

REVISED

11:31 am, Nov 09, 2017

TENTATIVE:
SUBJECT TO
REVISION



TOWN OF PALM BEACH

Town Manager's Office
TOWN COUNCIL MEETING

**TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD**

AGENDA

NOVEMBER 14, 2017

9:30 AM

Town Council Meeting

Welcome!

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

I. CALL TO ORDER AND ROLL CALL

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

IV. RECOGNITIONS

- A.** Recognition of Bernard R. Panfel, Investment Advisory Committee, from 2004 through 2018

- B. Recognition in Remembrance of Lee David Goldstein, Shore Protection Board, December 2008 through October 2017
- C. Recognition in Remembrance of Richard Raffo, Shore Protection Board Member from January 2013 through December 2015

V. PRESENTATIONS

- A. Presentation by GFOA of Certificate of Achievement for Excellence in Financial Reporting and Distinguished Budget Presentation Award
Darlene Malaney, Government Finance Officers Association

VI. COMMENTS OF MAYOR GAIL L. CONIGLIO

VII. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

IX. APPROVAL OF CONSENT AGENDA (SEE NOTE 5)

A. MINUTES

1. TOWN COUNCIL MEETING MINUTES:
Kathleen Dominguez, Town Clerk
 - a. August 9, 2017, Development Review Town Council Meeting Minutes Page 13
 - b. September 19, 2017, Town Council Meeting Minutes Page 24
(Deferred from the October 10, 2017 Town Council Meeting)
 - c. September 19, 2017, Special Town Council Meeting Minutes Page 55
(Deferred from the October 10, 2017 Town Council Meeting)
 - d. September 27, 2017, Special Town Council Meeting Minutes Page 63
 - e. October 4, 2017, Special Town Council Meeting Minutes Page 65
 - f. October 10, 2017, Town Council Meeting Minutes Page 70
 - g. October 11, 2017, Development Review Town Council Meeting Minutes Page 85
2. Approval of major matters considered by the Architectural Review Commission at its meeting of October 25, 2017. Page 100
John S. Page, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 190-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Amending Recreation Enterprise Fund Maintenance and Improvement Reserves Policy; Providing an Effective Date. Page 119

Jane Struder, Director of Finance

2. RESOLUTION NO. 200-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach, County, Florida, Awarding Bid No. 2017-41 for the D-4 Stormwater Pump Station Outfall Rehabilitation and Approving a Construction Contract to Quadex Lining Systems, LLC in the Amount of \$377,050 and Establishing a Construction Phase Budget of \$400,000. Page 125

H. Paul Brazil, P.E., Director of Public Works

3. RESOLUTION NO. 201-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order in the Amount of \$96,966, to Kimley-Horn and Associates, Inc., for Professional Engineering Services Associated with Groundwater Monitoring and Consulting at the Town's Vegetative Landfill Sites, and Establishing a Project Budget of \$107,000. Page 131

H. Paul Brazil, P.E., Director of Public Works

4. RESOLUTION NO. 202-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying a Purchase Order Approved by the Town Manager for Emergency Replacement of Generator Parts for the D-8 Storm Water Pumping Station to Florida Detroit Diesel Inc., in an Amount of \$33,216.34, and Establishing a Budget of \$35,000, and Ratifying a Purchase Order Approved by the Town Manager for Emergency Temporary Generator Rental for the D-8 Storm Water Pumping Station to Pantropic Power Products Inc., in an Amount of \$30,928.50, and Establishing a Budget of \$34,000. Page 140

H. Paul Brazil, P.E., Director of Public Works

5. RESOLUTION NO. 204-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town of Palm Beach to Submit, Ex Post Facto, an Application for the FY2017 President Elect Security Assistance Reimbursement Grant Program for Reimbursement of Applicable Law Enforcement Personnel Overtime and Equipment in the Amount of \$24,343.07 During the President Elect Transition Period; and Authorizing the Town Manager and Staff to Execute All Documents Necessary on Behalf of the Town of Palm Beach. Page 144

Kirk W. Blouin, Director of Public Safety

6. RESOLUTION NO. 205-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town of Palm Beach to Submit, Ex Post Facto, an Application for the FY2017 Presidential Residence Protection Assistance (PRPA) Grant for Reimbursement of Applicable Law Enforcement Personnel Overtime Expenses in the Amount of \$71,270.09 During the Application Period; and Authorizing the Town Manager and Staff to Execute All Documents Necessary On Behalf of the Town of Palm Beach. Page 157

Kirk W. Blouin, Director of Public Safety

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| 7. | <u>RESOLUTION NO. 206-2017</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town of Palm Beach to Submit an Application to the Florida Department of Transportation (FDOT) for the FY2017 High Visibility Enforcement for Pedestrian and Bicycle Safety Grant for Reimbursement of Applicable Law Enforcement Personnel Overtime; Not to Exceed \$5,000; during the Application Period; and Authorizing the Town Manager and Staff to Execute All Documents Necessary on Behalf of the Town of Palm Beach.
<i>Kirk W. Blouin, Director of Public Safety</i> | Page 170 |
| 8. | <u>RESOLUTION NO. 207-2017</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of five (5) Greensmaster Flex 2120 Walking Greens Mowers at a Cost of \$60,069.82 From WescoTurf for use at the Par 3 Golf Course, and Authorizing the Town Manager to Execute the Purchase on Behalf of the Town.
<i>Beth Zickar, Director of Recreation</i> | Page 176 |

C. OTHER

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| 1. | Lake Trail Improvements - Update and Request For Extended Work Hours.
<i>H. Paul Brazil, P.E., Director of Public Works</i> | Page 182 |
| 2. | Bradley Park Improvements - Update and Request For Extended Work Hours.
<i>H. Paul Brazil, P.E., Director of Public Works</i> | Page 188 |
| 3. | Status Report of Delinquent Accounts
<i>Jane Struder, Director of Finance</i> | Page 191 |
| 4. | Authorization to Direct Potential Zoning Code Change to the Planning & Zoning Commission : Governmental and/or Historic Signage on Public Property
<i>John S. Page, Director of Planning, Zoning & Building</i> | Page 196 |
| 5. | Confirmation of Caucus Time
<i>Kathleen Dominguez, Town Clerk</i> | Page 198 |

X. APPEALS

- | | | |
|----|---|----------|
| A. | ARCOM Appeal of Project Approval Case No. B-020-2017
202 Onondaga Avenue
<i>John S. Page, Director of Planning, Zoning & Building</i> | Page 200 |
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XI. COMMITTEE REPORTS

- A.** Report of the Ordinances, Rules and Standards Committee Meeting Held on October 5, 2017. Page 559
Bobbie Lindsay, Chair
- B.** Report of the Finance and Taxation Committee Meeting Held on October 12, 2017. Page 566
Danielle H. Moore, Chair
1. Summary Presentation
Dean Mealy, Purchasing Manager

XII. REGULAR AGENDA

A. Old Business

1. Town-wide Underground Project: Page 597
Steven N. Stern, Underground Utilities Project Manager
- a. Project Update
- b. Underground Utility Project Dashboard
- c. Update on Peer Review Draft Report
- d. Installation of AT&T Fiber Network for Phase 1 of the Town-wide Undergrounding Project
2. Coastal Update:
a. Shore Line Condition Update
H. Paul Brazil, P.E., Director of Public Works
3. Comprehensive Review of Town Operations (CRTO) Outline/Timeline Page 647
Thomas G. Bradford, Town Manager
4. Update on Potential Lease of Town-Owned Property at 5976 Okeechobee Boulevard Page 651
Jay Boodheshwar, Deputy Town Manager
5. Discussion Regarding Scope and Schedule for Business Workshop Page 654
Jay Boodheshwar, Deputy Town Manager

B. New Business

1. Review of Probationary Employment Period Page 657
Danielle Olson, Director of Human Resources
2. Hurricane Irma After Action Report Page 662
Jay Boodheshwar, Deputy Town Manager

3. Planning and Zoning Commission Record and Report: Proposed Zoning Text Amendments by RPP Palm Beach Property, LP Outdoor Greenspace Activities and Commercial Signage
John S. Page, Director of Planning, Zoning & Building Page 690
4. RESOLUTION NO. 209-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Econolite Systems, in the Amount of \$274,211 for the Upgrade of the Traffic Signal Control and CCTV Installation at Four Intersections, and Establishing an Overall Project Budget of \$300,000.
H. Paul Brazil P.E., Director of Public Works Page 717

C. Matters Pulled From Consent Agenda: If needed

XIII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 29-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 18, Buildings And Building Regulations: At Section 18-201(B), By Changing The Required Plan Revision Submittal Timeframe From 15 Days To Noon, 9 Days Prior To The Architectural Commission Meeting At Which It Will Be Considered; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.
John S. Page, Director of Planning, Zoning & Building Page 732

B. First Reading

1. ORDINANCE NO. 31-2017 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County Florida, Amending Chapter 14, Aviation, at Article II. Aircraft, so as to Rescind in its Entirety Section 14-35 Thereof, Relating to Drones; Model Aircraft in its Entirety; Providing for a New Section 14-35 Relating to Drones; Model Aircraft, so as to Provide a Definition of "Drones/Model Aircraft" and so as to Provide that Drones/Model Aircraft Operated in the Town Shall Comply with all Rules and Regulations of the Federal Aviation Administration (FAA) Relating to the Operation and Registration of Same, as well as all Rules and Regulations of the State of Florida Relating to said Operation.
Jay Boodheshwar, Deputy Town Manager Page 737
2. ORDINANCE NO. 32-2017 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 46, Fire Prevention and Protection, Amending Article III, "Fire Prevention", in Accordance with Florida State Statute 633.202 and 633.208 the "Florida Fire Prevention Code" Adopted by the State of Florida Fire Marshal in Chapter 69a-60 of the Florida Administrative Code with Local Page 743

Amendments, National Fire Protection Association Fire Code - N.F.P.A. 1, Florida 2015 Edition, and National Fire Protection Association Life Safety Code - N.F.P.A. 101, Florida 2015 Edition; Providing for Severability; Repealing All Ordinances or Parts of Ordinances in Conflict Herewith; Providing for Codification; and Providing for an Effective Date.

Kirk W. Blouin, Director of Public Safety

3. EMERGENCY ORDINANCE NO. 33-2017 An Emergency Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances Relating To Personnel, at Article II, Employee Benefits, Division 2, Retirement System; Amending Subdivision I, In General, By Creating a New Section 82-76, Preservation of Benefits Plan; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Page 749

Thomas G. Bradford, Town Manager

TIME CERTAIN: 12:00 PM

XIV. ANY OTHER MATTERS

XV. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** Please submit written comments/materials to publiccomment@townofpalmbeach.com or in person to the Town Clerk's Office, located at Town Hall, 360 South County Road. No written materials received after 3:30 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests

that any item(s) be moved to the Regular Agenda and individually considered.

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

Town of Palm Beach
Meeting Schedule

11/7/17

Main Town Calendar

Town Council Meeting-Regular Business

November 14, 9:30 AM - 5:00 PM

[More Details](#)

Town Council Meeting-Development Review

November 15, 9:30 AM - 5:00 PM @ Council Chambers

[More Details](#)

Public Works Committee Meeting

November 16, 9:30 AM @ Council Chambers

[More Details](#)

Code Enforcement Board Meeting

November 16, 2:00 PM - 5:00 PM @ Council Chambers

[More Details](#)

Retirement Board Meeting

November 17, 9:00 AM - 2:00 PM @ Council Chambers

[More Details](#)

Investment Advisory Committee Meeting

November 17, 2:30 PM - 5:00 PM @ Council Chambers

[More Details](#)

Thanksgiving Holiday-Town Hall Offices Closed

November 23 - November 24

[More Details](#)

Holiday Tree Lighting

November 27, 6:00 PM - 7:00 PM @ Bradley Park

[More Details](#)

Planning and Zoning Commission Meeting

November 28, 9:30 AM - 5:00 PM @ Council Chambers

[More Details](#)

Holiday Tree Lighting

November 28, 5:30 PM - 6:00 PM @ Memorial Park

[More Details](#)

Holiday Tree Lighting

November 28, 6:29 PM - 8:00 PM @ Worth Avenue

[More Details](#)

Architectural Commission (ARCOM) Meeting

November 29, 9:00 AM - 5:00 PM @ Council Chambers

[More Details](#)

Conclusion of Hurricane Season**November 30, All Day**[More Details](#)

A Cup of Joe with Bo - Undergrounding Phase 1 - South**December 1, 8:00 AM @ South Fire Rescue Station, 2185 S. Ocean Blvd.**

Join Bo Huggins, Project Superintendent, and the undergrounding project construction team for coffee, donuts and conversation. Ask questions and stay informed as the project moves forward.

[More Details](#)

Coffee with the Crew - Undergrounding Phase 1 - North**December 4, 8:00 AM @ Annie's Dock - North Ocean Blvd and East Inlet Drive**

Join the undergrounding project construction team for coffee, donuts and conversation. Ask questions and stay informed as the project moves forward.

[More Details](#)

Underground Utilities Task Force (UUTF) Meeting**December 5, 9:00 AM - 1:00 PM @ Council Chambers**[More Details](#)

Shore Protection Board Meeting**December 6, 9:00 AM - 2:00 PM @ Council Chambers**[More Details](#)

Ordinances, Rules, and Standards Committee Meeting**December 7, 9:30 AM - 2:00 PM @ Council Chambers**[More Details](#)

Pension Workshop**December 11, 9:30 AM @ Council Chambers**[More Details](#)

Town Council Meeting-Regular Business**December 12, 9:30 AM - 5:00 PM**[More Details](#)

Town Council Meeting-Development Review**December 13, 9:30 AM - 5:00 PM @ Council Chambers**[More Details](#)

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda Minutes

Agenda Title TOWN COUNCIL MEETING MINUTES: Kathleen Dominguez, Town Clerk

- a. August 9, 2017, Development Review Town Council Meeting Minutes
- b. September 19, 2017, Town Council Meeting Minutes
(Deferred from the October 10, 2017 Town Council Meeting)
- c. September 19, 2017, Special Town Council Meeting Minutes
(Deferred from the October 10, 2017 Town Council Meeting)
- d. September 27, 2017, Special Town Council Meeting Minutes
- e. October 4, 2017, Special Town Council Meeting Minutes
- f. October 10, 2017, Town Council Meeting Minutes
- g. October 11, 2017, Development Review Town Council Meeting Minutes

Presenter

ATTACHMENTS:

- ❑ **a. August 9, 2017, Town Council Meeting Minutes**
- ❑ **b. September 19, 2017, Town Council Meeting Minutes**
- ❑ **c. September 19, 2017, Special Town Council Meeting Minutes**
- ❑ **d. September 27, Special Town Council Meeting Minutes**
- ❑ **e. October 4, 2017, Town Council Meeting Minutes**
- ❑ **f. October 10, 2017, Town Council Meeting Minutes**

▢ **g. October 11, 2017, Development Review Meeting Minutes**

TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES OF THE TOWN COUNCIL MEETING

HELD ON WEDNESDAY AUGUST 9, 2017

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order at 2:17 P.M. on Wednesday, August 9, 2017 in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. COMMENTS OF MAYOR GAIL L. CONIGLIO - None

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Araskog asked to revisit SE-18-2017 257 Royal Poinciana Way, Cucina Restaurant.

Motion was made by Council Member Araskog that Special Exception #18-2017 conditions be reconsidered. Without a second, the motion was not considered.

V. COMMUNICATIONS FROM CITIZENS

Bill Metzger, 277 Esplanade Way, informed the Mayor and Town Council about a possible restoration effort for the eagle and flagpole on Royal Palm Way. He also added that the communication regarding the utilities undergrounding project has been terrific.

Mayor Coniglio and Council Member Araskog provided follow up comments.

VI. APPROVAL OF AGENDA

The following changes were made to the agenda:

Withdrawn: The following item was withdrawn:

- ITEM VII.B.1.a. VARIANCE #15-2017

Deferrals: The following items were deferred to the September 13, 2017

Town Council Meeting:

- ITEM VII.B.1.d. SITE PLAN REVIEW #1-2017

- ITEM VII.B.2.g. Z-17-00017 VARIANCE

- ITEM VII.B.2.h. Z-17-00018 VARIANCE

The following items were deferred to the October 11, 2017 Town Council meeting

- ITEM VII.B.1.b. VARIANCE #21-2017
- ITEM VII.B.2.j. SPECIAL EXCEPTION WITH SITE PLAN REVIEW Z-17-00021
- ITEM VII.B.2.k. SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE Z-17-00022

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

Deputy Clerk Churney swore in all those who would be providing testimony.

