropriateness #002-2013

Reconstruction, Addition, New Accessory Structure

Owner/Applicant: Allan and Susan Kauffman

Address: 159 Australian Avenue

Architect: Thomas M. Kirchhoff, AIA, PA

Project Description: Request approval for reconstruction, addition to historic structure, new accessory structure, and interior/exterior demolition which is further described as: The property includes an existing 2-story bungalow style residence, a 2-story garage/guesthouse, and a porte-cochere. The owner proposed to demolish the existing garage/guesthouse and replace it with a new garage/guesthouse. The owner also proposes to demolish the existing porte-cochere and replace it with a new porte-cochere more consistent with the bungalow style. The main house is to have additions to the first and second floors, and interior renovations. The addition to the first floor includes a new loggia connecting the main house to the garage/guesthouse. The master bedroom suite will be enlarged on the first floor and the second floor will be increased to allow for a larger office on the second floor. Most importantly, the street view of the house will not reflect any increase in size. All doors and windows will be replaced with impact rated windows and doors. New landscape and hardscape for final approval. Other associated changes as presented. **Please note that this is a tax abatement project.**

This project had been heard informally last month for an opinion on the variances, and also formally for a designation hearing. Since that time, the Town Council approved the variances and ratified the LPC's decision to landmark the property.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Thomas M. Kirchhoff

LANDSCAPE PRESENTATION BY: Keith Williams, Nievera Williams Design

Mr. Kirchhoff testified that the plans have not changed since the property was heard informally last month. As such, he provided a brief review of the project, focusing on the elevations.

Mr. Page noted that when this project was reviewed by the Town Council, the Mayor expressed her concern about the height of the proposed guesthouse.

Mr. Williams continued with the landscape/hardscape as this was the first presentation of same. Design elements include: Removal of concrete walkways and much concrete in the rear; removal of existing Ficus on the west property line; removal and/or re-use of various palms; maintaining Gumbo Limbo with Fern; no pool, allowing for more green space; Emerald Coast tumbled pavers; reconfigured walkways; garden gate; fountain in east lawn; and, a clean and simple planting palette.

Under commission comments, it was recommended that the gate height be decreased and the fountain pool be increased.

**MOTION BY MR. SANCHEZ TO ACCEPT COA-002-2013 AS PRESENTED, WITH A LOWER GATE AND THE OPTION FOR A LARGER POND (SIZE OF POND TO BE AT THE DISCRETION OF THE LANDSCAPE ARCHITECT AND THE OWNER.)  
MOTION SECONDED BY MRS. ALBARRAN.  
MOTION CARRIED UNANIMOUSLY.**

**D. Application for Certificate of Appropriateness #003-2013 (formerly CoA#038-2012)**

**Rehabilitation**

**Owner/Applicant: Bethesda-By-The-Sea Episcopal Church**

**Address: 141 South County Road**

**Architect: Lewis & Associates**

**Project Description: Renovation of the "Tea House" by enclosing it with a new moveable glass wall system; installation of fixed glass in south arched openings and gable ends; installation of air conditioning; installation of new handicap ramp; other associated changes as presented**

Please note that this project had originally been on the November 2012 agenda, but the project was not heard at that time because it had been determined that Town Council approvals were necessary. At that time, the project was deferred from the November 2012 meeting to the January LPC meeting.

**Call for disclosure of ex parte communication: Disclosure by Mr. Cooney**

**Ms. Marshall declared a conflict of interest with regard to this project and stated her reasons for same.**

**ARCHITECTURAL PRESENTATION BY: Hap Lewis, Lewis & Associates**

**ATTORNEY PRESENT: Peter Broberg for the applicant**

**OTHERS WHO TESTIFIED: Lory Volk**

**Mr. Broberg indicated that the Town Council approved the site plan review for this project. He turned the presentation over to Mr. Lewis. Both Mr. Lewis and Mr. Broberg explained that the church needs to utilize this space for various recurring needs, but the space is so hot that it is often rendered unusable. As such, the project would enclose the space with a moveable wall, Nana system, air condition the space, and include other changes as listed above.**

**Under commission comments, it was noted that only one elevation of the tea house was submitted; details of the installation were missing; and there was no information relative to the other openings on other facades. Of unanimous greater concern, however, was the general concept of the enclosure of the tea house. Commission members asked the applicant to seek other design alternatives to accomplish a cooled tea house, and to also include a relocated proposed ramp.**

**Lory Volk, member of Bethesda-By-The Sea Church, encouraged the LPC to work with this applicant to allow this landmarked structure to continue to flourish for existing uses and potential**

uses. She maintained that the Nana wall system could easily be removed at some point in the future.

**MOTION BY MR. STRAWBRIDGE TO DEFER THE PROJECT WITH THE PROVISIO THAT THE APPLICANT COMES BACK AND EXPLORES OTHER SOLUTIONS FOR THIS SPACE INCLUDING PLACING THE RAMP AT THE REAR, AND SOME INVISIBLE WAY OF COOLING THE SPACE, EITHER WITH AIR CONDITIONING FROM THE TOP OR ROLL DOWN SCREEN, OR SOMETHING, SO WHEN YOU WALK IN THERE, AND YOU WALK AROUND, YOU CANNOT SEE THE SOLUTION THAT YOU WILL IMPLEMENT WHEN YOU NEED TO...IN OTHER WORDS, YOU DON'T HAVE TO LOOK AT NANA DOORS HIDING BEHIND THE CORNER. MOTION SECONDED BY MR. SANCHEZ. MOTION CARRIED UNANIMOUSLY.**

There was some discussion relative to this project having been already approved by the Town Council prior to this LPC hearing. Staff responded that this was a site plan review, not the typical variance(s) review which would trigger a "combo" project review. Some members stated their desire to have more projects reviewed by the LPC first, prior to them moving on to the Town Council, even though they may not meet the criteria to be deemed a "combo" project.

E. Application for Certificate of Appropriateness #004-2013

Reconstruction

Owner: Sterling Palm Beach LLC/Sidney Spiegel, Trustee

Applicant: Sterling Palm Beach LLC

Address: 340 Royal Poinciana Way, Ste. 329

Architect: Glidden Spina & Partners

Project Description: Request approval for reconstruction which is further described as: Create a new entry with access from covered walkway that faces the interior courtyard. Replace existing storefront opening that consists of 3 fixed glass panels with single entry door at center and one fixed panel on both sides. Other associated changes as presented.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina & Partners

OTHERS WHO TESTIFIED: Lory Volk, John L. Volk Foundation, Anita Seltzer, 44 Coconut Row

Mr. Spina, in light of the discussion held earlier in the previous item for the Royal Poinciana Plaza and with a desire to establish consistency at the Plaza, was prepared with a new sketch to be applicable for this Certificate of Appropriateness request, and one which should be substituted for the plans which had been submitted for this project. That new sketch was displayed on the Elmo projector for view by all. The commission was pleased with the sketched plan, and asked that the sketch be dimensioned.

Lory Volk, John L. Volk Foundation, stated that she was "shocked" to see another "on the fly" drawing being acceptable to the commission, and encouraged adherence to procedure. Commission members offered comments to explain and justify their determinations in regard to this project and other projects today. Anita Seltzer expressed concerns in concert with those of

Mrs. Volk and stated that she found it very troubling that this precedent was provided for this applicant a second time today.

John C. Randolph, Town Attorney, responded: "I'd like to comment on that for the record because the applicant came to you as required with certain plans. You asked, on that first application, for those plans to be modified. In regard to this particular application, he also came to you with certain plans, as required, but because of what you did on the first application, he anticipated that you might have the same comments in regard to this application as the prior application. So, he has submitted to the Town what he was required to submit, but what you are doing is, you are modifying what he has submitted based upon...and you've done it before, and it's totally within your discretion, if you feel you have enough information, to make modifications before you, and if you don't feel you have enough, you normally will defer it. So, I just wanted to make that clear for the record."

Mr. Lindgren stated that it is commonplace for both ARCOM and the LPC to make approvals with certain conditions, and that is, in essence, what has happened here, except in this case, the applicant has also submitted something on paper. Chairman Cooney referenced Chapter 54 of the Town Code of Ordinances, specifically Section 54-95, and read same into the record relative to modifications.

**MOTION BY MR. STRAWBRIDGE TO APPROVE AS REVISED IN THE HAND DRAWING PRESENTED, WITH DIMENSIONS, SHOWING THAT THE DOOR IS CENTERED, AND THAT HAND DRAWING IS LABELED A-1 AND DATED TODAY.  
MOTION SECONDED BY MS. DIVER.  
MOTION CARRIED UNANIMOUSLY.**

#### **VIII. OTHER BUSINESS: (12:18:49 a.m.)**

##### Informal Review: 240 Cocanut Row

**\*LPC TO MAKE RECOMMENDATION RELATIVE TO VARIANCE(S)\***

Project Description: Request approval of exterior signage as follows: East elevation entry: "The Society of the Four Arts Fitz Eugene Education Building"; North elevation entry: "The Society of the Four Arts" "Donor Name Playhouse" (Donor name to be determined); and, Southwest elevation entry: "Fitz Eugene Dixon Education Building"; other associated changes as presented. (3) variances requested relative to size, number of signs, and allowable signage.

Call for disclosure of ex parte communication: Disclosure by Ms. Marshall

ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina & Partners

Mr. Spina reviewed the various signs in accordance with the submitted plans and as described above. The commission requested that the east elevation entry sign be modified so that "The Society of the Four Arts" letter size was greater than the second line "Fitz Eugene Education Building".

**MOTION BY MR. STRAWBRIDGE FOR APPROVAL AS PRESENTED, BUT REDUCE THE LETTERS OF THE SECOND LINE TO 4".  
MOTION DIED FOR LACK OF A SECOND.**



**MOTION BY MR. FELDKAMP THAT IMPLEMENTATION OF THE PROPOSED THREE VARIANCES WILL NOT CAUSE NEGATIVE ARCHITECTURAL IMPACTS TO THE SUBJECT LANDMARKED PROPERTY, AND THAT THE SIGNAGE FACING COCOANUT ROW WOULD BE SLIGHTLY RE-DESIGNED SUCH THAT THE UPPER LINE MIGHT INCREASE TO APPROXIMATELY 8".**  
**MOTION SECONDED BY MS. DIVER.**  
**MOTION CARRIED UNANIMOUSLY.**

---

Mr. Lindgren, returning to the previous project, COA-004-2013 for 340 Royal Poinciana Way, Ste. 329, reported that dimensions had been added to the approved sketch. The revised sketch was displayed on the Elmo equipment for view by all. The commission noted their approval of the revised sketch.

*Let the record show that there was a recess for lunch from 12:40 p.m. to 1:30 p.m.*

Members who returned to the meeting after the lunch break at 1:39 p.m.: Mr. Cooney, Mr. Feldkamp, Mrs. Albarran, Mr. Moore, Mr. Sanchez, and Ms. Marshall. Mr. Strawbridge and Ms. Diver returned shortly thereafter.

Chairman Cooney elected to hear Item 2 of the Designation Hearings first.

#### **IX. DESIGNATION HEARINGS:**

##### Item 2: 127 Dunbar Road

Owner: John H. Eberhardt, John H. Eberhardt TR, John Eberhardt TR TITL HLDR

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

*Let the record show that Mr. Feldkamp left the meeting.*

Janet Murphy, Murphy Stillings LLC, Staff Preservation Consultant, testified to the history, architecture, contractor and architect involved with this 1920 residence designed and built by Cooper C. Lightbown, Contractor, with later additions by Maurice Fatio. Ms. Murphy stated that this property meets the following criteria for landmark designation:

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

Sec. 54-161 (2) Is identified with historic personages or with important events in national, state or local history;

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

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



Mrs. Delp verified proof of publication and proper legal service.

**MOTION BY MR. FELDKAMP THAT THE DESIGNATION REPORT BE MADE PART OF THE RECORD.**

**MOTION SECONDED BY MRS. ALBARRAN.**

**MOTION CARRIED UNANIMOUSLY.**

Ms. Murphy entered the curriculum vitae for herself and for Emily Stillings into the record.

Attorney James Crowley with Gunster Yoakley, attorney for the property owner, stated that their expert witness, Dr. John Garner, would testify as to the changes to this house and how those changes have impacted the function of the house as it was originally intended. Mr. Crowley also testified regarding the property owner, Mr. Eberhardt, who is a very talented artist and set designer. He explained that the house bears Mr. Eberhardt's artistic flair in many areas. The house, according to Mr. Crowley, is in a state of disrepair. The owner, who objects to the designation, is concerned about the effect of landmarking on his property values, and fears the imposition of "deterioration by neglect" due to the condition of his home. Mr. Crowley introduced Dr. Garner, testified to his vitae, and submitted Dr. Garner's report entitled, 127 Dunbar Road, The Eberhardt Residence, Response to the Landmark Designation Report into the record.

Dr. John Garner provided his presentation to refute the Town's Designation Report, and the designation criteria upon which it was based. He stressed his opinion that the house, as it exists today, bears the stamp of the current owner, and would not be recognized by the original builder or subsequent owner, and that certain additions and material changes have negatively impacted the property.

Under commission comments, most members felt that the property retains its integrity despite the changes which have been made. As to the owner's concern regarding property values, it was stated that property values increase anywhere from 5% to 35% when a property is landmarked. Commission members responded in support of the designation and responded to Dr. Garner's comments.

Mr. Lindgren read Mr. Eberhardt's letter into the record wherein he objected to the landmarking.

Alexander Ives, Executive Director of the Preservation Foundation of Palm Beach, testified that properties change over time, but the important issue is whether a property's architectural integrity remains. He added that when a property is landmarked, it also serves to preserve the character of a neighborhood.

**MOTION BY MRS. ALBARRAN THAT THE PROPERTY AT 127 DUNBAR RD. BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. SANCHEZ.**

**MOTION CARRIED UNANIMOUSLY.**

Item 1: 256 South Ocean Boulevard

Owner: Lauri K. Weltroth

Call for disclosure of ex parte communication: No disclosures

Emily Stillings, Murphy Stillings LLC, Staff Preservation Consultant, testified to the history, architecture, and architect involved with this Mediterranean Revival style residence which had alterations and additions by Volk and Maass in 1928. Ms. Stillings stated that this property meets the following criteria for landmark designation:

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

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

Mrs. Delp verified proof of publication and proper legal service.

**MOTION BY MRS. ALBARRAN THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. STRAWBRIDGE.**

**MOTION CARRIED UNANIMOUSLY.**

Ms. Stillings stated that she had attempted to contact with the owner several times, but was not successful.

**MOTION BY MS. DIVER THAT THE PROPERTY AT 256 SOUTH OCEAN BOULEVARD BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. MOORE.**

**MOTION CARRIED UNANIMOUSLY.**

**X. COMMENTS OF THE LANDMARKS PRESERVATION COMMISSION AND PLANNING ZONING & BUILDING DEPARTMENT DIRECTOR: (2:30:07 a.m.)**

There was a brief discussion relative to future presentations by staff's preservation consultants.

**XI. ADJOURNMENT:**

**MOTION BY MR. MOORE TO ADJOURN THE MEETING AT 3:35 P.M.**

**MOTION SECONDED BY MR. SANCHEZ.**

**MOTION CARRIED UNANIMOUSLY.**

**The next meeting of the Landmarks Preservation Commission will be held on Wednesday, February 20, 2013 at 9:30 a.m. in the Town Council Chambers, 2<sup>nd</sup> floor, Town Hall, 360 South County Road, Palm Beach, Florida.**

Respectfully submitted,

Edward Austin Cooney, Chairman  
**LANDMARKS PRESERVATION COMMISSION**

cmd

**WILLIAM O. COOLEY**  
8 Windsor Court  
Palm Beach, Florida 33480

**RECEIVED**  
JAN 17 2013  
TOWN OF PALM BEACH  
PZB DEPT

January 16, 2013

Mr. John Page  
Director of Planning, Zoning and Building  
Town of Palm Beach  
360 South County Road  
Palm Beach, FL 33480

**Re: Appeal of Landmarks Preservation Commission Decision on COA #023-2012  
340 Royal Palm Way**

Dear Mr. Page,

Enclosed please find my check for \$320.00, which I understand is the appeal fee for a citizen wishing to appeal an action of the Landmarks Preservation Commission.

My reasons for appeal are that the above captioned item was not properly noticed, the application was deficient, and the procedure followed by the Commission was improper.

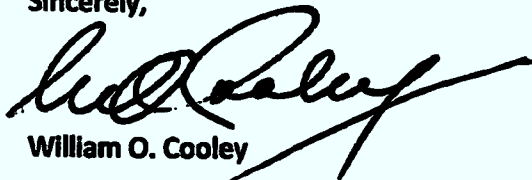
As a former member of that Commission, it was embarrassing to watch an applicant change his submission "on the run" and then to see the Commission approve a "piece of tissue paper" without even having dimensions on it (copy of approved tissue paper is attached).

Then to add insult to injury, the Commission turns around and tells Bethesda by the Sea that they could not act on their item because they didn't have a completed set of plans.

There are two sets of rules in Palm Beach and it is wrong. Every citizen, developer, and applicant to a Board or Commission, should be treated the same: No preference given.

The Landmarks Preservation Commission has failed that test and this matter should be heard by the Town Council, reversed and remanded back to the Commission.

Sincerely,

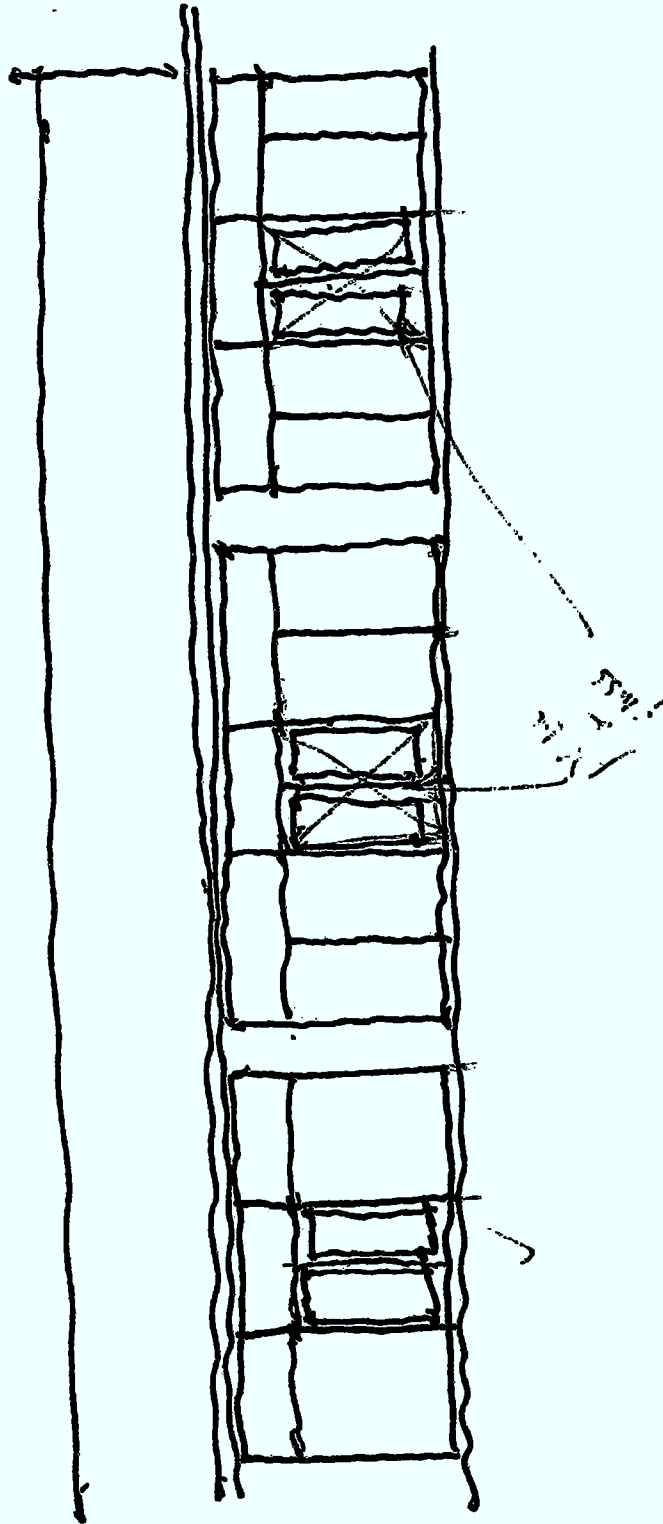
  
William O. Cooley

**RECEIVED**

Enclosures (2)

2013 JAN 17 9:20 TWN CLERK

COA-023-2012  
Presented @ 1/16/13  
LPC Meeting



**John L. Volk Foundation  
206 Phipps Plaza, Palm Beach FL 33480**

**January 25, 2013**

**VIA HAND DELIVERY**

**Ms. Susan A. Owens  
Town Clerk  
Town of Palm Beach  
360 So. County Rd.  
Palm Beach FL 33480**

**Re: Appeal of Landmarks Preservation Commission ruling- January 16, 2013 for COA 23-2012**

**Dear Madame Clerk:**

**Pursuant to Sec. 54-41 of the Town Code, the John L. Volk Foundation is appealing the approval of Application # 23-2012 for a Certificate of Appropriateness ("COA") by the Landmarks Preservation Commission ("LPC") for Sterling Palm Beach LLC ("Sterling") at its January 16, 2013 meeting.**

**The appeal is being lodged not simply because the COA pertains to a John L. Volk-designed landmark but out of concern for a flawed review process which subjected the Commission to hearing a premature application despite the fact that the form was deficit and the supporting presentations were incomplete and architecturally inaccurate. In addition, the final formal review took place under circumstances that were contrary to the COA guideline requirements.**

**Sec. 54-71 (a) states that " No landmark nor any building or site planning feature, including but not limited to landscaping, garden walls, pools, fountains, etc., on a landmark site or within an historic district shall be erected, altered, restored, moved or demolished until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the commission." In order to oversee this requirement and the critical review process which is vital to the Landmarking program, Commission members, in accordance with Sec. 54-36, are volunteers and the majority of them, "shall have, to the highest extent practicable, a special knowledge of and a known interest in landmarks preservation". Although the members rely on their knowledge or interest to assist them in applying the criteria of their Ordinance to their decisions, they rely heavily upon Town staff. When LPC deliberates with regard to an application, it should do so with the reasonable expectation and assumption that it is properly filed and that staff, in accordance with its responsibilities, has properly reviewed it for legal sufficiency, architectural accuracy and professional presentation standards. In the case of this COA, the review was grossly deficient from its inception and for some reason was never corrected.**

**RECEIVED  
2013 JAN 25 10:07 AM**

### **Application Heard in Absence of Compliance and Application Sufficiency:**

\*Advertised for hearing as "formal review" to be heard on August 16, 2013, day after Town Council deferred the required Special Exception and Variance approval until October.

\* the COA component, submitted in the name of Sterling, was not pulled from the LPC agenda. Commission questions whether it is proper to hear the application. Planning Administrator John Lindgren states: "staff felt it was fair to hear the project informally only today". Although Attorney John Randolph stated he had not reviewed the application,(42:08), he advised: " I think it is entirely up to you. As a matter of course, you have listened to informal review in the past." Yes, LPC has the prerogative to hear an application informally, but it should not be permitted to do so in the absence of application sufficiency.

Landmark Commission's jurisdiction- Interior/exterior: Attorney Randolph tells the Commission in December (39:29): " you don't address interiors." but this would seem to be contradicted by Sec. 54-71( b) "The commission shall not consider interior arrangement or use, except as this may affect a request for exterior changes."

### **Application Form Filed Incorrectly**

\* Demolition (Exterior) Box- Never checked off during entire hearing process even though Project Description called for demolition of portions of southeast wall.

#### **Presentation Material:**

Materials Removal Plan: " must delineate all materials that are to be removed or relocated in the construction process). This drawing shall be titled "Materials Removal Plan". This "Removal" Board was never indicated in the application.

Presentation Disc: " shall include the plans/renderings/photos. Etc which also reflect any changes which have been made to the plans since you filed your original application for Certificate of Appropriateness". Architect Spina was permitted to present contrary to Application requirements. He states in August " that the Nana Wall requested has been changed for French Doors." He put a drawing onto the overhead projector with red segmented lines that were not included in his presentation disc. There is discussion about the French doors- no such drawings were ever submitted for this hearing. I voiced my concern about this: ( 1:34:24) "I appreciate informal hearing and I know it is not uncommon to offer the ability to hear an informal review. However, I am a little disappointed that today's informal review was not based on the application as submitted."

Architectural Inaccuracies: From the very beginning- the applicant's drawings for the southeast wall were inaccurate. They were subsequently changed due to removal of Nana Wall request but the modifications were also inaccurate and never corrected. In addition to not showing proper proportions, the curvilinear design, a crucial component of the design request is never presented by the applicant, not even as a hand drawn rendering. The architect was asked in December to bring in accurate drawings for January ( heard as formal review) . He failed to do so. And the Commission did not comment on this at the formal hearing in January.



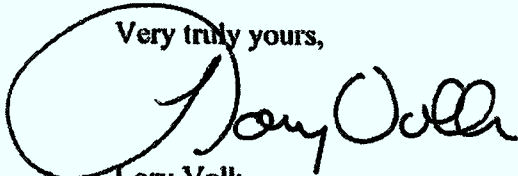
Page 3  
Town Clerk Susan Owens  
re Volk appeal- COA 23-2012  
January 25, 2013

Request for Original Drawings- Commissioners ask about Original Volk Drawings for the Southeast facade in August. Mr. Spina says he has been unable to locate them- This statement is questioned by me since a full set of drawings were given to the Sterling Organization without charge by Mrs. Jane Volk and drawings are also available on the Town's microfiche. These drawings are not made part of the December hearing, are not part of the applicant's January formal submission and were finally presented to the Commission in January after the deadline for submission.

There are addition inconsistencies and contradictions associated with this application but I believe that the foregoing issues enumerated in this appeal give weight to my concern about the manner in which the application was permitted to be initially presented in the absence of the necessary requirements, that the deficiencies were not corrected by the applicant and that the applicant was permitted to present inaccurate drawings contrary to the Application guidelines.

Residents should not need to have shoulder the time, energy and expense of trying to correct the inaccuracies and insufficiencies that have existed within this application and the review process from its inception. The approval for COA 23-2013 should be denied until and unless it meets the standards required of all applicants .

Very truly yours,



Lory Volk

Vice Chairman

cc:

Mayor and Town Council

Atty. John Randolph

Peter Elwell

John Page

John Lindgren

John Page

Attachments:

August 16, 2012 LPC minutes

COA 23-2012 application submission and project description

Nana removal

Site plan

10-10-2012 submission boards

01-09-2013 submission material



**MINUTES**  
**LANDMARKS PRESERVATION COMMISSION**  
**TOWN COUNCIL CHAMBERS**  
**SECOND FLOOR, TOWN HALL**  
**360 SOUTH COUNTY ROAD, PALM BEACH**

**THURSDAY, AUGUST 16, 2012**  
**9:00 A.M.**

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at [ass.townofpalmbeach.com](http://ass.townofpalmbeach.com) or may obtain an audio recording (CD) of the meeting by contacting Cynthia M. Delp, Secretary to the Landmarks Preservation Commission at (561) 227-6408

I. **CALL TO ORDER:** Chairman Cooney called the meeting to order at 9:06 a.m.

II. **ROLL CALL:**

|                                      |                    |
|--------------------------------------|--------------------|
| Edward Austin Cooney, Chairman       | PRESENT            |
| William P. Feldkamp, Vice Chairman   | PRESENT            |
| Dudley L. Moore, Jr., Member         | PRESENT            |
| Jacqueline Albarran, Member          | PRESENT            |
| William J. Strawbridge Jr., Member   | ABSENT (unexcused) |
| Leslie Diver, Member                 | PRESENT            |
| Elizabeth S. Murphy, Member          | PRESENT            |
| Jorge Sanchez, Alternate Member      | ABSENT (unexcused) |
| Elizabeth Marshall, Alternate Member | PRESENT            |
| Anne Fairfax, Alternate Member       | PRESENT            |

Let the record show that Ms. Marshall will be a voting member for this meeting.

Staff members present: John C. Randolph, Town Attorney (for part of the meeting), John S. Page, Director of Planning, Zoning & Building, John Lindgren, Planning Administrator, Jane S. Day, Ph.D., Staff Historic Preservation Consultant, and Cynthia M. Delp, Secretary to the Landmarks Preservation Commission.

Court Reporter present: Sara Storey, US Legal Support, hired by Lory Volk

III. **APPROVAL OF THE MINUTES OF THE JULY 18, 2012 MEETING:**  
**MOTION BY MR. FELDKAMP FOR APPROVAL OF THE MINUTES.**  
**MOTION SECONDED BY MR. MOORE.**  
**MOTION CARRIED UNANIMOUSLY.**

Please be advised that this matter was heard informally at the July meeting. Formal action is scheduled for the August meeting.

Call for disclosure of ex parte communication: Disclosure by Mr. Cooney

**ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina & Partners**

Mr. Spina presented a revised proposal in response to commission comments made at the July meeting. The new proposal includes retaining the existing wood arch and horizontal member, a thin aluminum storefront with narrow door, and signage for both tenant spaces. The existing wood arch will be sanded down and stained if possible, and/or painted if necessary. The new aluminum storefront will be stained or painted to match the wood. Mr. Spina noted that the plans indicate a logo on the door handle of the Jaeger tenant space, but that logo will be removed from the project. He indicated that these storefront renovations will set precedent for future tenant spaces in the building.

While most members were pleased with the plans as revised, Mr. Moore requested that the owner be made aware that there are maintenance concerns relative to this building, particularly with the second floor windows. Mr. Spina will pass this information to the owner. The retention of the existing Bougainvillea was stressed, acknowledging that proper manicuring may be in order.

**MOTION BY MR. FELDKAMP FOR APPROVAL OF BOTH APPLICATIONS (CoA#020-2012 and CoA#021-2012) AS PRESENTED, WITH THE REDUCTION OF THE DOOR HANDLE TO BE WITHOUT THE LOGO.  
MOTION SECONDED BY MR. MOORE.  
MOTION CARRIED UNANIMOUSLY.**

**C. Application for Certificate of Appropriateness #023 - 2012  
Restoration/Rehabilitation/Sign/Awning**

**Owner/Applicant: Sterling Palm Beach LLC**

**Address: 340 Royal Poinciana Way, Suites 300-308**

**Architect: Glidden Spina & Partners**

**Project Description:** Request approval for restoration, rehabilitation, interior demolition, sign and awning which is further described as: New restaurant of approximately 8,400 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and wall and replace with a new operable Nana Wall system. New awnings and signage will be put in as allowed by Code. On the interior, some portions of the 2nd floor space will be converted to one story space to restore the high ceilings that existed previously. The 2nd floor space will remain as existing at the east end. Other associated changes as presented.

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

**ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina & Partners**  
**OTHERS WHO TESTIFIED: Attorney John Eubanks representing Palm Beach Towers, Adam Munder, Sterling Palm Beach LLC, Jeff Taylor, Building Official, and Lory Volk, The Volk Foundation**

Attorney Eubanks objected to the application as filed. He felt it was insufficient as to proper signatures and did not believe the application could be heard today.

Mr. Lindgren stated, for the record, that this project is only being heard informally. This had been mentioned earlier in the meeting by Mr. Page, as well, and is due to the deferral action for this project by the Town Council at yesterday's meeting. Though it is being heard only informally today, it should be noted that it had been advertised as a hearing for Certificate of Appropriateness. Mr. Randolph stated, with regard to the application; that the Sterling Group has a Power of Attorney from Mr. Spiegel (the property owner), and on that basis, the application could go forward without Mr. Spiegel signing on the application; that the project was deferred yesterday at the Town Council meeting, to the October Town Council meeting; that staff felt it was fair to hear the project informally only today; and, that only feedback from individual commission members could be given today.

**MOTION BY MR. MOORE TO HEAR THE PRESENTATION ON AN INFORMAL BASIS TODAY.**

**MOTION SECONDED BY MR. FELDKAMP.**

**MOTION CARRIED UNANIMOUSLY.**

Adam Munder, Sterling Palm Beach, confirmed that they have a full Power of Attorney signed by Mr. Spiegel, related to matters before the Town Council, Landmarks Preservation Commission, issues related to the new north bridge, etc. Mr. Cooney asked staff to insure that the application, when heard formally, is properly signed.

Mr. Spina presented the architectural plans pursuant to the submitted plans. He noted, however, that the proposed Nana Wall system has been removed from the project. This project, on the northeast corner of the Plaza, will combine several spaces (which have been vacant for some time) for a renovation to facilitate the new tenant. He noted that the project will reduce square footage by 2500 sq. ft. by removing some second floor area to restore the one-story building design. All openings will remain, with the exception of one, though some reconfiguration of doors and windows is anticipated. Mr. Spina showed a photo of the recent U.S. Post Office renovation at the Plaza, indicating it was their intent to copy that storefront in the restaurant design. Mr. Spina requested the commission's opinion for a treatment to block out interior views where large expanses of glass occur. Dr. Day offered her opinion that in these cases, a wall (painted a dark color) be erected interiorly to block views.

Mr. Moore noted correctly that the referenced Post Office renovation was not reviewed or approved by the LPC, and should not be used as a basis to approve the proposed restaurant renovation. It was recommended that the renovation design return to the architect's original intent wherever possible. Mr. Spina agreed to consult with the Volk Foundation relative to the original plans, to perhaps set a precedent for this and future tenant spaces, and then return with a revised proposal. There was a good deal of discussion regarding the proposed 5<sup>th</sup> opening (French doors) at the proposed bar area. Dr. Day was opposed to changing the rhythm of the openings. Other aspects of the project: Awnings – color to be determined (black, khaki, bright colors mentioned); removal of existing accordion shutters; retention of clear glass; retention of exterior paint color, and signage.

Jeffrey Taylor, Building Official, addressed the issue of the recent renovation of the U.S. Post Office at the Plaza. He stated that the Post Office is not required to pull building permits, or

obtain Landmarks or ARCOM approvals. The Town can hope for cooperation, but cannot demand it.

*Let the record show that there was a short recess at 10:35 a.m. until 10:45 a.m.*

Chairman Cooney called for public comments on the previous agenda item. Lory Volk, 206 Phipps Plaza, and Vice Chairman of the John L. Volk Foundation, claimed that today's informal review was not based on the application as submitted. She spoke in favor of retaining the rhythm of the openings as they exist.

There was further discussion as to how this project would proceed at the LPC in the future...as a new application for Certificate of Appropriateness or as a deferral of this application. It should be noted that although the matter was only heard informally today, it was advertised as a Certificate of Appropriateness. After discussion, it was determined that deferral to a time certain was in order.

**MOTION BY MS. DIVER FOR DEFERRAL TO THE OCTOBER 17, 2012 LPC MEETING.**

**MOTION SECONDED BY MR. MOORE.**

**MOTION CARRIED UNANIMOUSLY.**

**D. Application for Certificate of Appropriateness #024-2012**

**Landscape/Hardscape**

**Owner/Applicant:** Marc P. Schappell and Thomas B. Anderson

**Address:** 234 El Brillo Way

**Architect:** John M. Foster, A.I.A.

**Project Description:** Request approval for landscape/hardscape, relocate swimming pool, new patio area and on-site drainage which is further described as: Relocate swimming pool approximately 20 feet to the east of current location; provide root barrier for "historic" Ficus tree; increase green space, modify pool deck and patio area with cultured stone and provide adequate onsite drainage. Other associated changes as presented.

**Call for disclosure of ex parte communication:** No disclosures

**ARCHITECTURAL PRESENTATION BY:** Steve Parker, Parker-Yannette Design Group

**OTHERS WHO TESTIFIED:** Marc P. Schappell, Property Owner

Mr. Parker presented the project in accordance with the submitted plans and as described above. He reviewed the landscape material, both existing and proposed. Some hardscape elements include: changing the shape of the main driveway, demolition of the existing pool and patio in favor of a more formal rectangular pool, a wall fountain at the end of the pool, various patios and, a reduction of hardscape. Mr. Schappell indicated that the existing generator, located in the middle of the driveway, will be removed as well as various air conditioning equipment. Cast stone is the material of choice for the patios and wall fountain.

Under commission comments, an objection was raised to the proposed Ficus Benjamina. After discussion, Mr. Parker stated that he will use Ficus Nitida instead.



CA - 023-2011

**TOWN OF PALM BEACH  
LANDMARKS PRESERVATION COMMISSION  
360 South County Road, Palm Beach, FL 33480**

(561) 227-6414 for John Lindgren, Planning Administrator  
(561) 227-6408 for Cindy Delp, Secretary for the Landmarks Preservation Commission

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS**

**ADDRESS OF PROPERTY:** 340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 308, & 308

**OWNER OF PROPERTY:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 310

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**APPLICANT'S NAME:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 310

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**ARCHITECT FOR PROJECT:** \*\*

(Firm name) Glidden Spina & Partners

(Architect's name) Keith Spina

(Architectural firm's address) 1401 Forum Way, Suite 100

(Architectural firm's address) West Palm Beach, FL 33480

(Phone Number) 561-8844

(Fax Number) 561-8884

\*\* ☐ Check this box if you are an LPC member, and this project will result in a Voting Conflict for you.

**TYPE OF PROJECT:**

- |                                                         |                                                           |
|---------------------------------------------------------|-----------------------------------------------------------|
| <input checked="" type="checkbox"/> Restoration         | <input checked="" type="checkbox"/> Demolition (Interior) |
| <input checked="" type="checkbox"/> Rehabilitation      | <input type="checkbox"/> Demolition (Exterior)            |
| <input type="checkbox"/> Reconstruction                 | <input checked="" type="checkbox"/> Sign                  |
| <input type="checkbox"/> Addition to historic structure | <input checked="" type="checkbox"/> Awning                |
| <input type="checkbox"/> New Accessory Structure        | <input type="checkbox"/> Exterior Color Change            |
| <input type="checkbox"/> Landscape/hardscape            |                                                           |
| <input type="checkbox"/> Other                          |                                                           |

**In this a tax abatement project? (Must check one)** Yes \_\_\_\_\_ Or No X

**\*\*TAX EXEMPTION PROJECTS: PART I-PRECONSTRUCTION APPLICATION MUST BE FILED AS PART OF THIS APPLICATION (SEE ATTACHED)\*\***

**Does this project require a Town Council approval? (Must check one)** Yes X Or No \_\_\_\_\_

Revised 7/23/2010



024-173-2212

**DESCRIPTION OF PROJECT:** (Please give a comprehensive description of the project which fully describes the changes to the landmarked building and/or landmarked property. Attach additional sheet if necessary.)

See attached project description.

**SUBMISSION CHECKLIST:** (Submit all of the following, as required for your project) (Please note that effective June 21, 2010, electronic submission is required. Please follow electronic submission instructions. Note: Paper mini-sets still required- see below. )

- ☒ Site Calculations (to be printed on Site Plan)
- ☒ Site Plan (must show any and all adjacent right-of-way)
- ☒ **Materials Removal Plan** (must delineate any and all materials that are to be removed or relocated in the construction process). This drawing shall be titled "Materials Removal Plan." If no original materials are scheduled to be removed or relocated, it shall be so noted on the floor plans.
- ☒ Survey (for new construction)
- ☒ Existing and Proposed Elevations (on same page)
- ☒ Details such as columns, railings, awnings, signs, etc. drawn to scale
- ☒ Floor plans
- ☒ Photographs, Original and/or Existing
- ☒ Color Samples and/or Fabric Samples
- ☒ Other
- ☒ **NOTE: 14 Mini-Sets of Reduced Plans (paper copies) are to be submitted to the Town no later than 1 week prior to the meeting.**

☐ The undersigned hereby certifies that the project described in this application, and as detailed by plans and other materials submitted, will be constructed in exact accordance with the aforesaid plans and specifications.

Signed by: [Signature]  
(Property owner)

Printed name: Greg Moss

OR \_\_\_\_\_  
(Owner's Legally Authorized Agent\*)

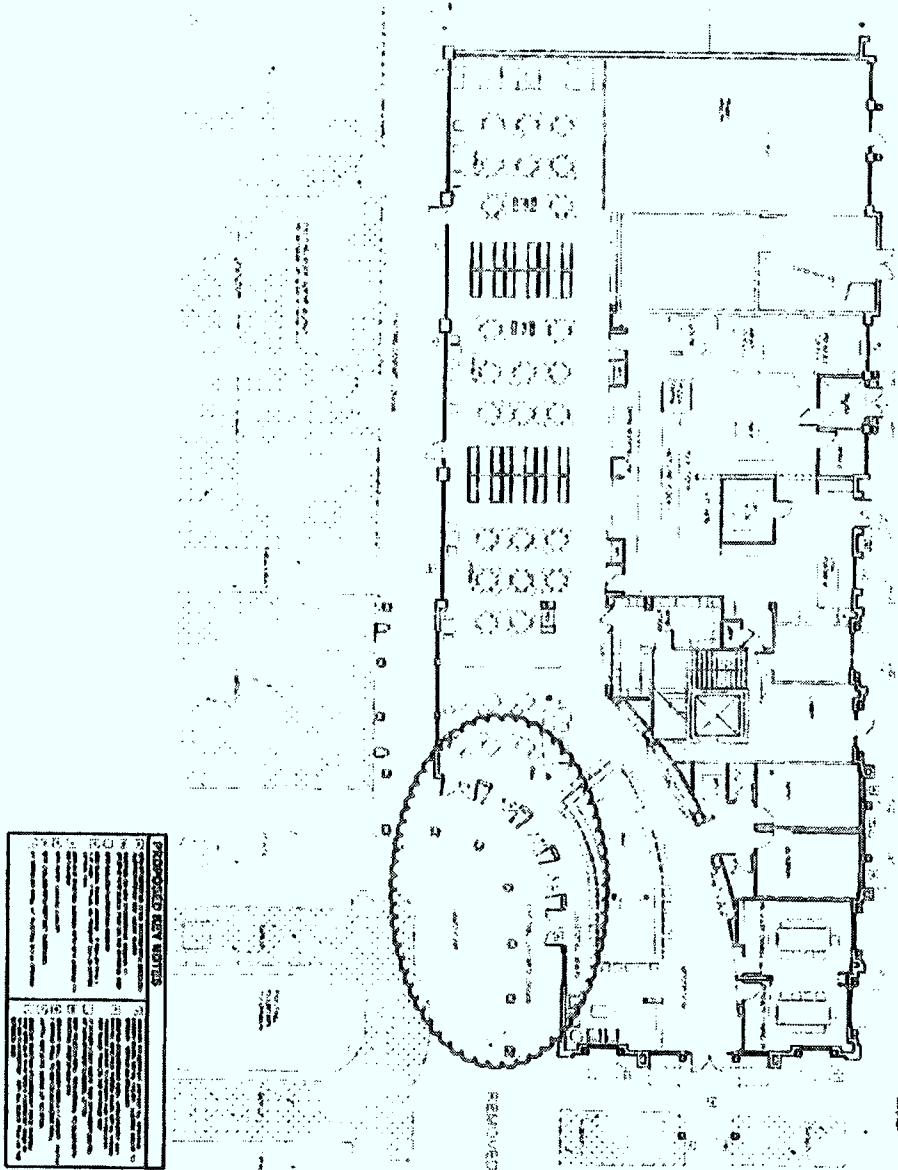
Printed Name: \_\_\_\_\_

\*If signed by a Legally Authorized Agent, must be accompanied by a Power of Attorney or statement from property owner authorizing the signer to sign on owner's behalf.

CA-023-2012

**Project Description:**

New restaurant of approximately 8,400 square footage going into the northeast end of Royal Poinclana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and wall and replace with a new operable Nana Wall system. New awnings and signage will be put in as allowed by Code. On the interior, some portions of the 2<sup>nd</sup> floor space will be converted to one story space to restore the high ceilings that existed previously. The 2<sup>nd</sup> floor space will remain as existing at the east end.



**PROPOSED NEW NOTES**

1. ALL NEW WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.
2. ALL EXISTING WORK SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
3. ALL MATERIALS AND METHODS SHALL BE APPROVED BY THE ARCHITECT.
4. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
5. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS AND NOTES.
6. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.
7. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.
8. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.
9. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.
10. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.

**PROPOSED FLOOR PLAN**



**A-1.1**

COA-023-2012

COA-023-2012

**TENANT IMPROVEMENTS FOR:**  
**DEL FRISCO'S GRILLE**  
 340 BAY ST. FLOOR 300  
 DALLAS, TEXAS 75201



**SPINA**  
 SPECIALTY PROFESSIONAL INTERIOR ARCHITECTS

1000 WEST STREET  
 SUITE 1000  
 DALLAS, TEXAS 75201  
 TEL: 214.756.1000  
 FAX: 214.756.1001  
 WWW.SPINA-ARCHITECTS.COM

Revisions @ \$110/hr  
 @ 100 hours

340 Bay St. Floor 300  
 Dallas, TX 75201

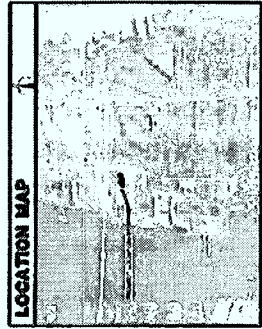
SPINA  
ARCHITECTURAL  
1000 N. W. 10th Ave.  
Fort Lauderdale, FL 33304  
Tel: 954.564.1100  
Fax: 954.564.1101  
www.spinaarchitect.com



DEL FRISCO'S GRILLE  
TENANT IMPROVEMENTS FOR:  
300 ROYAL PORTICANA PLAZA  
PALM BEACH, FL 33480

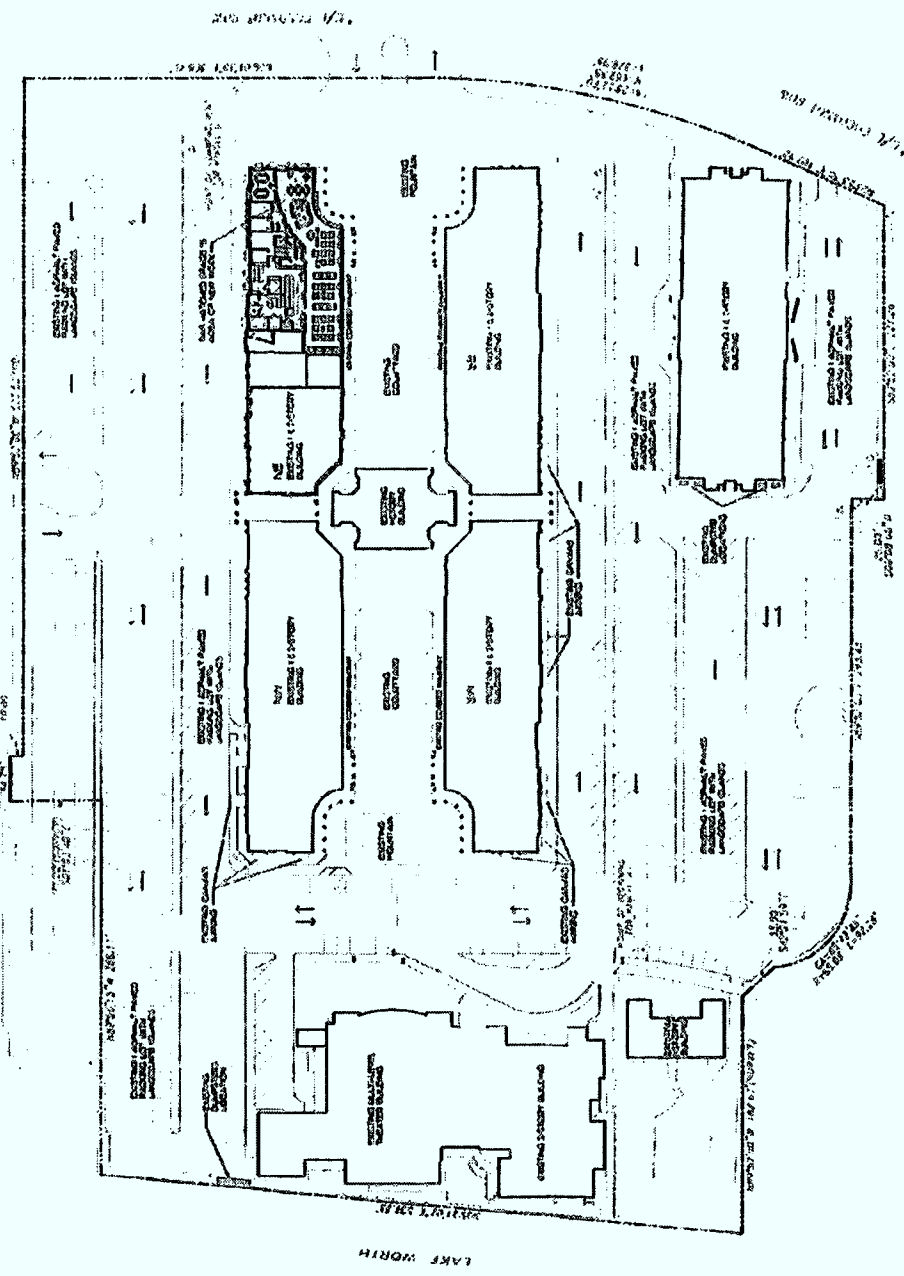
|                              |                     |
|------------------------------|---------------------|
| DATE: 10/10/12               | BY: [Signature]     |
| PROJECT: DEL FRISCO'S GRILLE | SCALE: 1/8" = 1'-0" |

**SP-1**



**LOCATION MAP**

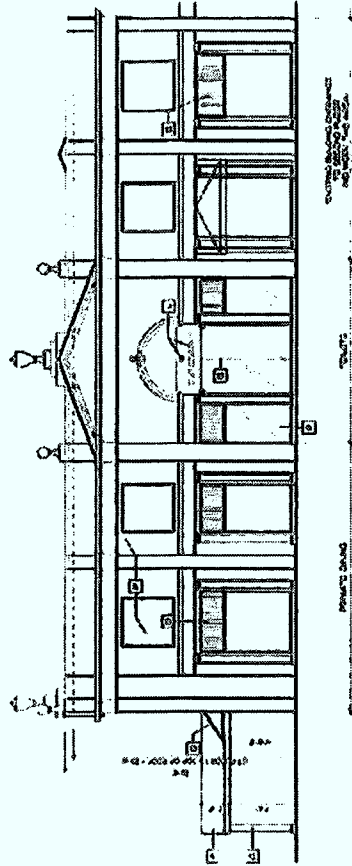
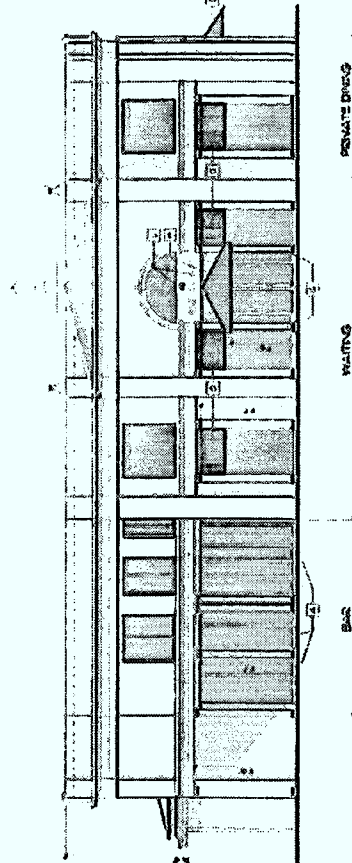
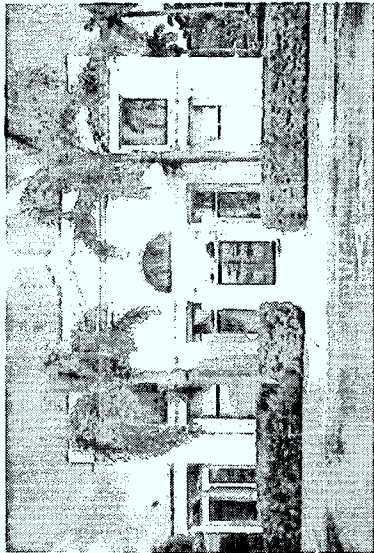
**SITE PLAN**  
SPECIAL EXCEPTION #20-2012 WITH VARIANCE  
DATE: 10/10/12  
BY: [Signature]



**SITEPLAN**

Del Frisco's Grille Palm Beach

10.10.12 | Special Exception #20-2012 with Variance



**Proposed East Elevation**

Proposed North Elevation (Partial)

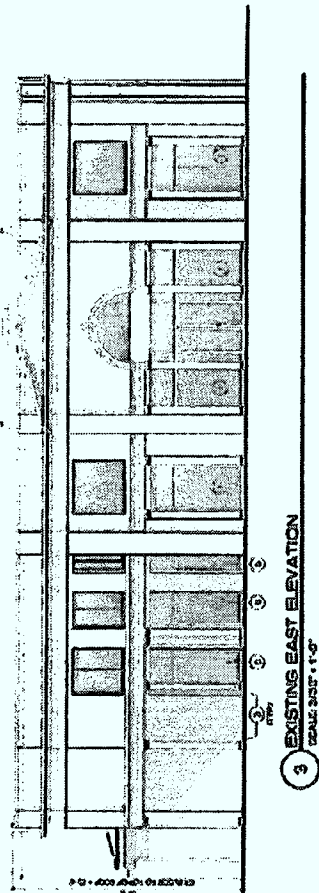
**PROPOSED KEY NOTES**

## PHOTO BOARD

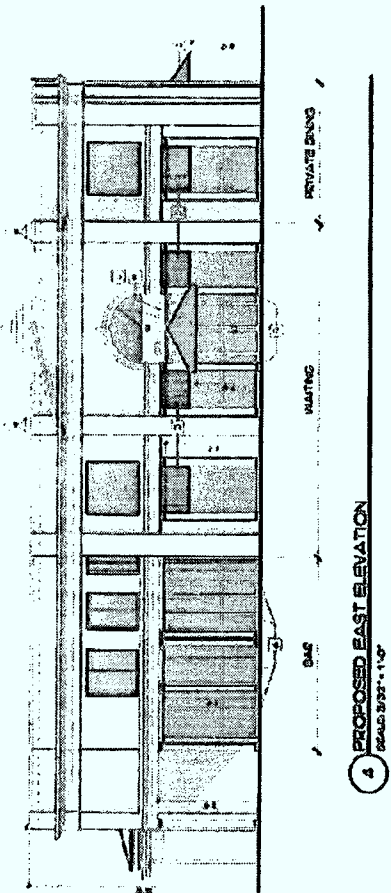
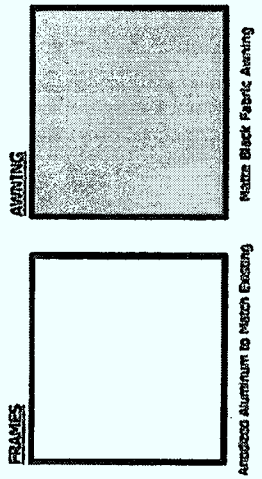
### 10.10.12 | Special Exception #20-2012 with Variance

**Del Frisco's Grille Palm Beach**

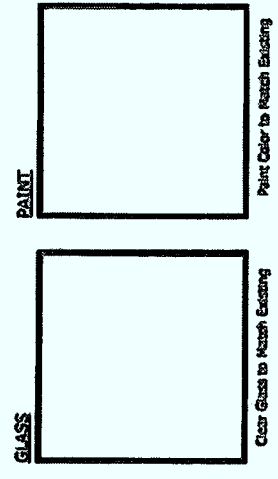




- EXISTING KEY NOTES**
- 1. EXISTING STRUCTURE WITH EXISTING BLUES
  - 2. EXISTING ALUMINUM FRAME GLAZING
  - 3. EXISTING STRUCTURE WITH EXISTING BLUES
  - 4. EXISTING STRUCTURE WITH EXISTING BLUES
  - 5. EXISTING STRUCTURE WITH EXISTING BLUES



- PROPOSED KEY NOTES**
- 1. NEW BLUES WITH EXISTING BLUES
  - 2. NEW BLUES WITH EXISTING BLUES
  - 3. NEW BLUES WITH EXISTING BLUES
  - 4. NEW BLUES WITH EXISTING BLUES
  - 5. NEW BLUES WITH EXISTING BLUES



**MATERIAL BOARD**

10.10.12 | Special Exception 120-2012 with Variance

Del Frisco's Grille Palm Beach

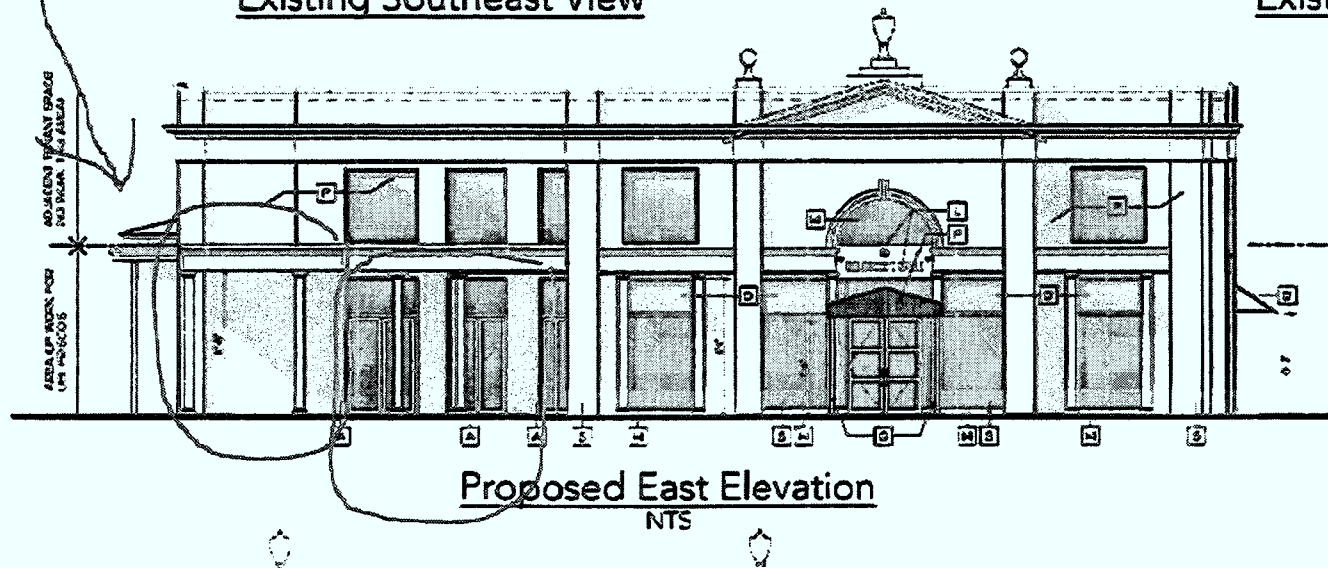




Existing Southeast View



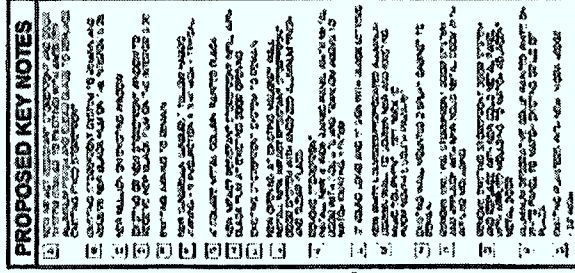
Existing East View

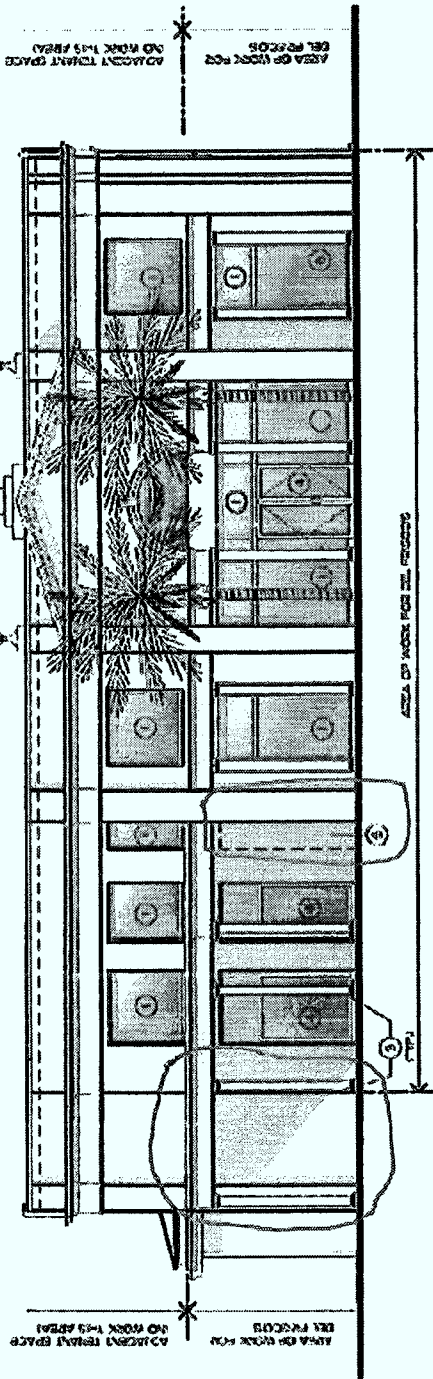


**The proportions and perspective- entirely inaccurate - and no drawing of the curvilinear feature is included.**



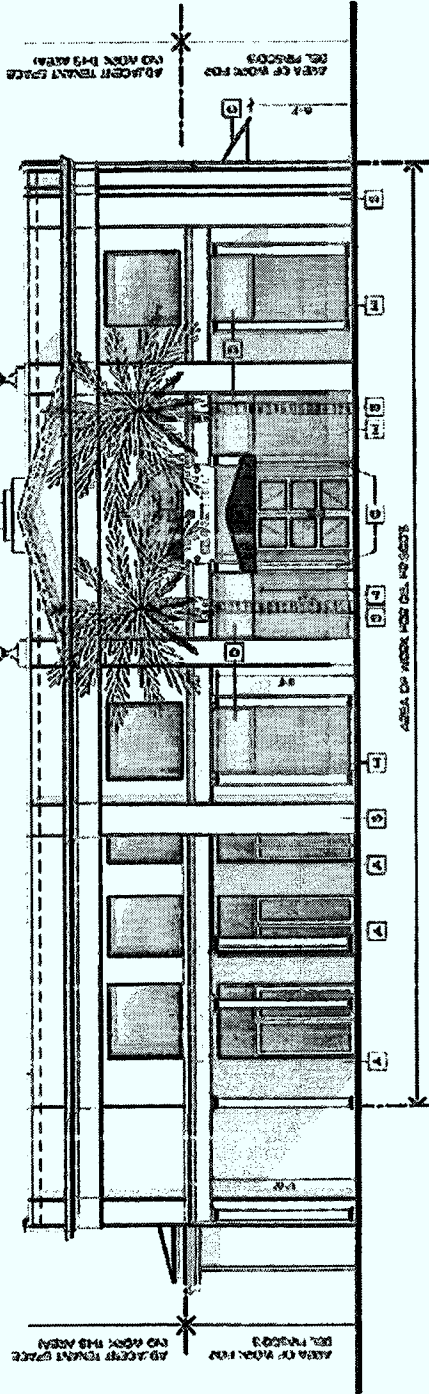
**Del Frisco at Royal Poinciana**  
Palm Beach.





