

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Public Hearings

Agenda Title

Resolution No. 228–2016 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **89 Middle Road** Continues To Meet The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Amends The Existing Designation Of Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated November 18, 2016 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Resolution No. 228-2016**
- ▣ **Resolution No. 228-2016 Attachment**
- ▣ **Designation Report**
- ▣ **Excerpt of Landmarks Commission Preservation Meeting of November 16, 2016**
- ▣ **Designation Procedure**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Landmark Designation of 89 Middle Road
Resolution No. 228-2016

Date: November 18, 2016

STAFF RECOMMENDATION

Staff recommends that the previously landmarked property, known as 89 Middle Road, be amended to reflect a change in the legal description. The landmarked home thereon is being severed from a larger tract of property soon to be subdivided.

EXPLANATION OF PROPOSED CHANGE TO LANDMARKED PROPERTY

The Mediterranean Revival style residence at 89 Middle Road was designed by Addison Mizner and constructed in 1921. The residence, which previously had an address of 91 Middle Road, was designated a Town of Palm Beach Landmark on June 11, 1991. The only structure included in the designation was the original 1921 residence, known as “Andita.” Over the years additional, adjacent lots were purchased and unified with the landmarked property. In April 2016, the property was purchased by the current owners who wish to subdivide the unified parcel.

Attorney Greg Young, (for the owner) has visited with PZB staff several times in the past year regarding the possibility of subdividing the present unified site, measuring approximately 4.5 acres in size. “Andita” is the only landmarked structure on the expanded site. It is the owners’ intent to subdivide the entire parcel, most likely into 4-5 lots. “Andita” would be situated on a zoning-compliant one-acre lot with direct access to Middle Road (remaining landmarked). The remaining portion of the existing tract will be subdivided into separate zoning-compliant lots with each having access onto an existing street. Future development of those lots would fall under the jurisdiction of ARCOM (because “Andita” is the only portion of the tract that is landmarked).

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Amended Designation held during the November 16, 2016 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council to change the boundaries and legal description of the landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

OWNER CONSENT

Please be advised that the present owner, 89 Middle Road, LLC, concurs with the landmarking amendment.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 228-2016 relating to 89 Middle Road, and has approved it as to legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
John Lindgren, AICP, Planning Administrator
Harold Smith, Architect
Greg Young, Attorney
Janet Murphy, Town Consultant
Emily Stillings, Town Consultant

RESOLUTION NO. 228-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY KNOWN AS 89 MIDDLE ROAD CONTINUES TO MEET THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND AMENDS THE EXISTING DESIGNATION OF SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

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

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

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

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

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

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

Section 3. The landmark herein amended, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **89 Middle Road Way** and the property to be landmarked is legally described as follows:

SEE EXHIBIT A (Attached)

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

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

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 14TH day of December, 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

EXHIBIT "A"

**Description Sketch For:
89 MIDDLE ROAD, LLC**

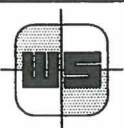
LEGAL DESCRIPTION: (New Landmarked Parcel)

A portion of Government Lot 2, Section 26, Township 43 South, Range 43 East, Palm Beach County, Florida and a portion of Lots 12, 13, 14 and 15, and "Middle Road", **SINGER ADDITION TO PALM BEACH**, according to the plat thereof, as recorded in Plat Book 8, Page 81, Public Records of Palm Beach County, Florida, being more particularly described as follows:

BEGIN at the Southeast corner of said Lot 12;
thence North 88°54'30" West, along the South line of said Lot 12 (said South line is assumed to bear North 88°54'30" West and all other bearings are relative thereto) a distance of 21.81 feet to a point;
thence North 02°28'08" a distance of 104.73 feet to a point;
thence North 43°41'55" West a distance of 69.53 feet to a point;
thence North 89°49'25" West a distance of 27.84 feet to a point on the East line of Middle Road as recorded in Official Record Book 8865, Page 1086, Public Records of Palm Beach County, Florida;
thence North 00°08'03" East, along said East line, a distance of 34.00 feet to a point;
thence North 89°51'57" West a distance of 20.50 feet to the beginning of a curve concave to the North having a radius of 26.00 feet and a central angle of 60°00'00";
thence Westerly, along the arc of said curve, a distance of 27.23 feet to a point on the Westerly prolongation of the North line of said Lot 15;
thence South 89°51'57" East, along said prolongation and North line, a distance of 144.34 feet to the Northeast corner of said Lot 15;
thence South 02°20'28" West, along the East lines of said Lots 14 and 15, a distance of 52.33 feet to a point on a line 1790 feet South of, and parallel with, as measured at right angles, the South line of the Easterly portion of **ROYAL PARK ADDITION TO PALM BEACH, FLORIDA**, as said South line is recorded in Deed Book 22, Page 372 and Deed Book 24, Page 130, respectively;
thence South 88°54'30" East, along said parallel line, a distance of 225.05 feet to a point on the West right-of-way line of South Ocean Boulevard;
thence South 02°20'28" West, along said right-of-way line a distance of 150.00 feet to a point on the Easterly prolongation of the South line of said Lot 12;
thence North 88°54'30" West, along said prolongation and a line 1940 feet South of, and parallel with, said South line of **ROYAL PARK ADDITION TO PALM BEACH, FLORIDA**, a distance of 225.05 feet to the **POINT OF BEGINNING**.

Containing in all 43,560 square feet, or 1.0 acre, more or less.

NOTE:
THIS SKETCH IS NOT VALID
UNLESS ACCOMPANIED BY
ALL 3 SHEETS FORMING A
COMPLETE SET.



WALLACE

SURVEYING
CORP., LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 09/28/16

DWG. No.: 14-1338-7

OFFICE: N.I.

SHEET: 1 OF 3

C'K'D.: C.W.

REF.: 14-1338⁴⁶1.DWG

EXHIBIT "A"
Description Sketch For:
89 MIDDLE ROAD, LLC

NOTES:

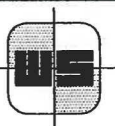
1. No title policy or commitment affecting title or boundary to the subject property has been provided. It is possible there are deeds and easements, recorded or unrecorded, which could affect the subject property. No search of the Public Records has been made by this office.
2. This sketch is not valid unless sealed with an embossed surveyor's seal and accompanied by Sheet No. 2 of 2.
3. This sketch cannot be transferred or assigned without the specific written permission of **Wallace Surveying Corporation**.
4. This is not a survey!

CERTIFICATION:

I HEREBY ATTEST that the description sketch shown hereon conforms to the Standards of Practice set forth by the Florida Board of Professional Surveyors and Mappers adopted in Rule 5J-17, Florida Administrative Code pursuant to Section 472.027, Florida Statutes, effective September 1, 1981.

Craig L. Wallace
Professional Surveyor and Mapper
Florida Certificate No. 3357

NOTE:
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WALLACE SURVEYING
CORP., LICENSED BUSINESS # 4569

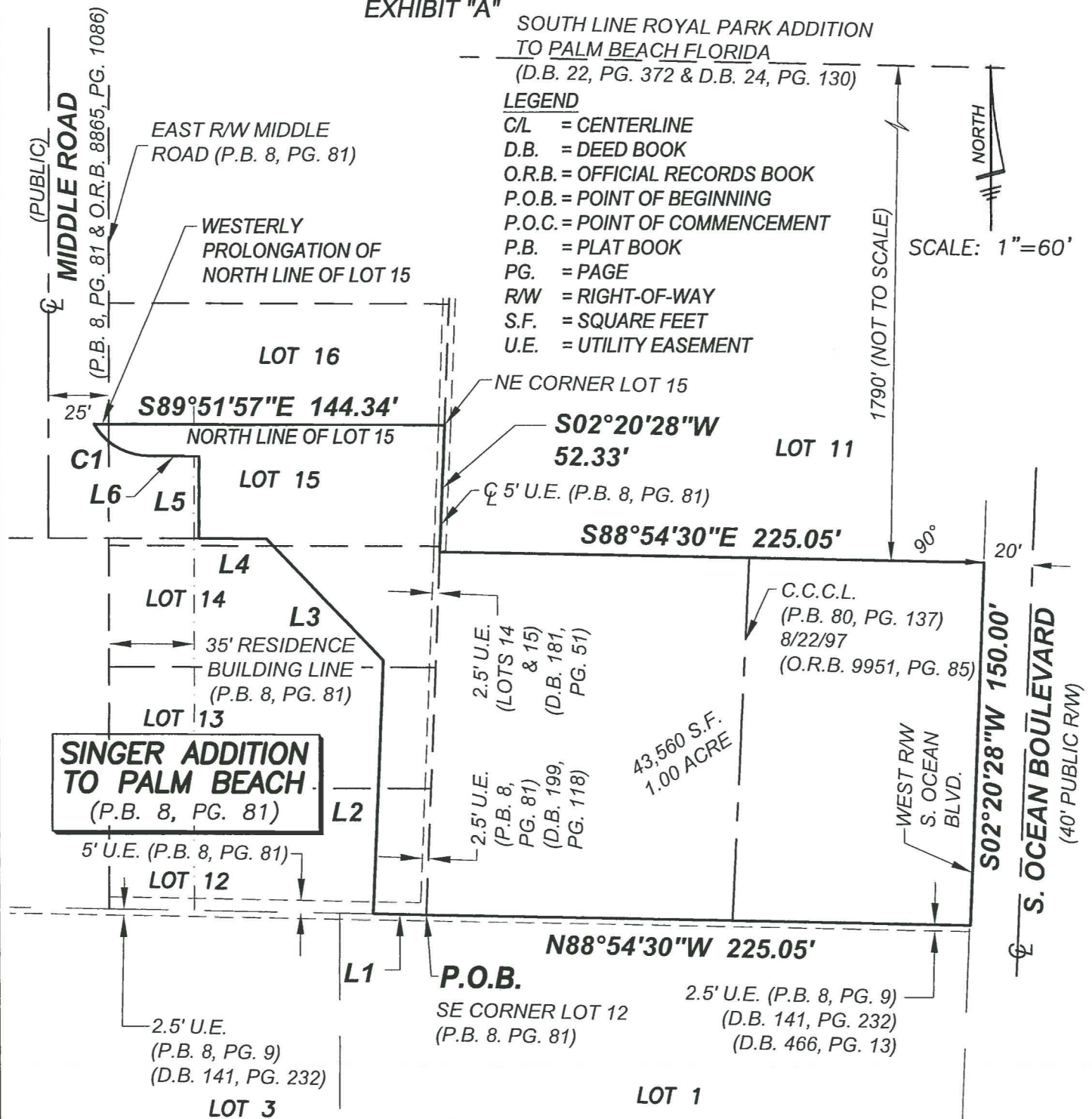
5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 09/28/16	DWG. No.: 14-1338-7
OFFICE: N.I.	SHEET: 2 OF 3
C'K'D.: C.W.	REF.: 14-1338-7.DWG

SOUTH LINE ROYAL PARK ADDITION
TO PALM BEACH FLORIDA
(D.B. 22, PG. 372 & D.B. 24, PG. 130)

C/L = CENTERLINE
D.B. = DEED BOOK
O.R.B. = OFFICIAL RECORDS BOOK
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
P.B. = PLAT BOOK
PG. = PAGE
R/W = RIGHT-OF-WAY
S.F. = SQUARE FEET
U.E. = UTILITY EASEMENT

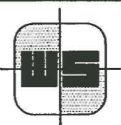
SCALE: 1"=60'



LINE	BEARING	DISTANCE
L1	N88°54'30"W	21.81'
L2	N02°28'08"E	104.73'
L3	N43°41'55"W	69.53'
L4	N89°49'25"W	27.84'
L5	N00°08'03"E	34.00'
L6	N89°51'57"W	20.50'

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CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	60°00'00"	26.00'	27.23'	N59°52'03"W	26.00'



WALLACE

SURVEYING
CORP. LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 09/28/16

DWG. No.: 14-1338-7

OFFICE: N.I.

SHEET: 3 OF 3

C'K'D.: C.W.

REF.: 14-1338¹⁸.DWG

89 Middle Road

(Previously Known as 91 Middle Road)



Amendment to Designation Report

November 16, 2016

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT - AMENDMENT

89 Middle Road (Previously Known As 91 Middle Road)

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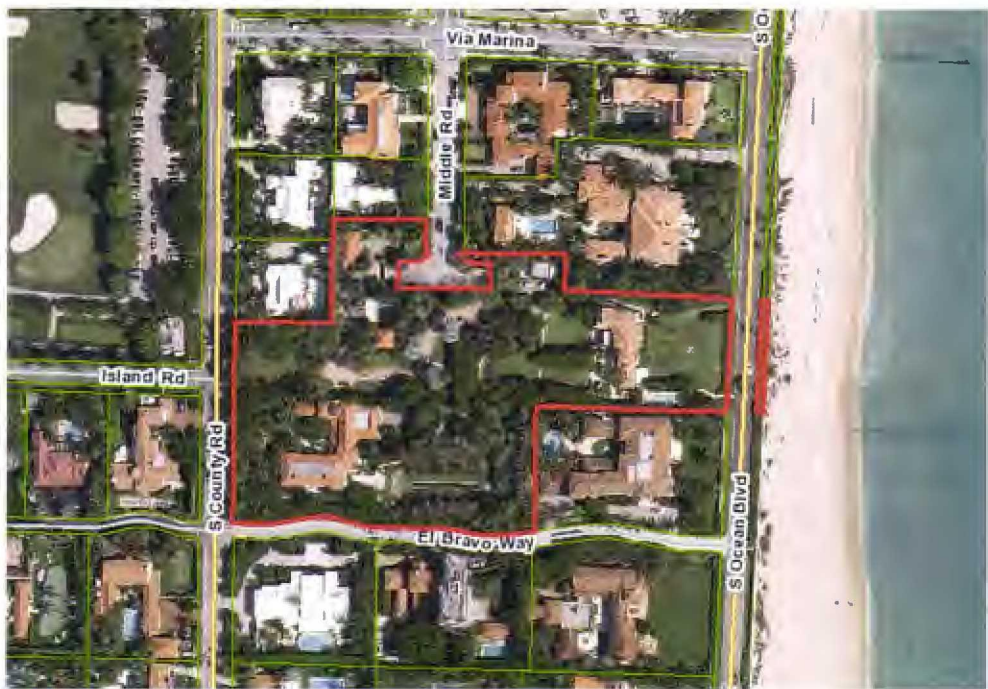
Report produced by Murphy Stillings, LLC

I. General Information

Location:	89 Middle Road (Previously known as 91 Middle Road) Palm Beach, Florida
Date of Construction:	1921
First Owner:	Alfred G. Kay
Architect:	Addison Mizner Additions – 1954 and 1962 by Wyeth, King and Johnson
Present Owner:	89 Middle Road LLC
Present Use:	Residential
Present Zoning:	R-A
Palm Beach County Tax Folio Number:	50-43-43-26-00-0020-0010

II. Location Map

89 Middle Road (Previously known as 91 Middle Road)



III. Amendment to Designation

An amendment is being proposed by the property owner for the purpose of protecting the landmarked residence and subdividing the remainder of the property. The amendment is to change the boundaries and legal description of the landmark.

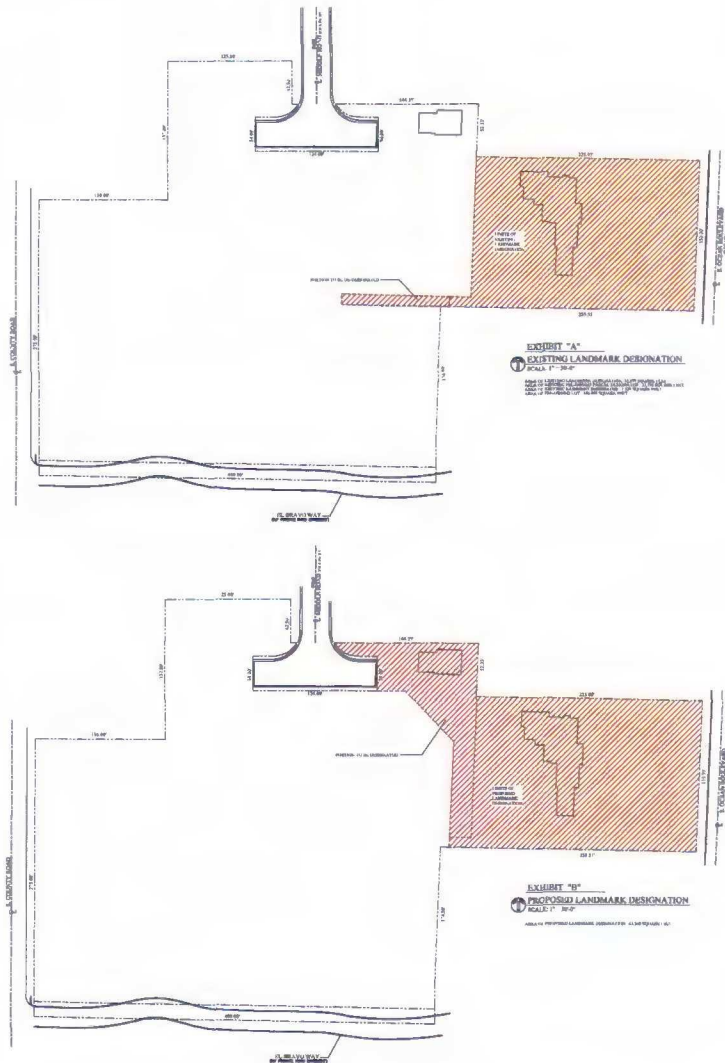
The Mediterranean Revival style residence at 89 Middle Road was designed by Addison Mizner and constructed in 1921. The residence, which previously had an address of 91 Middle Road, was designated a Town of Palm Beach Landmark on June 11, 1991. The only structure included in the designation was the original 1921 residence, known as "Audita". Over the years additional lots were purchased and unified with the landmarked property. In April 2016, the property was purchased by the current owners who wish to subdivide the property.

The current boundary description for the landmark at 89 Middle Road is for the easternmost portion of the property fronting South Ocean Boulevard. It is rectangular in shape with a ten foot (10') wide sliver at the southern boundary line that extends to the west to allow access to the property from Middle Road¹. The proposed changes to the boundaries include the removal of the ten foot (10') wide sliver and the addition of property to the west and north. The overall square footage of the land that the landmarked residence sits on will increase with the proposed change². Within the added property is a two-story garage apartment, constructed in 1923.

The 1923 utilitarian garage structure is rectangular in plan with a flat roof and a one-story shed addition attached to the west façade. The south façade has a two-car overhead paneled garage door with two one-over-one sash windows above. The second floor is accessed by an exterior staircase that wraps the east and north facades. The garage structure has been altered over the years, including the replacement of the garage doors, new windows and the shed addition. The garage was not a part of the original landmark and does not meet the Landmark Preservation Ordinance Criteria for Designation.

¹ Legal Description is listed in the original 91 Middle Road Designation Report, dated December 21, 1990.

² See Survey in Section IV.



Current Landmark Property Proposed Landmark Property South Façade of Garage	Proposed Landmark Property Southeast Corner of Garage
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IV. Survey

EXHIBIT "A"

Description Sketch For: 89 MIDDLE ROAD, LLC

LEGAL DESCRIPTION: (New Landmarked Parcel)

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WALLACE SURVEYING
CORP. (LICENSED BUSINESS # 4009)
3053 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 • (561) 640-4891

DATE: 09/28/16	DWG. No.: 14-1338-7
OFFICE: N.I.	SHEET: 1 OF 3
C'K'D.: C.W.	REF.: 14-1338-1.DWG

EXHIBIT "A"
**Description Sketch For:
89 MIDDLE ROAD, LLC**

NOTES:

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Craig L. Wallace
Professional Surveyor and Mapper
Florida Certificate No. 3357

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WALLACE SURVEYING
CORP., LICENSED BUSINESS # 096

3503 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 940-4251

DATE: 09/28/16

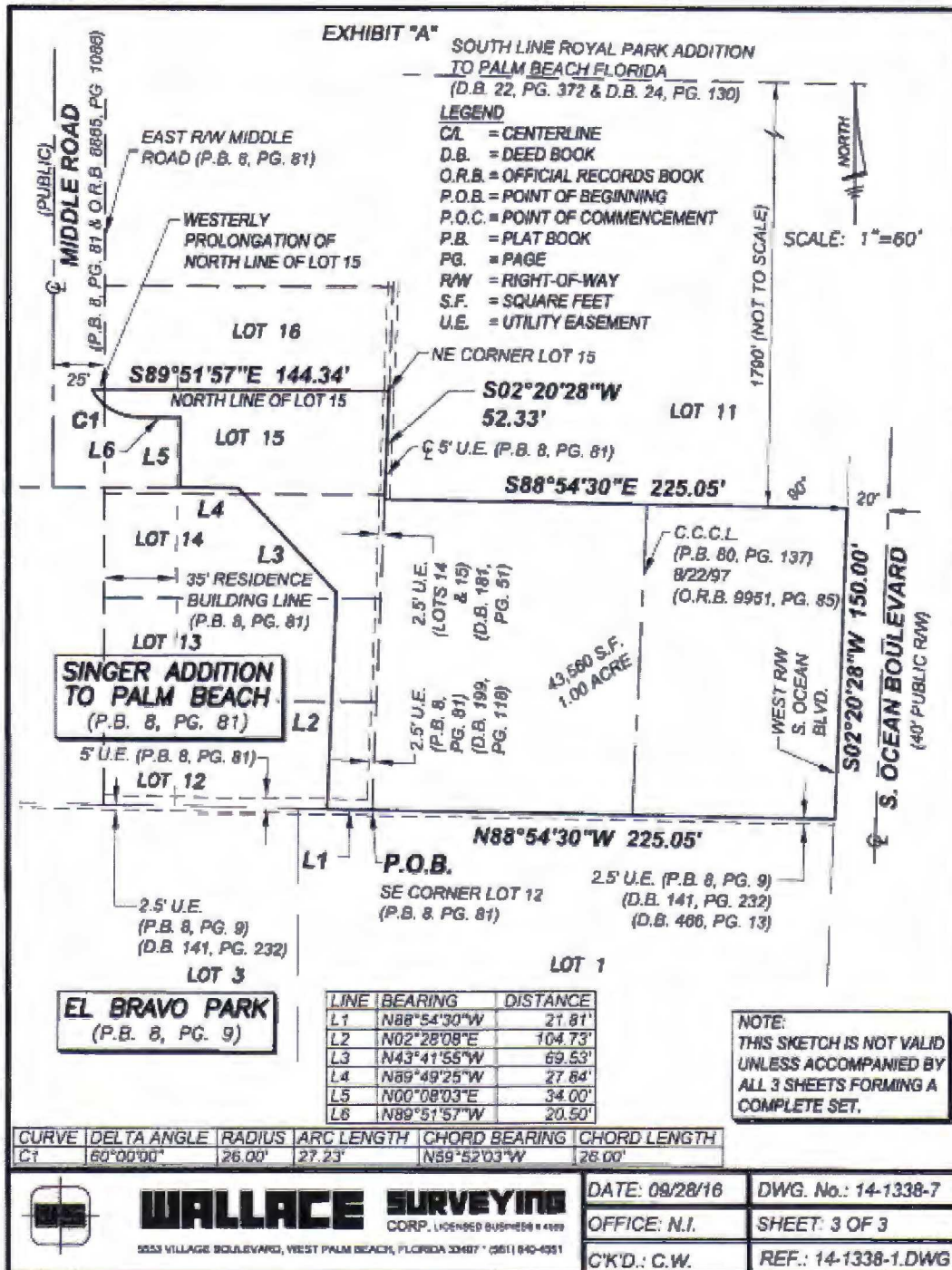
DWG. No.: 14-1338-7

OFFICE: N.I.