VII. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeal

1236 South Ocean Boulevard

Case # B-046-2917 Landscape/Hardscape

Director Page provided a summary of the project.

No ex-parte communications were declared.

Attorney Barbara Hall spoke on behalf of the owners of 100 Emerald Beach Way who believe that approval was not properly given and that the application was deficient.

Attorney Tim Hanlon spoke on behalf of the owners of 1236 South Ocean Boulevard.

Discussion took place on landscaping requirements, letters of support, parking, and noise.

Mr. Randolph provided an explanation about the application.

Council Member Lindsay recused herself from the project.

Motion was made by Council President Pro Tem Moore, and seconded by Council Member Zeidman, to deny the ARCOM appeal. On roll call, the motion carried 4-0, with Council Member Lindsay recused.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

a. VARIANCE #15-2017 The application of 3200 Washington, LLC; relative to property commonly known as 1055 N. Ocean Blvd., described as lengthy legal description on file; located in the R-A Zoning District. The applicant is proposing to modify the existing one-story house by adding a 4,665 square foot second story pitched roof addition and adding a pitched roof and loggia element onto the existing one story portions of the house that are to remain. The following four variances are being requested in order to accomplish this: 1) A south side yard setback ranging from 7.4 feet to 9.9 feet in lieu of the 15 feet minimum setback required to add the pitched roof onto the one story south wing of the house and

1 the second story addition; 2) A north side yard setback ranging from the 5.1 feet
2 to 8 feet in lieu of the 15 foot minimum setback required to add the pitched roof
3 and loggia onto the one story north wing of the house and the second story
4 addition. Both sides are proposed to have 2 foot overhangs for the pitch roof
5 which is allowed by code. [Attorney: Joel P. Koeppel, Esq.] [Architectural
6 Commission Recommendation: Implementation of the proposed variance will
7 cause negative architectural impacts to the subject property and the proposed
8 project can be designed in an architecturally suitable manner which conforms to
9 our Code of Ordinances without the need for a variance. Carried 5-2 The
10 Architectural Commission approved the project as presented with a west loaded
11 garage. Carried 4-3.] Request for Withdrawal Per Letter Dated July 26, 2017
12 from Joel P. Koeppel

13 ***Item was withdrawn***

14 b. VARIANCE #21-2017 The application of Vera Alfieri Monforte; relative to
15 property commonly known as 218 Miraflores Dr., described as lengthy legal
16 description on file; located in the R-B Zoning District. The applicant is proposing
17 to construct a 1,230 square foot second story addition on the west side of the
18 one story residence that will create two bedrooms, a gym and two bathrooms.
19 The following variances are being requested: 1) lot coverage of 33.7% in lieu of
20 the 30% maximum allowed for a two story residence, 2) a west side yard setback
21 of 13 feet in lieu of the 15 foot minimum required, 3) a rear yard setback of 13.91
22 feet in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [The
23 Architectural Commission deferred the project to the August 23, 2017 meeting.
24 Carried 7-0.] Request for Deferral to the October 11, 2017, Town Council
25 Meeting Per Letter Dated August 1, 2017 from Maura Ziska

26 ***Item was deferred to the October 11, 2017 Town council meeting***

27 c. SPECIAL EXCEPTION #19-2017 WITH SITE PLAN REVIEW The application
28 of Stephen Wolf; relative to property commonly known as 158 Everglade Ave.,
29 described as lengthy legal description on file; located in the R-B Zoning District.
30 The applicant is requesting a special exception with site plan review to allow the
31 construction of a 4,302 square foot two-story single family residence on a lot
32 comprised of portions of platted lots. The lot is 85 feet in width in lieu of the 100
33 foot minimum required. [Attorney: David E. Klein, Esq.] [Architectural
34 Commission recommendation: Implementation of the proposed special
35 exception with site plan review will not cause negative architectural impact to the
36 subject property. Carried 7-0. The Architectural Commission approved the
37 project as amended. Carried 7-0.]

38 No ex-parte communications were declared.

39 Attorney David Klein provided details of the project.

40 Zoning Administrator Castro provided Staff comments.

41 **Motion was made by Council Member Zeidman, and seconded by Council Member**
42 **Araskog, that Special Exception #19-2017 shall be granted, with the caveat that the owner**
43 **will provide a utility easement, based upon the finding that such grant will not adversely**
44 **affect the public interest and that the applicable criteria set forth in Section 134-229 of**
45 **the Town Code have been met. On roll call, the motion carried unanimously.**
46

1 **Motion was made by Council Member Zeidman, and seconded by Council Member**
2 **Lindsay, that Site Plan #19-2017 be approved, with the caveat that the owner will provide**
3 **a utility easement, based upon the finding that the approval of the site plan will not**
4 **adversely affect the public interest and that the Council certifies that the specific zoning**
5 **requirements governing the individual use have been met and that satisfactory provision**
6 **and arrangement has been made concerning Section 134-329, items 1 through 11. On**
7 **roll call, the motion carried unanimously.**

8 d. SITE PLAN REVIEW #1-2017 The application of 235 Via V PB LLC (Stuart
9 Kapp, Manager); relative to property commonly known as 235 Via Vizcaya.,
10 described as lengthy legal description on file; located in the R-A Zoning District.
11 The applicant is requesting a site plan review to allow the construction of a 7,444
12 square foot two-story, single family residence on a non-conforming platted lot
13 which is 15,344 square feet in area in lieu of the 20,000 square foot minimum
14 area required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58
15 feet in depth in lieu of the 150 foot minimum required. [Attorney: Maura Ziska,
16 Esq.] [The Architectural Commission deferred the project to the August 23, 2017
17 meeting. Carried 7-0]

18 ***Item was deferred to September 13, 2017 Town council meeting***

19 **2. New Business**

20 a. Z-17-00005 VARIANCE Zoning District: R-B Low Density Residential The
21 application of CAMPANA PB TRUST, Owner, relative to property located at 120
22 CANTERBURY LN, legal description on file, is described below. The applicant
23 is proposing to add a 495 square foot second story addition for a guest suite
24 above the existing one story guest suite (which will be converted to a garage)
25 and a 69 square foot 2 story stair addition that will be out of the setback.
26 Because the property is in excess of 20,000 square feet a variance is being
27 requested to have a 15.2 east side yard setback in lieu of the 26 foot minimum
28 required. [Applicant's Representative: Maura Ziska, Esq.]

29 The following ex-parte communications were declared. Council Member
30 Lindsay, Mayor Coniglio, Council President Kleid and Council Member Zeidman
31 spoke with Maura Ziska who advocated the position of her client.

32 Attorney Ziska provided details of the project.

33 Mr. Castro provided Staff comments.

34 Discussion took place on ARCOM approval process.

35 Town Manager Bradford clarified underground status on Canterbury Lane.

36 **Motion was made by Council Member Araskog, and seconded by Council Member**
37 **Zeidman, that Variance #Z-17-0005 be deferred and forwarded to ARCOM for its**
38 **recommendation and approval. On roll call, the motion carried 3-2 with Council**
39 **President Pro Tem Moore and Council President Kleid dissenting.**

40 b. Z-17-00006 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning
41 District: R D(2) High Density Residential The application of 2842 S OCEAN LLC,
42 Owner, relative to property located at 2842 S OCEAN BLVD SUITE: REC AREA,
43 legal description on file, is described below. Special Exception with site plan
44 review requesting a modification to the site plan to relocate the pool cabana bar

1 and construct a small kitchen with seven (7) outdoor seats onto the existing pool
2 deck of the Tideline Ocean Resort. The existing pool bar will become a towel
3 storage building. The proposed hours are 11:00 a.m. to 8:00 p.m. [Applicant's
4 Representative: Maura Ziska, Esq.]

5 The following ex-parte communications were declared. Council Member Lindsay
6 and Council President Kleid spoke with Maura Ziska who advocated the position
7 of her client.

8 Attorney Ziska provided details of the project.

9 Mr. Castro provided Staff comments.

10 **Motion was made by Council Member Lindsay, and seconded by Council Member**
11 **Araskog, that Special Exception #Z-17-00006 shall be granted based upon the finding**
12 **that such grant will not adversely affect the public interest and that the applicable criteria**
13 **set forth in Section 134-229 of the Town Code have been met. On roll call, the motion**
14 **carried unanimously.**

15
16 **Motion was made by Council Member Lindsay, and seconded by Council Member**
17 **Araskog, that Site Plan #Z-17-0006 be, approved with the caveat the owner will provide a**
18 **utility easement, based upon the finding that the approval of the site plan will not**
19 **adversely affect the public interest and that the Council certifies that the specific zoning**
20 **requirements governing the individual use have been met and that satisfactory provision**
21 **and arrangement has been made concerning Section 134-329, items 1 through 11. On**
22 **roll call, the motion carried unanimously.**

23 c. Z-17-00007 SPECIAL EXCEPTION Zoning District: R B Low Density
24 Residential The application of SULTAN MARILYN R, Owner, relative to property
25 located at 314 DUNBAR RD, legal description on file, is described below. A
26 request for a special exception to replace a chain link swing gate with a
27 decorative aluminum swing gate in the same location at the driveway entrance
28 on Dunbar Road, which is a dead end street. The existing and proposed gate
29 would be 16.5 feet from the street pavement in lieu of the 18 foot minimum
30 required. [Applicant's Representative: Maura Ziska, Esq.]

31 The following ex-parte communications were declared. Council Member Lindsay
32 and Council President Kleid spoke to Attorney Ziska who advocated for the
33 position of her client.

34 Attorney Ziska provided details of the project.

35 Mr. Castro provided Staff comments.

36 Discussion took place on permitting and code violations related to the gate, the
37 location of walkway, and the history of gate.

38 **Motion was made by Council Member Araskog, and seconded by Council President Pro-**
39 **Tem Moore, that Special Exception #Z-17-0007 be deferred to until Town Staff is able to**
40 **research whether there is a code violation. This item will be revisited at the September**
41 **Town Council meeting. On roll call, the motion carried unanimously.**

42 d. Z-17-00014 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND
43 VARIANCE Zoning District: R-B Low Density Residential The application of 280
44 NCR LLC, Owner, relative to property located at 280 N COUNTY RD, legal

description on file, is described below. The applicant is requesting a special exception with site plan review request to allow the construction of a 7,211 square foot two-story single family residence, detached one-story pool cabana and garage on a non-conforming lot, comprised of portions of platted lots, which has a width of 92.6 feet in lieu of the 100 foot minimum required width in the R-B Zoning District. In connection with the proposed construction, the following variance is being requested: A variance to construct a two-story house with a second story street sideyard setback (east side of the property) of 25 feet in lieu of the 30 foot minimum required. [Applicant's Representative: David E. Klein, Esq.] [Architectural Commission recommendation: Implementation of the proposed variance, site plan and special exception will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project. Carried 7-0.]

No ex-parte communications were declared.

Attorney David Klein provided details of the project.

Mr. Castro provided Staff comments.

Motion was made by Council Member Zeidman, and seconded by Council President Pro-Tem Moore, that Special Exception #Z17-00014 shall be granted, with the caveat the owner will provide a utility easement, based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met. On roll call, the motion carried unanimously.

Motion was made by Council Member Zeidman, and seconded by Council President Pro-Tem Moore, that Site Plan #Z17-00014 be approved based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11. On roll call, the motion carried unanimously.

Motion was made by Council Member Zeidman, and seconded by Council President Pro-Tem Moore, that Variance #Z17-00014 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7, have been met. On roll call, the motion carried unanimously.

e. Z-17-00015 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: R-A Estate Residential The application of EVERGLADES CLUB INC, Owner, relative to property located at 500 S COUNTY RD SUITE: CLUBHOUSE (PALM TERRACE BLDG), legal description on file, is described below. A request for special exception approval with site plan review to allow modifications to the existing Palm Terrace building by demolition of an existing concrete patio, walkway and ficus trees and construct a new 5,686 square foot coquina tile patio in the same location as extended to the south. The request also includes the addition of a covered area for movable kitchen equipment located between the men's locker room and an existing covered walkway, masonry planters for low plantings and new Buttonwood trees, and new trellis screening at some of the existing openings. Additionally, there is a request to shift the previously approved soil bins to the southeast. [Applicant's Representative: Maura Ziska, Esq.]

1 The following ex-parte communications were declared. Council Member Lindsay
2 and Council President Kleid spoke to Attorney Ziska who advocated the position
3 of her client. Council President Pro-Tem Moore and Council Member Araskog
4 announced they are members of the Everglades Club.

5 Attorney Ziska provided details of the project.

6 Architect Jason Drobot provided additional details.

7 Mr. Castro provided Staff comments.

8 **Motion was made by Council Member Lindsay, and seconded by Council Member**
9 **Zeidman, that Special Exception #Z17-00015 shall be granted with the caveat the owner**
10 **will provide a utility easements on all sides of the property, based upon the finding that**
11 **such grant will not adversely affect the public interest and that the applicable criteria set**
12 **forth in Section 134-229 of the Town Code have been met. On roll call, the motion carried**
13 **unanimously.**

14 **Motion was made by Council Member Lindsay, and seconded by Council Member**
15 **Araskog, that Site Plan #Z17-00015 be approved based upon the finding that the approval**
16 **of the site plan will not adversely affect the public interest and that the Council certifies**
17 **that the specific zoning requirements governing the individual use have been met and**
18 **that satisfactory provision and arrangement has been made concerning Section 134-329,**
19 **items 1 through 11. On roll call, the motion carried unanimously.**
20

21 f. Z-17-00016 VARIANCE Zoning District: C-TS Town-Serving Commercial The
22 application of PARAMOUNT CHURCH INC LESSOR, Owner, relative to property
23 located at 139 N COUNTY RD SUITE: 1, legal description on file, is described
24 below. Request for a variance to allow a previously approved first floor real
25 estate office (Illustrated Properties Real Estate Inc.) to expand across the
26 covered walkway into first floor Suites 1 & 2 which contains 1,318 square feet.
27 The total square footage for both spaces will equal 2,326 square feet. A variance
28 is being requested to have the proposed real estate office on the first floor of a
29 building located in the C-TS zoning district where office use is only allowed on
30 the second floor if it doesn't meet the special exception criteria that would allow
31 an office on the first floor. [Applicant's Representative: Maura Ziska, Esq.]

32 The following ex-parte communications were declared. Council President Kleid
33 and Council Members Lindsay and Zeidman spoke with Attorney Ziska who
34 advocated the position of her client.

35 Deputy Clerk Churney swore in all those who would be providing testimony.

36 Attorney Ziska provided details of the project.

37 Mr. Castro provided Staff comments.

38 Discussion took place on parking, visibility from the street, history of the property,
39 the impact of surrounding retail businesses and walkability.

40 Architect Keith Spina presented proposed plans for the project.

41 **Motion was made by Council Member Araskog, and seconded by Council Member**
42 **Lindsay, that Variance #Z-17-00016 be denied because the application does not meet all**
43 **of the criteria applicable to this application as set forth in Section 134-201(a), items 1**

1 through 7. On roll call, the motion carried 3-2 with Council Members Zeidman and
2 Council President Pro-Tem Moore dissenting.

3 Eric Sain, District Sales Manager for the Illustrated Properties Group, spoke
4 about bringing activities and events into the courtyard.