1 EXISTING EAST ELEVATION  
 SCALE 3/32" = 1'-0"

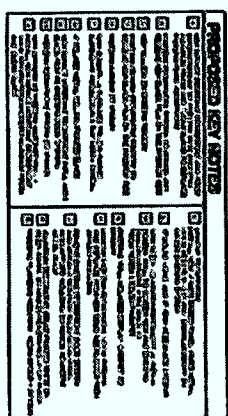
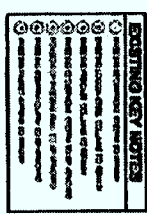
| EXISTING KEY NOTES |                                            |
|--------------------|--------------------------------------------|
| 1                  | EXISTING STATIONARY STAIR TO REMAIN        |
| 2                  | EXISTING LOCAL STEEL COLLARS TO REMAIN     |
| 3                  | EXISTING PRECAST CONCRETE TO REMAIN        |
| 4                  | EXISTING STATIONARY STAIR TO BE DEMOLISHED |
| 5                  | EXISTING STATIONARY STAIR TO BE DEMOLISHED |
| 6                  | EXISTING STATIONARY STAIR TO BE DEMOLISHED |
| 7                  | EXISTING STATIONARY STAIR TO BE DEMOLISHED |
| 8                  | EXISTING STATIONARY STAIR TO BE DEMOLISHED |
| 9                  | EXISTING STATIONARY STAIR TO BE DEMOLISHED |
| 10                 | EXISTING STATIONARY STAIR TO BE DEMOLISHED |



2 PROPOSED EAST ELEVATION  
 SCALE 3/32" = 1'-0"

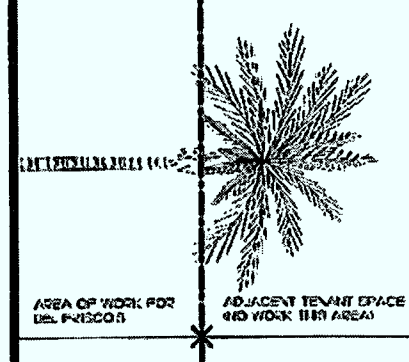
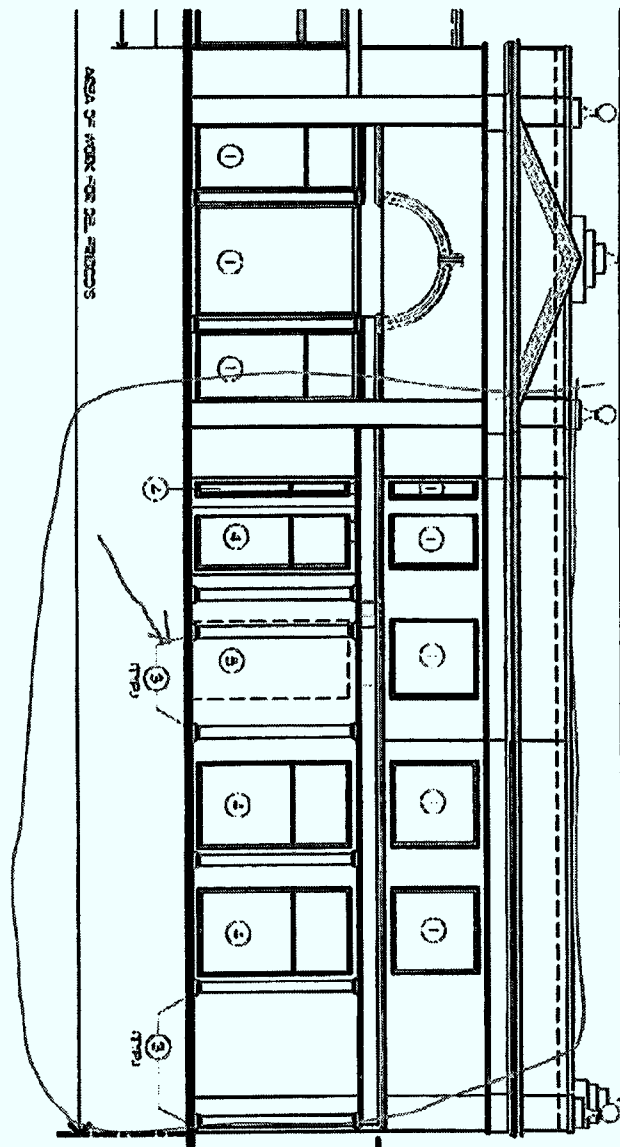
| PROPOSED KEY NOTES |                                                                                                                                                                                     |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1                  | NEW IMPACT RESISTANT STATIONARY STAIR AND DOOR SYSTEMS TO BE DEMOLISHED WITH ASSOCIATED ALUMINUM FRAMES AND GLASS TO BE REPLACED WITH NEW GLASS TO MATCH EXISTING STATIONARY STAIR. |
| 2                  | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |
| 3                  | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |
| 4                  | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |
| 5                  | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |
| 6                  | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |
| 7                  | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |
| 8                  | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |
| 9                  | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |
| 10                 | EXISTING STATIONARY STAIR TO REMAIN.                                                                                                                                                |





**A-2.0**  
QA-023-2012

## No curvilinear representation



**EXISTING KEY NOTES**

- ① EXISTING STORAGE SYSTEM TO REMAIN
- ② EXISTING LOCAL STEEL COLUMNS TO REMAIN
- ③ EXISTING PRECAST COLUMNS TO REMAIN
- ④ EXISTING STORAGE SYSTEM TO BE REMOVED
- ⑤ PORTION OF EXISTING WALL TO BE REMOVED
- ⑥ EXISTING COLUMNS TO BE REMOVED
- ⑦ EXISTING PLUMBING ARRANGING TO REMAIN

ITS FOR:  
**S GRILLE**  
 A WAY



**SPINA**  
 + PARTNERS

1401 FORUM WAY  
 WEST PALM BEACH, FL 33411  
 561.684.6844 • Fax 561.684.6845

## **Revised application submitted 1/9/2013**

### **Project Description:**

**New restaurant of approximately 7,700 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and replace with new French doors. New awnings and signage will be put in as allowed by Code. A door has been added on the north wall to replace an existing window. The second story space will be restored back to a single story space in order to maintain the high ceiling which existed previously. The second floor space at the east end will remain unchanged as existing (space not included in this proposed submittal).**



**BRETON, LYNCH, EUBANKS & SUAREZ-MURIAS, P.A.**

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West Palm Beach, FL 33401-3515  
Phone: (561) 721-4000  
Facsimile: (561) 721-4001

January 25, 2013

**Via Hand Delivery**

Mr. John Page  
Director of Planning, Zoning and Building  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

RECEIVED

2013 JAN 25 15:58 TWN CLERK

**Re: Appeal of Approval of Certificate of Appropriateness #023-2012**

Dear Mr. Page:

Our office represents the Palm Beach Towers Condominium Association, Inc. ("Towers"). In that capacity, the Towers hereby appeals the approval of Application # 23-2012 ("Application") for a Certificate of Appropriateness ("COA") by the Landmarks Preservation Commission ("LPC") in favor of Sterling Palm Beach LLC ("Sterling" or "Applicant") at its January 16, 2013 meeting. As you are aware, the 277 Unit Owners at the Towers are the only residential property owners directly adjacent to the Royal Poinciana Plaza ("Plaza").

The present appeal is about preserving due process, while avoiding a dangerous precedent which could undermine the valuable work of the LPC and other commissions. In examining the appeal, the Town must decide:

- A. Whether a complete, accurate, properly executed, and legally sufficient "Application for Certificate of Appropriateness" is a condition precedent to the formal presentation and/or approval of an application;
- B. Whether a complete, accurate, properly executed, and legally sufficient "Notice Affidavit" along with proper notice of an application, is a condition precedent to the formal presentation and/or approval of an application; and
- C. Whether the Town wants to adopt and embrace the dangerous precedent of design "on-the-fly" which is in direct violation of the written guidelines and procedures established by the Town.

Essentially, the Town must decide whether to carefully follow its own written policies, procedures, requirements, and guidelines, or adopt a "close enough for government work" attitude.

RECEIVED

2013 JAN 25 15:57 TWN CLERK

### I. Facially Incomplete and Insufficient Application

In making its decision to approve the Application, the LPC was placed in the position<sup>1</sup> of being allowed to formally review, and ultimately approve, a facially deficient Application. Section 54-91 of the Town Code provides that the LPC “shall prescribe the procedure for making application for a certificate of appropriateness...”<sup>2</sup> As a result, the LPC along with the Town Staff, has created an official “Application for Certificate of Appropriateness.”<sup>3</sup> The question therefore becomes: a) does filling out the application carefully, accurately, and fully really mean anything? and b) are there any repercussions for submitting a deficient application? In the present case, the answer to both questions is no.

#### A. Improper Signature on Application - Twice

On its face, the Town-approved form for an “Application for Certificate of Appropriateness” requires that it be signed by either the “Property Owner” or “Owner’s Legally Authorized Agent.” To the extent the application is “signed by a Legally Authorized Agent, *it must be accompanied by a Power of Attorney* or statement from property owner authorizing the signor to sign on owner’s behalf.” (emphasis added). In the present case, the Application for COA #23-2012 did not comply with these requirements. More importantly, it did not comply with these requirements twice.<sup>4</sup>

As initially filed, the Application was signed by Greg Moross as the “Property Owner” of the Plaza, when clearly Mr. Moross is not the owner of the Plaza.<sup>5</sup> Likewise, there was no Power of Attorney filed by Sterling as part of the original Application. As a result, the undersigned brought to the attention of the LPC, by way of e-mail dated August 16, 2012, that the Application was deficient as it was not signed by Mr. Spiegel as Trustee as well as Mr. Spiegel on behalf of Island Properties or even by Sterling under a Power of Attorney.<sup>6</sup>

Although admitting that he had not even reviewed the Application, the Town Attorney

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<sup>1</sup> In fairness to the members of the LPC, the bulk of the issues on appeal arise from the failure of the Town Staff and Town Attorney to closely review the Application to make sure it conformed to the requirements of the Town’s written Application, and “Certificate of Appropriateness Filing Guidelines” prior to coming before the LPC.

<sup>2</sup> The procedures adopted by the Town can be found in a packet which includes: a) an Application for Certificate of Appropriateness; b) a Notification to Surrounding Properties; c) a Notice Affidavit; and d) the Certificate of Appropriateness Filing Guidelines.

<sup>3</sup> Sterling submitted its Application on an older, prior version of the Town’s Application with a “Revised” date of 7/23/10 at the lower left hand corner, when the Town Staff had updated and revised the Application in May of 2012. As a result, the proper Application form would have noted the “Revised” date of 5/17/12.

<sup>4</sup> Technically, the original Application was included in the Town’s backup at least four times (August, 2012, October 2012, December 2012 and January 2013) despite being facially deficient.

<sup>5</sup> A copy of the original Application (without exhibits) is attached hereto as Exhibit “A.” Note that Mr. Moross did not even bother to designate that his signature was in a capacity as an employee or member of Sterling.

<sup>6</sup> A copy of the August 16, 2012 e-mail is attached hereto as Exhibit “B.”



disagreed, and determined that the Application was not facially deficient because the Town was aware there was a "Power of Attorney" providing that the day-to-day operations of the Plaza had been turned over to Sterling. General knowledge, however, does not meet the standard set forth within the Town's approved application and does not rise to the level of having competent and substantial evidence in the record before the LPC at the time a decision is made. In the end, the LPC heard the Application on an informal basis only.

On January 9, 2013, Sterling revised and resubmitted its Application.<sup>7</sup> Incredibly, Sterling repeated, and the Town Staff permitted, the exact same error to occur in the revised Application rather than taking the opportunity to correct the issue. This time, Brian Kosoy signed the Application, as the "Property Owner" of the Plaza as opposed to signing as the "Owner's Legally Authorized Agent" and providing a copy of Power of Attorney authorizing him to sign on behalf of the legal owner.<sup>8</sup> Furthermore, Kosoy signed in his individual capacity as there is no indication that he signed as an authorized agent of Sterling.

As a result, on its face, the Application was improper and invalid. Once again, the undersigned brought this shortcoming to the attention of the LPC, this time by way of letter dated January 15, 2013.<sup>9</sup> Once again, the Town Attorney dismissed such issues due to the fact that "the Applicant has a Power of Attorney" despite the fact that the Town's application requires any such Power of Attorney to be attached to the Application, and it was not. As such there was no record evidence of the Power of Attorney before the LPC.<sup>10</sup>

The failure to correct what may seem like an "overly technical" issue creates several problems. First, because of the improper signature and the failure to provide a Power of Attorney, the Application departed from the essential requirements of the law. Second because no Power of Attorney was included in the Application or back up documentation, there was no competent and substantial record evidence before the LPC that the Application was properly filed by either the "Property Owner" or the "Authorized Agent."

Third, and more importantly for the Town, the signature of the Applicant creates rights and protections to the Town which the Town will have waived if it does not reverse the approval of the Application. While often overlooked, the signature of an application contains a certification in favor of the Town. As a result, the Town-approved "Application for Certificate of Appropriateness" provides that:

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<sup>7</sup> A copy of the January 9, 2013 revised Application is attached hereto as Exhibit "C." As detailed below, the requirement for a revised Application came from changes in the "Description of Project" in which the Applicant no longer sought a Nana Wall system but instead proposed french doors for identified openings. Despite such major changes in the Application, no revised notice was provided by way of publication or mailed to the surrounding property owners.

<sup>8</sup> Curiously, Brian Kosoy did signed another Application for Certificate of Appropriateness to be heard the same day as the "Owner's Legally Authorized Agent" but again failed to included a Power of Attorney.

<sup>9</sup> A copy of the January 15, 2013 letter is attached hereto as Exhibit "D."

<sup>10</sup> Notably, issues brought to the Town Council by Sterling, such as the parking "Cure Plan" presently before the Town Council, appear to be properly executed by Sterling and include a Power of Attorney.



The *undersigned hereby certifies that the project* described in this application, and as detailed by plans and other materials submitted, *will be constructed in exact accordance with the aforesaid plans and specifications.* (emphasis added).

A proper signature on an application is what allows the Town to bring suit and/or otherwise enforce an approval which is not constructed in exact accordance with the plans submitted and approved. By permitting Brian Kosoy to sign individually as the "Property Owner" instead of the "Owner's Legally Authorized Agent," under a Power of Attorney, both Kosoy and Spiegel as Trustee (the true owner of the Plaza) can claim that they are not legally responsible to ensure that construction is completed in "exact accordance" with the plans and specifications. As such, at a minimum, approval of the Application should be reversed, until the Application is properly executed and the Town's rights are fully protected.

#### **B. Failure to Include Demolition (Exterior)**

In addition to being improperly executed, the Application is further facially deficient due to the failure of the Applicant to include "Demolition (Exterior)" within the Type of Project being considered in the Application. While the Applicant checked "Restoration," "Reconstruction" and even "Demolition (Interior)," it has failed to include "Demolition (Exterior)" which is necessarily part of the Application. Within the "Project Description" of the revised Application, Sterling indicates that it "would like to remove the existing windows and replace with new French Doors."<sup>11</sup> Clearly the "removal of existing windows" includes exterior demolition. Similarly, as demonstrated within the "Existing Key Notes" number 5, among the requests within the Application is a "portion of an existing wall to be removed." This too constitutes exterior demolition. As such, the Application was incomplete and should not have even been accepted as submitted by the Applicant, must less approved.

Again, while seemingly innocuous, the failure to check off and include such essential elements constitutes a lack of due process. Many within the community may review the Application and fail to object on the mistaken belief that no portion of the exterior of the Plaza was being affected. As such, the failure to include "Demolition (Exterior)" is a departure from the essential requirements of the law.

### **II. Improper "Notice" to Surrounding Property Owners**

#### **A. Insufficient Notice Affidavit**

In addition to the facial shortcomings of the Application, the underlying documents contained within the Application demonstrate a lack of due process. The Town has adopted specific forms and guidelines to ensure due process. Such guidelines, however, were not followed in the approval of the Application.

Prior to any application being heard, a "Notice Affidavit" must be executed by an applicant certifying that the list of property owners in the area (in this case within 250 feet) have been given

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<sup>11</sup> Within its original Application, Sterling sought to replace existing windows with a Nana Wall system which likewise would have required exterior demolition.



notice and that "a copy of each page of the application plus Notice to Surrounding Property Owners is included in each envelope ..." In the present case, much like the signature of the Applicant, the Notice of Affidavit is improper.

The case law is clear that in order to be valid, a person executing an "affidavit" must have personal knowledge of the issues contained therein, and the "affidavit" must be sworn to, not merely acknowledged, by the signor. In the present case, the "Notice Affidavit" executed in conjunction with the Application does not indicate that the signor, Brian Kosoy, has personal knowledge of the information contained therein. More importantly, although containing a recitation that he has been "duly sworn", Kosoy's signature block demonstrates that his signature is merely "acknowledged" and that he "did not take an oath."<sup>12</sup> As such, the "Notice Affidavit" is legally invalid and does not comply with the substantial requirements of the law.

### **B. Failure to Re-Notice Application**

In addition to the shortcomings in the "Notice Affidavit", the Applicant was required, but failed, to re-notice the Application subsequent to the change in the "Description of Project." Under the Town's adopted Guidelines, while an applicant can make minor changes to a project such "changes, however, *cannot deviate from the Description of Project* as filed with the Application for Certificate of Appropriateness." (emphasis added). As a result, the Town's rules and procedures includes:

**IMPORTANT NOTE: IF YOU CHANGE THE PLANS AFTER THE SUBMISSION DATE, YOU NEED TO RE-SUBMIT A COMPLETE "APPLICATION" FILE OR FOLDER, AND A COMPLETE "RECORD" FILE OR FOLDER ON A NEW DISC.** (emphasis added).

Therefore, when the Project Description changes under an application for a Certificate of Appropriateness, the applicant must submit a new application. Such a new application, however, triggers the need to re-notice the revised project under Section 54-93 of the Town Code, which requires that a public hearing be held "on each application" and that notice must be provided by publication as well as mailing to surrounding property owners at least fifteen (15) days before the hearing.

In the present case, under the original Application, Sterling sought approval for a 8,400 square foot restaurant and stated within its Description of Project that:

The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and wall and replace with a new operable Nana Wall System.

Subsequent to filing the original application, the Applicant reduced the size of the restaurant to 7,700 square feet and modified its proposed changes to the southeast exterior to substitute french

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<sup>12</sup> In addition, the year is missing from the attestation clause within the signature block of Mr. Kosoy, yet another defect overlooked by Sterling as well as the Town Staff.



doors for the Nana Wall System. As a result, the Project Description was revised to:

The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and replace with new French doors.

It was this change in Project Description which triggered the filing of a completely new amended Application on January 9, 2013 by the Applicant.<sup>13</sup> At that point, the Application should have been re-noticed, but it was not. Consequently, approval of the Application did not comply with the substantial requirements of the law and due process was also denied to surrounding property owners and all other interested parties.

### **III. Dangerous Precedent of Design "On-the-Fly"**

Finally, the Town must decide whether commissions such as the LPC are established to review the presentations and drawings as timely submitted by applicants, or whether the commission can itself become a design committee which engages in alterations and re-drawings of designs "on-the-fly" on the day of the presentation application. Once again, the Town has adopted specific guidelines to address these issues, but they were flatly ignored.

The Town's official "Certificate of Appropriateness Filing Guidelines"<sup>14</sup> ("Guidelines") clearly establish that: a) the filing deadline for an application is "30 days prior to the meeting date"; b) there is a specific "Submission Checklist" deadline established; c) there is a requirement that "Mini-Sets of Reduced Plans (paper copies) are to be submitted to the Town ***no later than 1 week prior to the meeting***"; and d) a "Presentation Disk" must be submitted "***no later than one week prior to the meeting date.***" (emphasis added). Furthermore, the "presentation disk ***shall include*** the plans/renderings/photos, etc., ***which also reflect any changes which have been made to the plans since you filed your original application.***" (emphasis added). Finally, it is very clear from the Guidelines that:

A laptop, already loaded with your Presentation Disk is provided in the Town Council Chambers. Please note: ***You are not permitted to bring presentation boards to the meeting. You are not permitted to bring a revised flash drive or disc to the meeting. Your Presentation Disk was due no later than 1 week prior to the meeting date.*** (emphasis added).

The Town's own established Guidelines therefore clearly provide that an applicant must rely solely upon the information contained within its application and presentation disk and may not deviate from that presentation. As a result, if an applicant must provide any plans/renderings/photos etc. as part of its presentation disk at least one week prior to the meeting date, and cannot bring any

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<sup>13</sup> Technically, because the January 9, 2013 was a new Application, not only should it have been re-noticed, but also it should not have been heard for 30 days as the filing deadline under the Town's procedures requires all documents to be filed "30 Days Prior to the Meeting Date."

<sup>14</sup> A copy of the Certificate of Appropriateness Filing Guidelines is attached hereto as Exhibit "E."



presentation boards or a revised presentation to the meeting to demonstrate any changes, then there is no way an applicant can merely draft revisions “on the fly” on a sheet of paper and include such documents as part of an approval. To do so would be a direct violation of the Town’s own established Guidelines.<sup>15</sup> Instead, under the Town’s adopted procedure, the applicant must revise the application with the proper plans, photos and renderings and submit them on a new presentation disk at least one week before the next meeting. But that is not what happened in the presentation of the Application.

Instead, the numerous restrictions set forth within the Guidelines were thrown to the wind. After spending time discussing the north elevation of the Plaza the focus of the LPC’s attention shifted to how best to deal with the curved wall at the southeast corner, especially when considered side-by-side with the original Volk design, which were not included in the revised Application on January 9, 2013, but presented for the first time less than seven (7) days prior to the hearing on the Application. As a result, many comments were made by LPC members that the plans as submitted within the Application did not reflect the best design for the southeast elevation, but they did not have any alternatives to look at.<sup>16</sup> Rather than discussing ideas and methods of addressing the LPC members concerns and returning with revised plans, the Applicant orally “withdrew” one component of the design (the “5<sup>th</sup> door”) and opened the floor to suggestions by the LPC members for revisions to the remainder of the plan. Based upon these discussions, a member of the architect team hand drew proposed revised plans on-the-fly.<sup>17</sup> Clearly, one look at the “revisions” demonstrates that it does not meet the minimum requirements set forth with the Town’s Guidelines. Nor, obviously, were the “revisions” contained within the Applicant’s presentation disk at least one week prior so that members of the public had an opportunity to review, inspect, and comment on them.<sup>18</sup>

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<sup>15</sup> For example the Guidelines clearly provide that “*If an applicant revises the plans*, after making application for a Certificate of Appropriateness ... the applicant must submit the revisions electronically via the Presentation Disk *no later than one week prior to the meeting date.*” Likewise, the Guidelines include a section which indicates “PLEASE NOTE: *The last date for submission of MINOR Changes to plans is 7 calendar days prior to the meeting*, at which time you will also submit your “PRESENTATION” file or folder. Finally, the Guidelines indicate that “All information submitted for presentation must match most current documents on file in PZB.” As a result, applicants are informed over and over again that they may only present and rely upon those documents within the Presentation file which match the application on file with the Town, yet in the present case the Applicant was granted approval of the Application based upon a sketch which was not in the Presentation file and did not match the documents on file with the Town.

<sup>16</sup> At least one LPC member indicated that, “Sadly we do not have any drawings to look at. It seems we are doing something that we really don’t know what it would look like.” (Audio 55:12-55:37). The reason being that “we hadn’t seen the originals” until recently. (Audio 55:51-55:56).

<sup>17</sup> A copy of the hand drawn revisions, which do not include any dimensions or specifications, much less demonstrate the revised South Elevation are attached hereto as Exhibit “F.”

<sup>18</sup> At least two members of the public, Anita Seltzer (Audio 1:20:38 1:24:39) and Lory Volk (Audio 1:12:37 - 1:16:25) objected to the design on-the-fly approach, spoke to the availability of the original drawings since before the August 2012 informal presentation, as well as the procedural need to present and include all plans to be relied upon seven (7) days in advance of a meetings. As a result they suggested that the hand drawn plans be put in the proper format and brought back to the LPC so that it could see exactly what it was getting on the southeast elevation, especially since it would potentially become a precedent for the rest of the Plaza. Unfortunately, they were shut down by one or more LPC members.



As a result, the LPC's approval clearly departed from the essential elements of the Town's own practice, procedure and written Guidelines. To add insult to injury, the LPC later compounded this error by utilizing the hand drawing created on-the-fly as the basis for approving yet another application within the Plaza which now must also be reversed.<sup>19</sup>

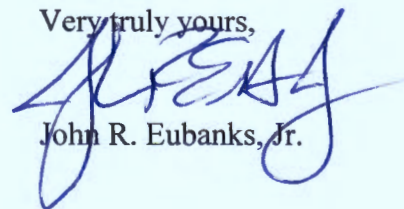
While ideas and suggestions should naturally flow in the course of the LPC's consideration of an application, the rules and Guidelines established by the Town require that revised versions come back before the LPC with all the applicable plans, drawings, dimensions, and elevations for final review. Often, what might have looked good in theory does not work out when presented in the context of the whole. Likewise, what may be understandable in a drawing at the time of a presentation of an application becomes wholly indecipherable in a later review of the archive of the records of the LPC.

If the approval of the Application is allowed to stand, it will set a very dangerous precedent in which applicants can ignore the requirements of the Town's application and Guidelines, put anything on paper and within its presentation disk and then open up the floor to the LPC to obtain a design by committee on-the-fly. Once this happens, especially if the practice is affirmed by the Town, the Town itself will be estopped from forcing other applicants to strictly comply with the Town's regulations and guidelines as they will (rightfully) claim that the Town is guilty of unequal enforcement of its procedures and policies. As a result, the Towers believes the Town should reverse the approval of the Application to head off any long term consequences of this pattern of activity.

#### IV. Conclusion

In the end, the LPC has clearly departed from the essential requirements of its Application, Affidavit of Notice, and Guidelines. Along the way, it has also neglected the due process rights of residents within the Town and established a dangerous precedent which undermines the entire LPC process. As a result, the Towers would request that the Town reverse the approval of the Application.

Very truly yours,



John R. Eubanks, Jr.

cc: John Lindgren, Planning Administrator  
Town Clerk, Town of Palm Beach  
John C. Randolph, Esq.  
Mayor and Town Council  
Peter Elwell, Town Manager  
John Grosskopf, General Manager Palm Beach Towers  
Henry Goldsmith, President of Board of Palm Beach Towers Condominium Association, Inc

---

<sup>19</sup> See, e.g. the Towers' Appeal of the approval of COA #04-2013.

# EXHIBIT "A"

**TOWN OF PALM BEACH  
LANDMARKS PRESERVATION COMMISSION  
360 South County Road, Palm Beach, FL 33480**

(561) 227-6414 for John Lindgren, Planning Administrator  
(561) 227-6408 for Cindy Delp, Secretary for the Landmarks Preservation Commission

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS**

**ADDRESS OF PROPERTY:** 340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306, & 308

**OWNER OF PROPERTY:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**APPLICANT'S NAME:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**ARCHITECT FOR PROJECT:** \*\*

(Firm name) Glidden Spina & Partners

(Architect's name) Keith Spina

(Architectural firm's address) 1401 Forum Way, Suite 100

(Architectural firm's address) West Palm Beach, FL 33480

(Phone Number) 684-6844 (Fax Number) 684-5594

\*\* ☐ Check this box if you are an LPC member, and this project will result in a Voting Conflict for you.

**TYPE OF PROJECT:**

- |                                     |                                |                                                           |
|-------------------------------------|--------------------------------|-----------------------------------------------------------|
| <input checked="" type="checkbox"/> | Restoration                    | <input checked="" type="checkbox"/> Demolition (Interior) |
| <input checked="" type="checkbox"/> | Rehabilitation                 | <input type="checkbox"/> Demolition (Exterior)            |
| <input type="checkbox"/>            | Reconstruction                 | <input checked="" type="checkbox"/> Sign                  |
| <input type="checkbox"/>            | Addition to historic structure | <input checked="" type="checkbox"/> Awning                |
| <input type="checkbox"/>            | New Accessory Structure        | <input type="checkbox"/> Exterior Color Change            |
| <input type="checkbox"/>            | Landscape/hardscape            |                                                           |
| <input type="checkbox"/>            | Other                          |                                                           |

**Is this a tax abatement project?** (Must check one) Yes \_\_\_\_\_ Or No X

**\*\*TAX EXEMPTION PROJECTS: PART I-PRECONSTRUCTION APPLICATION MUST BE FILED AS PART OF THIS APPLICATION (SEE ATTACHED)\*\***

**Does this project require a Town Council approval?** (Must check one) Yes X Or No \_\_\_\_\_

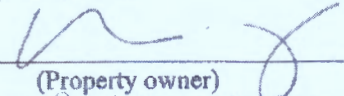
**DESCRIPTION OF PROJECT:** (Please give a comprehensive description of the project which fully describes the changes to the landmarked building and/or landmarked property. Attach additional sheet if necessary.)

See attached project description.

**SUBMISSION CHECKLIST:** (Submit all of the following, as required for your project) (Please note that effective June 21, 2010, electronic submission is required. Please follow electronic submission instructions. Note: Paper mini-sets still required- see below. )

- ☒ Site Calculations (to be printed on Site Plan)
- ☒ Site Plan (must show any and all adjacent right-of-way)
- ☒ **Materials Removal Plan** (must delineate any and all materials that are to be removed or relocated in the construction process). This drawing shall be titled "Materials Removal Plan." If no original materials are scheduled to be removed or relocated, it shall be so noted on the floor plans.
- ☒ Survey (for new construction)
- ☒ Existing and Proposed Elevations (on same page)
- ☒ Details such as columns, railings, awnings, signs, etc. drawn to scale
- ☒ Floor plans
- ☒ Photographs, Original and/or Existing
- ☒ Color Samples and/or Fabric Samples
- ☒ Other
- ☒ **NOTE: 14 Mini-Sets of Reduced Plans (paper copies) are to be submitted to the Town no later than 1 week prior to the meeting.**

☐ The undersigned hereby certifies that the project described in this application, and as detailed by plans and other materials submitted, will be constructed in exact accordance with the aforesaid plans and specifications.

Signed by:   
(Property owner)

Printed name: Brian Kosoy

OR \_\_\_\_\_  
(Owner's Legally Authorized Agent\*)

Printed Name: \_\_\_\_\_

\*If signed by a Legally Authorized Agent, must be accompanied by a Power of Attorney or statement from property owner authorizing the signer to sign on owner's behalf.



**NOTIFICATION TO SURROUNDING PROPERTIES OF APPLICATION FOR  
CERTIFICATE OF APPROPRIATENESS**

**LANDMARKS PRESERVATION PROGRAM**

Notice is hereby provided to all property owners within 250' of the subject property listed below that a public hearing will be held by the Landmarks Preservation Commission on August 16th, 2012, on or after **9:30 a.m.** to consider an application for a Certificate of Appropriateness for the following described real property. The meeting will be held **IN THE TOWN COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, TOWN HALL, 360 SOUTH COUNTY ROAD, PALM BEACH.**

|                           |                                                                             |
|---------------------------|-----------------------------------------------------------------------------|
| Subject property address: | <u>340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306, &amp; 308</u> |
| Owner:                    | <u>Sterling Palm Beach LLC</u>                                              |
| Applicant:                | <u>Sterling Palm Beach LLC</u>                                              |
| Request approval of:      | <u>See attached project description.</u>                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |

All interested persons may appear and be heard at said public hearing and may likewise submit written statements prior to and at said public hearing. The application for Certificate of Appropriateness and exhibits, such as plans and other supporting documentation, are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Road, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

If any person decides to appeal any decision made by the Landmarks Preservation Commission related to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

If we can be of further assistance relative to this matter, please contact John Lindgren, Planning Administrator at 227-6414 or Cindy Delp, Office Manager at 227-6408.

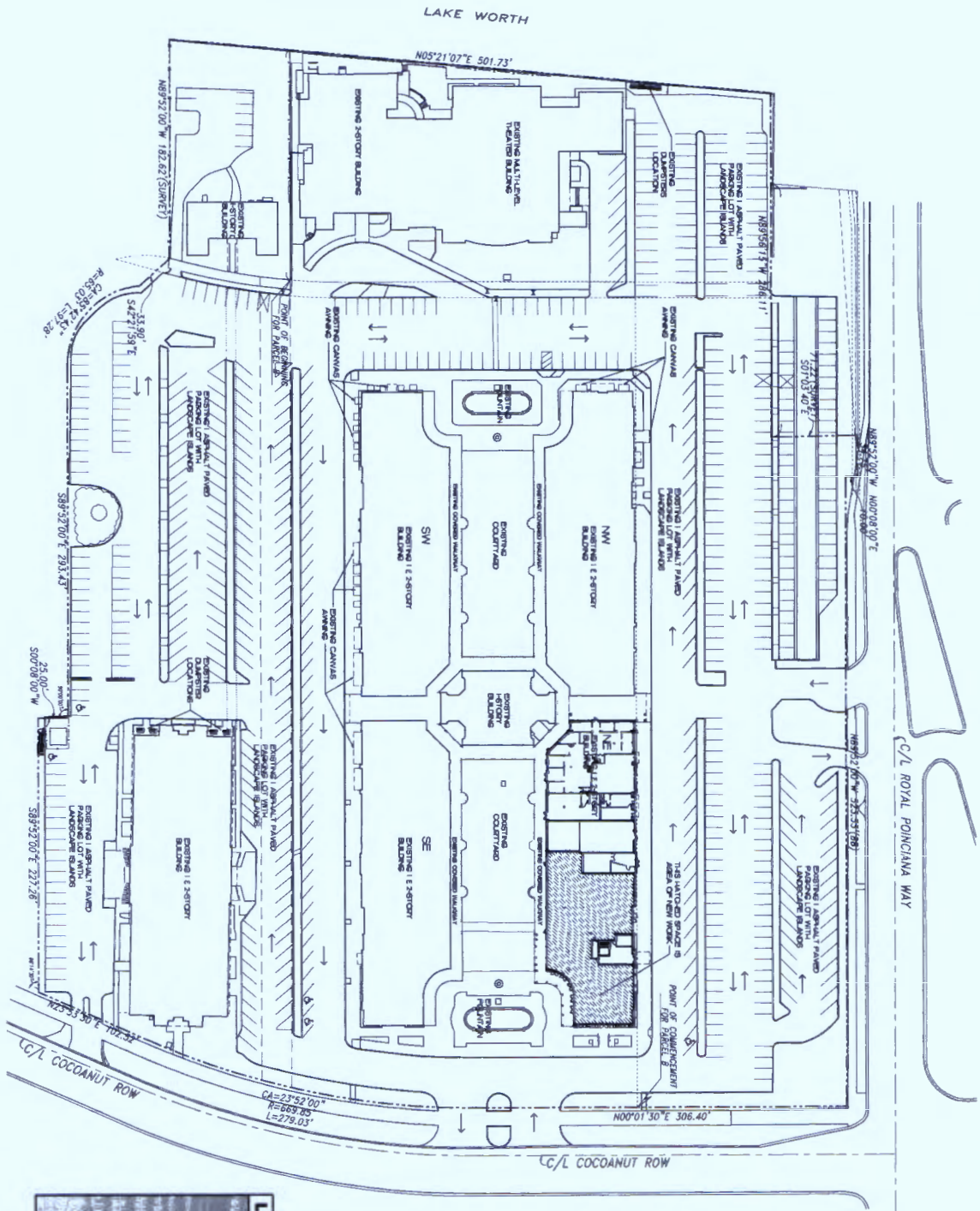
Sincerely,

John S. Page  
Director of Planning, Zoning and Building

JSP/cmd

**Project Description:**

New restaurant of approximately 7,700 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and replace with new French doors. New awnings and signage will be put in as allowed by Code. A door has been added on the north wall to replace an existing window. The second story space will be restored back to a single story space in order to maintain the high ceiling which existed previously. The second floor space at the east end will remain unchanged as existing (space not included in this proposed submittal).



**SITE PLAN**  
 SCALE: 1" = 40'-0"  
 DATE: 11/18/12  
 DRAWN BY: CP  
 CHECKED BY: KB

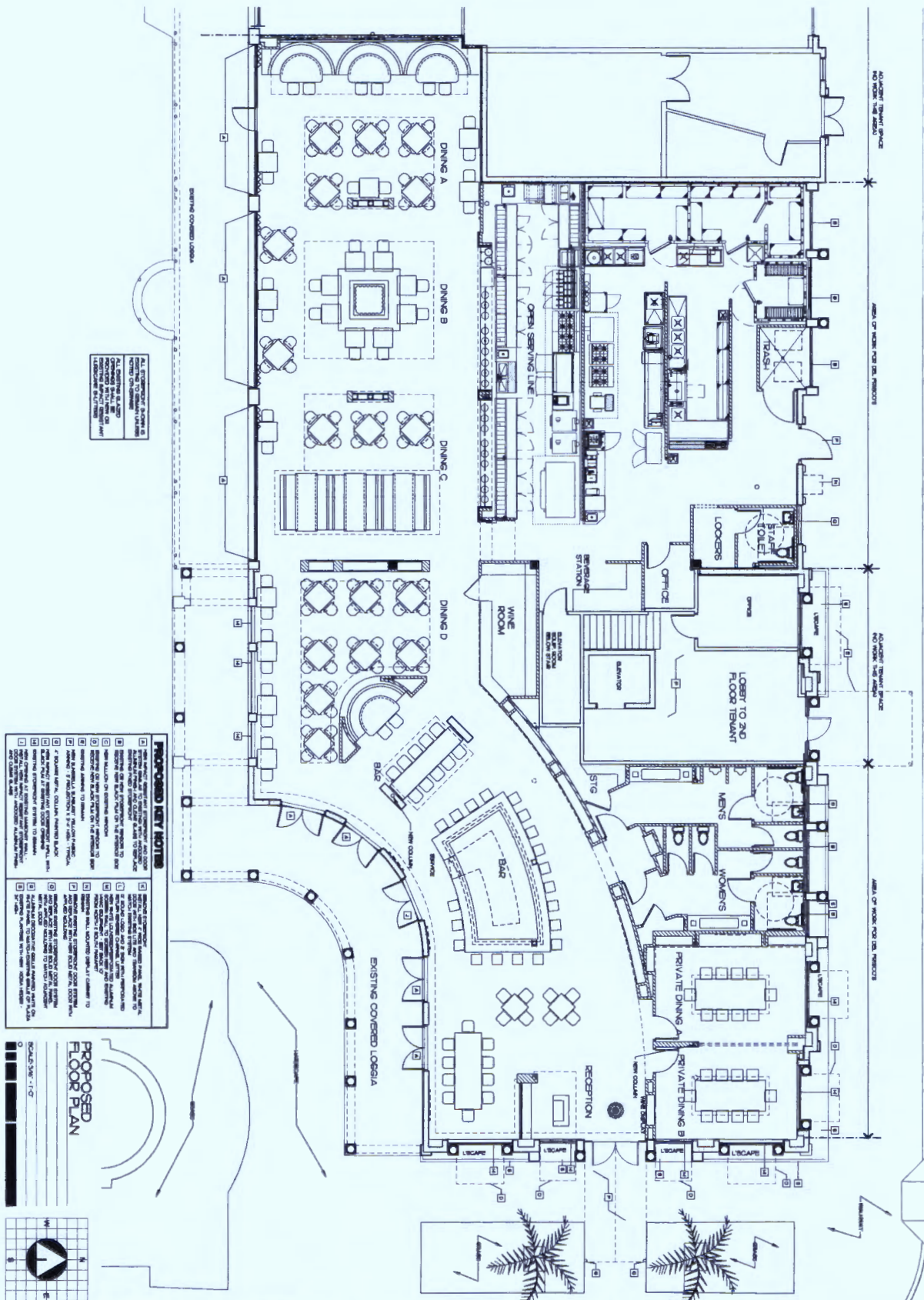
**SP-1**

**TENANT IMPROVEMENTS FOR:  
 DEL FRISCO'S GRILLE**  
 ROYAL POINCIANA PLAZA  
 340 ROYAL POINCIANA WAY  
 PALM BEACH, FL 33480

**GLIDDENSPINA + PARTNERS**  
 1401 FORUM WAY, SUITE #100  
 WEST PALM BEACH, FLORIDA 33401  
 561.884.6844 • Fax 561.684.5594  
 gliddenspinapartners.com  
 P.L.L.C. # AA38003388







- PROPOSED NEW NOTES**
1. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  2. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  3. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  4. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  5. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  6. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  7. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  8. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  9. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.
  10. REMOVE EXISTING WALLS AND PARTITION WALLS TO FORM DINING AREA A, DINING AREA B, DINING AREA C, DINING AREA D, KITCHEN, BAR, WINE ROOM, OFFICE, LOBBY, MEN'S, WOMEN'S, PRIVATE DINING A, PRIVATE DINING B, RESTROOMS, AND SERVICE STATION.

**PROPOSED FLOOR PLAN**

SCALE: 3/8" = 1'-0"

**A-1.1**

West One FLOOR PLAN  
 File Name: W1-DEL-FRISCO-FP-MIDWGS

Project No: 11043  
 Date: 11/16/12  
 Drawn by: CP  
 Checked by: KB

**TENANT IMPROVEMENTS FOR:**  
**DEL FRISCO'S GRILLE**  
 ROYAL POINCIANA PLAZA  
 340 ROYAL POINCIANA WAY  
 PALM BEACH, FL 33480

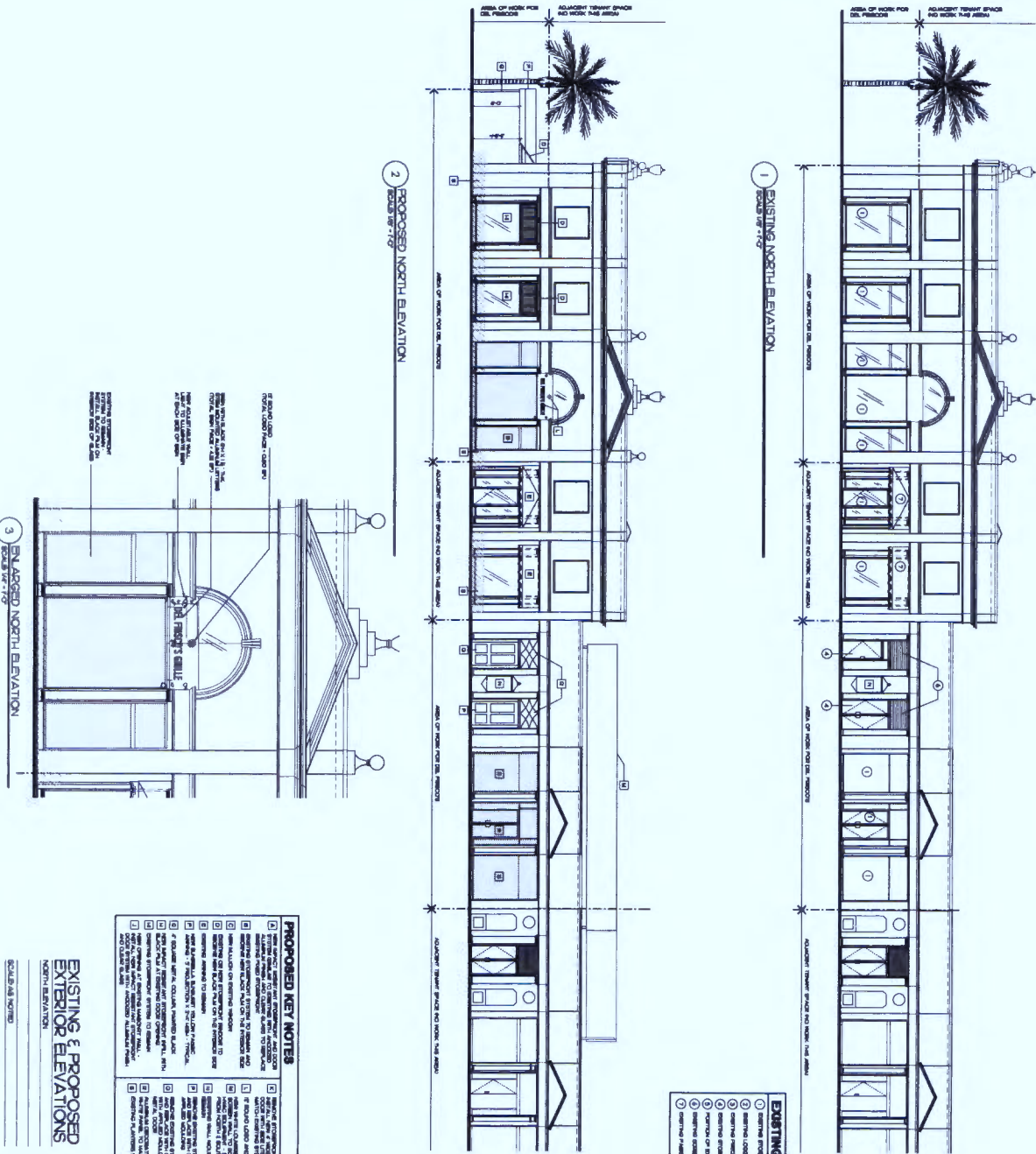
**GLIDDENSPINA**  
 PARTNERS

1401 FORUM WAY, SUITE #100  
 WEST PALM BEACH, FLORIDA 33401  
 561-684-6844 • Fax 561-684-5584  
 gliddenspinapartners.com  
 P.L.L.C. # 043800238

Architecture • Interior Design  
 John Gliddens & Associates • Keith M. Spina & Associates







**PROPOSED KEY NOTES**

1. EXISTING FACADE TO REMAIN

2. NEW FACADE TO BE INSTALLED

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**EXISTING & PROPOSED EXTERIOR ELEVATIONS**

**EXISTING NORTH ELEVATION**

**PROPOSED NORTH ELEVATION**

**ENLARGED NORTH ELEVATION**

**A-2.1**

**TENANT IMPROVEMENTS FOR: DEL FRISCO'S GRILLE**

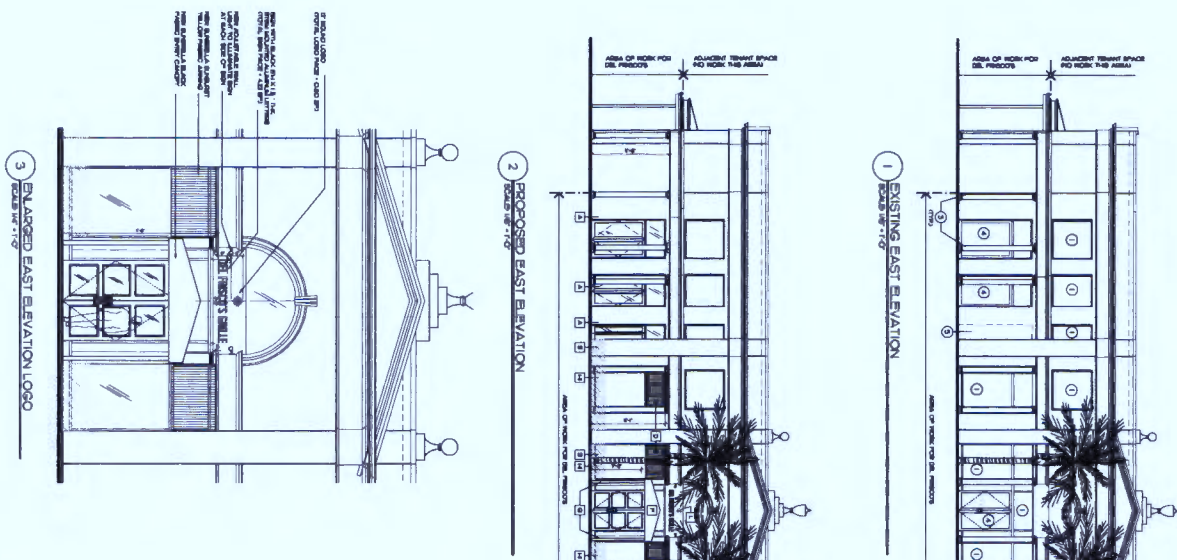
ROYAL POINCIANA PLAZA  
340 ROYAL POINCIANA WAY  
PALM BEACH, FL 33480

project no: 11043  
date: 11/10/12  
drawn by: CP  
checked by: NS

**GLIDDENSPINA PARTNERS**

1401 FORUM WAY, SUITE #100  
WEST PALM BEACH, FLORIDA 33411  
561.684.6844 • Fax 561.684.5564  
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FL Lic. # AA00002389

Architecture • Interior Design  
John Gliddens # AA00002389 • Keith M. Spina # AA00002389



**PROPOSED KEY NOTES**

1. EXISTING EAST ELEVATION
2. PROPOSED EAST ELEVATION
3. ENLARGED EAST ELEVATION LOGO

**EXISTING & PROPOSED EXTERIOR ELEVATIONS**

SCALE: 1/8" = 1'-0"

DATE: 11/10/12

DRAWN BY: CP

CHECKED BY: KB

**EXISTING KEY NOTES**

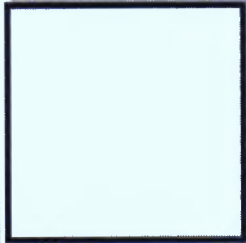
1. EXISTING EAST ELEVATION
2. PROPOSED EAST ELEVATION
3. ENLARGED EAST ELEVATION LOGO

**PROPOSED KEY NOTES**

1. EXISTING EAST ELEVATION
2. PROPOSED EAST ELEVATION
3. ENLARGED EAST ELEVATION LOGO

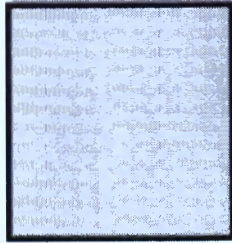


# PAINT



Paint Color to Match Existing

# AWNINGS

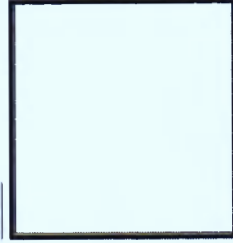


Subrella 'Sunburst Yellow'



Matte Black Fabric Awning

# GLASS



Clear Glass to Match Existing  
(Selected Window shall have  
blackout film on interior)

