



# TOWN OF PALM BEACH

TOWN MANAGER'S OFFICE

## TOWN COUNCIL MEETING DEVELOPMENT REVIEW

TOWN HALL  
COUNCIL CHAMBERS-SECOND FLOOR  
360 SOUTH COUNTY ROAD

### AGENDA

JANUARY 10, 2018

9:30 AM

Town Council Meeting

## Welcome!

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

### I. CALL TO ORDER AND ROLL CALL

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

### II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

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

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

## VI. APPROVAL OF AGENDA

## VII. DEVELOPMENT REVIEWS

### A. Time Extensions and Waivers

1. Request for One Year Time Extension, Site Plan Review No.1-2016 Page 8 with Special Exception, 160 Royal Palm Way, Palm House Hotel

### B. Variances, Special Exceptions, and Site Plan Reviews

#### 1. Old Business

- a. **Z-17-00020 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: CT-S Town-Serving Commercial. The Page 37 application of CARRIAGE HOUSE PROPERTIES PART, Owner, relative to property located at **264 S COUNTY RD SUITE: SITE**, legal description on file, is described below. PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 264 & 270 S COUNTY RD. 1. A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the CT-TS Zoning District. The Club will have a membership cap of 264 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 118 seats, which is the same number of seats 264 Grill restaurant had. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m. 2. A request for a special exception to provide 68 night-time (after 5pm) supplemental off-site shared parking spaces at 230 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House. [Applicant's Representative: Maura Ziska Esq]
- b. **SITE PLAN REVIEW #1-2017** The application of 235 Via V PB Page 47 LLC (Stuart Kapp, Manager); relative to property commonly known as **235 Via Vizcaya.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 7,444 square foot two-story, single family residence on a non-conforming platted lot which is 15,344 square feet in area in lieu of the 20,000 square foot minimum area required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58 feet in depth in lieu of the 150 foot minimum required. [Attorney: Frank Lynch, Esq.] [The Architectural Commission denied the project at the September 27, 2017 meeting. Carried 4-3] **Request for Deferral to March 21, 2018 Town Council Meeting per Letter Dated January 4, 2018 from Francis Lynch.**

#### 2. New Business

- a. **Z-17-00049 VARIANCE(S)** Zoning District: R-B Low Density Page 49



#### Residential

The application of DESRUISSEAU ANN, Owner, relative to property located at **1090 N OCEAN BLVD**, legal description on file, is described below. The Applicant is requesting the following variances to construct a 401 square foot loggia addition to the west side of the residence with an open balcony above: 1) a south side yard setback of 10 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District; and 2) a cubic content ratio ("CCR") of 5.31 in lieu of the 4.99 previously approved and the 3.96 maximum allowed in the R-B Zoning District for a lot that is 13,938 square feet in area. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 6-1. The Architectural Commission approved the project as presented. Carried 6-1.]

b. **Z-17-00050 VARIANCE(S)** Zoning District: R-D(1) Moderate Density Residential Page 53

The application of MCCORMICK MATT &, Owner, relative to property located at **250 BRADLEY PL SUITE: M-6**, legal description on file, is described below.

A variance request to construct a 12.5 x 12.5 boat lift with a 22 foot north riparian setback in lieu of the 25 foot minimum setback required. [Applicant's Representative: Maura Ziska Esq]

c. **Z-17-00051 SITE PLAN REVIEW** Zoning District: RB Low Density Residential Page 56

The application of STERANKA MICHAEL, Owner, relative to property located at **266 ORANGE GROVE RD**, legal description on file, is described below. 1) Site Plan Review to allow the renovation of an existing one story residence by demolishing more than 50% cubic footage and raising the finished floor elevation of the house to 7.5 NGVD on a lot with a width of 75 feet in lieu of the 100 foot minimum required In the R-B Zoning District and an area of 8,156.25 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. 2) A variance is being requested to allow the construction of a 116 square foot one story addition for a bathroom/bedroom that is proposed to have a 5.4 foot west side yard setback in lieu of the 12.5 foot minimum setback required for a one story structure. 3) A variance is being requested to allow the existing residence to remain nonconforming with no garage provided. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission deferred the project to the January 24, 2018 meeting. Carried 7-0.] **Request for Deferral to February 14, 2018 Town Council Meeting per Letter Dated January 2, 2018 from Maura Ziska**

d. **Z-17-00052 SITE PLAN REVIEW WITH VARIANCE(S)** Page 58

Zoning District: RB Low Density Residential The application of CARLSON GUSTAV TRUST &, Owner, relative to property located at **280 ORANGE GROVE RD**, legal description on file,

is described below. 1) Site Plan Review to allow the renovation of an existing one story residence by demolishing more than 50% cubic footage and raising the finished floor elevation of the house to 7.5 NGVD on a lot with a width of 75 feet in lieu of the 100 foot minimum required In the R-B Zoning District and an area of 8,156.25 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. 2) A variance is being requested to allow the construction of a 116 square foot one story addition for a bathroom/bedroom that is proposed to have a 5.4 foot west side yard setback in lieu of the 12.5 foot minimum setback required for a one story structure. 3) A variance is being requested to allow the existing residence to remain nonconforming with no garage provided. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed site plan review with variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission deferred the project to the January 24, 2018 meeting. Carried 7-0.] **Request for Deferral to February 14, 2018 Town Council Meeting per Letter Dated January 2, 2018 from Maura Ziska**

- e. **Z-17-00053 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Page 62  
 Zoning District: RB Low Density Residential The application of PALM BEACH TOWN OF, Owner, relative to property located at **2185 S OCEAN BLVD SUITE: SITE**, legal description on file, is described below. Sec. 134-329 site plan review request for existing north restroom building to be replaced by new restroom pre-fabricated building to match restroom buildings to the south of the park. Sec. 134-229 requirements to grant special exception for construction of a public structure. [Applicant's Representative: None] [Architectural Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact to the subject property. Carried 6-1. The Architectural Commission approved the project with the caveat that the color be changed to a light tan to match the existing service building and consider the addition of a creeping vine to add some green to the landscaping at the December 15, 2017 meeting. Carried 6-1.]
- f. **Z-17-00054 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE** Page 65  
 Zoning District: C-TS Town-Serving Commercial The application of VIA 313 1/2 WORTH AVENUE LTD, Owner, relative to property located at **313 1/2 WORTH AVE SUITE: B 3**, legal description on file, is described below. 1) Special Exception with Site Plan Review is being requested to modify a previous approval (which granted Bice Ristorante 46 outdoor seats) to increase the number of outdoor seats from 46 to 82 (an additional 36 seats) for the seasonal months of November through April only. 2) A variance is being requested to

provide zero (0) on-site parking spaces in lieu of the required 12 parking spaces that would be required for the additional 36 seats. [Applicant's Representative: Maura Ziska Esq]

- g. **Z-17-00055 SPECIAL EXCEPTION WITH SITE PLAN** Page 71  
**REVIEW** Zoning District: PUD-A Planned Unit Development A  
The application of BREAKERS PALM BEACH INC, Owner, relative to property located at **1 S COUNTY RD SUITE: GOLF COURSE**, legal description on file, is described below. The Breakers is requesting approval of a special exception with site plan review to effectuate changes and improvements to The Breakers' golf course, including realigning and enlarging most of the tees, relocating bunkers, and shifting and reconfiguring the greens. These improvements, designed by noted golf course architect Rees Jones, will ensure that the golf course remains viable so that the open space in the Breakers PUD will be continue to be preserved. As a part of the renovation, the Breakers is also proposing an addition to the existing golf training building that will enlarge it from 697 square feet to 2,366 square feet, and the replacement of an existing free-standing bathroom building of 250 square feet with a new bathroom building of 267 square feet. [Applicant's Representative: James M. Crowley Esq]

**3. Other**

- a. Fine Mitigation Request (Project Exceeded Permissible Timeframe) Page 75  
Single Family Home Construction at 476 South Ocean Boulevard
- b. Planning and Zoning Commission Record and Report: Page 95  
Proposed Zoning Text Amendments

**VIII. ORDINANCES**

**A. Second Reading**

1. **ORDINANCE NO. 30-2017** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Definitions And Rules Of Construction, By Creating Definitions For An Outdoor Promotional Event Use And A Property Identification Yard Sign; At Article VI, District Regulations, Sections 134-1109, 134-1159 And 134-1259, Special Exception Uses, By Conditionally Allowing Outdoor Promotional Events As A Special Exception Use In The C-TS, C-WA And C-PC Commercial Zoning Districts; At Article VIII, Supplementary District Regulations, By Adding A Division 18, Outdoor Promotional Activities, Section 134-2115, Standards And Criteria For Outdoor Promotional Activities; At Article XI, Signs, By Modifying Section 134-2437, Building Identification, Business Identification Signs, By Adding

“Property Identification Yard Signs” To The Title And Allowing Property Identification Yard Signs On Properties That Meet Certain Criteria In All Of The Commercial Zoning Districts; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date

## **IX. ANY OTHER MATTERS**

## **X. ADJOURNMENT**

### **PLEASE TAKE NOTE:**

- Note 1:** No written materials received after 3:30 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website ([townofpalmbeach.com](http://townofpalmbeach.com)) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- Note 6:** All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website ([townofpalmbeach.com](http://townofpalmbeach.com)).

### **PROCEDURES FOR PUBLIC PARTICIPATION**

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

**PUBLIC HEARINGS:** Any citizen is entitled to be heard on an official agenda item

under the section entitled "Public Hearings," subject to the three minute limitation.

**COMMUNICATIONS  
FROM CITIZENS:**

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

**OTHER AGENDA  
ITEMS:**

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

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

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Time Extensions

## Agenda Title

Request for One Year Time Extension, Site Plan Review No.1-2016 with Special Exception, 160 Royal Palm Way, Palm House Hotel

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated December 22, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Site Plan Review No. 1-2016 with Special Exception Development Order Letter**
- ▣ **Letter from Jacqueline Miller dated December 19, 2017**

# **TOWN OF PALM BEACH**

Information for Town Council Meeting on: January 10, 2018

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Request for One Year Time Extension, Site Plan Review No. 1-2016 with Special Exception, 160 Royal Palm Way, Palm House Hotel

Date: December 22, 2017

---

## **STAFF RECOMMENDATION**

Staff recommends that the Town Council approve a twelve month time extension of Site Plan Review No. 1-2016 with Special Exception in order for the applicant time to either secure financing for the project or to find a new owner.

## **GENERAL INFORMATION**

On January 13, 2016, the applicant was granted a site plan review with special exception approval (Site Plan Review #1-2016 with Special Exception) to modify the previously approved Palm House plan. The approvals required some unauthorized work to be removed, while at the same time allowing certain unauthorized improvements to remain.(copy of approval letter attached). A condition of approval of the application was that the applicant modify the existing Declaration of Use Agreement to update the contact person in the Agreement, and reference the approved modified floor plans, elevations, landscape, paving and drainage plans in the approved application. On January 11, 2017 the applicant requested and the Town Council granted a one year time extension. The property owner has not yet provided the required amended Declaration of Use Agreement for staff's review. That Agreement normally is considered by the Council for approval the month following the zoning application approval.

Jacqueline Miller, attorney for the applicant (Cary Glicktein, court appointed receiver), has submitted the attached letter dated December 19, 2017, requesting another one year time extension in order to secure new financing or find a new owner for the subject property. Staff recommends that the Council allow the applicant a one year time extension to enter into the required amendment to the Agreement and work toward financing or selling the subject property. If approved, the applicant will have until January 16, 2019 to amend the Agreement and commence work.

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



Attachment

cc: Jay Boodheshwar, Deputy Town Manager  
Susan Owens, Town Clerk  
Paul W. Castro, AICP, Zoning Administrator  
Jacqueline Miller, Esq.  
pf & zf



# TOWN OF PALM BEACH

Planning, Zoning & Building Department

January 27, 2016

Ms. Jacqueline S. Miller, Esq.  
Broad and Cassel  
One North Clematis Street  
Suite 500  
West Palm Beach, FL 33401

Subject: Site Plan Review #1-2016 with Special Exception, 160 Royal Palm Way

Dear Ms. Miller:

The Town Council, at its January 13, 2016 meeting, conditionally approved the above referenced application. The approval identifies removal of unauthorized improvements as identified below and modifies the previously approved site plan to comport with previous approvals with exception of minor changes to improve service areas and access to those areas via stairs and elevators. The site plan modifications that were approved are as follows:

- Completion of partially constructed stair and elevator from basement to second floor dining area (not the third floor as stated in the application) on North side of the hotel building and construction of new access stairs from the basement kitchen area to the first floor lobby dining room.
- Construct new stairs, elevator and dining area on the second floor dining room.
- Construct redesigned mezzanine dining room stairs.

The following unauthorized changes are required to be restored as follows:

- Demolish partially constructed elevator extension to roof top above second floor dining room and lobby area to the "Sunset" deck.
- Complete construction of Function Room and pool area consistent with plans previously approved by the Town.
- Demolish partially constructed bathrooms on west side of Function Room and complete construction in area immediately adjacent to the southeast corner of the Function Room per plans previously approved by the Town.
- Demolish partially constructed walkway, stairs and elevator access to roof above Function Room;
- Demolish approximately 1,140 square feet of office space in area and restore as previously approved service corridor and laundry space.
- Demolish partially constructed enclosures of portions of the basement garage on both east and west side of the Property and restore 5 required off street parking spaces.
- Restore guest room area on third floor which was converted to private dining overlooking the second floor dining room.





- Demolish partially constructed wall in sub-basement parking area which was built to expand the sub-basement Function Room kitchen and restore the required parking.
- Construct opening on the east side of the Function Room wall which was going to be an unauthorized stage.
- Remove infill framing at exterior walkways on east elevation (installed subsequent to staff's identification of non-approved construction).
- Eliminate two pool area structures and relocate pool structure which includes service bar to previously approved location. The pool area will be restored as previously approved.
- There will be no reduction of condo-hotel units. The condo-hotel units remain at 79 units.

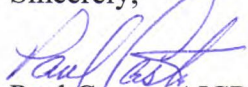
Please be advised that there are no modifications to previous conditions of approval identified in the Declaration of Use Agreements for the subject property. All conditions of approval in the previous Declaration of Use Agreement, as amended, remain in effect. A modification to the previous Agreement is required as a condition of approval in order to reference the approved floor plans and elevations in this application as well as the previously approved landscape plans and paving and drainage plans. In addition, the contact person in the Agreement for the property owner needs to be updated as part of the amendment. Please provide a draft of the proposed Amendment (Third Amendment to the Declaration of Use Agreement) for our review. Building permit revisions cannot be issued until this document has been executed by all parties, recorded, and a certified copy provided to the Town.

The conditional approval is identified on sheet drawings CS-1, SP-1, SP-2, A-1.0 through A-9.0, A-10.1 and A-10.2, stamp dated December 7, 2015, prepared by David Miller & Associates, P.A., and made part of the approval of the application.

The Town Council approval of this site plan review with special exception application constitutes only zoning approval and does not relieve the owner and/or applicant from obtaining additional Town approvals as may be required, such as Architectural Commission approval and necessary construction permits. The work authorized under the approval of this application must be commenced within one year from the date of approval or said approval will expire.

If you have any question, please contact me at 227-6406.

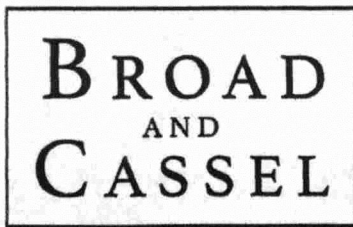
Sincerely,



Paul Castro, AICP  
Zoning Administrator

cc: John S. Page, Director, Planning, Zoning & Building  
Veronica B. Close, Asst. Director, Planning, Zoning & Building  
Bill Bucklew, Building Official  
John Lindgren, Planning Administrator  
Cary Glickstein, Receiver  
John C. Randolph, Town Attorney  
zf & pf





JACQUELINE S. MILLER, ESQ.  
JMILLER@BROADANDCASSEL.COM

December 19, 2017  
(Amending December 7, 2017 Request)

**VIA E-MAIL: (pcastro@townofpalmbeach.com)**

Planning, Zoning & Building Department  
360 South County Road  
P.O. Box 2029  
Palm Beach, FL 33480  
Attn: Mr. Paul Castro, Zoning Administrator

**Re: Site Plan Review #1-2016  
160 Royal Palm Way**

Dear Mr. Castro:

The undersigned represents and writes on behalf of Cary Glickstein, as the court appointed receiver of 160 Royal Palm Way, to request another one year extension of the approved zoning application, referenced above, which would otherwise expire on January 11, 2018. To assist in the Town's consideration of this request, I enclose a copy of the latest quarterly report, i.e. the Receiver's Eighth Quarterly Receiver's Report, filed by Mr. Glickstein.

On December 1, 2017, the court entered the "Agreed Order as the Expansion of the Receiver's Authority Concerning Palm House Hotel Property." A copy of the December 1, 2017 Agreed Order is also enclosed. The court has authorized Mr. Glickstein to market the subject property for sale commencing January 18, 2018, if at that time the parties have not already reached an agreement for the sale of the property or financing for completion of the property's improvements.

The developmental approvals for which Mr. Glickstein now requests a second extension undoubtedly add value to the property and improve the likelihood that with new financing or a new owner in place, the completion of this project can finally be achieved. Conversely, without a further extension of the development approvals, the obstacles to Mr. Glickstein's ability, as receiver, to secure project completion may be insurmountable.



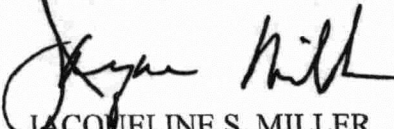
Planning, Zoning & Building Department  
December 19, 2017  
Page 2

Mr. Glickstein does not have court authorization to amend the Declaration of Use Agreement related to this project. We understand that before any building permit would be issued to implement the improvements for which the developmental approvals have been given and extended, an amendment to the currently effective Declaration of Use Agreement will be needed.

Please contact me if you have any questions about the request or if any additional information is needed at this time.

Respectfully,

BROAD AND CASSEL



JACQUELINE S. MILLER

JSM/kak

Encls.

cc: Mr. Cary Glickstein (via e-mail)

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup> JUDICIAL  
CIRCUIT, IN AND FOR PALM BEACH COUNTY,  
FLORIDA.

CIVIL DIVISION

CASE NO. 502014CA014846XXXXMB AG

RYAN BLACK,

Plaintiff,

v.

GERRY MATTHEWS and PALM HOUSE, LLC,  
a Delaware limited liability company,

Defendants.

\_\_\_\_\_  
PALM HOUSE, LLC, a Delaware limited liability  
company, and 160 ROYAL PALM, a Florida  
corporation,

Defendant/Counter-Plaintiffs,

v.

RYAN BLACK,

Plaintiff/Counter-Defendant.  
\_\_\_\_\_

**RECEIVER'S EIGHTH QUARTERLY RECEIVER'S REPORT**

The Receiver, Cary Glickstein, files his Eighth Quarterly Receiver's Report ("Report") and certifies to the best of the Receiver's knowledge and belief the following:

**Introduction**

1. In December 2014, Plaintiff, Ryan Black, a member and former managing member of Palm House, LLC, a Delaware limited liability company ("Palm House LLC") commenced this action seeking a corporate dissolution of Palm House LLC and, on February 10, 2015, filed a Verified Motion for Appointment of Receiver.



2. With the agreement of all parties, the Court granted the motion for appointment of a receiver and stayed litigation in this action.

3. On July 16, 2015, the Court entered an Amended Agreed Order on Plaintiff's Motion for Appointment of Receiver ("the Receivership Order").

4. Pursuant to the Receivership Order, Cary Glickstein was appointed as the Receiver for the partially constructed hotel condominium property owned by defendant/counter-plaintiff, 160 Royal Palm, LLC, a Florida limited liability company (the "Owner") located at 160 Royal Palm Way Palm Beach, Florida (the Property or the 'Project').

5. Pursuant to the Receivership Order, the Receiver filed an Oath of Receiver which was filed with this Court on of July 22, 2015.

6. Pursuant to the Receivership Order, the Receiver filed an Initial Inventory for the Project on August 17, 2015.

7. Pursuant to the Receivership Order, the Receiver filed a Receiver's Initial Report on February 1, 2016 ("Initial Report").

8. Pursuant to the Receivership Order, the Receiver filed a Receiver's Second Quarterly Receiver's Report on April 15, 2016 ("Second Report").