5 g. Z-17-00017 VARIANCE Zoning District: R-A Estate Residential The
6 application of OLD KAPOK LLC, Owner, relative to property located at 8 S LAKE
7 TRL, legal description on file, is described below. The applicant is requesting
8 modifications to a Landmarked residence which will require the following
9 variances: 1. A request for a variance to allow construction of a tennis court that
10 will not be completely enclosed with a fence and that the tennis court with
11 appurtenances will have a 27 foot front yard setback in lieu of the 35 foot
12 minimum required. 2. A variance request to allow a driveway back up space to be
13 17 feet in lieu of the 25 feet required. 3. A variance request to construct a one
14 story addition to the south side of the existing cabana that will have a front yard
15 setback of 33.8 feet in lieu of the 35 foot minimum required. [Applicant's
16 Representative: Maura Ziska, Esq.] [The Landmarks Preservation Commission
17 deferred the project to the August 16, 2017 meeting. Carried 7-0.] Request for
18 Deferral to the September 13, 2017, Town Council Meeting Per Letter Dated July
19 27, 2017 From Maura Ziska

20 ***Item was deferred to the September 13, 2017 Town council meeting***

21 h. Z-17-00018 VARIANCE Zoning District: R-B Low Density Residential The
22 application of 130 DOLPHIN ROAD LLC, Owner, relative to property located at
23 130 DOLPHIN RD, legal description on file, is described below. The applicant is
24 proposing to construct a 1,400 square foot, second floor addition (which includes
25 a 260 square foot terrace) onto an existing one-story home. Adding a second
26 story to an existing one story home causes the existing lot coverage of 32% to
27 exceed the 30% maximum allowed for a two story residence in the R-B Zoning
28 District. The variance request is for the lot coverage to be 32% in lieu of the 30%
29 maximum allowed for a two story residence in the R-B Zoning District.
30 [Applicant's Representative: Maura Ziska, Esq.] [The Architectural Commission
31 deferred the project to the August 23, 2017 meeting. Carried 7-0.] Request for
32 Deferral to the September 13, 2017, Town Council Meeting Per Letter Dated
33 August 1, 2017 From Maura Ziska

34 ***Item was deferred to the September 13, 2017 Town council meeting***

35 i. Z-17-00020 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District:
36 C-TS Town-Serving Commercial The application of CARRIAGE HOUSE
37 PROPERTIES PART, Owner, relative to property located at 264 S COUNTY RD
38 SUITE: SITE, legal description on file, is described below. A request for a special
39 exception with site plan review approval to allow a private club "Carriage House"
40 to operate at 264 and 270 South County Road in the C-TS Zoning District. The
41 Club will have a membership cap of 264 members based on the principal of
42 equivalency for parking requirements. [Applicant's Representative: Maura Ziska,
43 Esq.]

44 Mr. Castro recommended deferring to the September Town council meeting in
45 order to obtain and review traffic concurrency; information still being prepared.

46 Discussion took place on whether or not to defer the presentation of information.

1 The following ex-parte communications were declared. Council Member
2 Lindsay, Council President Kleid, Council Member Moore, and Council Member
3 Zeidman all had a conversation with Maura Ziska who advocated the position of
4 her client. Council Member Lindsay received a voice mail from Laurie Volk.
5 Mayor Coniglio and Council Member Zeidman both received a telephone call
6 from Laurie Volk, who shared her concerns.

7 All council members have read letters and E-mails associated with this project
8 that were included in their backup.

9 Attorney Ziska provided details of the project.

10 **Motion was made by Council Member Zeidman, and seconded by Council Member**
11 **Araskog, to defer Special Exception Z-17-00020 With Site Plan Review to September 13,**
12 **2017 Town council meeting. On roll call, the motion carried unanimously**

13 j. Z-17-00021 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning
14 District: R-B Low Density Residential The application of 211 PINE STREET
15 LAND TRUST &, Owner, relative to property located at 225 ARABIAN RD, legal
16 description on file, is described below. Request for special exception and site
17 plan review approval to permit construction of a 4,247 square foot two-story
18 single family residence on portions of platted lots with a width of 86 feet in lieu of
19 the minimum 100 feet lot width requirement applicable to lots within the R-B
20 District. [Applicant's Representative: Tim Hanlon, Esq.] [Architectural
21 Commission recommendation: Implementation of the proposed site plan review
22 and special exception will not cause negative architectural impact to the subject
23 property. Carried 7-0. The Architectural Commission deferred the project to the
24 September 27, 2017 meeting. Carried 7-0.] Request for Deferral to the October
25 11, 2017, Town Council Meeting Per Letter Dated August 2, 2017 from Tim
26 Hanlon

27 ***Item was deferred to the October 11, 2017 Town Council meeting***

28 k. Z-17-00022 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND
29 VARIANCE Zoning District: R-A Estate Residential The application of PBC
30 REALTY, Owner, relative to property located at 910 S OCEAN BLVD, legal
31 description on file, is described below. 1. Site Plan Approval requested to permit
32 construction of a new 7,963 square foot two story house and pool on a platted lot
33 with a width of 128.42 feet in lieu of 150 feet minimum required. 2. Request for
34 site plan approval and special exception to permit construction of a new 500
35 square foot beach cabana on the portion of the property lying east of S. Ocean
36 Blvd. 3. Request for a zero datum (point of measurement) for the construction of
37 the proposed two story house of 21.5 feet National Geodetic Vertical Datum
38 ("NGVD") in lieu of 18.34 feet NGVD allowed by Code. A building height plane
39 variance and building height variance is requested in order to permit this new
40 zero datum. [Applicant's Representative: Tim Hanlon, Esq.] [The Architectural
41 Commission deferred the project to the September 27, 2017 meeting. Carried 7-
42 0.]

43 ***Item was deferred to the October 11, 2017 Town council meeting***

44 VIII. ORDINANCES

45 A. Second Reading

1. ORDINANCE NO. 9-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach's Comprehensive Plan By Amending The Data & Analysis, As Well As The Goals, Objectives And Policies Within The Plan Based On The Town's Recent Evaluation And Appraisal Of The Comprehensive Plan; Providing For Incorporation Of Recitals; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Hereof; Providing For Codification; Providing An Effective Date.

Director Page provided a timeline of completion of the Comprehensive Plan.

Deputy Clerk Churney swore in Planning Administrator Lindgren.

Mr. Lindgren explained recent changes to the Comprehensive Plan.

Council Member Araskog itemized concerns with the verbiage of the Comprehensive Plan.

Discussion took place on the purpose of the Comprehensive Plan.

Anita Seltzer, 44 Coconut Row, expressed her concerns and recommended changes to the Comprehensive Plan.

Motion was made by Council President Pro Tem Moore, and seconded by Council Member Zeidman, to adopt Ordinance #9-2017, on second and final reading. On roll call, the motion carried 4-1 with Council Member Araskog dissenting.

2. ORDINANCE NO. 16-2017 An Ordinance By The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach Code Of Ordinances To Repeal Chapter 50; To Adopt A New Chapter 50; To Adopt Flood Hazard Maps, To Designate A Floodplain Administrator, To Adopt Procedures And Criteria For Development In Flood Hazard Areas, And For Other Purposes; Providing For Applicability; Repealer; Severability; And An Effective Date.

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, to adopt Ordinance #16-2017, on second and final reading. On roll call, the motion carried unanimously.

3. ORDINANCE NO. 24-2017 An Ordinance By The Town Council Of The own Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach Code Of Ordinances Chapter 18; To Adopt Amendments Relating To Flood Provisions Of The Florida Building Code; Providing For Applicability; Repealer; Severability; And An Effective Date.

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, to adopt Ordinance #24-2017, on second and final reading. On roll call, the motion carried unanimously.

IX. ANY OTHER MATTERS

- A. Mayor Coniglio expressed her growing concern about broad Council member participation at Committee meetings. She explained that Committee meetings become pseudo-Council meetings when all members attend and become engaged in discussion which may lead to decisions that are made outside of regularly scheduled Town Council meetings that are properly noticed to the general public. She asked if Committee meetings should be eliminated to prevent such situations. Town Attorney Randolph explained that this situation occurred at a recent Tax and Finance Committee

1 meeting. Initially, he thought it was appropriate for an attending Council member to pose
2 a question, but he felt the robust conversation that ensued with all Council members in
3 attendance had gotten out-of-control. Several Council members spoke explaining the
4 unique circumstances that prompted their participation. At the lead of President Kleid, it
5 was the consensus going forward that Council members attending Committee meetings
6 as observers would refrain from taking the microphone to make public comments and/or
7 otherwise participate in the discussion.
8

9 B. Discussion took place on two day versus one day Town Council meetings.

10 X. ADJOURNMENT

There being no further business, the August 9, 2017, Town Council meeting was
adjourned at 6:02 P.M.

APPROVED:

Richard M. Kleid, Town Council President

PREPARED BY:

Kathleen Ruderman, Deputy Town Clerk



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, SEPTEMBER 19, 2017

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Tuesday, September 19, 2017, at 9:30 a.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. APPROVAL OF AGENDA

The following changes were made to the Agenda:

- Resolution No. 188-2017 was added after Item IX.B. 7

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

IV. PRESENTATIONS

A. Royal Poinciana Playhouse Update

Alex Patterson, UpMarkets

John Page, Director of Planning, Zoning and Building, presented on behalf of Samantha David and Alex Patterson from UpMarkets of the

Royal Poinciana Plaza development and tenant status. Mr. Page also reported that there was no damage to the building from Hurricane Irma.

V. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio applauded the community for their preparation, evacuation and restoration efforts before and after Hurricane Irma and presented a proclamation in honor of the Town staff and community partners declaring September 18th as “Thank an Employee Day.” She also cautioned residents to remain vigilant and urged them to subscribe to the Town’s Hurricane Alerts and to register their employees for ID cards.

VI. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Kleid applauded the Town’s Emergency Planning Team on their dedication and professionalism before, during and after the storm.

President Pro Tem Moore thanked the employees for their positive attitudes and willingness to serve the residents of the Town right after the storm. Ms. Moore also congratulated Kathleen Dominguez on becoming the Town Clerk and Patricia Gayle-Gordon on becoming the Deputy Town Clerk.

Council Member Araskog thanked the Town staff for their efforts and commented on the photos of the clean-up and restoration efforts. Ms. Araskog inquired about having one designated person to check on businesses and homes.

Council Member Lindsay complimented personnel and the contractors on their restoration efforts that began on the very first day after the storm.

Council Member Zeidman lauded the employees for their efforts during and after the storm and informed the residents that a post-storm review process will be taking place in order to evaluate what worked well and what didn’t work so the Town can improve their efforts in the future. She also thanked Bill Hanes and Daniel Stanton for being at the meeting to report on retirement matters.

VII. COMMUNICATIONS FROM CITIZENS

Jack Cohen, 3450 South Ocean Boulevard, spoke regarding the courteous police personnel who manned the Lake Worth bridge checkpoint after the hurricane.

1 Bradford Gary, 202 Onondaga Avenue, spoke regarding the hazardous
2 location of a curb railing on Royal Poinciana Avenue and requested that
3 Town Staff remove the concrete curb and railing for safety issues.
4

5 H. Paul Brazil, Director of Public Works, spoke regarding the logistical
6 issues with moving that concrete section which would conflict with the
7 Right-of-Way and private property surrounding it. Mr. Brazil suggested that
8 all requests should be made to the Florida Department of Transportation
9 (FDOT) because Town staff doesn't have the authority to change it.
10

11 Mayor Coniglio spoke regarding a request that was made to Geoffrey
12 Parker to modify that section and the design management of that curb
13 during the Flagler Memorial Bridge project. She added that he might not be
14 able to mitigate but will try to eliminate the protruding curb.
15

16 Alexander Ives, 237 Jamaica Lane, thanked the Town staff for their
17 response efforts during and after the hurricane.
18

19 John Dotterer, North Ocean Boulevard, spoke regarding the proposed
20 changes to the ARCOM review process for project revisions and stated
21 that it does not provide enough public notice and puts a heavy burden on
22 neighboring residents.
23

24 Carter Potash, 150 Bradley Place, spoke regarding the proposed changes
25 to the deadline for revisions for ARCOM review and requested that the
26 notice to submit project revisions not be reduced.
27

28 Anne Vanneck, 217 West Indies Drive, spoke regarding her role as an
29 ARCOM member, the deferral process, the handling of complaints and
30 issues from architects, and how costly and lengthy the deferrals are.
31

32 Anita Seltzer, 44 Cocoanut Row, spoke regarding the changes to the
33 Town's Comprehensive Plan, appendices that were missing, and
34 inconsistencies with the plan that were overlooked by Town Staff. She
35 asked where the appendices are and why her questions that she
36 previously submitted to the Town Council regarding the comp plan have
37 not been answered.
38

39 Council Member Zeidman addressed Ms. Seltzer's concerns and spoke
40 regarding how the objectives in the Comp Plan were made and stated that
41 all discrepancies were corrected before the Comp Plan was sent out for
42 review.

Council Member Araskog spoke regarding the Town's Comp Plan, how it guides the Town, the need to look deeper into the Comp Plan, and thanked Ms. Seltzer for her efforts.

Director Page spoke regarding the approval of the Town's Comprehensive Plan and addressed Ms. Seltzer's question about the appendices.

Michael Scharf, 225 Dunbar Road, spoke regarding the Town having a reactive approach to financial matters, increases in the Town's expenditures, unfunded liability of the pension plan, results of the zero based budgeting method used for FY18, urged the Town Council to elevate their financial responsibilities, and requested the hiring of professionals to review staffing levels for inefficiencies.

VIII. APPROVAL OF CONSENT AGENDA (SEE NOTE 5)

The following items were removed from Consent Agenda (to be heard under Item IX.C., Matters Pulled from Consent Agenda):

- Item VIII.A.1.b. Minutes of the August 9, 2017 Development Review Meeting
- Item VIII.B.7. - Resolution No. 159-2017
- Item VIII.B.8. - Resolution No. 160-2017
- Item VIII.B.9. – Resolution No. 161-2017
- Item VIII.B.11 - Resolution No. 163-2017
- Item VIII.B.26 - Resolution No. 179-2017
- Item VIII.B.30 - Resolution No. 183-2017
- Item VIII.C.5. - Authorization of ORS To Study Possible 60 Day Allowance For ARCOM To Review Special Historical Landmarked Homes

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

1 **A. MINUTES**

2
3 1. TOWN COUNCIL MEETING MINUTES:

4
5 *Gwendolynn Peirce, CMC, Acting Town Clerk*

6
7 a. August 9, 2017, Regular Town Council Meeting Minutes

8
9 2. Approval of Major Matters considered by the Architectural
10 Commission at its meeting of August 23, 2017.

11
12 *John S. Page, Director of Planning, Zoning & Building*

13
14 **B. RESOLUTIONS**

15
16 1. RESOLUTION NO. 153-2017 A Resolution Of The Town Council
17 Of The Town Of Palm Beach, Palm Beach County, Florida,
18 Authorizing The Town Manager To Execute An Agreement
19 Between Synergy ID, LLC And SynergyNDS, LLC And The Town
20 Of Palm Beach For Acting Disaster Recovery Program Managers
21 For The Town's Property Coverage Under The Florida Municipal
22 Insurance Trust, FMIT's Turnkey Recovery Program.

23 *Jay Boodheshwar, Deputy Town Manager*

24
25
26 2. RESOLUTION NO. 154-2017 A Resolution Of The Town
27 Council Of The Town Of Palm Beach, Palm Beach County,
28 Florida, Approving Proposed Fixed Costs For Property,
29 Liability, Workers' Compensation, Automobile And Ancillary
30 Coverages For FY2018 In The Amount Of \$809,090 And
31 Variable Costs In The Amount Of \$1,100,000; Approving A
32 Non-Exclusive Insurance Agent Services Agreement With
33 Employers Mutual, Inc., dba, Ascension Benefits & Solutions
34 Of Florida "Ascension", In The Amount Of \$35,000; Approving
35 A Non-Exclusive Insurance Agent Services Agreement With
36 Arthur J. Gallagher Risk Management Services, Inc., "AJG,"
37 In The Amount Of \$10,000; Approving A Third Party
38 Administration Services Agreement With Preferred
39 Governmental Claim Solution "PGCS" In The Amount Of
40 \$29,244; Conditioning All Matters Contained Herein Subject
41 To Approval Of The Fiscal Year 2018 Budget; And
42 Authorizing The Town Manager To Execute The Non-
43 Exclusive Insurance Agent Services Agreements With
44 Ascension, AJG And PGCS On Behalf Of The Town.

45 *Jay Boodheshwar, Deputy Town Manager*

Traffic Circle and the Circular Beds on Royal Poinciana Way, and Establishing a Project Budget of \$34,375, Subject to Approval of the Fiscal Year 2018 Budget.

H. Paul Brazil, P.E., Director of Public Works

13. RESOLUTION NO. 170-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Batallan Enterprises, Inc., dba Property Works, for Turf and Landscape Maintenance Services, in the Amount of \$100,036.50 and Establishing a Project Budget of \$105,050, Subject to Approval of the Fiscal Year 2018 Budget.