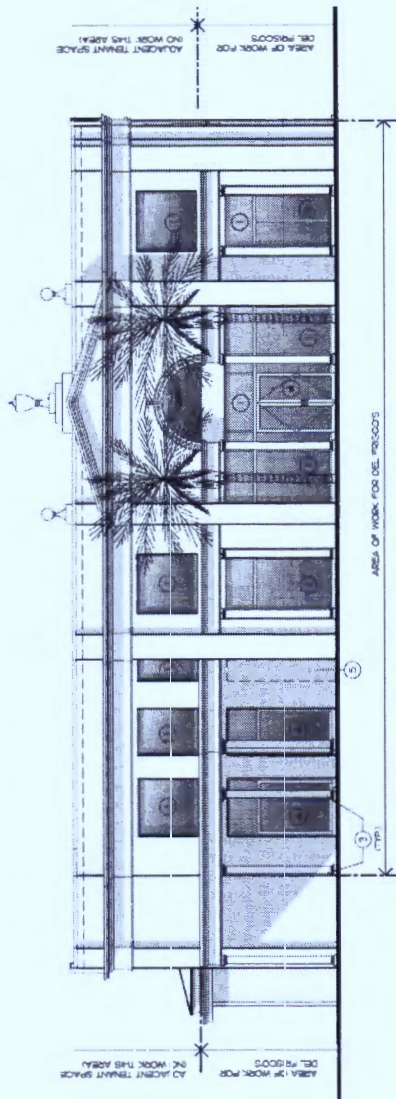
# FRAMES



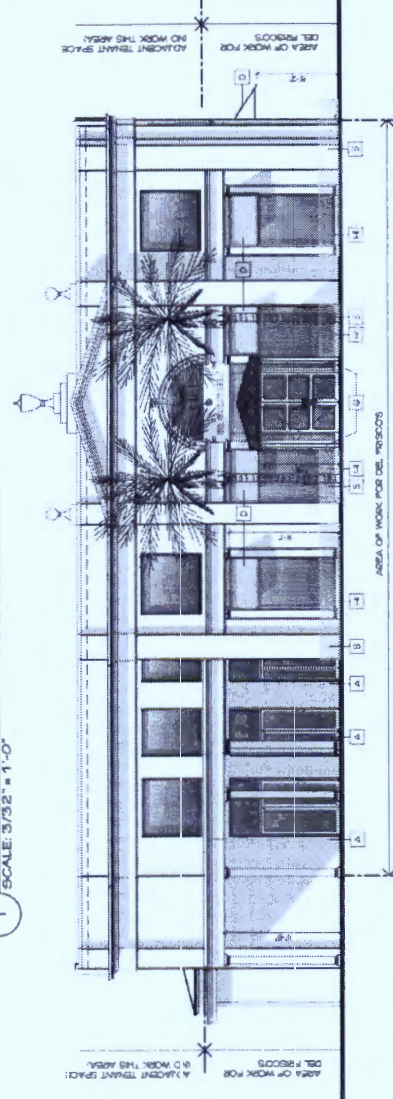
Anodized Aluminum to Match Existing

| EXISTING KEY NOTES |                                                                         |
|--------------------|-------------------------------------------------------------------------|
| 1                  | EXISTING STOREFRONT SYSTEM TO REMAIN                                    |
| 2                  | EXISTING LOGGIA STEEL COLUMNS TO REMAIN                                 |
| 3                  | EXISTING PORCELAZ COLLAGE TO REMAIN                                     |
| 4                  | EXISTING STOREFRONT SYSTEM TO BE REMOVED                                |
| 5                  | PORTION OF EXISTING WALL TO BE REMOVED                                  |
| 6                  | EXISTING SCREEN/DOOR TO BE REMOVED                                      |
| 7                  | EXISTING FABRIC AWNING TO REMAIN                                        |
| 8                  | REMOVE EXISTING MILLION NEW GLASS IN EXISTING STOREFRONT FRAME TO MATCH |

| PROPOSED KEY NOTES |                                                                                                                                                   |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| A                  | NEW IMPACT RESISTANT STOREFRONT AND DOOR SYSTEM SHALL BE INSTALLED WITH ANODIZED ALUMINUM FRAME AND GLASS TO REPLACE EXISTING PORCELAZ STOREFRONT |
| B                  | EXISTING STOREFRONT SYSTEM TO REMAIN AND RECEIVE NEW BLACK FILM ON THE INTERIOR SIDE                                                              |
| C                  | NEW MILLION ON EXISTING WINDOW                                                                                                                    |
| D                  | EXISTING DE NEW STOREFRONT WINDOW TO RECEIVE NEW BLACK FILM ON THE INTERIOR SIDE                                                                  |
| E                  | EXISTING AWNING TO REMAIN                                                                                                                         |
| F                  | NEW SUBRELLA BLINDSET YELLOW FABRIC AWNING - 5' PROJECTION X 3' 4" HIGH - TYPICAL                                                                 |
| G                  | 4" SQUARE METAL COLUMN PAINTED BLACK                                                                                                              |
| H                  | NEW IMPACT RESISTANT STOREFRONT INFILL WITH BLACK FILM AT EXISTING DOOR OPENING                                                                   |
| I                  | EXISTING STOREFRONT SYSTEM TO REMAIN                                                                                                              |
| J                  | NEW IMPACT RESISTANT STOREFRONT AND DOOR SYSTEM WITH ANODIZED ALUMINUM FINISH                                                                     |
| K                  | REMOVE STOREFRONT                                                                                                                                 |
| L                  | NEW WHITE COLORED COMPOSITE ALUMINUM SCREEN WALL TO SCREEN NEW AND EXISTING METAL DOOR                                                            |
| M                  | 12" SOLID LOGO AND 8" SIGN WITH BLACK LETTERS                                                                                                     |
| N                  | EXISTING WALL MOUNTED DISPLAY CABINET TO REMAIN                                                                                                   |
| O                  | REMOVE EXISTING STOREFRONT DOOR SYSTEM                                                                                                            |
| P                  | REMOVE EXISTING STOREFRONT DOOR SYSTEM AND REPLACE WITH NEW 10' 0" METAL PANEL METAL DOOR                                                         |
| Q                  | REMOVE EXISTING WALL MOUNTED DISPLAY CABINET TO MATCH EXISTING                                                                                    |
| R                  | ALUMINUM DECORATIVE GRILLE PAINTED WHITE ON EXISTING PANEL TO MATCH EXISTING GRILLE OF PLAZA                                                      |
| S                  | EXISTING PLANTERS WITH NEW KODIA HEDGE - 2' 3" HIGH                                                                                               |



1 EXISTING EAST ELEVATION  
SCALE: 3/32" = 1'-0"



2 PROPOSED EAST ELEVATION  
SCALE: 3/32" = 1'-0"





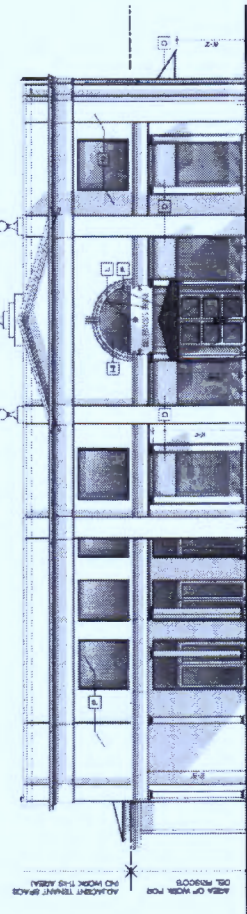
Existing Southeast View



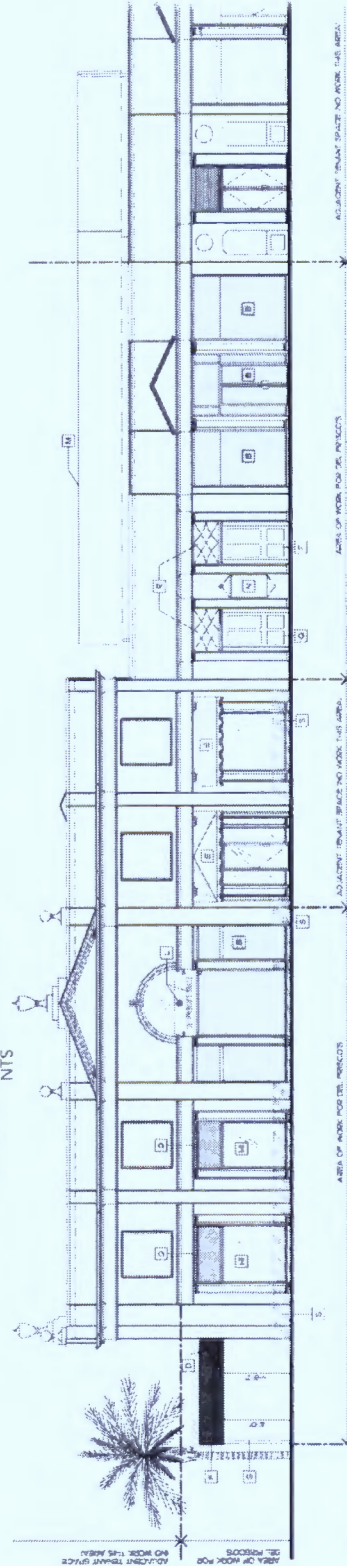
Existing East View



Existing North View



Proposed East Elevation  
NTS



Proposed North Elevation (Partial)  
NTS

PHOTO BOARD



# Del Frisco at Royal Poinciana Plaza Palm Beach, Florida

| PROPOSED KEY NOTES |                                                                                                                                               |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| A                  | NEW IMPACT RESISTANT STORMDOOR AND DOOR SYSTEM (SILAS) TO EXISTING WITH ANCOZED ALUMINUM FRAME AND GLASS TO REPLACE EXISTING FIXED STORMDOOR. |
| B                  | EXISTING STORMDOOR SYSTEM TO REMAIN AND RECEIVE NEW BLACK FILM ON THE INTERIOR SIDE.                                                          |
| C                  | NEW MALLION ON EXISTING WINDOW.                                                                                                               |
| D                  | EXISTING OR NEW STORMDOOR WINDOW TO RECEIVE NEW BLACK FILM ON THE INTERIOR SIDE.                                                              |
| E                  | EXISTING APPLIC TO REMAIN.                                                                                                                    |
| F                  | NEW SUMMERIA BLANKET YELLOW PAPER: APPLIC - 5' PROJECTION X 2'4" HIG - TYPICAL.                                                               |
| G                  | 4" SQUARE METAL COLUMN PAINTED BLACK.                                                                                                         |
| H                  | NEW IMPACT RESISTANT STORMDOOR IN FULL WITH BLACK FILM AT EXISTING DOOR OPENING.                                                              |
| I                  | EXISTING STORMDOOR SYSTEM TO REMAIN.                                                                                                          |
| J                  | DOOR SYSTEM WITH ANCOZED ALUMINUM FRAME AND GLASS TO REPLACE EXISTING FIXED STORMDOOR.                                                        |
| K                  | REMOVE STORMDOOR.                                                                                                                             |
| L                  | NEW 4" WIDE BASED PANEL WHITE METAL MATCH EXISTING SYSTEM.                                                                                    |
| M                  | NEW 4" WIDE BASED PANEL WHITE METAL MATCH EXISTING SYSTEM.                                                                                    |
| N                  | NEW 4" WIDE BASED PANEL WHITE METAL MATCH EXISTING SYSTEM.                                                                                    |
| O                  | NEW 4" WIDE BASED PANEL WHITE METAL MATCH EXISTING SYSTEM.                                                                                    |
| P                  | REMOVE EXISTING STORMDOOR DOOR SYSTEM AND GLASS TO EXISTING METAL DOOR WITH APPLIC MOLLING.                                                   |
| Q                  | REMOVE EXISTING STORMDOOR DOOR SYSTEM AND GLASS TO EXISTING METAL DOOR WITH APPLIC MOLLING.                                                   |
| R                  | REMOVE EXISTING STORMDOOR DOOR SYSTEM AND GLASS TO EXISTING METAL DOOR WITH APPLIC MOLLING.                                                   |
| S                  | EXISTING PLANTERS WITH NEW MOCIA HEDGE - 3'4" HIGH.                                                                                           |



**TOWN OF PALM BEACH  
LANDMARKS PRESERVATION COMMISSION  
360 South County Road, Palm Beach, FL 33480**

(561) 227-6414 for John Lindgren, Planning Administrator  
(561) 227-6408 for Cindy Delp, Secretary for the Landmarks Preservation Commission

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS**

**ADDRESS OF PROPERTY:** 340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306, & 308

**OWNER OF PROPERTY:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**APPLICANT'S NAME:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**ARCHITECT FOR PROJECT:** \*\*

(Firm name) Glidden Spina & Partners

(Architect's name) Keith Spina

(Architectural firm's address) 1401 Forum Way, Suite 100

(Architectural firm's address) West Palm Beach, FL 33480

(Phone Number) 684-6844 (Fax Number) 684-5594

**\*\* ☐ Check this box if you are an LPC member, and this project will result in a Voting Conflict for you.**

**TYPE OF PROJECT:**

- |                                                         |                                                           |
|---------------------------------------------------------|-----------------------------------------------------------|
| <input checked="" type="checkbox"/> Restoration         | <input checked="" type="checkbox"/> Demolition (Interior) |
| <input checked="" type="checkbox"/> Rehabilitation      | <input type="checkbox"/> Demolition (Exterior)            |
| <input type="checkbox"/> Reconstruction                 | <input checked="" type="checkbox"/> Sign                  |
| <input type="checkbox"/> Addition to historic structure | <input checked="" type="checkbox"/> Awning                |
| <input type="checkbox"/> New Accessory Structure        | <input type="checkbox"/> Exterior Color Change            |
| <input type="checkbox"/> Landscape/hardscape            |                                                           |
| <input type="checkbox"/> Other                          |                                                           |

**Is this a tax abatement project?** (Must check one) Yes \_\_\_\_\_ Or No X

**\*\*TAX EXEMPTION PROJECTS: PART 1-PRECONSTRUCTION APPLICATION MUST BE FILED AS PART OF THIS APPLICATION (SEE ATTACHED)\*\***

**Does this project require a Town Council approval?** (Must check one) Yes X Or No \_\_\_\_\_

See attached project description.

- ✗ Site Calculations (to be printed on Site Plan)
- ✗ Site Plan (must show any and all adjacent right-of-way)
- ✗ **Materials Removal Plan** (must delineate any and all materials that are to be removed or relocated in the construction process). This drawing shall be titled “Materials Removal Plan.” If no original materials are scheduled to be removed or relocated, it shall be so noted on the floor plans.
- ✗ Survey (for new construction)
- ✗ Existing and Proposed Elevations (on same page)
- ✗ Details such as columns, railings, awnings, signs, etc. drawn to scale
- ✗ Floor plans
- ✗ Photographs, Original and/or Existing
- ✗ Color Samples and/or Fabric Samples
- ✗ Other
- ✗ **NOTE: 14 Mini-Sets of Reduced Plans** (paper copies) are to be submitted to the Town **no later than 1 week prior to the meeting.**

Signed by: [Signature]  
(Property owner)  
Printed name: Greg Mores

OR \_\_\_\_\_  
(Owner's Legally Authorized Agent\*)  
Printed Name:

Revised 7/23/2010

**NOTIFICATION TO SURROUNDING PROPERTIES OF APPLICATION FOR  
CERTIFICATE OF APPROPRIATENESS**

**LANDMARKS PRESERVATION PROGRAM**

Notice is hereby provided to all property owners within 250' of the subject property listed below that a public hearing will be held by the Landmarks Preservation Commission on August 16th, 2012, on or after **9:30 a.m.** to consider an application for a Certificate of Appropriateness for the following described real property. The meeting will be held **IN THE TOWN COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, TOWN HALL, 360 SOUTH COUNTY ROAD, PALM BEACH.**

|                           |                                                                             |
|---------------------------|-----------------------------------------------------------------------------|
| Subject property address: | <u>340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306, &amp; 308</u> |
| Owner:                    | <u>Sterling Palm Beach LLC</u>                                              |
| Applicant:                | <u>Sterling Palm Beach LLC</u>                                              |
| Request approval of:      | <u>See attached project description.</u>                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |

All interested persons may appear and be heard at said public hearing and may likewise submit written statements prior to and at said public hearing. The application for Certificate of Appropriateness and exhibits, such as plans and other supporting documentation, are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Road, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

If any person decides to appeal any decision made by the Landmarks Preservation Commission related to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

If we can be of further assistance relative to this matter, please contact John Lindgren, Planning Administrator at 227-6414 or Cindy Delp, Office Manager at 227-6408.

Sincerely,

John S. Page  
Director of Planning, Zoning and Building

JSP/cmd



#### Project Description:

New restaurant of approximately 8,400 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and wall and replace with a new operable Nana Wall system. New awnings and signage will be put in as allowed by Code. On the interior, some portions of the 2<sup>nd</sup> floor space will be converted to one story space to restore the high ceilings that existed previously. The 2<sup>nd</sup> floor space will remain as existing at the east end.

# EXHIBIT "B"



**John Eubanks**

---

**From:** John Eubanks  
**Sent:** Thursday, August 16, 2012 7:54 AM  
**To:** 'edward.cooney@gmail.com'; billfeldkamp@gmail.com; 'dlm@migatl.com'  
**Cc:** 'jackie@jackiealbarran.com'; info@islandlivingpb.com; 'wstraw@gmail.com'; 'EMurphy@WilmingtonTrust.com'; 'libby@landplandesign.com'; 'jorge@smila.net'; 'Afairfax@fairfaxandsammovo.com'; jrandolph@jones-foster.com  
**Subject:** Legally Insufficient Application by Del Frisco's Restaurant LLC  
**Attachments:** John R. Eubanks Jr. (jeubanks@blesmlaw.com).vcf

Dear LPC Board Members:

As you may know, our office represents the Palm Beach Towers Condominium Association, Inc. ("Towers"). In that capacity, it has come to our attention that the Application for Certificate of Appropriateness (#023-2012) filed in the name of Sterling Palm Beach LLC is legally deficient. As you know, an Application for Certificate of Appropriateness must be executed by the Owner of the underlying Property. As a result, in the case of the Royal Poinciana Plaza, any Application must be executed by Sidney Spiegel as Trustee as well as by Mr. Spiegel on behalf of Island Properties. On its face, however, Application #023-2012 is not executed by Mr. Spiegel but instead executed solely by Greg Morasis, on behalf of Sterling Palm Beach LLC as owner. As you know Sterling is not the owner of the Plaza. Furthermore, while Sterling may argue that it holds a Power of Attorney on behalf of Mr. Spiegel, on its face the Application is not executed in a representative capacity on behalf of Mr. Spiegel nor is any such Power of Attorney attached thereto.

As such, the Application is facially deficient and may not be considered by the Landmarks Preservation Commission.

John R. Eubanks, Jr.  
 Breton, Lynch, Eubanks & Suarez-Murias, P.A.  
 1209 N. Olive Avenue  
 West Palm Beach, FL 33401  
 Telephone: 561-721-4000  
 Facsimile: 561-721-4001  
 Direct Dial: 561-721-4002  
 Email: jeubanks@blesmlaw.com

**Tax Advice Disclosure:** To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

The information contained in this electronic mail transmission may be attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 561-721-4000. Thank you.

# EXHIBIT "C"

**TOWN OF PALM BEACH  
LANDMARKS PRESERVATION COMMISSION  
360 South County Road, Palm Beach, FL 33480**

(561) 227-6414 for John Lindgren, Planning Administrator  
(561) 227-6408 for Cindy Delp, Secretary for the Landmarks Preservation Commission

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS**

**ADDRESS OF PROPERTY:** 340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306, & 308

**OWNER OF PROPERTY:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**APPLICANT'S NAME:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**ARCHITECT FOR PROJECT:** \*\*

(Firm name) Glidden Spina & Partners

(Architect's name) Keith Spina

(Architectural firm's address) 1401 Forum Way, Suite 100

(Architectural firm's address) West Palm Beach, FL 33480

(Phone Number) 684-6844

(Fax Number) 684-5594

\*\* ☐ Check this box if you are an LPC member, and this project will result in a Voting Conflict for you.

**TYPE OF PROJECT:**

- |                                                         |                                                           |
|---------------------------------------------------------|-----------------------------------------------------------|
| <input checked="" type="checkbox"/> Restoration         | <input checked="" type="checkbox"/> Demolition (Interior) |
| <input checked="" type="checkbox"/> Rehabilitation      | <input type="checkbox"/> Demolition (Exterior)            |
| <input type="checkbox"/> Reconstruction                 | <input checked="" type="checkbox"/> Sign                  |
| <input type="checkbox"/> Addition to historic structure | <input checked="" type="checkbox"/> Awning                |
| <input type="checkbox"/> New Accessory Structure        | <input type="checkbox"/> Exterior Color Change            |
| <input type="checkbox"/> Landscape/hardscape            |                                                           |
| <input type="checkbox"/> Other _____                    |                                                           |

**Is this a tax abatement project?** (Must check one) Yes \_\_\_\_\_ Or No X

**\*\*TAX EXEMPTION PROJECTS: PART I-PRECONSTRUCTION APPLICATION MUST BE FILED AS PART OF THIS APPLICATION (SEE ATTACHED)\*\***

**Does this project require a Town Council approval?** (Must check one) Yes X Or No \_\_\_\_\_



See attached project description.

- ☒ Site Calculations (to be printed on Site Plan)
- ☒ Site Plan (must show any and all adjacent right-of-way)
- ☒ **Materials Removal Plan** (must delineate any and all materials that are to be removed or relocated in the construction process). This drawing shall be titled “Materials Removal Plan.” If no original materials are scheduled to be removed or relocated, it shall be so noted on the floor plans.
- ☒ Survey (for new construction)
- ☒ Existing and Proposed Elevations (on same page)
- ☒ Details such as columns, railings, awnings, signs, etc. drawn to scale
- ☒ Floor plans
- ☒ Photographs, Original and/or Existing
- ☒ Color Samples and/or Fabric Samples
- ☒ Other
- ☒ **NOTE: 14 Mini-Sets of Reduced Plans (paper copies) are to be submitted to the Town no later than 1 week prior to the meeting.**

☐ The undersigned hereby certifies that the project described in this application, and as detailed by plans and other materials submitted, will be constructed in exact accordance with the aforesaid plans and specifications.

Signed by: [Signature]  
(Property owner)  
Printed name: Brian Kosow

OR \_\_\_\_\_  
(Owner's Legally Authorized Agent\*)  
Printed Name: \_\_\_\_\_

Revised 7/23/2010

**NOTIFICATION TO SURROUNDING PROPERTIES OF APPLICATION FOR  
CERTIFICATE OF APPROPRIATENESS**

**LANDMARKS PRESERVATION PROGRAM**

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|                           |                                                                             |
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| Subject property address: | <u>340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306, &amp; 308</u> |
| Owner:                    | <u>Sterling Palm Beach LLC</u>                                              |
| Applicant:                | <u>Sterling Palm Beach LLC</u>                                              |
| Request approval of:      | <u>See attached project description.</u>                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |

All interested persons may appear and be heard at said public hearing and may likewise submit written statements prior to and at said public hearing. The application for Certificate of Appropriateness and exhibits, such as plans and other supporting documentation, are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Road, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

If any person decides to appeal any decision made by the Landmarks Preservation Commission related to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

If we can be of further assistance relative to this matter, please contact John Lindgren, Planning Administrator at 227-6414 or Cindy Delp, Office Manager at 227-6408.

Sincerely,

John S. Page  
Director of Planning, Zoning and Building

JSP/cmd



#### Project Description:

New restaurant of approximately 7,700 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and replace with new French doors. New awnings and signage will be put in as allowed by Code. A door has been added on the north wall to replace an existing window. The second story space will be restored back to a single story space in order to maintain the high ceiling which existed previously. The second floor space at the east end will remain unchanged as existing (space not included in this proposed submittal).





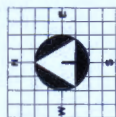


A-1.1

Project No: 11043  
Client: DEL FRISCO'S GRILLE  
Architect: GLADDENSPINA PARTNERS  
Scale: 3/8" = 1'-0"

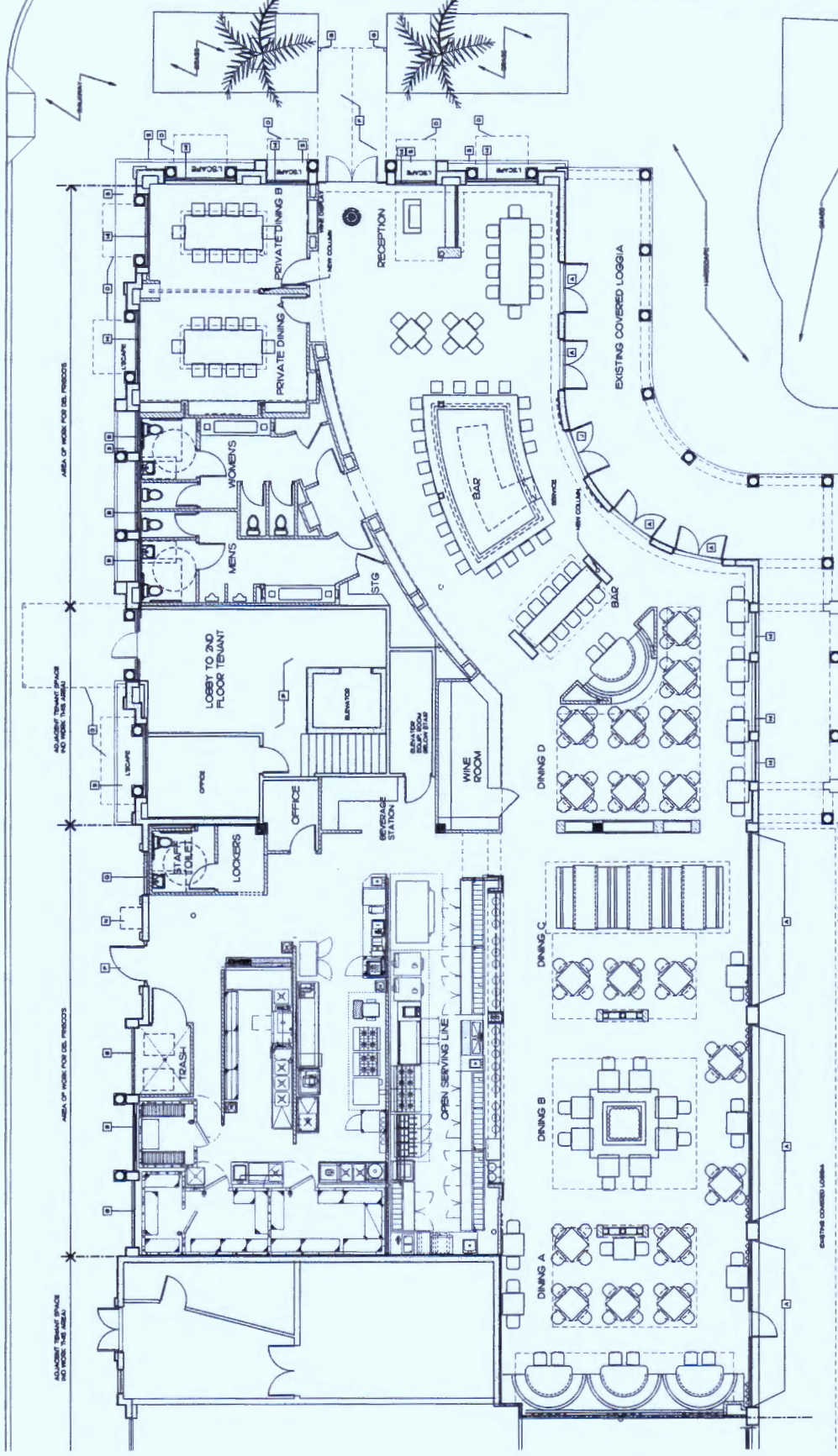
TENANT IMPROVEMENTS FOR  
DEL FRISCO'S GRILLE  
340 ROYAL POINCIANA PLAZA  
PALM BEACH, FL 33480

GLADDENSPINA PARTNERS  
1401 FORDWAY WAY, SUITE 700  
WEST PALM BEACH, FLORIDA 33411  
Tel: 561.854.5994 Fax: 561.854.5994  
gladdenspinapartners.com



PROPOSED FLOOR PLAN

- PROPOSED KEY NOTES**
- 1. ALL EXISTING STRUCTURE AND ROOMS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 2. ALL EXISTING WALLS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 3. ALL EXISTING FLOORING TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 4. ALL EXISTING CEILING TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 5. ALL EXISTING LIGHTING TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 6. ALL EXISTING MECHANICAL TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 7. ALL EXISTING ELECTRICAL TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 8. ALL EXISTING PLUMBING TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 9. ALL EXISTING HVAC TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 10. ALL EXISTING STAIRS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 11. ALL EXISTING ELEVATORS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 12. ALL EXISTING EXITS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 13. ALL EXISTING ENTRANCES TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 14. ALL EXISTING SERVICE COUNTERS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 15. ALL EXISTING BAR TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 16. ALL EXISTING RESTROOMS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 17. ALL EXISTING LOCKERS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 18. ALL EXISTING STORAGE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 19. ALL EXISTING OFFICES TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 20. ALL EXISTING LOBBY TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 21. ALL EXISTING PRIVATE DINING TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 22. ALL EXISTING RECEPTION TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 23. ALL EXISTING WINE ROOM TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 24. ALL EXISTING BAR TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 25. ALL EXISTING DINING TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 26. ALL EXISTING KITCHEN TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 27. ALL EXISTING PANTRY TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 28. ALL EXISTING BREAKFAST ROOM TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 29. ALL EXISTING MEETING ROOM TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 30. ALL EXISTING CONFERENCE ROOM TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 31. ALL EXISTING BOARD ROOM TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 32. ALL EXISTING EXECUTIVE SUITE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 33. ALL EXISTING PRESIDENT'S OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 34. ALL EXISTING VICE PRESIDENT'S OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 35. ALL EXISTING SENIOR VICE PRESIDENT'S OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 36. ALL EXISTING MANAGER'S OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 37. ALL EXISTING ASSISTANT MANAGER'S OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 38. ALL EXISTING CLERK'S OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 39. ALL EXISTING RECEPTIONIST'S OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 40. ALL EXISTING JANITOR'S OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 41. ALL EXISTING SECURITY OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 42. ALL EXISTING IT OFFICE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 43. ALL EXISTING TRAINING ROOM TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 44. ALL EXISTING GYM TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 45. ALL EXISTING SWIMMING POOL TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 46. ALL EXISTING SPA TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 47. ALL EXISTING SAUNA TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 48. ALL EXISTING HOT TUB TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 49. ALL EXISTING GARDEN TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 50. ALL EXISTING PATIO TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 51. ALL EXISTING PORCH TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 52. ALL EXISTING DRIVEWAY TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 53. ALL EXISTING PARKING LOT TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 54. ALL EXISTING FENCE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 55. ALL EXISTING GATES TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 56. ALL EXISTING LIGHTS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 57. ALL EXISTING SIGNS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 58. ALL EXISTING LANDSCAPE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 59. ALL EXISTING TREES TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 60. ALL EXISTING SHRUBS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 61. ALL EXISTING FLOWERS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 62. ALL EXISTING GRASS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 63. ALL EXISTING SOIL TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 64. ALL EXISTING WATER TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 65. ALL EXISTING AIR TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 66. ALL EXISTING EARTH TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 67. ALL EXISTING ROCKS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 68. ALL EXISTING STONES TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 69. ALL EXISTING BRICKS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 70. ALL EXISTING CEMENTS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 71. ALL EXISTING CONCRETE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 72. ALL EXISTING ASPHALT TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 73. ALL EXISTING PAVER TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 74. ALL EXISTING TILE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 75. ALL EXISTING MARBLE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 76. ALL EXISTING GRANITE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 77. ALL EXISTING QUARTZ TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 78. ALL EXISTING COUNTER TOP TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 79. ALL EXISTING SINK TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 80. ALL EXISTING STOVE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 81. ALL EXISTING REFRIGERATOR TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 82. ALL EXISTING FREEZER TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 83. ALL EXISTING MICROWAVE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 84. ALL EXISTING TOASTER TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 85. ALL EXISTING KITCHEN UTENSILS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 86. ALL EXISTING DINNERWARE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 87. ALL EXISTING GLASSWARE TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 88. ALL EXISTING LINEN TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 89. ALL EXISTING CLOTHING TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 90. ALL EXISTING SHOES TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 91. ALL EXISTING BAGS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 92. ALL EXISTING BELTS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 93. ALL EXISTING JEWELRY TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 94. ALL EXISTING ACCESSORIES TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 95. ALL EXISTING PERSONAL ITEMS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 96. ALL EXISTING DOCUMENTS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 97. ALL EXISTING BOOKS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 98. ALL EXISTING MAGAZINES TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 99. ALL EXISTING NEWSPAPERS TO REMAIN TO BE SHOWN IN DASHED LINES.
  - 100. ALL EXISTING RECORDS TO REMAIN TO BE SHOWN IN DASHED LINES.





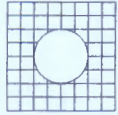




**A-2.2**

Project No: 11043  
 Date: 11/15/12  
 Checked by: KS  
 Drawn by: CS  
 Project Name: DEL FRISCO'S GRILLE  
 340 ROYAL POINCIANA PLAZA  
 PALM BEACH, FL 33480

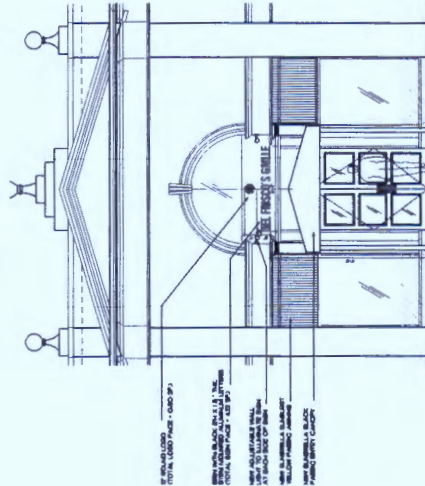
Architect: GLIDENSPINA PARTNERS  
 1401 FORUM WAY, SUITE 2100  
 WEST PALM BEACH, FLORIDA 33411  
 Tel: 561.834.0844 Fax: 561.834.0994  
 Fax: 561.834.0994



EXISTING & PROPOSED  
 EXTERIOR ELEVATIONS  
 EAST ELEVATION

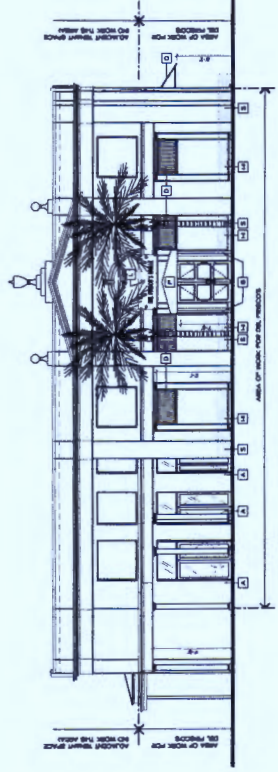
SCALE AS NOTED

- PROPOSED KEY NOTES**
1. SEE ARCHITECT'S SITE PLAN FOR EXISTING AND PROPOSED LOT LINES AND ADJACENT TRAIL MARKS.
  2. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  3. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  4. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  5. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  6. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  7. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  8. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  9. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  10. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
- EXISTING KEY NOTES**
1. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  2. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
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  4. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  5. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
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  7. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  8. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  9. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.
  10. EXISTING AND PROPOSED ELEVATIONS ARE SHOWN TO REFLECT THE EXISTING AND PROPOSED CONDITIONS.

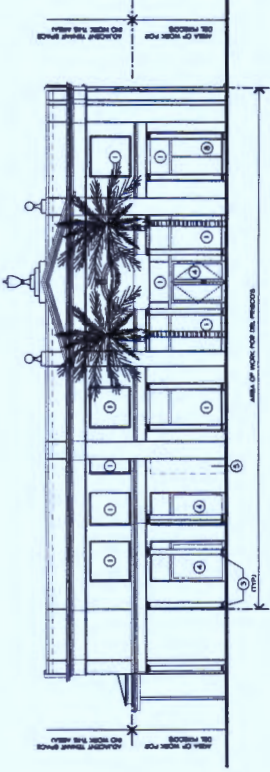


3 ENLARGED EAST ELEVATION LOGO  
 SCALE 1/4" = 1'-0"

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

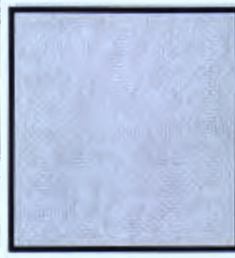


1 EXISTING EAST ELEVATION  
 SCALE 1/4" = 1'-0"





## AWNINGS



**Matte Black Fabric Awning**



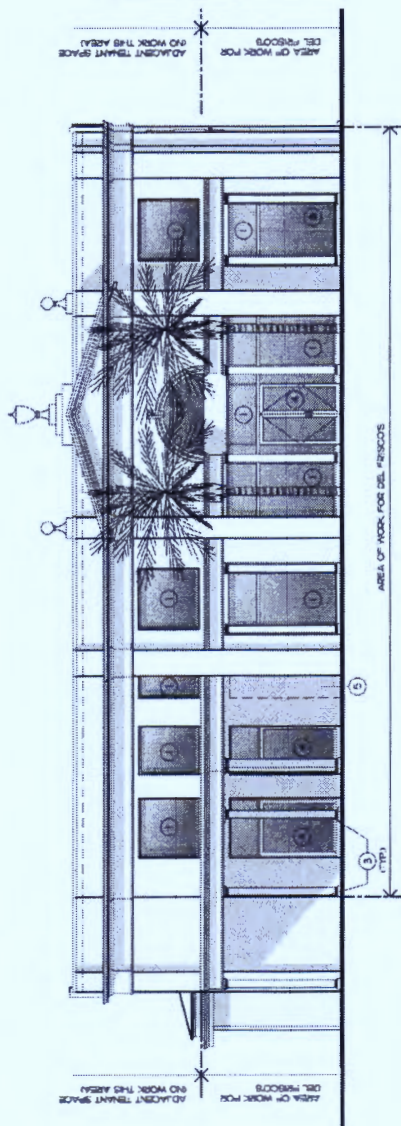
**Anodized Aluminum to Match Existing**

- 1 EXISTING STOPS/FRONT SYSTEM TO REMAIN
- 2 EXISTING LOGS/8 STEEL COLLUMS TO REMAIN
- 3 EXISTING FORECAST COLLUMS TO REMAIN
- 4 EXISTING STOPS/FRONT SYSTEM TO BE REMOVED
- 5 POSITION OF EXISTING WALL TO BE REMOVED
- 6 EXISTING SCREEN/CLOVER TO BE REMOVED
- 7 EXISTING FABRIC AWINGS TO REMAIN
- 8 REMOVE EXISTING MILLION, NEW GLASS IN EXISTING STOPS/FRONT TO REMAIN TO MATCH

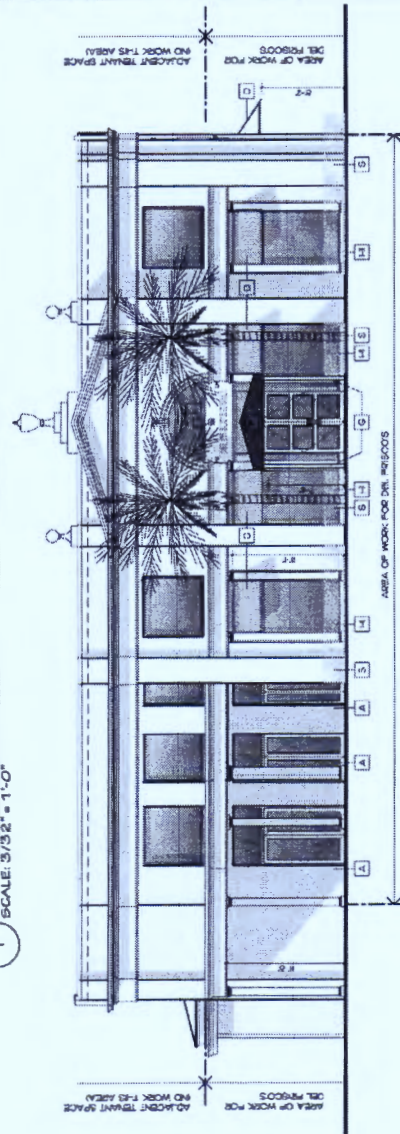
[illegible]

## 154

**Del Frisco at Royal Poinciana Plaza**  
Palm Beach, Florida



1 EXISTING EAST ELEVATION  
SCALE: 3/32" = 1'-0"



2 PROPOSED EAST ELEVATION  
SCALE: 3/32" = 1'-0"





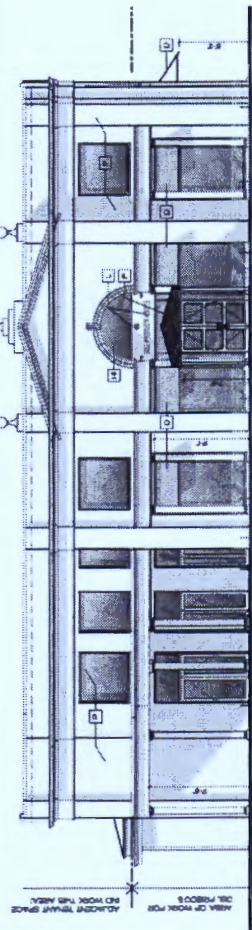
Existing Southeast View



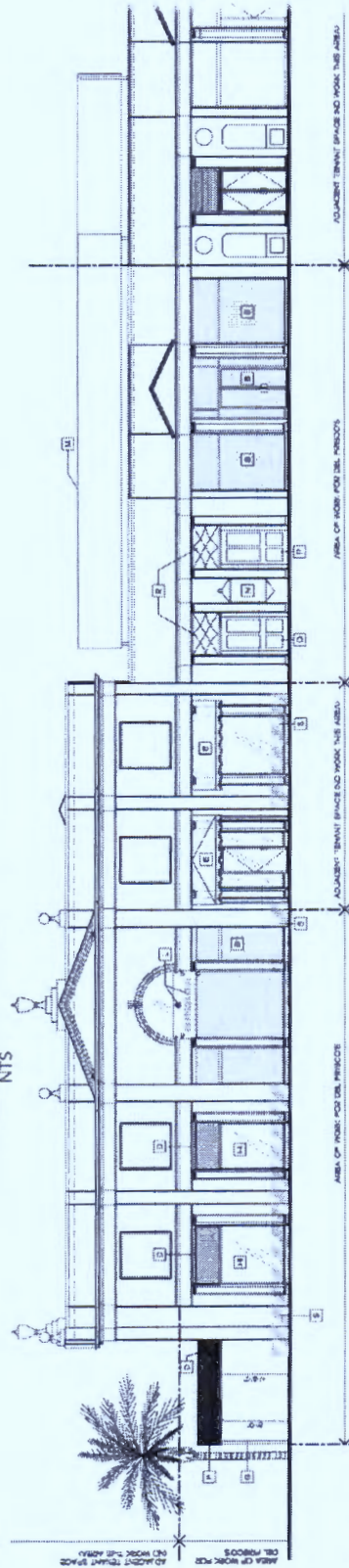
Existing East View



Existing North View



Proposed East Elevation  
NTS



Proposed North Elevation (Partial)  
NTS

| PROPOSED KEY NOTES |                                                                                                                                                  |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| A                  | NEW IMPACT RESISTANT STOREFRONT AND DOOR SYSTEM (SIMILAR TO EXISTING) WITH ANCOZED GLASS AND ALUMINUM GLASS TO REPLACE EXISTING FIXED STOREFRONT |
| B                  | EXISTING STOREFRONT SYSTEM TO REMAIN AND RECEIVE NEW BLACK PULL ON THE INTERIOR SIDE                                                             |
| C                  | NEW MALLION ON EXISTING WINDOW                                                                                                                   |
| D                  | EXISTING OR NEW STOREFRONT WINDOW TO RECEIVE NEW BLACK PULL ON THE INTERIOR SIDE                                                                 |
| E                  | EXISTING AWNING TO REMAIN                                                                                                                        |
| F                  | NEW BLUMERELLA BLANKET YELLOW PAINTING AWNING - 5' PROJECTION X 3'-4" HIGH - TYPICAL                                                             |
| G                  | 4" SQUARE METAL COLLAR PAINTED BLACK                                                                                                             |
| H                  | NEW IMPACT RESISTANT STOREFRONT IN FILL WITH BLACK PULL AT EXISTING DOOR OPENING                                                                 |
| I                  | EXISTING STOREFRONT SYSTEM TO REMAIN                                                                                                             |
| J                  | NEW CEMENT AT EXISTING MASONRY WALL - MATCH EXISTING SYSTEM                                                                                      |
| K                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |
| L                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |
| M                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |
| N                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |
| O                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |
| P                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |
| Q                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |
| R                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |
| S                  | NEW IMPACT RESISTANT STOREFRONT SYSTEM WITH ANCOZED GLASS AND ALUMINUM PANELS                                                                    |



NOTICE AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF PALM BEACH, TOWN OF PALM BEACH

BEFORE ME THIS DAY PERSONALLY APPEARED Brian Kosoy WHO BEING DULY  
SWORN, DEPOSES AND SAYS THAT:

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in the Application for Certificate of Appropriateness; and
2. The accompanying Property Owners List is, to the best of his/her knowledge, a complete and accurate list of all property owners' mailing addresses and property control numbers dated no more than 90 days prior to the Landmarks Preservation Commission hearing at which the subject application will be heard, and as recorded in the latest official tax rolls for the subject property and all other property within two hundred fifty (250) feet of the real property described in the Application for Certificate of Appropriateness, or all property within two hundred fifty (250) feet of all contiguous property owned wholly or in part by the owner of the real property described in the Application for Certificate of Appropriateness, if applicable; and
3. A copy of each page of the application plus Notice to Surrounding Property Owners is included in each envelope submitted for mailing, using the label provided by the Property Appraiser.

**FURTHER AFFIANT SAYETH NOT.**

The foregoing instrument was acknowledged before me this 16 day of November,  
by Brian Kosoy who is personally known to me or who  
has produced \_\_\_\_\_ as identification and who did (did not) take an oath.  
(type of identification)

\_\_\_\_\_  
(Signature of Person Taking Acknowledgment)

\_\_\_\_\_  
(Printed Name of Acknowledger)

\_\_\_\_\_  
(Title or Rank)

\_\_\_\_\_  
(Serial Number, if any)

Sterling Palm Beach LLC

Brian Kosoy  
Applicant's Signature

Brian Kosoy  
Applicant's Printed Name

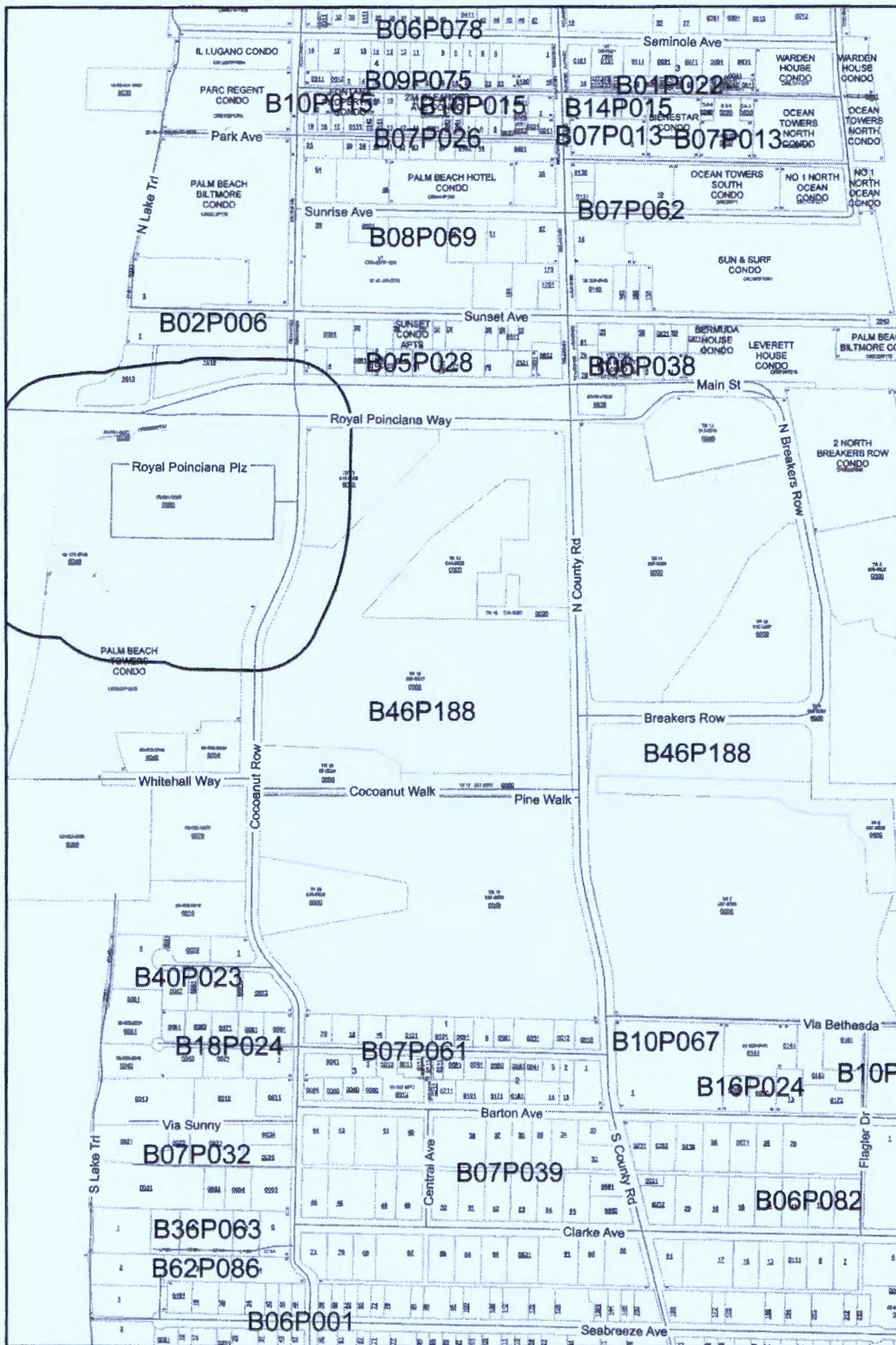
340 Royal Poinciana Way, Suite 316  
Street Address

Palm Beach, FL 33480

City, State, Zip Code  
561-835-1810

Telephone number





Gary R. Nikolits, CFA  
Palm Beach County  
Property Appraiser

Location: Downtown Service Center



Notes:

#### Key

Selected Parcels

100 300 500

Others

200 400

Produced on: 7/19/2012

Sample



**TOWN OF PALM BEACH  
LANDMARKS PRESERVATION COMMISSION  
360 South County Road, Palm Beach, FL 33480**

(561) 227-6414 for John Lindgren, Planning Administrator  
(561) 227-6408 for Cindy Delp, Secretary for the Landmarks Preservation Commission

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS**

**ADDRESS OF PROPERTY:** 340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306, & 308

**OWNER OF PROPERTY:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**APPLICANT'S NAME:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**ARCHITECT FOR PROJECT:** \*\*

(Firm name) Glidden Spina & Partners

(Architect's name) Keith Spina

(Architectural firm's address) 1401 Forum Way, Suite 100

(Architectural firm's address) West Palm Beach, FL 33480

(Phone Number) 684-6844 (Fax Number) 684-5594

**\*\* ☐ Check this box if you are an LPC member, and this project will result in a Voting Conflict for you.**

**TYPE OF PROJECT:**

- |                                                         |                                                           |
|---------------------------------------------------------|-----------------------------------------------------------|
| <input checked="" type="checkbox"/> Restoration         | <input checked="" type="checkbox"/> Demolition (Interior) |
| <input checked="" type="checkbox"/> Rehabilitation      | <input type="checkbox"/> Demolition (Exterior)            |
| <input type="checkbox"/> Reconstruction                 | <input checked="" type="checkbox"/> Sign                  |
| <input type="checkbox"/> Addition to historic structure | <input checked="" type="checkbox"/> Awning                |
| <input type="checkbox"/> New Accessory Structure        | <input type="checkbox"/> Exterior Color Change            |
| <input type="checkbox"/> Landscape/hardscape            |                                                           |
| <input type="checkbox"/> Other _____                    |                                                           |

**Is this a tax abatement project?** (Must check one) Yes \_\_\_\_\_ Or No X

**\*\*TAX EXEMPTION PROJECTS: PART 1-PRECONSTRUCTION APPLICATION MUST BE FILED AS PART OF THIS APPLICATION (SEE ATTACHED)\*\***

**Does this project require a Town Council approval?** (Must check one) Yes X Or No \_\_\_\_\_



See attached project description.

- ✗ Site Calculations (to be printed on Site Plan)
- ✗ Site Plan (must show any and all adjacent right-of-way)
- ✗ **Materials Removal Plan** (must delineate any and all materials that are to be removed or relocated in the construction process). This drawing shall be titled “Materials Removal Plan.” If no original materials are scheduled to be removed or relocated, it shall be so noted on the floor plans.
- ✗ Survey (for new construction)
- ✗ Existing and Proposed Elevations (on same page)
- ✗ Details such as columns, railings, awnings, signs, etc. drawn to scale
- ✗ Floor plans
- ✗ Photographs, Original and/or Existing
- ✗ Color Samples and/or Fabric Samples
- ✗ Other
- ✗ **NOTE: 14 Mini-Sets of Reduced Plans** (paper copies) are to be submitted to the Town no later than 1 week prior to the meeting.

Signed by: \_\_\_\_\_  
                    (Property owner)  
Printed name: Amy Morris

OR \_\_\_\_\_  
                    (Owner's Legally Authorized Agent\*)  
Printed Name: \_\_\_\_\_

Revised 7/23/2010

**NOTIFICATION TO SURROUNDING PROPERTIES OF APPLICATION FOR  
CERTIFICATE OF APPROPRIATENESS**

**LANDMARKS PRESERVATION PROGRAM**

Notice is hereby provided to all property owners within 250' of the subject property listed below that a public hearing will be held by the Landmarks Preservation Commission on August 16th, 2012, on or after **9:30 a.m.** to consider an application for a Certificate of Appropriateness for the following described real property. The meeting will be held **IN THE TOWN COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, TOWN HALL, 360 SOUTH COUNTY ROAD, PALM BEACH.**

|                           |                                                                             |
|---------------------------|-----------------------------------------------------------------------------|
| Subject property address: | <u>340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306, &amp; 308</u> |
| Owner:                    | <u>Sterling Palm Beach LLC</u>                                              |
| Applicant:                | <u>Sterling Palm Beach LLC</u>                                              |
| Request approval of:      | <u>See attached project description.</u>                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |
|                           | <u> </u>                                                                    |

All interested persons may appear and be heard at said public hearing and may likewise submit written statements prior to and at said public hearing. The application for Certificate of Appropriateness and exhibits, such as plans and other supporting documentation, are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Road, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

If any person decides to appeal any decision made by the Landmarks Preservation Commission related to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

If we can be of further assistance relative to this matter, please contact John Lindgren, Planning Administrator at 227-6414 or Cindy Delp, Office Manager at 227-6408.

Sincerely,

John S. Page  
Director of Planning, Zoning and Building

JSP/cmd

**Project Description:**

New restaurant of approximately 8,400 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and wall and replace with a new operable Nana Wall system. New awnings and signage will be put in as allowed by Code. On the interior, some portions of the 2<sup>nd</sup> floor space will be converted to one story space to restore the high ceilings that existed previously. The 2<sup>nd</sup> floor space will remain as existing at the east end.

# EXHIBIT "D"



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  
Ronald Witkowski - Of Counsel

www.blesmlaw.com  
Sender's Direct Line: (561) 721-4002  
E-Mail: jeubanks@blesmlaw.com

1209 North Olive Avenue  
West Palm Beach, FL 33401-3515  
Phone: (561) 721-4000  
Facsimile: (561) 721-4001

January 15, 2013

**Via E-mail**

Edward "Ted" Cooney, Chairman and  
Landmarks Preservation Commissioners  
Town of Palm Beach,  
360 South County Road  
Palm Beach, Florida 33480

**Re: Fatal Flaws in Application for Certificate of Appropriateness (COA 023-2012)  
Submitted by Sterling Palm Beach LLC**

Dear Mr. Cooney and Commissioners:

As you are aware, our firm represents Palm Beach Towers Condominium Association, Inc. ("Association"). I am in receipt of a copy of the revised Application for Certificate of Appropriateness ("Application") filed by Sterling Palm Beach LLC ("Applicant" or "Sterling") on January 9, 2013, which is ostensibly to be heard by the Landmarks Preservation Commission on January 16, 2013. Unfortunately, on its face the Application continues to be fatally flawed.