9. Pursuant to the Receivership Order, the Receiver filed a Receiver's Third Quarterly Receiver's Report on July 17, 2016 ("Third Report").

10. Pursuant to the Receivership Order, the Receiver filed a Receiver's Fourth Quarterly Receiver's Report on October 17, 2016 ("Fourth Report").

11. Pursuant to the Receivership Order, the Receiver filed a Receiver's Fifth Quarterly Receiver's Report on January 17, 2017 ("Fifth Report").

12. Pursuant to the Receivership Order, the Receiver filed a Receiver's Sixth Quarterly Receiver's Report on April 18, 2017 ("Sixth Report").

13. Pursuant to the Receivership Order, the Receiver filed a Receiver's Seventh Quarterly Receiver's Report on July 17, 2017 ("Seventh Report").

14. This Report includes:

I. Summary of Receiver's activities;

II. Summary of Receiver's cash receipts and disbursements from July 1, 2017 through September 30, 2017;

III. Receiver's comments.

**I. Summary of Receiver's Activities**

15. The Receiver's activities since filing the Seventh Report include the following:

a. Periodic communications with Town officials, staff and counsel regarding site conditions at the Property, development of a revised approved scope of remediation work to be completed by Hedrick Brothers Construction Company ("Hedrick"), 120-day extension of conditional abatement of the \$2,000 per day fine imposed under the Town's Planning, Zoning and Building Department originally approved in December 2016 of the initial fine abatement a 60-day extension and further abatement extension request of the \$250 per day fine imposed by the Town's Code Enforcement Board originally approved in November 2016 relating to open an code violation at the Property, and Project status;

b. Ongoing communications with the Parties' representatives and respective legal counsel and counsel for the EB-5 Investors regarding site conditions at the Property, inspections of the Property by prospective purchasers presented by the Parties; Project completion funding inquires, Property security, Property access, prospective implementation of supplemental



powers to the Receiver, shortfall and continued funding of the Receivership, and related legal proceedings;

c. Joinder in and support of Plaintiff's Amended Motion for Second Release of Funds from Escrow in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AG, pending in the Circuit Court of Palm Beach County, Florida;

d. Implementation of the funding authority conferred by the Court in its Order Granting In Part and Denying In Part Three Motions Pertaining To The Receiver, Receiver Funds, And Bonds, dated August 7, 2017 in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AG ("Second Funds Release Order");

e. Negotiation with Hedrick of a construction services contract for completion of remediation work at the Property, based on a revised scope of work developed with the Town, as directed by the Court, together with contract and construction administration following commencement of the remediation work, including storm preparation in advance of Hurricane Irma;

f. Communications with the City of West Palm Beach regarding resolution of numerous water utility liens imposed for non-payment, inspection of the Project plumbing for restoration of water services to the Property and restoration of water utility services to the Property.

g. Communications with representatives of prospective purchasers of the Property and Project for completion of the Project;

h. Interposing and arguing Receiver's Objection to Notice of Charging Lien and Motion Requesting Discharge of Lien filed in response to the Notice of Charging Lien and Motion Requesting Discharge of Lien by Michelle Otero Valdes and Chalos & Co. P.C., in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AG,

participation in preparation of an Order Granting Charging Lien and Motion Requesting Discharge of Lien by Receiver and compliance with that order following its entry by the Court on September 15, 2017;

i. Communications with insurance agents with respect to remediation work required to secure windstorm coverage for the Property, implementation of such work and securing windstorm coverage for the Property; and

j. Periodic communications with construction contractors, suppliers and trade vendors or their attorneys regarding adjudicated and non-adjudicated claims concerning payment for labor, services and/or materials for the Project arising prior to the Receivership Order.

## **II. Summary of Cash Receipts and Disbursements**

16. Consistent with the Receivership Order, the Receiver has maintained a separate system of office records, and books and accounts specific to the Receivership to which the Parties, or their respective agents and other representatives, have had and continue to have reasonable access, including the Receiver's records, accounts and books, vouchers, files and all other materials pertaining to the Receiver's operation of the Property.<sup>1</sup> All such records have been kept safe, available and separate from any records not having to do with the operation of the Property.

---

<sup>1</sup> Pursuant to the Receivership Order, the Receiver established and maintains a separate, noninterest-bearing operating account for the Property (the 'Palm House Operating Account') into which the Receiver deposits all funds relating to the Property and from which the Receiver is compensated and reimbursed for the Receiver's expenses. During the reporting period for the Fourth Report, the Receiver established a separate, interest bearing account (the "Palm House Custodial Account") in anticipation of the Receiver's receipt, as Receiver, of the proceeds from the private sale of the yacht known as the M/Y ALIBI in the amount of \$2,326,320.92 (the 'Funds'), that were previously deposited into the Registry of the Federal Court in Case No. 9:15 CV-81606-KAM, United States District Court for the Southern District of Florida (the 'Federal Case') and described in paragraph 12c of the Fifth Report, which were received by the Receiver in the reporting period for the Fifth Report and deposited in accordance with that certain Agreed Order Granting Plaintiffs Motion for Appointment of Receiver to Take Custody of Funds in the Federal Court's Registry, dated September 22, 2016, in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AG, pending in the Circuit Court of Palm Beach County, Florida ("Agreed Order"), which order governs the Receiver's custody and disbursement of the Funds.



Based on those records, the Receiver's cash receipts and disbursements from July 1, 2017 through September 30, 2017, are set forth below:

|                                              |                                                                       |
|----------------------------------------------|-----------------------------------------------------------------------|
| <b>Cash Receipts</b> <sup>2</sup>            | <u>\$ 464,124.77</u> (Paid from Palm House Custodial Account)         |
| <b>Total Receipts:</b>                       | <b>\$ 464,124.77</b>                                                  |
| <b>Cash Disbursements:</b> <sup>3</sup>      | \$ 302.87 (FPL)                                                       |
|                                              | \$ 69,150.00 (Town of Palm Beach – Code Violations)                   |
|                                              | \$ 113,172.59 (City of West Palm Beach – Water Service)               |
|                                              | \$ 42,990.00 (Receiver's Fees)                                        |
|                                              | \$ 18,645.00 (Receiver's Attorney's Fees)                             |
|                                              | \$ 64,494.47 (Hedrick Brothers Construction)                          |
|                                              | \$ 119,854.79 (Plastridge Insurance Co -Windstorm Policy)             |
|                                              | <u>\$ 35,817.92</u> (Arnaldo Velez, P.A. Trust Account <sup>4</sup> ) |
| <b>Total Disbursements:</b>                  | <b>\$ 464,427.64</b>                                                  |
| <b>Palm House Operating Account Balance:</b> | <b>\$ 2,093.28 (September 30, 2017)<sup>5</sup></b>                   |
| <b>Palm House Custodial Account Balance:</b> | <b>\$1,234,727.57 (September 30, 2017)<sup>6</sup></b>                |

### **III. Receiver's Project Comments**

17. In the Court's Order Granting in Part and Denying in Part Intervenor Palm House Hotel, LLLP's Motion to Supplement Receiver's Powers, dated January 23, 2017 ("Supplemental Receivership Order"), the Receiver is directed to "continue to exercise the authority conferred

<sup>2</sup> In accordance with the Second Funds Release Order, \$464,124.77 was transferred from the Palm House Custodial Account to the Palm House Operating Account.

<sup>3</sup> All payments disbursed from the Palm House Operating Account during this reporting period.

<sup>4</sup> Following a hearing on the Notice of Charging Lien and Motion Requesting Discharge of Lien filed by Michelle Otero Valdes and Chalos & Co. P.C., in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AG, the Court entered its Order Granting Charging Lien and Motion Requesting Discharge of Lien by Receiver on September 15, 2017, pursuant to which the Receiver was ordered to disburse \$35,817.92 from the Palm House Custodial Account to Arnaldo Velez, P.A. Trust Account.

<sup>5</sup> For this reporting period, there is an accounts payables shortfall in the Palm House Operating Account of \$59,238.85 for unpaid invoices for: (i) \$5,740.79- Receiver's general liability insurance premium; (ii) \$29,970.00 – unpaid Receiver's fees for services rendered from July 1, 2017 – September 30, 2017; and (iii) \$22,068.75 - Receiver's attorney's fees for services rendered from July 1, 2017 – September 30, 2017, less the current operating balance of \$2,093.28 (above).

<sup>6</sup> Palm House Custodial Account Balance: previous quarter's ending balance of \$1,697,135.09, plus accrued interest for this reporting period of \$1,717.25, less transfers to Palm House Operating Account (above) of \$464,124.77.

under the Agreed Amended Order to secure, improve, repair, manage and oversee completion of construction, improvements or appurtenances to the Property and to do all reasonable and necessary things to avoid further degradation of the Property and to attempt to avoid waste of the Property or problems that adversely impact the Property's condition." That Order further provides that "[s]ubject to available funding, the Receiver is authorized to continue negotiation with the Town in an effort to secure an abatement or other resolution of accruing fees, penalties and fines currently being assessed against the Property for noncompletion of the Project, nonconforming construction on the Property and other code enforcement violations and to negotiate with the Town to address Property conditions that will or may precipitate the assessment and enforcement of further or additional fines, penalties or liens levied, assessed or otherwise threatened or imposed by the Town."

18. As reflected in the Sixth and Seventh Reports, partially completed construction conditions and other deteriorating conditions on the Property rendered much of the Property unsafe. As directed by the Supplemental Receivership Order, concerns from the Town, initially expressed to the Receiver in September 2016, relating to Property maintenance, security, and safety issues directed primarily to improvements on the Property and to the vast and diverse personal property located throughout the improvements on the Property, as described in the Receiver's Initial Inventory as further outlined in the Third, Fourth, Fifth and Sixth Reports, were addressed in part by the Receiver's utilization of a portion of the Funds to engage Hedrick's services to develop, through discussions with the Receiver, Town officials and counsel for the Town, and provide the Receiver with a "Palm House Estimate to Secure and Safe-Off Building," (the "Hedrick Estimate").



19. The Hedrick Estimate, attached as an exhibit to the Sixth Report, is a comprehensive scope of work addressing all public safety and aesthetic issues responsive to Town Officials together with an estimate for completion of the corrective work described in it. As was previously reported, the combination of partially constructed Project improvements, the abrupt cessation of all Project construction, and ongoing, deteriorating physical and environmental conditions have resulted in unsafe, dangerous and deteriorating conditions. As previously reported, the Hedrick Estimate's comprehensive scope, justified critical evaluation of its component parts with a view to prioritization and possible staging of certain aspects of the scope of work. At the time of the Receiver's receipt of the Hedrick Estimate in late March 2017, the Receiver had no funds to complete any portion of the work described in the Hedrick Estimate. As last reported, completion of all or any part of the work described in the Hedrick Estimate remained dependent on the availability of funding.

20. Accordingly, in April 2017, the Receiver joined in Plaintiff's Motion for Second Release of Funds from Escrow in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AG to secure, in part, funding for the work described in the Hedrick Estimate, or so much of such that work as authorized funding would permit. While the foregoing motion could not be heard during the previous reporting period, the motion, updated to reflect accrued Receivership costs and expenses through June 30, 2017, was heard on July 21, 2017. The Receiver, Town Manager, Tom Bradford and Hedrick representative, Pat Marshall testified at the hearing.

21. As had been reported, Project site conditions representing public safety issues which precipitated the Hedrick Estimate had been of paramount concern to the Town since before

September 2016. As reflected in the Second Funds Release Order, Mr. Bradford described the Property as a “derelict eyesore.”

22. Following the evidentiary hearing on July 21, 2017, this Court entered the Second Funds Release Order on August 4, 2017(DE #267). That Order provides, in part, as follows:

- a. The Receiver is hereby authorized and instructed to release forthwith the sum of \$345,446.00 for public safety remediation to be carried out Hedrick Brothers. The Receiver is to exercise reasonable discretion in the disbursement of said amount and is not required to release the full sum if the Receiver finds certain economies in the disbursement of funds for public safety remediation;
- b. The Receiver is hereby authorized and instructed to immediately disburse \$19,150.00 to the Town to satisfy the Town Code Enforcement Case identified as CE 14-1091;
- c. The Receiver is hereby authorized and instructed to release forthwith to the Town the sum of \$50,000.00 as partial payment of the outstanding fine in the Town Code Enforcement Case identified as CE 14-1212. The Court recognizes that the sum requested to satisfy this Code Enforcement Case was \$169,400.00 and the release of \$50,000.00 is without prejudice to a subsequent request for the release of funds to satisfy the total outstanding balance;
- d. The Receiver is hereby authorized and instructed to release forthwith the sum of \$42,990.00 to pay the Receiver’s operating account shortfall of fees due to the Receiver through June 30, 2017;
- e. The Receiver is hereby authorized and instructed to release forthwith the sum of \$18,645.00 to pay outstanding Receiver attorney’s fees and costs for services rendered and incurred through June 30, 2017;
- f. The Receiver is hereby authorized and instructed to release forthwith the sum of \$4,500.00 or such amount thereof as is necessary to repair damages to the water meter connections from unapproved re-routing (“jumping”) water service fees and disconnected water meters;
- g. The Receiver is hereby authorized and instructed to release forthwith the sum of \$8,739.71 to pay for water service through June 30, 2017; and
- h. The request for the immediate disbursement of an additional \$85,250.00 for projected fees and costs sought in LLLP’s Motion is denied without prejudice and any party may reapply for these distributions and any updated amount for such distributions no sooner than August 21, 2017.



23. Following entry of the Second Funds Release Order, the Receiver commenced negotiation of a construction services contract with Hedrick for completion of the remediation work described in the Hedrick Estimate. As further directed by the Court, the Receiver worked with Town officials and Hedrick to refine the scope of the remediation work in an effort to reduce the total cost of the required remediation work. Those efforts resulted in an executed construction services contract for a total cost of \$289,313.82. Hedrick commenced its work on or about August 22, 2017 and is expected to complete the remediation work by November 30, 2017.

24. The Receiver can report that the weather-proofing work included in the Hedrick scope of work was successful in that there was no significant damage from Hurricane Irma, despite the threat of wind damage and water intrusion as a consequence of the hotel structure remaining incomplete and unsealed. The Receiver does expect the total contract amount to Hedrick to increase slightly due to additional remediation work, in part, exposed by Hurricane Irma, including minor roof repairs and drywall removal. In addition, until the Project is completed, operational and sealed from the elements, certain areas will remain open to rodents and other small animals that can gain access into to the Property necessitating the Receiver to re-engage a qualified animal trapper to remove the animals and animal waste from the Property.

25. Following entry of the Second Funds Release Order and as required for Hedrick's remediation work, the Receiver undertook to restore water service to the Project. The Receiver learned that the lien pay-off information previously provided to the Receiver by the City of West Palm Beach Department of Finance and Case Management was incomplete and inaccurate. Following many communications directed to pay-off confirmation, the Receiver was able to secure necessary pay-off information and restore water service, based on the authority conferred under



Second Funds Release Order. Because water service to the Project had been terminated for over two years, the Receiver caused an examination of the plumbing systems before and during the restoration of water services to determine the plumbing system would be and was functioning properly under pressure and to avoid possible flooding if the plumbing system was not sufficiently functional.

26. The pendency of the hearing on the Motion for Second Release of Funds from Escrow and the Second Funds Release Order, respectively, provided the Receiver with sufficient good cause to apply for and appear before the Code Enforcement Board on July 20, 2017 and the Town Council on August 9, 2017 to seek further extensions of the conditional \$250 per day Code Enforcement Board fine abatement and the \$2,000 per day Town Planning, Building and Zoning fine abatement originally secured by the Receiver from the Town of Palm Beach Code Enforcement Board and the Town Council in November 2016 and December 2016, respectively.

27. A copy the Code Enforcement Board's Order of Temporary Fine Abatement is attached hereto as **Exhibit A**. The Receiver will appear before the Code Enforcement Board on October 19, 2017 seeking an additional extension. An excerpt from the Minutes of the Regular Town Council Meeting held on August 9, 2017 is attached hereto as **Exhibit B**. To support the upcoming Code Enforcement Board extension request as well as the next Town Council extension request, the Receiver filed his Motion for Third Release of Funds from Escrow and has secured a hearing date for that motion on November 6, 2017. The Town Council and the Code Enforcement Board have made clear to the Receiver that payment of balance of the fine in Town Code Enforcement Case CE 14-1212 is central to their consideration of further abatement extension requests by the Receiver.

28. As of September 30, 2017, the value of the Town's Planning, Building and Zoning conditional abatement was \$596,000, based on an abatement period of 298 days at \$2,000 per day. As of September 30, 2017, the value of the Town's Code Enforcement Board's conditional abatement was \$79,250, based on an abatement period of 317 days at \$250 per day. The combined value of the foregoing conditional abatements was \$675,250.00 as of September 30, 2017. As noted in prior reports both abatements are conditional and durational. If conditions for the respective abatements do not occur or are not performed or if good cause cannot be sufficiently demonstrated to support an extension of an expiring abatement, the abatements will terminate or expire; the abated fine amounts will be reinstated and the fines will resume and continue to accrue.

29. The Receiver conducted three supervised inspections of the Property with interested parties and their representative(s) during the reporting period, all of whom adhered to the Receiver's established protocols for Property entry.

30. Neither the funds nor the financing to complete construction of the Project have been obtained as of this Report and while the Receiver was able to accomplish much insofar as Project site conditions, consistent with the Supplemental Receivership Order, the Receiver can cannot otherwise report the attainment of any substantive objective or tangible results further to completion of the Project, consistent with the Receivership Order, during this reporting period. While the Receiver has participated in discussions with the Parties or their representatives concerning potential Project financing, during this reporting period the Parties have not provided to the Receiver any bona fide financing offers for construction financing for the Project nor has the Receiver participated in any negotiation with any prospective construction lender for the Project. Similarly, the Receiver has received no proposals or offers for the purchase of the Property during this reporting period.



31. Funding for supervised access to the Property was exhausted during the previous reporting period; the Second Funds Release Order provided no funding for that purpose for this reporting period; and, additional funding will be required to provide future supervised access to the Property. Further funding adequate for the payment of other necessary expenses attendant to the Receiver's exercise of the authority conferred by the Receivership Order and Supplemental Receivership Order, including, without limitation, security and Property maintenance, is currently being sought by the Receiver and is also required at this time.

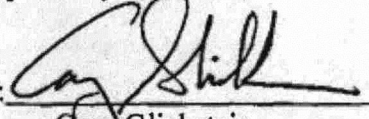
32. It is the Receiver's view that the Project, as described in the Receivership Order, has no future without the Receivership and the Receiver cannot fulfill the mandate of the Receivership Order without Project completion and Receivership funding. It is also the Receiver's view that Project completion, as set forth in the Receivership Order, remains the best opportunity for the Parties to accomplish an outcome and resolution over which they can exercise control. Receivership funding is essential to preservation of the Property and Project viability, including continuation of a productive working relationship with the Town of Palm Beach and its officials that the Receiver has developed and sustained throughout the Receivership.

33. The Receiver is also of the view that during this reporting period, the already tenuous prospects for Project completion have become more remote; the Receiver's mandate, Project completion, has been and continues to be frustrated by the absence of any expression of interest, much less a loan commitment, from a bona fide Project lender to financing commitment to complete construction. Regrettably, there are no facts that suggest to the Receiver that Project financing, that has failed to materialize in over two years, will materialize to complete the Project based on current ownership litigation and other litigation concerning the Property, the projected cost to complete construction and the impediments to marketable title. It is the Receiver's present



intention to seek further instructions and power from the Court, as provided by the Receivership Order, further to the objectives of the Receivership and before existing Project approvals, obtained by the Receiver in January 2016 and extended in January 2017, expire in January 2018.