H. Paul Brazil, P.E., Director of Public Works

14. RESOLUTION NO. 171-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, to Award Bid No. 2017-23 and Approve a Purchase Order to Batallan Enterprises dba Property Works, for Hedge Trimming Services, in the Amount of \$89,950 and Establishing a Project Budget of \$94,450, Subject to Approval of the Fiscal Year 2018 Budget.

H. Paul Brazil, P.E., Director of Public Works

15. RESOLUTION NO. 172-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Unifirst Corporation for Uniform Rental and Cleaning Services, in the Amount of \$25,596.48 and Establishing a Budget of \$30,000, Subject to Approval of the Fiscal Year 2018 Budget.

H. Paul Brazil, P.E., Director of Public Works

16. RESOLUTION NO. 173-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to John C. Cassidy Air Conditioning, Inc., for Annual Air Conditioning Maintenance and Repair Services, in the Amount of \$81,600 and Establishing a Project Budget of \$89,800, Subject to Approval of the Fiscal Year 2018 Budget.

H. Paul Brazil, P.E., Director of Public Works

17. RESOLUTION NO. 174-2017 A Resolution of The Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding the US Communities Contract Number PC Genrl-201414653-00, and Approve a Purchase Order to Kone Inc., for Elevator Maintenance and Repair Services, in the Amount of \$12,600, and Establishing a Project Budget of \$35,000

H. Paul Brazil, P.E., Director of Public Works

18. RESOLUTION NO. 175-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order for the Public Works Utility Atlas Update to Chen Moore and Associates, Inc., in the Amount of \$117,596, and Establishing a Project Budget of \$125,000.

H. Paul Brazil, P.E., Director of Public Works

19. RESOLUTION NO. 176-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order for Design and Construction Phase Engineering Services to Kimley-Horn and Associates, Inc., in an Amount of \$71,033.25 for the A-41 Wastewater Pump Station Electrical and Building Improvements, and Establishing a Design and Construction Phase Engineering Budget of \$78,500.

H. Paul Brazil, P.E., Director of Public Works

21. RESOLUTION NO. 177-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of Annual Software and Hardware Maintenance Support and Licensing for FY18 for Superion in the Amount of \$103,102.15, Tyler Technologies, Inc. in the Amount of \$84,318.58, MCCI in the Amount of \$38,660.85, ESRI, Inc. in the Amount of \$25,000.00, SHI in the Amount of \$21,696.90, PCMG, Inc. in the Amount of \$24,562.00, EDC Corporation in the Amount of \$34,500.00, Cartegraph Systems, Inc. in the Amount of \$41,616.00, CDW in the Amount of \$39,337.19, Dana Safety Supply, Inc. in the Amount of \$19,478.00, and Johnson Control in the amount of \$112,578.00 Subject to Approval of the Fiscal Year 2018 Budget Authorizing the Town Manager to Execute the Purchase Orders on Behalf of the Town.

Jay Boodheshwar, Deputy Town Manager

22. RESOLUTION NO. 178-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of Lenovo Desktops and Laptops on TCPN Contract R160202 to GovConnection, Inc. in the Amount of \$70,669.00 and Establishing a Budget of \$75,000.00 for Purchases in the Fiscal Year 2017; and Authorizing the Town Manager to Execute this Purchase on Behalf of the Town.

Jay Boodheshwar, Deputy Town Manager

23. RESOLUTION NO. 180-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Payment to the Municipal Public Safety Communications Consortium (MPSCC) of Palm Beach County in the Amount of \$86,365.29; Subject to Approval of the Fiscal Year 2018 Budget.

Kirk W. Blouin, Director of Public Safety

24. RESOLUTION NO. 181-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing and Approving Purchase Orders to Citation Communications, Inc. for the Annual System Maintenance Agreement in the Amount of \$34,908; And for Miscellaneous Repairs and Parts, As Needed and Recommended by Staff, in the Amount of \$15,000; Establishing a Total Overall Budget of \$52,000; Subject to Approval of the Fiscal Year 2018 Budget.

Kirk W. Blouin, Director of Public Safety

25. RESOLUTION NO. 182-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing a Twelve Month Extension of the Contract, With No Changes to Terms, to Applied Business Services, dba Security Collection Agency, to Provide Billing Account Collections for Emergency Medical Services and Other Accounts Receivable and Authorizing the Town Manager to Execute the Same on Behalf of the Town.

Kirk W. Blouin, Director of Public Safety

26. RESOLUTION NO. 187-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the use of the State of Florida, Department of Management Services Contract for Office Supplies to Office Depot, Inc.

Jane Struder, Director of Finance

C. OTHER

1. Health Insurance Rates for Calendar Year 2018

Danielle Olson, Director of Human Resources

2. Ratification of the Selection Committee's Recommendation for RFQ No. 2017-09 Architectural Services Consultants.

H. Paul Brazil, P.E., Director of Public Works

and how long it would take to get fully funded, increasing the millage rate, adding an “Act of God” caveat to the guidelines, not going lower than 5.42 million fixed rate, adding extra funds from the advertised millage rate to pension fund to the top of the fixed amount, pension obligation bonds, and allowing for some flexibility and variable amounts based on available funds per fiscal year.

In response to a question from Council Member Zeidman, Mr. Stanton spoke regarding reasons why the Town can't use a different fund manager in order to get a better rate of return.

In response to a question from President Pro-Tem Moore, Mr. Stanton spoke regarding the previous consultant's misuse of data in their portfolio.

Council Member Lindsay expressed concern over not receiving the Retirement Board's report prior to the budget workshops and spoke in support of a saving \$5.42 million dollars each year to fund the pension plan while ensuring that the current employees' funds are protected. She also supported holding an annual workshop in November regarding the unfunded pension liability and to discuss the study of possible pension plans for future employees.

Mayor Coniglio stressed the importance of the Council needing to change its long-term goals and provided some historical background to past changes that were made to the pension plan and employee salaries of Public Safety and General Employees and the massive turnover that occurred. Mayor Coniglio also expressed concern over the impacts of the decisions made for future Town Councils. Ms. Coniglio spoke in support of changing the amortization period, holding a pension workshop, and establishing a guideline to help the Town to get there.

In response to questions from Mayor Coniglio, Assistant Finance Director Cheryl Somers reported that only 15% of the unfunded liability is attributed to current Town employees. Ms. Somers spoke regarding what a change to the millage rate would be to the general fund revenue and how it would impact property owners.

President Kleid spoke regarding actions taken by previous Councils in order to address the unfunded liability and spoke in support of the changing from a 30 year to a 25 year amortization period, holding a pension workshop meeting in November, and budgeting a fixed \$5.42 million each year towards the pension fund.

1 **Public Comments:**

2
3 Pat Cooper, Civic Association, expressed appreciation to Dan
4 Stanton and the Retirement Board and recommended quantifying a
5 fixed amount each year in order to best manage the fund and
6 viewing a financial report each year with different assumptions.

7
8 Susan Watts, 44 Cocoanut Row, spoke regarding the need to
9 address the discretionary spending in response to the pension plan
10 deficit. Ms. Watts also expressed appreciation to the Town staff for
11 their efforts after the storm.

12
13 Michael Scharf, 225 Dunbar Road, spoke regarding reducing the
14 amount for employee benefits for administrative employees and how
15 that would provide a large cost savings that could partially fund the
16 unfunded liability and spoke in opposition to increased taxes.

17
18 Lynn George, 249 Mockingbird Trail, requested the overall amount in
19 the budget for employee wages and benefits.

20
21 In response to the question from Ms. George, Town Manager
22 Bradford reported that roughly 50% of the proposed budget is
23 attributed to the employee salaries and benefits and further
24 explained how contractual employees are funded.

25
26 **Motion was made by Council Member Araskog, and seconded by**
27 **Council Member Zeidman, to accept Retirement Board of Trustees**
28 **Annual Report. On roll call, the motion passed unanimously.**

29
30 **Motion was made by Council Member Araskog, and seconded by**
31 **Council Member Lindsay, to reduce the amortization period from 30**
32 **years to 25 years. On roll call, the motion passed unanimously.**

33
34 William Hanes, Pension Administrator, clarified the process for
35 approving the amortization period.

36
37 Discussion ensued regarding an appropriate date and time to hold a
38 workshop with the Retirement Board of Trustees to discuss the
39 pension matters.

40
41 Discussion ensued regarding the ramifications to the tax payers and
42 to the non-homesteaded residents, looking deeper into the Capital
43 Improvement Plan, unintended consequences for future Town
44 Councils, whether 5.42 million is a sustainable amount to set aside
45 each year, how the millage rate could generate extra cash flow into

the pension plan, the downsides to setting a fixed amount and how it effects future Town contributions, not raising taxes and keeping the millage rate.

In response to a question from Council Member Araskog, Mr. Hanes spoke regarding how the amortization period decreases the Town's contribution overtime and explained how the actuaries calculate the loss assumptions over the years.

In response to a question from President Pro-Tem Moore, Town Manager Bradford confirmed that the Town of Palm Beach has the lowest millage rate when compared to all other municipalities.

Town Attorney Randolph reminded the Town Council that they are not binding future councils by selecting an option today.

It was the consensus of the Town Council to allow the decision made today to be put into a policy that is intended to guide the Town, the Retirement Board, the Actuary and Staff on the funding of the pension plan UAAL.

Motion was made by Council Member Zeidman, and seconded by Council Member Lindsay, to adopt Alternative Option #2 which is the contribution of a fixed amount of 5.42 million dollars to be put into the pension fund each year with the following caveats: the Town will match the Actuarially Determined Employer Contribution amount with an additional contribution which shall be capped at 16 million, the additional payment can be deferred if there are any unforeseen financial events or catastrophic events such as an Act of God, and that in order to alter the policy there would have to be a super majority vote by the Town Council. On roll call, the motion passed unanimously.

X. COMMITTEE REPORTS

A. Report of the Ordinances, Rules, and Standards Committee
Meeting of August 7, 2017
Bobbie Lindsay, Chair

Chair Lindsay provided an overview of the report.

Council Member Araskog requested that the information she provided at the ORS meeting regarding the construction hour regulations for comparable communities be added to the report.

1 **A motion was made by Council Member Araskog, and seconded by**
2 **President Pro-Tem Moore, to accept the report, as amended. On roll**
3 **call, the motion passed unanimously.**
4

5 B. Report of the Public Works Committee Meeting of August 8, 2017

6
7 *Maggie Zeidman, Chair*
8

9 Chair Zeidman provided an overview of the report.
10

11 **A motion was made by Council Member Lindsay, and seconded by**
12 **Council Member Araskog, to accept the report. On roll call, the**
13 **motion passed unanimously.**
14

15 C. Report of the Finance and Taxation Committee Meeting of August 8, 2017

16
17 *Danielle H. Moore, Chair*
18

19 Chair Moore provided an overview of the report.
20

21 **A motion was made by Council Member Zeidman, and seconded by**
22 **Council Member Araskog, to accept the report. On roll call, the**
23 **motion passed unanimously.**
24

25
26 **XI. PUBLIC HEARINGS**
27

28 A. RESOLUTION NO. 184-2017 A Resolution of the Town Council
29 of the Town of Palm Beach, Palm Beach County, Florida,
30 Vacating and Abandoning a Portion of Existing Town Right-of-
31 Way on North Ocean Boulevard, in the Town of Palm Beach,
32 Florida.
33

34 *H. Paul Brazil, P.E., Director of Public Works*
35

36 Director Brazil provided an overview of the Resolution.
37

38 Discussion ensued regarding the size, legal ramifications, and
39 whether or not it would fall under the Town's tax roll.
40

41 **Motion was made by Council President Pro Tem Moore, and**
42 **seconded by Council Member Zeidman, to approve Resolution No.**
43 **184-2017 with the condition that the 260 North Ocean property**
44 **owner also abandon a portion of the private property on 260 North**
45 **Ocean Boulevard via private property deed. On roll call, the**
46 **motion passed 3 to 2 with Council Members Araskog and Lindsay**
47 **dissenting.**

XII. REGULAR AGENDA

A. Old Business

1. Town-wide Underground Project:

Thomas G. Bradford, Town Manager

a. Project Update

Town Manager Bradford provided an update on the Undergrounding Project and the impact to the project from the storm. Mr. Bradford also reported that there was no flooding on the Island because of the storm.

b. **Underground Utility Project Dashboard**

Town Manager Bradford provided an overview of the Dashboard and reported on the status of the easement acquisitions and the amount of pre-paid assessments received to date.

In response to a question from Ms. Araskog, Assistant Finance Director Cheryl Somers spoke regarding the budgeted money for the bond repayment in the interim of the lawsuits.

Council Member Araskog requested information on how the underground transformer boxes in other municipalities fared because of the storm.

In response to a question from Ms. Zeidman, Director of Public Works Director Brazil explained the difference in the budget for Phase 1 North vs. Phase 1 South and how the contractors bill out.

Mayor Coniglio spoke regarding the second phase of the project occurring during the season and requested information on the completion since the decision was made to allow construction during the season.

Kevin Schanen, Kimley-Horn and Associates, spoke regarding the timing of the infrastructure work during Phase II and confirmed that there will be no cost impact.

1 no drainage work or full road closures during the
2 season.

3
4 Council Member Lindsay spoke regarding water
5 drainage projects happening in the North end and asked
6 about directional drilling on the east and west streets
7 during the season.

8
9 Patricia Strayer, Town Engineer, confirmed the plan to
10 only do directional drilling on the east and west streets
11 during the season to decrease the impact to the
12 residents.

13
14 c. Townwide Underground Communications in
15 Conjunction with the Palm Beach Daily News

16
17 Town Manager Bradford reported on the type of
18 information that will be sent to the Palm Beach Daily
19 News regarding the Project, how the information will be
20 funneled and the cost.

21
22 Mayor Coniglio encouraged Staff to partner with the
23 local Civic Associations on funneling information that
24 pertain to both the North and South end.

25
26 Susan Watts, 44 Cocoanut Row, suggested that the
27 Town report both the pros and cons of Undergrounding
28 to the news.

29
30 Underground Utilities Project Manager Steven Stern will
31 report on how the municipalities with underground
32 utilities performed during the storm.

33
34 **It was the consensus of the Town Council to distribute factual**
35 **information about undergrounding only.**

36
37 d. Future Fiber Optic Communications System for the
38 Town

39
40 *Deferred from the August 9, 2017 Town Council*
41 *Meeting*

42 Town Manager Bradford spoke regarding a proposed
43 change order for the installation of additional conduit for
44 backbone only and the funding sources for financing the
45 project.

Discussion ensued regarding securing a competitive alternative for an additional fiber installation, the Town's iNet, dark fiber, the benefits of the fiber optic installation for monitoring security cameras and traffic signals, and concerns with spending millions of dollars on a wireless conduit which may be obsolete years down the road.

Howard Murray, 3475 North Ocean Boulevard, spoke regarding the need for fiber optic cable, how it protects the Town, future services available to the Town, dark fiber, and the CEOs of Verizon and Corning's discussion of future deployments of the CNN network using intensive fiber backbone.

Kevin Schanen, spoke regarding the expenses for the fiber optics, the need for fiber back haul, and advantages to public safety and Emergency Operations Centers in the future.

In response to a question from President Pro-Tem Moore, Kevin Schanen reported the cost and ramifications for not moving forward with the conduit at Phase I North.

Director Brazil spoke regarding the need for fiber optic cable to in order to upgrade the traffic signal system.

Town Engineer Strayer, spoke regarding the possibility to having to go out to public bid for another third party vendor.

Susan Gary, Underground Utilities Task Force Member, spoke regarding the Task Force's decision and spoke in support of this item being put before a vote of the Town voters.

Laurel Baker, Palm Beach Chamber of Commerce, spoke regarding the benefits of the conduit to the business owners and extending the conduit in order to have faster internet service.

Motion was made by President Kleid, and seconded by President Pro Tem Moore, to issue a change order to Whiting-Turner and Burkhardt Construction in the amount of \$676,684. On roll call, the motion failed 3 to 2, with Council Members Araskog, Lindsay and Zeidman dissenting.

Patricia Strayer spoke regarding putting out an RFP for the fiber upgrade.