As a preliminary matter, notably the Application is once again signed by Sterling as the "Owner" of the Royal Poinciana Plaza ("Plaza"), despite the fact that it does not own the Plaza, but is only a long term lessee. Similarly the Notification to Surrounding Properties also only identifies Sterling as the Owner with no disclosure as to the ownership of Sidney Spiegel as Trustee. As the Town is aware, execution of an Application by a lessee is not the legal equivalent of its execution by the "Owner." That is why each of the recent applications filed for review by the Town Council<sup>1</sup> have included signatures by the duly authorized agent, and attached a copy of any applicable Power of Attorney. As a result, Sterling would need to re-execute the Application as the Owner's Authorized Agent and attach the appropriate Power of Attorney, which it has not done. Absent such documentation, any consideration, much less granting of the Application would be reversible error.

Furthermore, within the "Type of Project" portion of the Application, while the Applicant has checked "Restoration," "Reconstruction" and even "Demolition (Interior)", it has failed to include "Demolition (Exterior)" which is necessarily part of the Application. Within the

---

<sup>1</sup> In fact, even other Applications before the LPC are signed by Sterling as the "Owners Legally Authorized Agent" demonstrating that Sterling knows the correct manner of executing its applications but has chosen not to do so in this case.

Edward "Ted" Cooney, Chairman  
Landmarks Preservation Commission  
January 15, 2013  
Page -2-

Project Description, Sterling indicates that it "would like to remove the existing windows and replace with new French Doors." Clearly the "removal of existing windows" includes exterior demolition. Likewise, as demonstrated within the Existing Key Notes number 5, among the requests within the Application is a "portion of an existing wall to be removed." This too constitutes exterior demolition. As such, the Application is incomplete and cannot be approved in its present form or it will be reversible error.

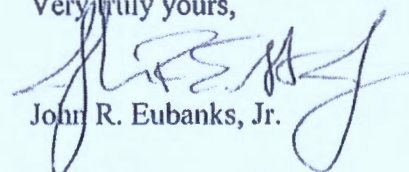
Finally, as you may be aware, there is presently no approved site plan for the Plaza. Instead, at the Town Council Meeting on January 9, 2013, the Town Council deferred any action Site Plan 1-2013 for the proposed "Cure Plan" by Sterling for the northwest corner of the Plaza. As such, presently there is no approved site plan for the Plaza.

Pursuant to Section 134-326 of the Town Code.

(b) Where, by the terms of this chapter site plan review is required, *no building permit shall be issued for the purposes of erecting, altering or converting any structure or building or any part thereof or altering the use of any land until after the town council or director of planning, zoning and building or designee approves the site plan in accordance with this article.* (emphasis added).

As a result, absent a valid site plan, no building permit for "erecting, altering or converting" any portion of the Plaza may be issued. Therefore, there can be no valid Certificate of Appropriateness issued to Sterling. In light of the above fatal deficiencies, the Towers would respectfully request that any consideration of the Application either be deferred or denied.

Very truly yours,



John R. Eubanks, Jr.

cc: John Page, Director of Planning, Zoning and Building  
Peter Elwell, Town Manager  
Paul Castro, Zoning Administrator  
John C. "Skip" Randolph, Esq.  
Town Clerk, Town of Palm Beach  
John Grosskopf, General Manager Palm Beach Towers  
Henry Goldsmith, President of Board of Palm Beach Towers Condominium Association, Inc.

# EXHIBIT "E"



**CERTIFICATE OF APPROPRIATENESS**  
**FILING GUIDELINES**

**FILING DEADLINE:**      **30 DAYS PRIOR TO THE MEETING DATE**

(\*See Landmarks Preservation Commission Meeting Dates and Filing Deadlines\* which is available on the Town's website at [www.townofpalmbeach.com](http://www.townofpalmbeach.com))

(Note: The filing deadline is 30 days prior to the meeting date, **UNLESS** the project is a "combo project, as determined by the Zoning Administrator\*\*\*)

**\*\*\*Combo Projects:** Please note that if your project requires variance, special exception or site plan review approval by the Town Council, and the Zoning Administrator informs you that your project will be a "combo" project, i.e., heard "informally" by the Landmarks Preservation Commission prior to receiving Town Council approval, and then returning to the Landmarks Preservation Commission for "formal" approval, the filing deadline listed above **DOES NOT APPLY**. IF SUCH IS THE CASE, THE FILING DEADLINE FOR THE LANDMARKS PRESERVATION COMMISSION IS THE SAME AS THE FILING DEADLINE FOR VARIANCE, SPECIAL EXCEPTION OR SITE PLAN REVIEW (*ON THE FRIDAY FOLLOWING THE 3<sup>RD</sup> TUESDAY OF THE MONTH*)

\*\*\*\*\*

**LANDMARKS FILING FEE:**

**\$ 500.00 FOR ALL PROJECTS**

**(EFFECTIVE 10/4/2007)**

\*\*\*\*\*



**A COMPLETE LANDMARKS APPLICATION IS COMPOSED OF THE FOLLOWING:**

(Please note that effective June 21, 2010, electronic submission is required. Please follow electronic submission instructions. Note: Paper mini-sets still required 1 week prior to meeting. )

- ☐ The Application for Certificate of Appropriateness (electronic- on disc)
- ☐ A check in the amount of \$500.00 payable to the Town of Palm Beach
- ☐ One (1) set of complete plans and any other required submission materials (electronic- on disc)
- ☐ A signed and notarized Notice Affidavit (electronic- on disc)
- ☐ A Tax Map identifying the subject property, a 250 ft. radius around the property (electronic- on disc)
- ☐ A List of all property owners within that 250 ft. radius, including the subject property owner. This list, along with address labels, must be obtained from the Palm Beach Property Appraiser's Office, Mapping Department, 301 North Olive Avenue, Fifth Floor, West Palm Beach. You will need a property identification number (known as a property control number or folio number) of the subject property to obtain the list. You should allow at least 10 days to receive this list from the Property Appraiser. This list should be dated no earlier than ninety (90) days prior to the date of the meeting at which the application will be heard.(electronic- on disc)
- ☐ Stuffed and sealed envelopes with correct postage stamps applied (not metered postage). Envelopes are to contain a copy of the Application for Certificate of Appropriateness and the Notification to Surrounding Properties of Application for Certificate of Appropriateness. Envelopes are to be prepared for all property owners whose names appear on the list of property owners within that 250 ft. radius. The return address on each envelope should read as follows: Town of Palm Beach, Planning Zoning & Building Department, 360 S. County Road, Palm Beach, Florida 33480. The subject address should appear on the face of the envelope (bottom left) as such: RE: (street address) - Landmarks Preservation Commission. Envelopes are to be submitted to the Town and the Town will actually mail them.
- ☐ Sample envelope (unsealed) containing a copy of the Application for Certificate of Appropriateness and the Notification to Surrounding Properties of Application for Certificate of Appropriateness.(electronic- on disc)
- ☐ **14 Mini-Sets of Reduced Plans are to be submitted to the Town no later than one week prior to the meeting date.**
- ☐ **PRESENTATION DISC** which is defined as that which you will present at the meeting. The presentation disc shall include the plans/renderings/photos, etc. which also reflect any changes which have been made to the plans since you filed your original application for Certificate of Appropriateness. *Note: Those changes, however, cannot deviate from the Description of Project as filed with the Application for Certificate of Appropriateness.* The presentation disc shall be submitted in pdf, PowerPoint, or mix of both) and shall be submitted to the Town **no later than one week prior to the meeting date.** *Note: if you do not submit a separate Presentation Disc, the Town will assume you intend to present the plans which were submitted with your original application.*

### PLAN PARTICULARS

- ☐ PLANS ARE TO BE DRAWN IN BLACK LINE ONLY.
- ☐ 1/4" SCALE IS PREFERRED. 1/8" SCALE MAY BE PERMITTED IF THE PRESENTATION IS ADEQUATE AND SUFFICIENTLY DETAILED. 1/8" SCALE PLANS MAY NOT NECESSARILY BE APPROVED IF THEY ARE LACKING IN DETAIL.
- ☐ PLANS PRESENTED AT BOARD AND COMMISSION MEETINGS MUST BE "PRESENTATION QUALITY" DRAWINGS.
- ☐ PLANS MUST CLEARLY INDICATE THE AREAS OF THE HOUSE AND/OR PROPERTY WHICH ARE BEING CHANGED.
- ☐ PLANS MUST BE FULLY NOTATED AND DIMENSIONED TO ENABLE STAFF AND COMMISSION REVIEW.
- ☐ SITE CALCULATIONS MUST APPEAR ON THE SITE PLAN, WHICH IS PART OF THE REQUIRED SET OF PLANS.
- ☐ ANY MATERIALS THAT ARE TO BE REMOVED OR RELOCATED SHALL BE DELINEATED AND NOTED ON THE MATERIALS REMOVAL PLAN PAGE WHICH MUST BE INCLUDED IN THE PLAN SET.
- ☐ MATERIALS SHOULD BE NOTED ON THE PLANS.
- ☐ PLANS MUST BE SIGNED AND SEALED BY THE ARCHITECT.
- ☐ ELEVATION DRAWINGS MUST REFLECT THE EXISTING ELEVATION AND THE PROPOSED ELEVATION ON THE SAME PAGE, SO THAT ELEVATION CHANGES ARE EASILY DISCERNIBLE.
- ☐ MODEL REQUIRED FOR PROJECT OVER 10,000 SQUARE FEET
  
- ☐ REVISED PLANS: If an applicant revises the plans, after making application for a Certificate of Appropriateness and prior to the hearing date, the applicant must submit the revisions electronically via the Presentation Disc no later than one week prior to the meeting date. Revised plans should be submitted to Cindy Delp, Secretary for the Landmarks Preservation Commission.

### CAUTION

**\*\*APPLICATIONS AND PLANS PROVIDING INCOMPLETE OR INCORRECT INFORMATION WILL BE DEFERRED TO THE FOLLOWING MONTH.\*\***

### DEFERRALS

**\*\*PLEASE NOTE THAT AS OF THE JULY 18, 2007 LPC MEETING, IT WAS DECIDED THAT APPLICANTS NEED TO BE PRESENT AT THE LPC MEETING TO REQUEST A DEFERRAL; THAT THE FIRST DEFERRAL WOULD MOST LIKELY BE GRANTED; THAT A REQUEST FOR A SECOND DEFERRAL REQUIRES JUSTIFICATION; AND, THAT A THIRD DEFERRAL WILL LIKELY NOT BE GRANTED.**



## **WHO CAN PRESENT?**

The Landmarks Preservation Commission requires that the person presenting a project for review shall be:

- A design professional (excluding interior designer) licensed by the State of Florida, or
- An individual who is under the direct supervision of such signing/sealing professional (an individual who is employed or compensated by that professional whom can present to the Commissions' satisfaction), or
- A certified Architect Corporation under the provisions of Chapter 481 FS. Such requirement will not apply when requesting approval of ancillary improvements including fences, awnings, gates, shutters, pools, etc.

Licensed attorneys may participate in presentations. The Commission, however, reserves the right to require direct presentation and or response(s) from a design professional as identified above. The absence of a design professional may result in deferral of the issue until a time when said professional can attend and present.

## **GUIDELINES FOR PRESENTING PROJECTS TO THE LANDMARKS PRESERVATION COMMISSION**

1. All presentations must be completed in a formal and professional manner.
2. Electronic presentations in Pdf and/or PowerPoint are required. Applicants must submit a Presentation Disc including presentation quality plans, material samples, photographs, and any other presentation materials necessary for the Landmarks Preservation Commission to review the project. Insufficient presentations will result in a deferral of the project.
3. Presenters must use a microphone and speak directly into it when addressing the Landmarks Preservation Commission.
4. A laptop, already loaded with your Presentation Disc, is provided in the Town Council Chambers. Please note: You are not permitted to bring presentation boards to the meeting. You are not permitted to bring a revised flash drive or disc to the meeting. Your Presentation Disc was due no later than 1 week prior to the meeting date.
5. The agenda for the Landmarks Preservation Commission is available at least one week in advance of the meeting date. Applicants may obtain a copy of the agenda from the Internet at [www.townofpalmbeach.com](http://www.townofpalmbeach.com) or at the Planning, Zoning & Building Department. Agendas are tentative and subject to change.
6. Following review, the Landmarks Preservation Commission may:
  - (a) Issue a Certificate of Appropriateness, or
  - (b) Defer the project to the next month for additional study or information, or
  - (c) Deny the project for specified reasons
7. Ordinary maintenance or repairs, (meaning "work done to prevent deterioration of a building or to correct any deterioration, or decay of, or damage to a building or any part thereof by restoring the building as nearly as practicable to its condition prior to such deterioration, decay or damage, Section 54-2, Town of Palm Beach Code of Ordinances) which do not involve a change of design or material, or affect the outward appearance of a building, DO NOT require a Certificate of Appropriateness. The requirement for a Certificate of Appropriateness may also be waived for a "minor exterior change" (meaning "an exterior change the cost of which does not exceed \$2,000.00 as determined by the Building Official and is determined by the Landmarks Project Coordinator to not materially affect the exterior of the structure") in some cases, per Section 54-71 (c) of the Town of Palm Beach Code of Ordinances.
8. Applicants may refer to the Town of Palm Beach Code of Ordinances, Chapter 54 which speaks to the Landmarks Preservation Commission, Certificates of Appropriateness, Landmark Designations, and Tax Exemptions for landmarked properties.

**PROCEDURES FOR ELECTRONIC SUBMISSION OF  
APPLICATION/PRESENTATION DOCUMENTS**

\*These procedures may be altered as the Town implements its "paperless" submission requirements

**LANDMARKS PRESERVATION COMMISSION (LPC):**

**APPLICATION (REQUIRES NOTICE TO SURROUNDING PROPERTY OWNERS)**

1. ***Prior to application submission deadline:***  
Applicant contacts PZB in advance to receive application #
2. ***On or by the Application submission deadline*** (at least 30 days prior to the meeting )  
***SUBMIT the following:***

**APPLICATION**

Submit an Adobe (pdf) version of the "APPLICATION" file or folder on a CD. Label the CD with the LPC case # and the address. The "APPLICATION" file or folder contains: The 2 page LPC application and all plans in Adobe (pdf) format (with all plans showing the legend on the right side). \*Note that the 2 page LPC application will be attached to the agenda and placed on the web prior to the meeting.

**Name file/folder like this: COA-007-2012 1100 S OCEAN BLVD APPLICATION** (Note: If there are files within an "Application" folder, they should be named to indicate the contents.)

**RECORD**

Submit an Adobe (pdf) version of a "RECORD" file or folder on the same CD. The "RECORD" File or Folder contains one of every required document and plan: The LPC 2 page application, the Notification to Surrounding Property Owners, the Notice Affidavit, the tax map, the list of persons who were notified, the sample envelope and its contents, the plans, and any associated correspondence etc. Must be submitted by the deadline for application submission .

**Name file/folder like this: COA-007-2012 1100 S OCEAN BLVD RECORD** (Note: If there are files within a "Record" folder, they should be named to indicate the contents.)

\*\*\*\*\*

**IMPORTANT NOTE: IF YOU CHANGE THE PLANS AFTER THE SUBMISSION DATE, YOU NEED TO RE-SUBMIT A COMPLETE "APPLICATION" FILE OR FOLDER, AND A COMPLETE "RECORD" FILE OR FOLDER ON A NEW DISC. THAT MEANS YOU SUBMIT ALL THAT WAS ORIGINALLY SUBMITTED, EXCEPT FOR THE ORIGINAL PLANS (WHICH YOU WILL REMOVE) AND REPLACE THEM WITH THE NEW PLANS. NAME THE REVISED APPLICATION OR RECORD FILE OR FOLDER AS FOLLOWS:**

**COA-007-2012 1100 S OCEAN BLVD APPLICATION REV 01  
COA-007-2012 1100 S OCEAN BLVD RECORD REV 01**

**PLEASE NOTE:** The last date for submission of MINOR changes to plans is 7 calendar days prior to the meeting, at which time you will also submit your "PRESENTATION" file or folder



### **PRESENTATION**

3. **On or by the PRESENTATION submission deadline:** (no later than 7 days prior to the meeting) – **SUBMIT:**

Submit either an Adobe (pdf) or a PowerPoint "PRESENTATION" file or folder on CD containing all documents (in 1 file, or if multiple files, in 1 folder) that will be used for presentation.

Please be advised that the PRESENTATION should include any and all documents, plans, photographs, reports, etc. which the applicant elects to present to the commission and to the public during the Landmarks Preservation Commission meeting, and it is on the basis of these documents, plans, photographs, reports, etc., together with the applicant's verbal presentation, that the Landmarks Preservation Commission shall render a decision. The responsibility for a complete Presentation rests with the applicant.

All information submitted for presentation must match most current documents on file in PZB (same revision dates on plans). Additional supplemental information may be included in the Presentation folder (like photos or colored renderings).

This Presentation file/folder will be loaded onto a laptop computer located in the Town Council Chambers and will be retrieved by the applicant when preparing to make his or her presentation. The applicant should be prepared to use the mouse as a pointer, and should be prepared to zoom in or out as requested when making the presentation.

**NAME FILE/FOLDER LIKE THIS: COA-007-2012 1100 S OCEAN BLVD PRESENTATION** (Note: If there are files within a "Presentation" folder, they should be named to indicate the contents for the ease of the applicant making the presentation.)

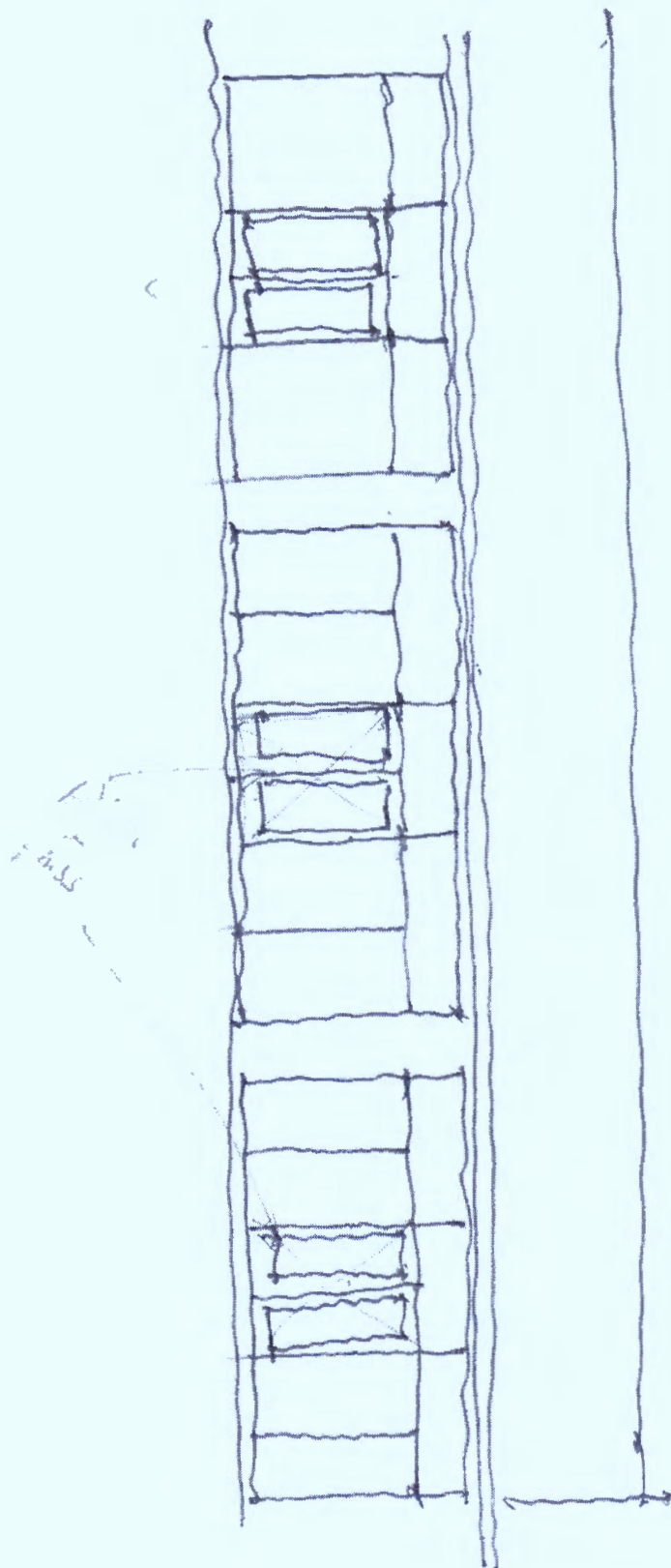
**NOTE: IF YOUR PROJECT IS DEFERRED, YOU WILL NEED TO SUBMIT ANOTHER PRESENTATION DISC FOR THE FOLLOWING MONTH'S MEETING NO LATER THAN 1 WEEK PRIOR TO THAT MEETING. (A SUCCINCT WRITTEN NARRATIVE DESCRIBING THE CHANGES MUST ACCOMPANY ALL REVISED PLANS).\***

**\*WHEN YOU NAME THAT NEW PRESENTATION FILE OR FOLDER, FOLLOW THIS EXAMPLE: COA-007-2012 1100 S OCEAN BLVD PRESENTATION JUNE 2012** (This file/folder name differs from the original Presentation file/folder name because it also includes the month & year it will be heard again ).

**Along with the Presentation disc, 14 sets of 11" x 17" plans must be submitted no later than 1 week prior to meeting; plans must match most current documents on file in PZB (same revision dates on plans). Please be advised that the mini sets are used by commission members and staff before and during the meeting, and are available to be viewed by the public prior to the meeting.**

# EXHIBIT "F"

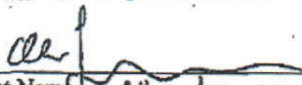
COA-023-2012  
PRESENTED @ 1/16/13  
LPC Meeting

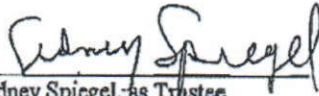


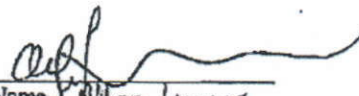
POWER OF ATTORNEY

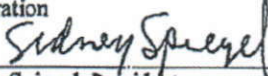
The undersigned, SIDNEY SPIEGEL, as Successor Trustee under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371 and as President of Island Properties of Palm Beach, Inc., a Florida corporation (the "Principal") are the lessors under that certain Ground Lease dated March 31, 2008 (the "Ground Lease") pursuant to which STERLING PALM BEACH, LLC, a Florida limited liability company (the "Lessee") leases the property described on Exhibit "A" hereto (the "Ground Leased Premises"). Pursuant to Article 5 of the Ground Lease, Principal has granted Lessee the exclusive right to deal with all governmental issues related to the Ground Leased Premises. In furtherance thereof, Principal does hereby constitute and appoint BRIAN KOSOY and/or the then-MANAGER of Lessee (as applicable, the "Agent") as the Principal's true and lawful attorney-in-fact to have power and authority, in the name, place and stead of the Principal, to do any and every act and exercise any and every power that the Principal might or could do in connection with all governmental issues related to the Ground Leased Premises, including, without limitation, (i) all matters relating to the Royal Poinciana Playhouse, (ii) all matters relating to the "landmarking" of any portion or all of the Ground Leased Premises, (iii) the pursuit of zoning and building approvals, consents and permits necessary to renovate or redevelop the Ground Leased Premises, and (iv) the execution in the name of Principal of any documents or instruments required for such renovation or redevelopment such as: (a) zoning applications, (b) changes or variances required by governmental authority, (c) changes in existing rights of way bounding the Ground Leased Premises, (d) dedications of easements for roadways, utilities, ingress, egress and other purposes, (e) building permits, variances, use permits, licenses, approvals or similar governmental authorizations, (f) amendments, modifications or termination of that certain Agreement by and between the Town of Palm Beach and Poinciana Properties, Ltd. dated March 6, 1979 and all amendments thereto, (g) amendments, modifications or termination of any unity of title affecting the Ground Leased Premises, (h) any documents or instruments necessary to submit all or a portion of the Ground Leased Premises to the leasehold condominium form of ownership and (i) any and all other similar matters, as fully, and for all intents and purposes, as the Principal might or could do if personally present, with full power of substitution, hereby ratifying and confirming all that the Agent shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, this Power of Attorney is executed by the undersigned as of this 19 day of September, 2008.

  
Print Name: Allen Lyons

  
Sidney Spiegel, as Trustee

  
Print Name: Allen Lyons

Island Properties of Palm Beach, Inc., a Florida corporation  
  
Sidney Spiegel, President



PROVINCE OF ONTARIO  
STATE OF FLORIDA

COUNTY OF MIAMI DADE

: SS

The foregoing instrument was acknowledged before me as of the 19 day of September, 2008, by SIDNEY SPIEGEL, as Successor Trustee under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371 and as President of Island Properties of Palm Beach, Inc., a Florida corporation, on behalf of such trust and corporation, who is personally known to me or who has produced a driver's license as identification.



Name: Allan Lyons  
Notary Public  
State of Florida  
My commission expires: Province of Ontario  
11/9

Title No.: 300801908

LEGAL DESCRIPTION

EXHIBIT "A"

PARCEL A

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

On the North by the Southerly right of way line of Royal Poinciana Way; on the East by the Westerly right of way of Coconut Row; on the West by the waters of Lake Worth; and on the South by the following described line:

Commencing at the intersection of the Northerly right of way line of White Hall Way with the Westerly right of way line of Coconut Row, as said streets are described in Deed recorded in Deed Book 814, page 477, and subsequent pages, public records of Palm Beach County, Florida; thence Northerly along the said Westerly right of way line of Coconut Row, a distance of 444.78 feet to the beginning of a curve concave to the East having a radius of 329.60 feet and a central angle of 23 degrees 53' 30"; thence Northerly along the arc of said curve, a distance of 137.44 feet to the tangent to said curve; thence Northerly along said tangent, a distance of 59.62 feet to the Point of Beginning of the herein described South line; thence Westerly making an angle from Southwest to West of 68 degrees 14' 30", a distance of 227.26 feet; thence Northerly at right angles, a distance of 25 feet; thence Westerly at right angles, a distance of 293.43 feet to the beginning of a curve to the Northeast, having a radius of 65.03 feet and a central angle of 88 degrees 42' 43", a distance of 87.28 feet; thence Northwesterly a distance of 33.90 feet, more or less, to the Southeast corner of a parcel of land described in Deed Book 1011, page 228, public records of Palm Beach County, Florida, said Southeast corner is located in the arc of a curve concentric with the last herein described curve, and having a radius of 90.03 feet and a central angle of 102 degrees 55' 30" and is 4.19 feet Southerly from a point of reverse curve; thence Northerly along the arc of the just described curve, a distance of 4.19 feet to the point of reverse curvature of a curve concave to the West, having a radius of 513.28 feet and a central angle of 15 degrees 35' 22"; thence Northerly along the arc of said reverse curvature a distance of 87.52 feet to a point in a line parallel with and 461.20 feet Southerly from (measured at right angles to) the Southerly right of way line of Royal Poinciana Way, said line also being described in Deed Book 1011, page 228, public records of Palm Beach County, Florida; thence Westerly along said parallel line, a distance of 191.08 feet, more or less, to the waters of Lake Worth and the end of the herein described Southerly line.

Excepting, however, so much of a nearly rectangular area of land, together with riparian or littoral rights appurtenant or incident thereto, as is included in the foregoing described parcel of land, and which nearly rectangular area of land has a Southerly boundary of 208.44 feet, an Easterly boundary of 71.20 feet, a Northerly boundary of 190.74 feet plus 12.08 feet, on two different courses coinciding with the South line of the East approach of Flagler Memorial Bridge, and having a Westerly boundary of 71.88 feet coinciding with the West face of an existing concrete bulkhead within the waters of Lake Worth, and all as such nearly rectangular area of land and riparian and littoral rights appurtenant or incident thereto are more particularly described and were conveyed in Deed of Florida East Coast Hotel Company to Town of Palm Beach, dated September 11, 1939, and recorded in Deed Book 692, page 478, of the public records of Palm Beach County, Florida.

PARCEL B

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

Beginning at a point in the Westerly right of way line of Coconut Row as now laid out and in use at a distance of 173.9 feet South of the intersection of said West line of the right of way of Coconut Row and the Southerly right of way line of Royal Poinciana Way; thence Westerly parallel to the Southerly right of way line of said Poinciana Way a distance of 688.33 feet; thence Southerly at right angles to the preceding course a distance of 245.3 feet to the beginning of a curve concave to the West and having a radius of 513.28 feet and a central angle of 15 degrees 35' 22"; thence Southerly along the arc of said curve a distance of 42.04 feet to the Point of Beginning, and the Northeast corner of the parcel of land herein described; thence continue Southerly along the arc of said

ALTA Commitment-1908

curve a distance of 97.62 feet to a point of reverse curvature; thence Southerly along the arc of a curve concave to the East and having a radius of 599.29 feet, a distance of 4.08 feet to a point in the South line of the herein described parcel; thence Westerly parallel to and 561.2 feet Southerly (measured at right angles) from the Southerly right of way line of said Royal Poinciana Way, a distance of 180 feet, more or less, to the waters of Lake Worth; thence Northerly along the waters of Lake Worth to a point in a line parallel to and 100 feet Northerly (measured at right angles) from the Southerly line of the herein described parcel; thence Easterly along said parallel line a distance of 185 feet, more or less, to the Point of Beginning.

**PARCEL C**

A non-exclusive easement for ingress and egress for the benefit of Parcel B described above, created by and more particularly described in the instrument recorded in Deed Book 1990, page 264, Palm Beach County, Florida, public records.

ALTA Commitment - 1968

WY

# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Appeals

## Agenda Title

Appeal of Landmarks Preservation Commission's Decision Regarding COA#004-2013 (Brown Harris Stevens) by Palm Beach Towers.

**TIME CERTAIN: NOT BEFORE 11:00 AM**

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum Dated January 31, 2013 from John S. Page
- Landmarks Preservation Commission Meeting Minutes Dated January 16, 2013
- Letter dated January 25, 2013 from John R. Eubanks
- Architectural Presentation



# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: LPC Appeal from Palm Beach Towers  
Certificate of Appropriateness (COA) # 004-2013  
Brown Harris Stevens, 340 Royal Poinciana Way

Date: January 31, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council consider and rule upon the appeal submitted by John Eubanks for the Palm Beach Towers Condominium Association, Inc. objecting to the Landmarks Preservation Commission's decision on January 16, 2013, approving the application of Sterling Palm Beach, LLC to create a new interior courtyard entry, including fixed glass panels, at Suite 329 in the Royal Poinciana Plaza for use by Brown Harris Stevens (real-estate sales).

## **GENERAL INFORMATION**

Brown Harris Stevens has an existing branch office in Suite 329 of the Royal Poinciana Plaza. Per the application to the Landmarks Preservation Commission, the description of project reads as follows: "Create a new entry with access from covered walkway that faces the interior courtyard. Replace existing storefront opening that consists of 3 fixed glass panels with single entry door at center and one fixed panel on both sides."

Royal Poinciana Plaza has been designated as a local landmark. Structural alterations to the property must be approved by the Landmarks Preservation Commission. Sterling Palm Beach LLC submitted application documents in order to create a new courtyard entry/storefront (single entry door and adjacent fixed glass panels).

Minutes of the January 16, 2013 meeting are attached. Architect Keith Spina, earlier in the meeting, had presented architectural changes to another portion of the Royal Poinciana Plaza (Del Frisco's Restaurant) that were approved by the Commission with window modifications. Mr. Spina and the Commission agreed that any future window alterations at the Plaza should be in keeping with the design modifications approved earlier in the meeting. In order to establish the stated desire for consistency in the Plaza, Mr. Spina prepared a hand-drawn redesign and indicated that it should be substituted for plans already submitted. Changes were made in an attempt to come as close as possible to the original Volk design, which included large pieces of

glass with transoms over the glass, all in symmetrical pattern. His revision was projected onto a screen for Commission and public view. Commissioners were pleased and asked that the drawing be dimensioned. Several audience members objected to the “on-the-fly” design change and argued that the application should not be approved. Commission members offered comments to explain and justify their determination. Following public comments, Attorney Skip Randolph made a number of statements clearly indicating that the Commission was exercising proper discretion with its review and that it was free to approve window modifications if so desired. Chairman Cooney then read a section of Town Code reiterating the Commission’s authority to approve plans in modified format. Following all discussion, the modified plan was approved unanimously.

### **SPECIAL CONSIDERATIONS**

The attached appeal letter from the Palm Beach Towers Condominium Association, Inc., and all supporting documentation, is attached for your review. A summary of objections follows:

- The COA application was facially incomplete and insufficient.
- The approved design was “on-the-fly” in violation of guidelines.

Mr. Eubanks, Counsel for the Towers, contends that a signature problem and the lack of “demolition checkbox” on the face of the application qualify the application as incomplete and insufficient. The applicant responded to the *Type of Project* question by checking “reconstruction.” Also, the PZB Department has previously received a Power of Attorney signed by Sidney Spiegel naming Brian Kosoy as the Principal’s true and lawful attorney-in-fact.

With regard to the second objection, Town Attorney Skip Randolph states on page 8 of the January 16 LPC meeting minutes the legal and procedural basis for the Commission to make their approvals subject to modifications of their choosing.

Attachments:

LPC Minutes (see pages 7-8)  
Palm Beach Towers Appeal  
Architectural Presentation

cc: John C. Randolph, Town Attorney  
Keith Spina, Architect  
Sterling Palm Beach, LLC  
Lankmarks Preservation Commissioners  
John Eubanks, Appellant



**LANDMARKS PRESERVATION COMMISSION  
IN THE  
TOWN COUNCIL CHAMBERS  
2<sup>ND</sup> FLOOR, TOWN HALL  
360 S COUNTY ROAD, PALM BEACH**

**WEDNESDAY, JANUARY 16, 2013, 9:30 a.m.**

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

**I. CALL TO ORDER: (9:33:07 a.m.)**

Chairman Cooney called the meeting to order at 9:33 a.m.

**II. ROLL CALL: (9:33:17 a.m.)**

|                                      |         |
|--------------------------------------|---------|
| Edward Austin Cooney, Chairman       | PRESENT |
| William P. Feldkamp, Vice Chairman   | PRESENT |
| Dudley L. Moore, Jr., Member         | PRESENT |
| Jacqueline Albarran, Member          | PRESENT |
| William J. Strawbridge Jr., Member   | PRESENT |
| Leslie Diver, Member                 | PRESENT |
| Elizabeth S. Murphy, Member          | PRESENT |
| Jorge Sanchez, Alternate Member      | PRESENT |
| Elizabeth Marshall, Alternate Member | PRESENT |
| Anne Fairfax, Alternate Member       | PRESENT |

Staff members present: John S. Page, Director of Planning, Zoning & Building, John Lindgren, Planning Administrator, John C. Randolph, Town Attorney, Emily Stillings and Janet Murphy, Staff Historic Preservation Consultants, and Cynthia Delp, Secretary to the Landmarks Preservation Commission.

**III. APPROVAL OF THE MINUTES OF THE DECEMBER 19, 2012 MEETING: (9:33:40 a.m.)**

**MOTION BY MR. FELDKAMP FOR APPROVAL OF THE MINUTES.**

**MOTION SECONDED BY MR. MOORE, AND CARRIED UNANIMOUSLY.**

**IV. APPROVAL OF THE AGENDA: (9:33:50 a.m.)**

**MOTION BY MR. FELDKAMP FOR APPROVAL OF THE AGENDA.**

**MOTION SECONDED BY MS. DIVER, AND CARRIED UNANIMOUSLY.**

**V. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY: (9:34:00 a.m.)**

Mrs. Delp administered the oath at this time to all those who wished to speak today.

**VI. COMMENTS FROM THE PUBLIC AND COMMISSION MEMBERS: (Please limit comments to 3 minutes): (9:34:15 a.m.)**

Mr. Page referenced voting conflicts filed last month by Mrs. Albarran and Mr. Sanchez.

Lory Volk offered a testimonial to Patrick Henry Flynn, who had recently passed, extolling his work toward landmarking of the Royal Poinciana Plaza and the Royal Poinciana Playhouse.

**VII. PUBLIC HEARINGS: (9:36:17 a.m.)**

**A. Application for Certificate of Appropriateness #023-2012**

**Restoration/Rehabilitation**

Owner/Applicant: Sterling Palm Beach LLC

Address: 340 Royal Poinciana Way, Suites 300-308

Architect: Glidden Spina & Partners

Project Description: Request approval for restoration, rehabilitation, interior demolition, sign and awning which is further described as: New restaurant of approximately 8,400 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and wall and replace with a new operable Nana Wall system. New awnings and signage will be put in as allowed by Code. On the interior, some portions of the 2nd floor space will be converted to one story space to restore the high ceilings that existed previously. The 2nd floor space will remain as existing at the east end. Other associated changes as presented.

REVISED PROJECT DESCRIPTION: Request approval for restoration, rehabilitation, interior demolition, sign and awning which is further described as: New restaurant of approximately 7,700 square footage going into the northeast end of Royal Poinciana Plaza. The majority of the existing windows and doors will remain as they are now, except for the curved wall at the southeast end of the building. We would like to remove the existing windows and replace with new French doors. New awnings and signage will be put in as allowed by Code. A door has been added on the north wall to replace an existing window. The second story space will be restored back to a single story space in order to maintain the high ceiling which existed previously. The second floor space at the east end will remain unchanged as existing (space not included in this proposed submittal.)

Please be advised that this project was heard only informally at the August meeting though it had been advertised as a Certificate of Appropriateness at that time. After review, the matter was deferred to the October meeting. At the October meeting, since the matter was deferred by the Town Council to the November Town Council meeting, the matter was deferred to the December LPC meeting. At the December meeting, the project was heard and deferred to the January meeting.

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

ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina & Partners

OTHERS WHO TESTIFIED: Adam Munder, Sterling Palm Beach, Lory Volk, John L. Volk Foundation, Anita Seltzer, 44 Coconut Row



First, staff addressed the question of whether it was proper for the commission to hear this project, as that question had been raised by others. Mr. Page stated that on November 16, 2012, the Town Council approved a special exception to allow a restaurant at the site for Del Frisco's. The applicant had also applied for a parking variance at that time, but that was not approved by the Town Council. On January 9, 2013, the Town Council considered a site plan for the Royal Poinciana Plaza because the parking lot of the Plaza is being diminished in size. A "cure plan" was submitted showing a proposed reconfiguration of the lot. The Town Council considered that plan, but deferred the matter to next month. Mr. Page stated that it is the opinion of staff, pursuant to consultation with the Town Attorney, that this application can be heard today. Mr. Randolph confirmed his approval to move forward with the hearing and offered justification for his ruling.

Mr. Spina addressed specific items which were to be re-studied as of the last meeting. First, relative to the east awnings, the plans have been revised to include traditional metal awning posts. Commission members were pleased with this change. Secondly, graphic inaccuracies noted last month were corrected. A third issue concerned measures to block certain windows with colored film (black or white) or some type of window treatment. After discussion, the commission agreed that white louvered blinds are the preferred treatment. Mr. Spina made a point of noting that he had "done his homework" since the last meeting to research original plans for the Plaza. Pursuant to that research he presented revised elevations to mimic the original plans as closely as possible. Impact glass is proposed negating the need for shutters. Upon review of the proposed south elevation, the commission requested changes to the bays, preferring 3 segments to 5. The 3 segment plan includes two large panes of glass flanking either a central large pane of glass or a set of double doors. This commission preference was suggested during the course of the meeting, was quickly sketched by the Glidden Spina design team, and was then projected onto the Elmo projector for view by all.

There was also discussion relative to the proposed addition of a fifth French door planned for the curved wall. Members, along with staff's historic preservation consultants, objected to the insertion of this additional opening. As such, the applicant agreed to remove that fifth opening from the plans. Mr. Sanchez stressed the importance of landscaping at the Plaza, recalling the history of landscaping at the site, but other members felt it was not appropriate to attempt to require landscaping changes with review of this application. Adam Munder, partner of Sterling Palm Beach LLC, stated that he would be happy to walk the property with any of the members and discuss landscaping for the site.

Lory Volk agreed regarding the importance of landscaping at the Plaza. She voiced her disappointment that it has taken so long for the applicant to produce original plans. She presented Samuel Gottscho photos of the Plaza as a long available reference material as well. Mrs. Volk was likewise disappointed that this has resulted in drawings being done "on the fly" for the south elevation at this meeting. She requested that the applicant be asked to return with proper drawings for the south elevation.

**MOTION BY MR. MOORE THAT WE PROCEED AS PROPOSED AND AGREED WITH DRAWINGS "ON THE FLY".**

**MOTION RE-STATED BY MR. FELDKAMP TO APPROVE APPLICATION #023-2012 AS SUBMITTED WITH THE CHANGES ONLY TO THE SOUTH ELEVATION, THE THREE BAYS, EACH LABELED "A" ON DRAWING A-1.1...THE LEFT BAY WILL HAVE A DOUBLE DOOR IN THE CENTER SURROUNDED BY, CENTERED IN THE**

**BAY; THE MIDDLE BAY WILL HAVE A 6 FT. PIECE OF GLASS IN THE CENTER WITH TWO EQUALLY DIVIDED LITES ON THE LEFT AND RIGHT (EACH OF THOSE LIGHTS WOULD BE ROUGHLY 4 FT. WIDE); AND THE EASTERNMOST OF THE 3 BAYS WOULD BE LIKE THE CENTER BAY WITH A 6 FT. PIECE OF GLASS IN THE CENTER AND EQUALLY DIVIDED LITES ON THE LEFT AND RIGHT; THE SECOND CHANGE WOULD BE...THE WINDOWS ON THE NORTH FACADE, WHICH NEED TO BE BLOCKED FOR PLAN REASONS, SHOULD RECEIVE LOUVERS AND BEHIND CLEAR GLASS...WHITE LOUVERS; AND GETTING BACK TO THE THREE SOUTH FACADE BAYS, THE TRANSOM LITES WOULD BE 3-PART, A CENTER SECTION AND EQUAL LEFT AND RIGHT SECTIONS, AS SHOWN IN A SKETCH WHICH WILL BE PART OF THIS TRANSMITTAL; AND THE LAST PROVISIO IS THAT THE CENTER FRENCH DOOR IN THE CURVED PORTION BE ELIMINATED AND REMAIN AS WALL.  
MOTION SECONDED BY MR. MOORE.**

Anita Seltzer expressed her agreement with Mrs. Volk's comments and her equal displeasure at the applicant being allowed to provide an "on the fly" design today. She stressed the requirements of procedure for applications for Certificate of Appropriateness, and questioned the accuracy of this particular application. She cautioned against the commission being placed in a position to approve something even though code compliance and sufficiency has not been met. Mr. Moore responded that the Town Attorney, earlier this morning, had opined that the application was not insufficient.

**MOTION CARRIED UNANIMOUSLY.**

*Let the record show that there was a five-minute recess at 11:00 a.m. Ms. Murphy left the meeting at this time as she was not feeling well.*

**B. Application for Certificate of Appropriateness #001-2013**

**\*LPC TO MAKE RECOMMENDATION RELATIVE TO VARIANCE(S)\***

**Addition and New Accessory Structure**

**Owner/Applicant: Pnina Apolonia Weisfisch**

**Address: 280 North Ocean Boulevard**

**Architect: SKA Architect + Planner, Jacqueline Albarran**

**Project Description: Request approval for addition to historic structure and new accessory structure which is further described as: Extension of existing courtyard loggia and addition of a new pool loggia. All columns, roof, and detailing to match existing loggia. New beach cabana and pool in beach parcel. Cabana to have windows, doors, roofing, stucco, and detailing to match existing main house. Lower south 50% of existing beach wall to 30" in height as required by code. Other associated changes as presented.**

This matter was heard informally at the December meeting for a recommendation relative to the variances. Please note that both Mrs. Albarran and Mr. Sanchez had previously declared a voting conflict with regard to this project. Ms. Marshall and Ms. Fairfax will be voting.

Call for disclosure of ex parte communication: No disclosures

**ARCHITECTURAL PRESENTATION BY: Jacqueline Albarran, SKA Architect & Planner**

Mrs. Albarran testified that since the informal review, the Town Council has approved the variance(s). Since there have been no changes to the project since it was heard informally at the December meeting, Mrs. Albarran just provided a brief recap of the project, focusing on the elevations.

**MOTION BY MR. FELDKAMP TO APPROVE COA-001-2013 AS PRESENTED.  
MOTION SECONDED BY MS. MARSHALL.  
MOTION CARRIED UNANIMOUSLY.**

C. Application for Certificate of Appropriateness #002-2013

Reconstruction, Addition, New Accessory Structure

Owner/Applicant: Allan and Susan Kauffman

Address: 159 Australian Avenue

Architect: Thomas M. Kirchhoff, AIA, PA

Project Description: Request approval for reconstruction, addition to historic structure, new accessory structure, and interior/exterior demolition which is further described as: The property includes an existing 2-story bungalow style residence, a 2-story garage/guesthouse, and a porte-cochere. The owner proposed to demolish the existing garage/guesthouse and replace it with a new garage/guesthouse. The owner also proposes to demolish the existing porte-cochere and replace it with a new porte-cochere more consistent with the bungalow style. The main house is to have additions to the first and second floors, and interior renovations. The addition to the first floor includes a new loggia connecting the main house to the garage/guesthouse. The master bedroom suite will be enlarged on the first floor and the second floor will be increased to allow for a larger office on the second floor. Most importantly, the street view of the house will not reflect any increase in size. All doors and windows will be replaced with impact rated windows and doors. New landscape and hardscape for final approval. Other associated changes as presented. **Please note that this is a tax abatement project.**

This project had been heard informally last month for an opinion on the variances, and also formally for a designation hearing. Since that time, the Town Council approved the variances and ratified the LPC's decision to landmark the property.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Thomas M. Kirchhoff

LANDSCAPE PRESENTATION BY: Keith Williams, Nievera Williams Design

Mr. Kirchhoff testified that the plans have not changed since the property was heard informally last month. As such, he provided a brief review of the project, focusing on the elevations.

Mr. Page noted that when this project was reviewed by the Town Council, the Mayor expressed her concern about the height of the proposed guesthouse.

Mr. Williams continued with the landscape/hardscape as this was the first presentation of same. Design elements include: Removal of concrete walkways and much concrete in the rear; removal of existing Ficus on the west property line; removal and/or re-use of various palms; maintaining Gumbo Limbo with Fern; no pool, allowing for more green space; Emerald Coast tumbled pavers; reconfigured walkways; garden gate; fountain in east lawn; and, a clean and simple planting palette.

Under commission comments, it was recommended that the gate height be decreased and the fountain pool be increased.

**MOTION BY MR. SANCHEZ TO ACCEPT COA-002-2013 AS PRESENTED, WITH A LOWER GATE AND THE OPTION FOR A LARGER POND (SIZE OF POND TO BE AT THE DISCRETION OF THE LANDSCAPE ARCHITECT AND THE OWNER.)  
MOTION SECONDED BY MRS. ALBARRAN.  
MOTION CARRIED UNANIMOUSLY.**

**D. Application for Certificate of Appropriateness #003-2013 (formerly CoA#038-2012)**

**Rehabilitation**

**Owner/Applicant: Bethesda-By-The-Sea Episcopal Church**

**Address: 141 South County Road**

**Architect: Lewis & Associates**

**Project Description: Renovation of the "Tea House" by enclosing it with a new moveable glass wall system; installation of fixed glass in south arched openings and gable ends; installation of air conditioning; installation of new handicap ramp; other associated changes as presented**

Please note that this project had originally been on the November 2012 agenda, but the project was not heard at that time because it had been determined that Town Council approvals were necessary. At that time, the project was deferred from the November 2012 meeting to the January LPC meeting.

**Call for disclosure of ex parte communication: Disclosure by Mr. Cooney**

**Ms. Marshall declared a conflict of interest with regard to this project and stated her reasons for same.**

**ARCHITECTURAL PRESENTATION BY: Hap Lewis, Lewis & Associates**

**ATTORNEY PRESENT: Peter Broberg for the applicant**

**OTHERS WHO TESTIFIED: Lory Volk**

**Mr. Broberg indicated that the Town Council approved the site plan review for this project. He turned the presentation over to Mr. Lewis. Both Mr. Lewis and Mr. Broberg explained that the church needs to utilize this space for various recurring needs, but the space is so hot that it is often rendered unusable. As such, the project would enclose the space with a moveable wall, Nana system, air condition the space, and include other changes as listed above.**

**Under commission comments, it was noted that only one elevation of the tea house was submitted; details of the installation were missing; and there was no information relative to the other openings on other facades. Of unanimous greater concern, however, was the general concept of the enclosure of the tea house. Commission members asked the applicant to seek other design alternatives to accomplish a cooled tea house, and to also include a relocated proposed ramp.**

**Lory Volk, member of Bethesda-By-The Sea Church, encouraged the LPC to work with this applicant to allow this landmarked structure to continue to flourish for existing uses and potential**



uses. She maintained that the Nana wall system could easily be removed at some point in the future.

**MOTION BY MR. STRAWBRIDGE TO DEFER THE PROJECT WITH THE PROVISIO THAT THE APPLICANT COMES BACK AND EXPLORES OTHER SOLUTIONS FOR THIS SPACE INCLUDING PLACING THE RAMP AT THE REAR, AND SOME INVISIBLE WAY OF COOLING THE SPACE, EITHER WITH AIR CONDITIONING FROM THE TOP OR ROLL DOWN SCREEN, OR SOMETHING, SO WHEN YOU WALK IN THERE, AND YOU WALK AROUND, YOU CANNOT SEE THE SOLUTION THAT YOU WILL IMPLEMENT WHEN YOU NEED TO...IN OTHER WORDS, YOU DON'T HAVE TO LOOK AT NANA DOORS HIDING BEHIND THE CORNER. MOTION SECONDED BY MR. SANCHEZ. MOTION CARRIED UNANIMOUSLY.**

There was some discussion relative to this project having been already approved by the Town Council prior to this LPC hearing. Staff responded that this was a site plan review, not the typical variance(s) review which would trigger a "combo" project review. Some members stated their desire to have more projects reviewed by the LPC first, prior to them moving on to the Town Council, even though they may not meet the criteria to be deemed a "combo" project.

E. Application for Certificate of Appropriateness #004-2013

Reconstruction

Owner: Sterling Palm Beach LLC/Sidney Spiegel, Trustee

Applicant: Sterling Palm Beach LLC

Address: 340 Royal Poinciana Way, Ste. 329

Architect: Glidden Spina & Partners

Project Description: Request approval for reconstruction which is further described as: Create a new entry with access from covered walkway that faces the interior courtyard. Replace existing storefront opening that consists of 3 fixed glass panels with single entry door at center and one fixed panel on both sides. Other associated changes as presented.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina & Partners

OTHERS WHO TESTIFIED: Lory Volk, John L. Volk Foundation, Anita Seltzer, 44 Coconut Row

Mr. Spina, in light of the discussion held earlier in the previous item for the Royal Poinciana Plaza and with a desire to establish consistency at the Plaza, was prepared with a new sketch to be applicable for this Certificate of Appropriateness request, and one which should be substituted for the plans which had been submitted for this project. That new sketch was displayed on the Elmo projector for view by all. The commission was pleased with the sketched plan, and asked that the sketch be dimensioned.

Lory Volk, John L. Volk Foundation, stated that she was "shocked" to see another "on the fly" drawing being acceptable to the commission, and encouraged adherence to procedure. Commission members offered comments to explain and justify their determinations in regard to this project and other projects today. Anita Seltzer expressed concerns in concert with those of

Mrs. Volk and stated that she found it very troubling that this precedent was provided for this applicant a second time today.

John C. Randolph, Town Attorney, responded: "I'd like to comment on that for the record because the applicant came to you as required with certain plans. You asked, on that first application, for those plans to be modified. In regard to this particular application, he also came to you with certain plans, as required, but because of what you did on the first application, he anticipated that you might have the same comments in regard to this application as the prior application. So, he has submitted to the Town what he was required to submit, but what you are doing is, you are modifying what he has submitted based upon...and you've done it before, and it's totally within your discretion, if you feel you have enough information, to make modifications before you, and if you don't feel you have enough, you normally will defer it. So, I just wanted to make that clear for the record."

Mr. Lindgren stated that it is commonplace for both ARCOM and the LPC to make approvals with certain conditions, and that is, in essence, what has happened here, except in this case, the applicant has also submitted something on paper. Chairman Cooney referenced Chapter 54 of the Town Code of Ordinances, specifically Section 54-95, and read same into the record relative to modifications.

**MOTION BY MR. STRAWBRIDGE TO APPROVE AS REVISED IN THE HAND DRAWING PRESENTED, WITH DIMENSIONS, SHOWING THAT THE DOOR IS CENTERED, AND THAT HAND DRAWING IS LABELED A-1 AND DATED TODAY. MOTION SECONDED BY MS. DIVER. MOTION CARRIED UNANIMOUSLY.**

#### **VIII. OTHER BUSINESS: (12:18:49 a.m.)**

##### Informal Review: 240 Cocanut Row

**\*LPC TO MAKE RECOMMENDATION RELATIVE TO VARIANCE(S)\***

Project Description: Request approval of exterior signage as follows: East elevation entry: "The Society of the Four Arts Fitz Eugene Education Building"; North elevation entry: "The Society of the Four Arts" "Donor Name Playhouse" (Donor name to be determined); and, Southwest elevation entry: "Fitz Eugene Dixon Education Building"; other associated changes as presented. (3) variances requested relative to size, number of signs, and allowable signage.

Call for disclosure of ex parte communication: Disclosure by Ms. Marshall

ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina & Partners

Mr. Spina reviewed the various signs in accordance with the submitted plans and as described above. The commission requested that the east elevation entry sign be modified so that "The Society of the Four Arts" letter size was greater than the second line "Fitz Eugene Education Building".

**MOTION BY MR. STRAWBRIDGE FOR APPROVAL AS PRESENTED, BUT REDUCE THE LETTERS OF THE SECOND LINE TO 4". MOTION DIED FOR LACK OF A SECOND.**

**MOTION BY MR. FELDKAMP THAT IMPLEMENTATION OF THE PROPOSED THREE VARIANCES WILL NOT CAUSE NEGATIVE ARCHITECTURAL IMPACTS TO THE SUBJECT LANDMARKED PROPERTY, AND THAT THE SIGNAGE FACING COCOANUT ROW WOULD BE SLIGHTLY RE-DESIGNED SUCH THAT THE UPPER LINE MIGHT INCREASE TO APPROXIMATELY 8".**  
**MOTION SECONDED BY MS. DIVER.**  
**MOTION CARRIED UNANIMOUSLY.**

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Mr. Lindgren, returning to the previous project, COA-004-2013 for 340 Royal Poinciana Way, Ste. 329, reported that dimensions had been added to the approved sketch. The revised sketch was displayed on the Elmo equipment for view by all. The commission noted their approval of the revised sketch.

*Let the record show that there was a recess for lunch from 12:40 p.m. to 1:30 p.m.*

Members who returned to the meeting after the lunch break at 1:39 p.m.: Mr. Cooney, Mr. Feldkamp, Mrs. Albarran, Mr. Moore, Mr. Sanchez, and Ms. Marshall. Mr. Strawbridge and Ms. Diver returned shortly thereafter.

Chairman Cooney elected to hear Item 2 of the Designation Hearings first.

#### **IX. DESIGNATION HEARINGS:**

##### Item 2: 127 Dunbar Road

Owner: John H. Eberhardt, John H. Eberhardt TR, John Eberhardt TR TITL HLDR

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

*Let the record show that Mr. Feldkamp left the meeting.*

Janet Murphy, Murphy Stillings LLC, Staff Preservation Consultant, testified to the history, architecture, contractor and architect involved with this 1920 residence designed and built by Cooper C. Lightbown, Contractor, with later additions by Maurice Fatio. Ms. Murphy stated that this property meets the following criteria for landmark designation:

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

Sec. 54-161 (2) Is identified with historic personages or with important events in national, state or local history;

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

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

Mrs. Delp verified proof of publication and proper legal service.

**MOTION BY MR. FELDKAMP THAT THE DESIGNATION REPORT BE MADE PART OF THE RECORD.**

**MOTION SECONDED BY MRS. ALBARRAN.**

**MOTION CARRIED UNANIMOUSLY.**

Ms. Murphy entered the curriculum vitae for herself and for Emily Stillings into the record.

Attorney James Crowley with Gunster Yoakley, attorney for the property owner, stated that their expert witness, Dr. John Garner, would testify as to the changes to this house and how those changes have impacted the function of the house as it was originally intended. Mr. Crowley also testified regarding the property owner, Mr. Eberhardt, who is a very talented artist and set designer. He explained that the house bears Mr. Eberhardt's artistic flair in many areas. The house, according to Mr. Crowley, is in a state of disrepair. The owner, who objects to the designation, is concerned about the effect of landmarking on his property values, and fears the imposition of "deterioration by neglect" due to the condition of his home. Mr. Crowley introduced Dr. Garner, testified to his vitae, and submitted Dr. Garner's report entitled, 127 Dunbar Road, The Eberhardt Residence, Response to the Landmark Designation Report into the record.