Respectfully submitted,

By:   
Cary Glickstein

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was emailed to Christopher Kammerer, Esq., Kammerer & Mariani, PLLC, 1601 Forum Place, Suite 500, West Palm Beach, Florida 33401; [ckammerer@kammerermariani.com](mailto:ckammerer@kammerermariani.com); R. Lee Dorrough, Esq., 56 East Pine Street, Suite 301, Orlando, FL 32801 [rleedorough@yahoo.com](mailto:rleedorough@yahoo.com); C. Brooks Ricca, Jr., Esq., C. Brooks Ricca, Jr. & Associates, P.A., The Barristers Building, Suite 200, 1615 Forum Place, West Palm Beach, FL 33401; [bricca@riccalawyers.com](mailto:bricca@riccalawyers.com); [lkendrick@riccalawyers.com](mailto:lkendrick@riccalawyers.com); Adam T. Rabin, Esq., Phoebe J. Eckstein, Esq. McCabe Rabin, P.A., 1601 Forum Place, Suite 505, West Palm Beach, FL 33401; [arabin@mccaberabin.com](mailto:arabin@mccaberabin.com); [peckstein@mccaberabin.com](mailto:peckstein@mccaberabin.com); [e-filing@mccaberabin.com](mailto:e-filing@mccaberabin.com); Alexander L. Domb, Esq., Alexander L. Domb, P.A., 11190 Polo Club Road, Suite I, Wellington, FL 33414; [alec@adllaw.org](mailto:alec@adllaw.org); [michelle@aldlaw.org](mailto:michelle@aldlaw.org); and Henry B. Handler, Esq., Weiss, Handler & Cornwell, P.A., One Boca Place, Suite 218-A, 2255 Glades Road, Boca Raton, FL 33431; [hbh@weissandhandlerpa.com](mailto:hbh@weissandhandlerpa.com) on October 12, 2017.

GREGG H. GLICKSTEIN, P.A.  
54 S.W. Boca Raton Boulevard  
Boca Raton, Florida 33432  
Telephone: (561) 361-9600  
Facsimile: (561) 361-9770  
Email: [ghgpa@bellsouth.net](mailto:ghgpa@bellsouth.net)

By: /s/Gregg H. Glickstein  
Gregg H. Glickstein, Esquire  
Florida Bar No.: 444250

# TOWN OF PALM BEACH

## POLICE DEPARTMENT



DEDICATED TO EXCELLENCE



July 20, 2017

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

### **ORDER OF TEMPORARY FINE ABATEMENT**

160 Royal Palm LLC  
160 Royal Palm Way  
Palm Beach, FL 33480

CERTIFIED MAIL  
9314 8699 0430 0036 7966 50

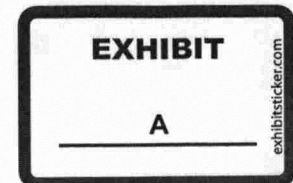
160 Royal Palm LLC  
Attn. Leslie R. Evans, Reg. Agt.  
214 Brazilian Ave., #200  
Palm Beach, FL 33480

CERTIFIED MAIL  
9314 8699 0430 0036 7966 81

Re: Case # CE 14-1212, 160 Royal Palm Way, 160 Royal Palm LLC

Violation of Chapter 134, Section 134-326(b) of the Town of Palm Beach Code of Ordinances, application for site plan review must be filed and approved by the Town Council prior to the altering of the use of any land; Violation of Chapter 134, Section 134-7, compliance with requirements of grants of variances or exceptions required; Violation of Chapter 134, Section 134-226, compliance with Declaration of Use Agreements required

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 20<sup>th</sup> day of July, 2017 and based on the evidence, the Code Enforcement Board enters the following ORDER.



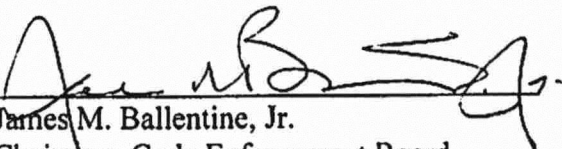


160 Royal Palm LLC  
July 20, 2017  
Page 2

### ORDER

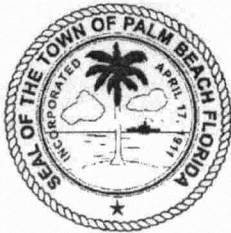
It is the order of this Board regarding Case # CE 14-1212 that upon the request of the receiver to extend the abatement of the daily running fine for an additional 65 days, the Board hereby agrees to abate the daily running fine for an additional 65 days beginning from the expiration date of the previous Board Order abatement. This abatement is conditioned upon the receiver being successful in securing the funding necessary to complete the work the Town is requesting to be conducted at the 160 Royal Palm Way property and upon the receiver paying the current outstanding Code Enforcement fine balance of \$188,550.00 within 30 days of this Board Order. In the event said funding is not secured within the period for which this abatement has been granted or the fine balance is not paid within the 30 days, the abated fine shall be due and payable retroactive to the date the fine was first abated, i.e. November 17, 2016. This is an abatement only and does not relieve the property owner or responsible party from the obligation to pay the full amount of the code enforcement fine imposed pursuant to the original order of this Board.

**DONE AND ORDERED** this 20<sup>th</sup> day of July, 2017

  
James M. Ballentine, Jr.  
Chairman, Code Enforcement Board

cc: Case File  
Property File





# TOWN OF PALM BEACH

Office of the Town Clerk

## MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, AUGUST 9, 2017

### I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Wednesday, August 9, 2017, at 9:30 a.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

### II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Dominguez gave the invocation. Council President Kleid led the Pledge of Allegiance.

### III. APPROVAL OF AGENDA

The following changes were made to the Agenda:

- Item IX.A.4. - A discussion to reschedule the Second Budget Hearing was added.
- Item IX.A.2.c. was heard after Items IX.A.2. d. and e.

Motion was made by Council Member Zeidman, and seconded by Council Member Araskog, to approve the Agenda, as amended. On roll call, the motion carried unanimously.

### IV. PRESENTATIONS - None

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

Mayor Coniglio thanked the Palm Beach Crime Watch for their \$50,000 donation to the Town's license plate recognition program, acknowledged Assistant Director Veronica Close's upcoming retirement and thanked her for her seventeen years of service to the Planning, Zoning and Building team.

Mayor Coniglio requested a consensus from the Town Council for the authority to work with the City of West Palm Beach on the future enhancements to the Okeechobee Boulevard corridor. Unanimous consent was given.

1  
2  
3 4. FY18 Budget Update  
5 *Jane Struder, Director of Finance*

6  
7 Director Struder provided an update on the status of the Town's  
8 proposed FY2018 Budget cuts.

9  
10 Council Member Lindsay requested that annual recurring costs get  
11 included in the budget instead of taken out of contingency.

12  
13 Discussion ensued regarding the history of the contingency fund, the  
14 need to examine whether or not certain items should be moved out  
15 of contingency, forecasting and unexpected costs, and how the  
16 unused contingency money can be used to pay down the debt.

17  
18 In response to a question from President Pro-Tem Moore, Town  
19 Manager Bradford explained that the unused money from the  
20 contingency fund goes towards the Unfunded Liability.

21  
22 It was the consensus of the Town Council to approve the proposed  
23 cuts to the FY18 General Fund.

24  
25 Discussion ensued about rescheduling the Final Budget Hearing to  
26 September 19, 2017 at 5:01 p.m. due to the Rosh Hashanah Holiday  
27 which begins at sunset on September 20, 1017.

28  
29 **Motion was made by Council Member Araskog, and seconded by Council**  
30 **Member Zeidman, to reschedule the Final Budget Hearing for September 19,**  
31 **2017 at 5:01 p.m.**

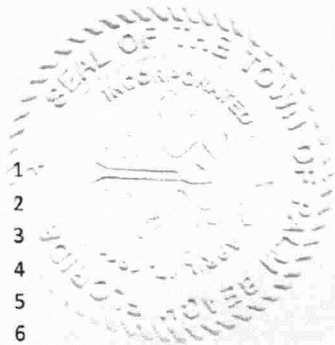
32  
33 5. Palm House Hotel, Receiver Request for Second Extension of  
34 Fine Abatement  
35 *Cary Glickstein, Receiver*

36  
37  
38 Greg Glickstein, Attorney, spoke regarding the Receiver meeting the  
39 conditions of the abatement and requested an additional extension  
40 of the abatement for 120 days with the same conditions that were  
41 previously given in December 2016.

42  
43 **Motion was made by Council Member Lindsay, and seconded by Council**  
44 **Member Araskog, to approve the Receiver's request for an extended**  
45 **abatement period of 120 days with the conditional abatement of \$2,000 in**  
46 **daily fines. On roll call, the motion carried unanimously.**

47  
48 **(Clerk's Note: This item was taken out of order and heard after Item VIII).**  
49





APPROVED:

*Richard M. Kleid*

Richard M. Kleid  
Town Council President

ATTEST:

*Gwendolynn Peirce*

Gwendolynn Peirce, CMC  
Acting Town Clerk

Date: 9/20/17



IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

RYAN BLACK,

CASE NO.: 50 2014 CA 014846 XXXX MB AG

Plaintiff,

vs.

GERRY MATTHEWS and  
PALM HOUSE, LLC, a  
Delaware limited liability company,

Defendants.

---

**AGREED ORDER ON THE EXPANSION OF THE RECEIVER'S AUTHORITY  
CONCERNING PALM HOUSE HOTEL PROPERTY**

THIS MATTER came before the Court on *Palm House Hotel, LLLP's Motion for Order* dated September 1, 2017 [DE#234] (the "LLLP's Motion") and the *Receiver's Motion for Instructions and Expedited Hearing* dated October 25, 2017 [DE#253] the (the "Receiver's Motion,") and the Court having been advised of the agreement of Palm House Hotel, LLLP ("LLLP"), RYAN BLACK, GERRY MATTHEWS, 160 ROYAL PALM, LLC, and PALM HOUSE, LLC (the "Parties"), and being otherwise duly advised of the premises, finds as follows:

1. Further to the objectives set forth in the *July 16, 2015 Amended Agreed Order on Plaintiff's Motion to Appoint Receiver* [DE#64] (the "July 16, 2015 Order"), and consistent with the *August 4, 2017 Order* and the *January 23, 2017 Order*, the Parties agree the Receiver's authority should be expanded to allow the Receiver to obtain third-party Property reports and thereafter market the Property, as set forth in the Receiver's Motion, commencing January 16, 2018.

Based on the foregoing, it is ORDERED AND ADJUGED, as follows:

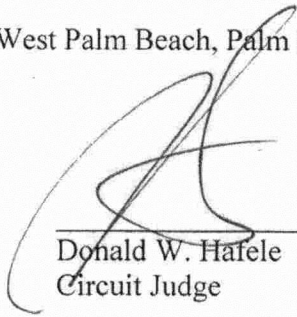
1. After December 15, 2017, the Receiver shall be authorized to obtain the third-party Property reports described in the Receiver's Motion absent the Parties' agreement for the sale of the Property or financing for completion of the Project.

2. The Receiver shall continue to be authorized to negotiate a bona fide commitment for Project financing, as provided in the July 16, 2015 Order, and to receive and report to the Parties and to the Court any bona fide offer to purchase the Property that he receives from the Parties or as may be otherwise received between the date of this Order and January 15, 2018, as provided in the January 23, 2017 Order. The term "bona fide" for purposes of an offer to purchase the Property, as set forth above, shall mean, without limitation, the Receiver's receipt of a good faith deposit of not less than \$1,000,000.00 payable to Gregg H. Glickstein, P.A. Trust Account.

3. If the Parties have not reached an agreement for the sale of the Property or financing for completion of the Project by January 15, 2018, the Receiver shall be authorized to market the Property for sale commencing January 16 2018, as provided in the Receiver's Motion, unless such marketing is postponed upon motion of a party showing good cause for such postponement.

4. The Court reserves jurisdiction to enter all other Orders in connection herewith or as may be just and proper.

DONE AND ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida on this 1 day of ~~November~~ <sup>Dec.</sup> 2017.



Donald W. Hafele  
Circuit Judge

Copies furnished to:



Ryan Black v. Gerry Matthews *et. al.*  
CASE NO.: 50 2014 CA 014846 XXXX MB AG

Henry B. Handler, Esq., *Attorney for Palm House Hotel, LLLP*, 2255 Glades Road, Suite 218-A, Boca Raton, FL 33431 at [hbh@whcfla.com](mailto:hbh@whcfla.com); [filings@whcfla.com](mailto:filings@whcfla.com); [jn@whcfla.com](mailto:jn@whcfla.com);

Brooks Ricca, Jr., Esq., *Attorney for Ryan Black*, The Barristers Building, Suite 200, 1615 Forum Place, West Palm Beach, FL 33401 at [bricca@riccalawyers.com](mailto:bricca@riccalawyers.com); [lkendrick@riccalawyers.com](mailto:lkendrick@riccalawyers.com);

R. Lee Dorough, Esq., 56 East Pine Street, Suite 301, Orlando, FL 32801 at [rleedorough@yahoo.com](mailto:rleedorough@yahoo.com);

Adam T. Rabin, Esq., 1601 Forum Place, Suite 505, West Palm Beach FL 33401 at [arabin@mccaberabin.com](mailto:arabin@mccaberabin.com); [e-filing@mccaberabin.com](mailto:e-filing@mccaberabin.com);

Gregg J. Glickstein, Esq., 54 S Boca Raton Blvd., Boca Raton, FL 33432 at [ghgpa@bellsouth.net](mailto:ghgpa@bellsouth.net);

Christopher W. Kammerer, Esq., 1601 Forum Place, Suite 500, West Palm Beach, FL 33401 at [ckammerer@kammerermariani.com](mailto:ckammerer@kammerermariani.com); [jmariani@kammerermariani.com](mailto:jmariani@kammerermariani.com);

Gerard J. Curley, Jr., Esq., Gunster, Yakley & Stewart, P.A., 777 South Flagler Dr., Suite 500 East, West Palm Beach, FL 33401 at [gcurley@gunster.com](mailto:gcurley@gunster.com); [ksonderling@gunster.com](mailto:ksonderling@gunster.com); [cstgeorge@gunster.com](mailto:cstgeorge@gunster.com); [dradkay@gunster.com](mailto:dradkay@gunster.com); [mjadotte@gunster.com](mailto:mjadotte@gunster.com); [tboske@gunster.com](mailto:tboske@gunster.com); [crossodivita@gunster.com](mailto:crossodivita@gunster.com);

Jeffrey Backman, Esq. and Rachel E. Walker, Esq., Greenspoon Marder, P.A., 200 E. Broward Blvd., Suite 1800, Ft. Lauderdale, FL 33301 at [Rachel.Walker@gmlaw.com](mailto:Rachel.Walker@gmlaw.com); [Jeffrey.backman@gmlaw.com](mailto:Jeffrey.backman@gmlaw.com); [Khia.joseph@gmlaw.com](mailto:Khia.joseph@gmlaw.com); [csrapp@kkla.com](mailto:csrapp@kkla.com);

Rachel Studley, Esq., Wicker Smith, 515 North Flagler Dr., Suite 1600, West Palm Beach, FL, 33401 at [wpbcrpleadings@wickersmith.com](mailto:wpbcrpleadings@wickersmith.com);

**Christopher W. Kammerer, Esq.** and **John F. Mariani, Esq.** of Kammerer Mariani, PLLC, *attorneys for Matthews Defendants*, 1601 Forum Place, Suite 500, West Palm Beach, FL 33401, at [christopherkammerer@kammerermariani.com](mailto:christopherkammerer@kammerermariani.com) and [jmar-iani@kammerermariani.com](mailto:jmar-iani@kammerermariani.com) ;

**Daniel A. Hershman, Esq.**, *attorney for Landau defendants*, 2240 Palm Beach Lakes Boulevard, Suite 101, West Palm Beach, FL 33409 at [daher-shmanlaw@aol.com](mailto:daher-shmanlaw@aol.com); and

**Alexander L. Domb, Esq.**, *attorney for KK-PB Financial*, 11190 Polo Club Road, Suite 1, Wellington, FL 33414 at [alec@adlaw.com](mailto:alec@adlaw.com)



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - Old Business

## Agenda Title

**Z-17-00020 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: CT-S Town-Serving Commercial. The application of CARRIAGE HOUSE PROPERTIES PART, Owner, relative to property located at **264 S COUNTY RD SUITE: SITE**, legal description on file, is described below. PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 264 & 270 S COUNTY RD. 1. A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the CT-TS Zoning District. The Club will have a membership cap of 264 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 118 seats, which is the same number of seats 264 Grill restaurant had. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m. 2. A request for a special exception to provide 68 night-time (after 5pm) supplemental off-site shared parking spaces at 230 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House. [Applicant's Representative: Maura Ziska Esq]

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated December 22, 2017 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Carriage House Exhibit A**
- ▣ **Letter From Schaefer**
- ▣ **Memorandum Dated January 4, 2018 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2018

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Z-17-00020, Special Exception with Site Plan Review, Consideration of Possible Conditions for the operation of the Proposed Carriage House Club, 264 and 270 South County Road

Date: December 22, 2017

---

## **STAFF RECOMMENDATION**

Staff recommends that the Town Council consider Exhibit A, draft conditions related to the operation of the proposed Carriage House Club. No Council action on the conditions will be necessary until the formal Declaration of Use Agreement appears on the Town Council Agenda in the months ahead.

## **GENERAL INFORMATION**

The Town Council, at its December 13, 2017 meeting, considered the subject Special Exception with Site Plan Review application for the proposed Carriage House Club. After hearing all testimony, the Town Council deferred the subject application to the January 10, 2018 Council meeting. The application was deferred in order to allow the applicant time to obtain a traffic concurrency determination from Palm Beach County for the modified zoning application. The applicant was also to contact the Florida Department of Transportation relative to a possible lease of State right-of-way (South County Road) for valet operations and a new cross walk to serve a proposed valet drop-off area on the east side of South County Road. In the interim, the Council also directed Staff to work with the applicant on possible conditions that may be implemented to alleviate possible negative impacts created by the proposed private club.

The conditions identified in attached Exhibit A are intended to be a starting point for the Town Council to consider conditionally approving the subject application. Staff has made several proposed changes to the applicant's initial draft conditions. Staff's changes are identified in add/delete format. Both Staff and the applicant are prepared to address the Agreement at the meeting.

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

Attachment

cc: John C. Randolph, Town Attorney  
Jay Boodeshwar Deputy Town Manager  
Maura Ziska, Esq.



EXHIBIT A: POSSIBLE CONDITIONS FOR THE PROPOSED CARRIAGE HOUSE CLUB

- 1) Hours of operation shall be 11:00 a.m. to 10:00 p.m. on Sunday, 11:00 a.m. to 12:00 a.m. Monday through ~~Wednesday~~ Thursday, and 11:00 a.m. through to 2:00 a.m. ~~Thursday~~ Friday through and Saturday (Sunday morning). All members and guests shall be off the premises and the Club patron doors shall be locked by the closing times stated above.
- 2) The maximum membership shall be 248 people. At least fifty percent (50%) of the members of the Club shall consist of individuals who are “townpersons” as defined in the Town of Palm Beach Code.
- 3) The maximum number of members and guests from 11:00 a.m. to 5:00 p.m. shall not exceed 118 people and 118 seats.
- 4) The maximum number of members and guests after 5:00 p.m. not exceed 248 people and 248 seats.
- 5) Valet parking is required ~~after~~ from 5:00 p.m. until closing. A valet parking permit from the Police Department shall be required. The valet stand ~~drop off~~ shall be in the same location as the former 264 Grill restaurant on the west side of South County Road. The valet return vehicle location shall be on the east side of South County Road as approved by the Florida Department of Transportation (FDOT) and Town Police Department.
- 6) The Club shall be required to obtain and provide the Town with written approval for the proposed crosswalk, a lease and valet operation from FDOT (if required by the FDOT) for the use of the right-of-way for valet operations. The FDOT approved cross walk shall be permitted and constructed prior to the final building inspection.
- 7) ~~The Club shall secure FDOT approval of a cross walk to support valet pick up on the east side of South County Road. The cross walk shall be constructed prior to the Club becoming operational.~~
- 8) No member, guest or club large events shall be allowed other than a New Year’s Eve Party. A large event is defined as an event which includes, but is not limited to, gatherings of more than thirty (30) people for charitable events, rehearsal dinners, wedding receptions, bar mitzvahs, Hanukkah, Christmas or birthday parties.

- 9) The Club members and guests ~~employees and members not park~~ are prohibited from parking in Phipps Plaza. In addition, Club members and guests arriving at 5:00 p.m. or thereafter shall be required to valet their vehicle.
- 10) The applicant shall obtain and maintain a valet parking permit. A minimum of 4 valets ~~will~~ shall be on duty after 5:00 p.m. when the Club is open for business. The number of valets may be modified by the Police Department should it be determined that more or less valets are required to manage the Club parking.
- 11) Employees of the Club shall not be allowed to park in the Town of Palm Beach. The Club will shuttle its employees to the Club from an off-island location. Employees may also ride their bicycles or use public transportation. The Club shall provide the Code Enforcement Division of the Town Police Department with the license plate numbers of all employees every six months to monitor and ensure compliance.
- 12) All trash ~~will~~ shall be stored inside the Club until after 8:00 a.m. on the designated solid waste pick up day.
- 13) The applicant shall provide state of the art exhaust vents and scrubbers for the kitchen and shall have said exhaust and scrubbers cleaned on a weekly basis. The Club shall have the schedule readily available for inspection.
- 14) There shall be no live music. The Club shall be considered an "entertainment establishment" and shall meet the regulations in Sections 22-271 through 22-277 of the Code of Ordinances. The exception is that Recorded music shall be subject to Section.
- 15) There shall be no outside dining or music.
- 16) No roof deck patio material shall be allowed on the buildings. In addition, the roof of the Club's buildings shall not be used for any type of Club activity.