SHEET: 2 OF 3

CK'D.: C.W.

REF.: 14-1338-1.DWG



X. DESIGNATION HEARINGS

Item 1: 89 Middle Road (Amendment)

Owner: 89 Middle Road LLC

Call for disclosure of ex parte communication: Disclosure by Mr. Cooney and Mses. Hufty and Albarran.

Emily Stillings, MurphyStillings, LLC, stated that this hearing was to propose an amendment to a landmarked designated property. Ms. Stillings provided a history of the designation to the Commission and discussed the reasons for the proposed amendment. Ms. Stillings also provided a history of the residence and showed the Commissioners the proposed boundary change. Her opinion was that the proposed amendment would not have a negative impact on the landmarked property and would help to preserve the property.

Mr. Strawbridge asked about the landmark designation's relationship to the garage structure on the property. Ms. Stillings responded.

Mr. Silvin asked about the windows on the first floor and their shape.

Jane Day. Research Atlantic, representing 89 Middle Road LLC, responded to Mr. Silvin's question and provided a history of the existing windows. Ms. Day also provided a history of the garage as well. A discussion continued about the garage structure and original plans for the main house.

Mr. Cooney asked for confirmation that the Town had proof of publication and notice with regard to this amendment designation hearing. Ms. Churney stated that the Town does have proof of publication.

A motion was made by Ms. Albarran and seconded by Mr. Silvin that the designation report be made part of the record. Motion carried with all in favor.

A second motion was made by Ms. Albarran and seconded by Mr. Silvin that the amended designation for 89 Middle Rd. be recommended to the Town Council for approval. Motion carried with all in favor.

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

ARTICLE IV. - DESIGNATION PROCEDURE

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

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

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

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

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

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

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

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

(Code 1982, § 16-38)

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

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

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

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

(Code 1982, § 16-42)

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

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

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

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

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Public Hearings

Agenda Title

Resolution No. 229–2016 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **434 Seaspray Avenue** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated November 18, 2016, From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Resolutuion No. 229-2016**
- ▣ **434 Seaspray Avenue Designation Report**
- ▣ **Excerpt of Landmarks Preservation Commission Meeting of November 16, 2016**
- ▣ **Designation Procedure**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Landmark Designation of 434 Seaspray Avenue
Resolution No. 229-2016

Date: November 18, 2016

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 434 Seaspray Avenue as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the November 16, 2016 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

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

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

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

OWNER CONSENT

Please be advised that multiple attempts were made to contact owners Christopher and Andrea Kaufmann. All attempts failed, although all required Code procedures were followed. As a result, staff has no indication of owner consent or opposition.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 229-2016 relating to 434 Seaspray Avenue, and has approved it as to legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
John Lindgren, AICP, Planning Administrator
Christopher and Andrea Kaufmann, Owners
Janet Murphy, Town Consultant
Emily Stillings, Town Consultant

RESOLUTION NO. 229-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY KNOWN AS 434 SEASPRAY AVENUE MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND DESIGNATING SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

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

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

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

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

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

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

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **434 Seaspray Avenue Way** and the property to be landmarked is legally described as follows:

POINCIANA PARK 2ND ADDITION LOTS 315, 317, & 319 AND POINCIANA PARK 3RD ADDITION PB8P72.

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

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

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 14TH day of December, 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

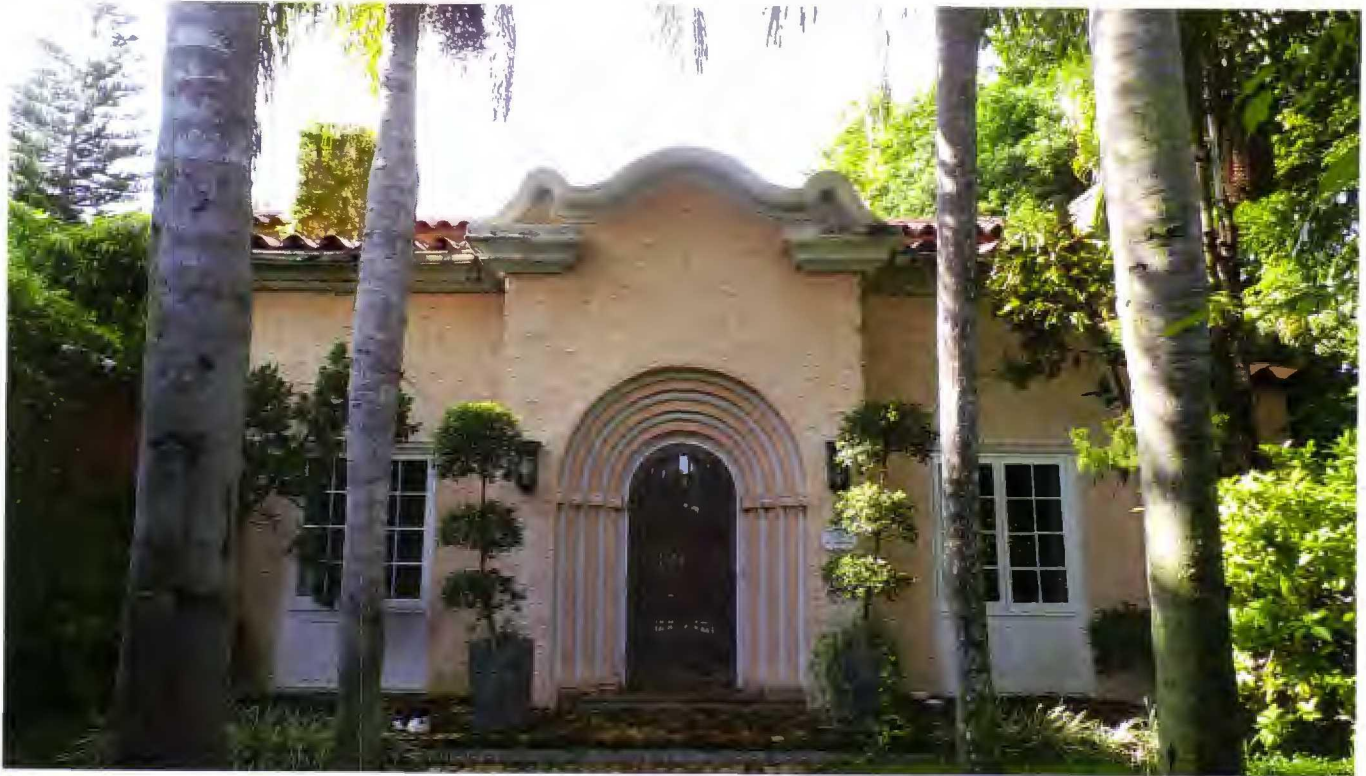
ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

434 Seaspray Avenue



DESIGNATION REPORT

November 16, 2016

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

434 Seaspray Avenue

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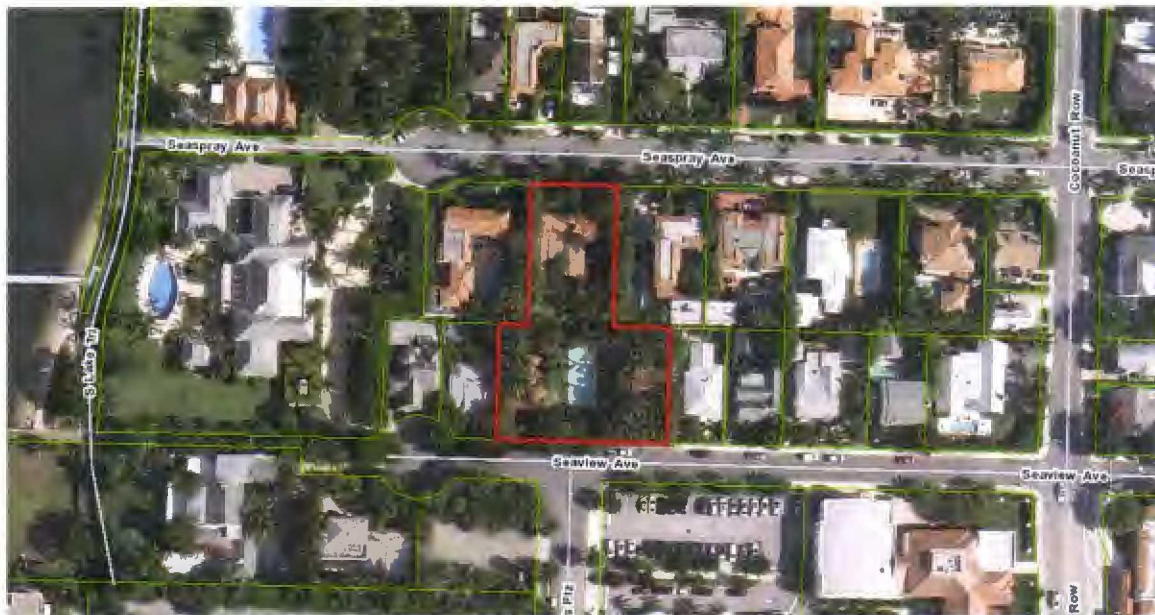
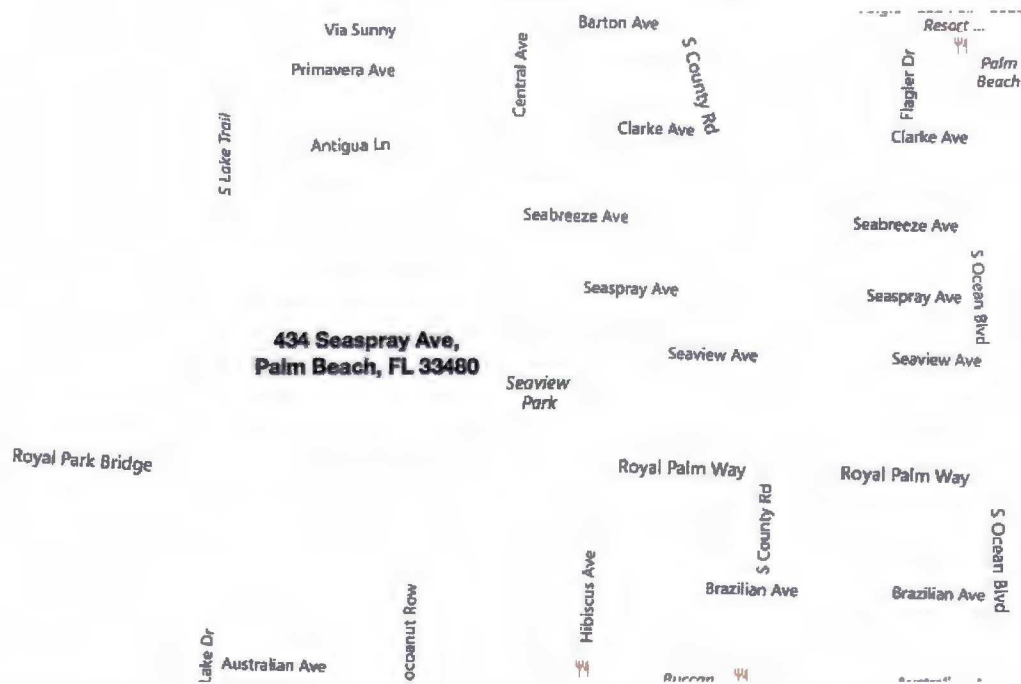
Report produced by Murphy Stillings, LLC

I. General Information

Location:	434 Seaspray Avenue Palm Beach, Florida
Date of Construction:	1924
First Owner:	Edward F. Bryant
Architect:	William B. Eckler
Builder/Contractor:	Eckler & Girard
Present Owner:	Christopher and Andrea Kaufmann
Present Use:	Residential
Present Zoning:	RB
Palm Beach County Tax Folio Number:	50434322070003150
Current Legal Description:	Poinciana Park 2 nd Addition Lots 315, 317, & 319 and Poinciana Park 3 rd Addition PB8P72

II. Location Map

434 Seaspray Avenue



III. Architectural Information



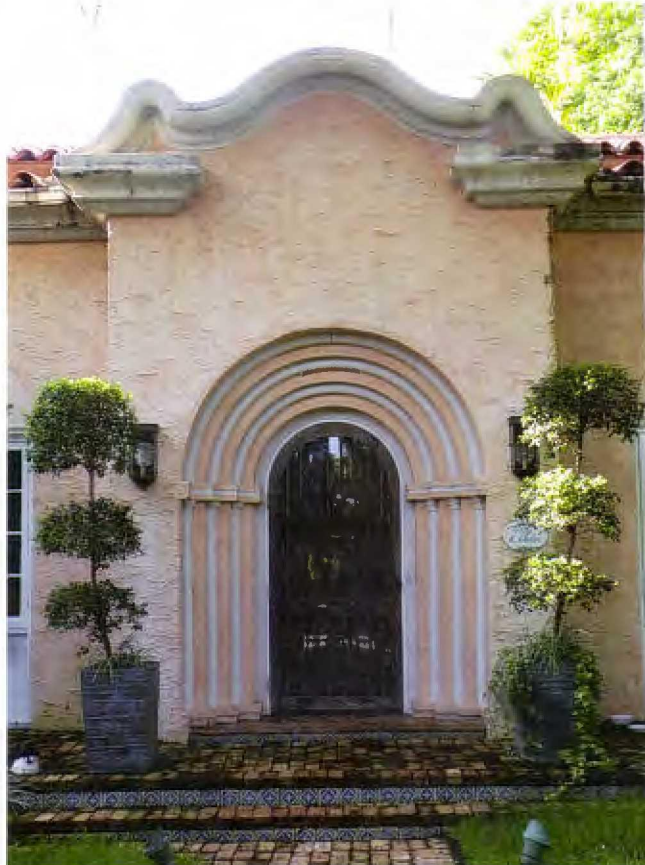
The residence located at 434 Seaspray Avenue is an excellent example of the Mediterranean Revival style of architecture designed and built by architect and builder William B. Eckler. The U-shaped house was constructed in 1924-1925 during Palm Beach's Boom Time era and sits on a very deep lot on the south side of Seaspray Avenue in the Poinciana Park subdivision.¹ This multifaceted residence was constructed of wood and hollow clay tile covered with rough stucco. A plaque next to the entry reads "Villa di Nikolas."

Mediterranean Revival style architecture is an eclectic design style that was inspired by Spanish, Italian, North African and Moorish structures and became popular in Florida during the 1920s. Buildings of this style often have asymmetrical massing and fenestration, balconies, arched openings and ornate cast-stone elements. In addition, stone or stucco facades, decorative ironwork, tile floors, pecky cypress ceilings and clay barrel tile roofs are typical features of Mediterranean Revival style buildings.

The focal point of the three-bay wide front façade is the Romanesque style compound arch entryway that is recessed within the projecting center block. This entryway consists of a series of four semi-circular arches set within a receding plane. The thin columns leading from the ground to the arches have

¹ The lot stretches from the south side of Seaspray Avenue to the north side of Seaview Avenue.

small Corinthian capitals. The arched wood door within the entryway is set behind a decorative wood spindle screen door. Of primary interest above the main entryway is the elaborately curved parapet with a substantial cornice that gives the dwelling a unique design. A decorative metal gate between two pillars opens to a brick walk leading to this front entrance from the sidewalk.



Main Entrance

The two bays flanking the projecting center block contain divided light wood casement windows set above wooden rectangular panels. Topping these windows are recessed blind arches. The heavy stone cornice continues across these flanking bays and above this cornice is a multi-leveled roof covered with red clay barrel tiles.² A chimney emerges on the first level of the roof on the

² Access was not granted to this property so only the architecture of the front façade and roof could be described for this report. There are photos in the MLS listing (RX-10171885) that indicate that the house has multi-light double-hung windows, awning windows, multi-light French doors and an overhanging roof with carved wood brackets underneath. Interior photos from the MLS listing show Mediterranean Revival features including a pecky-cypress beamed ceiling, decorative ironwork, a rounded stairway and colonnades with ornate columns.

east end. There is also a rounded wall and roofline set back on the northwest corner of the dwelling that corresponds to a winding staircase on the interior.



Pedestrian Walkway Gate



Driveway Gate and Garage

Attached to the east is a two-car garage that was constructed in 1991. This garage features two overhead multi-paneled doors surrounded by arches, columns and capitals matching those of the house's front entryway. The roof is covered by red barrel tiles matching those on the attached residence and there are metal sconces flanking the doors. In front of the garage is a decorative metal gate similar in design to the front entry gate.

According to the Palm Beach County Property Appraiser, the property at 434 Seaspray Avenue includes the main house, three outbuildings and a swimming pool on a 24,260 square foot lot.³ Outbuildings # 2 and # 3 were constructed in 1924 at the same time of the main house and outbuilding # 4 was constructed in 1950. Building # 2 is a two-story, two bedroom and one bath guesthouse constructed of wood frame and hollow clay tile covered with stucco. The 792 square-foot structure has a built up tar & gravel flat roof. Building # 3 is a one-story garage apartment with two bedrooms and two bathrooms constructed of concrete block covered with stucco. The 1196 square-foot building with a 210 square-foot garage has a gable and hip roof covered with concrete tile. Building # 4 is an 1170 square-foot, one-story building with two bedrooms and two bathrooms constructed of concrete block and covered with stucco. The roof is gable and hipped covered with asphalt and composition shingles.⁴ The centrally located rectangular swimming pool,

³ The lot is in the shape of an off-centered "T." The front lot is 75' wide by 122.5' deep; the rear lot is 150' wide by 100.5' deep. The front lot meets the rear lot 25' from the west and 50' from the east.

⁴ Access was not granted to the property so the information regarding the outbuildings and swimming pool came from the Palm Beach County Property Appraiser's website.

constructed in 2003, is south of the main house between two of the outbuildings.

IV. Historical Information

The house at 434 Seaspray Avenue is located in the Poinciana Park Subdivision.⁵ Poinciana Park was platted and largely developed by Oscar A. Jose and his City Builders Realty Company. Jose created Poinciana Park by purchasing tracts of land south of the Breakers and the Royal Poinciana Hotel from Lake Worth to the Atlantic Ocean. This area became the “Sea” streets with Sea Breeze platted in 1914 followed by Sea Spray in 1917 and the north side of Sea View in 1923.⁶ A brochure designed and distributed by City Builders Realty Company titled “Poinciana Park, The Preferred Location,” goes into great detail about the many advantages of wintering in Palm Beach and the benefits of owning a house in centrally located Poinciana Park, close to all of the town’s amenities but removed from the “rush and bustle of the hotel center.”⁷

Oscar Jose was one of the early developers to recognize the potential in Palm Beach for building something other than a grand estate or spending the season at a hotel. Poinciana Park was an attempt to make Palm Beach more family oriented and the Palm Beach life-style more accessible to the “upper-middle class.”⁸ In addition to building, selling and leasing properties, City Builders Realty Company sold many lots in Poinciana Park to individual buyers as well as other developers. Lot sales came with stipulations regarding the quality of houses to be built so that no “cheap” houses could be built in Poinciana Park.⁹

⁵ Royal Poinciana Park Second Addition.

⁶ Sea Breeze, Sea Spray and Sea View were the original spellings of the Poinciana Park Avenues. A January 28, 1917 City Builders Realty Company advertisement in the Palm Beach Post stated, “We have platted a new addition to Poinciana Park and we are advertising for a name for the new street. \$10.00 for an acceptable name.” The street was named Sea Spray Avenue.

⁷ “Poinciana Park, The Preferred Location,” Brochure distributed by City Builders Realty. No Date. Located in the Poinciana Park file at the Preservation Foundation of Palm Beach. Ownership or seasonal rental of a house in Poinciana Park included a membership in the Sea Spray Beach Club. Located on the ocean side of South Ocean Boulevard and Seaspray Avenue, the fashionable club provided members with an Olympic-sized salt water pool, tennis courts, changing rooms, a solarium, and popular dining facilities. They had sports programs for children and Oscar Jose’s son, who had been a boxing champion, taught John F. Kennedy to box at the Sea Spray Beach Club. Beginning in 1929, Oscar Jose recognized that many residents of Poinciana Park were becoming year round residents rather than just seasonal occupants so they opened the Sea Spray Beach Club as the “Summer Bath Club” for their members who stayed in town during the summer months.