Dr. John Garner provided his presentation to refute the Town's Designation Report, and the designation criteria upon which it was based. He stressed his opinion that the house, as it exists today, bears the stamp of the current owner, and would not be recognized by the original builder or subsequent owner, and that certain additions and material changes have negatively impacted the property.

Under commission comments, most members felt that the property retains its integrity despite the changes which have been made. As to the owner's concern regarding property values, it was stated that property values increase anywhere from 5% to 35% when a property is landmarked. Commission members responded in support of the designation and responded to Dr. Garner's comments.

Mr. Lindgren read Mr. Eberhardt's letter into the record wherein he objected to the landmarking.

Alexander Ives, Executive Director of the Preservation Foundation of Palm Beach, testified that properties change over time, but the important issue is whether a property's architectural integrity remains. He added that when a property is landmarked, it also serves to preserve the character of a neighborhood.

**MOTION BY MRS. ALBARRAN THAT THE PROPERTY AT 127 DUNBAR RD. BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. SANCHEZ.**

**MOTION CARRIED UNANIMOUSLY.**

Item 1: 256 South Ocean Boulevard

Owner: Lauri K. Weltroth

Call for disclosure of ex parte communication: No disclosures



Emily Stillings, Murphy Stillings LLC, Staff Preservation Consultant, testified to the history, architecture, and architect involved with this Mediterranean Revival style residence which had alterations and additions by Volk and Maass in 1928. Ms. Stillings stated that this property meets the following criteria for landmark designation:

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

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

Mrs. Delp verified proof of publication and proper legal service.

**MOTION BY MRS. ALBARRAN THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. STRAWBRIDGE.**

**MOTION CARRIED UNANIMOUSLY.**

Ms. Stillings stated that she had attempted to contact with the owner several times, but was not successful.

**MOTION BY MS. DIVER THAT THE PROPERTY AT 256 SOUTH OCEAN BOULEVARD BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.**

**MOTION SECONDED BY MR. MOORE.**

**MOTION CARRIED UNANIMOUSLY.**

**X. COMMENTS OF THE LANDMARKS PRESERVATION COMMISSION AND PLANNING ZONING & BUILDING DEPARTMENT DIRECTOR: (2:30:07 a.m.)**

There was a brief discussion relative to future presentations by staff's preservation consultants.

**XI. ADJOURNMENT:**

**MOTION BY MR. MOORE TO ADJOURN THE MEETING AT 3:35 P.M.**

**MOTION SECONDED BY MR. SANCHEZ.**

**MOTION CARRIED UNANIMOUSLY.**

**The next meeting of the Landmarks Preservation Commission will be held on Wednesday, February 20, 2013 at 9:30 a.m. in the Town Council Chambers, 2<sup>nd</sup> floor, Town Hall, 360 South County Road, Palm Beach, Florida.**

Respectfully submitted,

Edward Austin Cooney, Chairman  
**LANDMARKS PRESERVATION COMMISSION**

cmd

**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  
Ronald Witkowski - Of Counsel

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January 25, 2013

RECEIVED

**Via Hand Delivery**

Mr. John Page  
Director of Planning, Zoning and Building  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

2013 JAN 25 15:59 TWN CLERK

**Re: Appeal of Approval of Certificate of Appropriateness #004-2013**

Dear Mr. Page:

Our office represents the Palm Beach Towers Condominium Association, Inc. ("Towers"). In that capacity, the Towers hereby appeals the approval of Application # 004-2013 ("Application") for a Certificate of Appropriateness ("COA") by the Landmarks Preservation Commission ("LPC") in favor of Sterling Palm Beach LLC ("Sterling" or "Applicant") at its January 16, 2013 meeting.<sup>1</sup> As you are aware, the 277 Unit Owners at the Towers are the only residential property owners directly adjacent to the Royal Poinciana Plaza ("Plaza").

The present appeal is an extension of the Towers' appeal of the approval of Certificate of Appropriateness #023-2012, and is an example of just how fast approving an incomplete application with a design "on-the-fly" can become a precedent that spreads to other applications. As a result, the Towers believes that the approval of the Application be reversed by the Town Council.

**I. Facially Incomplete and Insufficient Application**

As with Application #23-2012, the Application in this matter was also facially deficient and not in conformity with the Town-adopted "Application for Certificate of Appropriateness." The Town's form requires that it be signed by either the "Property Owner" or "Owner's Legally Authorized Agent." However, to the extent the application is "signed by a Legally Authorized Agent, *it must be accompanied by a Power of Attorney*" (emphasis added). In the present case, the Application is signed by Brian Kosoy as the "Owner's Legally Authorized Agent", but did not include the mandatory Power of Attorney.<sup>2</sup>

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<sup>1</sup> A copy of the Application (without the mailing matrix) is attached hereto as Exhibit "A."

<sup>2</sup> Similarly, the Application utilized by Sterling was on an old form of the Application identified as "Revised 7/23/10" instead of the Town's updated version which is identified as "Revised 5/17/12."



The Application is also facially deficient due to the failure of the Applicant to check and include "Demolition (Exterior)" within the Type of Project being considered in the Application despite the fact that the Application necessarily includes exterior demolition. As such, the Application was incomplete and should not have even been accepted as submitted by the Applicant, must less approved.

## **II. Design "On-the-Fly" In Violation of Guidelines**

In addition to the deficiencies of the Application, the Application was approved based upon a design "on-the-fly" which was never part of the Application or any of the supporting documents submitted by the Applicant. Make no mistake, design "on-the-fly" is in direct violation of the standards, procedures and guidelines established by the Town.

The Town's official "Certificate of Appropriateness Filing Guidelines"<sup>3</sup> ("Guidelines") clearly establish that: a) the filing deadline for an application is "30 days prior to the meeting date"; b) there is a specific "Submission Checklist" deadline established; c) there is a requirement that "Mini-Sets of Reduced Plans (paper copies) are to be submitted to the Town ***no later than 1 week prior to the meeting***"; and d) a "Presentation Disk" must be submitted "***no later than one week prior to the meeting date.***" (emphasis added).

Furthermore, while minor changes to an application may be made, multiple provisions of the Guidelines state very clearly that any such modifications, including any and all plans, renderings and photos, must be included in a final Presentation Disk at least one week in advance of the LPC meeting at which an application is to be heard. At the time of the hearing, the applicant cannot rely upon anything outside of those items on the Presentation Disk.

For example, it is very clear from the Guidelines that:

A laptop, already loaded with your Presentation Disk is provided in the Town Council Chambers. Please note: ***You are not permitted to bring presentation boards to the meeting. You are not permitted to bring a revised flash drive or disc to the meeting. Your Presentation Disk was due no later than 1 week prior to the meeting date.*** (emphasis added).

In light of such restrictions, if an applicant cannot bring any presentation boards or a revised presentation to the meeting to demonstrate any changes, then there is no way an applicant can merely draft revisions "on the fly" on a sheet of paper and include such documents as part of an approval. To do so would be a direct violation of the Town's own established Guidelines.<sup>4</sup> Instead, under the

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<sup>3</sup> A copy of the Certificate of Appropriateness Filing Guidelines is attached hereto as Exhibit "B."

<sup>4</sup> For example the Guidelines clearly provide that the "presentation disk ***shall include*** the plans/renderings/photos, etc., ***which also reflect any changes which have been made to the plans since you filed your original application.***" (emphasis added). "***If an applicant revises the plans***, after making application for a Certificate of Appropriateness ... the applicant must submit the revisions electronically via the Presentation Disk ***no later than one week prior to the meeting date.***" Likewise, the Guidelines include a section which indicates



Town's adopted procedures, the applicant must revise the application with the proper plans, photos and renderings and submit them on a new presentation disk at least one week before the next meeting. But that is not what happened in the presentation of the Application.

Instead, from the very beginning of the presentation of the Application, Mr. Spina, the architect for the Application indicated that "based upon what happened today, we can show you what we were going to present, but I guess I should just fast forward to what I would like to present which is consistent with what we presented this morning." (Audio 2:34:46 -2:35:15). Based upon a rough drawing presented for the first time at the hearing, Mr. Spina indicated that "obviously from this morning we would change it [the Application]", "this is what we propose now, and we can wing it or come back next month, however you guys would like to handle it."<sup>5</sup> Thereafter, in short order and over objection raised by public comment that any approval would be procedurally improper,<sup>6</sup> the LPC approved the Application, despite the fact that the sketch<sup>7</sup> did not even include any dimensions at the time of its approval.<sup>8</sup>

As a result, the LPC's approval clearly departed from the essential elements of the Town's own practice, procedure and written Guidelines as well as negated town residents of the due process rights of being able to view a proposal prior to its presentation. In fact, if allowed to stand, the LPC will have established a precedent of merely allowing an applicant to file anything it wants and then come to the hearing armed with a draftsman to obtain an acceptable design by committee 'on-the-fly.' Once this happens, the Town itself will be estopped from forcing other applicants to strictly comply with the Town's regulations and guidelines as they will (rightfully) claim that the Town is guilty of unequal enforcement of its procedures and policies. As a result, the Towers believes the Town should reverse the approval of the Application to protect its policies and procedures and head off the consequences of such a pattern of behavior.

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"PLEASE NOTE: *The last date for submission of MINOR Changes to plans is 7 calendar days prior to the meeting*, at which time you will also submit your "PRESENTATION" file or folder. Finally, the Guidelines indicate that "All information submitted for presentation must match most current documents on file in PZB." As a result, applicants are informed over and over again that they may only present and rely upon those documents within the Presentation file which match the application on file with the Town, yet in the present case the Applicant was granted approval of the Application based upon a sketch which was not in the Presentation file and did not match the documents on file with the Town.

<sup>5</sup> At this point, it was Staff's obligation to step in and enforce its own Guidelines as opposed to sitting mute and allowing its Guidelines to be violated.

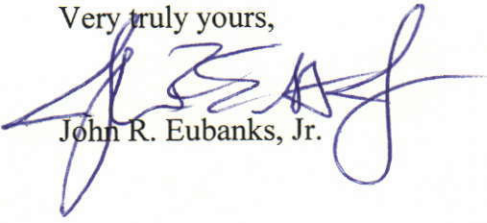
<sup>6</sup> Once again, Lory Volk expressed not only her concern but her shock that after telling a previous applicant that they did not have their drawings in order and has an insufficient application, that the LPC would even consider setting a precedent of just allowing an applicant to "just submit whatever you want and then when you come into the LPC, you just come up with on-the-fly drawings." As a result, she once again noted the 7 day requirement of the Town for revised drawings which precludes "on-the-fly" consideration of the Application. (Audio 2:36:52-2:37:56).

<sup>7</sup> A copy of the hand drawn sketch, including later added dimensions, is attached hereto as Exhibit "C."

<sup>8</sup> Notably, the sketch presented did not even have any dimensions at the time of the approval of the Application but instead rough dimensions were allowed later to be placed on the drawing.



Very truly yours,

A handwritten signature in blue ink, appearing to read 'J. Eubanks, Jr.', with a large, stylized flourish extending from the end.

John R. Eubanks, Jr.

cc: John Lindgren, Planning Administrator  
Town Clerk, Town of Palm Beach  
John C. Randolph, Esq.  
Mayor and Town Council  
Peter Elwell, Town Manager  
John Grosskopf, General Manager Palm Beach Towers  
Henry Goldsmith, President of Board of Palm Beach Towers Condominium Association, Inc

# **EXHIBIT "A"**

**TOWN OF PALM BEACH  
LANDMARKS PRESERVATION COMMISSION  
360 South County Road, Palm Beach, FL 33480**

(561) 227-6414 for John Lindgren, Planning Administrator  
(561) 227-6408 for Cindy Delp, Secretary for the Landmarks Preservation Commission

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS**

**ADDRESS OF PROPERTY:** 340 Royal Poinciana Way, Suite 329

**OWNER OF PROPERTY:** \*\* Sterling Palm Beach LLC/ Sidney Spiegel, Trustee

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**APPLICANT'S NAME:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**ARCHITECT FOR PROJECT:** \*\*

(Firm name) Glidden Spina & Partners

(Architect's name) Keith Spina

(Architectural firm's address) 1401 Forum Way, Suite 100

(Architectural firm's address) West Palm Beach, FL 33401

(Phone Number) 561-684-6844 (Fax Number) 561-684-5594

\*\* ☐ Check this box if you are an LPC member, and this project will result in a Voting Conflict for you.

**TYPE OF PROJECT:**

- |                                                         |                                                           |
|---------------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Restoration                    | <input type="checkbox"/> Demolition (Interior)            |
| <input type="checkbox"/> Rehabilitation                 | <input checked="" type="checkbox"/> Demolition (Exterior) |
| <input checked="" type="checkbox"/> Reconstruction      | <input type="checkbox"/> Sign                             |
| <input type="checkbox"/> Addition to historic structure | <input type="checkbox"/> Awning                           |
| <input type="checkbox"/> New Accessory Structure        | <input type="checkbox"/> Exterior Color Change            |
| <input type="checkbox"/> Landscape/hardscape            |                                                           |
| <input type="checkbox"/> Other                          |                                                           |

**Is this a tax abatement project?** (Must check one) Yes \_\_\_\_\_ Or No ☒

**\*\*TAX EXEMPTION PROJECTS: PART 1-PRECONSTRUCTION APPLICATION MUST BE FILED AS PART OF THIS APPLICATION (SEE ATTACHED)\*\***

**Does this project require a Town Council approval?** (Must check one) Yes \_\_\_\_\_ Or No ☒

**DESCRIPTION OF PROJECT:** (Please give a **comprehensive** description of the project which **fully describes** the changes to the landmarked building and/or landmarked property. Attach additional sheet if necessary.)

Create a new entry with access from covered walkway that faces the interior courtyard. Replace existing storefront opening that consists of 3 fixed glass panels with single entry door at center and one fixed panel on both sides.

**SUBMISSION CHECKLIST:** (Submit all of the following, as required for your project) (Please note that effective June 21, 2010, electronic submission is required. Please follow electronic submission instructions. Note: Paper mini-sets still required- see below. )

- ☐ Site Calculations (to be printed on Site Plan)
- ☐ Site Plan (must show any and all adjacent right-of-way)
- ☐ **Materials Removal Plan** (must delineate any and all materials that are to be removed or relocated in the construction process). This drawing shall be titled "Materials Removal Plan." If no original materials are scheduled to be removed or relocated, it shall be so noted on the floor plans.
- ☐ Survey (for new construction)
- ☐ Existing and Proposed Elevations (on same page)
- ☐ Details such as columns, railings, awnings, signs, etc. drawn to scale
- ☐ Floor plans
- ☐ Photographs, Original and/or Existing
- ☐ Color Samples and/or Fabric Samples
- ☐ Other
- ☐ **NOTE: 14 Mini-Sets of Reduced Plans** (paper copies) are to be submitted to the Town no later than 1 week prior to the meeting.

☐ The undersigned hereby certifies that the project described in this application, and as detailed by plans and other materials submitted, will be constructed in exact accordance with the aforesaid plans and specifications.

Signed by: \_\_\_\_\_  
(Property owner)

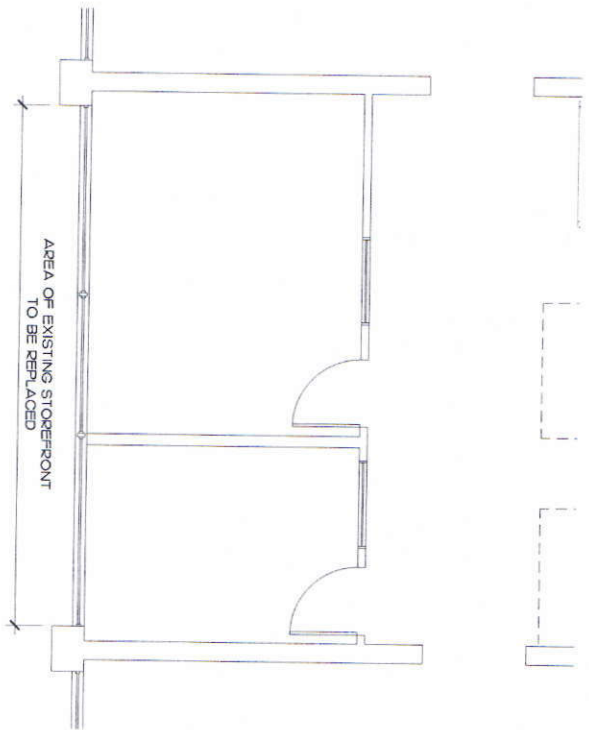
Printed name: \_\_\_\_\_

OR \_\_\_\_\_  
(Owner's Legally Authorized Agent\*)

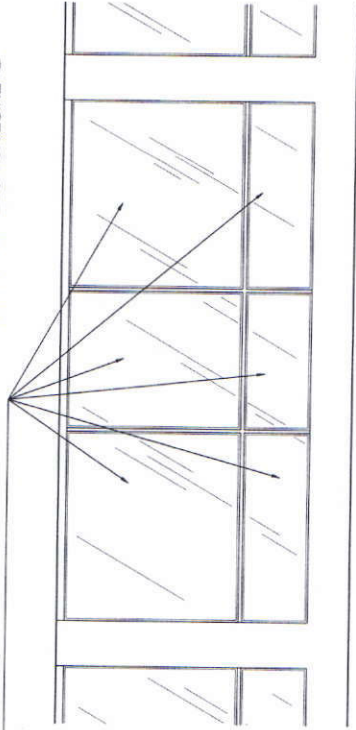
Printed Name: Sterling Palm Beach LLC/ Sidney Spiegel, Trustee  
By: Brian Kosoy, attorney-in-fact pursuant to Power of Attorney, dated September 19, 2008, attached hereto

**\*If signed by a Legally Authorized Agent, must be accompanied by a Power of Attorney or statement from property owner authorizing the signer to sign on owner's behalf.**

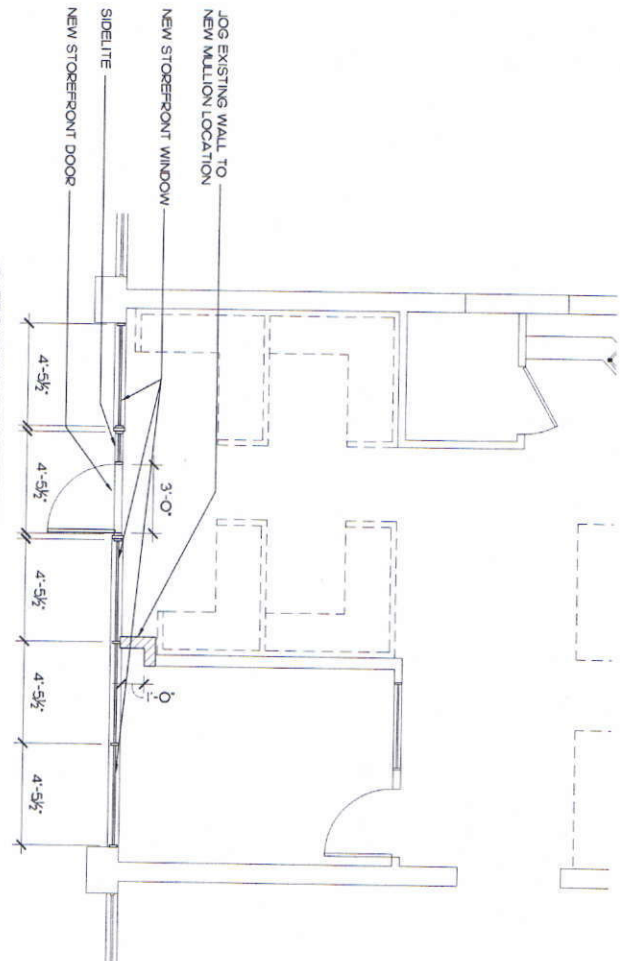




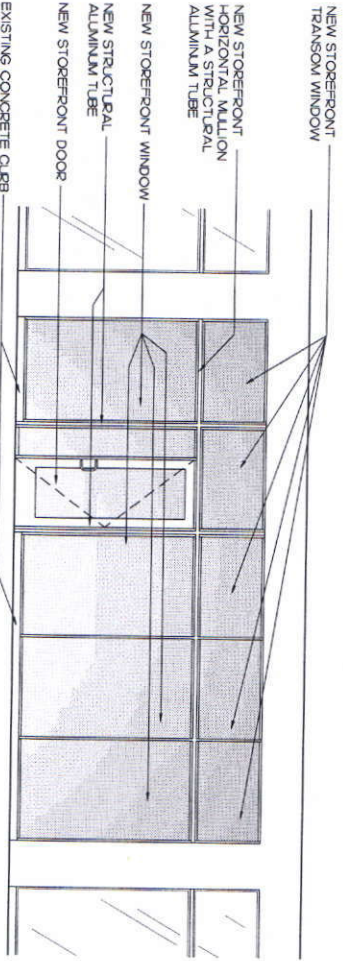
1 EXISTING PARTIAL FLOOR PLAN  
SCALE 3/8" = 1'-0"



2 EXISTING NORTH ELEVATION  
SCALE 3/8" = 1'-0"



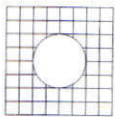
3 PROPOSED NEW STOREFRONT AND DOOR  
SCALE 3/8" = 1'-0"



4 PROPOSED NORTH ELEVATION  
SCALE 3/8" = 1'-0"

EXISTING CONCRETE CURB TO REMAIN  
EXISTING WINDOW TO BE REMOVED AND REPLACED WITH NEW STOREFRONT AND DOOR SYSTEM

EXISTING & PROPOSED FLOOR PLAN & ELEVATION  
NORTH ELEVATION  
SCALE AS NOTED



A-1

|                                                            |            |
|------------------------------------------------------------|------------|
| Sheet title: FLOOR PLAN & ELEVATION<br>File name: BHS1.DWG |            |
| project no: 12306                                          | revisions: |
| date: 12/17/12                                             |            |
| drawn by: CP                                               |            |
| checked by: KS                                             |            |

TENANT IMPROVEMENTS FOR:  
**BROWN HARRIS STEVENS**  
ROYAL POINCIANA PLAZA  
340 ROYAL POINCIANA WAY - SUITE 329  
PALM BEACH, FL 33480



Architecture - Interior Design  
John Gladden - ARCHIT - Keith M. Spina - INTERIOR

1401 FORUM WAY, SUITE #100  
WEST PALM BEACH, FLORIDA 33411  
561.884.8844 • Fax 561.884.8594  
gladden@spina.com  
FL Lic. # 144202000



A-2

EXISTING & PROPOSED  
EXTERIOR VIEW  
NORTH ELEVATION  
SCALE: AS NOTED

PROPOSED NORTH VIEW

EXISTING NORTH VIEW



Project No. 12208  
Client: CP  
Date: 12/17/12  
Scale: AS NOTED

TENANT IMPROVEMENTS FOR:  
BROWN HARRIS STEVENS  
ROYAL POINCIANA PLAZA  
340 ROYAL POINCIANA WAY - SUITE 329  
PALM BEACH, FL 33480

GLIDDEN SPINA  
ARCHITECTS  
1401 FOWLER WAY, SUITE 4100  
WEST PALM BEACH, FLORIDA 33411  
TEL: 561-844-1394  
WWW.GLIDDENSPINA.COM

Architectural & Interior Design  
John Glidden & John Spina  
1401 FOWLER WAY, SUITE 4100  
WEST PALM BEACH, FLORIDA 33411  
TEL: 561-844-1394  
WWW.GLIDDENSPINA.COM

NOTICE AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF PALM BEACH, TOWN OF PALM BEACH

BEFORE ME THIS DAY PERSONALLY APPEARED Brian Kosoy WHO BEING DULY  
SWORN, DEPOSES AND SAYS THAT:

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in the Application for Certificate of Appropriateness; and
2. The accompanying Property Owners List is, to the best of his/her knowledge, a complete and accurate list of all property owners' mailing addresses and property control numbers dated no more than 90 days prior to the Landmarks Preservation Commission hearing at which the subject application will be heard, and as recorded in the latest official tax rolls for the subject property and all other property within two hundred fifty (250) feet of the real property described in the Application for Certificate of Appropriateness, or all property within two hundred fifty (250) feet of all contiguous property owned wholly or in part by the owner of the real property described in the Application for Certificate of Appropriateness, if applicable; and
3. A copy of each page of the application plus Notice to Surrounding Property Owners is included in each envelope submitted for mailing, using the label provided by the Property Appraiser.

FURTHER AFFIANT SAYETH NOT.

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December, 2012  
by Brian Kosoy who is personally known to me or who  
has produced X as identification and who did (did not) take an oath.  
(type of identification)

Karen L. Lynch  
(Signature of Person Taking Acknowledgment)

X [Signature]  
Applicant's Signature

Karen L. Lynch  
(Printed Name of Acknowledger)

Brian Kosoy  
Applicant's Printed Name

(Title of Acknowledger)  
  
(Serial Number, if any)

340 Royal Poinciana Way Ste. 316  
Street Address  
Palm Beach, FL 33480  
City, State, Zip Code  
561-835-1810  
Telephone number



**NOTIFICATION TO SURROUNDING PROPERTIES OF APPLICATION FOR  
CERTIFICATE OF APPROPRIATENESS**

**LANDMARKS PRESERVATION PROGRAM**

Notice is hereby provided to all property owners within 250' of the subject property listed below that a public hearing will be held by the Landmarks Preservation Commission on January 16th, 2013, on or after **9:30 a.m.** to consider an application for a Certificate of Appropriateness for the following described real property. The meeting will be held **IN THE TOWN COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, TOWN HALL, 360 SOUTH COUNTY ROAD, PALM BEACH.**

|                           |                                                                                                                                               |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| Subject property address: | 340 Royal Poinciana Way, Suite 329                                                                                                            |
| Owner:                    | Sterling Palm Beach, LLC/ Sidney Spiegel, Trustee                                                                                             |
| Applicant:                | Sterling Palm Beach, LLC                                                                                                                      |
| Request approval of:      | Create a new entry with access from covered walkway that faces the interior courtyard.                                                        |
|                           | Replace existing storefront opening that consists of 3 fixed glass panels with single entry door at center and one fixed panel on both sides. |
|                           |                                                                                                                                               |
|                           |                                                                                                                                               |
|                           |                                                                                                                                               |

All interested persons may appear and be heard at said public hearing and may likewise submit written statements prior to and at said public hearing. The application for Certificate of Appropriateness and exhibits, such as plans and other supporting documentation, are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Road, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

If any person decides to appeal any decision made by the Landmarks Preservation Commission related to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

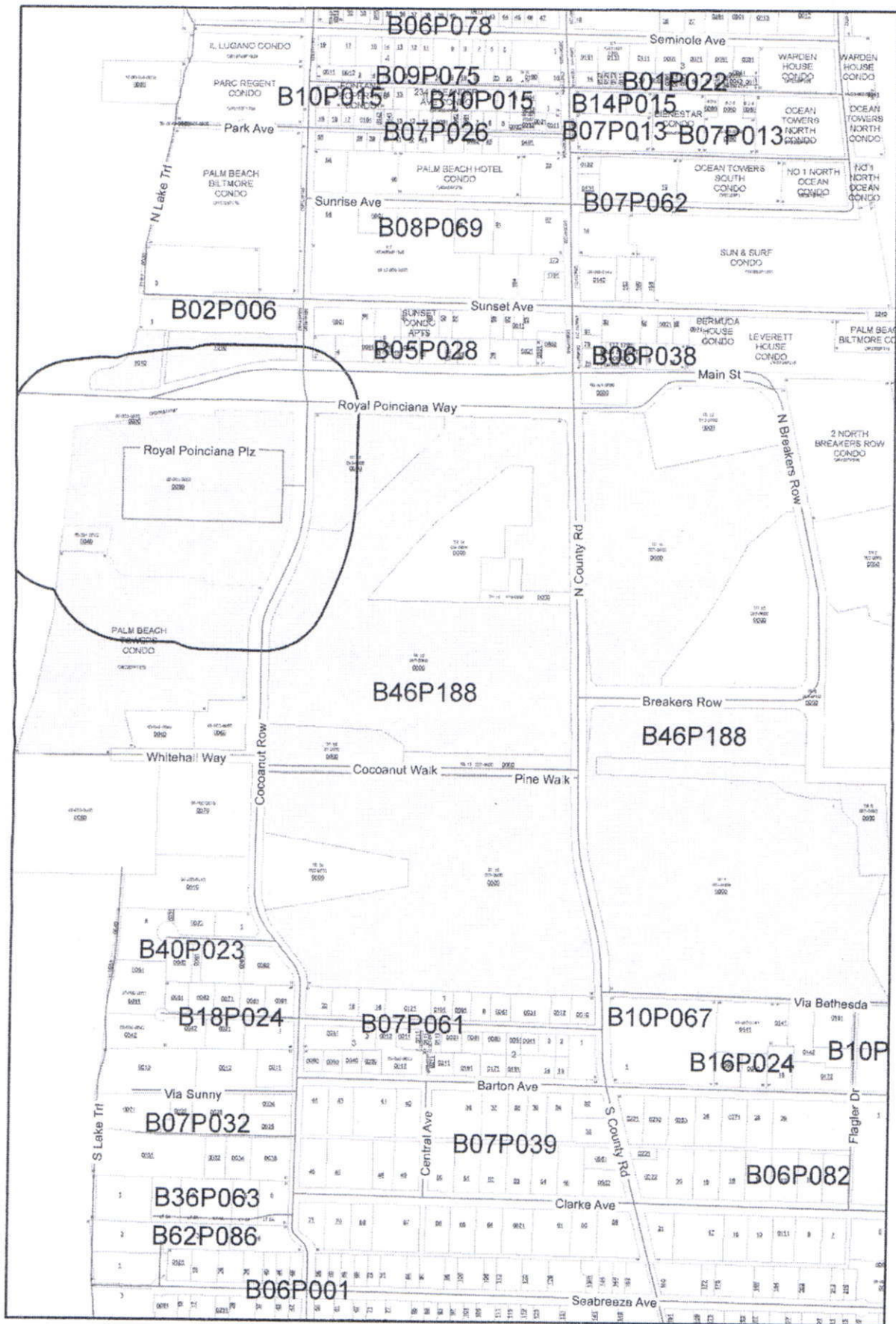
If we can be of further assistance relative to this matter, please contact John Lindgren, Planning Administrator at 227-6414 or Cindy Delp, Office Manager at 227-6408.

Sincerely,

John S. Page  
Director of Planning, Zoning and Building

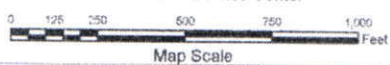
JSP/cmd





Gary R. Nikolits, CFA  
Palm Beach County  
Property Appraiser

Location: Downtown Service Center



Notes:

Key

Selected Parcels 100 300 500  
Others 200 400

Produced on: 12/12/2012

Sample

**TOWN OF PALM BEACH  
LANDMARKS PRESERVATION COMMISSION  
360 South County Road, Palm Beach, FL 33480**

(561) 227-6414 for John Lindgren, Planning Administrator  
(561) 227-6408 for Cindy Delp, Secretary for the Landmarks Preservation Commission

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS**

**ADDRESS OF PROPERTY:** 340 Royal Poinciana Way, Suite 329

**OWNER OF PROPERTY:** \*\* Sterling Palm Beach LLC/ Sidney Spiegel, Trustee

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**APPLICANT'S NAME:** \*\* Sterling Palm Beach LLC

(Address) 340 Royal Poinciana Way, Suite 316

(Address) Palm Beach, FL 33480

(Phone) 561-835-1810

**ARCHITECT FOR PROJECT:** \*\*

(Firm name) Glidden Spina & Partners

(Architect's name) Keith Spina

(Architectural firm's address) 1401 Forum Way, Suite 100

(Architectural firm's address) West Palm Beach, FL 33401

(Phone Number) 561-684-6844 (Fax Number) 561-684-5594

\*\* ☐ Check this box if you are an LPC member, and this project will result in a Voting Conflict for you.

**TYPE OF PROJECT:**

- |                                                         |                                                |
|---------------------------------------------------------|------------------------------------------------|
| <input type="checkbox"/> Restoration                    | <input type="checkbox"/> Demolition (Interior) |
| <input type="checkbox"/> Rehabilitation                 | <input type="checkbox"/> Demolition (Exterior) |
| <input checked="" type="checkbox"/> Reconstruction      | <input type="checkbox"/> Sign                  |
| <input type="checkbox"/> Addition to historic structure | <input type="checkbox"/> Awning                |
| <input type="checkbox"/> New Accessory Structure        | <input type="checkbox"/> Exterior Color Change |
| <input type="checkbox"/> Landscape/hardscape            |                                                |
| <input type="checkbox"/> Other                          |                                                |

**Is this a tax abatement project?** (Must check one) Yes \_\_\_\_\_ Or No X

**\*\*TAX EXEMPTION PROJECTS: PART 1-PRECONSTRUCTION APPLICATION MUST BE FILED AS PART OF THIS APPLICATION (SEE ATTACHED)\*\***

**Does this project require a Town Council approval?** (Must check one) Yes \_\_\_\_\_ Or No X



**DESCRIPTION OF PROJECT:** (Please give a **comprehensive** description of the project which **fully describes** the changes to the landmarked building and/or landmarked property. Attach additional sheet if necessary.)

Create a new entry with access from covered walkway that faces the interior courtyard. Replace existing storefront opening that consists of 3 fixed glass panels with single entry door at center and one fixed panel on both sides.

**SUBMISSION CHECKLIST:** (Submit all of the following, as required for your project) (Please note that effective June 21, 2010, electronic submission is required. Please follow electronic submission instructions. Note: Paper mini-sets still required- see below. )

- ☐ Site Calculations (to be printed on Site Plan)
- ☐ Site Plan (must show any and all adjacent right-of-way)
- ☐ **Materials Removal Plan** (must delineate any and all materials that are to be removed or relocated in the construction process). This drawing shall be titled "Materials Removal Plan." If no original materials are scheduled to be removed or relocated, it shall be so noted on the floor plans.
- ☐ Survey (for new construction)
- ☐ Existing and Proposed Elevations (on same page)
- ☐ Details such as columns, railings, awnings, signs, etc. drawn to scale
- ☐ Floor plans
- ☐ Photographs, Original and/or Existing
- ☐ Color Samples and/or Fabric Samples
- ☐ Other
- ☐ **NOTE: 14 Mini-Sets of Reduced Plans** (paper copies) are to be submitted to the Town no later than 1 week prior to the meeting.

☐ The undersigned hereby certifies that the project described in this application, and as detailed by plans and other materials submitted, will be constructed in exact accordance with the aforesaid plans and specifications.

Signed by: \_\_\_\_\_  
(Property owner)

Printed name: \_\_\_\_\_

OR

(Owner's Legally Authorized Agent\*)

Printed Name: Sterling Palm Beach LLC/ Sidney Spiegel, Trustee

By: Brian Kosoy, attorney-in-fact pursuant to Power of Attorney, dated September 19, 2008, attached hereto

\*If signed by a Legally Authorized Agent, must be accompanied by a Power of Attorney or statement from property owner authorizing the signer to sign on owner's behalf.



**NOTIFICATION TO SURROUNDING PROPERTIES OF APPLICATION FOR  
CERTIFICATE OF APPROPRIATENESS**

**LANDMARKS PRESERVATION PROGRAM**

Notice is hereby provided to all property owners within 250' of the subject property listed below that a public hearing will be held by the Landmarks Preservation Commission on January 16th, 2013, on or after **9:30 a.m.** to consider an application for a Certificate of Appropriateness for the following described real property. The meeting will be held **IN THE TOWN COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, TOWN HALL, 360 SOUTH COUNTY ROAD, PALM BEACH.**

|                           |                                                                                                                                                      |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| Subject property address: | <u>340 Royal Poinciana Way, Suite 329</u>                                                                                                            |
| Owner:                    | <u>Sterling Palm Beach, LLC/ Sidney Spiegel, Trustee</u>                                                                                             |
| Applicant:                | <u>Sterling Palm Beach, LLC</u>                                                                                                                      |
| Request approval of:      | <u>Create a new entry with access from covered walkway that faces the interior courtyard.</u>                                                        |
|                           | <u>Replace existing storefront opening that consists of 3 fixed glass panels with single entry door at center and one fixed panel on both sides.</u> |
|                           | <u> </u>                                                                                                                                             |
|                           | <u> </u>                                                                                                                                             |
|                           | <u> </u>                                                                                                                                             |

All interested persons may appear and be heard at said public hearing and may likewise submit written statements prior to and at said public hearing. The application for Certificate of Appropriateness and exhibits, such as plans and other supporting documentation, are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Road, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

If any person decides to appeal any decision made by the Landmarks Preservation Commission related to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

If we can be of further assistance relative to this matter, please contact John Lindgren, Planning Administrator at 227-6414 or Cindy Delp, Office Manager at 227-6408.

Sincerely,

John S. Page  
Director of Planning, Zoning and Building

JSP/cmd

# **EXHIBIT "B"**

**CERTIFICATE OF APPROPRIATENESS**  
**FILING GUIDELINES**

**FILING DEADLINE:**      **30 DAYS PRIOR TO THE MEETING DATE**

(\*See Landmarks Preservation Commission Meeting Dates and Filing Deadlines\* which is available on the Town's website at [www.townofpalmbeach.com](http://www.townofpalmbeach.com))

(Note: The filing deadline is 30 days prior to the meeting date, **UNLESS** the project is a "combo project, as determined by the Zoning Administrator\*\*\*)

**\*\*\*Combo Projects:** Please note that if your project requires variance, special exception or site plan review approval by the Town Council, **and** the Zoning Administrator informs you that your project will be a "combo" project, i.e., heard "informally" by the Landmarks Preservation Commission prior to receiving Town Council approval, and then returning to the Landmarks Preservation Commission for "formal" approval, the filing deadline listed above **DOES NOT APPLY**. IF SUCH IS THE CASE, THE FILING DEADLINE FOR THE LANDMARKS PRESERVATION COMMISSION IS THE SAME AS THE FILING DEADLINE FOR VARIANCE, SPECIAL EXCEPTION OR SITE PLAN REVIEW (*ON THE FRIDAY FOLLOWING THE 3<sup>RD</sup> TUESDAY OF THE MONTH*)

\*\*\*\*\*

**LANDMARKS FILING FEE:**

**\$ 500.00 FOR ALL PROJECTS**

**(EFFECTIVE 10/4/2007)**

\*\*\*\*\*



**A COMPLETE LANDMARKS APPLICATION IS COMPOSED OF THE FOLLOWING:**

(Please note that effective June 21, 2010, electronic submission is required. Please follow electronic submission instructions. Note: Paper mini-sets still required 1 week prior to meeting. )

- ☐ The Application for Certificate of Appropriateness (electronic- on disc)
- ☐ A check in the amount of \$500.00 payable to the Town of Palm Beach
- ☐ One (1) set of complete plans and any other required submission materials (electronic- on disc)
- ☐ A signed and notarized Notice Affidavit (electronic- on disc)
- ☐ A Tax Map identifying the subject property, a 250 ft. radius around the property (electronic- on disc)
- ☐ A List of all property owners within that 250 ft. radius, including the subject property owner. This list, along with address labels, must be obtained from the Palm Beach Property Appraiser's Office, Mapping Department, 301 North Olive Avenue, Fifth Floor, West Palm Beach. You will need a property identification number (known as a property control number or folio number) of the subject property to obtain the list. You should allow at least 10 days to receive this list from the Property Appraiser. This list should be dated no earlier than ninety (90) days prior to the date of the meeting at which the application will be heard.(electronic- on disc)
- ☐ Stuffed and sealed envelopes with correct postage stamps applied (not metered postage). Envelopes are to contain a copy of the Application for Certificate of Appropriateness and the Notification to Surrounding Properties of Application for Certificate of Appropriateness. Envelopes are to be prepared for all property owners whose names appear on the list of property owners within that 250 ft. radius. The return address on each envelope should read as follows: Town of Palm Beach, Planning Zoning & Building Department, 360 S. County Road, Palm Beach, Florida 33480. The subject address should appear on the face of the envelope (bottom left) as such: RE: (street address) - Landmarks Preservation Commission. Envelopes are to be submitted to the Town and the Town will actually mail them.
- ☐ Sample envelope (unsealed) containing a copy of the Application for Certificate of Appropriateness and the Notification to Surrounding Properties of Application for Certificate of Appropriateness.(electronic- on disc)
- ☐ **14 Mini-Sets of Reduced Plans** are to be submitted to the Town no later than one week prior to the meeting date.
- ☐ **PRESENTATION DISC** which is defined as that which you will present at the meeting. The presentation disc shall include the plans/renderings/photos, etc. which also reflect any changes which have been made to the plans since you filed your original application for Certificate of Appropriateness. *Note: Those changes, however, cannot deviate from the Description of Project as filed with the Application for Certificate of Appropriateness.* The presentation disc shall be submitted in pdf, PowerPoint, or mix of both) and shall be submitted to the Town **no later than one week prior to the meeting date.** *Note: if you do not submit a separate Presentation Disc, the Town will assume you intend to present the plans which were submitted with your original application.*



### PLAN PARTICULARS

- ☐ PLANS ARE TO BE DRAWN IN BLACK LINE ONLY.
- ☐ 1/4" SCALE IS PREFERRED. 1/8" SCALE MAY BE PERMITTED IF THE PRESENTATION IS ADEQUATE AND SUFFICIENTLY DETAILED. 1/8" SCALE PLANS MAY NOT NECESSARILY BE APPROVED IF THEY ARE LACKING IN DETAIL.
- ☐ PLANS PRESENTED AT BOARD AND COMMISSION MEETINGS MUST BE "PRESENTATION QUALITY" DRAWINGS.
- ☐ PLANS MUST CLEARLY INDICATE THE AREAS OF THE HOUSE AND/OR PROPERTY WHICH ARE BEING CHANGED.
- ☐ PLANS MUST BE FULLY NOTATED AND DIMENSIONED TO ENABLE STAFF AND COMMISSION REVIEW.
- ☐ SITE CALCULATIONS MUST APPEAR ON THE SITE PLAN, WHICH IS PART OF THE REQUIRED SET OF PLANS.
- ☐ ANY MATERIALS THAT ARE TO BE REMOVED OR RELOCATED SHALL BE DELINEATED AND NOTED ON THE MATERIALS REMOVAL PLAN PAGE WHICH MUST BE INCLUDED IN THE PLAN SET.
- ☐ MATERIALS SHOULD BE NOTED ON THE PLANS.
- ☐ PLANS MUST BE SIGNED AND SEALED BY THE ARCHITECT.
- ☐ ELEVATION DRAWINGS MUST REFLECT THE EXISTING ELEVATION AND THE PROPOSED ELEVATION ON THE SAME PAGE, SO THAT ELEVATION CHANGES ARE EASILY DISCERNIBLE.
- ☐ MODEL REQUIRED FOR PROJECT OVER 10,000 SQUARE FEET
- ☐ REVISED PLANS: If an applicant revises the plans, after making application for a Certificate of Appropriateness and prior to the hearing date, the applicant must submit the revisions electronically via the Presentation Disc no later than one week prior to the meeting date. Revised plans should be submitted to Cindy Delp, Secretary for the Landmarks Preservation Commission.

### CAUTION

**\*\*APPLICATIONS AND PLANS PROVIDING INCOMPLETE OR INCORRECT INFORMATION WILL BE DEFERRED TO THE FOLLOWING MONTH.\*\***

### DEFERRALS

**\*\*PLEASE NOTE THAT AS OF THE JULY 18, 2007 LPC MEETING, IT WAS DECIDED THAT APPLICANTS NEED TO BE PRESENT AT THE LPC MEETING TO REQUEST A DEFERRAL; THAT THE FIRST DEFERRAL WOULD MOST LIKELY BE GRANTED; THAT A REQUEST FOR A SECOND DEFERRAL REQUIRES JUSTIFICATION; AND, THAT A THIRD DEFERRAL WILL LIKELY NOT BE GRANTED.**

## WHO CAN PRESENT?

The Landmarks Preservation Commission requires that the person presenting a project for review shall be:

- A design professional (excluding interior designer) licensed by the State of Florida, or
- An individual who is under the direct supervision of such signing/sealing professional (an individual who is employed or compensated by that professional whom can present to the Commissions' satisfaction), or
- A certified Architect Corporation under the provisions of Chapter 481 FS. Such requirement will not apply when requesting approval of ancillary improvements including fences, awnings, gates, shutters, pools, etc.

Licensed attorneys may participate in presentations. The Commission, however, reserves the right to require direct presentation and or response(s) from a design professional as identified above. The absence of a design professional may result in deferral of the issue until a time when said professional can attend and present.

## GUIDELINES FOR PRESENTING PROJECTS TO THE LANDMARKS PRESERVATION COMMISSION

1. All presentations must be completed in a formal and professional manner.
2. Electronic presentations in Pdf and/or PowerPoint are required. Applicants must submit a Presentation Disc including presentation quality plans, material samples, photographs, and any other presentation materials necessary for the Landmarks Preservation Commission to review the project. Insufficient presentations will result in a deferral of the project.
3. Presenters must use a microphone and speak directly into it when addressing the Landmarks Preservation Commission.
4. A laptop, already loaded with your Presentation Disc, is provided in the Town Council Chambers. Please note: You are not permitted to bring presentation boards to the meeting. You are not permitted to bring a revised flash drive or disc to the meeting. Your Presentation Disc was due no later than 1 week prior to the meeting date.
5. The agenda for the Landmarks Preservation Commission is available at least one week in advance of the meeting date. Applicants may obtain a copy of the agenda from the Internet at [www.townofpalmbeach.com](http://www.townofpalmbeach.com) or at the Planning, Zoning & Building Department. Agendas are tentative and subject to change.
6. Following review, the Landmarks Preservation Commission may:
  - (a) Issue a Certificate of Appropriateness, or
  - (b) Defer the project to the next month for additional study or information, or
  - (c) Deny the project for specified reasons
7. Ordinary maintenance or repairs, (meaning "work done to prevent deterioration of a building or to correct any deterioration, or decay of, or damage to a building or any part thereof by restoring the building as nearly as practicable to its condition prior to such deterioration, decay or damage, Section 54-2, Town of Palm Beach Code of Ordinances) which do not involve a change of design or material, or affect the outward appearance of a building, DO NOT require a Certificate of Appropriateness. The requirement for a Certificate of Appropriateness may also be waived for a "minor exterior change" (meaning "an exterior change the cost of which does not exceed \$2,000.00 as determined by the Building Official and is determined by the Landmarks Project Coordinator to not materially affect the exterior of the structure") in some cases, per Section 54-71 (e) of the Town of Palm Beach Code of Ordinances.
8. Applicants may refer to the Town of Palm Beach Code of Ordinances, Chapter 54 which speaks to the Landmarks Preservation Commission, Certificates of Appropriateness, Landmark Designations, and Tax Exemptions for landmarked properties.



## **PROCEDURES FOR ELECTRONIC SUBMISSION OF APPLICATION/PRESENTATION DOCUMENTS**

\*These procedures may be altered as the Town implements its "paperless" submission requirements

### **LANDMARKS PRESERVATION COMMISSION (LPC):**

#### **APPLICATION (REQUIRES NOTICE TO SURROUNDING PROPERTY OWNERS)**

1. ***Prior to application submission deadline:***  
Applicant contacts PZB in advance to receive application #
2. ***On or by the Application submission deadline*** (at least 30 days prior to the meeting )  
***SUBMIT the following:***

#### **APPLICATION**

Submit an Adobe (pdf) version of the "APPLICATION" file or folder on a CD. Label the CD with the LPC case # and the address. The "APPLICATION" file or folder contains: The 2 page LPC application and all plans in Adobe (pdf) format (with all plans showing the legend on the right side). \*Note that the 2 page LPC application will be attached to the agenda and placed on the web prior to the meeting.

**Name file/folder like this: COA-007-2012 1100 S OCEAN BLVD APPLICATION** (Note: If there are files within an "Application" folder, they should be named to indicate the contents.)

#### **RECORD**

Submit an Adobe (pdf) version of a "RECORD" file or folder on the same CD. The "RECORD" File or Folder contains one of every required document and plan: The LPC 2 page application, the Notification to Surrounding Property Owners, the Notice Affidavit, the tax map, the list of persons who were notified, the sample envelope and its contents, the plans, and any associated correspondence etc. Must be submitted by the deadline for application submission .

**Name file/folder like this: COA-007-2012 1100 S OCEAN BLVD RECORD** (Note: If there are files within a "Record" folder, they should be named to indicate the contents.)

\*\*\*\*\*

**IMPORTANT NOTE: IF YOU CHANGE THE PLANS AFTER THE SUBMISSION DATE, YOU NEED TO RE-SUBMIT A COMPLETE "APPLICATION" FILE OR FOLDER, AND A COMPLETE "RECORD" FILE OR FOLDER ON A NEW DISC. THAT MEANS YOU SUBMIT ALL THAT WAS ORIGINALLY SUBMITTED, EXCEPT FOR THE ORIGINAL PLANS (WHICH YOU WILL REMOVE) AND REPLACE THEM WITH THE NEW PLANS. NAME THE REVISED APPLICATION OR RECORD FILE OR FOLDER AS FOLLOWS:**

**COA-007-2012 1100 S OCEAN BLVD APPLICATION REV 01  
COA-007-2012 1100 S OCEAN BLVD RECORD REV 01**

**PLEASE NOTE:** The last date for submission of MINOR changes to plans is 7 calendar days prior to the meeting, at which time you will also submit your "PRESENTATION" file or folder

### **PRESENTATION**

3. **On or by the PRESENTATION submission deadline:** (no later than 7 days prior to the meeting) – **SUBMIT:**

Submit either an Adobe (pdf) or a PowerPoint "PRESENTATION" file or folder on CD containing all documents (in 1 file, or if multiple files, in 1 folder) that will be used for presentation.

Please be advised that the PRESENTATION should include any and all documents, plans, photographs, reports, etc. which the applicant elects to present to the commission and to the public during the Landmarks Preservation Commission meeting, and it is on the basis of these documents, plans, photographs, reports, etc., together with the applicant's verbal presentation, that the Landmarks Preservation Commission shall render a decision. The responsibility for a complete Presentation rests with the applicant.

All information submitted for presentation must match most current documents on file in PZB (same revision dates on plans). Additional supplemental information may be included in the Presentation folder (like photos or colored renderings).

This Presentation file/folder will be loaded onto a laptop computer located in the Town Council Chambers and will be retrieved by the applicant when preparing to make his or her presentation. The applicant should be prepared to use the mouse as a pointer, and should be prepared to zoom in or out as requested when making the presentation.

**NAME FILE/FOLDER LIKE THIS: COA-007-2012 1100 S OCEAN BLVD PRESENTATION** (Note: If there are files within a "Presentation" folder, they should be named to indicate the contents for the ease of the applicant making the presentation.)

**NOTE: IF YOUR PROJECT IS DEFERRED,** YOU WILL NEED TO SUBMIT ANOTHER PRESENTATION DISC FOR THE FOLLOWING MONTH'S MEETING NO LATER THAN 1 WEEK PRIOR TO THAT MEETING. (A SUCCINCT WRITTEN NARRATIVE DESCRIBING THE CHANGES MUST ACCOMPANY ALL REVISED PLANS).\*

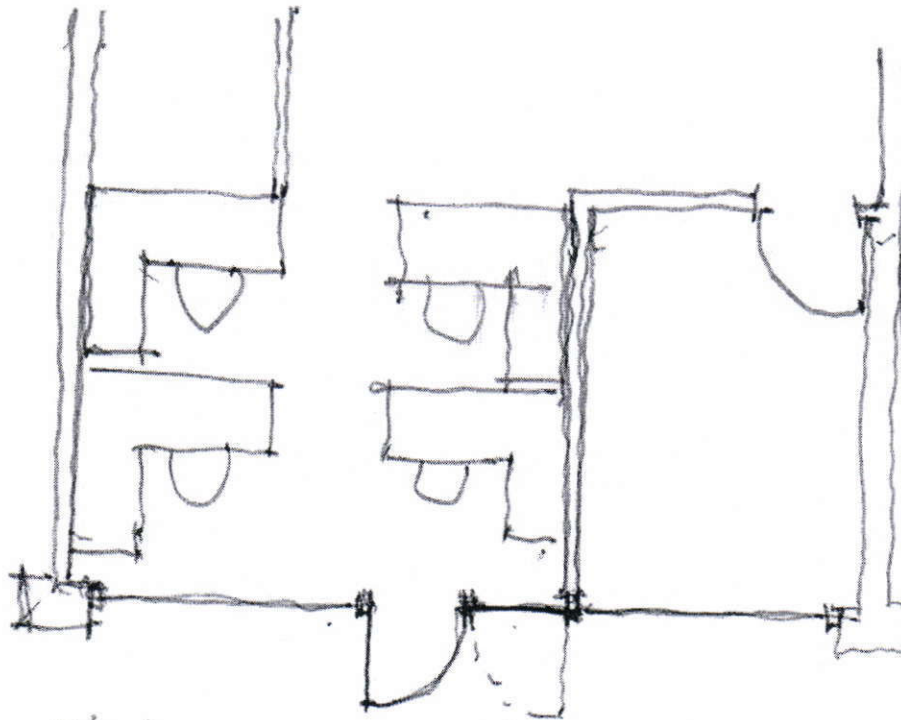
\*WHEN YOU NAME THAT NEW PRESENTATION FILE OR FOLDER, FOLLOW THIS EXAMPLE: **COA-007-2012 1100 S OCEAN BLVD PRESENTATION JUNE 2012** (This file/folder name differs from the original Presentation file/folder name because it also includes the month & year it will be heard again ).

Along with the Presentation disc, 14 sets of 11" x 17" plans must be submitted no later than 1 week prior to meeting; plans must match most current documents on file in PZB (same revision dates on plans). Please be advised that the mini sets are used by commission members and staff before and during the meeting, and are available to be viewed by the public prior to the meeting.