Maura A. Ziska  
Kochman & Ziska PLC  
222 Lakeview Avenue, Suite 1500  
West Palm Beach, FL 33401

Dear Ms. Ziska:

I'm in receipt of your December 7 letter to the Mayor and Members of the Town Council of Palm Beach. In your letter you encouraged the Mayor and the Members to take our feedback on the Carriage House developer's plan "with a grain of salt" based on the fact that we are seasonal residents. Last time I checked we are property owners in Phipps Plaza and pay taxes year round. We deserve and expect the vigilant representation of the Mayor and the Town Council as should all property owners. It is an outrageous position for you to take that all property owners are not entitled to equal representation and an equal voice in important town matters. It is particularly offensive given the percentage of taxes paid by owners who are seasonal residents.

Please find enclosed several packets of salt. Feel free to use as many grains as you like. You can count of our continued opposition to the intensification of use at 264/270 South County Road.

John H Schaefer  
Pamela D. Zilly  
200 Phipps Plaza Apt 5

CC:  
Mayor Coniglio  
Town Council Members Kleid, Araskog, Lindsay, Moore and Zeidman  
John Randolph  
John Page  
Paul Castro  
John Eubanks



# TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2017

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00020 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**  
**264 S COUNTY RD SUITE: SITE**

Date: January 04, 2018

---

## **STAFF RECOMMENDATION**

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

## **BACKGROUND**

An application has been received for the following project:

### **REQUEST:**

PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 264 & 270 S COUNTY RD.

1. A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the CT-TS Zoning District. The Club will have a membership cap of 264 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 118 seats, which is the same number of seats 264 Grill restaurant had. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m.
2. A request for a special exception to provide 68 night-time (after 5pm) supplemental off-site shared parking spaces at 230 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House.

**ADDRESS:** 264 S COUNTY RD SUITE: SITE

**OWNER:** CARRIAGE HOUSE PROPERTIES PART

**OWNER'S REPRESENTATIVE:** KOCHMAN & ZISKA PLC

**PROPERTY CONTROL NO.:** 50-43-43-22-10-000-0120

**ZONING DISTRICT:** C-TS Town-Serving Commercial

**LEGAL DESCRIPTION:** PL OF PHIPPS PLAZA LT L

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

Page Two

Attachment

cc: John C. Randolph, Town Attorney  
Paul W. Castro, Zoning Administrator  
pf & zf



## PLANNING, ZONING AND BUILDING DEPARTMENT

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

### DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 6/29/17

**APPLICATION NO.:** Z-17-00020 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW

**ADDRESS:** 264 S COUNTY RD SUITE: SITE

**DESCRIPTION:**

PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 264 & 270 S COUNTY RD.

1. A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the CT-TS Zoning District. The Club will have a membership cap of 264 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 118 seats, which is the same number of seats 264 Grill restaurant had. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m.
2. A request for a special exception to provide 68 night-time (after 5pm) supplemental off-site shared parking spaces at 230 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House.

| <u>DEPARTMENT</u>       | <u>NAME/TITLE</u>                                   | <u>DATE</u> | <u>COMMENT</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------|-----------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| BUILDING OFFICIAL       | William Bucklew, Building Official                  | 7/14/2017   | No Comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                         |                                                     | 1/4/2018    | All Interior renovations must comply with Florida Accessibility Code and ADA.                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| FIRE RESCUE DEPARTMENT  | Martin DeLoach, Fire Marshal                        | 7/14/2017   | Proposal shows an increase in occupancy with tables. We need a life safety plan with exit corridors and travel distance. Parking concerns for Emergency Vehicle access.                                                                                                                                                                                                                                                                                                                                                     |
| PUBLIC WORKS DEPARTMENT | Chuck Langley, Civil Engineer                       | 8/29/2017   | I am concerned about the logic that each vehicle will have 4 occupants; I believe that we will see single occupancy vehicles and couples. It would take all spaces available to handle the proposed club attendees during large events. Will all available spaces be open?                                                                                                                                                                                                                                                  |
|                         |                                                     | 1/4/2018    | I do not agree that there is sufficient on street parking to handle the lunch time demand nor are there any lunch time valet zones. The applicant will need to meet the warrants requirements for and apply to the Florida Department of Transportation (FDOT) for a mid-block crossing on S. County Road, an FDOT maintained roadway. Please be advised, the close proximate of the signalized intersection of Royal Palm Way most likely takes away the grounds for the proposed crosswalk. Please see previous comments. |
| POLICE DEPARTMENT       | Benjamin Alma, Code Enforcement and Parking Manager | 7/14/2017   | No Comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                         |                                                     | 1/4/2018    | A minimum of six to eight valets may be required daily for evening operations. For lunch operations, 2 to 3 valets may be needed. Valets may need wear some sort of high visibility identifier, as this is a high traffic area. Parking for all staff/employees/subcontracted staff/employees should be identified and submitted as part of the parking/traffic plan. Valet stand-location to be approved by the Town                                                                                                       |
| PZB DIRECTOR            | John Page, Director, Planning, Zoning & Building    | 7/14/2017   | Conversion of "restaurant" to "club" equals intensification of use. Absence of off-street parking will create constant traffic circulation problems. Applicant must produce traffic concurrency documentation, acceptable to the Town, attesting to the adequacy of parking and traffic circulation.                                                                                                                                                                                                                        |
|                         |                                                     | 1/4/2018    | Is a temporary road planned to facilitate Club renovation? If so, does the temporary road interfere with the greenspace in Phipps Plaza? If so, details must be provided to the satisfaction of the Town Council.                                                                                                                                                                                                                                                                                                           |





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

**DEVELOPMENT REVIEW COMMITTEE REPORT**

**DRC MEETING:** 6/29/17

|                                            |                                                          |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------|----------------------------------------------------------|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PZB - PLANNING AND<br>ARCHITECTURAL REVIEW | John Lindgren, Planning<br>Administrator-Project Manager | 7/14/2017 | I have no comment regarding this project.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                            |                                                          | 1/4/2018  | I have no comment regarding this project.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PZB - ZONING                               | Paul Castro, Zoning Administrator                        | 7/14/2017 | The principle of equivalency calculations are incorrect. The applicant cannot use previously granted relief for a different land use in its calculations. The application also is also deficient as there is no reference to who the representative of "Carriage House" is on the applicant line. I believe there will be significant negative impacts to South County Road in that area and Phipps Plaza. There is absolutely no off-street parking for this use and assembly of club members for events will increase parking demand in that area. Staff will be requiring concurrency and a parking and traffic circulation study by the Town's consultant as part of the Town's review of the application. In addition, Exhibit C of the application related to the Parking Statement is not completed. The application requires a detailed parking statement, which includes details of all available off-street parking. There is no information regarding the number of employees per shift nor any indication where employees would park. The attorney wrote "N/A", not applicable. See memorandums from American Consulting Engineers of Florida regarding parking and traffic circulation and traffic concurrency (attached).                               |
|                                            |                                                          | 1/4/2018  | The proposed valet operation does not appear to be safe. To date, the Town has not received any indication from the Florida Department of Transportation that they would approve the proposed crosswalk and valet stands for the proposed Club. The proposed new valet drop off on the east side of South County Road requires that members and guests visiting the Club at night cross that busy street at night. This could result in a dangerous situation. The proposed four valet people for the Club may not be adequate. If approved, the applicant should provide more valets and should be required to adjust the valet operation if not functioning in a timely or safe way. In addition, none of the Club operation can spill over into the residential zoning district directly to the west of the proposed Club. If the Club is approved by the Council, an additional condition should be added that none of the off-street parking related to the Club be allowed in any surrounding parking lot areas unless approved by special exception by the Town Council. I also do not believe the applicant has demonstrated how the Club will be Town-serving in the submitted "Town-serving Report." Further detail should be provided to the Town Council. |
|                                            |                                                          |           | The draft conditions of approval in the Staff memorandum are a starting point if the Council so chooses to consider approving the application. Staff, however, continues to believe that an operation of a private club of this magnitude in this area will be a negative impact to the surrounding properties.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                            |                                                          |           | Lastly, the proposed staging and logistic plan calls for staging of construction equipment and material in Phipps Plaza South Drive and rerouting traffic through the Town park. This Department does not recommend this plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| TOWN MANAGER                               | Jay Boodheshwar, Deputy Town<br>Manager                  | 7/14/2017 | No Comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - Old Business

## Agenda Title

**SITE PLAN REVIEW #1-2017** The application of 235 Via V PB LLC (Stuart Kapp, Manager); relative to property commonly known as **235 Via Vizcaya.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 7,444 square foot two-story, single family residence on a non-conforming platted lot which is 15,344 square feet in area in lieu of the 20,000 square foot minimum area required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58 feet in depth in lieu of the 150 foot minimum required. [Attorney: Frank Lynch, Esq.] [The Architectural Commission denied the project at the September 27, 2017 meeting. Carried 4-3] **Request for Deferral to March 21, 2018 Town Council Meeting per Letter Dated January 4, 2018 from Francis Lynch.**

## Presenter

## ATTACHMENTS:

- ▣ **Letter Dated January 4, 2018 from Francis X.J. Lynch**

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

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

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

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

January 4, 2018

VIA E-MAIL

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

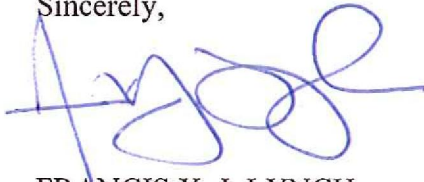
Re: 235 Via Vizcaya  
Site Plan Review #1-2017

Dear Paul:

We request a deferral of the above matter as applicant has not yet received ARCOM approval.  
We ask that this be deferred to the March 21, 2018 Town Council meeting.

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

Sincerely,



FRANCIS X. J. LYNCH

FXJL/kh



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - New Business

## Agenda Title

**Z-17-00049 VARIANCE(S)** Zoning District: R-B Low Density Residential

The application of DESRUISSEAU ANN, Owner, relative to property located at **1090 N OCEAN BLVD**, legal description on file, is described below. The Applicant is requesting the following variances to construct a 401 square foot loggia addition to the west side of the residence with an open balcony above: 1) a south side yard setback of 10 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District; and 2) a cubic content ratio ("CCR") of 5.31 in lieu of the 4.99 previously approved and the 3.96 maximum allowed in the R-B Zoning District for a lot that is 13,938 square feet in area. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 6-1. The Architectural Commission approved the project as presented. Carried 6-1.]

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated January 4, 2018 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2018

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00049 VARIANCE(S)**  
**1090 N OCEAN BLVD**

Date: January 04, 2018

---

## **STAFF RECOMMENDATION**

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

## **BACKGROUND**

An application has been received for the following project:

### **REQUEST:**

The Applicant is requesting the following variances to construct a 401 square foot loggia addition to the west side of the residence with an open balcony above:

- 1) a south side yard setback of 10 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District; and
- 2) a cubic content ratio ("CCR") of 5.31 in lieu of the 4.99 previously approved and the 3.96 maximum allowed in the R-B Zoning District for a lot that is 13,938 square feet in area.

**ADDRESS:** 1090 N OCEAN BLVD

**OWNER:** DESRUISSEAU ANN

**OWNER'S REPRESENTATIVE:** KOCHMAN & ZISKA PLC

**PROPERTY CONTROL NO.:** 50-43-43-03-11-000-0503

**ZONING DISTRICT:** R-B Low Density Residential

**LEGAL DESCRIPTION:** EL ENCANTO PL 2 LT 50 /LESS W 55 FT  
& S 12 FT/ & 10 FT STRIP ADJ TO N LINE  
THEREOF

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

Page Two

Attachment

cc: John C. Randolph, Town Attorney  
Paul W. Castro, Zoning Administrator  
pf & zf





**PLANNING, ZONING AND BUILDING DEPARTMENT**

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

**DEVELOPMENT REVIEW COMMITTEE REPORT**

**DRC MEETING:** 11/30/17

**APPLICATION NO.:** Z-17-00049 **APPLICATION TYPE:** VARIANCE(S)

**ADDRESS:** 1090 N OCEAN BLVD

**DESCRIPTION:**

The Applicant is requesting the following variances to construct a 401 square foot loggia addition to the west side of the residence with an open balcony above:  
1) a south side yard setback of 10 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District; and  
2) a cubic content ratio ("CCR") of 5.31 in lieu of the 4.99 previously approved and the 3.96 maximum allowed in the R-B Zoning District for a lot that is 13,938 square feet in area.

| <u>DEPARTMENT</u>                          | <u>NAME/TITLE</u>                                         | <u>DATE</u> | <u>COMMENT</u>                                                                                                                                                                |
|--------------------------------------------|-----------------------------------------------------------|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| BUILDING OFFICIAL                          | William Bucklew, Building Official                        | 12/7/2017   | No comments.                                                                                                                                                                  |
| PUBLIC WORKS<br>DEPARTMENT                 | Chuck Langley, Civil Engineer                             | 11/9/2017   | Applicant will need to provide stormwater collection and storage should any thresholds under Sec. 86-95 of the Town Code be exceeded.                                         |
| FIRE RESCUE<br>DEPARTMENT                  | Martin DeLoach, Fire Marshal                              | 11/30/2017  | There are no fire code concerns with this project                                                                                                                             |
| PZB - PLANNING AND<br>ARCHITECTURAL REVIEW | John Lindgren, Planning<br>Administrator-Project Manager  | 1/4/2018    | This project requires ARCOM review and approval as a major combination project.                                                                                               |
| POLICE DEPARTMENT                          | Benjamin Alma, Code<br>Enforcement and Parking<br>Manager | 11/9/2017   | No Comment                                                                                                                                                                    |
| PZB DIRECTOR                               | John Page, Director, Planning,<br>Zoning & Building       | 12/4/2017   | Applicant must justify the necessity for variance approval.                                                                                                                   |
| TOWN MANAGER                               | Jay Boodheshwar, Deputy Town<br>Manager                   | 11/9/2017   | No Comment                                                                                                                                                                    |
| PZB - ZONING                               | Paul Castro, Zoning<br>Administrator                      | 1/4/2018    | There is no hardship for the proposed variances. There were already variance granted to renovate the house and the cubic content ratio variance being requested is excessive. |

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - New Business

## Agenda Title

**Z-17-00050 VARIANCE(S)**    Zoning    District: R-D(1)    Moderate    Density  
Residential

The application of MCCORMICK MATT &, Owner, relative to property located at **250 BRADLEY PL SUITE: M-6**, legal description on file, is described below.

A variance request to construct a 12.5 x 12.5 boat lift with a 22 foot north riparian setback in lieu of the 25 foot minimum setback required. [Applicant's Representative: Maura Ziska Esq]

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated January 4, 2018 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2018

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00050 VARIANCE(S)**  
**250 BRADLEY PL SUITE: M-6**

Date: January 04, 2018

---

## **STAFF RECOMMENDATION**

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

## **BACKGROUND**

An application has been received for the following project:

### **REQUEST:**

A variance request to construct a 12.5 x 12.5 boat lift with a 22 foot north riparian setback in lieu of the 25 foot minimum setback required.

**ADDRESS:** 250 BRADLEY PL SUITE: M-6

**OWNER:** MCCORMICK MATT &

**OWNER'S REPRESENTATIVE:** KOCHMAN & ZISKA PLC

**PROPERTY CONTROL NO.:** 50-43-43-15-35-000-0060

**ZONING DISTRICT:** R-D(1) Moderate Density Residential

**LEGAL DESCRIPTION:** LAKE TOWERS COND UNIT M-6

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

Attachment

cc: John C. Randolph, Town Attorney  
Paul W. Castro, Zoning Administrator  
pf & zf





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

**DEVELOPMENT REVIEW COMMITTEE REPORT**

DRC MEETING: 11/30/17

**APPLICATION NO.:** Z-17-00050 **APPLICATION TYPE:** VARIANCE(S)

**ADDRESS:** 250 BRADLEY PL SUITE: M-6

**DESCRIPTION:**

A variance request to construct a 12.5 x 12.5 boat lift with a 22 foot north riparian setback in lieu of the 25 foot minimum setback required.

| <u>DEPARTMENT</u>                          | <u>NAME/TITLE</u>                                         | <u>DATE</u> | <u>COMMENT</u>                                                                                                                                                        |
|--------------------------------------------|-----------------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| BUILDING OFFICIAL                          | William Bucklew, Building Official                        | 12/7/2017   | No Comments.                                                                                                                                                          |
| PUBLIC WORKS<br>DEPARTMENT                 | Chuck Langley, Civil Engineer                             | 11/20/2017  | Applicant should demonstrate why they cannot move the boat lift 3 feet to maintain the 25 foot setback as there is 17.1 feet available in front of the proposed lift. |
| FIRE RESCUE<br>DEPARTMENT                  | Martin DeLoach, Fire Marshal                              | 11/30/2017  | There are no fire code concerns with this project                                                                                                                     |
| PZB - PLANNING AND<br>ARCHITECTURAL REVIEW | John Lindgren, Planning<br>Administrator-Project Manager  | 1/4/2018    | I have no comment regarding this project.                                                                                                                             |
| POLICE DEPARTMENT                          | Benjamin Alma, Code<br>Enforcement and Parking<br>Manager | 11/21/2017  | No Comment                                                                                                                                                            |
| PZB DIRECTOR                               | John Page, Director, Planning,<br>Zoning & Building       | 12/4/2017   | Applicant must justify the necessity for variance approval.                                                                                                           |
| TOWN MANAGER                               | Jay Boodheshwar, Deputy Town<br>Manager                   | 12/4/2017   | No Comment                                                                                                                                                            |
| PZB - ZONING                               | Paul Castro, Zoning<br>Administrator                      | 11/28/2017  | The applicant is required to demonstrate to the satisfaction of the Town Council that there is a hardship for the proposed variance.                                  |

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - New Business

## Agenda Title

**Z-17-00051 SITE PLAN REVIEW** Zoning District: RB Low Density Residential The application of STERANKA MICHAEL, Owner, relative to property located at **266 ORANGE GROVE RD**, legal description on file, is described below. 1) Site Plan Review to allow the renovation of an existing one story residence by demolishing more than 50% cubic footage and raising the finished floor elevation of the house to 7.5 NGVD on a lot with a width of 75 feet in lieu of the 100 foot minimum required In the R-B Zoning District and an area of 8,156.25 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. 2) A variance is being requested to allow the construction of a 116 square foot one story addition for a bathroom/bedroom that is proposed to have a 5.4 foot west side yard setback in lieu of the 12.5 foot minimum setback required for a one story structure. 3) A variance is being requested to allow the existing residence to remain nonconforming with no garage provided. [Applicant's Representative: Maura Ziska Esq] [The Architectural Commission deferred the project to the January 24, 2018 meeting. Carried 7-0.] **Request for Deferral to February 14, 2018 Town Council Meeting per Letter Dated January 2, 2018 from Maura Ziska**

## Presenter

## ATTACHMENTS:

- ❑ **Letter Dated January 2, 2018 From Maura Ziska**

# KOCHMAN & ZISKA PLC

---

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

\*Also admitted in New York  
\*Also admitted in Michigan

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

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

## VIA E-MAIL

January 2, 2018

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

**RE: Z-17-00051 – 266 Orange Grove Road**

Dear Paul and Kelly:

Please defer the above referenced matters from the Januray 10, 2018 Town Council agenda to the February 14, 2018 Town Council agenda. The reason for the deferral is due to ARCOM deferring the project at the December 15, 2017 meeting. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Maura A. Ziska

MAZ/jch  
cc: Architect  
00037326.DOC

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - New Business

## Agenda Title

**Z-17-00052 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: RB Low Density Residential The application of CARLSON GUSTAV TRUST &, Owner, relative to property located at **280 ORANGE GROVE RD**, legal description on file, is described below. 1) Site Plan Review to allow the renovation of an existing one story residence by demolishing more than 50% cubic footage and raising the finished floor elevation of the house to 7.5 NGVD on a lot with a width of 75 feet in lieu of the 100 foot minimum required In the R-B Zoning District and an area of 8,156.25 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. 2) A variance is being requested to allow the construction of a 116 square foot one story addition for a bathroom/bedroom that is proposed to have a 5.4 foot west side yard setback in lieu of the 12.5 foot minimum setback required for a one story structure. 3) A variance is being requested to allow the existing residence to remain nonconforming with no garage provided. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed site plan review with variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission deferred the project to the January 24, 2018 meeting. Carried 7-0.] **Request for Deferral to February 14, 2018 Town Council Meeting per Letter Dated January 2, 2018 from Maura Ziska**

## Presenter

## ATTACHMENTS:

- ❑ **Letter Dated December 1, 2017 From Finch**
- ❑ **Letter Dated January 2, 2018 From Maura Ziska**



Steven G. Finch  
275 Orange Grove Rd  
Palm Beach, Florida 33480

RECEIVED

DEC 28 2017

TOWN OF PALM BEACH  
PZB DEPARTMENT

December 1, 2017

Mr. John Lindgren  
Planning Administrator  
Town of Palm Beach  
360 S. County Rd  
Palm Beach, FL 33480

Dear Mr. Lindgren:

I am a neighbor of the existing home at 280 Orange Grove Road. The architect, on behalf of the owner, has requested a number of variances to exceed the allowed size of a house on the lot, to have narrower setbacks than is stipulated in the Zoning Code of Palm Beach, and to demolish more than 50% of the cubic volume of existing structure but to then disregard the applicable codes for the new construction. Furthermore, they request that the town overlooks the fact that the house does not have a garage, as required by the code. I strongly disagree with the granting of the multiple variances for the property because preservation of the low-density environment and the associated setbacks on the street is critical for the preservation of the suburban nature of Orange Grove Road. The smaller lot-sizes on the street result in smaller houses which are an important part of the nature of the neighborhood. The proposed project is completely out of character and would seriously damage the neighborhood. The architect's design attempts only to maximize density and, therefore, profitability for his client. It is a violation of the zoning code and is fundamentally unfair to the long-term residents of the street who have followed the code for work on their houses and have striven to preserve the character of Orange Grove Road.