Discussion ensued regarding the future-proofing of the fiber optic cables.

Motion was made by Council Member Zeidman, and seconded by Council Member Lindsay, to reconsider the vote on the fiber optic cable item and defer this to the October 10, 2017 Town Council Meeting. On roll call, the motion passed unanimously.

Council Member Zeidman requested that staff come back with more information on fiber optics that addresses security issues, long term advantages, and funding sources at the October 10, 2017 Town Council meeting.

- e. Discussion of Credits for Property Owners Providing Easements with Transformers and Switch Cabinets
Thomas G Bradford, Town Manager

It was the consensus of the Town Council to defer this item to the October 10, 2017, Town Council meeting.

2. Coastal Update:

- a. Shore Line Condition Update

H. Paul Brazil, P.E., Director of Public Works

Coastal Program Manager Weber provided a PowerPoint presentation of the shoreline conditions for each reach and emphasized the difference between pre-and post-Hurricane Irma. Mr. Weber spoke regarding broken items at the sand transfer plants, the jetty, the large amount of sand that was blown off the beach and the effort being made by homeowners and the Town to move that sand back to the beach.

Council Member Araskog requested to see photos of Reach 8 during high tide conditions as well as low tide.

- 3. Staff Report Regarding Construction Related Parking and Traffic.
Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar provided an overview of the report which included highlights of the potential actions

that have been identified from staff meetings regarding the construction related parking issues. Mr. Boodheshwar spoke regarding Right-of-Way (ROW) permits and mandating parking of construction vehicles adjacent to the property that is undergoing construction, the three-strike rule, ensuring that parking plans are being submitted with construction permits, and ensuring that each construction project must have a dedicated parking monitor, the staffing required for enforcement, utilizing the ROW inspectors as well cross-training parking enforcement officers with the assistance of code enforcement and patrol officers to help with construction parking enforcement, requiring the Town's Building Inspectors to call in with any construction parking issues or violations, the work of the internal Parking Committee, stated that a standing item will be construction-related parking issues, new software that is being developed that shows where ROW parking permits have been issued, the weekly construction traffic reports and other parking-related press releases that are issued throughout the year.

Mr. Boodheshwar requested that Town Council provide guidance on the use of public parking lots for construction parking.

In response to a question from Council Member Lindsay about a reduction in parking tickets, Mr. Boodheshwar explained that there was a period of time when there was a reduced parking enforcement staff.

Motion was made by Council Member Araskog, and seconded by President Pro Tem Moore, to direct staff to prepare an ordinance allowing off-street construction parking at closed private clubs during the off-season.

4. Information Concerning the Florida Department of Transportation Proposed Improvements for Widener's Curve
H. Paul Brazil, P.E., Director of Public Works

Town Engineer Strayer provided an overview of the proposed improvements from the Florida Department of Transportation (FDOT).

Motion was made by Council Member Lindsay, and seconded by President Pro-Tem Moore, to accept the improvements proposed by the Florida Department of Transportation (FDOT) for Widener's Curve. On roll call, the motion carried unanimously.

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Council Member Araskog requested holding a workshop to discuss concerns and innovative ideas that would help promote Palm Beach businesses and provide solutions to issues they are having with opening new shops and businesses.

Laurel Baker, Palm Beach Chamber of Commerce, provided an outline of the topics for the workshop, the challenges that business owners are having when opening a business in Palm Beach with regard to permitting, signage and zoning.

Marley Herring, spoke in support of the workshop and other events that promote evening and Sunday afternoon shopping.

Council Member Araskog requested that staff provide the Town Council Meeting back-up material preceding the Friday before the meeting to allow more time to ask questions and prepare for the meeting.

1
2 Discussion ensued regarding concerns with the amount of
3 supplemental back-up received after the deadline, keeping
4 transparency, getting information piecemeal, not being able to
5 make notes, staff time and allowing enough time for public
6 input.
7

8 **It was the consensus of the Town Council to direct staff to provide a**
9 **demonstration on the agenda software and board view feature at the**
10 **October 10, 2017 meeting.**
11

- 12 3. Discussion on Conducting a Workshop with Town Council,
13 ARCOM and LPC on Quasi-Judicial Hearings and the
14 Applicable Law, Including Consideration of Having
15 Discussions with Each of the Above Town Bodies on Their
16 Relevant Codes

17 *Julie Araskog, Town Council Member*
18

19 Council Member Araskog spoke regarding holding a
20 mandatory workshop for relevant boards and commissions on
21 holding quasi-judicial hearings.
22

23 Town Attorney Randolph provided historical background on
24 previous presentations that he has given to the boards who
25 hold quasi-judicial hearings.
26

27 **It was the consensus of the Town Council to direct the Town Attorney**
28 **to provide a comprehensive presentation with respect to quasi-**
29 **judicial hearings to the Code Enforcement Board, ARCOM,**
30 **Landmarks Commission and Town Council during their regularly**
31 **scheduled meetings.**
32

- 33 4. ARCOM Recommendation to Town Council: Code Change
34 Relative to Deadline for Submittal of Revised Architectural
35 Plans

36 *John S. Page, Director of Planning, Zoning & Building*
37
38

39 Director Page provided historical background on the
40 amendments that were made to Chapter 18 of the Town Code
41 regarding the ARCOM approval process for project
42 applications and spoke regarding the feedback received from
43 ARCOM about the unforeseen consequences with the new
44 deadline allowed for submitting major project revisions.
45

Council Member Araskog spoke regarding the history of the ARCOM changes.

Discussion ensued regarding the review process for ARCOM plans and revisions, the deferral process, whether or not five days is adequate public notice to review changes to the plan, and the feedback received from architects and residents.

Alexander Ives, 237 Jamaica Lane, ARCOM member, spoke regarding the discussions from ARCOM and ORS about the revision deadline change and reported on the ramifications to residents, the architects, and ARCOM. In response to a question by Mr. Kleid, Mr. Ives suggested going back to providing seven days' notice for revisions.

Susan Gary, 202 Onondaga, spoke regarding her support of the proposed deadline to submit project revisions.

Motion was made by Council Member Araskog, and was seconded by Council Member Lindsay, to change the revision deadline to 12 p.m. nine days before the meeting. On roll call, the motion passed unanimously.

5. Recommended Installation of Delineator at the Intersection of North Lake Way and Wells Road.
H. Paul Brazil, P.E., Director of Public Works

Director Brazil spoke regarding the traffic hazard at the intersection and presented the solutions.

Discussion ensued regarding aesthetics, cost, safety, and alternative options to address the safety of the intersection.

Motion was made by Council Member Zeidman, and was seconded by Council Member Lindsay, to approve the installation of delineators at the intersection of North Lake Way and Wells Road with the idea that it will be monitored for effectiveness. On roll call, the motion passed unanimously.

6. Authorization for Use of Florida Power & Light LED Lighting on Residential and Commercial Streets.
H. Paul Brazil, P.E., Director of Public Works

Town Engineer Strayer provided an overview of the project and spoke regarding the cost and the standard style choices for the lighting.

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, to approve the use of Florida Power & Light LED lighting on the Residential and Commercial Streets. On roll call, the motion passed unanimously.

7. RESOLUTION NO. 185-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Interlocal Agreement With Palm Beach County Providing For Joint Exercise of Airport Zoning Regulations; and Authorizing the Mayor to Execute the Agreements on Behalf of the Town.

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

Director Page provided an overview of the Resolution and spoke regarding airport zoning regulations and the options the Town has in order to comply with those regulations.

Motion was made by President Pro-Tem Moore, and was seconded by Council Member Lindsay, to approve Resolution No. 185-2017. On roll call, the motion passed unanimously.

8. EMERGENCY RESOLUTION NO. 188-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to Post-Hurricane Irma Disaster Debris Collection; Providing for Declaration of Findings and Intent; Providing for Removal of Disaster Debris.

Eric Brown, Assistant Director of Public Works provided an overview of the Resolution and clarified the indemnification language.

Motion was made by Council Member Araskog, and seconded by President Pro-Tem Moore, to approve Resolution No. 188-2017. On roll call, the motion passed unanimously.

1. Matters Pulled From Consent Agenda: If needed

1. TOWN COUNCIL MEETING MINUTES:

Gwendolynn Peirce, CMC, Acting Town Clerk

- a. August 9, 2017, Development Review Town Council Meeting Minutes

1 **Motion was made by Council Member Araskog, and seconded by**
2 **Council Member Lindsay, to defer this item to the October 10, 2017**
3 **Town Council Meeting. On roll call, the motion passed unanimously.**
4

- 5 2. RESOLUTION NO. 159-2017 A Resolution of the Town Council of
6 the Town of Palm Beach, Palm Beach County, Florida, Adopting
7 Amendments to the Statement of Investment Policy for the OPEB
8 Trust Board of Trustees of the Town of Palm Beach Pursuant to
9 Section 82-153 of the Code of Ordinances of the Town of Palm
10 Beach; Providing an Effective Date.
11 *Jane Struder, Director of Finance*
12

13 **Motion was made by Council Member Araskog, and seconded by**
14 **Council Member Lindsay, to approve Resolution No. 159-2017. On roll**
15 **call, the motion passed unanimously.**
16

- 17 3. RESOLUTION NO. 160-2017 A Resolution of the Town
18 Council of the Town of Palm Beach, Palm Beach County,
19 Florida, Amending the General Fund Contingency Policy;
20 Providing an Effective Date.
21 *Jane Struder, Director of Finance*
22

23 In response to a question from Ms. Araskog, Town Manager
24 Bradford clarified the 7.5% increase in the contingency fund.
25

26 **Motion was made by Council Member Lindsay, and seconded by**
27 **President Pro-Tem Moore, to approve Resolution No. 160-2017. On**
28 **roll call, the motion passed unanimously.**
29

- 30 4. RESOLUTION NO. 161-2017 A Resolution of the Town
31 Council of The Town of Palm Beach, Palm Beach County,
32 Florida, Awarding a Contract in an Amount Not to Exceed
33 \$56,000 to Murphy & Stillings, LLC, to Provide Historic
34 Preservation Consulting Services, Establishing a Budget for
35 Said Services, and Authorizing the Town Manager to Take
36 Necessary to Complete Said Services Contingent Upon
37 Adoption of the Fiscal Year 2018 Town Budget.
38 *John S. Page, Director of Planning, Zoning & Building*
39

40 **Motion was made by Council Member Zeidman, and seconded by**
41 **Council Member Lindsay, to approve Resolution No. 161-2017. On roll**
42 **call, the motion passed unanimously.**
43

- 44 5. RESOLUTION NO. 163-2017 A Resolution of the Town
45 Council of the Town of Palm Beach, Palm Beach County,

Florida, Amending Recreation Department Fees for the Town Docks for Fiscal Year 2018.

Beth Zickar, Director of Recreation

Director Zickar provided an overview of the increase in the fund and provided new proposed rates for the slips.

Discussion ensued regarding overpricing and losing clientele, how the utility fees are charged per boat, the current fees being proposed, justification for the fee increase, the Town Docks' reputation as the cheapest place in town that you can't get into, and what the appropriate fee increase should be.

Motion was made by Council President Pro-Tem Moore, and seconded by Council Member Zeidman, to approve Resolution No. 163-2017, with amendments to the fee schedule. On roll call, the motion passed 4 to 1 with Council Member Araskog dissenting.

6. RESOLUTION NO.179-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to TargetSolutions Learning, LLC (d/b/a "TargetSolutions") for the Purchase of User Licenses for a Web-Based Training and Tracking Software in the Amount of \$20,240; Authorizing Subsequent Purchase Orders Under the Same Terms and Conditions Each Year for the Four Subsequent Years; and Authorizing the Town Manager to Execute Said Purchase Order on Behalf of the Town.

Danielle Olson, Director of Human Resources

Director Olson provided a justification for the purchase in the Resolution.

Motion was made by Council Member Zeidman, and seconded by President Pro Tem Moore, to approve Resolution No. 179-2017. On roll call, the motion passed unanimously.

7. RESOLUTION NO. 183-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Selection Committee's Recommendation of Ranking Firms for RFP No. 2017-27 for EMS Transport Services Billing, Awarding a Contract to EMS Management and Consultants, Inc. as the Highest-Ranking Proposer, and Authorizing the Town Manager to Take Actions Necessary to Effectuate Said Services.

1 *Kirk W. Blouin, Director of Public Safety*

2
3 Chief Donatto provided an overview of the return for
4 ambulance runs and the billing system.
5

6 **Motion was made by Council Member Araskog, and seconded by**
7 **Council Member Zeidman, to approve Resolution No. 183-2017. On**
8 **roll call, the motion passed unanimously.**
9

- 10 8. Authorization of Ordinance, Rules and Standards Committee
11 to Study a Possible 60 Day Allowance for ARCOM to Send a
12 Home of Special Historical Value to the Landmarks
13 Preservation Commission for Review Prior to Granting
14 Demolition Approval.

15 *Jay Boodheshwar, Deputy Town Manager*
16

17 Discussion ensued regarding concerns for the property owners,
18 process concerns with holding up the property to be Landmarked,
19 financial concerns, jeopardizing the Landmarks Preservation
20 program, Bert Harris law, not opening up the Town to lawsuits, and
21 the possibility of increasing the budget for Landmarks Commission
22 to study more houses.
23

24 **It was the consensus of the Town Council to not send this item to the**
25 **Ordinances, Rules and Standards Committee.**
26

27 **XIII. ORDINANCES**

28 **A. Second Reading**

- 29
30
31 1. ORDINANCE NO. 25-2017 An Ordinance of the Town Council of the
32 Town of Palm Beach, Palm Beach County, Florida, Amending the
33 Town Code of Ordinances At Chapter 130, Vehicles For Hire, Article
34 II, Taxicabs And Limousines, By Amending Section 130-31,
35 Definitions; By Rescinding Sections 130-32 And 130-33; By
36 Incorporating A New Section 130-32 To Provide That Vehicles For
37 Hire Permitted In The Town, Along With Their Drivers, Comply With
38 Palm Beach County's Code, Chapter 19, Article IX Relating To
39 Vehicles For Hire As Amended From Time To Time; Amending
40 Section 130-34 Relating To Taxi Stands; Amending Section 130-36 –
41 Penalties; Rescinding In Their Entirety Sections 130-61 and 130-62 of
42 Division 2 Relating To Certificates of Public Convenience and
43 Necessity and Permit; Amending Section 130-63 Relating To Approval
44 of Application, Denial; Amending Section 130-64 - Permit Fee;
45 Rescinding Section 130-65 In Its Entirety; Amending Section 130-67
46 – Town Council To Determine The Number of Permits Available;
47 Amending Section 130-68 Relating To Annual Renewal of Permits;
48 Amending Section 130-69 Relating To Inspection of Vehicles;

Amending Section 130-70 Relating To Sale, Assignment or Transfer;
Rescinding Section 130-71 Relating To Automobile Liability Insurance
Requirement In Its Entirety; Amending Section 130-72, Suspension
and Revocation; Rescinding In Their Entirety Sections 130-96, 130-97,
130-98, and Section 130-99 Of Division 3 Relating To Chauffer's;
Providing For Severability; Providing For Repeal of Ordinances In
Conflict; Providing For Codification; Providing An Effective Date.

**Motion was made by Council President Pro-Tem Moore, and was
seconded by Council Member Lindsay, to adopt Ordinance No. 25-
2017, on second and final reading. On roll call, the motion passed
unanimously.**

RESOLUTION NO. 186-2017 A Resolution of the Town Council of the
Town of Palm Beach, Palm Beach County, Florida, Amending the
Town of Palm Beach Master Fee Schedule by Increasing the Vehicle
Permits for Limousines and Taxis, Permit Transfer Fees, and
Application Fee for Random Drawings; Removing Other Various Fees
Related to Vehicles for Hire; and Providing an Effective Date.

Jay Boodheshwar, Deputy Town Manager

**Motion was made by Council President Pro-Tem Moore, and
seconded by Council Member Lindsay, to approve Resolution No.
186-2017. On roll call, the motion passed unanimously.**

B. First Reading

1. ORDINANCE NO. 26-2017 An Ordinance of the Town Council of
the Town of Palm Beach, Palm Beach County, Florida, Amending
the Town Code of Ordinances at Chapter 82, Personnel, Article
II, Employee Benefits, Division 3, Other Post-Employment
Benefits, At Section 82-150, Definitions; Section 82-151,
Statement of Purpose; Section 82-154, Contributions to OPEB
Trust; Section 82-158, Miscellaneous; Providing for Severability;
Providing for Repeal of Ordinances in Conflict; Providing for
Codification; Providing an Effective Date.