⁸ “Preservationist’s Home Gets Landmarks’ OK,” Palm Beach Daily News, 22 January 1998.

⁹ Advertisement in the Palm Beach Post.

William Eckler and Gustave Girard formed an architecture, building and real estate development company, Eckler-Girard, Inc., that purchased a number of lots in Poinciana Park and constructed speculation houses. Newspaper articles from the times indicate that William Eckler was the architect and builder while Girard served as the financier and real estate developer. This Eckler-Girard partnership appeared to last from approximately 1924-1929, which coincides with the height and decline of the South Florida land boom. The majority of Eckler's Palm Beach designs were in the popular Mediterranean Revival style.

The first owners, Mr. and Mrs. Frederick Edward Bryant, purchased 434 Seaspray Avenue from Eckler-Girard, Inc. in early 1926, shortly after it was completed. Mr. Frederick Edward Bryant, best known as F.E. Bryant, played a very important role in the development of the Everglades sugar industry.

F. E. Bryant emigrated from England in 1894 to study agricultural methods in New Mexico and later owned a dairy in Colorado with his brother, Harold J. Bryant. After visiting Florida in 1907, F. E. Bryant became interested in developing agriculture in the Everglades. The brothers, with William Greenwood, started Palm Beach Farms Company. They purchased thousands of acres of the Everglades in 1909 and a large tract of coastal land in 1910. F. E. Bryant, his brother Harold, and William Greenwood formed Bryant & Greenwood, which marketed the land throughout the U.S. and Canada. They offered five-acre farm tracts in the Everglades for \$250 each, \$10 down and \$10 per month; a 25x25-foot lot was thrown in free at the Town site of Lucerne on the shores of Lake Worth. When many purchasers found their farmland under water, they chose to live on their free property by the lake, which developed into what became the cities of Lake Worth and Greenacres.

During World War I, the shortage of sugar renewed Bryant's interest in the Everglades, and he convinced the U.S. Department of Agriculture to build a sugarcane breeding station at Canal Point. Bryant and G. T. Anderson started Florida Sugar and Food Products Company and built the first sugar mill in the Glades in 1921. To raise capital, they merged their business with the Southern Sugar Company. A company town called "Azucar" (sugar) evolved at the plantation, which was renamed "Bryant" in 1946 after the founder's death. Bryant had provided his workers, primarily African Americans, with good

housing, food and recreation areas, believing their comfort made for better workers.¹⁰

The Bryant's were often mentioned in society news hosting numerous parties, relatives and guests at 434 Seaspray Avenue. Their two daughters, Elizabeth Bryant Duff and Catherine Bryant Beach, visited frequently with their families and spent time at the Sea Spray Club with the Bryants. F.E. Bryant passed away in 1945, but his widow, Mrs. Minnie B. Bryant continued to live in the house until 1948, when she sold it to Harry Cutter. Minnie Bryant passed away just one year later in 1949. The current owners, Christopher and Andrea Kaufmann, purchased the house in 2000.

V. Architect's Biography

William B. Eckler

William B. Eckler (c 1878 – 1938) moved to New Smyrna, Florida from Waterbury, Connecticut in 1907. Ten years later he moved to West Palm Beach and he worked in West Palm Beach, Lake Worth and Palm Beach from 1917 until his death in 1938.¹¹ Eckler was one of the earliest registered architects in Florida and in Palm Beach he was first associated with Addison Mizner in his work on the Everglades Club.

In 1922, an Architect's Club was formed in Palm Beach with Addison Mizner as Chairman and William B. Eckler as Secretary. Eckler designed significant public buildings, including the Women's Club in Palm Beach and the original Lake Worth Casino, but he was also known for his Mediterranean Revival residential designs.¹²

William Eckler and Gustave Girard formed an architecture, building and real estate development company, Eckler-Girard, Inc., that purchased a number of lots in Poinciana Park and constructed speculation houses. Newspaper articles from the times indicate that William Eckler was the architect and builder of the properties while Girard served as the financier and real estate developer. This Eckler-Girard partnership appeared to last from approximately 1924-

¹⁰ Historical Society of Palm Beach County. Palm Beach County History Online: Sugarcane. Frederick Edward Bryant's obituary was published in the Palm Beach Post December 8, 1945.

¹¹ Three of his notable West Palm Beach designs include 195 Pershing Way (1926), 2527 South Flagler Drive (1926) and his own home at 333 Murray Road (1928).

¹² The Women's Club, designed in 1917, was in a Palm Beach park on land donated by Henry Flagler.

1929, which coincides with the height and decline of the South Florida land boom.

Mrs. William Eckler started the Eckler School in West Palm Beach in 1919. This was a private kindergarten through eighth grade school in downtown West Palm Beach. Mrs. Eckler passed away in 1932, but her daughters continued the school for several more years. William Eckler purchased a farm in Delray Beach in the mid 1930s. During this time he experimented with designing a type of pre-fabricated concrete house. William Eckler passed away at his farm in May 1938.

VI. Statement of Significance

The residence located at 434 Seaspray Avenue, with its Romanesque style entryway and elaborate parapet, is an excellent example of the Mediterranean Revival style of architecture designed and built by architect and builder William B. Eckler in 1924 - 1925. The house is part of the Poinciana Park subdivision that was one of the Island's first successful large residential developments. The first owner, F. E. Bryant, played a very important role in the development of the Everglades sugar industry.

VII. Criteria For Designation

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

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

The house located at 434 Seaspray Avenue reflects the broad cultural and economic history of the Town of Palm Beach. Seaspray Avenue is part of the Poinciana Park subdivision that was one of the Island's first successful large residential developments. Poinciana Park was specifically aimed at the upper middle class family who desired either a Palm Beach winter residence or a permanent year round residence. While Palm Beach's reputation rested upon the individual grand estates and fashionable hotels, the success of Poinciana

Park helped establish another dimension to the development of Palm Beach. Mr. Frederick Edward Bryant, who owned the house for its first twenty years, played a very important role in the development of the Everglades sugar industry and in the establishment of Lake Worth and Greenacres. Therefore 434 Seaspray Avenue deserves protection under criterion (1) of the Landmarks Preservation Ordinance.

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

The residence located at 434 Seaspray Avenue is an excellent example of the Mediterranean Revival style of architecture designed and constructed in 1924-1925. This multi-faceted residence was constructed of wood and hollow clay tile covered with stucco and features multi-light casement windows. The Romanesque style entryway recessed within the projecting center block and the elaborately curved parapet above make this house a particularly interesting example of Palm Beach Mediterranean Revival style architecture. Therefore 434 Seaspray Avenue deserves protection under criterion (3) of the Landmarks Preservation Ordinance.

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

William B. Eckler was one of the earliest registered architects in Florida (1917) and in Palm Beach he was first associated with Addison Mizner in his work on the Everglades Club. Eckler designed significant public buildings, including the Women's Club in Palm Beach and the original Lake Worth Casino. He was also known for his Mediterranean Revival residential designs and use of the Romanesque style compound arch entryway. 434 Seaspray Avenue is an excellent representation of Eckler's Mediterranean Revival residential designs and therefore deserves protection under criterion (4) of the Landmark's Preservation Ordinance.

VIII. Selected Bibliography

Curl, Donald W. Palm Beach County: An Illustrated History. Northridge, California: Windsor Publications, Inc., 1987.

The Historical Society of Palm Beach County. Historical and Architectural Files; Palm Beach County History Online

MLS Listing #: RX-10171885

The Palm Beach Daily News. Archived Articles Online

The Palm Beach Post. Archived Articles Online

The Preservation Foundation of Palm Beach. Files on Poinciana Park; 434 Seaspray Avenue file

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

Town of Palm Beach. Building Permits, 1919– 2016.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1916 -1986. These city directories included Town of Palm Beach directories and information on Palm Beach residents.

IX. Florida Master Site File Form



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # FB06776

Recorder & Jana S. Day

Field Date 10/6/2010

Form Date 10/19/2010

Form No 201010

Form No + Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Christopher Kaufmann, House Multiple Listing (DHR only)

Other Names >> _____

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

National Register Category Building(s)

LOCATION & IDENTIFICATION

Address

Street No.	Direction	Street Name	Street Type	Direction Suffix
<u>434</u>		<u>Seaspray</u>	<u>Avenue</u>	

Cross Streets (nearest/between) Cocoanut Row & Lake Worth

City/Town (within 3 miles) Town of Palm Beach In Current City Limits? YES

County Palm Beach Tax Parcel#(s) 50-43-43-22-07-000-3150

Subdivision Name Poinciana park, 2nd Add Block 315-319

Ownership Private Individual

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

Route to (especially if no street address) On the south side of Seaspray Ave. between Cocoanut Row and Lake Worth

MAPPING

USGS 7.5' Map Name _____ Publication Date >> PAIM BEACH, 1963

Township: _____ Range: _____ Section: _____ 1/4 section: >> 43S ; 43E ; 22 ; UNSE

Irregular Section Name: _____

Landgrant _____

UTM: Zone _____ Easting _____ Northing _____

Plot or Other Map (map's name, location) _____

DESCRIPTION

Style Mediterranean Revival Other Style _____

Exterior Plan Irregular Other Exterior Plan _____

Number of Stories 2

Structural System(s) >> Wood frame

Other Structural System(s) hollow clay tile

Foundation Type(s) >> Continuous

Other Foundation Types

Foundation Material(s) >> Concrete Block

Other Foundation Material(s)

Exterior Fabric(s) >> Stucco

Other Exterior Fabric(s)

Roof Type(s) >> Hip

Other Roof Type(s) Flat, shed

Roof Material(s) >> Spanish tile

Other Roof Material(s)

Roof Secondary Structure(s) (dormers etc) >> _____

Other Roof Secondary Structure(s)

Number of Chimneys 1

Chimney Material Brick

Other Chimney Material(s) stucco on exterior

Chimney Location(s) east exterior wall

Page 1 of 3

HISTORICAL STRUCTURE FORM

SPB06776

DESCRIPTION (continued)

Window Descriptions casement

Main Entrance Description (stylistic details) On the north facade with an arched Romanesque cast stone surround, and a parapet above

Porches: Sides 1 Sided Finiced Location(s) entry - n

Porch Roof Type(s)

Exterior Ornament cast stone, parapet

Interior Plan Unknown

Other Interior Plan

Condition Good

Structure Surroundings

Commercial: NONE of this category

Residential: ALL this category

Institutional: NONE of this category

Undeveloped: NONE of this category

Ancillary Features (Number / type of outbuildings, major landscape features) A masonry wall with wrought iron gate surrounds this house.

Archaeological Remains (describe): none observed

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

Narrative Description (optional)

HISTORY

Construction year 1924

Architect (last name first): unknown

Builder (last name first): Enkler, W.B.

Changes in Locations or Conditions

Type of Change	Year of Change	Date Change Noted	Description of Changes
>>			

Structure Use History

Use <u> </u>	Year Use Started <u> </u>	Year Use Ended <u> </u>	>> <u>Private residence; 1924;</u>
Other Structure Uses <u> </u>			

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

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods

SURVEYOR'S EVALUATION OF SITE

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

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? INSUFF. INFO

Area(s) of historical significance >> Architecture

Other Historical Associations

Explanation of Evaluation (required) This is a good example of the Mediterranean Revival style from the Boom years of the 1920s. It is worthy of further study.

HISTORICAL STRUCTURE FORM

8PB04776

DOCUMENTATION (Photos, Plans, etc.)

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

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

RECORDER INFORMATION

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

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

Cultural Resource Type: Electronic Form Used: Form Type Code: Form Quality Ranking: Form Status Code:	SHPO's Evaluation of Resource Date: _____
Supplement Information Status: Supplement File Status:	FMSF Staffer: Computer Entry Date:
Form Comments: _____	

REQUIRED PAPER ATTACHMENTS

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

X. DESIGNATION HEARINGS

Item 3: 434 Seaspray Avenue

Owner: Andrea and Christopher Kaufmann

Call for disclosure of ex parte communication: None.

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

Janet Murphy, MurphyStillings, LLC, testified to the architecture and history for this residence. Ms. Murphy discussed the Romanesque-style compound arch as well as other significant features of the home that lend a distinctive appearance to the William Eckler home. Ms. Murphy provided a history of the home for the Commissioners, including information on the original owners of the home. Ms. Murphy testified that the building meets the following criteria for designation as a landmark:

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

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

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

Mr. Cooney asked if the owner had been contacted. Ms. Murphy stated that they made several attempts to contact the owner but they were unsuccessful.

Ms. Drake asked about the windows on the side of the home. Ms. Murphy responded. There was a discussion about whether the Commission should landmark a house without having access and seeing the home in its entirety. Mr. Cooney responded and stated many homes have been designated in this fashion.

There was a discussion whether photos found online are allowable for designation purposes. John Randolph, Town Attorney, stated that if it is available to the public, it would be allowable.

Mr. Cooney open the discussion for public comment and there was none.

A motion was made by Ms. Drake and seconded by Ms. Albarran that the designation report be made part of the record. Motion carried with all in favor.

A motion made by Ms. Drake and seconded by Mr. Silvin that 434 Seaspray Avenue be recommended to the Town Council designation as Landmark of the Town of Palm Beach based on criteria 1, 3 and 4 in Section 54-161. Motion carried with all in favor.

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

ARTICLE IV. - DESIGNATION PROCEDURE

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

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

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

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

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

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

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

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

(Code 1982, § 16-38)

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

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

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

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

(Code 1982, § 16-42)

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

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

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

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

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #25-2016 WITH SITE PLAN REVIEW AND VARIANCES

The application of Harvey E. Oyer, III, Esq. (Agent); relative to property commonly known as **141 S County Rd.** & Vacant lot on west side of S County Rd., described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a Special Exception with Site Plan Review and Variances to construct required off-street & supplemental parking spaces to accommodate 34 additional required off-street & supplemental parking, specifically 11 parallel parking spaces are proposed to be located on private property along the north side of the 100 block of Barton Avenue, adjacent to the Church. 23 parking spaces are proposed to be located on the Church's parcel directly west of the Place of Worship across South County Road. If approved, the additional 34 required off-street & supplemental parking spaces will substantially alleviate the recent loss of parking that has existed as a result of changes to the Town's parking policies. At the Town Council's direction, the applicant seeks to allow residents of the 100 & 200 block of Barton Avenue along with residents of the 200 block of Pendleton Avenue to use the 34 off-street and supplemental parking spaces by way of a Declaration of Use agreement. The following variances are requested for the 11 parallel required off-street parking spaces to be located on the north side of the 100 block of Barton Avenue: 1) to allow the landscape open space area to be reduced from the existing 51.98% to 50.48% in lieu of 55% minimum landscape open space as required by code; 2) to allow the off-street parking with a zero setback in lieu of the 25 foot minimum setback required; 3) to allow the off-street parking spaces not to include the required screening with hedges, walls or a combination thereof as required; 4) to allow the interior off-street parking landscape open space to be reduced to zero in lieu of the minimum 10% (205.3 sq. ft.) required. [Attorney: Harvey E. Oyer, Esq.] (Landmarks Preservation Commission meeting: Deferred the Project to December 21, 2016. Carried 7-0.)

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #28-2016 WITH SITE PLAN REVIEW AND VARIANCES The application of Gregory Fisher; relative to property commonly known as **316 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to allow the construction of a 2,700 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot west side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot east side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the Project to the January 25, 2017 meeting. Carried 7-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #29-2016 WITH SITE PLAN REVIEW AND VARIANCES The application of Gregory Fisher; relative to property commonly known as **320 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a special exception with site plan review to allow the construction of a 2,713 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot east side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot west side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the Project to the January 25, 2017 meeting. Carried 7-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #30-2016 WITH SITE PLAN REVIEW AND VARIANCES

The application of Town of Palm Beach (Tom Bradford, Town Manager); relative to property commonly known as **340 Seaview Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to approval to allow a new two-story 33,810 square foot Recreation Center for the Town of Palm Beach that will include a new athletic field, parking lot, gymnasium, tennis pro shop, multi-purpose room, fitness center with locker rooms, concession area, classrooms, offices and new maintenance building, new tennis backboard, new scoreboard. A second special exception request is to allow for a rebound wall to be constructed on the north side of the new maintenance building. The following variances are being requested in order to construct the new community center: 1) A west side yard setback of 10 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 2) A north side yard setback of 8 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 3) A street rear yard setback for the new parking lot on Royal Palm Way of 4 feet in lieu of the 35 foot minimum required for properties that are in excess of 20,000 square feet; 4) an east side yard setback of 4 feet in lieu of the 30 foot minimum required for the new parking lot on Royal Palm Way for properties that are in excess of 20,000 square feet; 5) a height of 27 feet in lieu of the 22 foot maximum allowed; 6) an overall height of 35 feet in lieu of the 30 foot maximum allowed; 7) a vertical distance to the top of beam of 30.75 feet in lieu of the 26 foot maximum distance allowed from the crown of street to top of beam; 8) landscaped open space of 43% in lieu of the 55% minimum required for properties that are in excess of 20,000 square feet; 9) parking lot interior landscaped open space of 5% in lieu of the 10% minimum required; 10) to allow signage on the proposed scoreboard which would exceed the maximum signage allowed (of one for each street frontage); 11) to allow three (3) air-conditioning units to be on the roof that is in excess of the 4 foot maximum allowed. The proposed A/C units will be 5 feet tall plus the height of the stand. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Implementation of the proposed

variance will not cause negative architectural impact to the subject property with existing parking or Option B. Carried 4-3]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #20-2016 WITH SITE PLAN REVIEW AND VARIANCE

The application of SKIK, LLC – Zvenka V. Kleinfeld, Manager; relative to property commonly known as **232 Colonial Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting to allow 1) the construction of a 2,845.5 square foot two-story, single family residence on a non-conforming lot which is 75 feet in width in lieu of the 100 foot minimum required; 82 feet in depth in lieu of the 100 foot minimum required and 6,150 square feet in area in lieu of the 10,000 square foot minimum required; 2) To have a front yard setback for one story portion of the residence to be 23 feet in lieu of the 25 foot minimum setback required. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 5-2]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

VARIANCE #25-2016 The application of Maura Ziska, Manager of Barnacle PB LLC; relative to property commonly known as **221 Oleander Ave.**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant requests a variance to allow construction of a new 2,930 square foot, two story residence on a lot with a depth of 56 feet in lieu of the 100 foot minimum required and a lot area of 4,200 square feet in lieu of the 10,000 square foot minimum; a variance to allow lot coverage to be 41.6% in lieu of the 30% maximum allowed; a variance to allow a front yard setback to be 13.5 feet in lieu of the 25 foot minimum; and a variance to allow a rear yard setback to be 10 feet in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the Project to the December 28, 2016 meeting. Carried 7-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #31-2016 The application of Costa (Sasha Bennemann, Principal); relative to property commonly known as **150 Worth Ave., Ste. 234**, described as lengthy legal description on file; located in the C-WA Zoning District. The applicant is requesting a special exception approval to operate a new restaurant at 150 Worth Avenue, Suite 234, called Costa, which will replace Cooklyn (previously approved but never opened), GIGI's Tap and Table Restaurant (formerly Cha Cha's). The new restaurant will occupy the same square footage (5,243) and have the same number of total seats (151) and outdoor seats (14) as the prior restaurants. The applicant agrees to be bound by all existing conditions of approval. [Attorney: Maura Ziska, Esq.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #32-2016 The application of Palm Beach Bicycle Trail Shop; relative to property commonly known as **50 Coconut Row, Suite S117**, described as lengthy legal description on file; located in the C-PC Zoning District. The Palm Beach Bicycle Trail shop requests a special exception permit to operate a 2,580 square foot retail store in Suite S117 at The Royal Poinciana Plaza. Since the proposed space exceeds 2,000 square feet, the applicant is required to obtain Town Council approval and a finding that the proposed use is town serving. [Attorney: Maura Ziska, Esq.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #33-2016 The application of Kirna Zabete Inc., a Delaware S corporation (Kirna Zabete); relative to property commonly known as **340 Royal Poinciana Way, Ste. 305**, described as lengthy legal description on file; located in the C-PC Zoning District. The applicant requests a special exception permit to operate a 2,902 square foot retail store in Suite 305 at The Royal Poinciana Plaza. Since the proposed space exceeds 2,000 square feet, the applicant is required to obtain Town Council approval and a finding that the proposed use is town serving. [Attorney: Maura Ziska, Esq.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #29-2016 The application of DBSC LLC (Maura Ziska, Manager); relative to property commonly known as **1610 N. Ocean Blvd.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant requests three (3) variances for a point of measurement to allow the construction of a new 9,670 square foot two story residence. The proposed variances are for the new house to have a point of measurement at 8 feet National Geodetic Vertical Datum (“NGVD”) in lieu of the 7.5 foot NGVD required and the 9.5 NGVD finished floor elevation proposed for cubic content ratio, building height and overall height. 1)The cubic content ration as measured from 8 ft NGVD would be 3.85 (94,999 cubic feet) in lieu of the 3.97 ratio (97,839 cubic feet) calculated at 7.5 feet NGVD; 2) a building height of 22 feet in lieu of the 22.25 feet if measured at 7.5 feet NGVD; 3) and an overall height of 30 feet in lieu of 30.1 feet if measured at 7.5 feet NGVD. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject property. Carried 6-1]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #30-2016 The application of William F. X. Moody and Dana E. Landry; relative to property commonly known as **3 Pelican Ln.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a variance to allow the construction of a 33 square foot addition with a street side yard setback of 26.16 feet in lieu of the 35 foot minimum required. [Attorney: Maura Ziska, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmark property. Carried 7-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #31-2016 The application of Robb R. Maass and Elizabeth Maass; relative to property commonly known as **238 Phipps Plaza**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant is proposing to enclose an existing outside stair and an open second story balcony. The variances being requested in order to allow these enclosures are: a) a north front yard setback of 6.5 feet in lieu of 25 foot minimum required; b) an east side yard setback of 0.5 feet in lieu of 10 foot minimum required; and c) a south rear yard setback of 5.3 feet in lieu of 15 foot minimum required. [Attorney: M. Timothy Hanlon, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmark property. Carried 7-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #32-2016 The application of Austin and Gwendolyn Fragomen; relative to property commonly known as **233 Clarke Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant requests to demolish a non-conforming landmarked two story guest house/garage (1,422 sq. ft.) and rebuild a new guest house/garage (2,460 square feet) in the same general location. The following variances are required in order to build the new guest house/garage: 1) to allow an overall height of 20.5 feet in lieu of the 15 foot maximum allowed; and 2) to allow a two story accessory building on a lot that is under 20,000 square feet in the R-B Zoning District in lieu of the one story maximum allowed. [Attorney: Maura Ziska, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmark property. Carried 6-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #33-2016 The application of William J. Georgas; relative to property commonly known as **357 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to install a six foot (6') high wooden fence on the west property line. The following variances are being requested to construct said fence: a) to allow the wooden fence with a zero (0) setback in lieu of the three foot (3') minimum required; and b) to allow said fence without the required three foot (3') high hedge in front of the wooden fence. [Attorney: Francis X. J. Lynch, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 4-3]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Ordinances - Second Reading

Agenda Title

DINANCE NO. 16-2016 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134-893, Lot, Yard And Area Requirements By Creating Alternative Zoning Regulations That Could Be Used For Seaview Avenue, Seaspray Avenue, Seabreeze Avenue In The R-B Zoning District; Sections 134-1113, 134-1163, 134-1213, 134-1308 By Exempting Sub-Basements From The Maximum Building Length And Floor Area Requirements In The C-TS, C-WA, And C-OPI Commercial Zoning Districts And The Maximum Building Length Requirement C-B Commercial Zoning District; Section 134-1616 Creating Separate Zoning Regulations For Lot Coverage, Setbacks And Landscape Open Space Requirements For Sub-Basements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1516 By Providing Landscape Screening Regulation For Boxed Signs Providing Essential Services; Section 134-1731 By Providing Additional Regulations For Exterior Lighting And Section 134-2327 By Eliminating A Specific Fee For Visitor/Service Signs; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated November 30, 2016, From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 16. 2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Fact Sheet: Effect On Underground Garages
Ordinance No. 16-2016

Date: November 30, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council proceed forward with the deliberation of newly proposed Ordinance No. 16-2016. The attached “Fact Sheet” may assist with understanding the consequences of Ordinance adoption.