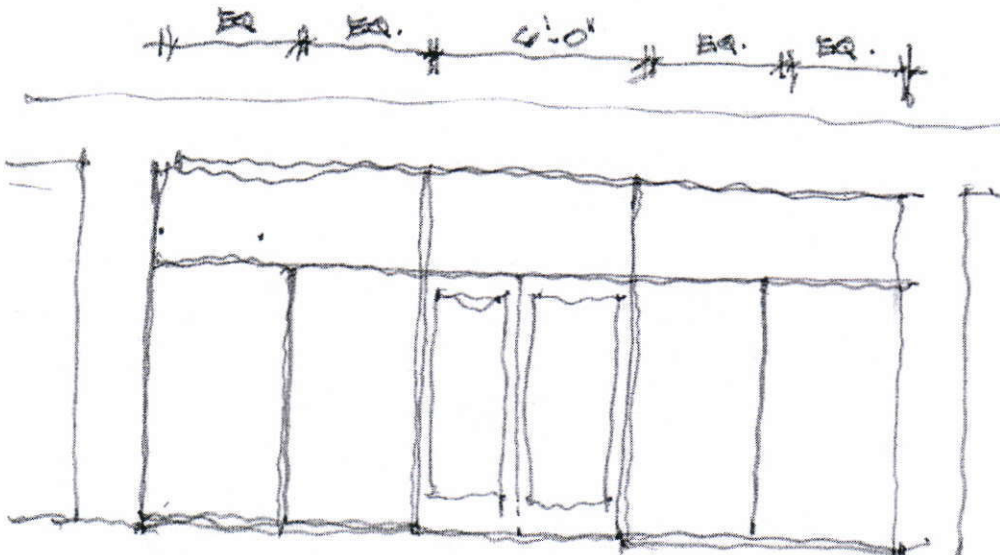


# **EXHIBIT "C"**

CCA-004-2013  
 Presented @  
 1/16/13  
 LPC  
 Meeting



Alt. Proposed Plan (Sheet A-1)



Alt. Proposed North Elevation (Sheet A-1)

CLUBHOUSE

BROWN, HARRIS

1/16/13

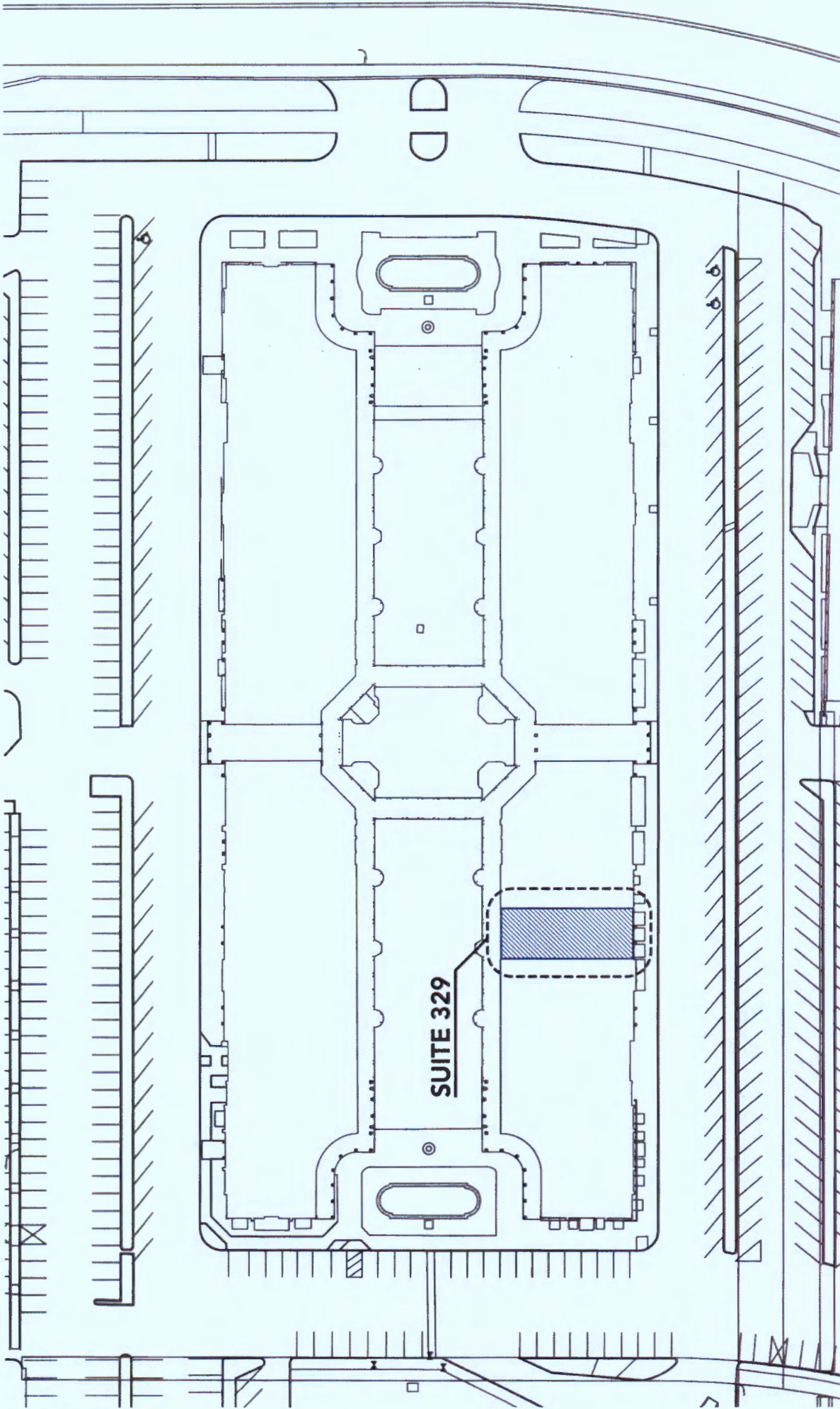
A-1

# BROWN HARRIS & STEVENS

Royal Poinciana Plaza  
Palm Beach, Florida

Landmark Presentation

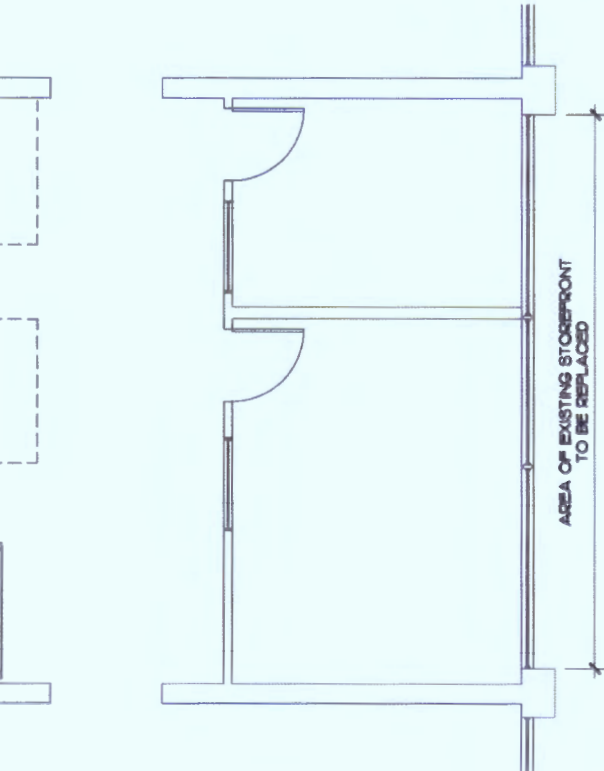
1.16.13



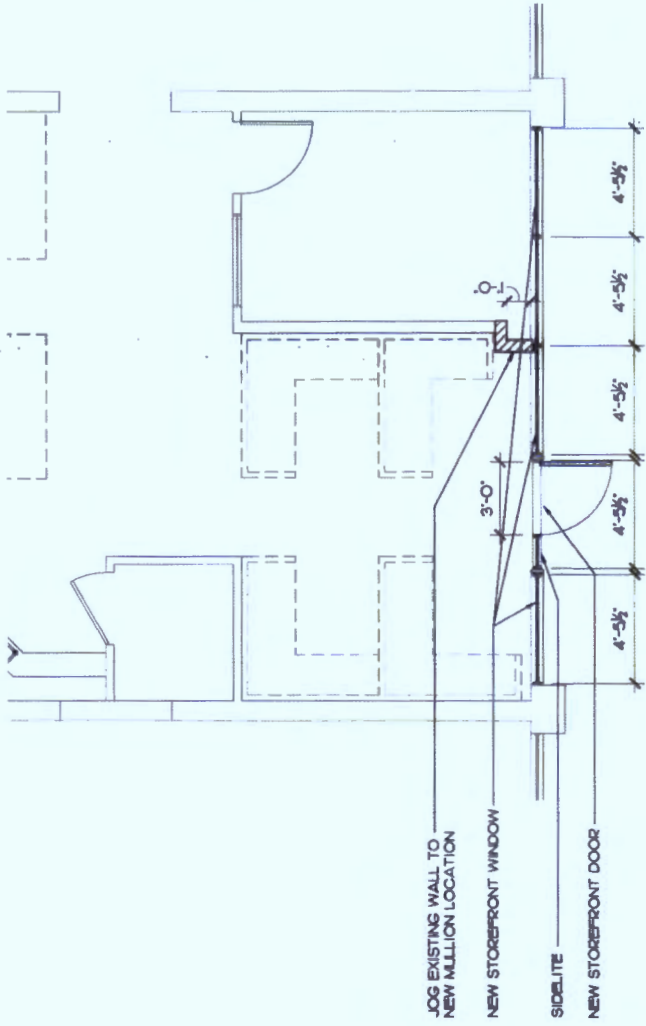
**PARTIAL SITE PLAN**

Brown Harris & Stevens at Royal Poinciana Plaza

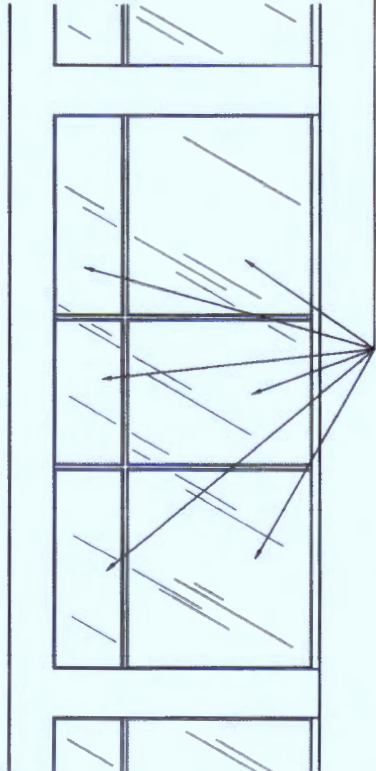




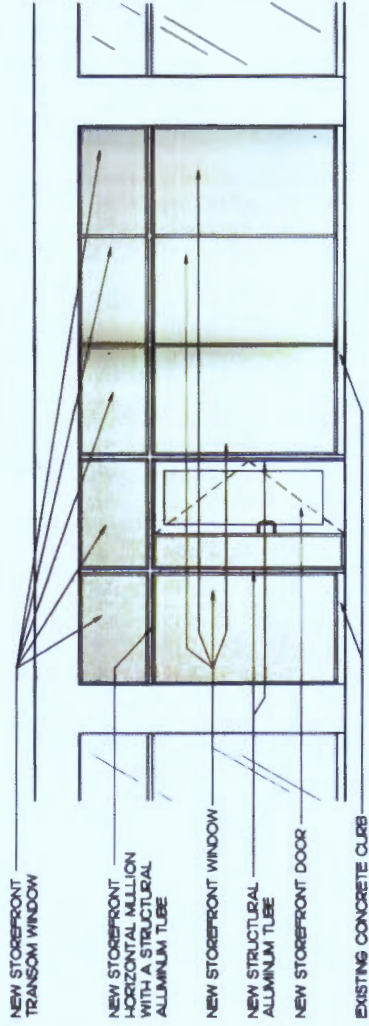
1 EXISTING PARTIAL FLOOR PLAN  
SCALE 3/8" = 1'-0"



3 PROPOSED NEW STOREFRONT AND DOOR  
SCALE 3/8" = 1'-0"



2 EXISTING NORTH ELEVATION  
SCALE 3/8" = 1'-0"



4 PROPOSED NORTH ELEVATION  
SCALE 3/8" = 1'-0"

EXISTING & PROPOSED  
FLOOR PLAN & ELEVATION  
NORTH ELEVATION  
SCALE AS NOTED

# EXISTING AND PROPOSED FLOOR PLAN & ELEVATION

Brown Harris & Stevens at Royal Poinciana Plaza



**EXISTING VIEW**

Brown Harris & Stevens at Royal Poinciana Plaza





**PROPOSED VIEW**

Brown Harris & Stevens at Royal Poinciana Plaza



## EXISTING PHOTOS



# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Time Extensions

## Agenda Title

Request for Waiver of Section 42-199, Hours of Construction Work, at 401 Worth Avenue Per Letter Dated January 16, 2013, from Donald B. Scott, Jr.

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum Dated January 29, 2013 from John Page
- Letter dated January 16 2013 from Donald B Scott Jr
- Letter dated January 17, 2013 from Robin L. Miller
- Letter dated January 25 2013 to neighbors

# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Waiver of Town Code Section 42-199, Hours for Construction Work  
401 Worth Avenue

Date: January 29, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council approve an extension of the permissible construction hours at 401 Worth Avenue from March 11, 2013 until March 21, 2013, as determined by material availability. It should be noted that this property is not located in the C-WA Zone where seasonal work is prohibited. Approval should be conditioned as follows:

- The work shall proceed as one (1) 24 hour work period and one (1) 16 hour work period. The exact dates are dependent upon material availability but will be provided to the Building Official at least three days prior to work being performed.
- All deliveries will be made between the hours of 9:00 AM and 5:00 PM.
- No construction related parking will be allowed on Worth Avenue or Cocoanut Row without right of way parking permits.
- No workers shall congregate or loiter on Worth Avenue or Cocoanut Row.
- Any work which produces noise or vibrations, use of heavy machinery, or activities which will likely disturb neighboring properties will be performed during regular permissible working hours only.
- Any verified complaints from neighbors may revoke extended work hours.
- Adequate notification of any changes to the requested work dates shall be provided to the Building Official.
- Submission of an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 200 foot radius of the subject property have been notified of this request by mail prior to 5 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.

## **GENERAL INFORMATION**

On January 16, 2013 staff received a letter from 401 Worth Avenue Building, Inc. requesting a waiver of working hours to allow for expedited renovation of the single elevator serving their building. They claim the elevator is currently unreliable and jeopardizes the health and well being of several elderly residents (see attached). Donald Scott, President of the corporation, believes all parking can be confined to the subject property and all work performed during the expanded hours will be unobtrusive in nature.

Attachments

JP/jlt

cc: Jeff Taylor, Building Official  
Paul W. Castro, Zoning Administrator  
H. Paul Brazil, Public Works Director  
Raychel Houston, Code Enforcement Unit

**401 Worth Avenue Building, Inc.  
Palm Beach, FL 33480**

Jeff Taylor  
Building Dept.  
Town of Palm Beach  
Palm Beach, FL 33480

January 16, 2013

Jeff,

Pursuant to our discussion today, this letter will serve as note that 401 Worth Avenue requests permission to do emergency renovation on our antiquated elevator. A waiver of Town Ordinance 42-199, Hours of Construction, is requested by 401 Worth Avenue Building, Inc., Palm Beach, FL 33480. The waiver is requested from March 4, 2013 until approximately March 18, 2013. The start and end dates may be adjusted by as much as two weeks later due to supply chain issues.

ThyssenKrupp will be responsible for all work and is requesting scheduling for 6 days starting work on Monday, March 4, 2013 and completion on Saturday, March 10, 2013 or possibly sooner. This initial stage will be done in 3 eight hour shifts working 24 hours/day. Interior of the cab will be completed the following week in 3 days or less. This will be done in two shifts of 8 hours each on day one and one 8 hour shift on days two and three. The location of the work is 401 Worth Avenue elevator shaft and elevator mechanical room opposite apartment 202 on the second floor. The work entails a complete overhaul and modernization of the mechanical, electrical and interior cab of the only elevator on the premises. The electrical work will be permitted by the electrical contractor prior to the onset of the elevator modernization. The electrical work will be done during day two and three of the elevator modernization.

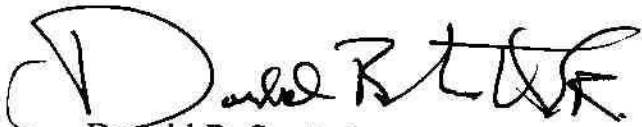
We are asking for this waiver because the elevator is 40 years old and has been breaking down and trapping residents. Typically, these renovations take 4 to 5 weeks, but ThyssenKrupp has agreed to work 24 hour shifts to complete the modernization because of the age and precarious health of several of the building residents. The one resident on the 3<sup>rd</sup> floor is wheelchair bound and has a full time nurse. He is 90 years old. There is a resident on the 2<sup>nd</sup> floor who is 94 years old



and she is wheelchair bound as well. All residents have voted unanimously for the modernization and are aware of the upgrade and the work schedule.

I appreciate your putting this on the building department agenda for the Town Council meeting on February 13, 2013.

Sincerely,



Donald B. Scott, Jr.



# WORTH AVENUE ASSOCIATION

## P A L M B E A C H

### OFFICERS:

Gregg Beletsky,  
President

Sherry Frankel,\*  
Vice President

George Lydon,  
2nd Vice President

Nancy Mizelle,  
Treasurer

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Secretary

### BOARD OF DIRECTORS:

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Bob Saffran

Ashley Scouller

Faith Spencer

Eliza Tizabgar

### ADMINISTRATOR:

Robin Miller

\* Past President

January 17, 2013

Donald Scott  
401 Worth Avenue Condo Association  
Via email: [piping@bellsouth.net](mailto:piping@bellsouth.net)

RE: Expedited permit TOPB – Extended hours

Dear Mr. Scott:

In accordance with my conversation with Marilyn yesterday, it is our understanding that you have applied to the Town of Palm Beach for an emergency/expedited permit to update your elevator. This being requested primarily due to two of your residents being wheelchair bound and this may be a safety issue.

On behalf of the Worth Avenue Association, we will not object to this improvement as long as no construction takes place on the outside of the building, and with the following stipulation:

**Under no circumstances shall any construction personnel vehicles (vendors, subcontractors or employees of contractors & subcontractors) park on Worth Avenue or Cocoanut Row at any time during the process.**

Kind regards,

Robin L. Miller  
Administrator

C: Jeff Taylor

**401 Worth Avenue Building, Inc.  
Palm Beach, FL 33480**

January 25, 2013

To Whom It May Concern:

A waiver of Town Ordinance 42-199, Hours of Construction, is requested by 401 Worth Avenue Building, Inc., Palm Beach, FL 33480. The waiver is requested from March 4, 2013 until approximately March 18, 2013. The start and end dates may be adjusted by as much as two weeks later due to supply chain issues.

The work entails a complete overhaul and modernization of the mechanical, electrical and interior cab of the only elevator on the premises. Our elevator is 40 years old and has been breaking down and trapping residents. We have 2 residents who are over 90 years old and are in wheelchairs, so we are in need of rectifying this hazardous situation as soon as possible.

The modernization work will not be heard by any nearby residents since the work is being done in the interior shaft and elevator control room. The companies doing the modernization will be given interior parking spaces so as not to interfere with Worth Avenue or Cocoanut Row parking.

This matter will be presented to the Palm Beach Town Council at the regularly scheduled meeting on February 13, 2013 at 9:30am. Any concerns regarding this matter should be expressed at this meeting.

This notice is required to be to be postmarked no later than 10 days prior to the regularly scheduled meeting.

If you have any questions, please contact Donald Scott at: 561.832.2234.

Thank you,

Donald Scott / President  
401 Worth Avenue Building, Inc.

# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Time Extensions

## Agenda Title

Request for Waiver of Section 42-199, Hours for Construction Work, at 301 Worth Avenue (Chanel) Per Letter Dated January 23, 2013, from Ean Bressack

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum Dated January 29, 2013 from John Page
- Letter Dated January 23, 2013 from Ean Bressack



# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Waiver of Town Code Section 42-199, Hours for Construction Work  
301 Worth Avenue: Chanel

Date: January 29, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council deny the Chanel request for an extension of permissible construction hours at 301 Worth Avenue. Section 42-199 prohibits work on Worth Avenue from November 1 until April 30.

If approval is granted, staff recommends work should be conditioned as follows:

- An extension of work hours from 8:00 PM until 12:00 PM for two weeks. Dates shall be decided upon and provided to the Building Official at least three days prior to work being performed.
- All deliveries will be made between the hours of 9:00 AM and 5:00 PM.
- No construction related parking will be allowed on any public way without right of way parking permits.
- No workers shall congregate or loiter on Worth Avenue or Hibiscus Avenue.
- Any verified complaints from neighbors may revoke extended work hours.
- Submission of an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 200 foot radius of the subject property have been notified of this request by mail prior to 5 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.

## **GENERAL INFORMATION**

On January 23, 2013 staff received a letter from Chanel, Inc. requesting a waiver of working hours to allow installation of a security gate inside the main door of Chanel. Chanel has expressed concerns about the security at this location and wishes to increase security measures with a new gate inside of the main entrance which can be closed during off hours. Chanel has presented no evidence of any pressing security issues at this address to justify this request during the seasonal work period.

Attachment

JP/jlt

cc: Jeff Taylor, Building Official  
Paul W. Castro, Zoning Administrator  
H. Paul Brazil, Public Works Director  
Raychel Houston, Code Enforcement Unit

# CHANEL

January 23, 2013

Mr. Jeff Taylor  
Town of Palm Beach  
360 South Country Road  
Palm Beach, FL 33480

Re: Waiver Request – Installation of Security Grille at Chanel, 301 Worth Avenue

Mr. Taylor,

Chanel has begun a plan of installing security grilles at the entrances of various high risk boutiques, as a result of a number of “smash and grab” burglaries at their boutiques across the country. Chanel has identified their boutique located at 301 Worth Avenue in Palm Beach as a location they would like to secure further.

To that end, Chanel has hired Shawmut Design and Construction to install a new security grille at the entrance of the boutique at 301 Worth Avenue.

We understand that construction on Worth Avenue is restricted to take place from May 1 – October 31, between the hours of 8:00am – 8:00pm, and would like to request waivers to:

1. Begin work prior to May 1
2. Work between the hours of 8:00pm – 4:00am

We believe these waivers are necessary to provide Chanel with the increased security needed to prevent future break-ins. We would like to work off hours to avoid affecting Chanel's ability to do business during their regular store hours.

Work included is as follows:

1. Relocation of an existing fire sprinkler head
2. Installation of supports for the grille at the existing ceiling
3. Installation of enclosure at corner of entrance to receive grille when not in use
4. Installation of security grille

The work will take approximately one week to complete and will be scheduled when the appropriate waivers are received and the necessary permits are in place.

Sincerely,



Ean Bressack  
Director of Loss Prevention  
Chanel, Inc.

CC:  
Dan Harrington  
Maryann Lawrence, ESQ

# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Time Extensions

## Agenda Title

Request for Waiver of Section 42-199, Hours for Construction Work, at 411 South County Road (J. P. Morgan Chase Bank) Per Letter Dated January 17, 2013, from Jorge Mitjans.

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum Dated January 29, 2013 from John Page
- Letter Dated January 17, 2013 from Jorge Mitjans



# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Waiver of Town Code Section 42-199, Hours for Construction Work  
411 South County Road: J. P. Morgan Bank

Date: January 29, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council approve an extension of the permissible construction hours at 411 South County Road. Approval should be conditioned as follows:

- Extended work hours shall terminate at 9:00 PM and shall only be allowed on three occasions. Dates shall be arranged with Florida Power and Light and provided to the Building Official at least three days prior to work being performed.
- All deliveries will be made between the hours of 9:00 AM and 5:00 PM.
- No construction related parking will be allowed on any public way without right of way parking permits.
- No workers shall congregate or loiter on Worth Avenue or South County Road.
- Any verified complaints from neighbors may revoke extended work hours.
- Submission of an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 200 foot radius of the subject property have been notified of this request by mail prior to 5 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.

## **GENERAL INFORMATION**

On January 17, 2013 staff received a letter from GSD Contracting, LLC requesting a waiver of working hours to allow for electrical work to be performed for ongoing bank renovation. A Florida Power and Light (FPL) transformer vault located inside the bank also supplies power to the building immediately south. Work requires FPL to disconnect all power from this vault when preparing for the new bank service.

Permissible construction hours are currently limited to 9:00 AM to 5:00 PM Monday through

Friday. Requiring this work to be performed during permissible working hours would require a total power outage to all affected buildings and disrupt the adjoining businesses. This work will consist of upgrading the existing electrical service and meter cans. The use of electric drills will be required to mount the new electrical equipment.

Attachments

JP/jlt

cc: Jeff Taylor, Building Official  
Paul W. Castro, Zoning Administrator  
H. Paul Brazil, Public Works Director  
Raychel Houston, Code Enforcement Unit



*"Building Trust"*

January 17, 2013

**Gregory C. DeJohn**  
President

Jeff Taylor  
Building Official  
Town Of Palm Beach  
360 South County Road  
Palm Beach, Florida

**Guy Vincent DeJohn**  
Vice President

Re: ***Waiver Request Letter***

A waiver of Town Ordinance 42-199, Hours of construction, is being requested by; GSD Contracting on behalf of JP Morgan Chase Bank located at 411 S. County Road to:

- Disconnect power to the above mentioned address on two consecutive weeknights from 6pm to 9pm, within the next two weeks. Exact dates are been scheduled with FPL.
- Proper notice will be sent to bldg. dept., law enforcement, tenants and landlord.
- The purpose of the shutdown is to provide temporary power during the construction phase of the new Chase Bank build out.
- We will be re using existing equipment and the amount of work and noise generated to accomplish this task will be kept to a very minimal as to not disturb any tenants during these work hours.
- This process will be repeated on another occasion for only one night during mid-march to provide permanent power to the new Chase facility.

If you have any questions or need clarification of the above, please call me at your convenience.

Sincerely,

Jorge Mitjans  
Project Manager

**GSD CONTRACTING, LLC.**

4675 Anglers Avenue • Fort Lauderdale, FL 33312  
Tel: (954) 961-4222 • Fax: (954) 964-3014 • [www.gsdcontracting.com](http://www.gsdcontracting.com)  
CBC 015480

**General Construction & Renovation Services Since 1980**







# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Old Business - < 15 Minutes

## Agenda Title

**VARIANCE #4-2013** The application of Virginia L. Mortara; relative to property commonly known as **319 El Vedado Road**; described as Lot 52 and the West 25 feet of Lot 53, REVISED PLAT OF JUNGLE POINT ADDITION TO THE TOWN OF PALM BEACH, according to the plat thereof as recorded in Plat Book 18, Page 21, of the Public Records of Palm Beach County, Florida; located in the R-A Zoning District. The applicant is requesting variances to allow construction of a 30 foot by 6 foot marginal dock located 10 feet from the West side yard property line in lieu of the 25 foot minimum set back required; to allow a 30 foot by 6 foot marginal dock located 10 feet from the Northern neighbor's South side property line in lieu of the 25 foot minimum set back required; to allow a vessel to be docked at the proposed dock, which vessel would extend beyond the Applicant's North neighbor's side property line, but not the Applicant's side property line. [Attorney: M. Daniel Logan]

*Deferred from the January 9, 2013, Town Council Meeting*

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Letter Dated February 1, 2013, from Dan Logan



LAWYERS

RECEIVED

FEB 05 2013

TOWN OF PALM BEACH  
PZB DEPT

February 1, 2013

Mrs. Wister  
335 El Vedado Rd  
Palm Beach, FL 33480

JAMES D. TITTLE  
jim@tkl-law.com  
Licensed to Practice in Florida,  
Georgia and North Carolina

MARK D. KAIRALLA  
mark@tkl-law.com

M. DANIEL LOGAN  
dan@tkl-law.com

Re: TOWN OF PALM BEACH  
VARIANCE APPLICATION NO. 004-2013  
319 EL VEDADO RD

Dear Mrs. Wister,

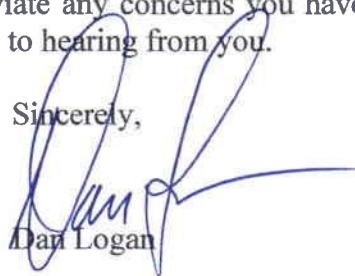
We are writing this letter on behalf of our client, Virginia Mortara, as a follow up to your meeting with our engineer, Charles Isiminger, that took place at your home on January 16, 2013. Mr. Isiminger relayed your concerns regarding the proposed 6 foot deep by 30 foot wide dock to our client. We wanted you to know that Mrs. Mortara appreciates your concern and does not wish to create conflict.

To alleviate your concern, she is willing to reduce the size of the dock to 5 foot deep by 20 foot wide. The proposed reduction in size would leave 15 feet between the outside edge of her dock and your property line. To further alleviate your concern, Mrs. Mortara is willing to withdraw her request for the variance required to allow her to dock any vessel behind her home. Therefore, no boats will be permitted behind our client's home.

In addition, it has been brought to our attention that there was a misunderstanding that Mrs. Mortara's dock was designed to extend 30 feet out into the waterway. We wanted to confirm that this was never the case. The dock, in its original design, only extended 6 feet out from our client's seawall.

Finally, Mrs. Mortara and I would enjoy an opportunity to meet with you to discuss the resolution of this matter in person. If you have any free time next week, please let my office know so that we can coordinate a meeting. We hope that the voluntary concessions set forth above alleviate any concerns you have concerning Mrs. Mortara's proposed dock. We look forward to hearing from you.

Sincerely,

  
Dan Logan

360 Columbia Drive, Suite 100  
West Palm Beach, Florida 33409  
Phone 561-444-3336 FAX 561-444-3338

cc: Virginia Mortara  
Julia Jennison, Counsel for Laurel, Inc.  
Charles Barnett, Counsel for Laurel, Inc.  
Paul Castro, Town of Palm Beach

# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Development Review - Other

## Agenda Title

**SITE PLAN REVIEW #1-2013** The application of James M. Crowley, Esq. or John W. Little, III, Esq. on behalf of Sterling Palm Beach LLC; relative to property commonly known as **340 Royal Poinciana Way**; described as Lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting a site plan review modification to the Royal Poinciana Plaza parking lot due to the realignment of the new Flagler Memorial Bridge. The Florida Department of Transportation has condemned 8,388 square feet of the Plaza's property for the realignment. The request is to restripe the Plaza, specifically the remaining portion of the northwest side of the property, to capture as many off-street parking spaces as possible of those which were lost. The redesign will result in 208 parking spaces in the northwest portion of the Royal Poinciana Plaza. [Attorneys: James M. Crowley, John W. Little]

**TIME CERTAIN: NOT BEFORE 1:30 PM**

*Deferred from the January 9, 2013, Town Council Meeting*

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum Dated February 5, 2013 from John S. Page
- Letter Dated February 4, 2013 from John W. Little, III
- Royal Poinciana Plaza Proposed Cure Plan
- Letter Dated February 7, 2013, from William O. Cooley
- Letter Dated February 7, 2013, from John Eubanks



# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Proposed Parking Lot Cure Plan: Royal Poinciana Plaza

Date: February 5, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council review alternative parking lot “cure plans” at the Royal Poinciana Plaza, and consider whether or not to grant site plan review approval to any of the plans.

## **GENERAL INFORMATION**

The Town Council, on January 9, 2013, considered a request from Sterling Palm Beach LLC, commonly known as the Royal Poinciana Plaza at 340 Royal Poinciana Way, for site plan review modification. The request was triggered as a result of a physical change to the parking lot caused by FDOT purchase of additional right-of-way for the new Flagler Memorial Bridge. Council members were concerned about a number of issues that were not completely resolved at the meeting, including previously approved double and triple-stacked spaces, spaces that would overhang Town-owned property, and spaces situated parallel to the sidewalk surrounding the building. The matter was deferred for one month.

The attached communication from Sterling’s attorney (John W. Little, III), and five alternative parking arrangement plans, have been submitted for review based upon Town Council feedback expressed at the January meeting. Mr. Little’s letter enumerates the specific differences between the various plans.

## **SPECIAL CONSIDERATIONS**

Several issues and/or questions were raised during or immediately following the January 9<sup>th</sup> Town Council discussion. Those issues/questions included, but were not necessarily limited to, past variance approvals, handicapped parking, and fire lane/safety. Staff, with assistance from Town Attorney Skip Randolph, will be prepared to address these items during your February 13<sup>th</sup> meeting.

Attachments

cc: John W. Little, III, Attorney  
Harvey Oyer, Attorney  
John C. Randolph, Attorney  
Paul Castro, Zoning Administrator  
Jeff Taylor, Building Official



**GUNSTER**  
FLORIDA'S LAW FIRM FOR BUSINESS

**RECEIVED**

**FEB 04 2013**

**VIA HAND-DELIVERY**

February 4, 2013

**TOWN OF PALM BEACH  
PZB DEPT**

John S. Page  
Director of Planning, Zoning & Building  
Town of Palm Beach  
360 South County Road  
Palm Beach, FL 33408

Paul W. Castro  
Zoning Administrator  
Town of Palm Beach  
360 South County Road  
Palm Beach, FL 33408

Re: Application for Site Plan Review # 1-2013

Gentlemen:

Enclosed are twenty sets of five drawings in connection with the upcoming Town Council meeting. As reflected on the enclosures, Drawing No. 1 is the proposed cure plan submitted with # 1-2013. Drawing No. 2 is generally the same plan, except that the parking spaces that overhang the Town's remainder property have been converted to parallel spaces. The Applicant is willing to agree to the approval of either Drawing No. 1 or Drawing No. 2.

Drawing Nos. 3, 4 and 5 are presented for illustrative purposes only at the request of the Town without agreement of the Applicant and without waiver of or prejudice to the plan submitted with # 1-2013 or the Applicant's property rights. Specifically, Drawing No. 3 is the previously approved 1999 parking plan for this portion of the Royal Poinciana Plaza with the parking spaces that were lost in the FDOT taking removed. If the Town does not approve Drawings No. 1 or 2 as part of #1-2013, then Drawing No. 3 effectively becomes the default as it was previously approved by the Town and simply reflects the number of parking spaces lost as a result of the FDOT taking. Drawing No. 4 illustrates the proposed cure plan less the parking spaces that overhang the Town's remainder property and the triple stack spaces. Drawing No. 5 illustrates the concept the Mayor and Council President proposed at the January meeting. The Applicant cannot agree to this concept.

We will submit the disk for the power point presentation by Wednesday as requested. If you have any questions concerning these enclosures, please do not hesitate to contact me.

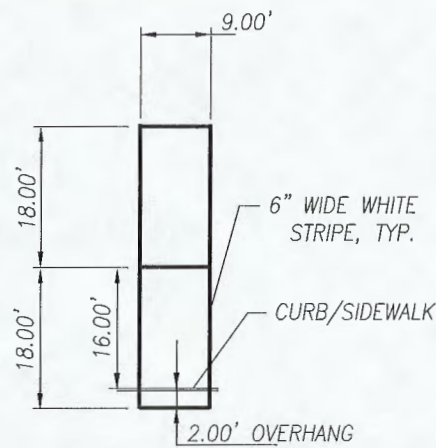
Sincerely,

John W. Little, III

Enclosures

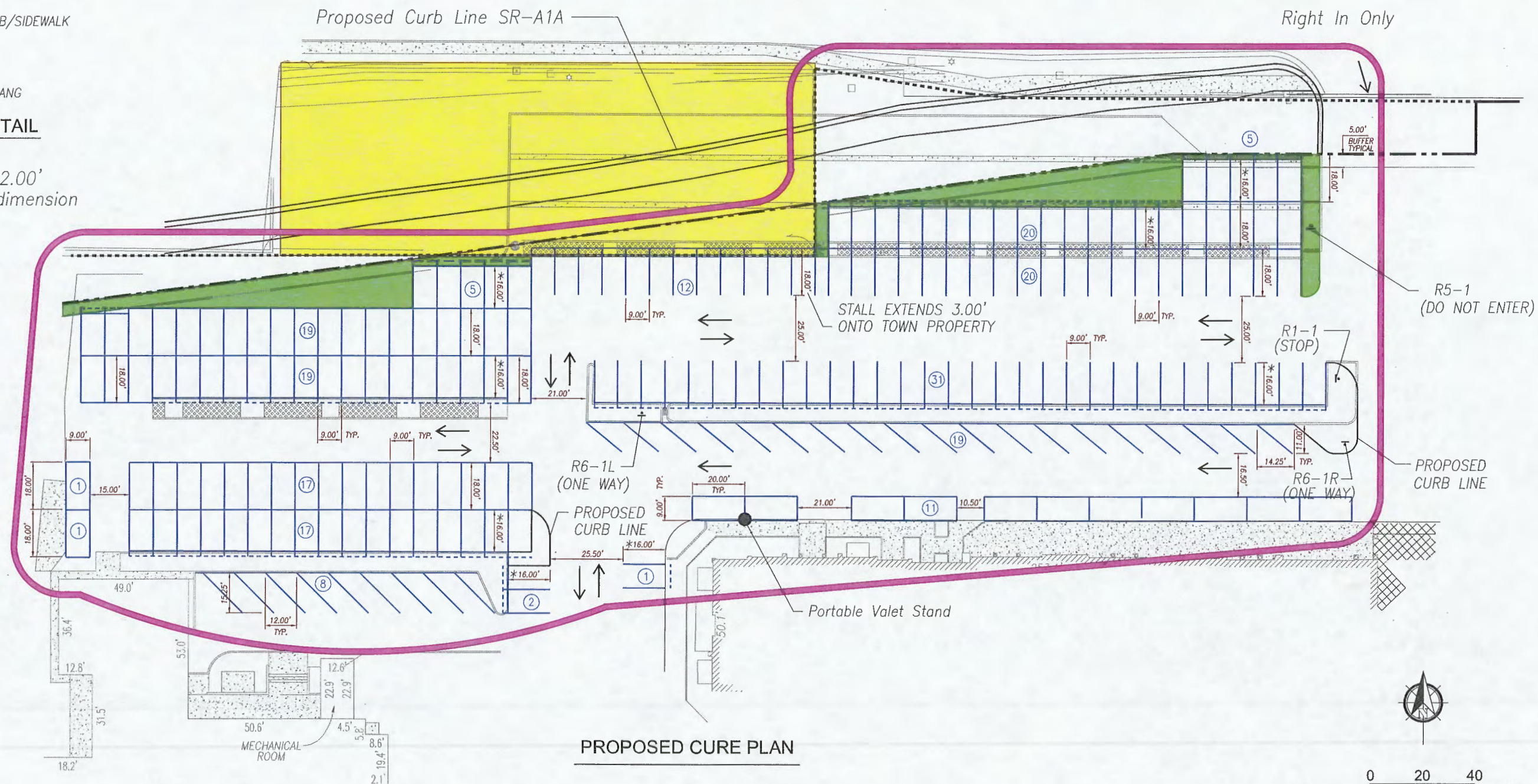
cc: John C. Randolph, Esq., Town Attorney with enclosures





**TYP. PARKING STALL DETAIL**  
N.T.S.

\* Note: Per above detail, 2.00' overhang added to 16.00' dimension to obtain 18.00' long stall.



**PROPOSED CURE PLAN**



0 20 40  
FEET

TOTAL PARKING SPACES (208)

**REVISIONS**

| Date     | By    | Description                        | Date | By | Description |
|----------|-------|------------------------------------|------|----|-------------|
| 11/21/12 | JS/BJ | Added Alternatives and Notes       |      |    |             |
| 11/27/12 | JS/BJ | Additional miscellaneous revisions |      |    |             |
| 1/28/13  | JS/BJ | Additional miscellaneous revisions |      |    |             |

| Drawn by    | Names | Dates   |
|-------------|-------|---------|
| Checked by  | EJS   | 4/16/12 |
| Designed by | BCJ   | 4/16/12 |
| Checked by  | BCJ   | 4/16/12 |
| Approved by |       |         |

| Legend:                    |
|----------------------------|
| TOWN OF PALM BEACH LAND    |
| LANDSCAPE AREA             |
| PROPOSED FDOT RIGHT-OF-WAY |
| EXISTING RPP PROPERTY LINE |

**DKS Associates**  
TRANSPORTATION SOLUTIONS  
12000 N. Dale Mabry Hwy.  
SUITE 112 Tampa, Florida 33618  
Telephone: (813) 962-5959  
Fax: (813) 962-5744  
CERTIFICATE OF AUTHORIZATION 7276

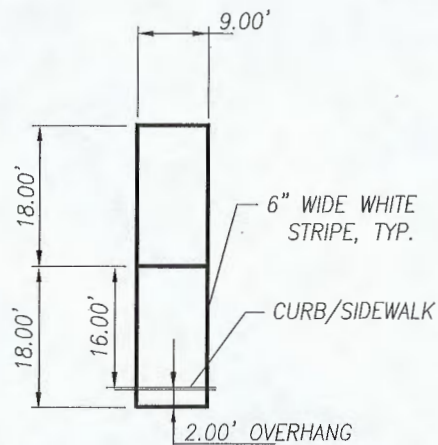
SHEET TITLE:  
**ROYAL POINCIANA PLAZA**  
**NORTHWEST PARKING AREA CURE PLAN DETAIL**  
**SITE PLAN REVIEW #1-2013**

Drawing No.  
**1**  
247 Index No.









# TYP. PARKING STALL DETAIL

N.T.S

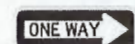
\* Note: Per above detail, 2.00' overhang added to 16.00' dimension to obtain 18.00' long stall.



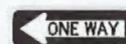
R1-1



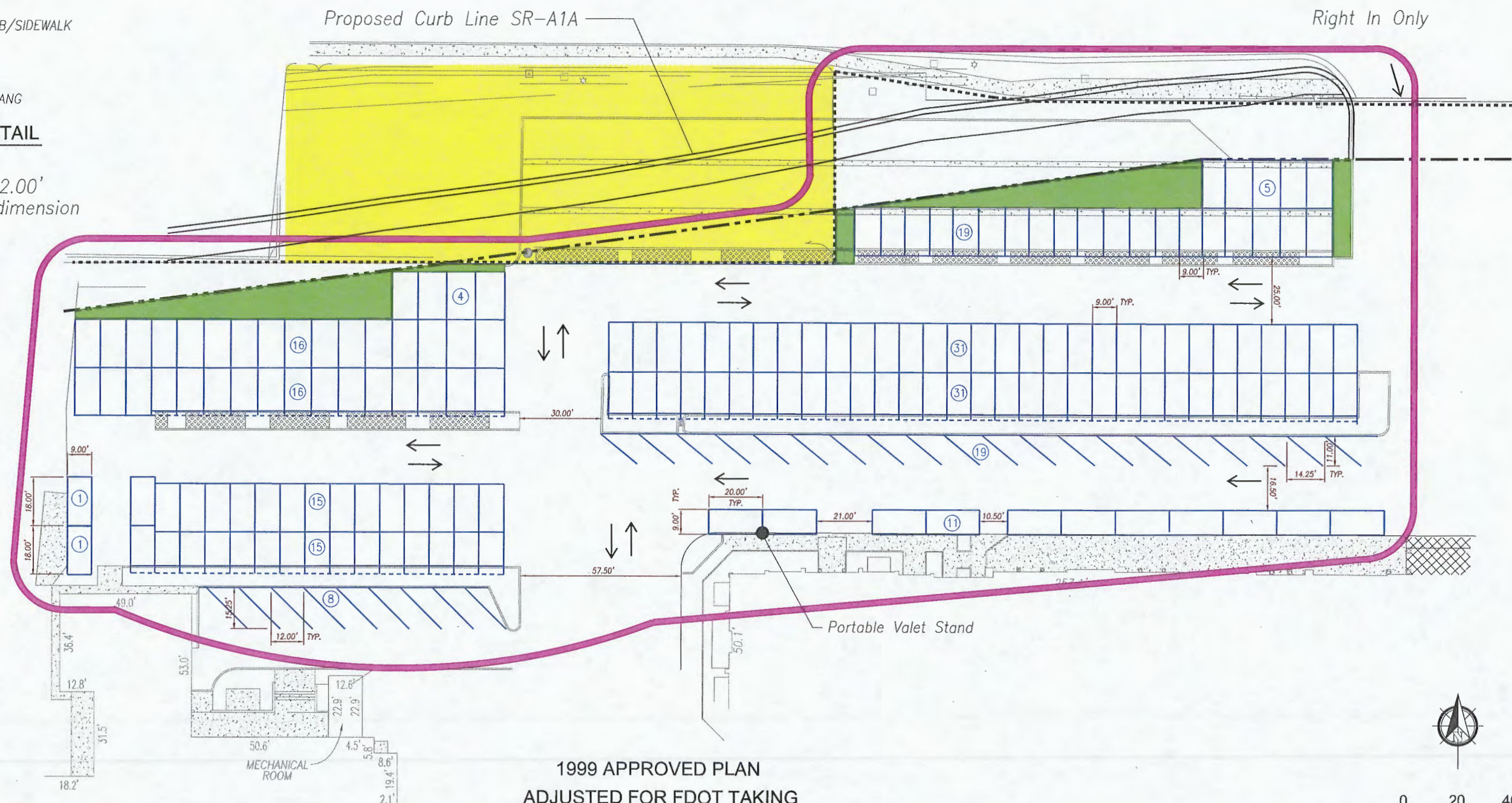
R5-1



R6-1R



R6-1L



1999 APPROVED PLAN  
ADJUSTED FOR FDOT TAKING

## NOTE:

PRESENTED FOR ILLUSTRATIVE PURPOSES ONLY AT THE REQUEST OF TOWN WITHOUT AGREEMENT OF THE APPLICANT AND WITHOUT WAIVER OF OR PREJUDICE TO THE PLAN SUBMITTED WITH SITE PLAN REVIEW #1-2013.



0 20 40 FEET

TOTAL PARKING SPACES (192)

## REVISIONS

| Date     | By    | Description                        | Date | By | Description | Drawn by    | Names | Dates   |
|----------|-------|------------------------------------|------|----|-------------|-------------|-------|---------|
| 11/21/12 | JS/BJ | Added Alternatives and Notes       |      |    |             | Checked by  | EJS   | 4/16/12 |
| 11/27/12 | JS/BJ | Additional miscellaneous revisions |      |    |             | Designed by | BCJ   | 4/16/12 |
| 1/28/13  | JS/BJ | Additional miscellaneous revisions |      |    |             | Checked by  | BCJ   | 4/16/12 |
|          |       |                                    |      |    |             | Approved by |       |         |

## LEGEND:

- TOWN OF PALM BEACH LAND
- LANDSCAPE AREA
- PROPOSED FDOT RIGHT-OF-WAY
- EXISTING RPP PROPERTY LINE

**DKS Associates**  
TRANSPORTATION SOLUTIONS

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SUITE 112  
Tampa, Florida 33618  
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Fax: (813) 962-5744  
CERTIFICATE OF AUTHORIZATION 7276

## SHEET TITLE:

ROYAL POINCIANA PLAZA  
NORTHWEST PARKING AREA CURE PLAN DETAIL

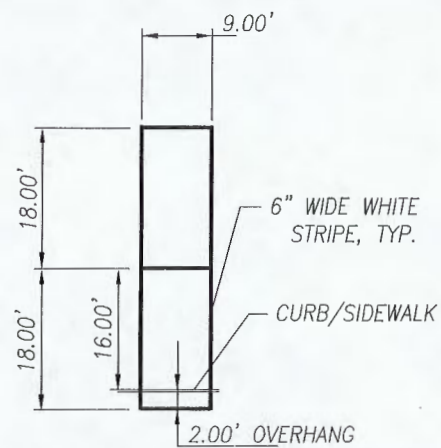
SITE PLAN REVIEW #1-2013

## Drawing No.

3

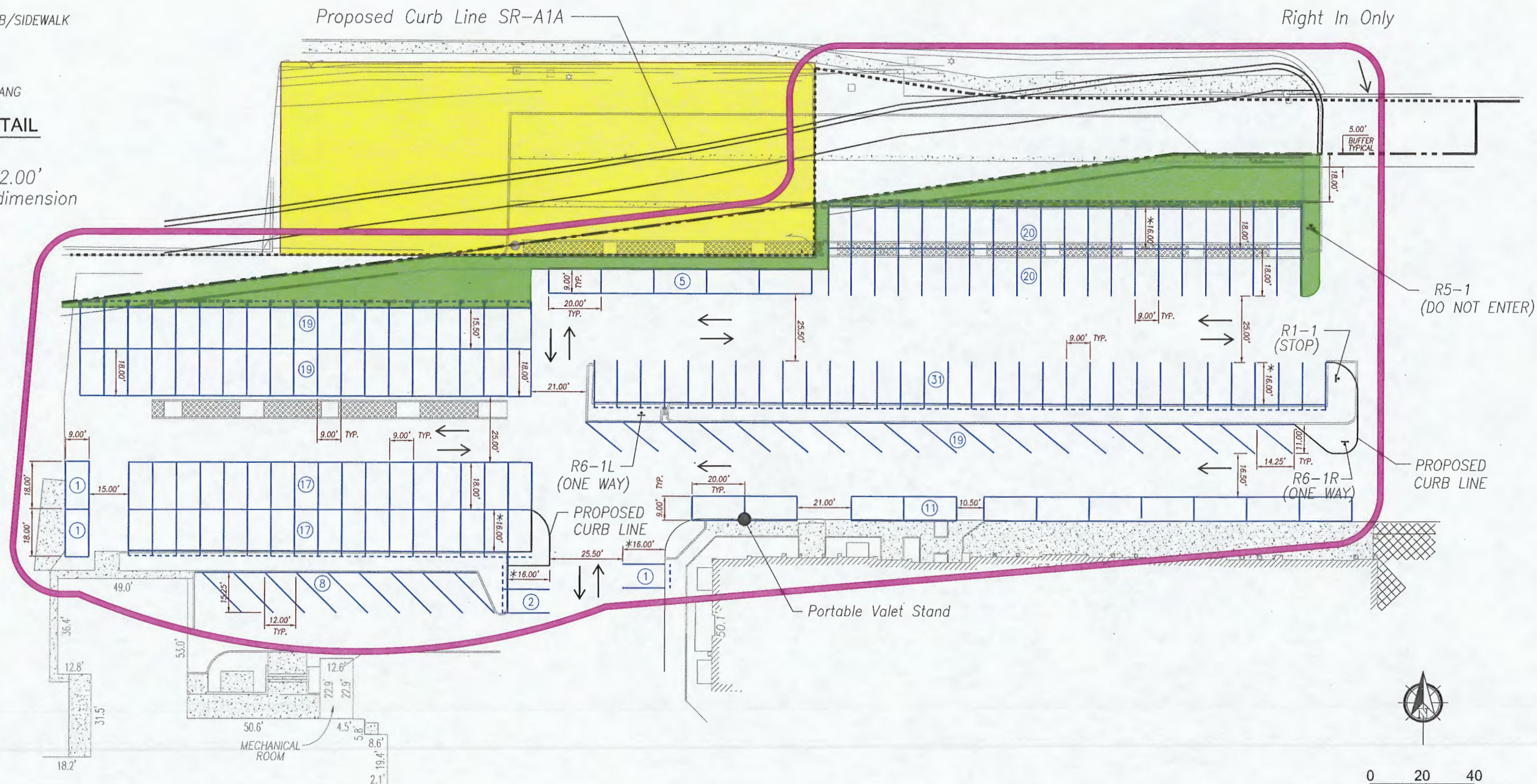
249 Index No.



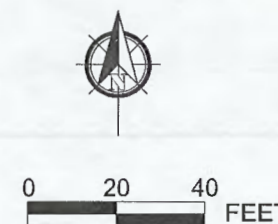


**TYP. PARKING STALL DETAIL**  
N.T.S

\* Note: Per above detail, 2.00' overhang added to 16.00' dimension to obtain 18.00' long stall.



NOTE:  
PRESENTED FOR ILLUSTRATIVE PURPOSES ONLY AT THE  
REQUEST OF TOWN WITHOUT AGREEMENT OF THE APPLICANT  
AND WITHOUT WAIVER OF OR PREJUDICE TO THE PLAN  
SUBMITTED WITH SITE PLAN REVIEW #1-2013.



TOTAL PARKING SPACES (191)

| REVISIONS |       |                                    |      |    |             | Names       |     | Dates   |  |  |
|-----------|-------|------------------------------------|------|----|-------------|-------------|-----|---------|--|--|
| Date      | By    | Description                        | Date | By | Description | Drawn by    | EJS | 4/16/12 |  |  |
| 11/21/12  | JS/BJ | Added Alternatives and Notes       |      |    |             | Checked by  | BCJ | 4/16/12 |  |  |
| 11/27/12  | JS/BJ | Additional miscellaneous revisions |      |    |             | Designed by | BCJ | 4/16/12 |  |  |
| 1/28/13   | JS/BJ | Additional miscellaneous revisions |      |    |             | Checked by  |     |         |  |  |
|           |       |                                    |      |    |             | Approved by |     |         |  |  |

| LEGEND:                                                                                                                    |                            |
|----------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> | TOWN OF PALM BEACH LAND    |
| <span style="background-color: green; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span>  | LANDSCAPE AREA             |
| <span style="border-bottom: 2px dashed black; display: inline-block; width: 20px;"></span>                                 | PROPOSED FDOT RIGHT-OF-WAY |
| <span style="border-bottom: 2px dotted black; display: inline-block; width: 20px;"></span>                                 | EXISTING RPP PROPERTY LINE |

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|                                                                  |  |                          |
|------------------------------------------------------------------|--|--------------------------|
| SHEET TITLE:                                                     |  | Drawing No.<br><b>4</b>  |
| ROYAL POINCIANA PLAZA<br>NORTHWEST PARKING AREA CURE PLAN DETAIL |  |                          |
| SITE PLAN REVIEW #1-2013                                         |  | 250 <sup>Index No.</sup> |







**WILLIAM O. COOLEY**  
8 Windsor Court  
Palm Beach, Florida 33480

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

February 7, 2013

RE: Parking Ordinance and Parking Lay-out at Royal Poinciana Plaza

Dear Mayor and Council Members,

In looking at the proposed parking layout for the Royal Poinciana Plaza, I find that the lawyers and consultants for the applicant have grossly over stated the parking that they can fit on this site.

It is clear that they have abandoned the 1995 and 1999 previous parking approvals, which, if ever granted and if ever executed, were outside the ordinance.

I have had a hard time viewing the thumbnail drawings and I imagine you have also. So I took the liberty of blowing up those drawings and am enclosing the 24" by 36" blow-up of those drawings, along with a letter, I will be sending to you for Friday or Saturday delivery.

On those blow-ups, I have shaded in red ink, the parking spots that the applicant is proposing, that are not in conformance with our ordinance.

By my count, if they are forced to comply with our ordinance, as is every other property owner in town, they can get 116 spaces in the area in question.

I believe it is telling that they have never provided a lay-out that shows how many parking spots fit in this area **IF LAID OUT ACCORDING TO OUR ORDINANCES.**

It is equally ridiculous to have the Department of Transportation at the council meeting blessing Sterling's drawings for the sole purpose of reducing the condemnation award that the State will have to pay. What does the FDOT care about congestion, parking shortages, or even abiding by local ordinances, in Palm Beach? The answer is, they don't. Once the award is finalized, they are gone and we are stuck with the mess.

Typically a condemnation process has two classifications of awards, the amount paid for the actual taking, and the amount paid for "severance damages." The latter being an amount paid to the property owner, if any, for damage to the remainder of the property caused by the actual taking. If Sterling/Speigel has a claim for severance damage, they will be paid by the

Page 2.

Mayor and Town Council

taking authority. The Town of Palm Beach should not be throwing its ordinance book out the window to attempt to accommodate the FDOT and limit the damage claim of Sterling/Speigel.

For a number of reasons, the spots I have shaded in red are "illegal" and should not and cannot be permitted. A simple definition of a parking spot is that it must be 9 feet wide, 18 feet long, and must have a 25 foot space in which to back up (shorter if angle parking). Double or triple stacking is not allowed, unless in a commercial parking lot, with attendants. There are only two of these in town, on Peruvian, and this site does not qualify for that exemption.

Some of these disallowed spaces are shorter than 18 feet, some are double and triple stacked, some have been striped over a fire lane, and some would not have the required back-up space, if the overhang was disallowed. I have made no deductions for required handicapped spaces. Handicapped spaces and fire lanes are not negotiable, but are not shown.

I have mailed a copy of these maps to each of you and one to the Town in care of John Page.

My only interest in this matter is in seeing that the ordinances of the Town of Palm Beach are enforced evenly and equitably. If the Town is going to start ignoring its ordinances, then they should be ignored for everybody. Selective enforcement of ordinances will come back to haunt the Town.

The answer to this is simple: COMPLY WITH PALM BEACH ORDINANCES. There is no hardship that Sterling/Speigel has in this case for which they will not be compensated in the taking award.

Sincerely,

A handwritten signature in blue ink, appearing to read "William O. Cooley", is written over a horizontal line.

William O. Cooley

Enclosure



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

www.blesmlaw.com  
Sender's Direct Line: (561) 721-4002  
E-Mail: jeubanks@blesmlaw.com

1209 North Olive Avenue  
West Palm Beach, FL 33401-3515  
Phone: (561) 721-4000  
Facsimile: (561) 721-4001

February 7, 2013

**Via E-mail and Hand Delivery**

Honorable Gail Coniglio, Mayor, and  
Town Council of Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33408

**Re: Application for Site Plan Approval (#1-2013) by  
Sterling Palm Beach LLC and Sidney Spiegel, Trustee ("Applicants")**

Dear Mayor and Town Council:

Even if the Applicants could overcome the issues and fatal deficiencies of the Application for Site Plan Approval (#1-2013) ("Application") set forth within the Palm Beach Towers' correspondence of January 3, 2013<sup>1</sup>, the proposed "Cure Plan" for the modification of parking at the Royal Poinciana Plaza ("Plaza") must still be denied given that: a) it is in violation of the Town's Fire Code; b) it is in violation of the Americans with Disability Act ("ADA") and its Florida counterpart; and c) it includes over 50 parking spaces which are too small, overlap other impediments and/or are located in front of a fire hydrant. As such, while the analysis may be slightly different, the conclusion is the same, the Application must be denied.

**I. Failure to Comply with Fire Code**  
**A. "Cure Plan" Does Provide Sufficient Fire Lane**

As a preliminary matter, neither the "Cure Plan" nor the Plaza in general, provides for a legally sufficient fire lane. Section 46-66 of the Town Code adopts the NFPA 1, 2009 Edition as the "*as the minimum safety code*" for the Town.(emphasis added). Section 18.2.3.4.1.1 of the NFPA 1, in turn requires that "Fire department access roads *shall have a width of not less than 20 ft. (6.1m).*"<sup>2</sup> (emphasis added).<sup>3</sup> In addition to being required to be marked with freestanding signs with the wording "NO PARKING FIRE LANE BY ORDER OF THE FIRE DEPARTMENT" "the

---

<sup>1</sup> The Towers incorporates by reference its correspondence of January 3, 2013. As set forth therein, the Town Council need go no further than the fact that both the 1995 and 1999 Lawrence Plans expired or have been abandoned and as a result are null and void. As such, neither Plan may be relied upon to create a "Cure Plan" which includes tandem parking, which is prohibited by the Town Code. Consequently, the Application must be denied.

<sup>2</sup> A copy of the provisions of the NFPA 1 cited herein is attached hereto as Exhibit "A."

<sup>3</sup> A marked fire department access road is otherwise known as a fire lane. See, NFPA 1 18.2.3.5.2.

*required width* of a fire department access road *shall not be obstructed in any manner, including by the parking of vehicles.*" NFPA 1 18.2.4.1.1. (emphasis added). Instead, "Minimum required widths and clearances established by 18.2.3.4 *shall be maintained at all times.*" (emphasis added). Likewise, "Fire hydrants and connections to other approved water supplies *shall be accessible to* the fire department." NFPA 1, 18.3.4.