Jane Struder, Director of Finance

**Motion was made by Council Member Zeidman, and was seconded by
Council Member Lindsay, to adopt Ordinance No. 26-2017. On roll
call, the motion passed unanimously.**

2. ORDINANCE NO. 27-2017 A Ordinance of the Town
Council of the Town of Palm Beach, Palm Beach County,
Florida, Providing for an Amendment to the Town's Budgets
Adopted for the Fiscal Year Commencing October 1, 2016,
Providing an Effective Date.

Jane Struder, Director of Finance

1
2 **Motion was made by Council Member Zeidman, and was seconded by**
3 **Council Member Lindsay, to adopt Ordinance No. 27-2017. On roll**
4 **call, the motion passed unanimously.**
5

- 6 3. ORDINANCE NO. 28-2017 An Ordinance Of The Town
7 Council Of The Town Of Palm Beach, Palm Beach County,
8 Florida, Amending The Code Of Ordinances Of The Town
9 Of Palm Beach At Chapter 66, Natural Resource
10 Protection, Article I, In General, Section 66-2, Definitions So
11 As To Add, Amend Or Delete Various Terms Related To
12 Landscape And Irrigation Requirements; Amending Article
13 Iv, Vegetation, Relating To Conditions For Landscape
14 Design, Installation And Removal; Moving General
15 Requirements For Landscape Design To A New Section
16 285; Modifying Section 66-286 Establishing Minimum
17 Requirements For Shade Trees, Required Landscaping For
18 Interior Parking Lots, Minimum Landscape Installation
19 Requirements, Modifying Irrigation Standards And
20 Requirements For Irrigation And Irrigation Systems,
21 Providing For Requirements Related To The Submission Of
22 Plans, And Landscape Installation And Removal Permits;
23 Adding Section 66-287 Requiring That All Required
24 Landscaping Be Approved By The Planning, Zoning And
25 Building Department Prior To The Issuance Of Certificates
26 Of Occupancy Or Completion; Adding A New Section 66-
27 288 Requiring Protection Of Trees During Construction;
28 Adding A New Section 66-289 Requiring Vegetation
29 Maintenance; Adding A New Section 66-290 Providing
30 Standards Related To Tree Trimming; Adding A New
31 Section 66-291 Prohibiting Certain Practices Related To
32 Tree Trimming; Adding A New Provision Prohibiting The
33 Use Of Certain Species Subject To Whitefly Infestation;
34 Providing For Severability; Providing For Repeal Of
35 Ordinances In Conflict; Providing For Codification;
36 Providing An Effective Date.

37 *John S. Page, Director of Planning, Zoning & Building*
38

39 Jorge Sanchez, Landscape Architect, spoke regarding the Town of
40 Palm Beach being the epitome of perfection in landscaping and
41 commented on the language being used in the Ordinance being cute
42 and catchy. Mr. Sanchez brought up issues that will arise when
43 getting a permit and suggested that the Town look at the City of
44 Santa Barbara's landscaping Ordinance.
45

1 Motion was made by Council Member Araskog, and was seconded by
2 Council Member Zeidman, to defer this item back to the Ordinances, Rules
3 and Standards Committee for further study. On roll call the motion passed,
4 4 to 1 with Council Member Lindsay dissenting.
5

6 **XIV. ANY OTHER MATTERS**

7

8 Deputy Town Manager Boodheshwar reported on the staff's post-storm
9 efforts and provided numbers on the response efforts from Public Safety
10 and the impact to the Town, the debris clean-up, sand recovery, after
11 action reports, the messaging protocol for Town Council members, the
12 efficiency of the check-points and the lessons learned and implemented
13 from last year's storm.
14

15 President Kleid requested that Jay's report get disseminated to the Palm
16 Beach Daily News.
17

18 Mayor Coniglio asked for a protocol on how information should get sent
19 out.
20

21 Council Member Araskog brought up securing email addresses, the
22 residents not liking the alerts where they have to click on the lead sentence
23 to see the entire message, how to handle owner absences and designating
24 an owner's representative.
25

26 Town Manager Bradford spoke regarding his experience with emergency
27 management and complimented Mr. Boodheshwar on his emergency
28 management skills.
29

30 President Pro-Tem Moore expressed concern over residents addressing
31 staff during Town Council meetings and stated that it is inappropriate.
32

33 Council Member Araskog spoke regarding not signing resolutions and
34 ordinances during the meetings and asked about the difference between
35 an executive session vs. discussion during a motion.
36
37
38
39

40 **XV. ADJOURNMENT**

41

42 There being no further business, the regular Town Council Meeting of
43 September 19, 2017 was adjourned at 9:33 p.m.
44
45
46

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Kathleen Dominguez
Town Clerk

Date: _____

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 19, 2017**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council meeting was called to order on Tuesday, September 19, 2017, at 5:04 p.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. PLEDGE OF ALLEGIANCE

Council President Kleid led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

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

IV. PUBLIC HEARING ON PROPOSED MILLAGE RATE, TENTATIVE FY18 BUDGETS

A. Notice of Proposed Property Taxes

Council President Kleid read into the record the required legal verbiage.

B. Proposed Operating Millage Rate

Council President Kleid read into the record the required legal verbiage.

C. Reasons for Proposed Operating Millage Rate Increase over the Rolled-Back Millage Rate

Town Manager Bradford provided an overview of the reasons for the increase in the proposed operating millage rate over the rolled back millage rate.

D. Comments and Questions from the Public - *None*

E. Discussion and Adoption (with changes, if any) of Proposed Operating Millage Rate for FY18

**1. MERIT PAY INFORMATION ORIGINALLY PROVIDED TO THE
FINANCE AND TAXATION COMMITTEE ON AUGUST 8, 2017**

Danielle Olson, Director of Human Resources, provided a presentation on the

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 19, 2017**

merit pay system.

Discussion ensued regarding the competitiveness among other municipalities of merit pay based on performance, the budgeting software for merit increase forecasting, reasons for merit pay increases, the performance pay chart, the six-month average, conducting a town-wide study for the general employees, how the pay scales are evaluated, how to get \$5.4 million from the budget to the UAAL.

Town Manager Bradford was instructed to come back at the next meeting with the \$400K or leaving the tax rate as is.

Assistant Finance Director Cheryl Somers, spoke regarding a schedule prepared by Finance Director Jane Struder that shows extraordinary pension contributions in FY17 and FY18. The schedule shows where certain funds could be taken from to address the UAAL.

Discussion ensued regarding the merit pay increases and the increases to the pay ranges. Mayor Coniglio spoke in support of keeping the millage at the FY17 rate.

2. RESOLUTION NO. 143-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting the Proposed Millage Rate Necessary to Fund the Tentative General (Operating) Fund Budget for the 2017-2018 Fiscal Year.

The Council directed Manager Bradford to find \$400,000 from the budget, which could lower the millage rate by the time it comes back to the second public hearing.

President Pro Tem Moore spoke in support of the amount adopting this millage rate and putting over \$1 million into the UAAL.

Councilmember Araskog expressed concern over non-homesteaded properties having too high of an increase in their property taxes.

Town Attorney Randolph read the entire Resolution No. 143-2017 into the record.

Motion was made by Council President Pro Tem Moore, and was seconded by Council President Kleid, to approve Resolution No. 143-2017 with the millage rate of 3.2706. On roll call for a vote, the motion carried unanimously.

F. Non-Ad Valorem Assessments

1. Commercial Solid Waste Fee Assessments [H. Paul Brazil, Director of Public

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 19, 2017**

Works]

- a. RESOLUTION NO. 144-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Provision of Commercial Solid Waste Collection Services; Providing Authority and Definitions; Approving the Updated Assessment Rolls; Providing for the Reimposition of the Assessment to Fund the Commercial Solid Waste Collection Services; Providing for Collection of the Assessment Pursuant to the Uniform Assessment Collection Act; Providing for the Effect of this Resolution; Providing Severability and an Effective Date.

Director Brazil read into the record the required legal verbiage and spoke regarding the proposed assessments.

Town Manager Bradford read Resolution No. 144-2017 into the record.

Motion was made by Council Member Zeidman, and was seconded by Council Member Araskog, to approve Resolution No. 144-2017. On call for a vote, the motion carried unanimously.

2. Worth Avenue Commercial District Improvement Project [Jane Struder, Director of Finance]

- a. RESOLUTION NO. 145-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Provision of the Worth Avenue Improvement Project; Providing Authority and Definitions; Approving the Final Assessment Rolls; Providing for the Reimposition of the Assessments to Fund the Worth Avenue Improvement Project and Related Maintenance Services; Providing for Collection of the Assessments Pursuant to the Uniform Assessment Collection Act; Providing for the Effect of this Resolution; Providing Severability and an Effective Date.

Assistant Finance Director Cheryl Somers read into the record the legal verbiage regarding the proposed assessments.

Town Manager Bradford read Resolution No. 144-2017 into the record.

Motion was made by Council Member Araskog, and was seconded by Council Member Lindsay, to approve Resolution No. 145-2017. On call for a vote, the motion carried unanimously.

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 19, 2017**

3. Via Fontana Underground Conversion Project [Jane Struder, Director of Finance]

- a. RESOLUTION NO. 146-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Provision of the Underground Utility Improvements within the Via Fontana Assessment Area;

Assistant Finance Director Somers read into the record the legal verbiage regarding the proposed assessments.

Town Manager Bradford read Resolution No. 146-2017 into the record.

Motion was made by Council Member Lindsay, and was seconded by Council Member Zeidman, to approve Resolution No. 146-2017. On call for a vote, the motion carried unanimously.

4. Everglades Island Underground Conversion Project [Jane Struder, Director of Finance]

- a. RESOLUTION NO. 147-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Provision of the Underground Utility Improvements within the Everglades Island Assessment Area; Approving the Updated Assessment Roll; Providing for the Reimposition of the Assessments to Fund the Underground Utility Improvements within the Everglades Island Assessment Area; Providing for Collection of the Assessments Pursuant to the Uniform Assessment Collection Act; Providing for the Effect of this Resolution; Providing Severability and an Effective Date.

Assistant Finance Director Somers read into the record the legal verbiage regarding the proposed assessments.

Town Manager Bradford read Resolution No. 147-2017 into the record.

Motion was made by Council Member Araskog, and was seconded by Council Member Lindsay, to approve Resolution No. 147-2017. On call for a vote, the motion carried unanimously.

5. Peruvian Avenue 400 Block Streetscape Project [Jane Struder, Director of Finance]

- a. RESOLUTION NO. 148-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida,

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 19, 2017**

Relating to the Provision of the Peruvian Avenue Improvement Project; Providing Authority and Definitions; Approving the Final Assessment Rolls; Providing for the Reimposition of the Assessments to Fund the Peruvian Avenue Improvement Project and Related Maintenance Services; Providing for Collection of the Assessments Pursuant to the Uniform Assessment Collection Act; Providing for the Effect of this Resolution; Providing Severability and an Effective Date.

Assistant Finance Director Somers read into the record the legal verbiage regarding the proposed assessments.

Town Manager Bradford read Resolution No. 148-2017 into the record.

Motion was made by Council Member Lindsay, and was seconded by Council Member Araskog, to approve Resolution No. 148-2017. On call for a vote, the motion carried unanimously.

6. Town Hall Square Improvement Project [Jane Struder, Director of Finance]

a. RESOLUTION NO. 149-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Town Hall Square Improvement Project; Approving the Updated Assessment Roll; Providing for the Reimposition of the Assessments to Fund the Town hall.

Assistant Finance Director Somers read into the record the legal verbiage regarding the proposed assessments.

Town Manager Bradford read Resolution No. 149-2017 into the record.

Motion was made by Council Member Araskog, and was seconded by Council Member Moore, to approve Resolution No. 149-2017. On call for a vote, the motion carried unanimously.

7. Nightingale La Puerta Underground Conversion Project [Jane Struder, Director of Finance]

a. RESOLUTION NO. 150-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County Florida, Relating to the Provision of the Underground Utility Improvements within the Nightingale-La Puerta Assessment Area; Providing Authority and Definitions; Approving the Assessment Roll; Providing for the Imposition of the Assessments to Fund the Underground

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 19, 2017**

Utility Improvements within the Nightingale-La Puerta Assessment Area; Providing for Collection of the Assessments Pursuant to the Uniform Assessment Collection Act; Providing for the Effect of This Resolution; Providing Severability and an Effective Date.

Assistant Finance Director Somers read into the record the legal verbiage regarding the proposed assessments.

Town Manager Bradford read Resolution No. 150-2017 into the record.

Motion was made by Council Member Zeidman, and was seconded by Council Member Lindsay, to approve Resolution No. 150-2017. On call for a vote, the motion carried unanimously.

8. Lake Towers Underground Conversion Project [Jane Struder, Director of Finance]

- a. RESOLUTION NO. 151-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Provision of the Underground Utility Improvements Within the Lake Towers Assessment Area; Providing Authority and Definitions; Approving the Assessment Roll; Providing for the Imposition of the Assessments to Fund the Underground Utility Improvements within the Lake Towers Assessment Area; Providing for Collection of the Assessments Pursuant to the Uniform Assessment Collection Act; Providing for the Effect of this Resolution; Providing Severability and an Effective Date.

Assistant Finance Director Somers read into the record the legal verbiage regarding the proposed assessments.

Town Manager Bradford read Resolution No. 151-2017 into the record.

Motion was made by Council Member Araskog, and was seconded by Council Member Zeidman, to approve Resolution No. 151-2017. On call for a vote, the motion carried unanimously.

G. Discussion and Adoption (with changes, if any) of a Tentative Operating Budget, Debt Service Budget, and Budgets for Other Funds for FY18.

Michael Scharf, Dunbar Road, spoke regarding the request made to Town Manager Bradford to find \$400,000 directed toward the UL, and asked Danielle

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 19, 2017**

Olson to clarify the merit pay system regarding how many get no merit increase, the probationary period, and suggested that the Town evaluate the anniversary date and evaluation date.

Ms. Araskog spoke regarding the merit pay increase for satisfactory performance, Town debt increasing while equity is getting lower, bringing the contingency budget down, total expenses for Hurricane Irma, and budgeting for catastrophic events.

Lew Crampton, spoke regarding benefits seeming high, 67% is the benefits for the budget and how it compares to other communities. Director Olson provided an overview of the OPEB, benefits, FICA and how it compares to other municipalities. He pointed out that we should have some balance with the benefits.

Council Member Lindsay spoke regarding the need to look at C performing employees not getting a merit increase. She commended Director Olson's job on getting low rates for employees' healthcare. Requested to see a thorough study on whether other municipalities are paying two-thirds of the bill for healthcare. Tax payers shouldn't be burdened with employees' healthcare costs. She was open to examining a different plan for new employees.

Mayor Coniglio stated that the Town Council has been involved in the decision making for pension matters for the past three (3) years. She also spoke regarding the contingency and the impact to recruitment.

President Pro Tem Moore pointed out some specifics regarding pay increases using the example of a 3% pay increase to an average Public Works employee which is about \$750 which is so insignificant in the scheme of things.

Assistant Finance Director Somers announced the total General Operating Fund of \$80,432,013 is increasing to \$81,464,313. The total for all funds was \$249,166,973 and it is now \$251,435,173.

1. RESOLUTION NO. 152-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting the Tentative General (Operating) Fund, Debt Service Fund and Budgets for Other Funds for the 2017- 2018 Fiscal Year.

Town Manager Bradford read Resolution No. 152-2017 into the record.

Assistant Finance Director Somers informed that she had a revised Exhibit A to be attached to the Resolution.

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 19, 2017**

Motion was made by Council Member Zeidman, and was seconded by Council Member Lindsay, to approve Resolution No. 152-2017. On call for a vote, the motion carried unanimously.

H. Second and Final Public Hearing to Adopt the Final Millage Rate and Budgets will be held on Tuesday, October 3, 2017 at 5:01 p.m., in the Town of Palm Beach Council Chambers.