GENERAL INFORMATION

Ordinance No. 16-2016 contains several changes to the Town’s Zoning Ordinance, most notably 1) redevelopment options for owners of property on the “Sea-streets,” and 2) amendments regulating the size of underground parking structures.

Underground parking changes have been reviewed and recommended for approval by the Planning & Zoning Commission. The Town Council initially reviewed the changes while acting as the Local Planning Agency (LPA), on September 14 of this year. Clarifications were determined necessary, and the Ordinance was deferred until the month of October. Acting as the LPA again on October 14, resident Anne Pepper with her consultant Nilsa Zacarias, posed a series of questions about underground parking changes, casting doubt on commercial intensification and drainage. Council members ultimately decided not to remand the issue back to the Planning & Zoning Commission, but instead to defer consideration until its November 9th meeting date.

Staff has prepared the attached “Fact Sheet” in order to assist Council members to understand the various implications of the underground parking changes,

cc: John C. Randolph, Town Attorney
Planning & Zoning Commissioners

ORDINANCE NO. 16-2016

UNDERGROUND PARKING CHANGES

FACT SHEET

1. Underground parking garages are presently permitted throughout Town, including residential and commercial districts.
2. Zoning regulations differ from district to district, but present requirements limit underground parking garages, and any connected structural portion situated aboveground, to a maximum building length of 150' and a maximum floor area of 15,000 sq. ft.
3. As proposed, both the 150' maximum length limitation, as well as the 15,000 sq. ft. maximum floor area limitation, would be eliminated for sub-basements (but not for aboveground structures). By definition, sub-basements are underground elements that cannot be seen.
4. Lot coverage regulations for aboveground structures will not change. A uniform 70% lot coverage will apply to all sub-basements in the C-TS, C-WA, C-B, and C-OPI commercial districts.
5. Individual building elements connected to the underground garage, yet extending aboveground, remain subject to existing lot coverage requirements.
6. At present, underground garages must be situated with at least 51% directly beneath the building above. As proposed, no offset limitation would exist, however the 70% lot coverage would apply, and 5' property line setbacks would apply.
7. All present drainage requirements remain unchanged.
8. Individual underground parking garages, when proposed, are presently required to obtain Site Plan approval from the Town Council. That requirement is to remain unchanged.
9. All infrastructure concurrency requirements pertaining to underground parking garages are to remain unchanged.
10. Landscaping, when it exists directly over an underground parking garage, does not presently count as landscaped open space for satisfying minimum thresholds. It is proposed to eliminate that provision, thereby allowing "green space" directly above an underground parking garage to count as part of required landscaped open space.
11. No relaxation of commercial building heights, setbacks, or area is proposed for any aboveground development.

What Does Change?

1. Underground parking garages would not be limited to 150 linear feet, nor 15,000 sq. ft. in size.
2. There would be no limitation on the amount of “offset” between underground and aboveground building elements.
3. Green (“softscape”) space situated directly over an underground garage would be allowed to count as part of Code required landscaped open space.
4. Underground parking garages would be limited to 70% lot coverage in the C-TS, C-WA, C-B, and C-OPI commercial districts (regardless of what is allowed aboveground).

What Does Not Change?

1. Existing lot coverage maximums for all aboveground structures remain as is.
2. Existing height, overall height, and setbacks for all aboveground structures remain as is.
3. Drainage requirements remain as is.
4. The amount of off-street parking required for various land uses remains as is.
5. Minimum landscaped open space requirements remain as is.
6. The required Town Council review/approval process remains as is.
7. Infrastructure concurrency requirements remain as is.

ORDINANCE NO. 16-2016

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: Section 134-893, Lot, Yard And Area Requirements By Creating Alternative Zoning Regulations That Could Be Used For Seaview Avenue, Seaspray Avenue And Seabreeze Avenue In The R-B Zoning District; Sections 134-1113, 134-1163, 134-1213 And 134-1308 By Exempting Sub-Basements From The Maximum Building Length And Floor Area Requirements In The C-TS, C-WA, And C-OPI Commercial Zoning Districts And The Maximum Building Length Requirement C-B Commercial Zoning District; Section 134-1611 By Creating Separate Zoning Regulations For Lot Coverage, Setbacks And Landscape Open Space Requirements For Sub-Basements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1516 By Providing Landscape Screening Regulation For Boxes Housing Essential Services; Section 134-1731 By Providing Additional Regulations For Exterior Lighting And Section 134-2327 By Eliminating A Specific Fee For Visitor/Service Permits; 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 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 require 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 VI, DISTRICT REGULATIONS, Section 134-893, Lot, yard and area requirements – Generally, is hereby amended to include a new sub-section(a) to read as follows:

Section 134-893. – Lot, yard and area requirements – Generally.

(a) In order to protect the unique, residential character of Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets), partial or complete demolition and reconstruction of a single-family dwelling and/or accessory building(s) on a lot 75 feet or less in width are

exempt from the lot, yard, and area requirements as set forth in this Section if redeveloped substantially on the same footprint as existed prior to demolition provided the following conditions are met:

1. The proposed single-family dwelling and/or accessory building(s) are of an architectural style consistent with the architecture of the single-family dwellings within the R-B zoning district on both sides of the subject street, between the intersecting streets in both directions, where the dwelling is situated, as determined by the Architectural Commission.
2. The proposed single-family dwelling and/or accessory building(s) shall meet the requirements in Section 134-893(c).
3. If the existing footprint of the single-family dwelling and/or accessory building(s) lay within 5 feet of a side or rear lot line, the replacement footprint must be shifted such that an absolute minimum 5 foot side and rear lot line setback is created, and further the redeveloped home must be situated at least 10 feet apart from any structure on a neighboring lot.
4. The height and overall height from the point of measurement of the proposed single-family dwelling and/or accessory building(s) are no higher than the dwelling and/or accessory building(s) being demolished.
5. Any square footage added to the proposed single-family dwelling and/or accessory building(s) shall meet all lot, yard and bulk zoning requirements in the Code.
6. If using the provisions of this subsection (a) above, no variances can be requested for any new additions which add additional square footage or cubic content than existed prior to demolition of a single-family dwelling and/or accessory building(s).

The remaining subsections in 134-893 shall remain unchanged, however, they shall be re-lettered to follow consecutively subsection (a) above.

Section 2. Article VI, DISTRICT REGULATIONS, Section 134-1113, Lot, yard and area requirements – Generally, is hereby amended at subsections (10) Length, and (12) Floor area, to read as follows:

Sec. 134-1113. - Lot, yard and area requirements—Generally.

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

(10) Length.

- a. For one-story buildings, the maximum building length is 150 feet.

b. For two-story buildings, the maximum building length is 150 feet.

c. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building length.

(12) *Floor area.*

a. For one-story buildings, the maximum gross floor area of buildings is 15,000 square feet.

b. For two-story buildings, the maximum gross floor area of buildings is 15,000 square feet.

c. Sub-basements shall be exempt from the maximum floor area requirements. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area

Section 3. Article VI, DISTRICT REGULATIONS, Section 134-1163, Lot, yard and area requirements – Generally, is hereby amended at subsection (10) Length, and (12) Floor area to read as follows:

Sec. 134-1163. - Lot, yard and area requirements—Generally.

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

(1)...

(10) *Length.*

a. For one-story buildings, the maximum building length is 150 feet.

b. For two-story buildings, the maximum building length is 150 feet.

c. For multi-family building maximum dimensions, see section 134-1871 et seq.

d. Refer to the Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations

e. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building length.

(12) *Floor area.*

a. For one-story buildings, the maximum gross floor area of buildings is 15,000 square feet.

- b. For two-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
- c. Refer to Work Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.
- d. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Section 134-1213, Lot, yard and area requirements – Generally, is hereby amended at subsection (10) Length, and subsection (12) Floor area, to read as follows:

Sec. 134-1213. - Lot, yard and area requirements—Generally.

In the C-OPI office, professional and institutional district, the schedule of lot, yard and area requirements is as given in this section:

(10) Length.

- a. For one-story buildings, the maximum building length is 150 feet.
- b. For two-story buildings, the maximum building length is 150 feet.
- c. For three-story buildings, the maximum building length is 150 feet.
- d. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building length.

(12) Floor area.

- a. For one-story buildings, the maximum gross floor area of buildings is 30,000 square feet.
- b. For two-story buildings, the maximum gross floor area of buildings is 30,000 square feet.
- c. For three-story buildings, the maximum gross floor area of buildings is 30,000 square feet.
- d. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area.

Section 5. Article VI, DISTRICT REGULATIONS, Section 134-1308, Lot, yard and area requirements – Generally, is hereby amended at subsection (10) Length, to read as follows:

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

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

(10) Length.

a. For one-story buildings, the maximum building length is 150 feet.

b. For two-story buildings, the maximum building length is 150 feet.

c. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building length.

Section 6. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1611, Sub-basement exception, is hereby amended to read as follows:

Sec. 134-1611. - Sub-basement exception.

(1) For residential and time-share development or redevelopment, and for commercial development within the C-PC, Planned Commercial District, No portion of a sub-basement may be located beyond the confines of the outer walls of the first floor above it except under the following conditions:

~~(1a)~~ The sub-basement shall have at least 51% of its floor area within the confines of the outer walls of the main portion of the building located above the sub-basement.

~~(2b)~~ ~~The portion of the sub-basement outside of the outside walls of the main portion of the building located above the sub-basement shall have no physical appearance and be entirely hidden from view from any elevation of the building.~~

~~(3c)~~ The developed grade outside the walls of that portion of the sub-basement that is outside the walls of the main portion of the building located above the sub-basement shall not be raised or altered in order to be hidden from view, more than two feet above the natural grade.

~~(4d)~~ The portion of the sub-basement outside of the outside walls of the main building above the sub-basement shall not be allowed to count in the calculations for landscape open space requirements and shall count toward lot coverage, and,

(e) The sub-basement shall be setback a minimum of five feet from a property line.

(2) For development or redevelopment in commercial zoning districts with the exception of the C-PC, Planned Commercial District, a sub-basement shall be allowed under the following conditions:

(a) The maximum lot coverage of a proposed sub-basement shall not exceed a maximum of 70%. Said lot coverage shall only be for the sub-basement and shall not count toward the maximum lot coverage of the portion of the buildings(s) above said sub-basement.

(b) The sub-basement shall be entirely hidden from view from any elevation of the building.

(c) The portion of the sub-basement outside of the outside walls of the main building above the sub-basement shall be allowed to count in the calculations for landscape open space requirements.

(d) The sub-basement shall be setback a minimum of five feet from a property line.

Section 7. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1516, Underground location of utility service lines, is hereby amended to read as follows:

Sec. 134-1516. - Underground location of utility service lines.

1. Boxes housing essential services in the front, street side and street rear yard setbacks shall be screened from view from the street in so much as possible by either a wall or hedge planted and maintained at a height the same as or greater than said essential service box. An essential service is defined in Sec. 134-2 of the Code.
2. At the time that any new buildings or structures are being constructed or located on any privately owned property or at the time that any existing buildings or structures on privately owned property are being reconstructed, substantially extended and enlarged or structurally altered, such buildings or structures shall have an entirely underground location for all utility service lines, electrical distribution systems, wires and cables, which connect to and service such buildings or structures.

Section 8. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Sec. 134-1731, is hereby amended to read as follows:

Sec/ 134-1731. Outdoor lighting equipment.

a. The maximum height of poles or structures for the purpose of supporting lighting fixtures and lighting equipment shall be 15 feet above finished grade.

b. Light Trespass shall be defined as the poor control of exterior lighting that crosses property lines and detracts from property values and our quality of life. Any exterior or landscape lighting that creates the following conditions is prohibited.

- 1) Lighting or fixtures that allow more than one half foot-candle to spill off the property.

2) Lighting that is directed or aimed in such a manner as to create a nuisance or glare to any abutting property.

3) Lighting that is installed and/or aimed in such a manner as to create a nuisance or glare to passers-by, either by foot or in a moving vehicle.

Section 9. Article XI, ON-STREET PARKING PERMITS*, Sec. 134-2327, Issuance, is hereby amended to read as follows:

Sec. 134-2327. - Issuance.

Under this division, parking permits may be granted to persons as follows:

(1) *Resident permits.* To persons who are residents of any particular area in which parking is so restricted, to be limited to that particular area in which parking is so restricted for every vehicle owned by those persons.

(2) *Visitor/service permits.* Upon application by such owner, up to two visitor/service permits may be issued, which permits may be used by such owner for the sole purpose of providing parking on a temporary basis to service vehicles which are conducting work at such owner's premises or for visitors of such owner's residence. These permits shall be used only for the period of time during which business is to be conducted by the service vehicles or for the duration of stay of a visitor to the residence for which the permit is issued.

The application for a visitor/service permit or permits shall be filed by such owner. A fee is hereby authorized for issuance of said permit of \$20.00, payable to the finance department ~~shall be charged~~ for each visitor/service permit. The amount of the fee shall be established by resolution of the town council and may be amended from time to time by resolution of the town council. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's or service vehicle observable through the front windshield of the vehicle. The permits shall be valid only for the period of time during which the service vehicle is conducting work at the premises or for the period of time a visitor is at the premises.

(3) *Temporary group permits.* To residents as provided in section 134-2328.

(4) *Adjacent resident permits.* To persons who are residential users in a commercially zoned area immediately adjacent and contiguous to the residential area in which parking is restricted, to be limited to that particular area in which parking is so restricted, for not more than two vehicles owned by that person and upon proof shown that on-site parking is not available to that person on the property in which he resides within the commercially zoned area.

Section 10. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect

without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 11. Repeal of Ordinances in Conflict.

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

Section 12. Codification.

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

Section 13. Effective Date.

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 9th day of November 2016, and for second and final reading on this 14th day of December, 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 24-2016 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 Adding Definitions For Medical Marijuana Treatment Center, Medical Marijuana Dispensary And Cannabis Cultivation; Article VI, District Regulations, Section 134-1109, Special Exception Uses, By Prohibiting Medical Marijuana Or Providing Said Use As A Special Exception In The C-Ts Zoning District Should The State Preempt Said Prohibition; At Article VIII, Supplementary District Regulations, Section 134-1731, Outdoor Lighting, By Providing Regulations For Light Trespass; At Article VIII, Supplemental District Regulations, By Creating Division 16, “Reasonable Accommodation Procedures”, Section 134-2112, Reasonable Accommodation Procedures, By Providing For Reasonable Accommodation Procedures Pursuant To The Fair Housing Amendments Act And Title II Of The American’s With Disabilities Act; At Article VIII, Supplementary District Regulations By Creating A Division 17, “Medical Marijuana Treatment Centers And Medical Marijuana Dispensaries”, Section 134-2113, Prohibition, And Section 2114, Development Standards, By Prohibiting Medical Marijuana Treatment Centers, Medical Marijuana Dispensaries Marijuana Cultivation And Creating Regulations For Medical Marijuana Treatment Centers And Medical Marijuana Dispensaries Should State Law Preempt Said Prohibition In The Town Of Palm Beach; Division 16 Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- **Memorandum Dated November 29, 2016 From John S. Page, Director of Planning, Zoning & Building**

▢ **Ordinance No. 24-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 134, Zoning
Ordinance No. 24-2016

Date: November 29, 2016

STAFF RECOMMENDATION

Staff recommends that the Local Planning Agency (LPA) consider Ordinance No. 24-2016, amending the Zoning Ordinance. The LPA should then make a recommendation on the proposed Ordinance to the Town Council for its consideration on first reading.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its July 19, 2016 and September 20, 2016 meetings, made recommendations on the proposed Zoning Code modifications.

GENERAL INFORMATION

The Town Council considered the Planning and Zoning Commission's Record and Report at its November 9, 2016 Town Council meeting. The Council directed Staff to draft the attached Ordinance for consideration by the Local Planning Agency and Town Council. The proposed Ordinance does the following:

- Provides for reasonable accommodations regulations within the Zoning Code for disabled individuals based on the Federal Fair Housing Amendment Act. The proposed zoning text amendments provide a public hearing process, notice provisions and minimum application requirements to apply for reasonable accommodations.
- Provides for zoning regulations that prohibit medical marijuana treatment facilities, medical marijuana dispensaries and the cultivation of medical marijuana. The proposed ordinance conditionally allows medical marijuana treatment facilities and medical marijuana dispensaries as a special exception use in the C-TS (Commercial Town-serving) zoning district.
- Provides for regulations prohibiting light trespass on neighboring properties.

The proposed changes in attached Ordinance No.24-2016 are in add/delete format. In addition, the Ordinance is organized in numerical order by section numbers in Chapter 134, Zoning. If you have any questions about any of the attached information, please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

Ordinance No. 24-2016 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachment

cc: Planning and Zoning Commissioners
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building
Paul W. Castro, AICP, Zoning Administrator
John Lingdren, AICP, Planning Administrator
zf

ORDINANCE NO. 24-2016

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 ADDING DEFINITIONS FOR MEDICAL MARIJUANA TREATMENT CENTER, MEDICAL MARIJUANA DISPENSARY AND CANNABIS CULTIVATION; ARTICLE VI, DISTRICT REGULATIONS, SECTION 134-1109, SPECIAL EXCEPTION USES, BY PROHIBITING MEDICAL MARIJUANA OR PROVIDING SAID USE AS A SPECIAL EXCEPTION IN THE C-TS ZONING DISTRICT SHOULD THE STATE PREEMPT SAID PROHIBITION; AT ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 134-1731, OUTDOOR LIGHTING, BY PROVIDING REGULATIONS FOR LIGHT TRESPASS; AT ARTICLE VIII, SUPPLEMENTAL DISTRICT REGULATIONS, BY CREATING DIVISION 16, "REASONABLE ACCOMMODATION PROCEDURES", SECTION 134-2112, REASONABLE ACCOMMODATION PROCEDURES, BY PROVIDING FOR REASONABLE ACCOMMODATION PROCEDURES PURSUANT TO THE FAIR HOUSING AMENDMENTS ACT AND TITLE II OF THE AMERICAN'S WITH DISABILITIES ACT; AT ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS BY CREATING A DIVISION 17, "MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSARIES", SECTION 134-2113, PROHIBITION, AND SECTION 2114, DEVELOPMENT STANDARDS, BY PROHIBITING MEDICAL MARIJUANA TREATMENT CENTERS, MEDICAL MARIJUANA DESPENSARIES MARIJUANA CULTIVATION AND CREATING REGULATIONS FOR MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSARIES SHOULD STATE LAW PREEMPT SAID PROHIBITION IN THE TOWN OF PALM BEACH; DIVISION 16 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 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

Ordinance No. 24-2016

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 by adding new definitions as follows:

Medical Marijuana Treatment Center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualified registered patients or their personal caregivers and is registered by the State Department of Health and regulated under Chapter 134 of the Town Code of Ordinances.

Medical Marijuana Dispensary means a facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal, and state laws. Physicians authorized by State law to order low-THC cannabis, as defined in Florida Statutes, for qualified registered patients' medical use are not included in the definition of Medical Marijuana Dispensary.

Cannabis Cultivation means a use of any property, in whole or in part, including inside buildings, for the growing or cultivation of Cannabis plant(s), whether or not such growing or cultivation is lawful under federal or state law.