The requested narrower, 5.4-foot setback is not in keeping with the law as codified in the zoning regulations; is not in keeping with the stated goal of the Master Plan of Palm Beach, which is to reduce density in the town and to prevent urbanization in suburban areas; and is not in keeping with the other homes on the street, which observe the required setbacks and density restrictions. Such an increase in density for a single homeowner is fundamentally unfair to the neighbors and is bad for the neighborhood. The north-end is not an urban environment; and, therefore, it does not have the narrower setbacks of an urban environment like the center of town.

The architect's application claims that the lot size is a hardship, perhaps because of the technical requirements of the R-B Zoning District. The size of the lot and its zoning restrictions were clearly known when the owner purchased the existing house. After purchasing an existing house on a lot which is of a standard size for this street, it is disingenuous for the architect to

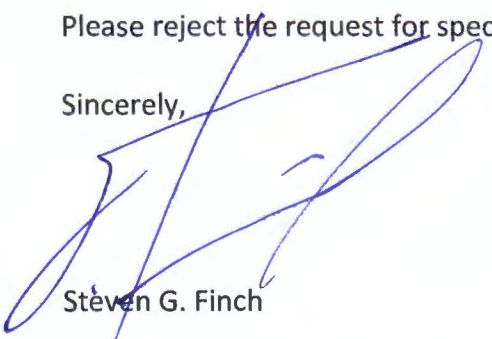
claim that anyone involved is somehow shocked to discover that the lot is 8,156 square feet. Smaller lots are a common condition on Orange Grove, as are smaller home sizes. The smaller lots with smaller homes are a substantial benefit to the neighborhood and to the town since they provide more affordable housing for young families so that they can afford to live in Palm Beach. If the town allows a variance for the construction of a larger house, then they are rewarding wealthier speculators and purchasers at the expense of younger and less affluent buyers. You will be pushing the town more toward being a community only for wealthy retirees. The zoning code, in its wisdom, anticipates and prevents this eventuality, unless the Town Council offers a special favor to this architect and to this owner.

With regard to the request to ignore the code-mandated requirement to construct a garage, this house is locally famous for creating parking problems on the street. The primary use of the house has been as a rental house, and the tenants' parking habitually overflows onto the street. No other residents normally park on the street but, instead, use their driveways or their garages. I believe that 280 Orange Grove should definitely have a garage. The proposed new construction will provide an opportunity to correct the current non-conforming status on this issue.

The requirements of the Zoning Code of the Town of Palm Beach are clear, and the homeowner understood this when purchasing the property. The home is already non-conforming under the codes so the owner has already received a number of variances that are contrary to the existing law.

Please reject the request for special treatment for 280 Orange Grove Road.

Sincerely,



Steven G. Finch

CC: Gail Coniglio, Mayor of Palm Beach

# 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 E-MAIL

January 2, 2018

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

**RE: Z-17-00052 – 280 Orange Grove Road**

Dear Paul and Kelly:

Please defer the above referenced matters from the Januray 10, 2018 Town Council agenda to the February 14, 2018 Town Council agenda. The reason for the deferral is due to ARCOM deferring the project at the December 15, 2017 meeting. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,

  
Maura A. Ziska

MAZ/jch  
cc: Architect  
00037327.DOC

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - New Business

## Agenda Title

**Z-17-00053 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: RB Low Density Residential The application of PALM BEACH TOWN OF, Owner, relative to property located at **2185 S OCEAN BLVD SUITE: SITE**, legal description on file, is described below. Sec. 134-329 site plan review request for existing north restroom building to be replaced by new restroom pre-fabricated building to match restroom buildings to the south of the park. Sec. 134-229 requirements to grant special exception for construction of a public structure. [Applicant's Representative: None] [Architectural Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact to the subject property. Carried 6-1. The Architectural Commission approved the project with the caveat that the color be changed to a light tan to match the existing service building and consider the addition of a creeping vine to add some green to the landscaping at the December 15, 2017 meeting. Carried 6-1.]

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated January 4, 2018 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**



# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2018

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00053 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**  
**2185 S OCEAN BLVD SUITE: SITE**

Date: January 04, 2018

---

## **STAFF RECOMMENDATION**

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

## **BACKGROUND**

An application has been received for the following project:

### **REQUEST:**

Sec. 134-329 site plan review request for existing north restroom building to be replaced by new restroom pre-fabricated building to match restroom buildings to the south of the park. Sec. 134-229 requirements to grant special exception for construction of a public structure.

**ADDRESS:** 2185 S OCEAN BLVD SUITE: SITE

**OWNER:** PALM BEACH TOWN OF

**OWNER'S REPRESENTATIVE:** PALM BEACH TOWN OF

**PROPERTY CONTROL NO.:** 50-43-44-11-03-000-1201

**ZONING DISTRICT:** R-B Low Density Residential

**LEGAL DESCRIPTION:** PALM BEACH ESTATES S 100 FT OF LT 120  
& LTS 121 TO 125 INC & N 100 FT OF LT 126

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

Attachment

cc: John C. Randolph, Town Attorney  
Paul W. Castro, Zoning Administrator  
pf & zf



**PLANNING, ZONING AND BUILDING DEPARTMENT**

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

**DEVELOPMENT REVIEW COMMITTEE REPORT**

**DRC MEETING:** 11/30/17

**APPLICATION NO.:** Z-17-00053 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW

**ADDRESS:** 2185 S OCEAN BLVD SUITE: SITE

**DESCRIPTION:** Sec. 134-329 site plan review request for existing north restroom building to be replaced by new restroom pre-fabricated building to match restroom buildings to the south of the park. Sec. 134-229 requirements to grant special exception for construction of a public structure.

| <b><u>DEPARTMENT</u></b>                   | <b><u>NAME/TITLE</u></b>                                  | <b><u>DATE</u></b> | <b><u>COMMENT</u></b>                                                                                                                    |
|--------------------------------------------|-----------------------------------------------------------|--------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| BUILDING OFFICIAL                          | William Bucklew, Building Official                        | 11/15/2017         | Florida Accessibilty Code requirements must be met.                                                                                      |
| PUBLIC WORKS<br>DEPARTMENT                 | Chuck Langley, Civil Engineer                             | 11/17/2017         | No comments.                                                                                                                             |
| FIRE RESCUE<br>DEPARTMENT                  | Martin DeLoach, Fire Marshal                              | 11/30/2017         | There are no fire code concerns with this project                                                                                        |
| PZB - PLANNING AND<br>ARCHITECTURAL REVIEW | John Lindgren, Planning<br>Administrator-Project Manager  | 1/4/2018           | This project requires ARCOM review and approval as a<br>major combination project.                                                       |
| POLICE DEPARTMENT                          | Benjamin Alma, Code<br>Enforcement and Parking<br>Manager | 11/15/2017         | No Comment                                                                                                                               |
| PZB DIRECTOR                               | John Page, Director, Planning,<br>Zoning & Building       | 12/4/2017          | ARCOM approval, if necessary, must be secured in<br>addition to Town Council approval of the Special<br>Exception with Site Plan Review. |
| TOWN MANAGER                               | Jay Boodheshwar, Deputy Town<br>Manager                   | 11/20/2017         | No Comment                                                                                                                               |
| PZB - ZONING                               | Paul Castro, Zoning<br>Administrator                      | 11/15/2017         | The proposed special exception meets zoning<br>regulations.                                                                              |

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - New Business

## Agenda Title

**Z-17-00054 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE** Zoning District: C-TS Town-Serving Commercial The application of VIA 313 1/2 WORTH AVENUE LTD, Owner, relative to property located at **313 1/2 WORTH AVE SUITE: B 3**, legal description on file, is described below.1) Special Exception with Site Plan Review is being requested to modify a previous approval (which granted Bice Ristorante 46 outdoor seats) to increase the number of outdoor seats from 46 to 82 (an additional 36 seats) for the seasonal months of November through April only. 2) A variance is being requested to provide zero (0) on-site parking spaces in lieu of the required 12 parking spaces that would be required for the additional 36 seats. [Applicant's Representative: Maura Ziska Esq]

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated January 4, 2018 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2018

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

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

Date: January 04, 2018

---

## **STAFF RECOMMENDATION**

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

## **BACKGROUND**

An application has been received for the following project:

### **REQUEST:**

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

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

**OWNER:** VIA 313 1/2 WORTH AVENUE LTD

**OWNER'S REPRESENTATIVE:** KOCHMAN & ZISKA PLC

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

**ZONING DISTRICT:** C-TS Town-Serving Commercial

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

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



Page Two

Attachment

cc: John C. Randolph, Town Attorney  
Paul W. Castro, Zoning Administrator  
pf & zf



**PLANNING, ZONING AND BUILDING DEPARTMENT**

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

**DEVELOPMENT REVIEW COMMITTEE REPORT**

**DRC MEETING:** 11/30/17

---

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

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

**DESCRIPTION:**

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

---

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



## PLANNING, ZONING AND BUILDING DEPARTMENT

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

### DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 11/30/17

FIRE RESCUE  
DEPARTMENT

Martin DeLoach, Fire Marshal

12/1/2017

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

NFPA 101 Chapter 7 Means of Egress

7.1.10.2 Furnishings and Decorations in Means of Egress.

7.1.10.2.1

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

7.1.10.2.2

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

7.3.4 Minimum Width.

7.3.4.1

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

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

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

7.7 Discharge from Exits.

7.7.1 \* Exit Termination.

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

7.7.1.1

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

PZB - PLANNING AND  
ARCHITECTURAL REVIEW

John Lindgren, Planning  
Administrator-Project Manager

1/4/2018



## PLANNING, ZONING AND BUILDING DEPARTMENT

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

### DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 11/30/17

---

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



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - New Business

## Agenda Title

**Z-17-00055 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: PUD-A Planned Unit Development A The application of BREAKERS PALM BEACH INC, Owner, relative to property located at **1 S COUNTY RD SUITE: GOLF COURSE**, legal description on file, is described below. The Breakers is requesting approval of a special exception with site plan review to effectuate changes and improvements to The Breakers' golf course, including realigning and enlarging most of the tees, relocating bunkers, and shifting and reconfiguring the greens. These improvements, designed by noted golf course architect Rees Jones, will ensure that the golf course remains viable so that the open space in the Breakers PUD will be continue to be preserved. As a part of the renovation, the Breakers is also proposing an addition to the existing golf training building that will enlarge it from 697 square feet to 2,366 square feet, and the replacement of an existing free-standing bathroom building of 250 square feet with a new bathroom building of 267 square feet. [Applicant's Representative: James M. Crowley Esq]

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated January 4, 2018 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2018

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00055 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**  
**1 S COUNTY RD SUITE: GOLF COURSE**

Date: January 04, 2018

---

## **STAFF RECOMMENDATION**

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

## **BACKGROUND**

An application has been received for the following project:

### **REQUEST:**

The Breakers is requesting approval of a special exception with site plan review to effectuate changes and improvements to The Breakers' golf course, including realigning and enlarging most of the tees, relocating bunkers, and shifting and reconfiguring the greens. These improvements, designed by noted golf course architect Rees Jones, will ensure that the golf course remains viable so that the open space in the Breakers PUD will be continue to be preserved. As a part of the renovation, the Breakers is also proposing an addition to the existing golf training building that will enlarge it from 697 square feet to 2,366 square feet, and the replacement of an existing free-standing bathroom building of 250 square feet with a new bathroom building of 267 square feet.

**ADDRESS:** 1 S COUNTY RD SUITE: GOLF COURSE

**OWNER:** BREAKERS PALM BEACH INC

**OWNER'S REPRESENTATIVE:** GUNSTER YOAKLEY & STEWART PA

**PROPERTY CONTROL NO.:** 50-43-43-22-24-007-0000

**ZONING DISTRICT:** PUD-A Planned Unit Development A

**LEGAL DESCRIPTION:** BREAKERS ROW PL NO 1 REPL TRS 7, 8, 11,  
15, 17, 18 & 19 A/K/A BREAKERS GOLF CLUB

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

Page Two

Attachment

cc: John C. Randolph, Town Attorney  
Paul W. Castro, Zoning Administrator  
pf & zf



**PLANNING, ZONING AND BUILDING DEPARTMENT**

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

**DEVELOPMENT REVIEW COMMITTEE REPORT**

**DRC MEETING:** 11/30/17

**APPLICATION NO.:** Z-17-00055 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW

**ADDRESS:** 1 S COUNTY RD SUITE: GOLF COURSE

**DESCRIPTION:**

The Breakers is requesting approval of a special exception with site plan review to effectuate changes and improvements to The Breakers' golf course, including realigning and enlarging most of the tees, relocating bunkers, and shifting and reconfiguring the greens. These improvements, designed by noted golf course architect Rees Jones, will ensure that the golf course remains viable so that the open space in the Breakers PUD will be continue to be preserved. As a part of the renovation, the Breakers is also proposing an addition to the existing golf training building that will enlarge it from 697 square feet to 2,366 square feet, and the replacement of an existing free-standing bathroom building of 250 square feet with a new bathroom building of 267 square feet.

| <u>DEPARTMENT</u>                          | <u>NAME/TITLE</u>                                         | <u>DATE</u> | <u>COMMENT</u>                                                                                                                                                                                           |
|--------------------------------------------|-----------------------------------------------------------|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| BUILDING OFFICIAL                          | William Bucklew, Building Official                        | 11/17/2017  | No Comment at this time.                                                                                                                                                                                 |
| PUBLIC WORKS<br>DEPARTMENT                 | Chuck Langley, Civil Engineer                             | 11/17/2017  | Documentation should be provided to assure that there will not be any negative impact to stormwater management for The Breakers; to include an evaluation as to whether a SFWMD permit will be required. |
| FIRE RESCUE<br>DEPARTMENT                  | Martin DeLoach, Fire Marshal                              | 11/30/2017  | There are no fire code concerns with this project                                                                                                                                                        |
| PZB - PLANNING AND<br>ARCHITECTURAL REVIEW | John Lindgren, Planning<br>Administrator-Project Manager  | 1/4/2018    | This project requires ARCOM review and approval as a minor project.                                                                                                                                      |
| POLICE DEPARTMENT                          | Benjamin Alma, Code<br>Enforcement and Parking<br>Manager | 11/17/2017  | No Comment                                                                                                                                                                                               |
| POLICE DEPARTMENT                          | Benjamin Alma, Code<br>Enforcement and Parking<br>Manager | 11/17/2017  | No Comment                                                                                                                                                                                               |
| PZB DIRECTOR                               | John Page, Director, Planning,<br>Zoning & Building       | 12/4/2017   | Care must be taken to see that no adverse drainage effects are generated as a result of the golf course alterations.                                                                                     |
| TOWN MANAGER                               | Jay Boodheshwar, Deputy Town<br>Manager                   | 11/20/2017  | No Comment                                                                                                                                                                                               |
| PZB - ZONING                               | Paul Castro, Zoning<br>Administrator                      | 11/28/2017  | The application meets the Zoning Code requirements. I have no additional comments.                                                                                                                       |



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - Other

## Agenda Title

Fine Mitigation Request (Project Exceeded Permissible Timeframe)

Single Family Home Construction at 476 South Ocean Boulevard

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated December 22, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Exhibit 1**
- ▣ **Exhibit 2**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Fine Mitigation Request (Project Exceeded Permissible Timeframe)  
Single Family Home Construction at 476 South Ocean Boulevard

Date: December 22, 2017

---

## **STAFF RECOMMENDATION**

Staff recommends that the Town Council review the previously imposed fine schedule that it imposed upon owner Janina Radtke Trust at 476 South Ocean Boulevard, hear any testimony from the owner(s) regarding construction delays, and thereafter determine whether any adjustment should be made to the total amount of late fees owed to the Town of Palm Beach.

## **GENERAL INFORMATION**

PZB issued an initial permit on November 8, 2012, for a new residence of 10,715 sq. ft. at 476 South Ocean Boulevard. Per Code at that time, a construction window of 36 months (3 years) was allowed. That structure, now essentially complete, has been over 5 years in construction. The Council has granted two previous time extensions, and also established a fine schedule to be paid for any time over-runs. A brief recap of its history follows:

1. Permit issuance 11/8/12. Required completion date 11/7/15.
2. First time extension request was Council approved on 9/9/15. A 6-month extension was requested. The Council approved a 9-month extension.
3. Second time extension request, a rare event, was Council approved on 9/14/16 with several conditions, including an immediate \$30,000 fee (timely paid soon thereafter).
4. The following Council-imposed condition was established on 9/14/16... *Should the above work not be completed by October 31, 2016, then a fine of \$500 per day will be assessed. Should the above work continue to be incomplete after 6 months, then the fine assessed shall increase to \$1,000 per day until the project is complete.*
5. The owner, Zack Ciomek representing the Janina Radtke Trust, is now requesting an unspecified "mitigation of fines which have accrued for completion of the house beyond the imposed deadline" (see attached letter).

## **SPECIAL CIRCUMSTANCES**

Construction time limitations are serious business in Town. They are codified within the Code of Ordinances, and imposed in large part to prevent objectionable effects imposed on neighbors from languishing. All contractors are held to these standards. Any Town-approved deviation from time standards, including fine mitigation, may be considered as “precedential” by other contractors (chipping away at Town standards).

As you will see from review of the two previous Staff Memos (attached) that were prepared for requested time extensions, the owner indicated delays were triggered by 1) reordering of windows and doors due to the sale of a vendor and the necessity to choose another supplier, 2) unforeseen complications involving the basement and garage access, 3) four interior designer changes, 4) a 6-month delay involving the owner’s insurance company that forced a stoppage due to elevation questions, and 5) a death in the family causing the owner to spend substantial time in Europe. The attached fine mitigation letter from the Janina Radtke Trust does not provide any additional detail regarding the cause of construction delays. In December, Zack Ciomek visited John Page in his office and verbally offered two primary reasons for the late completion date (a father’s death in Poland that required time away from Palm Beach and personal health setbacks).