V. ANY OTHER MATTERS - None

VI. ADJOURNMENT

There being no further business, the regular Town Council meeting of September 19, 2017 was adjourned at 7:00 p.m.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Kathleen Dominguez
Town Clerk

Date: _____

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON WEDNESDAY, SEPTEMBER 27, 2017

1 **I. CALL TO ORDER AND ROLL CALL**

2
3 The Special Town Council meeting was called to order on Wednesday, September 27,
4 2017, at 8:45 a.m., in the Town Council Chambers. On roll call, Council President Kleid,
5 Council President Pro Tem Moore and Council Member Zeidman were found to be
6 present. Mayor Coniglio, Council Members Araskog and Lindsay were absent.
7

8 **II. PLEDGE OF ALLEGIANCE**

9
10 Council President Kleid led the Pledge of Allegiance.
11

12 **III. APPROVAL OF AGENDA**

13
14 **Motion was made by Council President Pro Tem Moore, and seconded by Council**
15 **Member Zeidman, to approve the Agenda. On roll call, the motion carried**
16 **unanimously.**
17

18 **IV. CHANGE IN MEETING DATE, SECOND PUBLIC HEARING FOR ADOPTION**
19 **OF FY 2017-2018 MILLAGE RATE AND BUDGET**

- 20
21 1. RESOLUTION NO. 189-2017 A Resolution of the Town Council of
22 the Town of Palm Beach, Palm Beach County, Florida, Changing
23 the Date of the Second Public Hearing for the Adoption of the
24 Millage Rate and Budget for the 2017 - 2018 Fiscal Year.
25

26 Town Attorney John C. Randolph read the resolution into the record. He
27 explained the change of the date for the second public hearing and read the
28 amended version of Resolution No. 143-2017 into the record.
29

30 **Motion was made by Council Member Zeidman and seconded by Council**
31 **President Pro Tem Moore, to approve the date for the second public**
32 **hearing. On roll call, the motion carried unanimously.**
33

34 **V. ANY OTHER MATTERS** - None

35 **VI. ADJOURNMENT**

36
37 There being no further business, the regular Town Council meeting of September 27,
38 2017 was adjourned at 8:48 a.m.
39
40
41

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON WEDNESDAY, SEPTEMBER 27, 2017**

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Kathleen Dominguez
Town Clerk

Date: _____



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON WEDNESDAY, OCTOBER 4, 2017

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order on Wednesday, October 4, 2017, at 5:01 p.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. PLEDGE OF ALLEGIANCE

President Kleid led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Council Member Araskog, and was seconded by President Pro Tem Moore, to approve the Agenda. On call for a vote, the motion passed unanimously.

IV. PUBLIC HEARING ON FINAL MILLAGE RATE AND FY18 BUDGET

A. Proof of Publication

Town Clerk Dominguez confirmed that proof of publication had been received.

B. Announcement of Proposed Operating Millage Rate

President Kleid read into the record the proposed operating Millage Rate.

C. Reasons for Proposed Operating Millage Rate Increase from the Rolled-Back Millage Rate

1 Town Manager Bradford provided the reasons for the increase from the
2 rolled-back millage rate.

3
4 **Discussion**

5
6 Council Member Zeidman proposed that the Town Council consider not
7 increasing the millage rate and asked what the ramifications would be if
8 the Town didn't increase it from the rolled back rate.

9
10 Town Manager Bradford responded that the Town will have less money to
11 allocate to the retirement fund UAAL. Mr. Bradford stated that a higher
12 millage rate will put the Town in a better position to make the 5.42 million
13 dollar payment towards the pension's UAAL.

14
15 Discussion ensued regarding alternative funding options and various cost
16 saving scenarios for paying down the pension's UAAL without increasing
17 the millage rate, freezing merit pay, closing the current general employee
18 pension plan to new hires and going with the hybrid plan, cutting various
19 expenses and projects from the budget, planning for a shortfall in the Palm
20 Beach County Budget, the issue of balance and fairness to the tax payers
21 and the current employees, the salary budget history, prioritizing projects,
22 inflation being low, trimming the salary, working smarter and consolidating
23 the departments, and ways to build up the UAAL fund now so the Town
24 doesn't pay more later, the salary data by employee group, cutting
25 projects not people, a paradigm shift in how we cut expenses, history of
26 the Town's pension UAAL and the external factors that lead up to the
27 deficit.

28
29 In response to questions raised by the Council Members, Finance Director
30 Struder provide an explanation of the following: the excess contribution
31 amounts to the UAAL in FY17 vs. FY18, the funding source for the
32 extraordinary pension contribution savings, the naming of the categories
33 within the General Operating Fund and where the 5.42 million dollar UAAL
34 payment appears, the State's laws for the expenditure limitation and
35 balance requirements, the salary history and budget drops for FY 2009
36 and FY 2010 and how those affected services.

37
38 In response to questions from the Council Members, Town Manager
39 Bradford provided an explanation on the proposed budget cuts.

40
41 In response to questions from Council Member Araskog, Kirk Blouin, Chief
42 of Police, reported on the status and the percentage of funds that will be
43 reimbursed to the Town of Palm Beach for overtime pay to police for the
44 Presidential visits in 2016.

1 Lisa Gorman, Police Planner, explained how overtime is calculated with
2 the timing of the budget year in order to report those expenses to FEMA
3 and the Federal Government.
4

5 D. Comments and Questions from the Public
6

7 Lew Crampton, 2335 South Ocean Blvd., expressed concern with the
8 promised 5.42 million payment each year for the UAAL, asked what the
9 Town's long term plans are to deal with the UAAL, requested that an item
10 for the long term effect of the payment plan be placed on the agenda for
11 the Budget Workshop in December and suggested that the Town get
12 together annually to review other budget areas such as healthcare, risk
13 management and employee benefits.
14

15 Michael Scharf, 225 Dunbar Road, expressed concern over the Town
16 Council being mired in the weeds with the discussions on spending vs.
17 savings, suggested the Town look into the budget and modify employee
18 benefits. Mr. Scharf also spoke regarding the use of real zero based
19 budgeting, poor management of the pension plan, the retirement fund
20 needing to be monitored closely, having too many fund managers, buying
21 an annuity, the merit pay system, increasing the retirement age, going with
22 a Defined Contribution (DC) plan, asked if the 2 million dollar donation
23 from the Preservation Foundation had been received and commented that
24 there should be a bi-monthly meeting of the Retirement Board of Trustees.
25

26 Susan Watts, 44 Cocconut Row, spoke regarding consolidating staff roles,
27 getting rid of private consultants, putting a freeze on salary increases and
28 merit pay, prioritizing the residents' needs, putting money into non-profit
29 entities, lowering the millage rate and not raising taxes.
30

31 Martin Gruss, 1475 South Ocean Blvd., suggested the Town Council
32 appoint a Budget committee.
33

34 Linda George, spoke regarding her recollection of past budget discussions
35 and asked if contract labor is included in the salaries.
36

37 Discussion ensued regarding whether to raise the millage rate to 3.2051
38 or to keep the current rate at 3.200 mills.
39

40 E. RESOLUTION NO. 197-2017 A Resolution of the Town Council of the
41 Town of Palm Beach, Palm Beach County, Florida, Adopting the Final
42 Millage Rate and Levying Ad Valorem Taxes for the Fiscal Year Beginning
43 October 1, 2017, and Ending September 30, 2018; Setting Forth Certain
44 Information Regarding the Rolled-Back Millage Rate; Directing the Town
45 Manager or the Finance Director to Adjust the Adopted Millage Rate in the
46 Event of Changes in the Assessment Roll and Taxable Value; Providing

1 an Effective Date.

2
3 **A motion was made by Council Member Zeidman, and was seconded**
4 **by President Pro Tem Moore, to increase the millage rate to 3.2037.**
5 **On roll call, the motion passed 3 to 2, with Council Members Araskog**
6 **and Lindsay dissenting.**

7
8 Town Attorney Randolph read Resolution No. 197-2017 into the record

9
10 **A motion was made by Council Member Zeidman, and was seconded**
11 **by Council President Pro Tem Moore, to approve Resolution No. 197-**
12 **2017. On roll call, the motion passed 3 to 2, with Council Members**
13 **Araskog and Lindsay dissenting. .**

14
15 Resolution No. 198-2017 was amended to reflect the new millage rate.

16
17 Discussion ensued regarding how the budget was reduced with the
18 new millage rate, implementing a one year freeze on merit pay to the
19 higher paid salaries, approving the budget and studying the merit
20 pay increases, and recommendation to make any possible freezes
21 next year, giving Tom parameters on how to reduce the budget, the
22 types of benefits available for contractual employees, putting 5.84
23 million into the UAAL with the accepted cuts and the excess
24 contribution, re-examining the budget, and adding a merit pay study
25 item to the November 14, 2017 Town Council meeting agenda.

26
27 F. RESOLUTION NO. 198-2017 A Resolution of the Town Council of the
28 Town of Palm Beach, Palm Beach County, Florida, Adopting a Final
29 Budget and Appropriating Funds for the Fiscal Year Beginning October 1,
30 2017, and Ending September 30, 2018; Providing for an Effective Date.

31
32 Town Attorney Randolph read the Resolution into the record.

33
34 **A motion was made by Council President Pro Tem Moore, and was**
35 **seconded by Council Member Zeidman, to approve Resolution No.**
36 **198-2017. On roll call, the motion passed 3 to 2, with Council**
37 **Members Araskog and Lindsay dissenting.**

38
39
40 **V. ANY OTHER MATTERS - None**

1 **VI. ADJOURNMENT**

2
3 There being no further business to discuss, the Special Town Council
4 Meeting of October 4, 2017 was adjourned at 8:17 p.m.
5
6
7

8 APPROVED:
9

10
11
12 _____
13 Richard M. Kleid
14 Town Council President
15

16 ATTEST:
17
18

19
20 _____
21 Kathleen Dominguez
22 Town Clerk
23
24

25 Date: _____



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE TOWN COUNCIL MEETING HELD ON

TUESDAY, OCTOBER 10, 2017

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Tuesday, October 10, 2017, at 9:30 a.m. in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Patricia Gayle-Gordon gave the invocation. President Kleid led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

The following changes were made to the agenda:

- ITEM IX.A.5., Resolution No. 196-2017 was amended as follows:
Page 165 – corrections were made to minor typographical errors
- ITEM XIII.B.1., Resolution No. 190-2017 was amended as follows:
Page , Sect 2 Line 4
- A Discussion to schedule a Public Safety Committee Meeting and the proposed Agenda was added under Item XI. Any Other Matters.

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

1
2 **IV. PRESENTATIONS**
3

4 A. Royal Poinciana Playhouse Update
5 *Samantha David, UpMarkets*
6

7 Samantha David, UpMarkets, provided a presentation on the company's
8 efforts to negotiate a lease and secure a tenant for the Royal Poinciana
9 Plaza and thanked the Staff for their assistance and professionalism. In
10 response to a question from Council Member Araskog, Mrs. David stated
11 that she could not disclose any details on negotiations with the potential
12 tenant.
13

14 Discussion ensued regarding concerns with the amount of time
15 taken to secure a lease for the property and the possibility of a
16 fallback plan.
17

18 B. Planning and Zoning Commission Presentation by Applicants
19

20 The following applicants made presentations to the Town Council:
21

22 Ronald Burke
23 Martin Klein
24 Richard Pollock
25

26 **V. COMMENTS OF MAYOR GAIL L. CONIGLIO**
27

28 Mayor Coniglio acknowledged the passing of Palm Beach
29 resident and Shore Protection Board member Lee David
30 Goldstein and requested that everyone stand in a moment of
31 silence in his honor. She announced the retirement of Battalion
32 Police Chief Phil Dudley and that the Town of Palm Beach's
33 Finance Department was the recipient of the CAFR (Certificate of
34 Achievement and Excellence in Financial Reporting) Award for
35 the 29th year in a row.
36

37 Mayor Coniglio spoke regarding her intention to work with Deputy
38 Town Manager Boodheshwar on a report card of the Town's
39 response to Hurricane Irma which will include educational
40 outreach and improvements for next year at the November Town
41 Council Meeting.
42

43 Mayor Coniglio addressed a recent correspondence she received
44 from a resident regarding statements that she made at the first
45 Budget hearing.
46

Discussion ensued regarding the complexity and scheduling issues that occurred with this year's budget approval process and ways to minimize spending which may be unnecessary in the future.

VI. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Kleid acknowledged the death of Stanley Rumbough, announced the recent award that was given to the Memorial Fountain Restoration Project by the American Public Works Association for Project of the Year and thanked the Staff for their efforts with the project.

President Pro Tem Moore spoke regarding her memories of Stanley Rumbough and offered her condolences to his family.

Council Member Araskog spoke regarding the obligations of the Town Council to address the budget and acknowledged Lee Goldstein's passing.

Council Member Lindsay spoke regarding the budget workshop and budget process, her wishes that the Retirement Board presentation would come up earlier in the year as opposed to late August/September, and her experience and accomplishments while serving on the Shore Protection Board with Lee Goldstein.

Council Member Zeidman spoke regarding Lee Goldstein's passing, her decision to vote for the increased millage rate and the responsibilities and challenges they are facing with correcting the Town's unfunded liability.

VII. COMMUNICATIONS FROM CITIZENS

Diane Buhler, Friends of Palm Beach spoke regarding her organization's beach clean-up after Hurricane Irma and the King Tides and announced her upcoming beach clean-up events. She also stated that she is looking for additional access spots to clear trash and for donations. She thanked the Town for their recent donation of \$100 to her organization.

Tom Warrenkey, representative of the Surfrider Foundation, spoke regarding Diane Buhler's beach cleanups and recommended that the town allocate funding for her projects. He also spoke regarding the work of the Shore Protection Board on the area between Midtown and the Breakers beaches.

VIII. APPROVAL OF CONSENT AGENDA

The following items were pulled from the Consent Agenda and moved under Item IX.C.:

- Item XIII.B.1. Resolution No. 190-2017
- Item XIII.B.2. Resolution No. 191-2017
- Item XIII.B.3. Resolution No. 192-2017
- Item XIII.C.1.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to approve the Consent Agenda, as amended. On roll call, the motion carried 4 to 1 with President Pro Tem Moore dissenting.

A. MINUTES

1. TOWN COUNCIL MEETING MINUTES:

Kathleen Dominguez, Town Clerk

a. September 19, 2017, Town Council Meeting Minutes
(Deferred to the November 14, 2017 Town Council Meeting)

b. September 19, 2017, Special Town Council Meeting Minutes
(Deferred to the November 14, 2017 Town Council Meeting)

2. Approval of major matters considered by the Architectural Commission at its meeting of September 27, 2017.
John S. Page, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 195-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Professional Concessions, Inc., to Provide Post-Storm Recovery Meal Service for Staff, in the Amount of \$33,515.50; and Authorizing the Town Manager to Execute Said Purchase Order on Behalf of the Town.

Jay Boodheshwar, Deputy Town Manager

C. OTHER

IX. REGULAR AGENDA

A. Old Business

1. Demonstration of NovusAgenda Software Capabilities for
Efficient Agenda Backup Preparation and Distribution

Kathleen Dominguez, Town Clerk

Town Clerk Dominguez provided a demonstration of
NovusAgenda's Boardview feature.

Discussion ensued regarding possible obstacles the Town
Council may face when using the Boardview method, how to
make notes on the PDF page, use of the Boardview feature
during the meetings, the timing for receiving the back-up
using the Boardview method, public records requests for
notes, cost savings on paper and staff time, and how the
notes are deleted after the meeting.

Town Attorney Randolph clarified that private transitory notes
made by Council members on their backup are not a public
record unless brought to the meeting and are publicized. He
also stated that he will look into this matter further.

Anita Seltzer, 44 Cocconut Row, asked for clarification on the
timing for the public to receive the back up and whether or not
they would have to log in time to view the agenda. In
response to Ms. Seltzer, Town Clerk Dominguez stated that
the public would receive access to the back-up at the same
time and that no log-n would be needed to view the agenda
and back-up online.

2. Town-wide Underground Project:
Steven N. Stern, Underground Utilities Project Manager

a. Project Update

Steve Stern, Underground Utilities Project Manager,
presented his research on the performance of the
underground utilities of other local municipalities
during a storm. Mr. Stern stated that there are no
reports available to date relating to underground utility
performance during the recent storm Hurricane Irma.