Section 2. Article VI, DISTRICT REGULATIONS, Section 134-1109, is hereby amended to add a new paragraph (19) to read as follows:

Sec. 134-1109. Special exception uses.

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

...

(19) Medical marijuana treatment centers and medical marijuana dispensaries are prohibited, however, should State Law preempt said prohibition, said uses shall be permitted subject to the requirements in Section 134-2113 through 134-2114 of this chapter.

Section 3. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, is hereby amended at Section 134-1731, to read as follows:

Sec. 134-1731. - Outdoor lighting equipment.

The maximum height for poles or structures for purpose of supporting lighting fixtures and lighting equipment shall be 15 feet above finished grade.

Any exterior or landscape lighting that creates the following conditions shall be deemed in violation of this section of the Code and shall be subject to action by the Code Enforcement Board.

- 1) Lighting or fixtures that allow more than one half foot-candle to spill off the property.
- 2) Lighting that is directed or aimed in such a manner as to create a nuisance or glare to any abutting property.
- 3) Lighting that is installed and/or aimed in such a manner as to create a nuisance or glare to passers-by, either by foot or in a moving vehicle.

Section 4. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, is hereby amended to create a Division 16, Reasonable Accommodations, Section 134-2112, to read as follows:

Division 16. Reasonable Accommodation Procedures.

Sec. 134-2112. Reasonable Accommodation Procedures.

- 1) This section implements the policy of the Town of Palm Beach for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the federal Fair Housing Amendments Act ("FHAA") and the Americans with Disabilities Act ("ADA"). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHAA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the Town's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHAA and the ADA pursuant to the procedures set out in this section.
- 2) A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the Town Clerk. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in subsection (10) below.

- 3) Should the information provided by the disabled individual to the Town include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the Town, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The Town shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the Town for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the Town. The Town will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the Town shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.
- 4) The Town Manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation, after a minimum of thirty (30) day notice to all property owners within three hundred feet of the property proposed for a reasonable accommodation and after a public hearing to receive comments, input and information from the public (provided, however, the Town Manager or designee shall not be required to render his or her decision at said public hearing). Each applicant submitting a reasonable accommodation request form shall be responsible for providing a Notice Affidavit to the Town Manager, or his/her designee, verifying that all property owners within the three hundred foot radius of the proposed property was mailed a proper notice outlining the specific nature of the reasonable accommodation request, including the date time and location of the public hearing in which said request will be considered and a listing of all property owners; and a corresponding map of property owners within the three hundred foot radius. Said property owner list and map is required to be provided from information provided by the Palm Beach County Property Appraisers Office. When a reasonable accommodation request form has been completed and submitted to the Town Clerk it will be referred to the Town Manager, or designee, for review and consideration. The Town Manager, or designee, shall issue a written determination within 45 days of the date of receipt of a completed application and may, in accordance with federal law: (a) grant the accommodation request; (b) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or (c) deny the request, in accordance with federal law. Any such denial shall be in writing and shall state the grounds therefor. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Town Manager, or designee, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the

45-day period to issue a written determination shall no longer be applicable, and the Town Manager, or designee, shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the Town Manager, or designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and, therefore, the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the Town with regard to said reasonable accommodation request shall be required. The deadlines referenced herein may be extended by mutual agreement between the Town and the applicant.

- 5) In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they, or the party they represent, are handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this section the disabled individual must show: (i) a physical or mental impairment which substantially limits one or more major life activities; (ii) a record of having such impairment; or (iii) that they are regarded as having such impairment. Next, the requesting party will have to demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled persons equal opportunity to use and enjoy housing. The foregoing (as interpreted by the Courts) shall be the basis for a decision upon a reasonable accommodation request made by the Town Manager, or designee, or by the Town Council in the event of an appeal.
- 6) Within 30 days after the Town Manager's, or designee's, determination on a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the Town Council who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed.
- 7) There shall be no fee imposed by the Town in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the Town Council, and the Town shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.
- 8) While an application for reasonable accommodation, or appeal of a determination of same, is pending before the Town, the Town will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.
- 9) The following general provisions shall be applicable:

- a. The Town shall display a notice in the Town's public notice bulletin board (and shall maintain copies available for review in the Town Clerk's office), advising the public disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
- b. A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.
- c. The Town shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing etc. to ensure the process is accessible.
- d. Reasonable accommodation request form shall be filed with the Town to include the following information:
 1. Name of Applicant:
 2. Telephone Number:
 3. Address:
 4. Address of housing or other location at which accommodation is requested:
 5. Describe qualifying disability or handicap:
 6. Describe the accommodation and the specific regulation(s) and or procedure(s) from which accommodation is sought:
 7. Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service:
 8. Name address and telephone number of representative if applicable:
 9. Other information:

10. Signature of Disabled Individual or Representative, if applicable, or Qualifying Entity:

Section 5. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, is hereby amended to to add a Division 17, Sections 134-2113 and 134-2114 to read as follows:

DIVISION 17. MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSARIES.

Sec. 134-2113. Prohibition.

Medical marijuana treatment centers and medical marijuana dispensaries are prohibited in all zoning categories of the Town, however, should State law preempt the prohibition of said uses, said uses are only permitted in the Commercial Town Serving (C-TS) District, subject to the development standards set forth in Sections 123-201, 134-226 through 134-230, 134-1109 and 134-2114.

Section 134-2114. Development Standards.

In addition to applicable regulations and requirements otherwise set forth in this article, the following minimum standards and regulations shall apply to the development or use of property for a medical marijuana treatment center or medical marijuana dispensary. Such standards shall be met regardless of the existence of lesser standards that may be imposed by other agencies of government. The Town Council may impose additional conditions or safeguards as deemed necessary.

- (1) *Distance Separation.* No medical marijuana treatment center or dispensary shall be located within one thousand (1,000) feet of any school, church, child care facility, municipal park or substance abuse treatment facility licensed by the Florida Department of Children and Families pursuant to Rule 65D-30, or within two thousand five hundred (2,500) feet of another medical marijuana treatment center or dispensary, or within one hundred (100) feet of residentially zoned property within the Town limits, as further defined by these regulations. Distances shall be measured by drawing a straight line between the closest point of the medical marijuana treatment center/dispensary structure to the closest property line or tenant space (whichever is closer) of a school, church, childcare facility, public park, resource recovery/addition treatment facility, or other medical marijuana treatment center or dispensary residentially zoned property.
- (2) *Parking.* Any off-street parking demand created by a medical marijuana treatment center /dispensary shall not exceed the parking spaces located or allocated on site, as required by Section 134-2176. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the medical marijuana treatment

center/dispensary will be sufficient to accommodate traffic and parking demands generated by the medical marijuana treatment center/dispensary, based upon a current traffic and parking analysis prepared by a certified professional.

- (3) *Display of Registration/Town Approval of Operational Plan.* Any medical marijuana treatment center/dispensary shall be validly registered with the State of Florida, as required, and with the Town, and shall prominently display in a public area near its main entrance copies of all state licenses, Town registration and local business tax receipt, and the name of the owner and designated physician responsible for compliance with State and Town regulations. A medical marijuana treatment center/dispensary shall register with the Town by completing and submitting to the Planning Zoning and Building Department a registration form and operational plan, including security measures, for review and approval by the Town prior to issuance of the Town registration and business tax receipts. The operational plan shall be reviewed annually prior to renewal of the registration and business tax receipt to ensure that it adequately addresses concerns of the Town, including security, parking, loitering, etc.
- (4) *Controlled Substances.* The on-site sale, provision or dispensing of controlled substances (other than those types of marijuana approved for sale by the Department of Health or its successor agency) at a medical marijuana treatment center / dispensary shall be prohibited except as is specifically set forth in applicable federal or state law.
- (5) *On-Site Consumption of Marijuana and/or Alcoholic Beverages.* No consumption of marijuana or alcoholic beverages shall be allowed on the premises, including in the parking areas, sidewalks or rights-of-way. In addition, no consumption of marijuana or alcoholic beverage shall be allowed on neighboring parking areas, sidewalks or right-of-way. The persons responsible for the operation of the medical marijuana treatment center / dispensary shall take all necessary and immediate steps possible to ensure compliance with this paragraph.
- (6) *Loitering.* A medical marijuana treatment center/dispensary shall provide adequate seating for its qualified patients and care givers and shall not allow qualified patients or care givers, to stand, sit (including in a parked car), or gather or loiter outside of the building where the treatment center/dispensary operates, including in any parking areas, sidewalks, right-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. In addition, no other visitors or business invitees shall be permitted on the premises per (15)c of this Division and said person(s) shall not be allowed to loiter in any parking areas, sidewalks, right-of-way or neighboring properties for any period of time. The medical marijuana treatment center/dispensary shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.
- (7) *Queuing of Vehicles.* The persons responsible for the operation of the medical marijuana treatment center/dispensary shall ensure that there is no queuing of vehicles in the rights-of-way. The persons responsible for the operation of the medical

marijuana treatment center / dispensary shall take all necessary and immediate steps to ensure compliance with this paragraph.

- (8) *No Drive-Thru Service / No Delivery.* No medical marijuana treatment center / dispensary shall have a drive-thru or drive-in service aisle. All dispensing, payment or receipt of said marijuana shall occur from inside the medical marijuana treatment center / dispensary. No medical marijuana treatment center or dispensary shall conduct any form of off-site delivery service of medical marijuana prescriptions.
- (9) *Operating Hours.* A medical marijuana treatment center / dispensary may operate only Monday through Friday and only during the hours of 8:00 a.m. to 6:00 p.m.
- (10) *Compliance with Other Laws.* A medical marijuana treatment center / dispensary shall at all times be in compliance with all federal and state laws and regulations and the Town of Palm Beach Code.
- (11) *Certification Affidavit by Applicants for Related Uses.* Any application for a business tax receipt as a medical marijuana treatment center / dispensary as defined in Section 1-2, shall be accompanied by an executed affidavit certifying registration with the State of Florida and the Town of Palm Beach as a medical marijuana treatment center / dispensary. The failure of an applicant to identify the business in the application for a business tax receipt as a medical marijuana treatment center / dispensary will result in immediate expiration of the business tax receipt and immediate ceasing of all activity conducted in the medical marijuana treatment center / dispensary.
- (12) *Non-medical Marijuana Sales.* Non-medical marijuana sales, including the purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law, shall be prohibited uses in all zoning districts of the Town.
- (13) *Cannabis Cultivation.* Cannabis Cultivation shall be a prohibited use in all zoning districts of the Town.
- (14) *Property Standards.* Medical marijuana treatment centers and dispensaries shall be situated on real property meeting the following requirements:
- a. *Minimum Parcel Size.* The minimum parcel size shall be 20,000 square feet.
 - b. *Location.* Medical marijuana treatment centers and dispensaries shall have frontage on a collector or arterial roadway.
 - c. *Structure.* A medical marijuana treatment center and dispensary shall only be operated from a freestanding building that is not part of a larger commercial plaza, retail center, or multi-tenant building.

- d. Appearance. Building architecture, including building color, shall be harmonious with surrounding properties.
- e. Signage. Consistent with Article XI, SIGNS*, of this chapter.

(15) Security. Security measures shall be taken by the owner/operator, including but not limited to:

- a. A monitored alarm system and/or panic buttons shall be installed in the interior of the building.
- b. A uniformed armed security guard shall be on the premises at all times the dispensary is open for business. The security guard/officer must be insured and licensed with the State of Florida possessing the minimum of an active and valid Class "D" and a Class "G" license as per Florida State Statute 493.6301.
- c. Only qualified registered patients per Department of Health definitions and personal caregivers, employees of the business, or Town and State and any other applicable governmental staff members, shall be permitted inside the proposed business.
- d. Town staff shall be granted right of entry at all times to ensure compliance with the requirements of this Division 18.

(16) Other Activities. No medical marijuana treatment center or dispensary shall sell, market, dispense, provide, exchange, or otherwise vend any other services, product, or drug paraphernalia as defined by federal or state law. In addition, no medical marijuana dispensary or doctors, physicians, agents, employees, representatives, contractors, or the like shall provide any other medical, social, or psychological counseling, diagnosis or advice to any patient or business invitee.

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 14th day of December, 2016, and for second and final reading on this ____ day of _____, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 25-2016 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 106, Streets, Sidewalks And Other Public Places*, At Article I, In General, By Adding Section 106-5 Use Of Medical Marijuana On Public And Semi-Public Property, Prohibiting The Smoking Of Marijuana On Rights-Of-Way, Parks, Playgrounds, Recreational Facilities, Public Buildings, Beaches Or Other Property Owned And Controlled By The Town Of Palm Beach; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated November 29, 2016 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 25-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 106, Streets, Sidewalks and Other
Public Places
Ordinance No. 25-2016

Date: November 29, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider Ordinance No. 25-2016, amending the Zoning Ordinance.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its November 15, 2016 meeting, on a vote of 7-0 made a recommendation to modify Chapter 101, which is a companion to the proposed medical marijuana regulations identified in Ordinance No. 24-2016, proposed Zoning Code modifications.

GENERAL INFORMATION

The Town Council considered the Planning and Zoning Commission's Record and Report at its November 9, 2016 Town Council meeting. The Council directed Staff to draft the attached Ordinance for consideration by the and Town Council. The proposed Ordinance does the following:

- Provides regulations which prohibits the smoking of medical marijuana while on public property, including but not limited to rights-of-way, parks, playgrounds, recreational facilities, public buildings, beaches or other property owned or controlled by the Town.

The proposed changes in attached Ordinance No. 25-2016 are 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

Ordinance No. 25-2016 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachment

cc: Planning and Zoning Commissioners
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building
Paul W. Castro, AICP, Zoning Administrator
John Lingdren, AICP, Planning Administrator
zf

ORDINANCE NO. 25-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 106, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*, AT ARTICLE I, IN GENERAL, BY ADDING SECTION 106-5 USE OF MEDICAL MARIJUANA ON PUBLIC AND SEMI-PUBLIC PROPERTY, PROHIBITING THE SMOKING OF MARIJUANA ON RIGHTS-OF-WAY, PARKS, PLAYGROUNDS, RECREATIONAL FACILITIES, PUBLIC BUILDINGS, BEACHES OR OTHER PROPERTY OWNED AND CONTROLLED BY THE TOWN OF PALM BEACH; 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 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 106, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*, 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, is hereby amended to add Section 106-5, Use of medical marijuana on public and semi-public property, to read as follows:

Section 106-5. Use of medical marijuana on public and semi-public property

No person shall smoke medical marijuana while on public property, including but not limited to rights-of-way, parks, playgrounds, recreational facilities, public buildings, beaches or other property owned or controlled by the Town.

Section 2. 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 3. 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 4. Codification.

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

Section 5. Effective Date.

This Ordinance shall take effect immediately after its adoption, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 14th day of December, 2016, and for second and final reading on this ____ day of ____, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 14, 2016

Section of Agenda

Any Other Matters

Agenda Title

Planning and Zoning Commission Record and Report: Proposed Modifications and Changes to Chapter 134, Zoning, and the Town's Comprehensive Plan

Presenter

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

ATTACHMENTS:

- ❑ **Memorandum from John Page dated November 29, 2016**
- ❑ **EXHIBIT A, PLANNING AND ZONING COMMISSION RECORD AND REPORT**
- ❑ **Memorandum from Calvin Giordano & Associated dated November 23, 2016**
- ❑ **Memorandum from John Page dated November 3, 2016**
- ❑ **Memorandum from John Page dated November 3, 2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Planning and Zoning Commission Record and Report: Proposed Modifications and Changes to Chapter 134, Zoning, and the Town's Comprehensive Plan

Date: November 29, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the Planning and Zoning Commission Record and Report (EXHIBIT A) and provide further direction on possible amendments to the Zoning Ordinance. Study items appear in "BOLD" print. Newly proposed text is in add/delete format for ease of identification. Staff recommendations follow recommendations from the Commission.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its November 15, 2016 meeting, recommended approval of proposed Zoning Code modifications as identified Exhibit A.

GENERAL INFORMATION

The proposed Evaluation and Appraisal Report on the Town's Comprehensive Plan, and three applicant-related study items were considered by the Planning and Zoning Commission at its November 15, 2016, 2016 meeting. The Staff reports that address the applicant-related study items presented to the Planning and Zoning Commission are attached as backup information for your consideration. In summary, the recommendations included within this report consist of:

- The proposed Evaluation and Appraisal Report of the Town's Comprehensive Plan. Summary memorandum from Calvin Giordano & Associates is attached.
- Proposed zoning code modifications submitted in an application by RPP Palm Beach Property, LP, to allow outdoor seating as a special exception use in the C-PC zoning district (a.k.a. Royal Poinciana Plaza).
- Proposed zoning code modifications submitted by RPP Palm Beach Property, LP, to

change the Town-serving threshold requirement from 2,000 to 3,000 square feet gross leasable area in the C-PC commercial zoning district (a.k.a. Royal Poinciana Plaza).

- Proposed comprehensive plan text amendment submitted in an application by RPP Palm Beach Property, LP, to change the Town-serving threshold from 2,000 to 3,000 square feet gross leasable area for the C-PC zoning district within the Commercial Land Use Category.

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
Veronica B. Close, Asst. Director, Planning, Zoning & Building
zf

EXHIBIT A: PLANNING AND ZONING COMMISSION RECORD AND REPORT

The proposed Evaluation and Appraisal Report of the Town's Comprehensive Plan.

Recommendation:

The Commission recommended that the Evaluation and Appraisal Report of the Town's Comprehensive Plan, as modified, be adopted by a vote of 7-0. Staff concurs with the proposed changes.

Comprehensive Plan Update

Following direction from the Town Council, the Planning & Zoning Commission has met to review and consider updates to the Town's Comprehensive Plan. PZB staff, together with the Town's land use consultant, Richard Cannone from Calvin Giordano & Associates, presented changes to the Plan at both the October 14 and the November 15, 2016 Commission meetings. The Commission unanimously recommended that the updated Comprehensive Plan be adopted. A hard-copy of the revised Plan (large document in 3-ring binder) has been provided to the Council as a separate attachment. A recap of the necessity for engaging a consultant and updating the Plan follows immediately below, thereafter followed by a summary of recommended Commission changes.

Necessity for Comprehensive Plan Review

Comprehensive Planning is mandated by the State. The Florida Department of Economic Opportunity (DEO) is the State agency that ultimately reviews/approves local Plans. In keeping with the State's directive that the Town should review its Comprehensive Plan and report intended changes, if any, to the Florida Department of Economic Opportunity (DEO) no later than April of 2017, the Town Council, in 2015, directed staff to work cooperatively with Calvin Giordano to review and update all necessary data and analysis in the Plan, and to also eliminate any language no longer applicable.

It should be noted that the present Comprehensive Plan contains the following Elements:

Future Land Use
Transportation
Housing
Infrastructure
Coastal Management / Conservation
Recreation / Open Space

Intergovernmental Coordination
Capital Improvements
Optional Historic Preservation
Public Schools

Each Element contains narrative, analysis, and a listing of goals, objectives and policies intended to drive future actions.

At time of Council direction to staff regarding Plan update, it was made clear that the Town's future should be focused on maintaining the culture, serenity, and existing character of the Island rather than planning for new growth, roadways, changes to land use patterns, etc. Basic land use protections in the Plan were to remain: discouraging region-serving commercial development; controlling the pace, type and intensity of redevelopment; and encouraging development at lower densities/intensities than existing zoning allows. Basic land use protection strategies were also to remain: preventing critical and dangerous overuse of streets, public services and facilities, historical character and overall property values; minimizing the change or transition of existing low-density areas or structures to more intensive use patterns; and lowering the pattern of density, where possible, and to minimize tourism inflow. PZB Staff and the Town consultant prepared potential Plan updates in accordance with the Town Council direction as so outlined.

Planning & Zoning Commission Review of Comprehensive Plan

A hard-copy of the updated Plan, in add/delete format, was distributed to Commissioners at their September meeting, intended for review and discussion beginning the following month in October. Beginning in October and continuing in November, Mr. Cannone detailed the changes made to each element, making note of new data, deleted verbiage, and policy changes. The following issues, either changed or newly introduced into the Plan, were highlighted:

- Development in Neighboring Communities. Concern is expressed about the intensive development occurring in downtown West Palm Beach and Lake Worth, with related impacts on Town infrastructure and services.
- Neighborhood Improvement Districts. It is recognized that there may be future efforts designed to strengthen, stabilize, improve and enhance neighborhoods given the confinement of the Island's topography as well as intrusion of traffic within neighborhoods. Verbiage is permissive; there is no mandate to implement.
- Undergrounding Utilities. Planning has commenced to underground all existing overhead utility services.
- Peril of Flood. Updated language has been added to address the "peril of flood" (a State requirement) to increase community resiliency and protect property and infrastructure.
- Energy Efficiency. Verbiage has been added enhancing the importance of promoting energy efficiency.
- Recreation Center Planning. The Plan recognizes the planning efforts now underway to replace the existing Recreation Center.

- Deletion of the Public Schools Element. Appropriate policies therein were relocated within the Intergovernmental Coordination Element. These changes are the result of Florida statutes that eliminated requirements for school level of service and school concurrency.

Each individual Commissioner was invited to ask questions, make comments, and suggest further changes to the Plan. In addition to the issues identified just above, Commissioners amended the updated Plan in the following manner:

- Data pertaining to local employment was added.
- Undergrounding verbiage was carefully reviewed for accuracy.
- Redevelopment, in the form of 1) unities of title, and 2) subdivision of estates, was recognized.
- The importance of making wise decisions about water supply, leaving future options open, was added.
- It is noted that a careful balancing act be considered when weighing improved infrastructure projects with disruptions to the public.
- The annual process of selecting and designating landmarks was updated, including a statement about this important local program.
- A statement has been added recognizing the need to maintain a vital commercial base in Town, yet adhering to Town-serving principals.