## **FINANCIAL IMPACT**

In cases of fines owed for late construction projects, PZB does not issue a CO (Certificate of Occupancy) until all accrued fines are paid. In this case, the Town’s Building Official has estimated that the subject home is expected to be “complete” on January 5, 2018 (a date that follows preparation of this Memo). Assuming that date is considered the final completion date for purposes of determining the total fine owed, the Council’s previously determined financial fine amounts to \$341,000.

cc: John C. Randolph, Town Attorney  
Bill Bucklew, Building Official  
Zack Ciomek, Owner Representing Janina Radtke Trust

Attachments

# TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2016

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Extension of Time Schedule for Completion of Construction Per Town Code  
476 South Ocean Boulevard

Date: September 1, 2016

---

## **STAFF RECOMMENDATION**

Staff recommends that the Town Council consider a time extension request from Code-specified construction time limits at 476 South Ocean Boulevard. NOTE: The Town Council previously authorized a time extension with a condition that the single family home be completed no later than August 8, 2016.

## **GENERAL INFORMATION**

Owner Janina Radtke, as Trustee of the Janina Radtke Revocable Trust, via attorney Tim Hanlon, has requested a 6-month time extension for completion of a new single family home being built at 476 South Ocean Boulevard. Based upon its size of 10,715 square feet and permissible time frames in Town Code, a 36-month construction window was assigned to this structure at time of original permit approval on November 8, 2012.

In September of last year, just prior to the 36-month completion deadline, the owner requested a 6-month time extension from the Town Council. Per information submitted at that time, the extension was needed due to 1) reordering of all windows and doors due to the sale of a vendor and the necessity to choose another supplier, and 2) unforeseen complications involving the basement elevation and garage access. The Town Council generously approved an extension of 9-months beyond the 36-month window (6-months was requested), creating a new required completion date of August 8, 2016. The approval was granted with no financial penalty, yet was conditioned on a requirement that a daily fee of \$1,071.50 (10 cents per square foot) would commence thereafter if construction was not completed by August 8, 2016.

This Department contacted the owner as a courtesy in July of this year, reminding of the Council-imposed deadline for completion. Shortly thereafter, the present (second) 6-month time extension request was received. As outlined on the attached letter from Attorney Hanlon, the additional time is needed due to 1) four interior designer changes, 2) a 6-month delay involving the owner's insurance company that forced a stoppage due to elevation questions (this



justification applied to the first request as well), and 3) a death in the family causing the owner to spend substantial time in Europe.

Because Town Code specifies that all such requests must be received no less than 45 days prior to the Town Council meeting, it was not possible to consider this request at your regular August meeting. Neighbors have been notified of the new extension request to be considered by the Council on September 14. The request at hand is unusual in at least two ways. First, a second time request (following expiration of the first) is unprecedented. Second, the Council's previous action in September of last year established a daily fee of \$1,071.50 commencing August 9, 2016 (already in effect).

### **SPECIAL CIRCUMSTANCES**

Staff advised the owner's attorney that the Council previously approved an extension, and relayed all pertinent details. There is nothing in Town Code limiting the number of construction extension requests that can be submitted to the Town, yet the Council's previous action included payment of a daily fee intended to spur completion, and that fee has already begun to toll. If the Council approves an extension of any kind, it should clarify what fees do or do not pertain to the subject home.

New homes of this size are routinely built in Palm Beach in less than three years. The subject structure was originally permitted in November of 2012, meaning it has been ongoing for most of the past four years. Although the request is for 6-months, the applicant's revised construction schedule (attached) calls for job completion on January 31 (4.5 months from the September Council meeting).

### **Attachments**

cc: John C. Randolph, Town Attorney  
Bill Bucklew, Building Official  
Tim Hanlon, Private Attorney for Applicant

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

340 ROYAL POINCIANA WAY, SUITE 321

POST OFFICE BOX 431

**PALM BEACH, FLORIDA 33480-0431**

**(561) 659-1770**

**FACSIMILE (561) 833-2261**

**WWW.AMRL.COM**

RAYMOND C. ALLEY (1893-1975)

HAROLD G. MAASS (1923-2006)

DOYLE ROGERS (1928-2016)

KAREN S. MARK (1964-1994)

1331 SE OCEAN BOULEVARD

STUART, FLORIDA 34998

P (772) 287-4404

F (772) 287-4044

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

July 29, 2016

Town Council  
Town of Palm Beach  
Attention: John Page  
360 South County Road  
Palm Beach, FL 33480

Re: 476 S. Ocean Blvd.

Dear John:

As discussed, on behalf of the property owner Janina Radtke, as Trustee of the Janina Radtke Revocable Trust u/a/d January 17, 2001, we hereby request to be placed on the September Town Council Agenda to request a six month time extension for completion of construction of the single family residence currently under construction.

As required, in support of the owner's request, please note the following:

1. The reasons for the requested extension are as follows:
  - a. The owner was forced to change interior designers four times, which was the primary cause for delay in the construction process;
  - b. There was a six month delay due to the owner's insurance company forcing a stoppage due to elevation questions;
  - c. Mr. Ciomek's father was ill with heart issues and then passed away, and Mr. Ciomek was forced to spend substantial time in Europe;
2. The revised construction schedule, together with proposed insurance mitigation measures, are enclosed with this letter;
3. This letter also confirms that we will, on behalf of the owner, send notice of this request to all neighbors within 200 feet of 476 S. Ocean Blvd. at least 25 days prior to the date of the Town Council hearing.

Please confirm that this matter will be placed on the September 14, 2016 Town Council Agenda, and we will send notice.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Hanlon", with a long horizontal stroke extending to the left.

M. Timothy Hanlon

## NOTICE AFFIDAVIT

STATE OF FLORIDA

COUNTY OF PALM BEACH, TOWN OF PALM BEACH

BEFORE ME THIS DAY PERSONALLY APPEARED M. Timothy Hanlon 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 Exhibit A; 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 Town Council hearing at which the subject application will be heard, and as recorded in the latest official tax rolls for the subject property and all abutting properties of all contiguous property owned wholly or in part by the owner of the real property described in Exhibit A, if applicable; and
3. A copy of each page of the application plus supporting documentation 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 29th day of August, 2016, by  
Month/Year

M. Timothy Hanlon who is personally known to me or who has produced  
(Name of person acknowledging)

\_\_\_\_\_ as identification and who did (did not) take an oath.  
(type of identification)

Courtney Lyne  
(Signature of Person Taking Acknowledgment)

Courtney Lyne  
(Printed Name of Acknowledger)

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

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

(Notary Seal)



M. Timothy Hanlon, as Trustee  
Applicant's Signature

M. Timothy Hanlon  
Applicant's Printed Name

340 Royal Poinciana Way, Suite 321  
Street Address

Palm Beach, FL 33480  
City, State, Zip Code

(561) 659-1770  
Telephone Number



**Exhibit "A"**  
**Legal Description**

The Northerly 100 feet of Lot 1, SINGER ADDITION TO PALM BEACH, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, as recorded in Plat Book 8, Page 81, together with the land lying directly East of such portion of said Lot lying between Ocean Boulevard as now laid out and in use, and the waters of the Atlantic Ocean.



|                                                                        |
|------------------------------------------------------------------------|
| Property Appraiser GIS - Property Detail list by parcel control number |
|------------------------------------------------------------------------|

## Buffer:

|                          |                       |                |    |                    |                             |                               |
|--------------------------|-----------------------|----------------|----|--------------------|-----------------------------|-------------------------------|
| 50434326030000012        | Acres 0.38            | Sales Instr    | DT | MTG                | SINGER ADDITION             | N 100 FT OF LT 1 & LAND E BET |
| RADTKE JANINA TRUST      | Value \$ 6,163,059.00 | Price \$ 0.00  |    | PUSE SINGLE FAMILY | OCEAN BLVD & ATLANTIC OCEAN |                               |
| PO BOX 2558              | Taxbl \$ 5,656,595.00 | Date 6/20/2007 |    | TaxDist 50417      |                             |                               |
|                          | Bldg \$ 0.00          | Book 21998     |    |                    |                             |                               |
| PALM BEACH FL 33480 2558 | Land \$ 6,163,059.00  | Page 864       |    | NAV                |                             |                               |

## Buffer: 200

|                          |                    |                 |  |                |                                            |                               |
|--------------------------|--------------------|-----------------|--|----------------|--------------------------------------------|-------------------------------|
| 50434326000010160        | Acres 0.40         | Sales Instr     |  | MTG            | 26-43-43, TH PT OF GOV LT 1                | LYG BET PROLONGATION EASTWARD |
| PALM BEACH TOWN OF       | Value \$ 94,500.00 | Price \$ 100.00 |  | PUSE MUNICIPAL | OF S LI OF LT 1 BLK 1 & S LI OF LT 1 BLK 3 | VILLA MARINE TO               |
| PO BOX 2029              | Taxbl \$ 0.00      | Date 1/1/1975 1 |  | TaxDist 50417  | ATLANTIC OCEAN & TH PT OF GOV LT 1         | LYG BET OCEAN BLVD &          |
|                          | Bldg \$ 0.00       | Book 02480      |  |                |                                            |                               |
| PALM BEACH FL 33480 2029 | Land \$ 94,500.00  | Page 1095       |  | NAV            |                                            |                               |

|                        |                       |                |    |                 |              |                                |
|------------------------|-----------------------|----------------|----|-----------------|--------------|--------------------------------|
| 50434326010020011      | Acres 0.84            | Sales Instr    | WD | MTG             | VILLA MARINE | E 70 FT OF LT 1 & LTS 2 THRU 4 |
| BCD INVESTORS LLP      | Value \$ 4,629,006.00 | Price \$ 10.00 |    | PUSE RESTAURANT | BLK 2        |                                |
| 21136 SW RAINTREE ST   | Taxbl \$ 4,629,006.00 | Date 9/23/2004 |    | TaxDist 50417   |              |                                |
|                        | Bldg \$ 625,498.00    | Book 17749     |    |                 |              |                                |
| DUNNELLO FL 34431 3460 | Land \$ 4,003,508.00  | Page 1990      |    | NAV             |              |                                |

|                        |                       |                |    |               |              |                 |
|------------------------|-----------------------|----------------|----|---------------|--------------|-----------------|
| 50434326010020070      | Acres 0.32            | Sales Instr    | WD | MTG           | VILLA MARINE | LTS 7 & 8 BLK 2 |
| BCD INVESTORS LLP      | Value \$ 1,848,760.00 | Price \$ 10.00 |    | PUSE VACANT   |              |                 |
| 21136 SW RAINTREE ST   | Taxbl \$ 1,848,760.00 | Date 9/23/2004 |    | TaxDist 50417 |              |                 |
|                        | Bldg \$ 0.00          | Book 17749     |    |               |              |                 |
| DUNNELLO FL 34431 3460 | Land \$ 1,848,760.00  | Page 1990      |    | NAV           |              |                 |

|                          |                       |                 |    |                    |                            |                              |
|--------------------------|-----------------------|-----------------|----|--------------------|----------------------------|------------------------------|
| 50434326030000011        | Acres 0.72            | Sales Instr     | QC | MTG                | SINGER ADDITION            | LT 1 (LESS N 100 FT), LT 2 & |
| KAHN PATRICIA A          | Value \$ 8,957,492.00 | Price \$ 100.00 |    | PUSE SINGLE FAMILY | LAND LYG E THEREOF BETWEEN | OCEAN BLVD & ATLANTIC OCEAN  |
| 480 S OCEAN BLVD         | Taxbl \$ 2,600,542.00 | Date 6/1/1988 1 |    | TaxDist 50417      |                            |                              |
|                          | Bldg \$ 11,116.00     | Book 05793      |    |                    |                            |                              |
| PALM BEACH FL 33480 4713 | Land \$ 8,946,376.00  | Page 1027       |    | NAV                |                            |                              |

|                                                                        |
|------------------------------------------------------------------------|
| Property Appraiser GIS - Property Detail list by parcel control number |
|------------------------------------------------------------------------|

|                          |          |               |             |                 |                    |                                               |
|--------------------------|----------|---------------|-------------|-----------------|--------------------|-----------------------------------------------|
| 50434326030000030        | Acres    | 0.55          | Sales Instr | WD              | MTG                | SINGER ADDITION LT 3 & PAR LYG BET OCEAN BLVD |
| LEVY MARK &              | Value \$ | 10,871,527.00 | Price       | \$11,000,000.00 | PUSE SINGLE FAMILY | & ATLANTIC OCEAN E OF & ADJ TO                |
| 500 S OCEAN BLVD         | Taxbl \$ | 7,896,870.00  | Date        | 7/19/2005       | TaxDist 50417      |                                               |
|                          | Bldg \$  | 2,720,384.00  | Book        | 18931           |                    |                                               |
| PALM BEACH FL 33480 4715 | Land \$  | 8,151,143.00  | Page        | 490             | NAV                |                                               |
| 50434326030000290        | Acres    | 0.78          | Sales Instr | DT              | MTG                | SINGER ADD LTS 29 THRU 32                     |
| PRESTON JOHN &           | Value \$ | 10,719,106.00 | Price       | \$7,800,000.00  | PUSE SINGLE FAMILY |                                               |
| 25 MIDDLE RD             | Taxbl \$ | 6,599,970.00  | Date        | 11/26/2003      | TaxDist 50417      |                                               |
|                          | Bldg \$  | 3,614,596.00  | Book        | 16243           |                    |                                               |
| PALM BEACH FL 33480 4711 | Land \$  | 7,104,510.00  | Page        | 1683            | NAV                |                                               |
| 50434326030000330        | Acres    | 0.40          | Sales Instr | WD              | MTG                | SINGER ADDITION LTS 33 & 34                   |
| KELLOGG CYNTHIA &        | Value \$ | 5,149,451.00  | Price       | \$4,150,000.00  | PUSE SINGLE FAMILY |                                               |
| 17 MIDDLE RD             | Taxbl \$ | 4,978,358.00  | Date        | 5/27/2011       | TaxDist 50417      |                                               |
|                          | Bldg \$  | 1,476,551.00  | Book        | 24558           |                    |                                               |
| PALM BEACH FL 33480 4711 | Land \$  | 3,672,900.00  | Page        | 1917            | NAV                |                                               |
| 50434326030000350        | Acres    | 0.89          | Sales Instr | WD              | MTG                | SINGER ADDITION LTS 35, 37, 38 & 39           |
| SAUNDERS THOMAS A III &  | Value \$ | 11,018,833.00 | Price       | \$12,600,000.00 | PUSE SINGLE FAMILY |                                               |
| 5 MIDDLE RD              | Taxbl \$ | 11,018,833.00 | Date        | 6/24/2014       | TaxDist 50417      |                                               |
|                          | Bldg \$  | 2,882,173.00  | Book        | 26892           |                    |                                               |
| PALM BEACH FL 33480 4711 | Land \$  | 8,136,660.00  | Page        | 1623            | NAV                |                                               |
| 50434326030000360        | Acres    | 0.38          | Sales Instr | WD              | MTG                | SINGER ADD LT 36                              |
| WOOD ROBERT K            | Value \$ | 3,623,380.00  | Price       | \$355,000.00    | PUSE SINGLE FAMILY |                                               |
| 116 GULFSTREAM RD        | Taxbl \$ | 967,785.00    | Date        | 7/1/1986 1      | TaxDist 50417      |                                               |
|                          | Bldg \$  | 639,752.00    | Book        | 04941           |                    |                                               |
| PALM BEACH FL 33480 4708 | Land \$  | 2,983,628.00  | Page        | 0051            | NAV                |                                               |
| 50434326030000400        | Acres    | 0.25          | Sales Instr | QC              | MTG                | SINGER ADDITION LT 40 & E 1/2 OF LT 41        |
| GIANGRANDE JEFFRY E      | Value \$ | 3,861,871.00  | Price       | \$10.00         | PUSE SINGLE FAMILY |                                               |
| 115 GULFSTREAM RD        | Taxbl \$ | 3,326,883.00  | Date        | 5/24/2013       | TaxDist 50417      |                                               |
|                          | Bldg \$  | 1,616,761.00  | Book        | 26054           |                    |                                               |
| PALM BEACH FL 33480 4707 | Land \$  | 2,245,110.00  | Page        | 411             | NAV                |                                               |



**Property Appraiser GIS - Property Detail list by parcel control number**

|                          |                       |             |                       |                  |                    |
|--------------------------|-----------------------|-------------|-----------------------|------------------|--------------------|
| 50434326220000010        | Acres 1.00            | Sales Instr | WD                    | MTG              | LAS VENTANAS CONDO |
| ZANA OCEANFRONT LLC      | Value \$ 6,500,000.00 |             | Price \$ 7,650,000.00 | PUSE CONDOMINIUM | UNIT A             |
| PO BOX 2558              | Taxbl \$ 6,500,000.00 |             | Date 7/16/2014        | TaxDist 50417    |                    |
|                          | Bldg \$ 6,500,000.00  |             | Book 26921            |                  |                    |
| PALM BEACH FL 33480 2558 | Land \$ 0.00          |             | Page 1213             | NAV              |                    |
|                          |                       |             |                       |                  |                    |
| 50434326220000020        | Acres 1.00            | Sales Instr | WD                    | MTG              | LAS VENTANAS CONDO |
| MORASSUTTI CAREN TRUST   | Value \$ 7,250,000.00 |             | Price \$ 8,000,000.00 | PUSE CONDOMINIUM | UNIT B             |
| 49 ST CLAIR AVENUE WEST  | Taxbl \$ 6,820,000.00 |             | Date 12/10/2012       | TaxDist 50417    |                    |
| THE LANE, TORONTO ON     | Bldg \$ 7,250,000.00  |             | Book 25651            |                  |                    |
| M4V 1K6 CANADA           | Land \$ 0.00          |             | Page 1220             | NAV              |                    |

## NOTIFICATION TO PROPERTY OWNER

Please be advised the Town Council will consider the following matter on September 14, 2016. The meeting will begin at 9:00 a.m. in the Town Council Chambers, 2<sup>nd</sup> Floor, Town Hall, 360 South County Road, Palm Beach.

Subject Property Address: 476 S. Ocean Blvd.

Applicant: Janina Radtke, as Trustee of the Janina Radtke  
Revocable Trust u/a/d January 17, 2001

Description: Time Extension for Building Permit. See  
Attached Extension request.

This notification is not to solicit your approval or disapproval. If you desire, you may file your comments in writing before the meetings or you may attend the meetings to speak on the matter. The application and plans are on file in the Planning, Zoning & Building Department and are available for review Monday through Friday between 8:30 a.m. and 4:30 p.m.

If we can be of further assistance, please contact the commission secretary at 227-6408.

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

340 ROYAL FLORENCE WAY, SUITE 321

POST OFFICE BOX 431

PALM BEACH, FLORIDA 33480-0431

(561) 659-1770

FACSIMILE (561) 833-2261

WWW.AMRL.COM

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

RAYMOND C. ALLEY (1883-1876)  
HAROLD G. MAASS (1923-2006)  
COYLE ROGERS (1928-2018)  
KAREN S. MARX (1964-1994)

1331 SE OCEAN BOULEVARD  
STUART, FLORIDA 34996  
P (772) 287-4404  
F (772) 287-4044

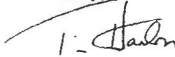
August 31, 2016

Dear Sir or Madam:

On or about August 15, 2016, we sent you a notification that our client's request for a building permit time extension for the property located at 476 S. Ocean Blvd. will be presented to Town Council on September 14, 2016. The notification stated that the meeting will start at 9:00 a.m., but the correct starting time is actually 9:30 a.m. on September 14, 2016.

If you have any questions, please contact me.

Sincerely,



M. Timothy Hanlon

### **Revised Construction Schedule**

September 15<sup>th</sup> – Drywall, exterior and interior stucco, exfiltration/drainage, lift station complete.

October 15<sup>th</sup> – Interior trim completed, cabinets installed, interior painting, bath marble complete.

November 15<sup>th</sup> – Exterior complete – pool, driveway, landscaping, site walls, exterior deck marble, exterior paint, exterior railings.

December 15<sup>th</sup> – Granite tops and interior hardware, fireplace finishes installed, plumbing, electric, low voltage, elevator, a/c, wine room, stair railing, installing finishes.

January 15<sup>th</sup> – Glass and mirror, wood flooring, hardware complete.

January 31<sup>st</sup> – Job complete.

### **Proposed Insurance Mitigation**

- Will add landscaping buffer to reduce noise, sights, etc.
- Will prioritize completion of exterior first – prior to Thanksgiving





# TOWN OF PALM BEACH

Information for Town Council Meeting on: September 9, 2015

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Extension of Time Schedule for Completion of Construction per Town Code  
476 South Ocean Boulevard

Date: August 24, 2015

---

## **STAFF RECOMMENDATION**

Staff recommends that the Town Council consider an extension of the Code-specified time limit for construction of the project located at 476 South Ocean Boulevard.