On their face, all but one of the five versions<sup>4</sup> of the "Cure Plan" filed with the Town are in direct violation of the minimum safety standards adopted by the Town, as they include parking spaces which are nine (9) feet wide along the sidewalk of the north Volk Building.<sup>5</sup> Subtracting the width of the parking spaces leaves a remaining available fire lane of only 16.5 feet, well short of the 20 feet required by the Town's own Code.<sup>6</sup>

In addition to an insufficient fire lane, every version of the proposed Cure Plan includes at least one, if not two, parking spaces which block the fire hydrant located on the northern property line in the middle of those spaces for which permission is sought for an overhang on the Town's Property.<sup>7</sup> Given the "Cure Plans'" direct violation of the life safety codes of the Town, the Application should be denied.

#### **B. Illegal Parking Spaces Cannot Be "Grandfathered" or Vested**

Moreover, the Town cannot merely "overlook" the fact that the "Cure Plan", or for that matter the remainder of the Plaza parking lot, does not comply with its own Fire Code on the basis that those parking spaces along the sidewalks of the Volk Building are somehow "grandfathered" or "vested" under the 1995 or 1999 Lawrence Plans for several reasons. First, as detailed within the Towers' January 3, 2013 letter, the 1995 and 1999 Lawrence plan are void and/or have been abandoned. As a result, legally they cannot "vest" any rights.

---

<sup>4</sup> On February 4, 2013 the Applicants provided 5 versions of the Cure Plan numbered 1 to 5. Only version 5 of the Cure Plan which removes parking along the sidewalk and provides for a fire lane of 25 feet complies with the Town's minimum established width for a fire access road.

<sup>5</sup> Notably, while the Applicants have only presented a "Cure Plan" for the northwest corner of the Plaza, the requirement of a fire lane exists for the entire Plaza. As a result, any and all spaces along the entire sidewalk of both the north and south parallel Volk building cannot be maintained as they would be in violation of the Town's adopted Fire Code. As a result, regardless of the number of spaces which may or may not be permitted by the Town Council in conjunction with the "Cure Plan," the total number of parking spaces in the Plaza will necessarily be reduced by 46 parking spaces, i.e. the number of spaces along the sidewalks in the Lawrence Plans, which will have to be removed.

<sup>6</sup> While the "Cure Plans" on their face indicate 16.5 foot fire lane, field measurements by the Towers indicate that the remaining space available on the south side would be much narrower, and closer to only 13 feet.

<sup>7</sup> An expanded view of the location of the fire hydrant from Sterling's own Survey is attached hereto as Exhibit "B."



Second, as testified to by Robert Moore, the former director of Planning, Zoning and Building of the Town, regardless of whether the parking spaces along the building were included on the 1995 and 1999 Lawrence Plans, “the issue of the fire lanes, those yellow lanes around both sides of the building are fire lanes. There’s no question that that’s what they were in 1995 and 1999.”<sup>8</sup> As a result, the Applicants cannot utilize parking that was not permitted under the Lawrence Plans in 1995 and 1999 to create parking today which would directly violate the Town’s Code.

Third, alleged “vested” rights, cannot trump the Town’s life safety code or other provisions of the Town’s Code. It has long been established that even a building permit issued in violation of law or under a mistake of fact may be rescinded even if construction in reliance on the permit has begun. See, e.g., *Town of Lauderdale by the Sea v. Meretsky*, 773 So. 2d 1245 (Fla. 4<sup>th</sup> DCA 2000)(Town’s approval of construction of a wall which infringed on the right-of-way was void where construction was contrary to town’s own ordinances); *Sundale Associates Ltd. V Miami-Dade County*, 19 Fla. L.Weekly Supp 1008a, September 5, 2012 (prior issuance of a permit to install an awning which violated fire code cannot sanction a violation of the fire code); *Dade County v. Gayer*, 388 So. 2d 1292 (Fla. 3d DCA 1980). The reasoning behind such rulings is that, it would be inconceivable that issuing a permit could sanction a direct violation of an ordinance. As a result, even if the 1995 and 1999 Lawrence Plans were approved and permits issued, such permits would be void and could not be utilized to create a direct violation of the Town’s Fire Code.

Finally, it would seem that the Town would not want to turn a blind eye to the enforcement of the 20 foot minimum fire lane considering: a) it could result in opening the Town to additional liability for the intentional disregard of the minimum requirements of its Code; and b) an adequate fire lane would better protect the investment of any potential tenant for the Royal Poinciana Playhouse which would be committing to the expenditure of substantial sums to revive the Playhouse. As a result, once again, the Application should be denied.

## **II. “Cure Plan” and Parking in Plaza are in Violation of Americans with Disability Act and its Florida Counterpart**

In addition to violating the Fire Code Town, the “Cure Plans” presented by the Applicants also violate both the Americans with Disability Act (“ADA”) and the Florida Americans with Disability Accessibility Implementation Act (“FADAIA”), set forth in Chapter 553 of the Florida Statutes, by not providing for any handicap accessible spaces.<sup>9</sup> As a result the Application should be denied.

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<sup>8</sup> Transcript, p. 123, lines 13-16, a copy of which is attached as Exhibit “C.”

<sup>9</sup> In fact, Sidney Spiegel as Trustee as the owner of the Plaza was sued, along with /Hillstone Restaurant Group/PB Grill and TooJay’s, for violation of the ADA and its Florida Counterpart on November 2, 2012. At least a portion of the Complaint includes improper parking size, spaces and location in the Plaza. A copy of the Complaint is attached as Exhibit “D.” Clearly, it must have been an “oversight” when the Applicants failed to mention this lawsuit when presenting its initial “Cure Plan” to the Town Council on January 8, 2013, despite the fact that it will have a direct impact on the number of parking spaces which can be placed in the “Cure Plan” area.

Both the ADA and FADAIA, which adopts even more stringent standards than the ADA<sup>10</sup>, provide for a minimum number of handicap accessible car and van parking spaces within a parking lot or structure. In accordance with section 208 and table 208.2 of the Florida Accessibility Code ("FAC") parking lots with a total number of spaces ranging from 501 to 1000 spaces require 2 percent of the total parking spaces be accessible parking spaces.<sup>11</sup> In addition, for every six (or a fraction of six) accessible parking spaces required by table 208.2, at least one must be a van space. FAC §208.2.4.

This means that if there are presently 656 parking spaces in the Plaza (as counted by the Town's former Planning Administrator, Timothy Frank) there would need to be 13 handicapped accessible parking spaces along with 3 van spaces. If there were over 700 total parking spaces as requested (but by no means entitled to) by the Applicants, there would need to be 14 accessible parking spaces and 3 van spaces.

The number of spaces required is important as each accessible space is much larger than the spaces proposed by the Applicants. Each accessible parking space must be at least 12 feet wide and must have an adjacent access aisle. *See*, FAC §502.2. Access aisles must be at least 44 inches wide for cars, but that width increases to at least 60 inches in width for a van space. *See*, FAC §§502.3, 502.3.1. Finally, such spaces in a parking area with multiple entrances such as the Plaza, must be disbursed throughout the parking lot and must have a clear path of access to the nearest sidewalk or entrance. *See*, FAC §208.3.1.

Given that there are no more than 7 handicapped accessible spaces within the Plaza, with questionable or no access aisles at all (much less an access aisle of 44 to 60 inches), and none within the portion of the Plaza encompassed in the "Cure Plan", clearly at least some of the spaces (and at least one van space) will need to be placed in the northwest corner of the Plaza especially with the potential of the Playhouse reopening. Given that the area of the "Cure Plan" encompasses approximately one fourth of the Plaza parking area, the Applicants should have included at least 3 accessible spaces and one van space within the "Cure Plan." Even with shared access aisles, the minimum width for two car spaces and an access aisle will be 27 ft., 8 inches, while the minimum width for the remaining accessible car and van space will be 29 feet.

Therefore, before any final decision can be made regarding the "Cure Plan" the location of the required handicapped spaces, especially those in the northwest corner should be set as such spaces (along with the required access aisles) will take up significantly more spaces than normal parking, and will result in a reduction of overall parking spaces available in both the "Cure Plan"

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<sup>10</sup> Not only is the FADAIA even more strict than the ADA in many areas, but also, Chapter 553.513 of the statute provides for the *affirmative responsibility of the local government* to enforce its provisions. *See*, F.S. §553.513 "It shall be the responsibility of each local government ... to enforce the provisions of this part." (emphasis added).

<sup>11</sup> The provisions of the FAC cited are consistent with (if not exceed) the federal requirements ADA Accessibility Guidelines ("ADAAG").

area as well as the entire Plaza. Until such time as the calculation and location of spaces is accomplished, the Application should be denied.

### **III. Undersized and Impaired Tandem Spaces**

As if all of the above was not enough, the Applicants have also included over 50 undersized and impaired tandem parking spaces within the "Cure Plan." Once again, tandem spaces are not permitted under the Town Code.<sup>12</sup> Furthermore, even if they could be, it is impossible to physically park cars as set forth in the "Cure Plan." As a result, the Application should be denied.

Even the most cursory of reviews of the "Cure Plan" demonstrates that some 51 tandem spaces (not even counting those proposed spaces along the Town's Property Line) do not meet the minimum requirement of a 9 foot by 18 foot parking space. Instead, the tandem spaces, especially in the northeast portion of the "Cure Plan" are all 9 feet wide by 16 feet deep with an additional 2 feet of "overhang" into the turf block.<sup>13</sup> Given that the turf block itself is 4 feet (or less) deep, this means that all the cars in the tandem parking area must physically touch or overlap in order to be parked in that location. In addition, in at least 10 of the spaces, cars must be parked so as to "overlap" an existing palm tree. As a result, even if the Town could overlook the fact that tandem parking is not permitted under the Town Code, none of these spaces can be counted or approved by the Town Council as it would be physically impossible to park stacked cars in this area, much less move them to pull out an adjacent car. As a result, the Application should be denied.

### **IV. "Further Development Possibilities" Under the 1979 Agreement**

Finally, the Towers is also ever mindful of the potential for any approval of the Application to provide the Applicants with "further development opportunities" which would terminate the 1979 Agreement. In order to avoid even the possibility of such a termination, clearly any potential approval by the Town should include an Affidavit executed by both the Applicants, which is specific to the Application, that any approval is not a "further development possibility" and in no way negates the terms of the 1979 Agreement.

### **V. Conclusion**

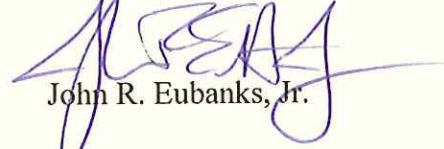
In the end, whether for the reasons set forth in the Towers' January 3, 2013 letter, or the fact that the proposed "Cure Plan" is in violation of the Town's Fire Code, in violation of the ADA and Florida Accessibility Code, and includes improper tandem parking with an impossible overlap, the Application should be denied.

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<sup>12</sup> Section 134-2172 of the Town Code requires that any "parking plan must be so arranged that *each automobile may be placed and removed from the parking space assigned thereto and taken to and from the property without the necessity of moving any other automobile to complete the maneuver.*" (emphasis added).

<sup>13</sup> These spaces are highlighted on the proposed "Cure Plan" version 1 attached as Exhibit "E." There is also an expanded view of such overlap in the upper left hand corner of the "Cure Plan."

Very truly yours,

A handwritten signature in blue ink, appearing to read "John R. Eubanks, Jr.", with a large, stylized flourish extending to the right.

John R. Eubanks, Jr.

cc: John Page, Director of Planning, Zoning and Building  
Peter Elwell, Town Manager  
Paul Castro, Zoning Administrator  
John C. "Skip" Randolph, Esq.  
Town Clerk, Town of Palm Beach  
John Grosskopf, General Manager Palm Beach Towers  
Henry Goldsmith, President of Board of Palm Beach Towers Condominium Association, Inc.



# EXHIBIT "A"

**18.2.3.4 Specifications.****18.2.3.4.1 Dimensions.**

**18.2.3.4.1.1** Fire department access roads shall have an unobstructed width of not less than 20 ft (6.1 m).

**18.2.3.4.1.2** Fire department access roads shall have an unobstructed vertical clearance of not less than 13 ft 6 in. (4.1 m).

**18.2.3.4.1.2.1** Vertical clearance shall be permitted to be reduced, provided such reduction does not impair access by fire apparatus, and approved signs are installed and maintained indicating the established vertical clearance when approved.

**18.2.3.4.1.2.2** Vertical clearances or widths shall be increased when vertical clearances or widths are not adequate to accommodate fire apparatus.

**18.2.3.4.2 Surface.** Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.

**18.2.3.4.3 Turning Radius.**

**18.2.3.4.3.1** The turning radius of a fire department access road shall be as approved by the AHJ.

**18.2.3.4.3.2** Turns in fire department access roads shall maintain the minimum road width.

**18.2.3.4.4 Dead Ends.** Dead-end fire department access roads in excess of 150 ft (46 m) in length shall be provided with approved provisions for the fire apparatus to turn around.

**F L 18.2.3.4.5 Bridges, Ramps and Elevated Roadways.**

**18.2.3.4.5.1** When a bridge is required to be used as part of a fire department access road, it shall be constructed and maintained in accordance with nationally recognized standards.

**18.2.3.4.5.2** The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus.

**F L 18.2.3.4.5.3** Vehicle load limits shall be posted at both entrances to bridges, ~~where required by the AHJ,~~ ramps and elevated roadways where required by the AHJ.

**18.2.3.4.6 Grade.**

**18.2.3.4.6.1** The gradient for a fire department access road shall not exceed the maximum approved.

**18.2.3.4.6.2\*** The angle of approach and departure for any means of fire department access road shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m) or the design limitations of the fire apparatus of the fire department, and shall be subject to approval by the AHJ.

**18.2.3.4.6.3** Fire department access roads connecting to roadways shall be provided with curb cuts extending at least 2 ft (0.61 m) beyond each edge of the fire lane.

**18.2.3.4.7 Traffic Calming Devices.** The design and use of traffic calming devices shall be approved by the AHJ.

**18.2.3.5 Marking of Fire Apparatus Access Road.**

**18.2.3.5.1** Where required by the AHJ, approved signs or other approved notices shall be provided and maintained to identify fire department access roads or to prohibit the obstruction thereof or both.

**18.2.3.5.2** A marked fire apparatus access road shall also be known as a fire lane.

**F L F L F L F L 18.2.3.5.3** Fire lanes shall be marked with freestanding signs with the wording, "NO PARKING FIRE LANE BY ORDER OF THE FIRE DEPARTMENT" or similar wording. Such signs shall be 12 in by 18 in. with a white background and red letters and shall be a maximum of seven feet in height from the roadway to the bottom part of the sign. The signs shall be within sight of the traffic flow and be a maximum of 60 feet apart.

**18.2.4\* Obstruction and Control of Fire Department Access Road.****18.2.4.1 General.**

**18.2.4.1.1** The required width of a fire department access road shall not be obstructed in any manner, including by the parking of vehicles.

**18.2.4.1.2** Minimum required widths and clearances established under 18.2.3.4 shall be maintained at all times.

**18.2.4.1.3\*** Facilities and structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations.

**18.2.4.1.4** Entrances to fire department access roads that have been closed with gates and barriers in accordance with 18.2.4.2.1 shall not be obstructed by parked vehicles.

**18.2.4.2 Closure of Accessways.**

**18.2.4.2.1** The AHJ shall be authorized to require the installation and maintenance of gates or other approved barricades across roads, trails, or other accessways not including public streets, alleys, or highways.

**18.2.4.2.2** Where required, gates and barricades shall be secured in an approved manner.

**18.2.4.2.3** Roads, trails, and other accessways that have been closed and obstructed in the manner prescribed by 18.2.4.2.1 shall not be trespassed upon or used unless authorized by the owner and the AHJ.

**18.2.4.2.4** Public officers acting within their scope of duty shall be permitted to access restricted property identified in 18.2.4.2.1.

**18.2.4.2.5** Locks, gates, doors, barricades, chains, enclosures, signs, tags, or seals that have been installed by the fire department or by its order or under its control shall not be removed, unlocked, destroyed, tampered with, or otherwise vandalized in any manner.

**18.2.4.2.6** When authorized by the AHJ, public officers acting within their scope of duty shall be permitted to obtain access through secured means identified in 18.2.4.2.1.

**18.3 Water Supplies and Fire Hydrants.**

**18.3.1\*** An approved water supply capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into the jurisdiction.

**18.3.2\*** Where no adequate or reliable water distribution system exists, approved reservoirs, pressure tanks, elevated tanks, fire department tanker shuttles, or other approved systems capable of providing the required fire flow shall be permitted.

**18.3.3\*** The number and type of fire hydrants and connections to other approved water supplies shall be capable of delivering the required fire flow and shall be provided at approved locations.

**18.3.4** Fire hydrants and connections to other approved water supplies shall be accessible to the fire department.

# EXHIBIT "B"



1000 / M 007C68A

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6.45

100

BELLSOUTH  
MANHOLE

-PLANTERS  
(TYPICAL)

78

27 BOLLARDS

CB 11

|        |
|--------|
| CB E   |
| 4.81   |
| 1.52SW |

1.575

5/8/00



# EXHIBIT "C"

EXCERPT OF  
TOWN COUNCIL MEETING  
TOWN OF PALM BEACH  
JANUARY 9, 2013

SITE PLAN REVIEW #1-2013

Reported by Louanne Rawls  
Notary Public, State of Florida  
Esquire Deposition Solutions  
West Palm Beach Office #341947

1 IN ATTENDANCE:

2  
3 MAYOR GAIL L. CONIGLIO

4 DAVID A. ROSOW, PRESIDENT

5 ROBERT N. WILDRICK, PRESIDENT PRO TEM

6 WILLIAM J. DIAMOND

7 RICHARD M. KLEID

8 MICHAEL J. PUCILLO

9 JOHN "SKIP" RANDOLPH, ESQUIRE, TOWN COUNSEL

10 PETER ELWEL, TOWN MANAGER

11 PAUL CASTRO, ZONING ADMINISTRATOR

12 JOHN PAGE, DIRECTOR PLANNING AND ZONING

13 MS. OWENS, TOWN CLERK  
14  
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1       there, though, is -- is what we believe is vested. And based  
2       upon those interpretations back there we -- we cannot now go  
3       back and say they can't do that.

4             MR. MOORE:   Mr. President?

5             PRESIDENT ROSOW:   Bob?

6             MR. MOORE:   Bob Moore, former director of planning, zoning  
7       and building. I've watched Paul take a pretty good beating here.  
8       I -- I need to stand up and say it was my decision in 1995 to  
9       treat the parking lot, for Mr. Spiegel at that time with the  
10      double stacked parking, that it could be used but with a proviso  
11      which is in Paul's '95 letter that it's been a approval which  
12      has already been mentioned by Mr. Pucillo that said they had to  
13      have the valet parking stands. And, by the way, the Mayor's  
14      question about the -- the issue of the fire lanes, those yellow  
15      lanes around both sides of the building are fire lanes. There's  
16      no question that that's what they were in 1995 and 1999.

17             My mistake was not bringing this to you in 1999 --  
18      excuse me, in 2000. I left in 2005. My mistake was not bringing  
19      it back to this Council. Instead it went to the code enforcement  
20      board and that was under my watch and I can't let Paul take all  
21      the heat for that. And, Mr. Randolph, I can't let him take the  
22      heat for that. I'm the one that sent this to the code  
23      enforcement board. Rightfully or wrongfully, if I had it to do  
24      again, it would have come back here.

25             So, in summary, the issue of what the code said, and



# EXHIBIT "D"

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

DAVID RAMNARINE,

Plaintiff,

v.

SIDNEY SPIEGEL AS TRUSTEE OF  
TRUST #31520371 dated October 25, 1984,  
TOOJAY'S MANAGEMENT CORPORATION,  
TOOJAY'S PALM BEACH, LLC and  
HILLSTONE RESTAURANT GROUP, INC.,

CASE NO.

Defendants.

COMPLAINT

Plaintiff, David Ramnarine, by and through his undersigned counsel, hereby sues the Defendants, Sidney Spiegel as Trustee of Trust #31520371 dated October 25, 1984 (hereinafter "Spiegel"), Toojay's Management Corporation and Toojay's Palm Beach, LLC (hereinafter "Toojay's") and Hillstone Restaurant Group, Inc. (hereinafter "Hillstone") (hereinafter collectively referred to as "Defendants"), for injunctive relief pursuant to the Americans With Disabilities Act, 42 U.S.C. § 12181, et seq. (hereinafter, the "ADA") and in support thereof states as follows:

JURISDICTION

1. This court has subject-matter jurisdiction since this action arises pursuant to 28 U.S.C. § 1331 and § 1343 and Plaintiff's claims arise under 42 U.S.C. § 12181 et seq. based upon Defendants' violations of Title III of the ADA.

VENUE

2. Venue lies in this district pursuant to 28 U.S.C. § 1391(b) because the property

that is the subject of this action is situated within this district and the events giving rise to the claims asserted herein occurred in this district.

### PARTIES

3. Plaintiff, David Ramnarine, is an individual residing in this district who is over eighteen years of age and sui juris. Plaintiff is disabled as such term is defined by the ADA and is substantially limited in performing one or more major life activities, including the inability to walk or stand, due to permanent damage to his spinal cord caused by spinal cancer in 1990. Plaintiff must use a wheelchair to ambulate. Plaintiff drives his own vehicle and has a valid disabled parking permit from the Florida Department of Highway Safety and Motor Vehicles. Plaintiff's access to the premises described below (hereinafter, the "Property"), and his full and equal enjoyment of the goods, services, facilities, privileges, advantages and/or accommodations offered at the Property were restricted and limited because of Plaintiff's disabilities and will be restricted in the future unless and until Defendants are compelled to remove the physical barriers to access and cure the ADA violations that exist at the Property, including but not limited to those set forth in this Complaint.<sup>1</sup> Plaintiff intends to return to the Property soon to avail himself of the goods and services offered to the public at the Property.

4. Defendants transact business within this judicial district within the State of Florida by, inter alia, being the owner and/or operator of the Property, which is a shopping center commonly known as "Royal Poinciana Plaza" including, but not limited to, a restaurant commonly known as "TooJay's Original Gourmet Deli" and a restaurant/bar commonly known as "Palm Beach Grill". The address for the Property is 50 Cocoanut Row, Palm Beach, Florida.

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<sup>1</sup> The term "ADA violations", as used herein, means that the physical elements at issue violated the ADA's regulations and the ADA Standards for Accessible Design, originally published in 1991, as well as the 2010 Standards that became effective on March 15, 2012.

The address for Toojay's Original Gourmet Deli is 313 Royal Palm Way, Palm Beach, Florida. The address for Palm Beach Grill is 340 Royal Poinciana Way, #336, Palm Beach, Florida. Specifically, Spiegel owns and operates Royal Poinciana Plaza, Toojay's owns and/or operates Toojay's Original Gourmet Deli at the Property and Hillstone owns and operates Palm Beach Grill at the Property.

CLAIM FOR INJUNCTIVE RELIEF PURSUANT TO THE ADA

5. On July 26, 1990, Congress enacted the ADA explaining that the purpose of the ADA was to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities and to provide clear, strong, consistent, enforceable standards addressing said discrimination, invoking the sweep of congressional authority in order to address the major areas of discrimination faced day-to-day by people with disabilities to ensure that the Federal government plays a central role in enforcing the standards set by the ADA. (42 U.S.C. § 12101(b)(1)-(4)).

6. Places of public accommodation were provided with one and a half years from the enactment of the ADA to implement the requirements imposed by the ADA. The effective date of Title III of the ADA was January 26, 1992 (or January 26, 1993 if the defendant had ten or fewer employees and gross receipts of \$500,000.00 or less).

7. Pursuant to the mandates of 42 U.S.C. §12134(a), on September 15, 2010, the Department of Justice, Office of the Attorney General, published revised regulations for Title III of the Americans With Disabilities Act of 1990 in the *Federal Register* to implement the requirements of the ADA (hereinafter "STANDARDS"). Public accommodations were required to conform to these regulations on or before March 15, 2012.<sup>2</sup>

<sup>2</sup> "Safe Harbor. Elements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in the 1991 Standards are not



8. The Property is a place of public accommodation pursuant to the ADA.

9. During September, 2012 Plaintiff attempted to, and to the extent possible, accessed the Property but could not fully do so because of his disabilities due to the physical barriers to access, dangerous conditions and ADA violations that exist at the Property that preclude and/or limit his access to the Property and/or the goods, services, facilities, privileges, advantages and/or accommodations offered therein, including but not limited to those barriers, conditions and ADA violations set forth in this Complaint.

10. Plaintiff intends to visit the Property again in the near future in order to utilize the goods, services, facilities, privileges, advantages and/or accommodations offered at the Property, but he will be unable to do so because of his disabilities due to the physical barriers to access, dangerous conditions and ADA violations that exist at the Property that preclude and/or limit his access to the Property and/or the goods, services, facilities, privileges, advantages and/or accommodations offered therein, including, but not limited to those barriers, conditions and ADA violations set forth in this Complaint.

11. Defendants have discriminated against Plaintiff by denying him access to and full and equal enjoyment of the goods, services, facilities, privileges, advantages and/or accommodations offered at the Property in violation of the ADA and will continue to discriminate against Plaintiff unless and until Defendants are compelled to remove all physical barriers relevant to Plaintiff's disability that exist at the Property, including but not limited to those set forth in this Complaint, thus making the Property accessible to persons with disabilities, such as Plaintiff, as required by the ADA.

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required to be modified in order to comply with the requirements set forth in the 2010 Standards" 28 CFR §36.304(d)(2)(i), however, the violations described herein violate both the 1991 Standards as well as the new 2010 Standards.

COUNT I - FOR INJUNCTION AGAINST SPIEGEL

12. Plaintiff realleges and reavers paragraphs 1 through 11 above as if fully set forth herein.

13. A specific, although not exclusive, list of unlawful physical barriers, dangerous conditions and ADA violations which preclude or limit Plaintiff's ability (because of Plaintiff's disability) to access Royal Poinciana Plaza (including but not limited to TooJay's Original Gourmet Deli and Palm Beach Grill) and/or fully and equally enjoy the goods, services, facilities, privileges, advantages and/or accommodations of said Property, includes (the applicable STANDARDS sections are also denoted<sup>3</sup>):

- a) Non-compliant ramps whose slopes are in excess of the permitted maximum allowable slopes (in violation of STANDARD 406);
- b) Non-compliant accessible routes including uneven paths of access and a failure to safely connect the shopping center with the public transportation stop and public sidewalk and disabled person parking spaces (in violation of STANDARDS 206, 402, 403, and 404);
- c) Non-compliant disabled person parking spaces including but not limited to improper dispersion throughout the shopping center, lack of proper signage, lack of compliant adjacent access aisle and lack of ground surfaces that are stable and firm (in violation of STANDARDS 208 and 502);
- d) Non-compliant men's toilet rooms within the tenant spaces including but not limited to lack of proper turning space and elements located at heights in excess of those allowable (in violation of STANDARDS 213, 603 and 604);
- e) Non-compliant lavatories and sinks within the tenant spaces including but not limited to lack of clear floor space, improper height and improper plumbing elements (in violation of STANDARD 606);
- f) Lack of disabled person signage (in violation of STANDARD 216);
- g) Lack of disabled person seating spaces within the tenant spaces (in violation of STANDARDS 226 and 902);

<sup>3</sup> The 2010 Standards are denoted because the required remediation will occur after March 15, 2012 and thus must comply with these new standards.

- h) Non-compliant counters and bars within the tenant spaces whose heights are in excess of the maximum height allowable (in violation of STANDARDS 227 and 904);
- i) Non-compliant accessible routes within the tenant spaces (in violation of STANDARDS 206, 401, 402, 403 and 404) and
- j) Non-compliant doors, doorways and maneuvering clearances (in violation of STANDARD 404).

14. The above listing is not intended to be an all-inclusive list of the barriers, conditions and violations of the ADA encountered by Plaintiff and existing at the Property. Although the above listing, in and of itself, denied Plaintiff, due to his disabilities full and equal enjoyment of the goods, services, facilities, privileges, advantages and/or accommodations offered at the Property in violation of the ADA, Plaintiff requires a full and complete inspection of the Property; with full access thereto, in order to determine all of Spiegel's discriminatory acts violating the ADA relevant to Plaintiff's disability.

15. The removal of the physical barriers, dangerous conditions and ADA violations set forth herein is readily achievable and technically feasible. 42 U.S.C.A. §12182 (b)(A)(iv) and 42 U.S.C.A. §12183(a)(2).

16. Plaintiff is without an adequate remedy at law and is suffering irreparable harm and he reasonably anticipates that he will continue to suffer irreparable harm unless and until Spiegel is required to remove the physical barriers, dangerous conditions and ADA violations that exist at the Property, including but not limited to those set forth herein.

17. Plaintiff has retained the undersigned counsel for the filing and prosecution of this action and is entitled to recover reasonable attorneys' fees, costs and expenses from Spiegel, including litigation expenses and costs pursuant to 42 U.S.C. §12205.

18. Pursuant to 42 U.S.C. § 12188(a), this Court is provided with authority to grant injunctive relief to Plaintiff, including an Order to alter the property to make it readily accessible to and usable by individuals with disabilities to the extent required by the ADA, and the closing of the Property until such time as the required modifications are completed.

WHEREFORE, Plaintiff, David Ramnarine, requests that the Court issue a permanent injunction enjoining Defendant, Sidney Spiegel as Trustee of Trust #31520371 dated October 25, 1984 from continuing his discriminatory practices, ordering him to remove the physical barriers to access and alter the subject Property to make it readily accessible to and usable by individuals with disabilities to the full extent required by the ADA, and awarding Plaintiff reasonable attorneys' fees, litigation expenses, including expert fees, and costs.

**COUNT II – FOR INJUNCTION AGAINST**  
**TOOJAYS**

19. Plaintiff reallages and reavers paragraphs 1 through 11 above as if fully set forth herein.

20. A specific, although not exclusive, list of unlawful physical barriers, dangerous conditions and ADA violations existing within Toojay's Original Gourmet Deli which preclude or limit Plaintiff's ability (because of Plaintiff's disability) to access Toojay's Original Gourmet Deli and/or fully and equally enjoy the goods, services, facilities, privileges, advantages and/or accommodations of Toojay's Original Gourmet Deli, includes (the applicable STANDARDS sections are also denoted<sup>4</sup>):

- a) Non-compliant men's toilet room including but not limited to lack of proper turning space and proper maneuvering space, elements located at heights in excess of those allowable and non-compliant sink (in violation of STANDARDS 213, 603, 604 and 606);

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<sup>4</sup> The 2010 Standards are denoted because the required remediation will occur after March 15, 2012 and thus must comply with these new standards.



- b) Lack of disabled person signage (in violation of STANDARD 216);
- c) Lack of disabled person seating spaces (in violation of STANDARDS 226 and 902);
- d) Non-compliant counters whose heights are in excess of the maximum height allowable (in violation of STANDARDS 227 and 904);
- e) Non-compliant accessible routes (in violation of STANDARDS 206, 401, 402, 403 and 404) and
- f) Non-compliant doors, doorways and maneuvering clearances (in violation of STANDARD 404).

21. The above listing is not intended to be an all-inclusive list of the barriers, conditions and violations of the ADA encountered by Plaintiff and existing at Toojay's Original Gourmet Deli. Although the above listing, in and of itself, denied Plaintiff, due to his disability full and equal enjoyment of the goods, services, facilities, privileges, advantages and/or accommodations offered at Toojay's Original Gourmet Deli in violation of the ADA, Plaintiff requires a full and complete inspection of Toojay's Original Gourmet Deli; with full access thereto, in order to determine all of the defendant's discriminatory acts violating the ADA relevant to Plaintiff's disability.

22. The removal of the physical barriers, dangerous conditions and ADA violations set forth herein is readily achievable and technically feasible. 42 U.S.C.A. §12182 (b)(A)(iv) and 42 U.S.C.A. §12183(a)(2).

23. Plaintiff is without an adequate remedy at law and is suffering irreparable harm and he reasonably anticipates that he will continue to suffer irreparable harm unless and until Toojay's is required to remove the physical barriers, dangerous conditions and ADA violations that exist at Toojay's Original Gourmet Deli, including but not limited to those set forth herein.

24. Plaintiff has retained the undersigned counsel for the filing and prosecution of this action and is entitled to recover reasonable attorneys' fees, costs and expenses from TooJay's, including litigation expenses and costs pursuant to 42 U.S.C. §12205.

25. Pursuant to 42 U.S.C. §12188(a), this Court is provided with authority to grant injunctive relief to Plaintiff, including an Order to alter TooJay's Original Gourmet Deli to make it readily accessible to and usable by individuals with disabilities to the extent required by the ADA, and the closing of TooJay's Original Gourmet Deli until such time as the required modifications are completed.

WHEREFORE, Plaintiff, David Ramnarine, requests that the Court issue a permanent injunction enjoining Defendants, TooJay's Management Corporation and TooJay's Palm Beach, LLC, from continuing their discriminatory practices, ordering them to remove the physical barriers to access and alter TooJay's Original Gourmet Deli to make it readily accessible to and usable by individuals with disabilities to the full extent required by the ADA, and awarding Plaintiff reasonable attorneys' fees, litigation expenses, including expert fees, and costs.

**COUNT III - FOR INJUNCTION AGAINST  
HILLSTONE**

26. Plaintiff realleges and reavers paragraphs 1 through 11 above as if fully set forth herein.

27. A specific, although not exclusive, list of unlawful physical barriers, dangerous conditions and ADA violations existing within Palm Beach Grill which preclude or limit Plaintiff's ability (because of Plaintiff's disability) to access Palm Beach Grill and/or fully and

equally enjoy the goods, services, facilities, privileges, advantages and/or accommodations of Palm Beach Grill, includes (the applicable STANDARDS sections are also denoted<sup>5</sup>):

- a) Non-compliant men's toilet room including but not limited to lack of proper turning space and maneuvering space and non-compliant doors, doorways and door handles (in violation of STANDARDS 213, 404, 603, 604 and 606);
- b) Lack of disabled person signage (in violation of STANDARD 216);
- c) Lack of disabled person seating spaces and bar (in violation of STANDARDS 226 and 902);
- d) Non-compliant counter whose height is in excess of the maximum height allowable (in violation of STANDARDS 227 and 904);
- e) Non-compliant interior accessible route (in violation of STANDARDS 206, 401, 402, 403 and 404) and
- f) Non-compliant doors, doorways and maneuvering clearances (in violation of STANDARD 404).

28. The above listing is not intended to be an all-inclusive list of the barriers, conditions and violations of the ADA encountered by Plaintiff and existing at Palm Beach Grill. Although the above listing, in and of itself, denied Plaintiff, due to his disability full and equal enjoyment of the goods, services, facilities, privileges, advantages and/or accommodations offered at Palm Beach Grill in violation of the ADA, Plaintiff requires a full and complete inspection of Palm Beach Grill; with full access thereto, in order to determine all of the defendant's discriminatory acts violating the ADA relevant to Plaintiff's disability.

29. The removal of the physical barriers, dangerous conditions and ADA violations set forth herein is readily achievable and technically feasible. 42 U.S.C.A. §12182 (b)(A)(iv) and 42 U.S.C.A. §12183(a)(2).

---

<sup>5</sup> The 2010 Standards are denoted because the required remediation will occur after March 15, 2012 and thus must comply with these new standards.

30. Plaintiff is without an adequate remedy at law and is suffering irreparable harm and he reasonably anticipates that he will continue to suffer irreparable harm unless and until Hillstone is required to remove the physical barriers, dangerous conditions and ADA violations that exist at Palm Beach Grill, including but not limited to those set forth herein.

31. Plaintiff has retained the undersigned counsel for the filing and prosecution of this action and is entitled to recover reasonable attorneys' fees, costs and expenses from Hillstone, including litigation expenses and costs pursuant to 42 U.S.C. §12205.

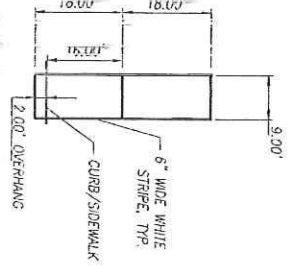
32. Pursuant to 42 U.S.C. § 12188(a), this Court is provided with authority to grant injunctive relief to Plaintiff, including an Order to alter Palm Beach Grill to make it readily accessible to and usable by individuals with disabilities to the extent required by the ADA, and the closing of Palm Beach Grill until such time as the required modifications are completed.

WHEREFORE, Plaintiff, David Ramnarine, requests that the Court issue a permanent injunction enjoining Defendant, Hillstone Restaurant Group, Inc., from continuing its discriminatory practices, ordering it to remove the physical barriers to access and alter Palm Beach Grill to make it readily accessible to and usable by individuals with disabilities to the full extent required by the ADA, and awarding Plaintiff reasonable attorneys' fees, litigation expenses, including expert fees, and costs.

s/Drew M. Levitt  
DREW M. LEVITT, ESQ.  
Florida Bar No: 782246  
E-mail: DML2@bellsouth.net  
LEE D. SARKIN, ESQ.  
Florida Bar No. 962848  
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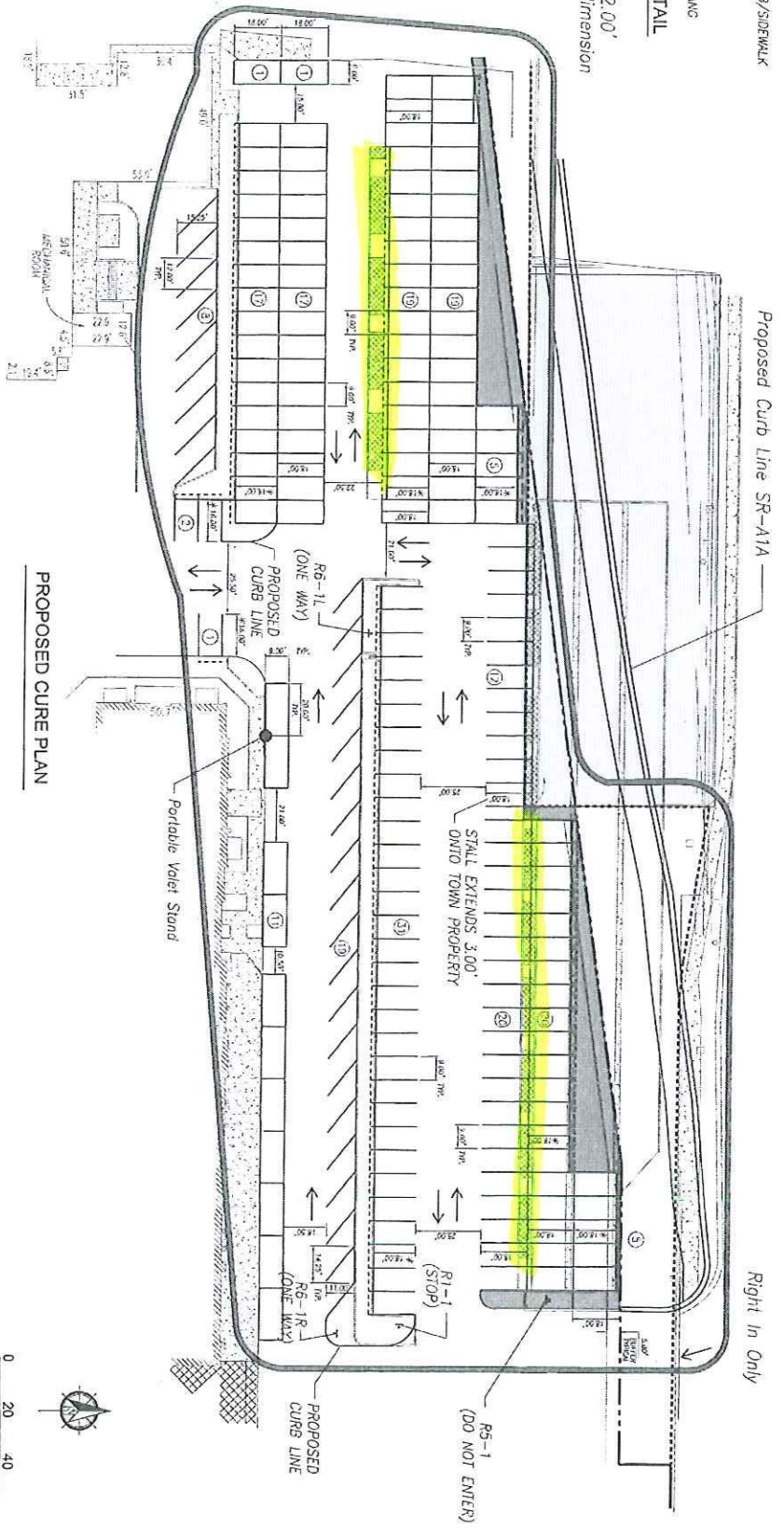


# EXHIBIT "E"



\* Note: Per above detail, 2.00' overhang yielded to 16.00' dimension to obtain 18.00' long stall.

**TYP. PARKING STALL DETAIL**  
N.T.S.



| F.B. VISIONS |    |       |       |      |    |       |       |      |    | LUCAS |       |      |    |       |       |      |    |       |       | SHEET TITLE |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    |       |       |      |    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TOTAL PARKING SPACES (208)

# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Development Review - Other

## Agenda Title

Modification of Condition of Approval Regarding Temple Emanu-El Zoning Application (Special Exception No. 8-2012 with Site Plan Review and Variance), 190 North County Road and 224, 226 and 234 Seminole Avenue.

## Presenter

John C. Randolph, Town Attorney

## Supporting Documents

- Memorandum dated February 4, 2013, from John C. Randolph, Town Attorney
- Transcript from October 10, 2012, Town Council Meeting
- E-mail dated November 30, 2012 from John Page
- Minutes of December 12, 2012, Town Council Meeting
- E-mail Dated February 6, 2013, from Joanne Warshaver
- Letter Dated February 5, 2013, from Sophia and Emmanuel Burnichon

# **TOWN OF PALM BEACH**

Information for Town Council Meetings on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Modification of Condition of Approval regarding Temple Emanu-El Zoning Application (Special Exception No. 8-2012 with Site Plan Review and Variance) related to the condition of approval for valet parking, 190 North County Road and 224, 226 and 234 Seminole Avenue

Date: February 4, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council give consideration to clarifying or amending the condition of approval related to the valet parking requirement for Temple Emanu-El in accordance with the Council's intent as clarified at its meeting of December 12, 2012.

## **GENERAL INFORMATION**

This matter returns to Council after due notice to Temple Emanu-El and affected property owners to give the Town Council an opportunity at a quasi-judicial hearing to implement the intent of the Council as it relates to the matter of valet parking at Temple Emanu-El.

Attached for review by the Mayor and Town Council are the following:

1. Transcript of the October 10, 2012 meeting at which the Council considered an application for approval of a special exception relating to the increased seating in the Synagogue, as well as a variance and site plan review relating to off-street parking requirements.
2. A portion of a transcript of the Town Council meeting of November 16, 2012, as contained within an email from John Page, dated November 30, 2012.
3. A copy of the Town Council minutes of December 12, 2012.

The following is a summary of the actions which took place at each of these meetings.

- October 10, 2012 – Council approved Special Exception No. 8-2012. The variance and site plan relating to the off-street parking requirements was approved conditioned upon the applicant receiving written permission to use the St. Edwards parking lot for valet parking.



- November 16, 2012 – Because there were questions relating to the clarity of the intent of the Council at the October 10<sup>th</sup> meeting, the Council discussed the intent relating to the condition for written approval from St. Edwards Church relating to the variance. Councilmember Wildrick indicated, in part, "it appears that the condition that was placed on the motion relating to written permission from St. Edwards for parking is related not to granting the seats for the synagogue, the seats were in fact granted. It is related to the issue only of valet parking." Mr. Rosow indicated there would be no immediate vote, but that the item would be placed on the December agenda.
- December 12, 2012 – There was lengthy discussion at this meeting relating to the issue of valet parking with the clear intent of the Council being that "regulation and enforcement of the Temple's valet parking not be any stricter than on any other institutions." A motion was made, seconded and approved, which included the following statement:

"The police department shall monitor and enforce the valet parking in the same manner as any other house of worship. Code enforcement will treat all religious institutions in the same manner, including special and non special occasions."

It appeared to Town staff, but it was not explicitly clear in the motion, that Town Council's intent included removal of the requirement for the Temple to obtain a letter from St. Edward's Church allowing use of St. Edward's parking lot as part of the Temple's valet service.

Because the representatives of the Temple were not present for this discussion and there had not been notice provided to the Temple or its neighbors relating to same, it was indicated that it may be necessary to bring this matter back to the Town Council for final consideration. The matter is now back before the Council, notice having been given to the Temple and all affected property owners as required by Town ordinance.

An appropriate motion, if it is indeed the intent of the Town Council to eliminate the condition of receiving written permission from St. Edwards Church in order for the Temple to have valet parking, would be to move that the previously imposed condition placed upon the granting of the variance for off-street parking be modified so as to eliminate such condition, making it clear that the variance, site plan and special exception are all approved without conditions.

### **Attachments**

October 10, 2012 Transcript  
Email dated November 30, 2012, from John Page incorporating transcript.  
December 12, 2012 Town Council Minutes

## Matias, Sally

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**From:** SOwens@TownofPalmBeach.com  
**Sent:** Thursday, November 15, 2012 8:02 PM  
**To:** RWildrick@TownofPalmBeach.com; robertwildrick@hotmail.com;  
DRosow@TownofPalmBeach.com; dar@; GConiglio@TownofPalmBeach.com; Gailconig1  
@; kleid561@aol.com; RKleid@TownofPalmBeach.com;  
MPucillo@TownofPalmBeach.com; mjpucillo@gmail.com;  
WDiamond@TownofPalmBeach.com  
**Cc:** PElwell@townofpalmbeach.com; JPage@TownofPalmBeach.com;  
PCastro@TownofPalmBeach.com; Randolph, John C.; Matias, Sally  
**Subject:** Temple Verbatims  
**Attachments:** Temple Verbatims.docx  
**Importance:** High

Mayor and Town Council,

Attached are the transcripts relating to the Temple item discussed today. Please excuse any typos as I hurried to finish this. If you have any questions, please let me know.

Thank you,  
Susan A. Owens, MMC  
Town Clerk  
Town of Palm Beach  
360 South County Road  
Palm Beach, FL 33480  
561.838.5416 (ofc) / 561.838-5417 (fax)  
(See attached file: Temple Verbatims.docx)

*Modified Special Exception #8-2012 with Site Plan Review and Variance (Temple Emanu-El)*  
*Transcript*

[03:36:15]

Diamond: I have to ask Staff, where can the Synagogue park their cars? Must they have a valet? Is there any place within the Synagogue that they can take some more cars? What's happening on North County? What lots are they able to use for parking?

Castro: if they have permission from St. Edwards Church, which we have not seen, they could park there.

Maura: That's not true.

Rosow: Don't interrupt.

Castro: The only thing he has is a letter from 1992. So, that's the only letter I've seen; which is over thirty, that's a thirty year old letter. As it relates to the valet parking application, they are required to provide evidence that they are allowed to park there (St. Edwards's lot). That's was a grandfathered area where they are allowed to park. It's my understanding they are only allowed to park there on two holidays, and that's what I've heard. If they had permission from St. Edwards Church, they could park there. They could valet park there, as well as their own parking lot and any on-street parking that's permitted.

Diamond: So that would help the matter if they had that ability to do so, right?

Castro: Correct.

Diamond: Where is it?

Ziska: Mr. Diamond, they have permission to park at St. Edwards.

Diamond: Does it have to be in writing?

Castro: That's correct.

Diamond: Does it have to be current?

Castro: It can't be thirty years old, no.

Maura: I think if they...

Castro: Excuse me, twenty years old.

Diamond: Also there's been obviously a change in leadership at the Church.

Castro: That's correct. From year to year we don't know what the relationship is as it relates to, and this is a grandfathered situation. So, our approach in when we met with the leadership of the Synagogue is, if they have permission to park at the temple or the Temple at St. Edwards, we are fine with that.

Rosow: Michael?

Pucillo: Two questions on the parking. Mr. Shaw made a suggestion about using some of the existing garden area that's there now, or I guess it's a patio area actually, behind that's adjacent to the parking lot. If you do get this garden, or this half acre area immediately to the west, is that a practical solution to put some more parking spaces there since it's adjacent to your existing parking lot now? That's the first question. The second question relates to whether the valet parking can be on County Road, which is a commercial street, as opposed to Seminole, which is a residential street.

Maura: To answer your first question, the area to the south of the existing Temple was dedicated as the "Mack Garden", and is to stay as the "Mack Garden". It's a meditation garden. With regard to the valet parking, in 1992 that decision was made to implement valet parking and to put the entrance on Seminole Avenue. I don't know why it changed. I know that it's been looked at before. I also wanted to note too that back in 1992, when the seats were put in, the membership of the Temple was 700 families. It's half today. Only on the High Holy Days is there a need for extra parking. They have the valet, they have the parking lot at St. Edwards, and they've recently restriped County Road to create 81 free or open parking spaces. So, parking is not a problem and that's why we want to request a variance for no additional on-site parking for the way things have been for the last twenty years.

Pucillo: Can I just finish? With respect to the "Mack Garden", I certainly understand that. That's been dedicated that way; it should stay that way and not be turned into another parking lot. With respect to the valet parking, though, from all that I've heard over the last few months, I think you do have an issue with the valet parking on Seminole. It is a residential street. You had, I guess, an emergency situation recently. We had fire trucks. The police have been trying to figure out ways to deal with it; and, one of the suggestions was to make it one-way, which is probably the only thing there's been unanimous agreement on. Everyone disliked that idea, the residents and the Temple. So, I think part of the problem you have is that putting all that parking, backing up that parking on a residential street is not a good idea. County Road is a commercial street. St. Edwards, Bethesda use it and I for one would be much more favorably inclined towards this if you could the valet parking off the residential street.

Rosow: I have a question for Staff. I've heard several things. I've heard that the Temple is allowed to have valet parking twice a year, and then I've heard the suggestion that the Temple can have valet parking whenever there is an expected large group of people. What are the facts?

Castro: Well, I don't know what the facts are.

Rosow: What did the Councils say when they did...



Castro: In 1992, as part of their approval, it was recognized that the, as part of their application, that the Temple could park at St. Edwards Church as overflow parking; and, at that time, had permission from St. Edwards Church to park there. So, from that standpoint, prior to us implementing...

Rosow: How many days a year is my comment.

Castro: We don't, there were no days.

Rosow: There were no days. So, it was unlimited use of valet parking?

Castro: At that time, correct.

Ziska: It was required valet parking. They were requiring...

Castro: Right.

Ziska: ...valet parking on High Holy days especially.

Rosow: Especially; but, there was no limitation to say only on High Holy days?

Ziska: No.

Castro: Correct.

Rosow: Okay, fine. Thank you.

Diamond: Question.

Rosow: No, wait a second.

Ziska: And just for your information, they only use valet fourteen days a year.

Rosow: Okay. Dick?

Maura: This past year.

Kleid: In looking at it, I agree. I noticed that it said that the valet parking was required on the High holy days under that 1992 agreement. In response to what Michael said, I'm a little concerned if it is moved to County Road. If that were a condition, we may have unintended consequences, because that is a major thoroughfare, north, south. I know that a shift over to a residential is not a good thing; but, I am not quite sure having parking, valet parking, on a major thoroughfare is a good shift.

Diamond: Question.

Rosow: Last question.

Diamond: When was the relationship between the requirement of valet parking or the voluntary valet parking and the use of St. Edwards's parking lot? If there was a tie in then, there should be one now. Perhaps what you could do here, if you can't get approval from the Church today, you could make that a condition subsequent if our Attorney says so.

Castro: Well, at that time, that was a mitigating factor as it related to the expansion. Them being able to use St. Edwards Church. Them using valet parking, which they held out to the town that they would valet park to help move their traffic as it related to the high volumes during the High Holy days. But also being able to use it at other times when necessary.

Rosow: It would seem to me that the Council in 1992 made that decision to require valet parking and to have the use of St. Edwards Church for the expansion on the expectation that they were going to be more seats. I know it's not in the record, but otherwise, why else would...if they were going to have the same number of seats as they had prior to the expansion. Why would they have imposed these. That's...

Castro: They were adding classrooms. They were adding classrooms.

Rosow: But they didn't need 74 seats, 74 parking spaces. Okay, Bob?

Wildrick: I would say this. First of all, I understand and agree with Staff saying there needs to be a letter; however, I think at this point we shouldn't even be discussing that, again it's almost insulting. Because if St. Edwards hasn't complained and they've used it on and off, what are we doing here. There probably was a letter somewhere that nobody knows about in the files, who knows.

Ziska: There is.

Wildrick: St. Edwards would have complained if they had a problem with it. I would like to go ahead and bifurcate this problem and take care of the one problem first. So, I would like to go ahead and make a motion that we go ahead and allow the 500 and is it 25?

Ziska: Fifty three.

Wildrick: the five hundred and fifty three seats that have existed for twenty five years and make the appropriate parking variance that's required to allow those seats because it makes no sense to take away something that this Temple has had with no problems, for over twenty-five years. So let's just make that legal, get it out of the way and move onto the next issue. How do I make that motion?

Randolph: You make that motion from the script and then you have to refer to the variance and special exception.

Wildrick: Well how about helping me with that, would you Skip?

Randolph: Bill's much better at that than I am.

Rosow: Actually, Michael's the best.

Wildrick: It's great to have all these lawyers up here. I don't have to be that smart.

Skip: Are you wanting to move that the variance number and ...

Rosow: The variance number and...well special exception and variance number 8-2012.

Skip: Be granted that the variance be granted and find in support thereof that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1-7 have been met. You want to do that separately?

Rosow: With respect only as Bob has said to the seats and the parking.

Skip: Right.

Diamond: Question. Bob?

Wildrick: Yes, that is what I want to do.

Skip: That's the variance so far. I have not read anything about a special exception. Do you want to vote on them separately?

Rosow: Yes.

Skip: Okay.

Rosow: Okay, before you, Bill I'll give you the next shot, is there a second to that motion?

Pucillo: I'll second the motion subject to having the parking at St. Edwards. I don't think this works without it. Whatever the Town requires, whether it's a letter or what. I think it's got to be conditioned upon having a place to put these cars. So, however the Staff thinks they need to document it.

Wildrick: I would modify it accordingly.

Pucillo: With respect to the location of the parking, it's not a condition of this obviously, but I think you should at least consider it and look at it and make some evaluation, perhaps in the spirit of discussing with your neighbors. I really think it would help your situation with the neighbors, and I realize what Dick says. It's a busy street, but people are darting in and out of St. Edwards all the time on that street. I'll second it subject to having the available parking from St. Edwards.

Diamond: Question to the gentleman who made the motion. When you say subject to parking at St. Edwards, do you mean the written okay or just the fact that it's going on; and, if it stopped, what would happen to the resolution? How do you tie this thing down?

Randolph: I think he wants a confirmation that the, whether it be in writing or otherwise, that the parking lot can continue to be used.

Pucillo: Whatever the Staff would normally require with respect to documenting this would be, nothing more, nothing less.

Castro: I think we need to hear from the Police Department as it relates to the valet parking.

Rosow: He hasn't made that part of his...

Wildrick: We'll go ahead and make the valet parking part of this and I agree with you Paul, subject to where we have will be subject to the Police Department recommendation as it relates to public safety:

Rosow: You know, I would point out to those people who object to the one-way, Bethesda does one-way every time they have something going on at the Church. There's never been, to my knowledge, an emergency situation there that hasn't been able to be handled. I believe that's been going on for thirty years. Barton Avenue is turned into a one-way all the time. Raychel are you going to talk about valet parking?

Houston: Yes. Raychel Houston, Code Enforcement and I also the parking enforcement. I handle all of the annual and temporary valet applications for parking for the Town. As part of the annual valet application, if they are using private property to park vehicles, they have to have the approval of that property owner in writing. Last year, when the temple did their annual valet application to me, they did not disclose that they were using private property. I was unaware of that at the time. I thought that they just parking on the street. Then this year, we were provided this letter from 1992 and I went through all of those minutes of that meeting about the valet parking. The fact that was a part of that was that they would use St. Edwards's lot and that letter, specifically from 1992, says they have the use of that lot for the High Holidays; but, once I became aware that they were using that lot, then this year this application it did come in, but we were still dealing with this issue right now. That is supposed to be a letter that is provided each year that that application is renewed.

Rosow: Bob, how do you want to deal with your motion?

Wildrick: Does that present a problem to you?

Ziska: No, but I just want to clear things up that not every time that they have valet parking that they need to use the St. Edwards lot. There are ample parking on the street on County Road where the valet parkers been park. So, I think that the intent in 1992 was for overflow when you need it.



Wildrick: Well, whenever they need to use it, they'll provide a letter?

Ziska: Yes.

Wildrick: Let's put that in the motion and be done with it. Let's move on. Does that satisfy...

Rosow: Do you agree with that as your second?