The changes noted above constitute the bulk of Comprehensive Plan changes. As earlier mentioned, the basic tenets of the Town's Comprehensive Plan remain intact. The document has been refreshed to represent today's status and future direction, yet was not newly created from scratch. Staff is of the opinion that the revised Plan stays true to our past, and points the community in a direction consistent with long-established values.

Proposed zoning code modification regulations submitted in an application by RPP Palm Beach Property, LP, to allow outdoor seating as a special exception use in the C-PC zoning district (a.k.a. Royal Poinciana Plaza).

Recommendation:

The Commission recommended by a vote of 7-0 that the proposed outdoor seating regulations identified below be adopted in proposed Section 134-1260. Staff concurs with the proposed changes.

Sec. 134-1260. - Stands, seated dining areas and open counters for eating and drinking.

(a) No stands or open counters and no open seating arrangement, whether or not at tables,

intended for feeding or the dispensing of food or drink whether or not for profit or for any other similar purposes for the sale of commodities to the public shall be erected or permitted anywhere in the town unless they are contained within a building. However, in the C-PC, Planned Center zoning district, the town council may permit, as a special exception, the serving of food and beverages to seated patrons in outdoor open air areas which are operated as a part of a restaurant contained within a building, provided approval of such special exception shall not increase the allowable capacity. The following are conditions to the approval of any such special exception:

(1) Open air dining areas must be properly buffered to avoid noise, litter, light and odor impacts upon neighboring properties, especially nearby residential uses.

(2) Area associated with the outdoor portion of the restaurant shall not count toward any maximum square footage limitations associated with the town-serving aspects of this chapter.

Proposed zoning code modifications submitted by RPP Palm Beach Property, LP, to change the Town-serving threshold requirement from 2,000 to 3,000 square feet gross leasable area in the C-PC commercial zoning district (a.k.a. Royal Poinciana Plaza).

Recommendation:

The Commission recommended by a vote of 7-0 that the 2,000 square foot gross leasable area Town-serving threshold in the C-PC Commercial District be changed to 3,000 square feet as identified in Section 134-1257 below. Staff concurs with the proposed changes.

Sec. 134-1257. - Permitted uses.

(a) The permitted uses in the C-PC planned center district are as follows:

(1) *No limitations on gross leasable area (GLA).*

a....

(2) *Maximum ~~2,000~~ 3,000 square feet of GLA.* All other retail shops, personal services and banks and financial institutions not specifically cited under the permitted uses in subsection.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses under subsection (a)(2) of this section which contain more than ~~2,000~~ 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses (refer to division 2 of article IV of this chapter). However, all future

changes of use shall be limited to those uses listed as permitted uses in subsection (a) of this section with a maximum gross leasable area of ~~2,000~~ 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, or from one generic use (residential, commercial, public/private group use) to another, wherein the new use will involve a gross leasable area exceeding ~~2,000~~ 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 3,000 square feet, in a district with a ~~2,000~~ 3,000-square-foot limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. No existing commercial use which is subject to the ~~2,000~~ 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing licensed businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than ~~2,000~~ 3,000 square feet.

Proposed comprehensive plan text amendment submitted in an application by RPP Palm Beach Property, LP, to change the Town-serving threshold from 2,000 to 3,000 square feet gross leasable area.

Recommendation:

The Commission recommended by 7-0 vote that the Town-serving regulations for the C-PC Commercial zoning district within the Commercial Land Use Category in the Future Land Use Element of the Town's Comprehensive Plan be modified as identified below. Staff concurs with the proposed changes.

POLICY 2.3.1 of the Future Land Use Element

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

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



Memorandum

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Date: November 23, 2016

To: John Page, Director
Town of Palm Beach Planning, Zoning & Building Department

From: Richard D. Cannone, AICP, Planning Administrator

Subject: Town of Palm Beach Comprehensive Plan - Planning and Zoning Commission Edits

Project: Town of Palm Beach 2015/2016 Comprehensive Plan Update

BACKGROUND

As a result of the repealing of Florida Administrative Code Rule 9J-5 and changes to Florida Statutes in 2011, local governments have more discretion in determining whether they need to update their local comprehensive plan. As such, local governments no longer need to submit an Evaluation and Appraisal Report (EAR) to the Department of Economic Opportunity (DEO) for a sufficiency determination.

Instead, local governments must follow these new provisions:

1. At least every seven years, pursuant to Rule Chapter 73C-49, Florida Administrative Code, determine whether the need exists to amend the comprehensive plan to reflect changes in state requirements since the last time the comprehensive plan was updated.
2. Notify the state land planning agency (DEO) by letter of this determination.
3. If the local government determines amendments to the comprehensive plan are necessary, the local government shall prepare and transmit the proposed amendments to the State Land Planning Agency within one year of such determination.
4. Any local government failing to timely submit a notification letter or proposed amendments within one year of notification may not amend its comprehensive plan until it complies with the requirements.
5. The evaluation and appraisal should address changes in state requirements since the last update of the comprehensive plan and update the plan based on changes to local conditions.

The Town of Palm Beach EAR notification letter was due on April 1, 2016 and the Town notified DEO on March 15, 2016 (letters attached) that changes were needed to its Comprehensive Plan to:

1. Incorporate recent changes in Chapter 163, F.S. as a result of the “Peril of Flood” (i.e. sea level rise) comprehensive plan requirement that went into effect July 1, 2015; and



2. Strengthen policies preserving the Town's character as well as create new policies that will address development impacts from neighboring municipalities, energy planning, water conservation and allowing for Safe Neighborhood Improvements Districts.

The Town has one year from the date of the determination letter (March 25, 2017) to prepare and transmit the proposed amendments to DEO.

SUMMARY OF UPDATES

In keeping with the original goal of the 1929 plan of the Town,

"One attractive and well managed public bath and beach, the concentration of general traffic upon a limited of number of streets, beautification without especial reference to main arteries of travel, and a system of leisurely and convenient byways free from automobiles, punctuated with gardens: this is a plan which will localize recreation seeking crowds, discourage trespassing, and provide safety and quiet for residents of Palm Beach,"

the update ensures the intent, goals and tenet's of the original and existing plan were not changed or modified in any way that would increase density, regionalize commercial areas, or degrade the high levels of community standards in place.

The majority of the updates are essentially "clean-up" items that included references that were out of date or no longer relevant. Other changes to the Goals, Objectives and Policies (GOP's) are to address the statutory changes requiring "Peril of Flood" (i.e. sea level rise) within comprehensive plan and making sure existing policies are strengthened or added to preserve the Town's character.

Outlined below is a summary of the updates made for each element along with any substantive updates:

Future Land Use Element

- Updated population and data based on latest available information.
- Deleted data and policies no longer relevant.
- Identified the intensive development occurring in downtown West Palm Beach as a concern as it relates to impacts on the Town public services.
- Clarified language and updated text to reflect the built-out nature of the Town.
- Added language reflecting the new archaeological ordinance.
- Policy 5.1, added new language requiring a concurrency analysis shall be conducted prior to the approval of any application for a development order.
- Policy 5.2, updated Level of Service (LOS) numbers.
- Added a new Goal 2, *"THE TOWN SHALL PROMOTE PUBLIC/PRIVATE PROGRAMS AND RELATED ACTIVITIES THAT STRENGTHEN, STABILIZE, IMPROVE AND ENHANCE*



NEIGHBORHOODS GIVEN THE CONFINEMENT OF THE ISLAND'S TOPOGRAPHY AS WELL AS INTRUSION OF AUTOMOBILE TRAFFIC WITHIN RESIDENTIAL NEIGHBORHOODS."

- Added new objective and policy under Goal 2, referencing the establishment of Neighborhood Improvement and/or Safe Neighborhood District(s), where appropriate.

Transportation

- Deleted data and policies no longer relevant.
- Updated transportation data and population information based on latest available information.
- Eliminated completed Policies and reflected the built-out nature of the Town.

Housing

- Deleted data and policies no longer relevant.
- Updated Housing data and population information based on latest available data from the U.S. Census Bureau, the State of Florida, and Palm Beach County.
- Updated text and Objectives and Policies to reflect the built-out nature of the Town.

Infrastructure

- Deleted data and policies no longer relevant.
- Updated text and data related to current infrastructure situations.
- Updated the LOS for Potable Water and Sanitary Sewer (Waste Water) based on changes from the City of West Palm, the Town's supplier of both services.
- Update text and GOPs related to the underground utilities project currently underway in the Town based on the citizen approved referendum from March 2016.

Coastal Management / Conservation

- Deleted data and policies no longer relevant.
- Updated language regarding the objectives of the Comprehensive Coastal Management Plan (CCMP).
- Strengthened language regarding submerged land.
- Established the bulkhead line in Lake Worth as the Mean High Water Line (MHWL).
- Added new policy to explore the possibility of designating the Town as an Area of Critical Concern (F.S. 380.05(3)) as it relates to the shoreline, natural and historic resources and sea level rise.
- Added new policy to ensure that the Hurricane Evacuation Model includes impacts of projects within transportation concurrency exemption zones.
- Updated language to address the "Peril of Flood" requirement by creating Objective 15 and associated policies to increase community resiliency and protect property, infrastructure, and



cultural and natural resources from the impacts of climate change, including sea level rise, changes in rainfall patterns, and extreme weather events.

- Added a new objective, Objective 16 to promote ways to reduce Greenhouse Gas Emissions and become more Energy Efficient. Reference the Town's Energy Efficiency and Conservation Strategy (EECS) in related policy.

Recreation and Open Space

- Deleted data and policies no longer relevant.
- Updated park and recreation facilities information and acreage based on the recently completed Needs Assessment and Master Plan for Seaview Park and Recreation Center.
- Added a LOS table based on current projected population data.
- Policies related to redevelopment of Seaview Park and Recreation Center and other park improvements based on the recent Community-wide survey and needs assessment for park and recreation facilities.

Intergovernmental Coordination

- Deleted data and policies no longer relevant.
- The Town's Public School Facilities Element (PSFE) has been eliminated as a result of changes in the Florida Statutes that eliminated requirements for school level of service and school concurrency and the inclusion of a Public School Facilities Element within local Comprehensive Plans. Instead the Town has added goals, objectives and policies to the Intergovernmental Coordination Element with regard to public school siting and development coordination (former Goal 2 and associated objectives and policies of the Town's previous PSFE).
- Clarified language and updated text.
- Updated Objectives and created new policies (Policy 1.2.2 – Policy 1.2.8) relative to public safety and LOS as a result of impacts spawn from development in adjacent municipalities; particularly the City of West Palm Beach and its Central Business District.
- Added a new goal, Goal 3 "*COASTAL PROTECTION AND BEACH EROSION.*"
- Added new objective and policies under Goal 3 to ensure coordinate with appropriate agencies to address sand starvation caused by the inlet, sea level rise and storm events, resulting in a dramatic and continuing eroding of the beach.

Capital Improvement

- Deleted data and policies no longer relevant.
- Updated information about current Capital Improvement Projects and the 5-year CIP tables.
- Eliminated information regarding Public School Facilities and concurrency.
- Updated the LOS for Potable Water and Sanitary Sewer (Waste Water) based on changes from the City of West Palm, the Town's supplier of both services.



Historic Preservation

- Deleted data and policies no longer relevant.
- Updated information about current number of historic surveyed properties within the Town.
- Update information regarding archaeological sites based on the approved Town Archaeological Ordinance.
- Eliminated information related to educational programs no longer relevant.

Public School Facilities

- The Public Schools Facilities Element is being deleted and most of its policies are being relocated to a new goal and new objectives within the Intergovernmental Coordination Element.
- These changes are the result of changes in the Florida Statutes which eliminated requirements for school level of service and school concurrency and for the inclusion of a Public School Facilities Element within the Comprehensive Plan.
- These proposed changes are also being done for consistency with the Interlocal Agreement for Coordinating School Planning between the Town of Palm Beach and the School District of Palm Beach County which is currently under review by the Town.

Public Safety Element (New Element)

- Established a new Public Safety Element with the goal of promoting the health, safety, and security of the City's residents and visitors, including in times of disasters and other emergencies.
- Included three new objectives and associated policies to:
 - Maintain and enhance a high level of safety and security for residents and visitors of the Town;
 - Implement innovative and state of the art law enforcement techniques and technologies to ensure the health, safety and welfare of residents, businesses and visitors; and
 - Reduce the exposure of life and property to hurricanes and other disasters through the planning and implementation of emergency preparedness, response and recovery plans.

Monitoring, Updating, and Evaluation Procedures

- This section has been deleted in response to the elimination of Florida Administrative Code Rule 9J-5.
- Relevant monitoring, updating and evaluation procedures have been incorporated within each of the elements.



PLANNING AND ZONING COMMISSION REVIEW

The Planning and Zoning Commission held public hearings on September 14, 2016 and November 15, 2016 meeting. At the September 14, 2016 hearing the Commission, while supportive of the EAR-Based amendments, asked that the amendments be brought back for review as a result of requested clarification and/or addition of a variety of items.

The Planning and Zoning Commission, at their November 15, 2016 hearing, unanimously recommended that the EAR-Based Amendments be approved subject to their previously recommended changes as well as additional items.

To help guide the review we have organized the memo with the following:

ELEMENT

1. Commission Request
Summary of Change & Page Number
Modified Language

I. FUTURE LAND USE ELEMENT

1. Include language about balancing existing commercial versus region serving commercial.
Added a sentence regarding the "balance" (pg. I-4).

The tremendous pressure for expansion of commercial land use is a direct function of the economically valuable image of a Palm Beach address. It is imperative that region-serving, high traffic generating, commercial uses be prevented from further proliferating and be reduced wherever possible. To this end, the Town is committed to ensure that the existing businesses and commercial areas within the Town remain vital and continue to meet the needs of its residents.

2. Provide more additional demographic information for age cohorts and provide comparison.

Added new table (I-1) that provides a breakdown by age and comparison from the 1990 Census to the 2010 Census (pg. I-5 & I-6).

The Town of Palm Beach experienced its greatest growth between 1950 and 1970, when its resident population increased from 3,886 to 9,086. Since then, population growth has actually declined ~~been less dramatic~~. According to the 2010 US Census, the Town had a population of 8,161. Table I-1 below shows US Census data from 1990, 2000, and 2010. The Town's 2000 and 2010 total population and total housing units figures were corrected as shown. It is important to note that other population information from 2000 and 2010 are based on the non-corrected figures. Estimates by the The University of Florida, Bureau of Economic and Business Research (BEBR) place estimates the 2015 April 2005 population at 8,040 9,735. Future growth is severely limited by the small amount of undeveloped land left in the Town. Future population growth is expected to remain relatively flat.



Table I-1
Demographic Data 1990 to 2010
Town of Palm Beach

	<u>2010</u>		<u>2000</u>		<u>1990</u>	<u>% Change</u> <u>(1990 to 2010)</u>
<u>Total Population</u>	8,161 ¹	8,348	9,676 ²	10,468	9,814	-16.8% ¹ - 14.9%
<u><18</u>		572		989	657	-12.9
<u>≥18</u>		7,776		9,479	9,157	-15.0
<u>≥65</u>		4,657		5,501	5,163	-9.8
<u>Median Age</u>		67.4		66.6	66.2	
<u>Total # of Households</u>		4,799		5,789	5,421	-11.5
<u>Average Household Size</u>		1.74		1.81	1.81	
<u>Total Housing Units</u>	8,857 ¹	9,091	9,004 ²	9,948	9,191	-3.6% ¹ -1.08%

Source: US Census 1990, 2000, and 2010 ¹ Town of Palm Beach Corrected 2010 US Census figures – only Total Population and Total Housing Units available. ² Town of Palm Beach Corrected 2000 US Census figures – only Total Population and Total Housing Units available.

3. Provide information on the working population in the Town. Confirm number of employees listed under Educational Services.

Added new table (I-4) that provides the Town's employment numbers based on the 2012 Economic Census (pg. I-9 &10).

*The 2012 Economic Census does not provide for a breakdown of employees, but rather gives a range of 0-19 employees for the two subcategories of establishments. Therefore, the highest number (19*2=38) assumed.*



Table I-4
Employment Data from 2012
Town of Palm Beach

	<u>North American Industry Code System (NAICS) Code</u>	<u>Number of Establishments</u>	<u>Number of Employees</u>
<u>1</u>	Wholesale Trade	<u>15</u>	<u>100-249</u>
<u>2</u>	Retail Trade	<u>177</u>	<u>1,345</u>
<u>3</u>	Transportation and Warehousing	<u>12</u>	<u>57</u>
<u>4</u>	Information	<u>3</u>	<u>16</u>
<u>5</u>	Finance and Insurance	<u>89</u>	<u>829</u>
<u>6</u>	Real Estate and Rental and Leasing	<u>101</u>	<u>522</u>
<u>7</u>	Professional, Scientific, and Technical Services	<u>140</u>	<u>668</u>
<u>8</u>	Administrative and Support and Waste Management	<u>23</u>	<u>100-249</u>
<u>9</u>	Educational Services	<u>3</u>	<u>57(a)</u>
<u>10</u>	Health Care and Social Assistance	<u>24</u>	<u>78</u>
<u>11</u>	Arts, Entertainment and Recreation	<u>24</u>	<u>1,181</u>
<u>12</u>	Accommodation and Food Services	<u>43</u>	<u>4,074</u>
<u>13</u>	Other Services	<u>97</u>	<u>1,129</u>

Source: 2012 Economic Census of the United States; US Census 2016

(a) The 2012 Economic Census does not provide for a breakdown of employees, but rather gives a range of 0-19 employees for the two subcategories of establishments.

4. Include growth in Lake Worth as a concern for

Added growth from the City of Lake Worth as a concern (pg. I-13).

A growing concern that will likely impact the Town's transportation system and recreational and park facilities is the amount of residential density and intensity being added within the City of West Palm Beach's downtown as well as potential growth in the City of Lake Worth. With limited recreation space and a Transportation Concurrency Exemption Area (TCEA) in place, expected spillover of that increased density and intensity into the Town will only exacerbate capacity concerns along County Road/Ocean Boulevard/State Road A1A.

5. Include section on Undergrounding of Utilities in Future Land Use Element.

Added section on Undergrounding of Utilities (pg. I-14)

Undergrounding of Utilities

The conversion of the overhead utilities to underground locations will be one of the most ambitious infrastructure projects ever undertaken by the Town of Palm Beach. The undergrounding will preserve the historic character of the Town and enhance the aesthetics of the landscape and scenic vistas. The conversion will significantly improve the level of service and reliability of the electric, telephone, and cable communications to the Town.



6. Add Future to Table I-5

Added "Future" to Table I-5 (pg. I-20)

TABLE I-53
Future Land Use
Town of Palm Beach

<u>FUTURE LAND USE CATEGORY</u>	ACRE	PERCEN
Single-family Residential (up to 4 du/gross Palm Beach acre)	1,103	53
Multi-family Moderate Density (up to 6 du/gross Palm Beach	117	6
Multi-family High Density (up to 13 du/gross Palm Beach acre)	226	11
Commercial	93	5
Public	4	0
Recreation	106	5
Private Group Use	219	11
Approved PUD (up to 13 du/gross Palm Beach acre)	168	8
Conservation	39	2
TOTAL*	2,076	100

II. TRANSPORTATION

1. Include language about development impacts from downtown West Palm in the Traffic circulation Element.

Added additional language about traffic circulation and downtown west palm (pg. II-2).

In addition, Town roadways are subject to traffic impacts resulting from developments in neighboring communities. Recent land use changes will result in increased density and intensity within the Transportation Concurrency Exemption are (TCEA) in downtown West Palm Beach. As a result it is expected to negatively affect traffic circulation both on and off the island.

2. Include explanation of what Level of Service (LOS) A, B, C, D, E & F represents.

Provided explanation of LOS, Concurrency and LOS Categories under the Existing Roadway Classification section (pg. II-2)

Level of Service (LOS) is a representation of the traffic congestion on a roadway. The town sets the level of service standard for town roads. Palm Beach County has the Palm Beach County Transportation Performance Standards Ordinance that applies countywide to County thoroughfares and State roads that are not part of the Florida Intrastate Highway System (FIHS).



Memorandum

The State sets the standards for FIHS roads. The Town may set levels of service higher than the County or State for County and State roads, but it may not adopt a lower standard without State and/or County agreement.

Maintaining concurrency is a term used to describe the situation where there is always enough room on the road (capacity) to accommodate traffic without reducing the level of service below the adopted standard. This requires predicting how proposed development will affect traffic congestion. Studies have been conducted to develop formulas for predicting the number of trips various land uses will generate. Computer models have been created to try and predict how many vehicles will use which roadways to get between various land uses. Short term predictions can be fairly accurate, but long term predictions often are not. By convention, level of service is written as “LOS” when accompanying a letter standard.

LOS “A”: Highest LOS which describes primarily free-flow traffic operations at average travel speeds. Vehicles are completely unimpeded in their ability to maneuver within the traffic stream. Stopped delay at intersections in minimal.

LOS “B”: Represents reasonably unimpeded traffic flow operations at average travel speeds. The ability to maneuver within the traffic stream is only slightly restricted.

LOS “C”: Represents stable traffic flow operations. However, ability to maneuver and change lanes may be more restricted than in LOS B, and longer queues and/or adverse signal coordination may contribute to lower average speeds.

LOS “D”: Borders on a range in which small increases in traffic flow may cause substantial increase in approach delay and hence decrease in speed. This may be due to adverse signal progression, inappropriate signal timing, high volumes, or some combination of these.

LOS “E”: Represents traffic flow characterized by significant delays and lower operating speeds. Such operations are caused by some combination of adverse progression, high signal density, extensive queuing at critical intersections, and inappropriate signal timing.

LOS “F”: Represents traffic flow characterized by extremely low speeds. Intersection congestion is likely at critical signalized intersections, resulting in high approach delays. Adverse signal progression is frequently a contributor to this condition.

3. Add table number II-1 to table.

Added table number II-1 to table (pg. II-9).