## **GENERAL INFORMATION**

Owner Janina Radtke Trust, via attorney Jack McDonald, has requested an extension of the time limit for new construction of a single family home. An initial permit was issued on November 8, 2012 for a residence of 10,715 sq. ft. Per Code at that time, a construction window of 36 months was allowed (completion is "due" by November 8, 2015). The home is now under construction (see attached current photo), yet the owner does not anticipate completion per Town deadline. A 6-month extension has been requested (May 8, 2016)

Per attached letter from the owner's attorney, the extension request was triggered for two reasons: 1) reordering of windows and doors due to the sale of a vendor / necessity to choose another supplier, and 2) unforeseen complications involving the basement and garage access.

As outlined within the Code, the Council may impose conditions on the extension which may include the implementation of mitigation measures deemed appropriate by the Council and the imposition of a fee for each day of the extension beyond the 36 month term imposed. The fee established is 10 cents per square foot with a minimum of \$500/per day. Based upon record drawings of 10,715 sq. ft., the maximum fee that the Council could opt to impose is \$1,071.50 per day (which would accrue until the Planning, Zoning and Building Department issues a Certificate of Occupancy). Such fee, optional at the Council's option, could be imposed beginning immediately after the original 36 month construction window lapses, or beginning immediately after a newly assigned extension date of completion is so granted. The Council is not obligated to impose a fee, but there is recent precedent for doing so.

## Attachments

cc: Jack McDonald  
John C. Randolph, Town Attorney  
Bill Bucklew, Building Official



LAW OFFICES OF  
**JOHN LENOX MCDONALD, P.A.**  
400 Royal Palm Way, Suite 404  
Palm Beach, Florida 33480

TELEPHONE 561-533-5000  
EMAIL: [JOHNLENOX@AOL.COM](mailto:JOHNLENOX@AOL.COM)

August 14, 2015

HAND DELIVERY

Mr. John Page, Director  
Palm Beach PZB  
360 South County Road  
Palm Beach, FL 33480

Re: Permit Number B-12-27508, Permit ID 344958  
Issued 11-08-2012 – Janina Radtke Trust - 476 South Ocean Blvd.

Dear JP:

I represent Janina Radtke, as Trustee of the Janina Radtke Trust the owner of 476 South Ocean Boulevard, a single family home under construction.

I write to request a 6 month time extension to May 8, 2016 to complete the new construction.

The extension is requested for the folowing reasons:

1. A re-order of all windows and doors due to the sale of a vendor and the necessary to chose another supplier.
2. Unforeseen complications with construction of the basement to provide adequate garage access.

Sincerely,



Jack McDonald  
JLM/tk



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Development Review - Other

## Agenda Title

Planning and Zoning Commission Record and Report:  
Proposed Zoning Text Amendments

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated December 22, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Exhibit A Planning and Zoning Commission Record and Report**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2018

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Planning and Zoning Commission Record and Report:  
Proposed Zoning Text Amendments

Date: December 22, 2017

---

## **STAFF RECOMMENDATION**

Staff recommends that the Town Council consider the Planning and Zoning Commission Record and Report (EXHIBIT A) and direct Staff whether to proceed forward with preparation of an Ordinance. Newly proposed text is in add/delete format for ease of identification. Staff recommendations follow those from the Commission.

## **PLANNING AND ZONING COMMISSION RECOMMENDATION**

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

## **GENERAL INFORMATION**

On October 11, 2017 and November 15, 2017, the Town Council directed Staff to take the zoning items identified below to the Planning and Zoning Commission for their consideration. At their meetings on October 17<sup>th</sup> and November 28<sup>th</sup> and December 19<sup>th</sup>, the Commission considered all zoning items identified in bullet format within this memorandum. The Commission instructed Staff to draft the attached recommendations for consideration by the Town Council. Staff is requesting that the Council consider the proposed changes in the Record and Report identified in EXHIBIT A, and provide direction for drafting an ordinance for subsequent Local Planning Agency and Town Council action.

In summary, the recommendations included within this report consist of:

- Increasing the fees for additional variances, initial zoning text amendment proposals and Florida Department of Environmental Protection Permit Zoning compliance letters.

Creating fees for unity of title agreements and kitchen agreements are also included.

- Creating Zoning Code provisions for Town Council review of initial Zoning Text Amendment Proposals and other minor modifications.
- Clarifying when the clock starts for the appeal period; what is required to be submitted for an appeal; and changing existing language related to the appeal to ensure clarity.
- Allowing essential services, such as a municipal pump station, to be built west of Lake Trail.
- Allowing construction parking for Island related projects at private clubs located in Residential Zoning Districts in the Town.
- Creating zoning regulations for tow-away signs on private property to eliminate proliferation of signs and to ensure uniformity. This includes a provision which eliminates nonconforming tow-away signs created by these new provisions by January 1, 2019.
- Correcting a scrivener's error related to signs.
- Correcting a hotel density error which incorrectly states that hotel density in the C-B district is 22 units per acre (and not 26 units which is correct). In addition, the word "dwelling" is eliminated because the density is hotel rooms and not dwelling units.
- Correcting a scrivener's error in a Code title for the R-B district from "large estate" to "low density."
- Removing inconsistent language, and consolidating and eliminating existing redundant language for tennis or shuffleboard courts and similar accessory uses.
- Clarifying the 5% cubic content ratio credit for unenclosed patios, loggias, porches and terraces. The change would allow those types of elements to be more than 5% of the maximum cubic content ratio allowed provided that the total cubic content does not exceed 5% of the maximum allowed for the house.
- Allowing flexibility to allow swimming pool structures, including hot tubs, to exceed a height of more than six inches above grade to allow for infinity pools and waterfall hot tubs that spill into a pool.
- Codifying an administrative determination that the 3% lot coverage credit for awning and open trellises does not count in cubic content ratio in the R-B Zoning District.
- Allowing solar technology to cover as much roof as possible provided said materials are approved by the Architectural or Landmarks Preservation Commissions, whichever is pertinent.

- Creating a provision to allow historical or governmental signs on public or private property provided approval is given by the Town Council
- Creating a different demolition threshold for when a nonconforming building or structure is required to meet Code, and allow additions exceeding 50% of the existing size of a nonconforming structure provided certain conditions are met.

Please contact Paul Castro at 227-6406 if you have any questions about these recommendations.

cc: Planning and Zoning Commissioners  
Jay Boodheshwar, Deputy Town Manager  
John C. Randolph, Town Attorney  
Paul W. Castro, AICP, Zoning Administrator



## **EXHIBIT A. PLANNING AND ZONING COMMISSION RECORD AND REPORT**

**ZONING ITEM. Proposal to increase fees for additional variances and/or special exceptions and create fees for other administrative development reviews (as partially presented to the Council as part of the FY'18 budget process).**

### **Purpose:**

The Code currently contains/requires application fees for zoning requests (variances, special exceptions, text changes, etc.). In some cases, fees do not cover the cost involved in reviewing and processing the application. In addition, there are administrative reviews and procedures that Staff undertakes as part of development permits and procedures that have no associated fee.

### **Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

### **Relevant Code section with proposed changes:**

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

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

- (1) Application relating to a PUD ..... \$3,500.00
- (2) Application for a special exception use, or a modification or expansion thereof ..... 1,500.00  
Multi-family dwelling and commercial uses ..... 2,000.00  
Plus, for each additional special exception request ..... ~~500.00~~ 700.00
- (3) Added requests for zoning variances contained within a special exception or site plan review request ..... ~~500.00~~ 700.00  
Plus, for each additional variance request ..... ~~400.00~~ 600.00
- (4) Zoning variance requests involving:
  - a. Uses and structures ..... 1,500.00
  - b. Multi-family dwellings and commercial uses ..... 1,500.00
- (5) Zoning variance requests involving signs, awnings, fences, gateposts and similar incidental accessory items ..... 800.00
- (6) Each additional item of a multiple-point variance request within one zoning variance request application ..... 600.00

- (7) Filing of an application for site plan review pursuant to article III for PUD, multi-family dwelling or commercial building or site additions or modification involving more than 200 square feet ..... 3,000.00
- (8) a. All other site plan review applications, including single-family dwellings and PUD, multi-family and commercial buildings or site additions or modifications of 200 square feet or less which require town council action ..... 1,000.00
  - b. Administrative site plan review application ..... 500.00
- (9) Comprehensive plan amendment:
  - a. Text ..... 2,500.00
  - b. Future land use map:
    - 1. Small scale based on state statute ..... 3,000.00
    - 2. Large scale based on state statute ..... 4,000.00
- (10) Zoning change ..... 3,000.00
- (11) Submittal of initial zoning text amendment proposal ..... ~~100.00~~ 300.00
- (12) Zoning text amendments, if studied, minimum ..... 4,000.00
- (13) Appeal of administrative decision ..... 1,500.00
- (14) Resubmittal of revised plans or information related to an application ..... 800.00
- (15) Lot split ..... 2,000.00
- (16) Zoning waiver ..... 1,500.00
- (17) Administrative supplemental shared parking and exception application and annual renewal fee ..... 500.00
- (18) Administrative outdoor seating renewal fee ..... 50.00
- (19) Unity of Title Agreements.....200.00
- (20) Zoning compliance letters related to Florida Department of Environmental Protection Permits....300.00
- (21) Kitchen Agreements.....150.00

**ZONING ITEM. Proposal to add the initial Town Council review in the submission of privately initiated zoning text amendments and clarify existing language in the Code relative to amendments.**

**Purpose:**

Town staff, based on Town Council directive in the early 2000's, created an administrative process and fee for privately initiated zoning text amendments. The intent was that for a nominal fee, an applicant would submit a letter to the Town Council outlining a prospective zoning amendment. Council would then give the applicant and staff an indication of ultimate success or failure before filing and paying a much larger application fee.

Codifying this procedure will preclude any applicant from circumventing the established administrative process. The proposed modification to the process is as follows:

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code section with proposed changes:**

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

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

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

application before the town council. Said notice shall be mailed at least 15 days prior to the date for town council consideration of the proposed amendment(s) or zoning change(s).

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

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



**ZONING ITEM. Proposed changes to the administrative appeal process to clarify when the clock starts for the appeal period and to update the required information for an appeal package.**

**Purpose:**

The process for appeal of an administrative decision in the Code has a timeframe during which an appeal can be filed. That timeframe in the existing Code is thirty days from rendition of the order, requirement, decision, or determination from which such appeal is taken. One of the proposed changes to the Code clarifies that the clock for filing an appeal starts from time of “written” rendition of the order, decision or determination (not oral conversation) and ends 30 days later. Written determination can be in the form of an email, memorandum or letter. In addition, the other part of the proposed change replaces the requirement to provide ten copies of the appeal. Instead, a record disk for our computer records is required. The following proposed changes in add/delete format are intended clarify and update the appeal process.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code sections with proposed changes:**

**Sec. 134-141. - Town council powers.**

The town council shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

**Sec. 134-142. - Exercise of town council powers.**

In exercising its powers, the town council may, upon appeal, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by an administrative official in the enforcement of this chapter and may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote by three-fifths of all the members of the town council shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the town council is required to pass under this chapter. In the event of a tie vote, the mayor shall cast the deciding vote, which shall constitute the three fifth's requirement of the town council stated herein.

**Sec. 134-143. - Persons authorized to appeal.**

Appeals to the town council may be taken by any person aggrieved or by any officer, board or bureau of the town affected by any decision of an administrative official under any section of this chapter.

### **Sec. 134-144. - Stay of work on premises.**

Under this chapter, an appeal to the town council stays all work on the premises which is in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the town council that, because of facts stated in the certificate, a stay would cause imminent peril to life and property, in which case, proceedings or work shall not be stayed except by a restraining order which may be granted by the town council or by a court of competent jurisdiction on application, on notice to the officer from whom the appeal is taken, and on due cause shown of imminent peril to life and property.

### **Sec. 134-145. - Hearing procedure.**

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

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

**ZONING ITEM. Study a Code change to Section 134-1698 to allow essential services, such as a municipal pump station, to be built on the west side of Lake Trail (now limited to docks only).**

**Purpose:**

Existing Zoning Code regulations do not allow any structures other than docks on the west side of the Lake Trail. The Town needs to be able to construct buildings and structures west of Lake Trail in order to provide essential services to the residents. This includes buildings and structures required for storm water drainage, lift stations and generators. In order to allow these important public service facilities at optimal locations, Staff is proposing a Code amendment. These types of buildings and structures would remain permissible only by special exception and site plan review approval from the Town Council. The following proposed changes in add/delete format are intended to allow essential services west of Lake Trail.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code sections with proposed changes:**

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

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

- (1) In no instance shall hedge or bush material be planted or maintained at a height greater than 30 inches above the grade of the trail.
- (2) Except for palm trees, trees shall be planted with a minimum lineal separation perpendicular to Lake Trail of 30 feet from any other tree.
- (3) The trunks of trees shall be maintained at six feet above the grade from where the tree is planted.
- (4) Palm trees may be clustered with one canopy tree and two palm trees, or a maximum of three palm trees, no further apart than eight feet, and a cluster separation perpendicular to Lake Trail of not less than 25 feet.

**ZONING ITEM. Create a Code provision which would allow for Island related construction parking at the private clubs located in Residential Zoning Districts in the Town.**

**Purpose:**

Town single-family zoning districts, where most of the private clubs are located, are not allowed to use their parking lots for unrelated uses. Similarly, commercial or quasi-commercial uses are not permitted in the Town's single-family zoning districts. As such, the business of private clubs renting their off-street parking lots for construction related parking is not permitted.

The proposed zoning code additions identified below are intended to relieve construction related parking and traffic in the Town. Traditionally, clubs experience seasonal lows during which their parking lots remain mostly empty. Ironically, private construction activity is particularly strong during Summer months when said parking lots are underutilized. Allowing private contractors to park vehicles therein would alleviate on-street construction parking. Proposed Code changes continue to prohibit commercial or quasi-commercial uses with the exception of Town-serving off-street parking for construction projects in the Town.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code sections with proposed changes:**

**Sec. 134-788. - Accessory uses.**

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

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

**Sec. 134-789. - Prohibited uses.**

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

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

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

#### **Sec. 134-838. - Accessory uses.**

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

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

#### **Sec. 134-839. - Prohibited uses.**

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

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



### **Sec. 134-888. - Accessory uses.**

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

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

### **Sec. 134-889. - Prohibited uses.**

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

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

**ZONING ITEM. Provide zoning provisions in the Zoning Ordinance to regulate tow-away signs on private property.**

**Purpose:**

The Town currently has no regulations related to “tow-away” signs. Florida Statute 715.07, provides specific requirements for signs (notices) which are to be posted in order for a property owner to have a vehicle towed from multi-family or commercial private property. There is no tow sign (notice) requirement for single-family residences. Please note State Statute Section 5 (e.), provides that “the local government may require permitting and inspection of these signs prior to any towing or removal of vehicles or vessels being authorized.”

5. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle or vessel that the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or vessels and that the vehicle or vessel is subject to being removed at the owner’s or operator’s expense, any property owner or lessee, or person authorized by the property owner or lessee, prior to towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, must post a notice meeting the following requirements:

- a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.
- b. The notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner’s expense. The words “tow-away zone” must be included on the sign in not less than 4-inch high letters.
- c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels.
- d. The sign structure containing the required notices must be permanently installed with the words “tow-away zone” not less than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles or vessels.
- e. The local government may require permitting and inspection of these signs prior to any towing or removal of vehicles or vessels being authorized.
- f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating “Reserved Parking for

Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-f., which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle or vessel is parked in such a manner that restricts the normal operation of business; and if a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

The proposed change below will allow the Town to control uniformity and number of tow away signs on multi-family and commercial private property to protect against sign proliferation. Staff believes that a uniform sign should be approved by the Architectural Commission, which could thereafter be permitted and regulated by Staff in accordance with zoning regulations. The following additions to the sign regulations are proposed to meet that intent.

### **Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

### **Relevant Code sections with proposed changes:**

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

(a)...

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

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

**Sec. 134-2410.-Tow-away signs.**

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

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

**Sec. 134-2449.-Tow away signs.**

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

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

**ZONING ITEM. Correct a reference in Section 134-2373(13), to identify the correct Section of the Code (134-227 in lieu of 14-227).**

---

**Purpose:**

This is a housekeeping item to correct a scrivener's error. The existing cross reference in Section 134-2373(13) is missing a number. The correct cross reference is Section 134-227.

The following proposed change in add/delete format corrects that issue.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code sections with proposed changes:**

**Sec. 134-2373. - General regulations and definitions applicable to permitted signs.**  
**Under this article, the following shall apply to all signs:**

(1) ....

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



**ZONING ITEM. Correct a hotel density error in Section 134-1308, Density, from twenty-two hotel units per acre to twenty-six hotel units per acre.**

**PURPOSE:**

The code currently has a discrepancy in the permitted unit density for hotel rooms in the C-B Commercial zoning district. The special exception uses section currently indicates the maximum density of hotels to be 26 units per Palm Beach acre. This is inconsistent with the maximum density of 22 units as described in 134-1308 Lot, yard, and area requirements. Staff's historical research indicates that the correct unit density should be 26 units. Therefore, the scrivener's error should be corrected as follows:

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code section with proposed changes:**

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

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

(1) Lot area. The minimum lot area is 15,000 square feet.

(2) Lot width. The minimum lot width is 100 feet.

(3) Lot depth. The minimum lot depth is 150 feet.

(4) Density.

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

b. See article III of this chapter for site plan review requirements. Sec. 134-1304. - Special exception uses.

**ZONING ITEM. Correct Section 134-896, to identify the correct title of the R-B Zoning District.**

**Purpose:**

This is a housekeeping item. The code incorrectly identifies the R-B district as the “large estate residential district” when it is actually the “low density residential district”.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code section with proposed changes:**

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

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

**ZONING ITEM. Remove inconsistent language, and consolidate and eliminate redundant Code language in Section 134-1759 related to tennis court regulations.**

**Purpose:**

The code currently has three paragraph style bullets regulating tennis, shuffleboard, and racquetball courts. The three bullets have repetitive language and conflicting provisions. The proposed code changes separates the provisions in the original three paragraphs into seven individual sub-sections. Conflicting provisions have been removed and verbiage has been improved.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code section with proposed changes:**

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

- ~~(a) Tennis courts or shuffleboard courts and similar accessory uses, not to be enclosed by a structure, may be constructed within yard areas, except the required front yard, required street side yard or required street rear yard as prescribed by this chapter. However, any walls or fences shall conform with sections 134-791, 134-792, 134-841, 134-842, 134-891, 134-892, 134-946, 134-947, 134-1001, 134-1002, 134-1056, 134-1057, 134-1110, 134-1160, 134-1210, 134-1260, 134-1305 and 134-1726, and the construction of any facility involving the use of a ball backboard or rebound wall or structure in any district of the town and the construction of any tennis court, shuffleboard court or similar use upon any structure in the town shall be subject to an application for special exception. Racquetball courts shall be considered unenclosed accessory structures and may be constructed, provided the court complies with all open yard requirements for the principal structure to which it is accessory and the racquetball court shall be subject to an application for special exception.~~
- ~~(b) In determining the percentage of coverage of a lot by buildings, tennis, shuffleboard and racquetball courts and similar uses shall not be counted in such computation. Night lighting of outdoor tennis, shuffleboard and racquetball courts and similar uses is prohibited. Every tennis court shall include as an integral part of the construction thereof proper fence or wall enclosures contiguous to the court, such fence or wall enclosures to be at least ten feet in height and not exceeding 12 feet in height. All tennis courts shall be sight screened with plantings at least the same height as the tennis court fence enclosures, where visible from adjacent properties or the public or private street right-of-way. Racquetball courts shall be sight screened with plantings, where visible from adjacent properties or the public or private street right-of-way.~~

- ~~(e) In determining the percentage of coverage of a lot by buildings, tennis, shuffleboard and racquetball courts and similar uses shall not be counted in such computation. Night lighting of racquetball courts and similar uses is prohibited. The town council may permit, as a special exception with site plan review, minimal state of the art night lighting from 9:00 a.m. to 9:00 p.m. for tennis, shuffleboard and croquet courts, provided that the applicant shall demonstrate to the town council that the light and noise created by the tennis court, shuffleboard or croquet court will be adequately mitigated as it relates to adjacent residential structures and vehicular right-of-way. All tennis, shuffleboard and croquet court lighting shall be equipped with a locked, light timer switch to ensure that the lighting will be controlled to operate only within the hours established in this subsection. In addition, all tennis courts shall include as an integral part of the construction thereof proper fence or wall enclosures contiguous to the or courts, such fence or wall enclosures to be at least ten feet in height. All tennis, shuffleboard and croquet courts and their associated lighting shall be sight screened with plantings at least the same height as the fence enclosures and associated lighting, where visible from adjacent properties or the public or private street rights-of-way. Racquetball courts shall be sight screened with plantings, where visible from adjacent properties or public or private street rights-of-way~~
- (a) Tennis, shuffleboard and racquetball courts and similar uses shall not be counted in lot coverage computations.
- (b) Tennis courts or shuffleboard courts and similar accessory uses, not enclosed by a structure, may be constructed within yard areas, except the required front yard, required street side yard and required street rear yard as prescribed by this chapter.
- (c) Tennis courts shall include as an integral part of the construction thereof proper fence or wall enclosures contiguous to the court. Such fence or wall enclosures are to be at least ten feet in height. Said fence or wall enclosure shall be out of the required principal structure setback if said enclosure exceeds the maximum height allowed in Section 134-1666 through 134-1670 of the Code. Where visible from adjacent properties or the public or private street right-of-way, tennis courts shall be screened with plantings at least the same height as the tennis court fence enclosure.
- (d) The construction of any facility involving the use of a ball backboard or rebound wall in any district of the town shall be subject to an application for special exception as specified in section 134-227 through section 134-233.
- (e) The construction of any tennis court, shuffleboard court or similar use upon any structure in the town shall be subject to an application for special exception as specified in section 134-227 through section 134-233.
- (f) Racquetball courts shall be considered unenclosed accessory structures and may be constructed, provided the court complies with all open yard requirements for the principal structure to which it is accessory and the racquetball court shall be subject to an application for special exception. Racquetball courts shall be screened with

plantings, where visible from adjacent properties or the public or private street right-of-way.