Pucillo: Well, they need to have...there not going to provide the letter each time the use valet parking. They're going to provide it once a year with their application, but I think they've got to work out when they're going to use it and make sure that they have consent.

Wildrick: I agree with you Michael, but really, that's between them and the Church to work it out. All we can do is give them the mechanism. I don't think we need to sit up here and say this, that, the other. Let work it out when they need it within our motion.

Diamond: No.

Randolph: I think he's saying you need to be able to enforce that. It's a condition of the granting of this variance, correct?

Rosow: It is, yes. The motion should be constructed so that it is a requirement of the motion that this letter be obtained. Now, the issue is, if it is only for High Holy days, that limits the number of days for valet parking. The other days that they use valet parking the issues becomes, if they don't have an outside place to place the cars, what do we do then? I guess, and I 'm speaking out loud, the issue in my mind is very similar to every other religious institution on this island. The High Holy days for all of them. Christmas, Easter, and so forth are the days in which parking is a real problem. The other days in which they may use valet parking, I think it's more of a convenience. I think we should, as part of your motion, limit the number of days in which valet parking will be used because otherwise it's a problem. Now I hear mumbling out there, which I don't appreciate because we don't want to do this. The other problem that we have here is that valet parking is a convenience and I keep hearing the excuse that because our membership, our congregants are so old. Well I've got a bulletin for you all. Everybody in Palm Beach is old. So you don't own the old part. Every church, every religious institution is old.

Diamond: It's not just the High Holy days, it's when they have weddings and bar mitzvahs and all that, they need the valet parking and they should a place to put the valet. They should get the permission of St. Edwards on whatever days they need it if they can get that permission.

Rosow: Hold on.

Wildrick: Hold on, Hold on, hold on Bill. The objective of Council, it's clear to me is to treat everybody equally. Correct? All churches, all synagogues, places of worship, equally. The question is how do we construct this legally, so that when they have a wedding, a bar mitzvah, or some event, like every other church, synagogue has in Town, that they are treated equally with

the other ones. That's my objective. I don't want them to be treated other than equally in this motion.

Diamond: They don't have valet?

Rosow: The issue is...

Wildrick: That's not true. When Donald Trump had his wedding, he had valets there. Did they apply for a valet permit?

Diamond: He gets married every ten years.

Wildrick: When we have parties at my house, we have a valet.

Houston: It's not required in the residential areas. It's just if they're using the commercial street that they have to get the temporary valet permit for that period.

Wildrick: my last word. I think we're getting caught up in a lot of wordsmithing. If anybody disagrees with the philosophy, let's speak to that. I've we're going to treat everyone equally, help me word it properly so we can do that:

Maura: You could word it by saying that the Temple will continue to use valet parking and park at St. Edwards for overflow parking and when it's needed, with the permission of St. Edwards.

Diamond: Written permission.

Ziska: Fine, written permission.

Rosow: Do you agree with that? Okay, there's a motion, there's a second, roll call please.

Pucillo: Just so it's clear, if I understood what Maura said, you're going beyond the High Holy days. It's whenever you need it.

Ziska: Yes.

Pucillo: You have to have access to that parking lot.

Ziska: As it's been used for the last twenty years.

Pucillo: Okay.

Diamond: Okay. We will get the written permission.

Randolph: That doesn't mean that you can, for the convenience of your older parishioners, that you can use valet every Sabbath day that you want. Correct?

Rosow: No.

Ziska: They don't, no.

Randolph: Okay. I wanted to understand the intent of the Council.

Kleid: I am not going to try to be your lawyer, but I hope you're sure that you're going to get this written permission from St. Edwards, because, if you don't, you cannot have valet parking at all.

Ziska: I don't think that's the case. I think that they would be able to park, or find another place to park.

Diamond: Legally, yes. If you can find it.

Kleid: If they can find it, then certainly you're entitled to use the street. We're talking about large events, and two large events clearly are the High Holidays, but they could also be large events as you're saying for weddings or bar mitzvahs, or even a speaker.

Rosow: You know, the bottom line is they should give up on their valet parking.

Diamond: I'll move that Michael...

Rosow: No, you can't move. It's been moved and seconded.

Diamond: Okay, then let's vote.

Rosow: Roll call please.

Owens: Mr. Wildrick?

Wildrick: Yes.

Owens: Mr. Pucillo?

Pucillo: Yes.

Owens: Mr. Diamond?

Diamond: Yes.

Owens: Mr. Kleid?

Kleid: Yes.

Owens: Mr. Rosow?

Rosow: Yes.

Rosow: Okay, now we're going to devote the rest of our time to the garden.

Randolph: Excuse me. You do need a motion to approve the special exception aspect for the increase in the number of seats.

Rosow: Michael, go ahead you're the best one.

Kleid: You're demoting Bill.

Rosow: Bill's good, but he's not as good as Michael. It's #8-2012.

Pucillo: I move that special exception #8-2012 be granted based upon the finding that such grant shall not adversely affect the public interest, and the applicable criteria set forth in Section 134-229 of the Town Code have been met.

Kleid: Second.

Diamond: Question. If we don't approve this, if this is not approved, does that mean they have to take those seats out, those pews out? I mean, that's what I want to understand. If we don't approve this, does that mean they've got to take those pews out and restore, go back...

Randolph: If they don't approve this, they're back in front of the Code Enforcement Board for the Code Enforcement Board to entertain the violation.

Wildrick: I'll second it if nobody has.

Kleid: I seconded it, I think.

Owens: I have a second.

Rosow: Roll call please.

Owens: Mr. Pucillo?

Pucillo: Yes.

Owens: Mr. Kleid?

Kleid: Yes.

Owens: Mr. Diamond?

Diamond: Yes.



Owens: Mr. Wildrick?

Wildrick: Yes.

Owens: Mr. Rosow?

Rosow: Yes. Okay, now we are going to go to the issue of the garden. And again, we are still in executive session...

[03:58:58]

## Matias, Sally

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**From:** JPage@TownofPalmBeach.com  
**Sent:** Friday, November 30, 2012 9:18 AM  
**To:** Skip\_Randolph.PALMBEACH@TownofPalmBeach.com; PCastro@TownofPalmBeach.com  
**Cc:** PElwell@townofpalmbeach.com; SOwens@TownofPalmBeach.com  
**Subject:** TC Action: Temple EmanuEl

Skip:

I've just listened to the audio portion of the Special Town Council Meeting held at 1:00 pm on 11/16/12. There is approximately a 2.5 minute conversation about clarification of approvals given by the TC the previous day regarding Temple EmanuEl. The conversation begins at approx. time stamp "2:00" and runs for another 2.5 minutes. Here's what transpired:

Bob Wildrick addressed the issue of Minutes approval ... "After reading the transcript, it appears the condition that was placed on the motion relating to written permission from St. Edward's for parking is related NOT (audio emphasis) to granting the seats for the Synagogue, the seats were in fact granted, is related to the issue ONLY (audio emphasis) of valet parking. It was clear this was our intent to impose this condition related to parking only to the use of the valet, so I suggest we withhold approval of the Minutes while we get them written in a more clear manner as to what the intent was, so the seats are not tied to the parking, the parking relationship with St. Edwards only applies to the valet..."

He then asked if Skip agreed. Skip confirmed. Other Council members confirmed. Mr. Rosow (time stamp approx. "3:45") indicated there would be no immediate vote, but that the item would be on the December consent agenda. Mr. Wildrick then clarified again that the "seats were approved, and we will correct the parking issue as it relates to valet parking in the minutes going forward."

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

1 Motion was made by Council Member Diamond, and seconded by Council President Pro  
2 Tem Wildrick, to approve reestablishing the passing zone on North Ocean Boulevard from  
3 north of the Palm Beach Country Club entrance to an appropriate distance from the curve,  
4 as determined by Staff, and to keep the double striping north of said location and south of  
5 Queen's Lane. On roll call, the motion carried unanimously.

6  
7 Mr. Brazil requested that the Town wait until summer to implement the requested  
8 changes to minimize the impact on traffic.

9  
10 Council consensus was to wait until the Summer of 2013 to implement the above changes.

11  
12 3. Review of Temple Emanu-El's Valet Parking Impacts.

13  
14 Parking/Code Enforcement Manager Houston, on behalf of Major Howe,  
15 provided an overview of Major Howe's original proposal for handling the  
16 Temple's traffic, the issues that have arisen since the proposal was implemented,  
17 and how the Police Department is working with the Temple, the valet company,  
18 and the neighbors towards an acceptable compromise. The Police Department is  
19 also working with the Public Works Department to identify additional parking  
20 spaces. She stated that managing the issue has been a constant work in progress.

21  
22 Discussion ensued regarding the Temple providing adequate notice to the  
23 residents, briefing the SAO detail officers on the regulations, valet operations,  
24 equity, and the additional issues that have arisen from the changes.

25  
26 Joanne Warshaver, 223 Seminole Avenue, expressed her concerns regarding the  
27 valet operations at the Temple.

28  
29 Sophia Burnichon, 231 Seminole Avenue, expressed her concerns regarding the  
30 valet operations at the Temple.

31  
32 Robert Sheff, 219 Seminole Avenue, expressed his concerns regarding the valet  
33 operations at the Temple.

34  
35 Leslie Evans, 135 Seminole Avenue, expressed his concerns regarding  
36 harassment of the Temple by the neighbors.

37  
38 Etonella Christlieb, 200 Everglade Avenue, expressed her concerns regarding the  
39 valet operations at the Temple.

40  
41 Discussion ensued regarding options to create additional parking spaces.

42  
43 Council Member Pucillo expressed concern that there was not a representative  
44 from the Temple present. He stated that discussion of the matter should be  
45 revisited when the Temple has the opportunity to be heard.

1 Council Member Kleid stated that the procedures in place only need fine tuning.  
2 He said that the valet parking is used all the time and this seems to be no different  
3 despite the fact that other religious institutions may use it less often. It appears  
4 that more scrutiny of the valet parkers is needed and, if the valet company is not  
5 doing a good job, the Temple could hire a better one. If the one-way street is not  
6 working, then it should be changed back to a two-way street. A determination  
7 needs to be made regarding what is considered adequate notice to the residents.  
8 The off-duty officers also need to be better briefed and directed to enforce the  
9 regulations. These issues should be worked out by Staff, the Police Department,  
10 and Code Enforcement.  
11

12 **Motion was made by Council President Pro Tem Wildrick to approve reverting back to the**  
13 **regulations that existed prior to implementation of Major Howe's proposal. Seminole**  
14 **Avenue will go back to a two-way street. The Temple will request valet parking through**  
15 **the Police Department, the same as any other entity. The Police Department will enforce**  
16 **the valet parking rules and make special efforts to make sure neighbors' driveways are not**  
17 **blocked, the traffic flows properly, and it's handled in safest possible manner.**  
18 **Enforcement of the valet parking regulations will be monitored. If the Police Department**  
19 **determines that there are still significant problems, then they have the responsibility to**  
20 **bring the issue back before the Town Council.**  
21

22 Council Member Diamond requested that the motion include a provision that  
23 Code Enforcement will treat all religious institutions in the same manner, shape,  
24 or form, including special occasions and non-special occasions.  
25

26 Town Manager Elwell stated that the motion will properly direct back to Staff a  
27 function that properly resides with Staff and that we will work within the rules as  
28 they exist and will do everything we can to improve the situation in an  
29 evenhanded manner that does not treat any house of worship differently from any  
30 others.  
31

32 Town Manager Elwell advised the Council that this issue might come back before  
33 the Town Council for either of two reasons. The first is if Staff believes that there  
34 is an appropriate general policy change that will improve the situation Town-  
35 wide. The second reason is that this particular property has a long and  
36 complicated history of zoning approvals layered one on another. As we go  
37 forward and enforce the rules, we may bump into something that conflicts with  
38 prior actions taken by the Town Council, and we may need to come back before  
39 the Town Council to address them.  
40

41 Town Attorney Randolph stated that today's actions are not related to the prior  
42 quasi-judicial matters regarding valet parking.  
43

44 Council President Pro Tem Wildrick stressed that regulation and enforcement of  
45 the Temple's valet parking not be any stricter than on any other institutions.  
46



1 Council President Pro Tem Wildrick's motion was amended to approve that Seminole  
2 Avenue will remain a two-way street. The Police Department shall monitor and enforce  
3 the valet parking in the same manner as any other house of worship. Code Enforcement  
4 will treat all religious institutions in the same manner, including special and non-special  
5 occasions. The amended motion was seconded by Council Member Kleid. On roll call, the  
6 motion passed unanimously.  
7

8 **XI. ADJOURNMENT**  
9

10 There being no further business, the December 12, 2012, regular Town Council meeting  
11 was adjourned at 11:05 a.m.  
12  
13

14 APPROVED:  
15  
16

17  
18  
19 ATTEST:

20 David A. Rosow  
21 David A. Rosow  
22 Town Council President  
23

24 Susan A. Owens, MMC  
25 Susan A. Owens, MMC  
26 Town Clerk  
27

28 1/8/13  
29 Date  
30

From: Joanne <joanne0901@me.com>  
To: council@townofpalmbeach.com,  
Cc: Seminole Ave <seminoleavenue@gmail.com>  
Date: 02/06/2013 05:58 PM  
Subject: Fwd:

Sent from my iPad

Begin forwarded message:

**From:** Joanne <[joanne0901@me.com](mailto:joanne0901@me.com)>  
**Date:** February 6, 2013, 2:39:22 PM EST

Dear Town Council Members,

I recently heard thru the grapevine that a variance was given to Temple Emanuel for parking despite their illegal/unauthorized 300 seats and despite the fact that the resolution approved by town council in October (when residents were notified issue would be heard) was contingent on the temple receiving a letter from St Edwards granting permission for the valets to park cars in the Greens lot. I am aware that St. Edwards has not granted any permission and I am concerned about when and how the variance occurred with no notice to the residents so that we could be represented. The synagogue has land both behind it in their meditation garden as well as in recently acquired land to alleviate the parking issues of their own making. And now Council has compounded the problem by increasing the number of people that can be at the synagogue with no additional parking. The neighborhood is quite full!

My understanding of variances is that they can only be issued when there is a hardship that is not self-imposed and a parking study has been done - neither conditions have been met.

I ask only that the laws be followed.

In addition, I object to valet parking. An annual permit is issued for commercial zones and the temples address is 190 N County Rd so the staging area should be there. Temporary permits are for residential areas and the temple's 1994 special exception required residential code where residential. Therefore, they are only entitled to a temporary permit which can only be given 3 times per year. The synagogue has already had valet parking at least 4 times this year. As I have written before, valet parking is very disruptive as hundreds of people are arriving and then departing all at the same time unlike other commercial uses where the parking is spread out over time. Departures can take up to 1 hour with people loitering and disturbing the peace as they impatiently await their cars.

The Council is constantly talking about treating all houses of worship equally. Well, all other houses of worship have their congregants self park and walk. - this is what the temple needs to do as well. I am sure their congregants are no older or more infirm than elsewhere. In addition,

no other house of worship is in a residential zone. Bethesda, St Edwards and Royal Poinciana all have private property for valet use if they ever use it for a private event. ONLY Temple Emanuel is using a public right of way so Temple Emanuel is being given preferential special treatment.

In the interest of quality of life, peaceful enjoyment of our homes, protection of our property values and public safety (that is a major issue when valets are barreling down the streets, tying up 2 lanes of the street, constantly making u- turns with the bus coming down the street while our children are riding their bikes and we are walking our dogs), PLEASE REVOKE THE VALET PERMIT. BRING QUIET ENJOYMENT BACK TO OUR NEIGHBORHOOD.

Sincerely,

Joanne Warshaver

Sent from my iPad

Sophia & Emmanuel Burnichon  
231 Seminole Avenue  
Palm Beach, FL 33480  
Tel: 561-833-2678

February 5, 2013

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

RE: Valet Parking Operation of Temple Emanu-el

Dear Town of PB Council Members & Mayor Coniglio:

From what I understand St. Edward's church has not given a letter to Temple Emanu-el so they can use the church's parking lot. My understanding was the temple needed the extra lot due to lack of parking provided to the temple's congregants (only 39 spaces) and the temple's valet parking needs.

The valet parking operation continues to fail as now the valet parkers now must park cars all the way down to Dunbar Road which causing delays to get the cars to the owners. The valet parkers are speeding down the Seminole Avenue in order to expedite the process which creates a situation that is adverse to the safety of the public right-of-way by and the public in general. The operation is causing bottlenecking as more than 200 cars are arriving and departing at the same time. There is a long lane of cars obstructing traffic. There is difficulty getting to the end of the block during valet parking operation. The cars that are not attending the event either pull into oncoming traffic to get out of the lane or pull into the resident's driveway across the street. If a car is parked in the public right-of-way and was not attending the temple event it is impossible to get out of the parking space due to the lane of traffic generated by the valet parking line.

According to the codes regulating Palm Beach, no permit shall be issued if the valet service will substantially interfere with the use of public right-of-way by the general public or cause undue interference to movement of traffic or pose potential hazard to the public health, safety and welfare. The current operation is to be handled on a commercial street; however, it was deemed unsafe. Please explain how it is safer in a residential zone?

The code also states that all applicable statutes, ordinances and regulations concerning movement and parking of motor vehicles shall be adhered to. The following codes are not being adhered to by normal operation.

**1. Traffic Generated: Sec. 118-6. - Generation of traffic greater than normal in residential districts.**

It is hereby declared to be unlawful for any person to conduct, permit or carry on any assembly or function that would generate pedestrian or vehicular traffic greater than that normal to the district where such use is carried on or located, or that will be offensive or objectionable because of noise, glare, vibration, odor or other disturbance; however, this section shall not apply to purely social functions, and likewise shall not apply to lawful assemblies or functions, charitable or otherwise, occurring not more often than three days out of each calendar year, which shall be construed to mean three separate days or three days consecutively.



The police have been called for the following issues but refuse to give tickets to the valet parking company.

**2. Sec. 118-92. - Penalty for violating parking regulations generally**

- (3) Parking at yellow curb.
- (4) Blocking driveway.
- (5) Parking on sidewalk.
- (13) Residential parking.

The valets yelling to one another, using the car alarm function on keys in order to find cars, constant opening and closing of doors, and group of people waiting to receive cars all generate noise.

3. **Sec. 118-7. - Sounding horn unnecessarily.** It shall be unlawful for the driver or operator of any motor vehicle in the town to unnecessarily and continually blow any whistle, siren or horn on any of the streets of the town.

**4. Section 42-229 and 42-228-Vehicular and Non-vehicular noise.**

Since valet parking operation is under review I would like to know why the following questions are not answered as a part of the application:

- How many trips are generated;
- The hours of operation of the valet services;
- The number of valet parkers intended to be employed and the period(s) of the day during which they shall be employed;
- The projected number of trips from the staging area to the parking areas, and from the parking areas to the staging area during the normal operation hours of the valet service.

Since there is no answer to these questions the town cannot properly regulate the valet parking operation. I recall an event that lasted all day long which is a burden on the town's resources, public right of way and the residents. The valet operation is a disruption to our neighborhood, to the public right of way and the safety of our children and pets. Please use your power to revoke the annual valet parking permit.

Sec. 118-157. - Summary revocation or modification of revocable annual valet service permit by town council. The town council may summarily revoke or modify revocable valet service permit, at any time and for any reason related to the impact of the valet parking service operations, if the town council determines the revocation or modification is warranted.

Thank you,

Sophia Harvey Burnichon

# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Development Review - Other

## Agenda Title

Consideration Of The Testa Family, Inc., Comprehensive Plan And Zoning Text Amendment Application To Create An Overlay Within The Five Acres Of Land Between Bradley Place And North County Road And Royal Poinciana Way And Sunset Avenue. The Application Was Previously Deferred April 2012 To The February 2013 Council Meeting In Order For The Newly Established Royal Poinciana Way Committee To Study Regulations For This Area.

*Deferred from the April 11, 2012 Town Council Meeting*

**Request for deferral to the April 10, 2013 Town Council Meeting**

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum Dated January 31, 2013 from John S. Page
- E-mail Dated January 31, 2013 from Francis Lynch

# **TOWN OF PALM BEACH**

Information for Town Council Meetings on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Review of the Testa Family, Inc., Comprehensive Plan Amendment and Zoning Text Amendment Application previously deferred to the February 13, 2013 Town Council meeting

Date: January 31, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council defer the Testa Family, Inc., Comprehensive Plan Amendment and Zoning Text Amendment Application to the April 10, 2013 Town Council meeting.

## **GENERAL INFORMATION**

On April 11, 2012, the Council considered the Testa Family, Inc., comprehensive plan and zoning text amendment application. After lengthy discussion about the application and the Royal Poinciana Way area, the Council decided to create an ad hoc committee to study the five Palm Beach acre area bordered by Royal Poinciana Way, Bradley Place, Sunset Avenue and North County Road to determine if zoning ordinance and/or comprehensive plan changes are recommended. With consent of the Applicant, the Council deferred the Testa's application to the February 13, 2013 Town Council meeting in order for the newly established Committee to complete its task.

The Royal Poinciana Way Committee has met 9 times to work on possible comprehensive plan amendments and zoning text amendments. Their work, nearing completion, will likely be presented to the Town Council in March. Staff recommends that the Council defer consideration of this Application to the April 10, 2013 Council meeting as requested by the owner in the attached communication.

Attachment

cc: Veronica B. Close, Assistant Director, Planning, Zoning & Building  
Susan A. Owens, Town Clerk  
zf & pf



Testa Family, LLC / RPVOA Application

Francis Lynch

to:

'PCastro@TownofPalmBeach.com', JPage@TownofPalmBeach.com

01/31/2013 04:29 PM

Hide Details

From: Francis Lynch <flynch@blesmlaw.com>

To: "'PCastro@TownofPalmBeach.com'" <PCastro@TownofPalmBeach.com>,

"JPage@TownofPalmBeach.com" <JPage@TownofPalmBeach.com>,

Gentlemen:

Please be advised that Testa Family, LLC has assigned its application to T3 Family Investments, LLC ("T3"). This firm represents T3.

T3 requests a deferral to the 04/10/13 town council meeting to enable the Royal Poinciana Way committee to complete the task assigned to it by town council at the 04/12 town council meeting. Once that task has been completed, T3 can then best decide on how, or if it needs, to pursue the application.

Thank you.

Frank Lynch

Francis X. J. Lynch, Esq.

Breton, Lynch, Eubanks & Suarez- Murias, P. A.

1209 North Olive Avenue

West Palm Beach, FL 33401

(561) 721-4000 main line

(561) 721-4004 direct line

(561) 721-4001 fax

flynch@blesmlaw.com

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

The information contained in this electronic mail transmission may be attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 561-721-4000. Thank you.



# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Development Review - Other

## Agenda Title

Consideration of the Second Amendment to the Declaration of Use Agreement for the Palm House Hotel, Site Plan Review No. 3-2013 with Special Exception and Variance, 160 Royal Palm Way

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum from John Page dated January 31, 2013
- Proposed Second Amendment to the Palm House Declaration of Use Agreement

# **TOWN OF PALM BEACH**

Information for Town Council Meetings on: February 13, 2013

---

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Consideration of the Second Amendment to the Declaration of Use Agreement for the Palm House Hotel, Site Plan Review No. 3-2013 with Special Exception and Variance, 160 Royal Palm Way

Date: January 31, 2013

---

## **STAFF RECOMMENDATION**

Staff recommends that the Town Council approve the proposed Second Amendment to the Palm House Declaration of Use Agreement as modified by Staff.

## **GENERAL INFORMATION**

On January 9, 2013, the Council conditionally approved the applicant's site plan review with special exception and variance application making modifications to the approved site plan for the condo-hotel. Among the conditions of approval was a requirement that applicant enter into an acceptable amendment to the Declaration of Use Agreement with the Town outlining all new stipulations.

Attached is the proposed Second Amendment to the Declaration of Use Agreement outlining the new conditions of approval and restating the February 14 deadline for completing construction. Staff has made changes to the conditions in the Agreement in add/delete format and provided them to the applicant for feedback. To date, Staff has not received a response.

## **TOWN ATTORNEY REVIEW**

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

Attachment

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

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

SECOND AMENDMENT TO DECLARATION OF USE AGREEMENT  
by  
THE TOWN OF PALM BEACH  
and  
160 ROYAL PALM LLC (F/K/A ROYAL 160, LLC)

**Dated February      , 2013**

## **AMENDMENT OF DECLARATION OF USE AGREEMENT**

THIS SECOND AMENDMENT TO DECLARATION OF USE AGREEMENT ("Amendment") is made and entered into this \_\_\_\_ day of February, 2013 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter the "Town"); and 160 ROYAL PALM LLC, formerly known as ROYAL 160, LLC, 160 Royal Palm Way, Palm Beach, Florida 33480 hereinafter the ("Owner"), which terms "Town" and "Owner" 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 July 30, 2007 and recorded in Official Records Book 21987, Page 499, of the Public Records of Palm Beach County ("Agreement");

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

WHEREAS, title to all of the Land is held by the Owner;

WHEREAS, the Palm House Hotel (hereinafter referred to as the "Hotel") is located and operated on the Land at 160 Royal Palm Way in the Town;

WHEREAS, the Town Council on July 11, 2012, approved the special exception portion of the Site Plan Review #6-2012 with Special Exceptions and Variances, which allowed the new Owner to operate the Hotel subject to a condition that the south perimeter landscaping having to be completely installed by September 30, 2012;

WHEREAS, the Town Council on August 15, 2012 granted conditional approval of Site Plan Review #6-2012 with Special Exception and Variances which amended Site Plan Review No. 2-2007 with Special Exceptions and Variances on the Land. The amended approval is reflected in the Amendment to Declaration of Use Agreement that was recorded on January 4, 2013 in Official Records Book 25694, Page 633;

WHEREAS, the Town Council on January 9, 2013 granted approval of Site Plan Review # 3-2013 with Special Exception and Variances which amended Site Plan Review No. 2-2007 with Special Exception and Variances and Site Plan Review # 6-2012 with Special Exception and Variance;

WHEREAS, the conditions of approval are set forth herein and the approval of this Agreement on the basis of the Owner's application and the testimony on behalf of the Owner;

WHEREAS, the Town made specific findings that the Owner met all applicable provisions of the Town Code governing site plan review, special exceptions, and variance requests;

WHEREAS, in approving the second amendment to the Site Plan Review with Special Exceptions and Variances, the conditions of approval reflected herein are imposed in order to



regulate the use, mitigate any adverse impacts of the use, and insure that said use shall not be adverse to the public interest;

WHEREAS, all of the representations made herein are true and accurate and the approval of the amended Site Plan with Special Exception and Variances are conditioned upon the representations made herein and all of the conditions herein imposed; and,

WHEREAS, in granting the approval, the Town Council relied upon the oral and written representations of the property Owner/applicant both on the record and as part of the application process.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and in consideration of other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed that the Agreement is hereby amended and modified as follows:

### **ARTICLE I** **RECITALS**

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

### **ARTICLE II** **REPRESENTATION OF OWNERSHIP**

Owner has full right to enter into this amendment to the 2007 Agreement and to bind the Land, Hotel and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Hotel and Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Amendment to the 2007 Agreement, nor the consummation of the transactions contemplated hereby will violate any restriction, court order or agreement to which Owner or the Land are subject.

### **ARTICLE III** **CONDOMINIUM HOTEL USES**

The use of the Land shall be for hotel uses and accessory uses in compliance with all of the information and exhibits not inconsistent with the terms and conditions set forth herein, set forth in the application submitted to the TOWN for Site Plan Review No. 2-2007 with Special Exception and Variances, as amended and approved by Town Council on May 7, 2007, and as amended by Site Plan Review #6-2012 with Special Exceptions and Variances, as amended and approved by the Town Council on July 11, 2012 and August 15, 2012, and as amended by Site Plan Review # 3-2013 with Special Exception and Variance, as amended and approved by the Town Council on January 9, 2013 (hereinafter referred to as the "Approval"). The Town's approval of the Application is subject to that provision of the Town Code which provides that no

subsequent deviation may be made from the application as approved by the Town Council except upon new application to and approval by the Town Council. Any additional uses of the Land shall be subject to approval by the applicable governmental authority including but not limited to the Town Council of the Town, the Architectural Commission of the Town, Palm Beach County, the State of Florida, the United States Government, and/or any agencies under any of the foregoing governmental authorities.

#### **ARTICLE IV**

#### **ADDITIONAL OR MODIFIED CONDITIONS OF APPROVAL**

The following new conditions are imposed as conditions of granting approval of the Site Plan Review with Special Exceptions and Variances and are required to be met as conditions of the continued operation of the Hotel.

1. The air conditioning equipment previously approved to be located on the roof of the Function Room shall be relocated to the planters on the east side of the Function Room and are required to be screened from the neighbors in perpetuity.
2. The previously approved activity and restrictions for the roof top of the Function Room shall be transferred to the roof top area above the Hotel lobby on the third floor of the hotel. The following restrictions now apply to the roof top of the Hotel in lieu of the roof top of the Function Room: (a) the sundeck shall only be used for sunning or lounging; (b) there shall be no events of any kind or live or recorded music provided on said sundeck; (c) except for emergencies, the Hotel elevator and stairwells shall not be accessible to the sundeck from 7:00 p.m. to 9:00 a.m. so as not to allow hotel guests and employees on the Hotel sundeck during those hours. Fire-rescue accessibility shall be provided by knox-boxes and an elevator override system. There shall be barrier constructed to the satisfaction of the Town which preclude access to the roof top of the hotel to the west, east and south of the sundeck.
3. Additional landscape material to completely screen the east property line of the Hotel from the neighbors shall be required and maintained in perpetuity on the east perimeter of the subject property in perpetuity. The landscaping of the entire property shall be approved by the Architectural Commission.
4. All construction must be completed by February 14, 2013 with the exception of the function room, spa/fitness area and second floor dining room above the lobby which shall be required to only have the shells (drywall, all life safety features, minimum electric and floor slab) completed by February 14, 2013. Any elements of the Hotel or Land not completed by February 14, 2013, including the function room, spa/fitness area and second floor dining room shall be required to obtain new approvals and permits.

**ARTICLE V**  
**PROVISIONS FOR NOTICE**

For the issuance of any notice regarding the terms of the Agreement and 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 Owner:  
c/o Glenn F. Straub,  
160 Royal Palm Way  
Palm Beach, FL 33480

**ARTICLE VI**  
**PROVISIONS TO RUN WITH LAND/RECORDING**

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

**ARTICLE VII**  
**ENTIRE AGREEMENT**

This Amendment, as identified herein, only represents the modifications to the Agreement, as recorded in Official Records Book 21987, Page 499 and Amendment to the Agreement as recorded in Official Records Book 25694, Page 633, of the Public Records of Palm Beach between the parties and may not be amended except by written agreement executed by both parties. All other provisions and conditions in the Agreement, as recorded in Official Records Book 21987, Page 499 and Official Records Book 25694, Page 633, of the Public Records of Palm Beach County, remain in full force and effect.

**ARTICLE VIII**  
**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.

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

By: \_\_\_\_\_  
David Rosow, President  
Town Council

By: \_\_\_\_\_  
Peter Elwell  
Town Manager

160 ROYAL PALM LLC

By: \_\_\_\_\_  
Its: Manager/Member

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, 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 \_\_\_\_\_, 2013, by David Rosow, 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 \_\_\_\_\_, 2013, by Peter Elwell, 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 FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Glenn F. Straub on behalf of the company. He is personally known to me or has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public-State of Florida  
Commission Number:\_\_\_\_\_

APPROVED AS TO LEGAL FORM AND  
SUFFICIENCY:

---

John C. Randolph  
Town Attorney

Exhibit "A"

Legal Description of the Land:

Being Lots 31, 32 and 33, Block F, Royal Park Addition, a subdivision in the Town of Palm Beach, Palm Beach County, Florida, as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County , Florida.

# TOWN OF PALM BEACH

Town Council Meeting on: February 13, 2013

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## Section of Agenda

Development Review - Other

## Agenda Title

Request for Waiver of Section 42-199, Hours Of Construction Work, at 160 Royal Palm Way Per Letter Dated January 31, 2013, from Maura Ziska.

## Presenter

John Page, Director of Planning, Zoning, and Building

## Supporting Documents

- Memorandum dated January 31, 2013 from John S. Page
- Letter dated January 31, 2013 from Maura A. Ziska re: 160 Royal Palm LLC, "Palm House Project"
- Letter dated January 31, 2013 from Maura A. Ziska re: Waiver of Section 42-199, "Palm House Project"
- Notice of Affidavit



# TOWN OF PALM BEACH

Information for Town Council Meeting on: February 13, 2013

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To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Palm House, 160 Royal Palm Way  
Request for Extended Work Hours

Date: January 31, 2013

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council deny the attached request from The Palm House allowing construction work Monday through Friday from 8:00 am to 8:00 pm and Saturday from 9:00 am to 5:00 pm, beginning on February 13 and continuing until project completion.

If the Town Council, however, believes that the Town would be better served by expediting the project, then approval could be granted subject to any terms the Council imposes.

## **GENERAL INFORMATION**

Section 42-199 of the Palm Beach Code of Ordinances outlines permissible construction work hours in the following summary fashion:

- All work between December and April is limited from 8:00 am (first hour quiet work only) to 5:00 pm with no work on Saturdays, Sundays or Town holidays.
- All work between May and November is limited from 8:00 am to 6:00 pm, except Sundays and legal holidays.

The requested deviation from these established construction hours is of considerable magnitude (three extra weekday evening hours through April plus ability to work Saturdays, and two extra weekday evening hours beginning in May through completion).

Staff is not inclined to recommend approval of the request because of past history at the site. The project lingered for many years with very little work activity, and regular complaints have been received from at least one neighbor about repeated noise disruptions. Staff is well aware, however, that the Town Council has expressed a strong desire for the entire project to be completed. The Town Council regularly approves a variety of development-related applications subject to plan modifications or conditions. The Council could, therefore, approve the extended construction hours request in exchange for mutual concessions from the applicant. If the Council

is inclined to approve the request, staff would recommend that consideration be given to the imposition of the following potential conditions:

- All pending legal action against the Town be withdrawn to the satisfaction of the Town Attorney.
- Applicant should agree not to file any new legal action against the Town stemming from failure to complete the project by the established, ongoing deadline of February 14, 2013.
- Any work being completed after 5:00 pm through April, and all work being completed after 6:00 pm between May and November, be of a quiet nature, i.e., heavy equipment should be restricted.
- Prohibiting any right-of-way obstructions unless specifically authorized via issuance of a Right-of-Permit.
- Any other terms that the Town Council feels appropriate to minimize the disturbance to neighboring property owners.

### **SPECIAL CONSIDERATIONS**

Attorney Maua Ziska has submitted a “Notice Affidavit” to the Planning, Zoning & Building Department verifying that all property owners within 200 feet of the subject property have been notified of the request, including date of the Council meeting.

Attachment

cc: Jeff Taylor, Building Official  
Major Rick Howe, Code Enforcement  
Maura Ziska, Attorney

# KOCHMAN & ZISKA PLC

---

Ronald S. Kochman\*

Maura A. Ziska

Marvin S. Rosen, *Counsel*\*

\*Also admitted in New York

\*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

## **Via Hand Delivery:**

January 31, 2013

Mr. Jeff Taylor  
Building Official  
Town of Palm Beach  
360 South County Road  
Palm Beach, FL 33480

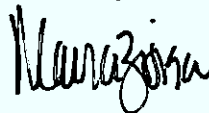
Re: **160 Royal Palm LLC "Palm House Project"/160 Royal Palm Way, Palm Beach**

Dear Mr. Taylor:

Enclosed, with respect to the above referenced property, is the notification letter requesting a waiver of Section 42-199 and the notarized affidavit.

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

Sincerely,



Maura Ziska

MAZ/mr  
Enclosure  
00016861

# KOCHMAN & ZISKA PLC

---

Ronald S. Kochman\*

Maura A. Ziska

Marvin S. Rosen, *Counsel*•

\*Also admitted in New York

• Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

January 31, 2013

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

**RE:    *Waiver of Section 42-199/160 Royal Palm LLC "Palm House Project"***  
***160 Royal Palm Way, Palm Beach***

Dear Mr. Taylor:

I represent 160 Royal Palm LLC and on their behalf would like to appear before the February 13, 2013 Town Council meeting to request a waiver from Section 42-199 of the Town of Palm Beach Code to extend construction work hours from February 13, 2013 until the Certificate of Occupancy is issued. The owner is requesting to work Monday through Friday from 8am. to 8pm and Saturday from 9am. to 5pm.

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

Sincerely yours,



Maura A. Ziska

MAZ/jch  
00016860



**NOTICE AFFIDAVIT**

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

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

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in the request for Waiver of Section 42-199.
2. All properties within two hundred (200) feet of the real property as described in the Request for Waiver of Section 42-199 have been notified using Property Appraiser labels.
3. A copy of the Notification Letter is attached.

Sworn to and subscribed before me this 31<sup>st</sup> day of January, 2013.

By Maura Ziska who is personally known to me or who has produced

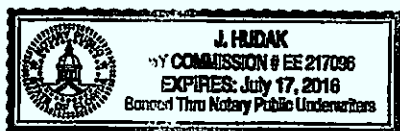
\_\_\_\_\_ as identification and who did (did not) take an oath.

J. Hudak  
(Signature of Notary)

Maura Ziska  
(Applicant's Signature)

J. Hudak  
(Printed Name of Notary)

Maura Ziska  
(Printed Name of Applicant)



# KOCHMAN & ZISKA PLC

---

Ronald S. Kochman\*

Maura A. Ziska

Marvin S. Rosen, *Counsel*\*

\*Also admitted in New York

\*Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500

West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

January 31, 2013

To Whom It May Concern:

A waiver of Town Ordinance 42-199, Hours of construction, is being requested by 160 Royal Palm LLC located at 160 Royal Palm Way, Palm Beach, Florida to extend the construction hours from 8:00 a.m. to 8:00 p.m., Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday. This waiver is requested from February 13, 2013 until Certificate of Occupancy is issued.

This matter will be presented to the Palm Beach Town Council at the regularly scheduled meeting on February 13, 2013. Any concerns regarding this matter should be expressed at this meeting.

This notice is required to be postmarked no later than 10 days prior to the regularly scheduled meeting.

Respectfully,



Maura Ziska

MAZ/jch  
00016862

|                                                                        |
|------------------------------------------------------------------------|
| Property Appraiser GIS - Property Detail list by parcel control number |
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## Buffer:

|                          |                        |                        |               |                |                        |
|--------------------------|------------------------|------------------------|---------------|----------------|------------------------|
| <u>50434323050260310</u> | Acres 1.38             | Sales Instr CT         | MTG           | ROYAL PARK ADD | LTS 31 TO 33 INC BLK F |
| 160 ROYAL PALM LLC       | Value \$ 10,000,000.00 | Price \$ 10,000,100.00 | PUSE MOTEL    |                |                        |
| 11198 POLO CLUB RD       | Taxbl \$ 10,000,000.00 | Date 10/22/2009        | TaxDist 50411 |                |                        |
|                          | Bldg \$ 0.00           | Book 23506             |               |                |                        |
| WELLINGTON FL 33414 6064 | Land \$ 0.00           | Page 1148              | NAV           |                |                        |

## Buffer: 200

|                                   |                        |                        |                |                |                      |
|-----------------------------------|------------------------|------------------------|----------------|----------------|----------------------|
| <u>50434323050210190</u>          | Acres 0.99             | Sales Instr CT         | MTG            | ROYAL PARK ADD | LTS 19 THRU 21 BLK A |
| INVESTORS WARRANTY OF AMERICA INC | Value \$ 11,000,000.00 | Price \$ 12,501,000.00 | PUSE FINANCIAL |                |                      |
| 3609 SMITH BARRY RD STE 100       | Taxbl \$ 11,000,000.00 | Date 12/29/2009        | TaxDist 50411  |                |                      |
|                                   | Bldg \$ 0.00           | Book 23615             |                |                |                      |
| ARLINGTON TX 76013 4631           | Land \$ 0.00           | Page 541               | NAV            |                |                      |

|                             |                        |                        |                |                |                                                         |
|-----------------------------|------------------------|------------------------|----------------|----------------|---------------------------------------------------------|
| <u>50434323050220220</u>    | Acres 0.00             | Sales Instr QC         | MTG            | ROYAL PARK ADD | LT 22 TO 26 INC, LT 27 (LESS                            |
| FIRST UNION NATL BANK OF FL | Value \$ 13,500,000.00 | Price \$ 16,370,800.00 | PUSE FINANCIAL |                | S 103.09 FT OF E 208.15 FT & TH PT OF NLY 3 FT IN DB972 |
| PO BOX 36246                | Taxbl \$ 13,500,000.00 | Date 4/1/1992 1        | TaxDist 50411  |                | P392) & LT 59 BLK B                                     |
|                             | Bldg \$ 0.00           | Book 07208             |                |                |                                                         |
| CHARLOTTE NC 28236 6246     | Land \$ 0.00           | Page 1211              | NAV            |                |                                                         |

|                          |                       |                     |               |                |                                                            |
|--------------------------|-----------------------|---------------------|---------------|----------------|------------------------------------------------------------|
| <u>50434323050250071</u> | Acres 0.00            | Sales Instr WD      | MTG           | ROYAL PARK ADD | W 7 FT OF S 112.5 FT OF LT 7,                              |
| CAMPANELLO THOMAS        | Value \$ 1,500,000.00 | Price \$ 600,000.00 | PUSE STORES   |                | N 67.5 FT OF LT 7, W 7 FT OF S 55.88 FT OF LT 35 & S 75 FT |
| 225 E 57TH ST            | Taxbl \$ 1,500,000.00 | Date 3/1/1994 1     | TaxDist 50411 |                | OF LT 36 /LESS E 16.7 FT OF N 19.12 FT/ IN DB747PS64 BLK E |
|                          | Bldg \$ 0.00          | Book 08186          |               |                |                                                            |
| NEW YORK NY 10022 2822   | Land \$ 0.00          | Page 0718           | NAV           |                |                                                            |

|                              |                       |             |               |                |                              |
|------------------------------|-----------------------|-------------|---------------|----------------|------------------------------|
| <u>50434323050250072</u>     | Acres 0.00            | Sales Instr | MTG           | ROYAL PARK ADD | S 112.5 FT OF LT 7 /LESS W 7 |
| THIRTY SIXTY SOUTH OCEAN INC | Value \$ 1,337,620.00 | Price \$    | PUSE STORES   |                | FT/ BLK E                    |
| 316 S COUNTY RD              | Taxbl \$ 1,337,620.00 | Date        | TaxDist 50411 |                |                              |
| PO BOX 2683                  | Bldg \$ 265,270.00    | Book        |               |                |                              |
| PALM BEACH FL 33480 2683     | Land \$ 1,072,350.00  | Page        | NAV           |                |                              |

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| 50434323050250351<br>CAMPANIELLO THOMAS<br>225 E 57TH ST<br><br>NEW YORK NY 10022 2822                      | Acres 0.00<br>Value \$ 2,486,972.00<br>Taxbl \$ 2,486,972.00<br>Bldg \$ 811,472.00<br>Land \$ 1,675,500.00 | Sales Instr<br>Price \$ 300,000.00<br>Date 3/1/1985 1<br>Book 04498<br>Page 1924   | WD<br>WD<br>WD<br>WD<br>WD | MTG<br>PUSE STORE/OFFICE/RESIDENTI<br>TaxDist 50411<br><br>NAV | ROYAL PARK ADD<br>OF N 125 FT OF LT 36 BLK E                                    | N 125 FT OF LT 35 & E 13 FT                                    |
| 50434323050250352<br>MILTON PARTNERSHIP LTD<br>277 BROADWAY # 601<br><br>NEW YORK NY 10007 2029             | Acres 0.00<br>Value \$ 953,447.00<br>Taxbl \$ 953,447.00<br>Bldg \$ 193,270.00<br>Land \$ 760,177.00       | Sales Instr<br>Price \$ 100.00<br>Date 5/1/1997 1<br>Book 09806<br>Page 0501       | WD<br>WD<br>WD<br>WD<br>WD | MTG<br>PUSE STORES<br>TaxDist 50411<br><br>NAV                 | ROYAL PARK ADD<br>& W 7 FT OF S 55.88 FT/ & E<br>FT OF LT 36 IN D8747P387 BLK E | S 75 FT OF LT 35 /LESS E 5 FT<br>16.7 FT OF N 19.12 FT OF S 75 |
| 50434323050260081<br>PEMS PARTNERSHIP LTD<br>399 W PALMETTO PARK RD STE 106<br><br>BOCA RATON FL 33432 3760 | Acres 0.00<br>Value \$ 1,764,896.00<br>Taxbl \$ 1,764,896.00<br>Bldg \$ 424,458.00<br>Land \$ 1,340,438.00 | Sales Instr<br>Price \$ 5,750,000.00<br>Date 4/1/1992 1<br>Book 07194<br>Page 0146 | WD<br>WD<br>WD<br>WD<br>WD | MTG<br>PUSE STORES<br>TaxDist 50411<br><br>NAV                 | ROYAL PARK ADD                                                                  | N 112.5 FT OF LT 8 BLK F                                       |
| 50434323050260082<br>BESSENROTH MARGRIT<br>165 BRAZILIAN AVE<br><br>PALM BEACH FL 33480 4221                | Acres 0.00<br>Value \$ 1,307,844.00<br>Taxbl \$ 1,224,638.00<br>Bldg \$ 481,960.00<br>Land \$ 825,884.00   | Sales Instr<br>Price \$ 1,900,000.00<br>Date 12/1/1986<br>Book 05109<br>Page 0270  | WD<br>WD<br>WD<br>WD<br>WD | MTG<br>PUSE STORE/OFFICE/RESIDENTI<br>TaxDist 50411<br><br>NAV | ROYAL PARK ADD                                                                  | S 67.5 FT OF LT 8 BLK F                                        |
| 50434323050260090<br>PEMS PARTNERSHIP LTD<br>399 W PALMETTO PARK RD STE 106<br><br>BOCA RATON FL 33432 3760 | Acres 0.00<br>Value \$ 1,626,695.00<br>Taxbl \$ 1,626,695.00<br>Bldg \$ 18,035.00<br>Land \$ 1,608,660.00  | Sales Instr<br>Price \$ 5,750,000.00<br>Date 4/1/1992 1<br>Book 07194<br>Page 0146 | WD<br>WD<br>WD<br>WD<br>WD | MTG<br>PUSE FINANCIAL<br>TaxDist 50411<br><br>NAV              | ROYAL PARK ADD                                                                  | LT 9 BLK F                                                     |
| 50434323050260101<br>PEMS PARTNERSHIP LTD<br>399 W PALMETTO PARK RD STE 106<br><br>BOCA RATON FL 33432 3760 | Acres 0.00<br>Value \$ 900,000.00<br>Taxbl \$ 900,000.00<br>Bldg \$ 0.00<br>Land \$ 900,000.00             | Sales Instr<br>Price \$ 5,750,000.00<br>Date 4/1/1992 1<br>Book 07194<br>Page 0146 | WD<br>WD<br>WD<br>WD<br>WD | MTG<br>PUSE FINANCIAL<br>TaxDist 50411<br><br>NAV              | ROYAL PARK ADD                                                                  | W 1/2 OF LT 10 BLK F                                           |



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| 50434323050260102<br>DORRIS VIVIAN P<br>155 BRAZILIAN AVE<br><br>PALM BEACH FL 33480 4221                          | Acres 0.00<br>Value \$ 1,566,447.00<br>Taxbl \$ 1,274,342.00<br>Bldg \$ 189,402.00<br>Land \$ 1,377,045.00   | Sales Instr WD<br>Price \$ 10.00<br>Date 5/29/2009<br>Book 23246<br>Page 498          | MTG<br>PUSE SINGLE FAMILY<br>TaxDist 50411<br><br>NAV     | ROYAL PARK ADD<br><br><br><br><br>E 1/2 OF LT 10 BLK F |
| 50434323050260110<br>CAMPBELL MARY LOUISE TRUST<br>340 ROYAL POINCIANA WAY STE 224<br><br>PALM BEACH FL 33480 8009 | Acres 0.00<br>Value \$ 2,983,451.00<br>Taxbl \$ 2,983,451.00<br>Bldg \$ 16,081.00<br>Land \$ 2,967,370.00    | Sales Instr WD<br>Price \$ 2,850,000.00<br>Date 9/27/2012<br>Book 25535<br>Page 1606  | MTG<br>PUSE SINGLE FAMILY<br>TaxDist 50411<br><br>NAV     | ROYAL PARK ADD<br><br><br><br><br>LT 11 BLK F          |
| 50434323050260120<br>DEVRIES GAYLE W &<br>141 BRAZILIAN AVE<br><br>PALM BEACH FL 33480 4221                        | Acres 0.00<br>Value \$ 3,425,835.00<br>Taxbl \$ 2,524,276.00<br>Bldg \$ 458,465.00<br>Land \$ 2,967,370.00   | Sales Instr WD<br>Price \$ 5,000,000.00<br>Date 7/3/2012 1<br>Book 25321<br>Page 579  | MTG<br>PUSE SINGLE FAMILY<br>TaxDist 50411<br><br>NAV     | ROYAL PARK ADD LT 12 BLK F                             |
| 50434323050260130<br>133 BRAZILIAN AVENUE REVOCABLE TRUST<br>300 DELAWARE AVE FL 6<br><br>WILMINGTON DE 19801 6602 | Acres 0.00<br>Value \$ 3,865,989.00<br>Taxbl \$ 3,865,989.00<br>Bldg \$ 898,619.00<br>Land \$ 2,967,370.00   | Sales Instr WD<br>Price \$ 6,600,000.00<br>Date 4/9/2012 1<br>Book 25133<br>Page 1906 | MTG<br>PUSE SINGLE FAMILY<br>TaxDist 50411<br><br>NAV     | ROYAL PARK ADD LT 13 BLK F                             |
| 50434323050260340<br>PEMS PARTNERSHIP LTD<br>399 W PALMETTO PARK RD STE 106<br><br>BOCA RATON FL 33432 3760        | Acres 0.00<br>Value \$ 4,004,710.00<br>Taxbl \$ 4,004,710.00<br>Bldg \$ 1,621,710.00<br>Land \$ 2,383,000.00 | Sales Instr WD<br>Price \$ 5,750,000.00<br>Date 4/1/1992 1<br>Book 07194<br>Page 0146 | MTG<br>PUSE FINANCIAL<br>TaxDist 50411<br><br>NAV         | ROYAL PARK ADD LT 34 BLK F                             |
| 50434323050260600<br>ROLAND ASSOC I LTD<br>PO BOX 262315<br><br>TAMPA FL 33685 2315                                | Acres 0.00<br>Value \$ 4,125,365.00<br>Taxbl \$ 4,125,365.00<br>Bldg \$ 1,742,365.00<br>Land \$ 2,383,000.00 | Sales Instr WD<br>Price \$ 5,250,000.00<br>Date 4/1/1989 1<br>Book 06043<br>Page 1962 | MTG<br>PUSE OFFICE MULTISTORY<br>TaxDist 50411<br><br>NAV | ROYAL PARK ADD LT 60 BLK F                             |

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| 50434323140001010<br>HOPKINS RANDOLPH A<br>140 ROYAL PALM WAY # 101<br><br>PALM BEACH FL 33480 4280         | Acres 0.00<br>Value \$ 181,661.00<br>Taxbl \$ 181,661.00<br>Bldg \$ 181,661.00<br>Land \$ 0.00 | Sales Instr WD<br>Price \$ 100.00<br>Date 1/1/1984 1<br>Book 04131<br>Page 0496     | MTG<br>PUSE CONDO COMMERCIAL<br>TaxDist 50411<br><br>NAV | PALMA PLAZA COND | UNIT 101 |
| 50434323140001020<br>DUPONT WILLIS H<br>PO BOX 2468<br><br>PALM BEACH FL 33480 2468                         | Acres 0.00<br>Value \$ 619,403.00<br>Taxbl \$ 619,403.00<br>Bldg \$ 619,403.00<br>Land \$ 0.00 | Sales Instr WD<br>Price \$ 764,000.00<br>Date 4/1/1996 1<br>Book 09207<br>Page 0299 | MTG<br>PUSE CONDO COMMERCIAL<br>TaxDist 50411<br><br>NAV | PALMA PLAZA COND | UNIT 102 |
| 50434323140001030<br>HOPKINS RANDOLPH A<br>140 ROYAL PALM WAY # 101<br><br>PALM BEACH FL 33480 4280         | Acres 0.00<br>Value \$ 144,450.00<br>Taxbl \$ 144,450.00<br>Bldg \$ 144,450.00<br>Land \$ 0.00 | Sales Instr WD<br>Price \$ 98,000.00<br>Date 12/1/1995<br>Book 09063<br>Page 1607   | MTG<br>PUSE CONDO COMMERCIAL<br>TaxDist 50411<br><br>NAV | PALMA PLAZA COND | UNIT 103 |
| 50434323140002010<br>BAGATELLE COMMERCIAL LLC<br>8020 FLAGLER CT<br><br>WEST PALM BEACH FL 33405 5014       | Acres 0.00<br>Value \$ 370,646.00<br>Taxbl \$ 370,646.00<br>Bldg \$ 370,646.00<br>Land \$ 0.00 | Sales Instr WD<br>Price \$ 811,000.00<br>Date 11/18/2005<br>Book 19557<br>Page 417  | MTG<br>PUSE CONDO COMMERCIAL<br>TaxDist 50411<br><br>NAV | PALMA PLAZA COND | UNIT 201 |
| 50434323140002020<br>METTLER PETER W<br>140 ROYAL PALM WAY STE 201B<br><br>PALM BEACH FL 33480 4312         | Acres 0.00<br>Value \$ 288,020.00<br>Taxbl \$ 288,020.00<br>Bldg \$ 288,020.00<br>Land \$ 0.00 | Sales Instr WD<br>Price \$ 300,000.00<br>Date 1/1/1989 1<br>Book 05940<br>Page 0543 | MTG<br>PUSE CONDO COMMERCIAL<br>TaxDist 50411<br><br>NAV | PALMA PLAZA COND | UNIT 202 |
| 50434323140002030<br>PALM BEACH BOARD OF REALTORS INC<br>140 ROYAL PALM WAY<br><br>PALM BEACH FL 33480 4279 | Acres 0.00<br>Value \$ 241,726.00<br>Taxbl \$ 241,726.00<br>Bldg \$ 241,726.00<br>Land \$ 0.00 | Sales Instr WD<br>Price \$ 1,300,000.00<br>Date 7/15/2005<br>Book 18925<br>Page 525 | MTG<br>PUSE CONDO COMMERCIAL<br>TaxDist 50411<br><br>NAV | PALMA PLAZA COND | UNIT 203 |

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| <b>50434323140002040</b>         | Acres    | 0.00       | Sales Instr | WD              | MTG                   | PALMA PLAZA COND | UNIT 204 |
| 140 ROYAL PALM WAY LLC           | Value \$ | 466,750.00 | Price       | \$ 650,000.00   | PUSE CONDO COMMERCIAL |                  |          |
| 4283 NORTHLAKE BLVD              | Taxbl \$ | 466,750.00 | Date        | 9/12/2011       | TaxDist 50411         |                  |          |
|                                  | Bldg \$  | 466,750.00 | Book        | 24746           |                       |                  |          |
| PALM BEACH GARDENS FL 33410 6251 | Land \$  | 0.00       | Page        | 187             | NAV                   |                  |          |
|                                  |          |            |             |                 |                       |                  |          |
| <b>50434323140002050</b>         | Acres    | 0.00       | Sales Instr | WD              | MTG                   | PALMA PLAZA COND | UNIT 205 |
| PALM BEACH BOARD OF REALTORS INC | Value \$ | 627,021.00 | Price       | \$ 1,300,000.00 | PUSE CONDO COMMERCIAL |                  |          |
| 140 ROYAL PALM WAY UNIT 205      | Taxbl \$ | 627,021.00 | Date        | 7/15/2005       | TaxDist 50411         |                  |          |
|                                  | Bldg \$  | 627,021.00 | Book        | 18925           |                       |                  |          |
| PALM BEACH FL 33480 4204         | Land \$  | 0.00       | Page        | 525             | NAV                   |                  |          |
|                                  |          |            |             |                 |                       |                  |          |
| <b>50434323140002060</b>         | Acres    | 0.00       | Sales Instr | WD              | MTG                   | PALMA PLAZA COND | UNIT 206 |
| SANCHEZ & MADDUX INC             | Value \$ | 509,821.00 | Price       | \$ 580,000.00   | PUSE CONDO COMMERCIAL |                  |          |
| 140 ROYAL PALM WAY # 206         | Taxbl \$ | 509,821.00 | Date        | 1/8/2001 1      | TaxDist 50411         |                  |          |
|                                  | Bldg \$  | 509,821.00 | Book        | 12245           |                       |                  |          |
| PALM BEACH FL 33480 4204         | Land \$  | 0.00       | Page        | 566             | NAV                   |                  |          |