TABLE II-1

DAILY PEAK SEASON TRAFFIC COUNTS

SELECTED LOCATIONS

TOWN OF PALM BEACH

2015-2008 2004—2008

III. HOUSING

1. Include language about lot combinations as well as subdividing of larger properties.

Added “Current trends in the Town have included the combination of smaller lots into larger properties as well as larger estates being subdivided” (pg. III-5).

Palm Beach is recognized as a high cost housing area. In 2014 the average just value of a single-family home in Palm Beach was \$4.8 million and the average just value of a multi-family home was \$584,977. The typical cost of a new single family home built in the Town falls in the range of \$500,000 to \$1½ million. The typical cost of a new multi-family unit is expected to exceed \$250,000. No rental housing is expected to be constructed, nor any housing valued below \$150,000. Current trends in the Town have included the combination of smaller lots into larger properties as well as larger estates being subdivided.

IV. INFRASTRUCTURE

1. How is water quality monitored?

Added language regarding water quality (pg. IV-12).

Raw water is treated by West Palm Beach according to FDEP water quality standards. Potable water emerging from the plant is tested daily for quality. Monthly reports, including tabulations of daily testing, are sent to the FDEP for review. The City prepares an annual Water Quality Report which can be reviewed on the City’s website. Potable water quality has been consistently good, winning awards in recent years for its outstanding taste.

According to West Palm Beach sources, water quality is expected to remain good, and no measures for further protection of quality are necessary.

2. Acknowledge investment in water infrastructure by the City of West Palm Beach.

Included reference to investment (pg. IV-12).

A 30-year renewable contract between the Town and the City of West Palm Beach was signed in 1965 and expired in January, 1995. The Town subsequently renegotiated the contract with the



Memorandum

City, and a new franchise agreement was signed on June 16, 1999 and is effective until 2029. The City and Town have been unable to reach a new agreement. However, the City is obligated to continue providing potable water to the Town. It should also be noted that the City of West Palm Beach is currently expanding and improving their water infrastructure.

3. Change “increased” to “improved” under opportunities.

Changed “increased” to “improved” (pg. IV-18).

Improved aesthetics for the entire community due to removal of wood and concrete poles.

Enhanced utility reliability

V. COASTAL MANAGEMENT / CONSERVATION

1. Expand upon air quality as it relates to air traffic and vehicles.

Included language regarding air traffic and increase traffic (pg. V-4).

The Town of Palm Beach has very good air quality. There are no point sources of pollution within the Town. Increased, and mobile pollution sources, such as including automobiles and air traffic, ~~do not constitute a known problem~~ will continue to cause a concern. Air quality is enhanced by the Town's location on the coast, where it benefits from regular sea breezes. Air quality is also improved by the profuse vegetation in the Town, which naturally purifies the air.

2. Include “Florida Statutes” to Policy 5.7.

Added “Florida Statutes” to Policy 5.7 (pg. V-25). A copy of Florida Statutes 380.05(3) is attached for reference.

POLICY 5.7

Explore the possibility with the Treasure Coast Regional Planning Council, pursuant to Florida Statutes 380.05(3) of designating the Town as an Area of Critical Concern as it relates to the shoreline, natural and historic resources and sea level rise. The basis for seeking this designation is the Florida Department of Environmental Protection (FDEP) June 2015 Study, Critically Eroded Beaches, noted the “area extending south of Lake Worth Inlet along the town of Palm Beach (R76-R128) are 10.9 miles of critical erosion threatening private development, local parks, and State Road AIA.

VI. RECREATION AND OPEN SPACE

1. Clarify ownership of Kreusler Park

Clarified ownership of Kreusler Park (pg. VI-2).



Kreusler Park is a Palm Beach County Park under the County's control, although it is located within the Town's corporate limits.

2. Include reference of new Recreational Center approval by Town Council.

Added reference of new Recreational Center approval by Town Council. (pg. VI-9).

In 2016, the Town conducted an extensive community survey regarding the Town's park and recreation facilities and opportunities. The survey led to a needs assessment and master plan for the Town's Seaview Park and Recreation Center. Other park and recreation improvements were also identified, including a new Recreational Center.

VII. INTERGOVERNMENTAL COORDINATION

No Changes.

VIII. CAPITAL IMPROVEMENT

1. Include language about minimizing impacts of public improvement needs with quality of life.

Added language regarding the balancing public improvement needs with general welfare and inconvenience (pg. VIII-1 and VIII-13).

9. Analysis of quality of life and timing issues – balancing public improvement needs with general welfare and inconvenience.

- Quality of life and timing issues – balancing public improvement needs with general welfare and inconvenience.

2. Clarify CIP schedules.

Clarified appendices for different CIP schedules (pg. VIII-3).

~~Table VIII-1 sets forth the~~ The Town's proposed Schedule of Capital Improvements (SCI) and budget for FY ~~2016~~ 2008-(carry-over) through FY ~~2021~~ 2013 are provided as appendices to this Element. Appendix A includes the "Pay-as-you-Go" schedule of improvements and Appendix B includes the "Accelerated Capital Improvement Projects" schedule. Appendix C is Recreation Fund capital improvements for FY2017 through FY2021. These programs and budgets reflect the needs identified in the various Elements of the Comprehensive Plan as well as other capital needs identified by the Town.

IX. HISTORIC PRESERVATION

1. Delete "Optional" from cover

Deleted "Optional" from cover.



OPTIONAL HISTORIC PRESERVATION ELEMENT

2. Update designation procedures to reflect the new process and make less cumbersome.

Updated designation procedures (pgs. IX-6 &7).

POLICY FOR THE ESTABLISHMENT OF SELECTION PRIORITIES

With over 1,162 ~~4129~~ structures considered eligible for consideration as local landmarks, the Landmarks Preservation Commission has ~~should~~ established priorities to better facilitate the landmarking process. These structures (together with limited historic information) are derived from the Florida Master Site Files periodically prepared for the Town by a historic preservation consultant.

~~The Landmarks Commission Staff, in conjunction with an architectural history consultant should revisit each of the structures eligible for consideration every five years, and cross reference the~~ Site information is cross referenced with historical records housed in the Town of Palm Beach Department of Planning, Zoning and Building Records Office, and in the Historical Society of Palm Beach County and the Preservation Foundation of Palm Beach. The research should result in a more condensed, focused list of structures; eligible for local designation under at least two ~~one~~ of the Landmarks Preservation Ordinance's criteria. The sites on the resulting list ~~should be~~ categorized as either structures of primary significance, or as structures of secondary significance, and the list of primary sites should be distributed to the Landmarks Commissioners.

Each commissioner ~~should~~ must independently visit every structure on the primary resulting list of targeted properties for discussion at, and nominate three structures of paramount priority and one alternate structure, in descending order. ~~The priority list of properties will be established through this system~~ a public meeting. At said meeting, the Commission should actively discuss the properties listed during a presentation provided by the historic preservation consultant, and select properties to be placed under consideration for landmarking during the upcoming designation season. The Commission can conduct this process at multiple meetings if necessary.

~~The Landmarks Preservation Commission should then vote by motion to accept or deny this list, establishing a current priority list of properties, requesting that these sites be studied, and that reports be written.~~

If at any time, a property owner feels that his/her property is eligible for designation as a local landmark, a request can be made to any Landmarks Preservation Commissioner to place ~~nominate~~ the structure ~~to the list~~ under consideration. Likewise, individual Commissioners can propose to place any structure under consideration, which will then become a matter to be decided by the full Commission.

The list of those properties put under consideration ~~should be turned over to the~~ an independent architectural history historic preservation consultant who, ~~with~~ will research, evaluate and prepare a Designation Report for each property as ~~prioritized by the Landmarks Commissioners.~~



Memorandum

Each Designation Reports should contain architectural and historical information on the structure, explanation of how each ~~criteria~~ criterion for designation is met, and a recommendation to consider or not consider the structure as a landmark of the Town of Palm Beach.

A public hearing should be announced and held to consider these properties individually in a public forum, allowing the property owners, their representatives, and members of the community to express their opinion relative to the recommendations of the consultant and staff as put forth in the Designation Report(s).

After reviewing the information and recommendation of the consultant and the staff in the public forum, the Landmarks Commissioners should then vote to accept or deny the recommendation. If the Commissioners' vote favors accepting the structure as a landmark of the Town of Palm Beach, their decision will be sent to the Town Council for its final ratification.

The property owner, his/her representative, or a member of the community may appeal at either level.

This policy should be periodically revisited, and adjusted as necessary ~~new structures should be evaluated for their consideration, every two years~~. A new survey should be undertaken every ten years to correct the historical errors of the earlier efforts, and to add those structures that cross the National Register threshold of 50 or more years old.

3. Include other educational programs with Historical Marker Program.

Added "other such educational programs" to the end of Policy 1.5(pg. IX-13)

POLICY 1.5

The Town shall continue to encourage a follow its established procedures for its ongoing Preservation Celebration and Historic Marker Program and other such educational programs.

X. PUBLIC SAFETY ELEMENT (NEW ELEMENT)

1. Delete Optional from Cover

Deleted "Optional"

PUBLIC SAFETY ELEMENT

2. Include policy referencing the Public Safety Director.

Added Policy 1.1 referencing the Public Safety Director (pg. X-2). A copy of Florida Statutes Chapter 163 Part IV, Neighborhood Improvement Districts is attached for reference.

OBJECTIVE 1

The Town of Palm Beach shall continue to maintain and enhance a high level of safety and security for residents and visitors of the Town.



POLICY 1.1

Provide a coordinated and proactive public safety program through the Public Safety Director.

POLICY 1.2

Maintain a well-trained and adequately-staffed police department dedicated to law enforcement activities within the Town.

POLICY 1.3

Continue to ensure that excellent professionally maintained fire rescue services are provided within the Town.

TOWN SERVING TEXT AMENDMENT

Also included with this transmittal is the text amendment to the definition of “Town Serving” (Policy 2.3.1). The proposed language is ~~bold~~ provided below:

- 2.3.1 The following definitions shall pertain to the application of the non-residential land use designations and associated policies:
- a. “Town-serving” shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of persons not defined as Town persons. Commercial establishments (other than those in the “Commercial – Office, Professional & Institutional” (C-OPI) zoning district, which are not required to meet town-serving requirements) of ~~2,000 square-feet or less of gross leasable area in the “Commercial – Planned Center” (C-PC) zoning district~~, 3,000 square-feet or less of gross leasable area in the C-TS and C-B zoning districts, and 4,000 square-feet or less of gross leasable area in the C-WA zoning district are assumed to meet the intent of the first part of this definition.

TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on:
November 15, 2016

To: Planning and Zoning Commission

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

Re: Proposed Zoning Text Amendment by RPP Palm Beach, LP, to Allow Outdoor Seating
in the Planned Center Zoning District (C-PC)

Date: November 3, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the Applicant's proposed zoning text amendment which would allow outdoor seating in the C-PC zoning district (Royal Poinciana Plaza).

GENERAL INFORMATION

RPP Palm Beach Property, LP, the long term leasee of the Royal Poinciana Plaza, located in the C-PC zoning district, is proposing to allow restaurants and merchant retail take-out businesses the ability to apply for either Town Council or administrative approval for outdoor seating within the C-PC district (Royal Poinciana Plaza). The zoning text amendment application is attached.

BACKGROUND

Since at least 1970 the Town has allowed outdoor seating with Town Council approval. Until 1989 outdoor seating was allowed in all commercial zoning districts. In 1989, Chapter 134, Zoning, was amended to only allow outdoor seating by special exception approval by the Town Council in the C-TS (Commercial Town-Serving District) and C-WA (Commercial Worth Avenue) zoning districts.

In 2004 and 2009, zoning regulations were amended to relax outdoor seating requirements for smaller retail food establishments, and to allow for Council or administratively approved outdoor seating in the other zoning districts throughout the Town (C-OPI, C-B and R-D(2)). The C-PC district was intentionally unchanged as there was concern that allowing outdoor seating in that District would jeopardize the validity of the 1979 Agreement containing additional controls in the C-PC zoning district.

At present, all other commercial zoning districts in the Town allow outdoor seating. In fact,

outdoor seating was permitted in the C-PC district, conditional upon Town Council approval, until the Code change in 1989. Staff supports a zoning text amendment which would allow outdoor seating with special exception approval by the Town Council. Approval should be conditioned upon the Applicant acknowledgement in writing to be bound to the terms of the 1979 Agreement and that the applicant 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.

The Planning, Zoning and Building Department does not support administrative (staff) approval of outdoor seating in the C-PC zoning district. Doing so would eliminate legal notice requirements. Possible impacts should be addressed with the public and with residential neighbors (Palm Beach Towers) in a public meeting before approvals are secured. Approval should only be granted by the Town Council following legal notice and a quasi-judicial hearing by the Town Council. Doing so provides the opportunity for the Council to hear any concerns and to place conditions on outdoor seating to ensure compatibility with other uses.

The following change, which is existing language used for outdoor seating in other districts, is recommended by Staff in add/delete format. (Note: this will require renumbering existing sections of Chapter 134):

Sec. 134-1260. - Stands, seated dining areas and open counters for eating and drinking.

(a) No stands or open counters and no open seating arrangement, whether or not at tables, intended for feeding or the dispensing of food or drink whether or not for profit or for any other similar purposes for the sale of commodities to the public shall be erected or permitted anywhere in the town unless they are contained within a building. However, in the C-PC, Planned Center zoning district, the town council may permit, as a special exception, the serving of food and beverages to seated patrons in outdoor open air areas which are operated as a part of a restaurant contained within a building, provided approval of such special exception shall not increase the allowable capacity. The following are conditions to the approval of any such special exception:

(1) Open air dining areas must be properly buffered to avoid noise, litter, light and odor impacts upon neighboring properties, especially nearby residential uses.

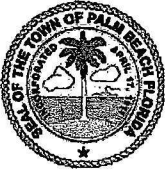
(2) Area associated with the outdoor portion of the restaurant shall not count toward any maximum square footage limitations associated with the town-serving aspects of this chapter.

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

Attachment

cc: Planning and Zoning Commissioners
Mayor and Town Council
Thomas Bradford, Town Manager
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney

Paul W. Castro, AICP, Zoning Administrator
Veronica B. Close, Asst. Director, Planning, Zoning & Building Department
zf



REQUEST FOR ZONING ORDINANCE MODIFICATION

Note: All requested must be singular in nature and subject to review and possible correction by the Zoning Administrator.

1. Date: September 12, 2016

All requests for Zoning district change or ordinance modification must be undersigned by the property owner or resident in the space provided below:

2. Name and Palm Beach address of property owner or resident:
RPP Palm Beach Property, LP, 340 Royal Poinciana Way, Palm Beach, FL 33480

3. Address of affected property (if different):
N/A

4. Telephone Number (s) and mailing address where applicant can be contacted if questions should arise:
617.646.3224; 33 Boylston Street, Suite 3000, Chestnut Hill, MA 02467

5. Is this is a request for change of zoning district?
YES _____ If yes, please answer questions numbered 7 through 11.
NO X

6. Is this a request for a change of Ordinance language or new regulation?
YES X If yes, please answer questions numbered 12 through 14.

7. Legal description of property to be rezoned: N/A

8. Date of purchase of affected property: N/A

9. Zoning classification of all adjacent properties: N/A

10. Include a survey of area proposed for rezoning, show dimensions of affected area, structures on property, adjacent streets, with north arrow and property lines.
N/A

11. State briefly the reasons for the proposed change of zoning district:
N/A

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TOWN OF PALM BEACH
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The following questions are related to proposed changes of ordinance language or new regulation.

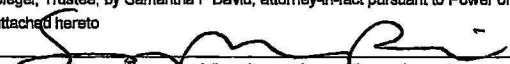
12. Town Ordinance, Section, paragraph, etc. numbers of proposed change:
Palm Beach Code of Ordinances, Division 11, Section 134-2104(a)
13. State language which is proposed for change, strike over proposed deletions and underline proposed additions to text:
Section 134-2104(a): It shall be unlawful for any person to provide outdoor seating without either approval by the town as provided by this article or approval under sections 134-226 through 134-230. Administrative approval of outdoor seating shall be permitted only within the C-TS, C-WA, C-OPI, C-B, C-PC, and R-D(2) zoning districts as accessory uses subject to the standards and criteria set forth in sections 134-2105 through 134-2108.

Attach additional sheets if necessary. Separate forms must be submitted for each individual text item.

14. State briefly the reasons for proposed change to Ordinance language:
Since acquiring The Royal Poinciana Plaza in 2014, Up Markets has planned, and is in the midst of executing, an overall beautification of the property. A large focus of the redevelopment is the courtyards and studying John Volk's original intention, and vision, for the heart of the property. Research has proven that there is historical precedence that demonstrates outdoor seating was an original detail essential to the Plaza's success. We believe that by allowing tenants to request outdoor seating is a nod to the property's architect and restoring the vision that he had for the Plaza. By transferring existing and approved seats from the interior to the exterior, tenants are further revitalizing and bringing the courtyards to life.


Signature of fee simple owner of the property

Sidney Spiegel, Trustee, by Samantha P David, attorney-in-fact pursuant to Power of Attorney dated September 9, 2014, attached hereto


Signature of applicant, if other than fee simple owner

RPP Palm Beach Property, LP, a DE limited partnership, by Samantha P. David, agent

The Town staff will assist, within reason, any applicant with the preparation of this form. An original and twenty-five (25) copies must be filed in the Planning, Zoning & Building Department by 3:00 p.m., by the last Tuesday in July. A separate application must be submitted for each separate proposed zoning code amendment and each of same must also be accompanied with an application fee of \$4,000. Please be advised that all additional costs for professional consultation and legal notice of the application will be the responsibility of the applicant.

TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on:
November 15, 2016

To: Planning and Zoning Commission

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

Re: Proposed Zoning Text Amendment and Comprehensive Plan Amendment by RPP Palm Beach, LP, to Increase the Maximum Town-Serving Threshold Regulation for the Planned Center Zoning District (C-PC) from 2,000 Square Feet Gross Leasable Area to 3,000 Square Feet Gross Leasable Area

Date: November 3, 2016

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission consider the Applicant's proposed Zoning Text Amendment and Comprehensive Plan Text Amendment which would allow an increase in the Town-serving threshold from 2,000 square feet gross leasable area to 3,000 square feet gross leasable area in the C-PC zoning district (Royal Poinciana Plaza).

GENERAL INFORMATION

The applicant, RPP Palm Beach, LP, the long term leasee of Royal Poinciana Plaza, is requesting a zoning text and comprehensive plan text amendment to increase the Town-serving threshold for the C-PC zoning district from a maximum of 2,000 square feet to 3,000 square feet gross leasable area (applications attached). The justification, as provided in the applications, is that the owner is trying to restore the Plaza and is continuing to identify retailers that epitomize the Town-serving philosophy. In order to attract a strong mix of first class, small businesses that would serve the needs of the Town, there is a need to ease the financial and legal burden to encourage success for ideal retailers. Currently, businesses that are more than 2,000 square feet in gross leasable area are required to file a special exception application, pay a fee and demonstrate to the satisfaction of the Town Council that the proposed business would be Town-serving. The applicant provides no data or analysis in the applications to justify the proposed changes. A Town sponsored, Town-serving analysis, dated 2010, is relevant and has been attached.

BACKGROUND

The Town created Town-serving regulations in 1979 and 1980 (Ordinance No. 1-80). Those regulations required all businesses over 2,000 square feet gross leasable area, and all special exception uses in the commercial zoning districts, to file special exception applications and demonstrate to the Town Council that they are Town-serving. Town-serving is defined as a business that has more than fifty percent of all customers that are Town persons. Town persons is defined in Chapter 134 as all full-time and seasonal residents as well as visitors staying in accommodations and employees working in establishments located within the Town.

In 2010, the Town Council directed Staff to conduct a study as to the continued relevancy of the Town-serving regulations. Mr. Bill Brisson, LaRue Planning and Management Services, Inc. (the original Town-serving consultant), was retained by the Town to conduct said study. The conclusions of that Study were that the Town-serving concept was still relevant and useful, however, less so than perceived at its inception. The consultant recommended changes to the Town-serving thresholds (copy attached) that were adopted. They included raising the threshold from 2,000 to 3,000 square feet in the C-TS and C-B districts; 2,000 square feet to 4,000 square feet in the C-WA district; and elimination of the requirement in the C-OPI district. The Town-serving threshold for the C-PC district was not recommended for change at that time.

The 2010 Study indicates that there had been only two special exception applications approved since 1990 for businesses in the C-PC district (Royal Poinciana Plaza) in excess of 2,000 square feet. In addition, a majority of the existing 39 businesses (59%) in the District were 2,000 square feet or less. There was also concern expressed in the Study that any increase in the Town-serving threshold might jeopardize the “1979 Agreement” affecting Royal Poinciana Plaza. That Agreement provides language stating that its conditions are not binding if the zoning ordinance is revised, as it applies to the Plaza, to provide “further development possibilities.”

ANALYSIS

Staff’s analysis of the request included a review of the commercial tenant sizes in the C-PC zoning district as well as zoning applications submitting following the 2010 Study. The purpose was to determine if there has been a significant change in circumstances to justify a change in Staff’s 2010 recommendation.

Staff’s conclusion is that there has not been a significant Town-serving trend change in the Royal Poinciana Plaza. There are currently 36 business licensed in the District, of which more than 68% are 2,000 square feet or less in gross leasable area. Since 2010, a review of all zoning applications indicates that there has only been one special exception Town-serving application in the C-PC zoning district for a business over 2,000 square feet gross leasable area. That business, Shino Bay Cosmetic Laser Center, which was 3,753 square feet gross leasable area, is no longer in business. It must be noted that there have been two special exception applications for restaurants over 2,000 square feet (Del Friscos and Sant Ambroeus) that were approved, but those special exceptions were required based the special exception restaurant use. There are two

special exception applications pending review by the Town Council in December. Although there is no quantifiable justification for the requested increase in the Town-serving threshold, Staff does understand that the present Plaza owner is actively pursuing an upgraded visitor experience.