- (g) The town council may permit, as a special exception with site plan review, minimal state of the art night lighting from 9:00 a.m. to 9:00 p.m. for tennis, shuffleboard and racquetball courts, provided that the applicant shall demonstrate to the town council that the light and noise created by the tennis court, shuffleboard or racquetball court will be adequately mitigated as it relates to adjacent residential structures and vehicular right-of-way. All tennis, shuffleboard and croquet court lighting shall be equipped with a locked, light timer switch to ensure that the lighting will be controlled to operate only within the hours established in this subsection



**ZONING ITEM. Study possible changes to Section 134-893 allowing up to a 5% cubic content credit for unenclosed patios, loggias, balconies, porches and terraces located on the first floor of a structure rather than allowing an exception for said structures that do not exceed 5% of the maximum cubic content allowed.**

**Purpose:**

In the R-B Zoning District, the existing cubic content ratio (CCR) regulations allows a 5% CCR bonus for first floor unenclosed elements of a house such as porches and loggias. Based on the way the zoning provision is written, the Code could be interpreted to only allow first floor unenclosed elements not exceeding 5% of the maximum CCR for the house as a bonus. In practice, the interpretation has been that there is no limit on the size of such elements provided they do not cumulatively exceed 5% of the maximum CCR allowed.

The proposed change is intended to memorialize how that code provision has historically been interpreted. An architect can design a house with unenclosed elements using available CCR and add up to 5% more for any portion of a one story, unenclosed element that exceeds the maximum for the house.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code section with proposed changes:**

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

(a) ....

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

(1)...

...

(13) *Cubic content ratio.*

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

(1)....

...

(5) Exceptions. One architectural tower feature involving no habitable space, as otherwise permitted under subsection 134-896(b), shall not be counted in calculating the cubic content of the structure. Unenclosed loggias, pergolas, porches, terraces and covered patios located on the first floor of the structure shall be allowed a five percent bonus to the maximum allowable cubic content.

~~Unenclosed covered patios, loggias, balconies, porches or terraces located on the first floor of the structure shall not be counted in calculating the cubic content of a structure, provided the aggregate cubic content of such appurtenances does not exceed five percent of the total cubic content of the structure.~~ Such appurtenances so erected may not in the future be enclosed or converted to permanent additions to the structure if such conversion would increase the cubic content of the structure beyond that allowed by the applicable CCR.

b.....

...

**ZONING ITEM. Study a modification to Section 134-1757 to allow a swimming pool structure, or portions thereof, to be built at a height higher than six inches above the finished ground level.**

**Purpose:**

Spas/hot tubs are regulated the same as swimming pools. The code currently allows swimming pools to protrude a maximum of six inches above the finished ground level. It is common for Staff to receive permit applications for a spa/hot tub designed so that water spills over from the spa into the swimming pool at waist height. Staff believes it is worth considering allowing spas/hot tubs to be built more than six inches above ground to allow for a greater variety of interplay with the swimming pool in the design process. In addition, it is also becoming more common to see infinity design pools with a spillway into a trough or fountain. Staff is proposing to modify the Code to allow more flexibility in design of swimming pools and associated amenities. The proposed change would not allow above ground pool or spas/hot tubs.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code section with proposed changes:**

**Sec. 134-1757. - Swimming pools.**

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

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

**ZONING ITEM. Study a modification to Section 134-895(3) to clarify the existing three percent lot coverage exception for one-story awnings and/or trellises will not count in the calculation for cubic content ratio in the R-B Zoning District**

**Purpose:**

The code currently provides a 3% bonus to allowable lot coverage for awnings and/or trellises. Simultaneously, the code provides a bonus to allowable cubic content for unenclosed structures. Home owners utilize most if not all available lot coverage and cubic content so these bonuses are valuable tools to those looking to build an addition/new home. Currently, the bonuses have inconsistent language when listing the type of unenclosed structures that can receive them. This limits the effectiveness of both bonuses as homes typically are close to the maximum allowable limits for both lot coverage and cubic content. Therefore, Staff is proposing a Code modification to memorialize the intent of the lot coverage bonus.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code section with proposed changes:**

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

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

(1)...

...

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

(4)....

...

## **ZONING ITEM. Review “solar panel” regulations to determine if further flexibility is justified.**

### **Purpose:**

The Code currently provides a height exception to allow solar panel on a roof provided they do not exceed a height of 3 feet above the roof; do not cover more than 30% of the roof and are not seen from a street. The purpose of the zoning review is to determine if there is a means to allow optimal use of this technology and not compromise architecture or aesthetics on a property. Staff proposed no limitation on the amount of solar panels on a roof provided they could not be viewed from a street.

### **Recommendation:**

The Commission recommended the following changes that would allow more flexibility to use solar technology by not specifically identifying the technology and only allowing the use of solar technology on a roof if approved by the Architectural Commission or the Landmark Preservation Commission, whichever is pertinent. The vote carried 7-0. Staff concurs with the proposed changes with the exception that language should be added that solar technology shall not detract from the architecture of the building or structure is to be place on.

### **Relevant Code sections with proposed changes:**

#### **Sec. 134-796. - Exceptions to height limitations.**

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



**Sec. 134-846. - Exceptions to height limitations.**

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

(b)...

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

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

(b)...

### **Sec. 134-1607. - Permitted exceptions.**

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

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

(2)...

## **ZONING ITEM. Provide regulations to permit historical markers or governmental signs on public and private property.**

### **Purpose:**

While governmental signs such as park signs and historical markers are prevalent throughout the Town, there are no regulations that permits such signage. Staff recommends that the Town allow governmental signs (Federal, State, County and Town signage) provided the size, location and content of such signage is approved by the Town Council. This would allow the Town flexibility to permit park identification signs, historical marker signs and other types of governmental signage provided the Town Council approves such signage at a Town Council meeting.

### **Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

### **Relevant Code sections with proposed changes:**

Residential Districts

#### **Sec. 134-2410. Governmental signs.**

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

Commercial Districts

#### **Sec. 134-2448. Governmental signs.**

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

**ZONING ITEM. Creating a different demolition threshold for when a non-conforming building or structure is required to meet Code, and allow additions exceeding 50% of the existing size of a nonconforming structure provided certain conditions are met.**

**Purpose:**

The existing Zoning Code provisions regulating the threshold for requiring nonconforming buildings and structures to comply with existing Code can be confusing and difficult to interpret. The existing Code states that demolition, restoration, enlargement, extension, expansion or reconstruction of a nonconforming building or structure must comply with current Code if demolition exceeds 50% cubic footage. It is very difficult to determine when you have demolition more than 50% cubic feet. The intent of the proposal is to change cubic footage to a precise square footage measurement. In addition, it also allows the enlargement, extension or expansion to exceed 50% of its size provided the enlargement, extension or expansion meets zoning lot, yard and bulk requirements.

**Recommendation:**

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

**Relevant Code section with proposed changes:**

**Sec. 134-419. – Restoration, demolition, ~~E~~enlargement, extension, expansion, reconstruction, ~~or~~ alteration or repair.**

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

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

- a. the loss of more than 50% of an entire exterior wall(s) square footage, including inoperable windows and doors, on any one entire exterior north, south, east or west elevation;
- b. the loss of more than 50% of the roof truss square footage (with all the roof measured as though flat);
- c. the loss of more than 50% of a combination of all exterior walls and roof truss square footage (with all of the roof measured as though flat).

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

All ~~demolition~~, restoration, ~~demolition~~, enlargement, extension, expansion or reconstruction shall be completed within the time schedule set forth in the construction schedule section 105.4.1.6 of the Florida Building Code. In the event such restoration, demolition, enlargement, extension, expansion or reconstruction is not completed within the timeframe required by the building code, construction shall cease and shall not resume until the town council decides the remedy for noncompliance, and review and approves a completion schedule.

(2) *Alteration and repairs.* Normal maintenance and repair and incidental alteration of a nonconforming building or structure is permitted, provided it does not increase the area, volume or size. Replacement of operable windows and/or doors exceeding the parameters in (a) and (c) above is permitted provided the openings of such windows and/or doors are not enlarged. A building used for single-family or multi-family residential purposes may be altered in any way to improve interior livability; provided, however, that no alterations shall be made which would require the demolition of an exterior wall(s) and/or roof truss square footage as provided for in (1) a, b, and c in this section nor increase the number of dwelling units. Single-family dwellings may be added onto or partially demolished in accordance with sections 134-794, 134-844, 134-894, 134-1005 and 134-1060.

(3) *Minimum flood elevation.* A nonconforming building may be raised to meet, but not exceed, the minimum town flood elevation provided that all of the following conditions are met:

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



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: January 10, 2018

---

## Section of Agenda

Ordinances - Second Reading

## Agenda Title

**ORDINANCE NO. 30-2017** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Definitions And Rules Of Construction, By Creating Definitions For An Outdoor Promotional Event Use And A Property Identification Yard Sign; At Article VI, District Regulations, Sections 134-1109, 134-1159 And 134-1259, Special Exception Uses, By Conditionally Allowing Outdoor Promotional Events As A Special Exception Use In The C-TS, C-WA And C-PC Commercial Zoning Districts; At Article VIII, Supplementary District Regulations, By Adding A Division 18, Outdoor Promotional Activities, Section 134-2115, Standards And Criteria For Outdoor Promotional Activities; At Article XI, Signs, By Modifying Section 134-2437, Building Identification, Business Identification Signs, By Adding “Property Identification Yard Signs” To The Title And Allowing Property Identification Yard Signs On Properties That Meet Certain Criteria In All Of The Commercial Zoning Districts; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date

## Presenter

## ATTACHMENTS:

- ▣ **Memorandum Dated January 3, 2018 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 30-2017**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2018

---

---

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 134, Zoning, Related to Allowing Outdoor Promotional Activities and Property Identification Yard Sign in the Town's Commercial Zoning Districts.  
**Ordinance No. 30-2017**

Date: January 3, 2018

---

## **STAFF RECOMMENDATION**

Staff recommends that the Local Planning Agency review and recommend that the Town Council approve Ordinance No. 30-2017 at second reading.

## **PLANNING AND ZONING COMMISSION RECOMMENDATION**

The Planning and Zoning Commission, at its October 17, 2017 meeting, by a 7-0 vote, recommended to allow "outdoor promotion activities" as a special exception use in the C-PC Commercial Zoning District (a.k.a. Royal Poinciana Plaza). In addition, by a 7-0 vote, the Commission also recommended that "property identification yard signs" be allowed only in the C-PC District.

## **GENERAL INFORMATION**

The Town Council considered the Planning and Zoning Commission's Record and Report at its November 14, 2017 Town Council meeting. Staff drafted Ordinance No. 30-2017 based on direction from Town Council at that meeting. Proposed Ordinance No. 30-2017 does the following:

- Conditionally allows "outdoor promotion activities" as a special exception use in the C-PC, C-TS and C-WA Commercial Zoning Districts.
- Allows "property identification yard signs" in the C-PC, C-TS, C-WA, C-B and C-OPI Zoning Districts.

Staff recommends that prior to second reading of Ordinance No. 30-2017, the Applicant be required to acknowledge in writing that they are bound by the terms of the Royal Poinciana Plaza 1979 Agreement and that the applicant will not contest in any legal proceeding, or otherwise, that the amendments in Ordinance No. 30-2017 provide for “further development possibilities” in contravention of the terms of paragraph 3 of that Agreement.

The proposed changes in attached Ordinance No. 30-2017, appear in add/delete format. If you have any questions about any of the attached information, please contact Paul Castro, Zoning Administrator, at 227-6406.

### **TOWN ATTORNEY REVIEW**

Staff provided John Randolph, Town Attorney, the proposed Zoning Code Amendments and requested his legal opinion related to the 1979 Agreement. He advised that the proposed amendments would not jeopardize the Agreement provided the owners of the property within the C-PC Zoning District 1) acknowledge in writing that they agree to be bound to the terms of the 1979 Agreement despite the language in paragraph 3 of said Agreement; and 2) will not contest in any legal proceeding, or otherwise, that the amendments provide for further development possibilities in contravention of the terms of paragraph 3 of that Agreement.

Ordinance No. 30-2017 has been approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Jay Boodheshwar, Deputy Town Manager  
John C. Randolph, Town Attorney  
Paul W. Castro, AICP, Zoning Administrator  
Bill Bucklew, Building Official  
zf

**ORDINANCE NO. 30-2017**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, AS FOLLOWS: AT ARTICLE I, IN GENERAL, SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY CREATING DEFINITIONS FOR AN OUTDOOR PROMOTIONAL EVENT USE AND A PROPERTY IDENTIFICATION YARD SIGN; AT ARTICLE VI, DISTRICT REGULATIONS, SECTIONS 134-1109, 134-1159 AND 134-1259, SPECIAL EXCEPTION USES, BY CONDITIONALLY ALLOWING OUTDOOR PROMOTIONAL EVENTS AS A SPECIAL EXCEPTION USE IN THE C-TS, C-WA AND C-PC COMMERCIAL ZONING DISTRICTS; AT ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS, BY ADDING A DIVISION 18, OUTDOOR PROMOTIONAL ACTIVITIES, SECTION 134-2115, STANDARDS AND CRITERIA FOR OUTDOOR PROMOTIONAL ACTIVITIES; AT ARTICLE XI, SIGNS, BY MODIFYING SECTION 134-2437, BUILDING IDENTIFICATION, BUSINESS IDENTIFICATION SIGNS, BY ADDING “PROPERTY IDENTIFICATION YARD SIGNS” TO THE TITLE AND ALLOWING PROPERTY IDENTIFICATION YARD SIGNS ON PROPERTIES THAT MEET CERTAIN CRITERIA IN ALL OF THE COMMERCIAL ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE**

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

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

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

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

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

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

...

Outdoor promotional events means events sponsored and managed by a property owner where the event is to be held in the C-TS, C-WA or C-PC Zoning District for the purpose of a providing a public event or promoting business on said private property. Such event shall be limited in scope and size by special exception approval by the Town Council and the criteria as set forth in Sec. 134-2115 of the Code of Ordinances.

Sign, property identification yard means a detached and freestanding identification sign for a Commercial zoned property supported on a monument, pillar or similar supporting structure.

**Section 2.** Article VI, DISTRICT REGULATIONS, Section 134-1109, Special exception uses, is hereby amended to read as follows:

**Sec. 134-1109. - Special exception uses.**

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

(1)...

...

- (21) Outdoor promotional events. See Sec. 134-2115 for additional conditions and criteria.

**Section 3.** Article VI, DISTRICT REGULATIONS, Section 134-1159, Special exception uses, is hereby amended to read as follows:

**Sec. 134-1159. - Special exception uses.**

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

(1)...

...

- (10)~~Reserved~~ Outdoor promotional events. See Sec. 134-2115 for additional conditions and criteria.

...



**Section 4.** Article VI, DISTRICT REGULATIONS, Section 134-1259, Special exception uses, is hereby amended to read as follows:

**Sec. 134-1259. - Special exception uses.**

- (a) The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C-PC planned center district are as follows:

(1) ...

...

(16) Outdoor promotional events. See Sec. 134-2115 for additional conditions and criteria.

**Section 5.** Article VIII., SUPPLEMENTAL DISTRICT REGULATIONS, Division 18. Outdoor promotional events, Section 134-2115 is hereby created to read as follows:

**Sec. 134-2115. – Requirements for outdoor promotional events.**

Outdoor promotional events shall only be allowed in the C-TS, C-WA and C-PC Zoning Districts by special exception approval. It shall be unlawful for any person to have an outdoor promotional activity without approval by the Town Council of a special exception application and a Declaration of Use Agreement which identifies any conditions of approval and remedies for violation of those conditions as provided under sections 134-226 through 134-230 of the Code. Said events are subject to the additional requirements set forth below:

(1) A special exception application for outdoor promotional events shall only be allowed to be filed by the property owner where outdoor promotional events are to be held.

(2) The property owner shall be responsible for sponsoring and managing any outdoor promotional event on a property.

(3) The number of outdoor promotional events per year shall be determined by the Town Council and provided in the required Declaration of Use Agreement.

(4) The hours and days in which outdoor promotional events may occur shall be determined by the Town Council and provided in the Declaration of Use Agreement.

(5) Amplified music or sound shall only be allowed if said event is held two hundred feet or more from any residential use. Such event shall meet the Town's noise regulations as provided in Sec. 42-196 through 42-229 of the Code.

(6) There shall be no outdoor sales of alcoholic beverages other than the sales related to Town approved outdoor seating for the licensed businesses on the property.

(7) Any approval of a special exception to allow outdoor promotional events shall be

required to be reviewed by the town council one year following approval and recordation of the Declaration of Use Agreement. Said approval may be amended or revoked by the town council at that time should it be determined that said use has a negative impact on surrounding properties.

(8) Approval of outdoor promotional events may be revoked or modified by the town council at any time should it be determined that said use has a negative impact on surrounding properties.

**Section 6.** Article VI, DISTRICT REGULATIONS, Section 134-1259, Special exception uses, is hereby amended to read as follows:

**Sec. 134-2437. - Building identification, and business identification and property identification signs.**

(1) ...

...

(5) In the C-TS, C-WA, C-B and C-OPI zoning districts, property identification yard signs are permitted for a property provided that not more than one yard sign is permitted for each vehicular entrance into a property with street frontage. A property identification yard sign facing a street shall not exceed six square feet in area, 5 feet in height above lot grade, shall be located no further than 10 feet from a vehicular entrance onto a property and shall meet the safe site visibility requirements of the town.

(6) In the C-PC zoning district, property identification yard signs are permitted provided that not more than two yard signs are permitted which would flank each vehicular entrance or exit to a property with street frontage. A property identification yard sign facing a street shall not exceed six square feet in area, 6 feet in height above lot grade and shall be located no further than 10 feet from a vehicular entrance onto a property.

(7) Business, ~~identification signs~~ and building ~~identification signs~~ and property yard identification signs shall require Architectural review Commission and or Landmarks Preservation Commission approval (if whichever is applicable).

**Section 7. Severability.**

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

**Section 8.      Repeal of Ordinances in Conflict.**

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

**Section 9.      Codification.**

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

**Section 10.      Effective Date.**

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 13th day of December, 2017, and for second and final reading on this 10<sup>th</sup> day of January, 2018.

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

\_\_\_\_\_  
Richard Kleid, Town Council President

\_\_\_\_\_  
Danielle H. Moore, Council President Pro Tem

\_\_\_\_\_  
Bobbie Lindsay, Town Council Member

ATTEST:

\_\_\_\_\_  
Margaret A. Zeidman, Town Council Member

\_\_\_\_\_  
Kathleen Dominguez, Town Clerk

\_\_\_\_\_  
Julie Araskog, Town Council Member