If the Planning and Zoning Commission and Town Council decide to approve the proposed amendments, Staff would recommend that the Applicant acknowledge in writing to be bound to the terms of the 1979 Agreement and that the applicant 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.

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

Attachments

cc: Planning and Zoning Commissioners
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Paul W. Castro, AICP, Zoning Administrator
Veronica B. Close, Asst. Director, Planning, Zoning & Building Department
zf



REQUEST FOR COMPREHENSIVE PLAN AMENDMENT

Note: All requested amendments must be singular in nature and subject to review and possible correction by the Zoning Administrator.

1. Date: September 12, 2016

A request for a change to the Future Land Use Map must be undersigned by the property owner or the duly authorized attorney or representative with power of attorney in the space provided below. A proposed text amendment must be signed by the applicant:

2. Name and address of property owner (if applicable):

RPP Palm Beach Property, LP, 340 Royal Poinciana Way, Palm Beach, FL 33480

3. Telephone Number (s) and mailing address where applicant can be contacted if questions should arise:

617.646.3224, 33 Boylston Street, Suite 3000, Chestnut Hill, MA 02467

5. Is this a request for change in the Future Land Use Map?
YES _____ If yes, please answer questions numbered 7 through 13.
NO X _____

6. Is this a request for a comprehensive plan text amendment?
YES X _____ If yes, please answer questions numbered 14 and 15
NO _____

7. Legal description of the subject property:

N/A

8. Existing Future Land Use Designation of the subject property:

N/A

9. Proposed Future Land Use Designation of the subject property:

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- N/A
-
10. Existing Zoning classification of the subject property:
- N/A
-
11. Existing Future Land Use Designation and Zoning Designation of all adjacent properties:
North: N/A
South: _____
East: _____
West: _____
-
12. Include a current (within one year) signed and sealed survey of area proposed for change in the Future Land Use Designation which shows dimensions of affected area, structures on property, adjacent streets, with north arrow and property lines.
13. State briefly the reasons for the proposed change in the Future Land Use Designation:
- N/A
-
-

The following questions are related to proposed text amendment to the Comprehensive Plan.

14. Proposed change to the text in the Comprehensive plan in add/delete format. Include the specific page(s) and/or goal, objective or policy in the Plan proposed for change:
- Objective 2; Policy 2.3.1: "Town Serving" shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of persons not defined as Town Persons. Commercial establishments (other than those in the "Commercial- Office, Professional & Institutional" (C-OPI) zoning district, which are not required to meet the town-serving requirements) of 3,000 square-feet or less of gross leasable area in the C-TS, C-B, and C-PC zoning districts, and 4,000 square-feet or less of gross leasable area in the C-WA zoning districts are assumed to meet the intent of the first part of this definition.
- Attach additional sheets if necessary. Separate forms must be submitted for each individual amendment.
15. State briefly the reasons for proposed comprehensive plan amendment:
- As we work to restore and activate The Royal Poinciana Plaza, Up Markets continues to identify unique retailers to epitomize the Town Serving Philosophy. The sought after Town Serving businesses will maintain the character of the Town of Palm Beach, catering to the community to meet the needs of the Town's residents, and not substantially relying on patronage on a regional level. Up Markets respectfully submits that the commercial establishment threshold in the Commercial – Planned Center zoning district match that currently allowed in the C-TS and C-B zoning districts, and thereby ease the financial and legal burden on new small businesses, in order to encourage success.

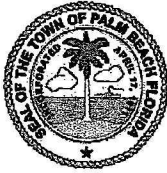
Signature of fee simple owner or duly authorize representative
of the property (if related to a Comprehensive Plan Future
Land Use Amendment)



Signature of applicant (if related to Comprehensive Plan text
amendment other than fee simple owner)
RPP Palm Beach Property, LP, a DE limited partnership
By: Samantha P. David, Agent

The Town staff will assist, within reason, any applicant with the preparation of this form. A pre-application is required by the applicant prior to any submittal to go over that application and any required legal notice. An original, record disk, twenty-five (25) copies and the application filing fee must be filed in the Planning, Zoning & Building Department. A separate application must be submitted for each separate proposed zoning code amendment and each of same must also be accompanied with an application filing fee of \$4,000 for a comprehensive plan amendment or \$3,000 for a small scale amendment (see F.S. 163-3184 through 163-3187). Please be advised that all additional costs associated with professional consultation and legal notice of the application will be the responsibility of the applicant.

(N:\Planning Zoning and Building\forms\ComprehensivePlanAmendment Form.wpd)



REQUEST FOR ZONING ORDINANCE MODIFICATION

Note: All requested must be singular in nature and subject to review and possible correction by the Zoning Administrator.

1. Date: September 12, 2016

All requests for Zoning district change or ordinance modification must be undersigned by the property owner or resident in the space provided below:

2. Name and Palm Beach address of property owner or resident:
RPP Palm Beach Property, LP, 340 Royal Poinciana Way, Palm Beach, FL 33480

3. Address of affected property (if different): N/A

4. Telephone Number (s) and mailing address where applicant can be contacted if questions should arise:
617.646.3224; 33 Boylston Street, Suite 3000, Chestnut Hill, MA 02467

5. Is this is a request for change of zoning district?
YES _____ If yes, please answer questions numbered 7 through 11.
NO X

6. Is this a request for a change of Ordinance language or new regulation?
YES X If yes, please answer questions numbered 12 through 14.

7. Legal description of property to be rezoned: N/A

8. Date of purchase of affected property: N/A

9. Zoning classification of all adjacent properties: N/A

10. Include a survey of area proposed for rezoning, show dimensions of affected area, structures on property, adjacent streets, with north arrow and property lines. N/A

11. State briefly the reasons for the proposed change of zoning district: N/A

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SEP 27 2016

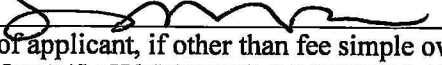
TOWN OF PALM BEACH
PZB DEP

The following questions are related to proposed changes of ordinance language or new regulation.

12. Town Ordinance, Section, paragraph, etc. numbers of proposed change:
Palm Beach Code of Ordinances, Division 11, Section 134-1257 (a)(2), (b),
Palm Beach Code of Ordinances, Division 11, Section 134-1259 (a)(10)
13. State language which is proposed for change, strike over proposed deletions and underline proposed additions to text:
Section 134-1257(a)(2): The permitted uses in the C-PC planned center district are as follows: (2) Maximum ~~2,000~~ 3,000 square feet of GLA. All other retail shops, personal services, and banks and financial institutions not specifically cited under the permitted uses in subsection (a)(1) of this section.
See attached document for Section 134-1257(b) and Section 134-1259 (a)(10)
- Attach additional sheets if necessary. Separate forms must be submitted for each individual text item.
14. State briefly the reasons for proposed change to Ordinance language:
Since acquiring The Royal Poinciana Plaza in 2014, Up Markets has planned and is in the midst of executing a beautification of the property. As the site construction winds down, Up Markets has focused efforts to attract the strongest mix of first class operators for The Royal Poinciana Plaza. During these efforts, Up Markets continues to discover unique retailers who epitomize the Town Serving philosophy. The Town Serving businesses Up Markets identifies are small shop owners, with a passion for Palm Beach, and an excitement to join the community. We respectfully submit that the most effective way for the Code of Ordinances to ease the financial and legal burden for ideal retailers to enter the C-PC district is by increasing the threshold for a Special Exception Permit so that it is more aligned with other districts on the island.


Signature of fee simple owner of the property

Sidney Spiegel, Trustee, by Samantha P David, attorney-in-fact pursuant to Power of Attorney dated September 9, 2014, attached hereto


Signature of applicant, if other than fee simple owner

RPP Palm Beach Property, LP, a DE limited partnership, by by Samantha P. David, agent

The Town staff will assist, within reason, any applicant with the preparation of this form. An original and twenty-five (25) copies must be filed in the Planning, Zoning & Building Department by 3:00 p.m., by the last Tuesday in July. A separate application must be submitted for each separate proposed zoning code amendment and each of same must also be accompanied with an application fee of \$4,000. Please be advised that all additional costs for professional consultation and legal notice of the application will be the responsibility of the applicant.

Section 134-2357(b): Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses under subsection (a)(2) of this section which contain more than ~~2,000~~ 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses (refer to division 2 of article IV of this chapter). However, all future changes of use shall be limited to those uses listed as permitted uses in subsection (a) of this section with a maximum gross leasable area of ~~2,000~~ 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, or from one generic use (residential, commercial, public/private group use) to another, wherein the new use will involve a gross leasable area exceeding ~~2,000~~ 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections ~~134-227~~ through ~~134-233~~ pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 3,000 square feet, in a district with a ~~2,000-3,000~~ square-foot limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. No existing commercial use which is subject to the ~~2,000~~ 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing licensed businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than ~~2,000~~ 3,000 square feet.

Section 134-1259(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:

(10): All retail and personal service activities exceeding ~~2,000~~ 3,000 square feet of gross leasable area not specifically cited under the permitted uses in subsection ~~134-1257(a)(1)~~.



Town of Palm Beach

Study of “Town – Serving” Provisions

September 30, 2010

Prepared by:



Serving Florida Local Governments Since 1988

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I. BACKGROUND TO THE "TOWN-SERVING" CONCEPT

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

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

"9. Review the existing composition of commercial development in the C-A and C-B Zoning Districts with the intent of encouraging and providing a necessary balance of 'personal service' commercial uses for residents of the Town and discouraging high-volume retail and other commercial uses whose principal purposes are to serve other than residents of the Town."

"3. Via memoranda dated March 28 and April 3rd on topics of the 1980 Zoning Hearings, Mr. Adley has been requested to study and recommend on the creation of a new commercial zoning district(s) and other relevant techniques and approaches which would differentiate between various types of commercial uses and which would give different treatment to commercial uses providing services to the immediate residential neighborhood..."

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

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

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

II. BASIC FINDINGS: 1979-80 COMMERCIAL DISTRICT STUDY

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

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

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

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

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



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

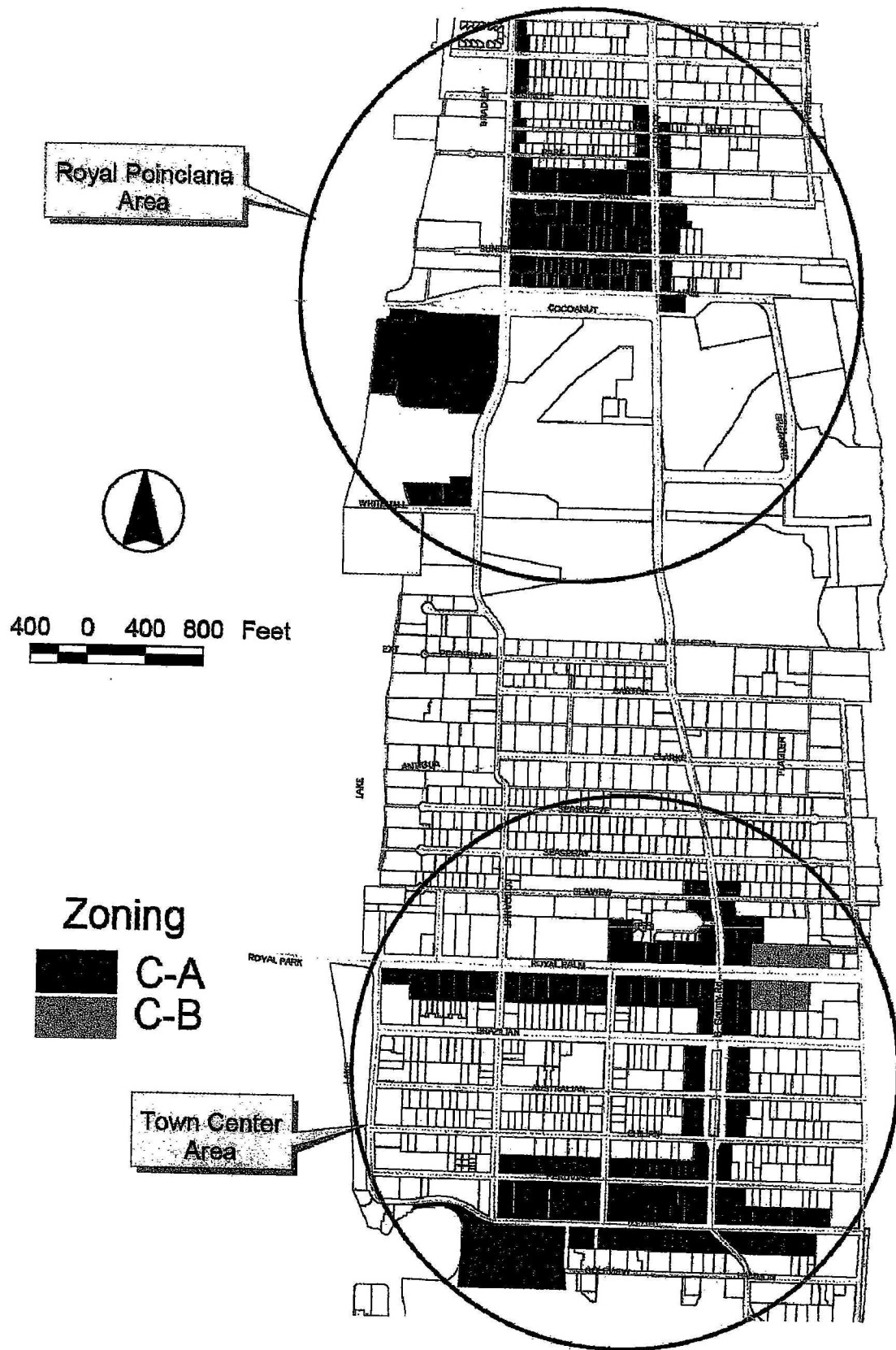
The Town Center area included Worth Avenue, Peruvian Avenue, South County Road and Royal Palm Way, all zoned C-A, as well as the small area along Royal Palm Way zoned C-B. This area was referred to in the 1979-80 study as the "Worth Avenue Commercial District". The other commercial concentration was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

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

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

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

COMMERCIAL ZONING, 1979



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

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

Square Feet	"WORTH AVENUE" AREA		"ROYAL POINCIANA" AREA		TOTAL	
	Number	Percent	Number	Percent	Number	Percent
Up to 2,000	177	78.7	57	69.5	234	76.2
2,001 to 4,000	32	14.2	15	18.3	47	15.3
Over 4,000	16	7.1	10	12.2	26	8.5
Total	225	100.0	82	100.0	307	100.0
Average	1,598		2,243		1,770	
Median	1,080		1,332		1,152	

Source: 1979-90 Commercial District Study, Adley Associates, Inc.
LaRue Planning & Management Services, Inc.

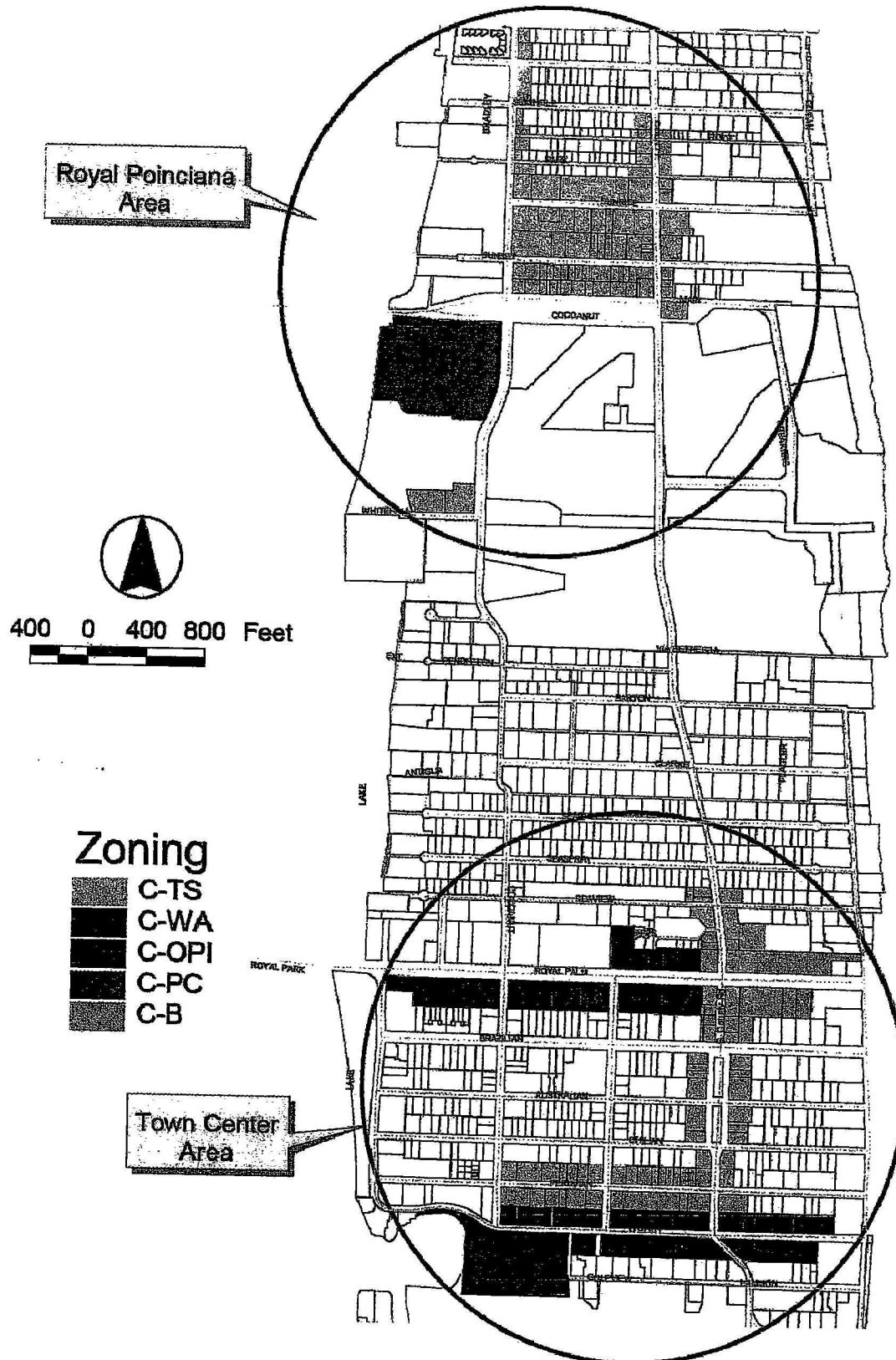
III. CURRENT MIX OF USES BY ZONING DISTRICT, TYPE OF USE, AND SQUARE FOOTAGE

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

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



COMMERCIAL ZONING, 2009



Unlike the 1979-80 study which relied on physical visits to the site of each business to estimate its square footage based on a rough measurement of the geometry of the specific building or unit, the 2009 information is taken from the Town's computerized records of Business Tax Receipts. Obvious examples of businesses with multiple BTRs (e.g., a restaurant that also carried a BTR for its nightclub or catering operation, or for individual lawyers within a firm which had been issued a BTR), were deleted from the list. Hotels and offices were not included in the 1979 inventory. Therefore hotels and the very largest banks and brokerage and administrative offices have been excluded from the 2009 inventory of the C-TS and C-WA zoning districts. However, since banks and offices have been subject to the need for a special exception to exceed 2,000 square feet, these smaller banks and offices up to 10,000 square feet are included in the 2009 inventory. This leaves 639 BTRs of which 473 (74%) contain complete information. It is these 463 businesses upon which the information in Tables 3 through 9 and associated analyses are based.

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

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



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

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

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

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

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

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



C-TS, TOWN-SERVING DISTRICT

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

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

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

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

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

C-WA, WORTH AVENUE DISTRICT

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

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

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

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

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



CB, OFFICE DISTRICT

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

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

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

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



C-OPI, OFFICES, PROFESSIONAL AND INSTITUTIONAL DISTRICT

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

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

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

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



C-PC, PLANNED CENTER DISTRICT

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

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

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

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

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

IV. COMPARISON OF 1979 and 2009 PATTERNS

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

TOWN CENTER COMMERCIAL AREA

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

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

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

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



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

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



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

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

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

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



ROYAL POINCIANA COMMERCIAL AREA

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

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

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

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

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



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

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

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

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

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

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

TOTAL SQUARE FEET	958,895		
NUMBER OF APPROVALS	161		
AVERAGE SF PER APPROVAL	5,956		
		Percent	
Square Footage	Number	By Bracket	Cumulative
2,001 to 2,999	46	28.6%	28.6%
3,000 to 3,999	29	18.0%	36.6%
4,000 to 4,999	26	16.1%	62.7%
5,000 to 5,999	13	8.1%	70.8%
6,000 to 6,999	12	7.5%	78.3%
7,000 to 7,999	6	3.7%	82.0%
8,000 to 8,999	5	3.1%	85.1%
9,000 to 9,999	4	2.5%	87.6%
10,000 to 12,999	12	7.5%	95.1%
13,000 SF or more	8	5.0%	(1)
TOTAL	161	(1)	
(1) Parts do not add to 100.0 due to internal rounding.			
Source: Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.			



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

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

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

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

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

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

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

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



VI. OTHER RELEVANT FACTORS AND CHANGES SINCE 1980

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

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

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

The Gardens Mall

Gucci

Hamilton Jewelers

Tourneau

Nordstrom

Louis Vuitton

Lilly Pulitzer

Brooks Brothers

Town Center at Boca Raton

Neiman Marcus

Cartier

Tiffany & Company

Louis Vuitton

Michael Kors

Lilly Pulitzer

Ralph Lauren

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



VII. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

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

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

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

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

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

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

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

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

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

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

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

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



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

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

RECOMMENDATIONS

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



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