Discussion ensued regarding reasons for power
failures to the main feeder line after the storm.

Council Member Araskog requested information on the performance of underground utilities during a storm surge.

b. Underground Utility Project Dashboard

Mr. Stern provided an overview of the Dashboard which included a progress update on the project.

In response to a question from Council Member Araskog, Town Engineer Strayer provided an explanation for a gas leak that occurred and the response from the Town and Florida Public Utility to the gas leak.

Director Struder provided an overview of the financial summary report.

c. Future Fiber Optic Communications System for the Town (*Deferred from the August 9, and September 19, 2017 Town Council Meetings*)

Town Manager Bradford presented additional information, cost summary and service options for the installation of a backbone conduit for the Town.

Discussion ensued regarding the benefits of fiber optic cable for safety and traffic control, service options, fiber net, installing conduit now in order to get competitive pricing, uncertainties with the cost and the need for it in the future, dark fiber rental and the recommendation of the Underground Utilities Task Force to not proceed with the installation of the conduit.

Howie Murray, 3475 South Ocean Board, spoke regarding dark fiber rental, suggested forming partnerships with the service providers and modifying the job specs to be specific to certain circumstances.

A motion was made by Council Member Araskog, and seconded by Council Member Zeidman, to oppose the installation of additional conduit during the Town of Palm Beach's

1 **Undergrounding Project for Phase 1. On roll call, the motion**
2 **passed 4 to 1, with President Kleid dissenting.**

- 3
4 d. Discussion of Credits for Property Owners Providing
5 Easements with Transformers and Switch Cabinets
6 *(Deferred from the September 19, 2017 Town Council*
7 *Meeting)*

8
9 Town Manager Bradford presented possible options for
10 administering assessment credits to a parcel's EBU for
11 the installation of transformers.

12
13 Discussion ensued regarding constraints and
14 complexities with not having a finite number of
15 transformer locations in order to apply the appropriate
16 credit.

17
18 **It was the consensus of the Town Council to leave the**
19 **assessment as is.**

- 20
21 e. Consideration of Approving Staff Position on
22 Assessments Vis-a-Vis Anticipated Private
23 Undergrounding Efforts
24 *Thomas G. Bradford, Town Manager*

25
26 Town Manager Bradford reported that there are
27 residents who are interested in burying their own utility
28 lines for their property now before the Town's
29 Undergrounding Project takes place in their area and
30 provided an overview of the method for providing them
31 with a discount on their assessment and the
32 circumstances that would apply.

33
34 **A motion was made by President Pro-Tem Moore, and was seconded**
35 **by Council Member Lindsay, to approve the process as described by**
36 **the Town Manager for providing a discount to citizens who choose to**
37 **bury their utilities before the Town's Undergrounding Project takes**
38 **place in their area. On roll call, the motion carried unanimously.**

39
40 In response to a question from Anita Seltzer, 44
41 Cocoanut Row, Town Manager Bradford provided
42 clarification on the discount process for residents who
43 choose to bury their own overhead power lines.

1 President Kleid polled the Town Council on how to handle
2 comments from the public versus engaging in a public
3 discourse with citizens during public comments.

4
5 Discussion ensued regarding the preferred way to handle
6 public comments.

7
8 Town Attorney advised the Council on ways to handle
9 Communications from Citizens.

10
11 **It was the consensus of the Town Council to not allow**
12 **citizens at such time to direct questions to staff but only**
13 **to have such questions emanate from Town Council**
14 **Members.**

15
16
17
18 3. Coastal Update:

19
20 *H. Paul Brazil, P.E., Director of Public Works*

21
22 a. Shore Line Condition Update

23
24 Coastal Program Manager Weber provided a PowerPoint
25 presentation on the shoreline conditions for each reach with a
26 focus on post storm activity.

27
28 4. Discussion of the additional information to the
29 August 9, 2017, Development Review Town Council
30 Meeting Minutes.

31 *Julie Araskog and Bobbie Lindsay, Town Council Members*

32
33 Council Member Lindsay spoke regarding the summarization
34 of the discussion that took place at the end of the meeting
35 and the way it was reflected in the minutes.

36
37 President Kleid spoke regarding the policy for providing
38 concise summaries of meeting discussions in the
39 minutes.

40
41 **Council Member Lindsay requested that an agenda item titled “Any**
42 **Other Matters” be added to the Development Review agenda with a**
43 **time stamp and that the Town Clerk re-summarize the discussion.**
44
45

1 **President Kleid approved Council Member Lindsay's request to re-**
2 **summarize the discussion in the minutes and requested that the**
3 **minutes be presented at the November Town Council meeting for**
4 **further review.**
5

- 6 5. RESOLUTION NO. 196-2017 A Resolution of the Town
7 Council of the Town of Palm Beach, Palm Beach County,
8 Florida, Establishing a Funding Policy for the Town of Palm
9 Beach Retirement System; Providing an Effective Date.
10 *Jane Struder, Director of Finance*
11

12 Director Struder provided an overview of the Resolution.
13

14 Town Attorney Randolph spoke regarding the intent of the
15 Resolution which is to be a guideline to the Town Manager
16 to appropriate funds for the retirement plan as long as it is
17 within the Town's budget and is subject to change by future
18 councils. He recommended that section 3 be removed due
19 to state law dictating how the budget is approved and that
20 new language be added regarding the supermajority vote.
21

22 **Motion was made by Council Member Araskog, and was seconded by**
23 **Council Member Zeidman, to approve Resolution No. 196-2017, as**
24 **amended. On roll call, the motion passed unanimously.**
25

- 26 6. Post Budget Adoption Plans for the Comprehensive Review
27 of Town Operations (CRTO).
28 *Thomas G. Bradford, Town Manager*
29

30 Town Manager Bradford provided an overview of the plans to
31 proceed with the Comprehensive Review of Town
32 Operations.
33

34 Discussion ensued regarding zero-based budgeting, the
35 timeline involved, the Town Council's role in the process, and
36 the purpose of the CRTO.
37

38 **President Kleid requested that Tom provide each member of the**
39 **Town Council with the treatise that was provided a couple of years**
40 **ago by Jane Struder on zero-based budgeting.**
41

42 Mayor Coniglio spoke regarding the Town Council's role in
43 the final process of the CRTO and requested that Director
44 Struder include the state and federal requirements for

1 municipalities. She expressed concern on the aggressive
2 timeline.

3
4 **Council Member Zeidman requested that the Town include the**
5 **additional 2.5 million funding in the Long Term Financial Plan when**
6 **forecasting for the Pension Plan in the CRTO.**
7

8 **B. New Business**
9

- 10 1. Appointments to the Planning & Zoning Commission.
11 *John S. Page, Director of Planning, Zoning & Building*
12

13 *(Clerk's Note: This item was taken out of order and heard under Item VI.)*
14

15 **It was the consensus of the Town Council to ratify the appointments**
16 **of Martin Klein, Carol LeCates and Rick Pollock as regular members**
17 **of the Planning and Zoning Commission.**
18

19 **It was the consensus of the Town Council to ratify the appointments**
20 **of Ronald Berk and Michael Spaziani as alternate members of the**
21 **Planning and Zoning Commission.**
22

- 23 2. Windsor Court Right-of-Way Condition Assessment.
24 *H. Paul Brazil, P.E., Director of Public Works*
25

26 **Motion was made by Council Member Araskog, and was seconded by**
27 **President Pro Tem Moore, to defer this item to the November 14, 2017**
28 **Town Council Meeting. On roll call, the motion passed unanimously.**
29

- 30 3. Creation of a Task Force for Reevaluation and
31 Augmentation of Town Zoning and Building Codes.
32 *Margaret Zeidman, Town Council Member*
33

34 Council Member Zeidman expressed concerns about storm
35 surges and flood zones and the need for future planning. She
36 suggested additional study by the Planning and Zoning
37 Commission on best practices for making the town greener
38 and safer.
39

40 Town Manager provided an overview of the Florida PACE
41 Program for financing hurricane protection and wind and solar
42 projects.
43

44 Discussion ensued regarding a letter from David Frisbie on the
45 recent changes from FEMA on building codes, sending a
46 storm surge study on coastal communities to the Shore

1 Protection Board, asking the Planning and Zoning
2 Commission to revisit the use of solar panels, and how this
3 effects development plans in the future.

4
5 Director Page spoke regarding a FEMA coastal study that is
6 occurring and upcoming changes to building elevations for
7 commercial and residential structures by the Florida Building
8 Code in December. In response to a question by Mr. Kleid, Mr.
9 Page suggested that this item be studied by the Planning and
10 Zoning Commission.

11
12
13 Director Brazil spoke regarding flooding and drainage, how
14 it effects new development and minimizes damage to
15 neighboring properties.

16
17 **It was the consensus of the Town Council to send this item to the**
18 **Planning and Zoning Commission for further study.**

19
20 **C. Matters Pulled From Consent Agenda:**

- 21
22 1. RESOLUTION NO. 190-2017 A Resolution of the Town
23 Council of the Town of Palm Beach, Palm Beach County,
24 Florida Amending Recreation Enterprise Fund Maintenance
25 and Improvement Reserves Policy; Providing an Effective
26 Date.

27 *Jane Struder, Director of Finance*

28
29 Director Struder provided an overview of the Resolution, net
30 income and the amount that goes into the reserves.

31
32 In response to questions from Council Member Lindsay and
33 President Pro Tem Moore, Director Zickar spoke regarding
34 the five year capital improvement program and how the
35 reserve funds are appropriated.

36
37 Council Member Lindsay expressed concern with the
38 Recreation Fund Maintenance and Improvements being over-
39 reserved and the amount for the Town Docks being under-
40 reserved.

41
42 Anita Seltzer, 44 Cocoanut Row, spoke regarding missing
43 information from the Pay-As-You-Go Capital Improvement
44 Program and the Recreation Maintenance and Improvement
45 Reserve Policy.

1
2 **A motion was made by Council Member Zeidman, and was seconded**
3 **by Council Member Lindsay, to amend the policy so that 25% of the**
4 **Recreation Enterprise Fund Maintenance and Improvement Reserves**
5 **gets appropriated to the Town Docks. On roll call, the motion passed**
6 **unanimously.**
7

- 8 2. RESOLUTION NO. 191-2017 A Resolution Of The Town
9 Council Of The Town Of Palm Beach, Palm Beach County,
10 Florida, Granting Authority To The Town's Building Official
11 To Grant Time Extensions Not To Exceed Ten Working
12 Days From Required Completion Dates For Construction
13 For Good Cause Shown And Based Upon The Discretion Of
14 The Building Official On A Case By Case Basis For Delays
15 Caused Due To Preparation And Recovery Caused By
16 Hurricane Irma.

17 *John S. Page, Director of Planning, Zoning & Building*
18

19 In response to a question from Council Member Araskog,
20 Director Page spoke regarding the reason for granting
21 extensions to contractors this year and the reasons they
22 weren't granted last year after Hurricane Matthew.
23

24 **A motion was made by Council Member Araskog, and was seconded**
25 **by Council Member Lindsay, to approve Resolution No. 191-2017. On**
26 **roll call, the motion passed unanimously.**
27

- 28 3. RESOLUTION NO. 192-2017 A Resolution of the Town
29 Council of the Town of Palm Beach, Palm Beach County,
30 Florida, Authorizing the Execution of a Maintenance
31 Memorandum of Agreement Between the Florida
32 Department of Transportation and the Town Of Palm Beach
33 for Maintenance of Hardscape and Landscape Within the
34 Right-Of-Way of State Road A1A (South County Road/Royal
35 Poinciana Way) Between MP 28.126 and MP 28.203 West
36 of Bradley Place as Stated in the Agreement and Shown on
37 the Exhibits.

38 *H. Paul Brazil, P.E., Director of Public Works*
39

40 Director Brazil clarified the Town's responsibility for the
41 sidewalks and the Florida Department of Transportation's role
42 in providing partial reimbursement.
43

1 **A motion was made by Council Member Zeidman, and seconded by**
2 **President Pro Tem Moore, to approve Resolution No. 192-2017. On**
3 **roll call, the motion passed unanimously.**

- 4
5 4. Approve Easement Variance Agreement with Florida Power
6 and Light.

7 *H. Paul Brazil, P.E., Director of Public Works*

8
9 Discussion ensued regarding the hold harmless agreement
10 and the minimal liability involved when working on an
11 easement.

12
13 **A motion was made by Council Member Lindsay, and was seconded**
14 **by President Pro Tem Moore, to approve the hold harmless and**
15 **indemnity agreement with Florida Power and Light. On roll call, the**
16 **motion passed 4 to 1 with Council Member Araskog dissenting.**

17
18 **X. ORDINANCES**

19
20 **A. Second Reading**

- 21
22 1. ORDINANCE NO. 26-2017 An Ordinance of the Town
23 Council of the Town of Palm Beach, Palm Beach County,
24 Florida, Amending the Town Code of Ordinances at Chapter
25 82, Personnel, Article II, Employee Benefits, Division 3,
26 Other Post-Employment Benefits, At Section 82-150,
27 Definitions; Section 82-151, Statement of Purpose; Section
28 82-154, Contributions to OPEB Trust; Section 82-158,
29 Miscellaneous; Providing for Severability; Providing for
30 Repeal of Ordinances in Conflict; Providing for Codification;
31 Providing an Effective Date.

32 *Jane Struder, Director of Finance*

33
34 **A motion was made by President Pro Tem Moore, and was seconded**
35 **by Council Member Zeidman, to approve Ordinance No. 26-2017, on**
36 **second and final reading. On roll call, the motion passed**
37 **unanimously.**

- 38
39 2. ORDINANCE NO. 27-2017 An Ordinance of the Town
40 Council of the Town of Palm Beach, Palm Beach County,
41 Florida, Providing for an Amendment to the Town's Budgets
42 Adopted for the Fiscal Year Commencing October 1, 2016,
43 Providing an Effective Date.

44 *Jane Struder, Director of Finance*

1 **A motion was made by President Pro Tem Moore, and was seconded**
2 **by Council Member Zeidman, to approve Ordinance No. 27-2017, on**
3 **second and final reading. On roll call, the motion passed**
4 **unanimously.**

5
6 **B. First Reading**

- 7
8 1. ORDINANCE NO. 29-2017 An Ordinance Of The Town
9 Council Of The Town Of Palm Beach, Palm Beach County,
10 Florida, Amending The Town Code Of Ordinances At
11 Chapter 18, Buildings And Building Regulations: At Section
12 18-201(B), By Changing The Required Plan Revision
13 Submittal Timeframe From 15 Days To Noon, 9 Days Prior
14 To The Architectural Commission Meeting At Which It Will Be
15 Considered; Providing For Severability; Providing For Repeal
16 Of Ordinances In Conflict; Providing For Codification;
17 Providing An Effective Date.

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

19
20 Director Page provided a solution to an issue that was
21 identified regarding the printing of the mini sets and the
22 timeline.

23
24 **A motion was made by Council Member Araskog, and was seconded**
25 **by Council Member Lindsay, to approve Ordinance No. 29-2017, on**
26 **first reading. On roll call, the motion passed unanimously.**

27
28 **XI. ANY OTHER MATTERS**

29
30 Council Member Araskog requested permission to schedule a Public
31 Safety Committee Meeting and provided a summary of the items to be
32 discussed.

33
34 Discussion ensued regarding the complexities of placing traffic signs on
35 state roads, the County's role in issuing hurricane awareness and
36 preparation information, the procedural protocol for setting Council
37 Committee agendas, and not making problems where there aren't
38 problems.

39
40 Deputy Town Manager Boodheshwar reported that staff is in the process
41 of preparing a multi-department After-Action Report on the Town's
42 response to Hurricane Irma and what it will cover. Mr. Boodheshwar also
43 spoke regarding the Hurricane preparedness information and resources
44 that are provided on the Town's website and the procedure for approving
45 Council Committee items.

1
2 President Pro Tem Moore announced that the upcoming Finance and
3 Taxation Meeting is scheduled for October 12, 2017.
4

5 Council Member Araskog inquired about having a discussion to extend the
6 six month probationary period for general employees.
7

8 **It was the consensus of the Town Council to place a discussion on**
9 **extending the probationary period for general employees on the**
10 **November 14, 2017 Town Council Meeting agenda.**
11

12 **XII. ADJOURNMENT**
13

14 There being no further business to discuss, the October 10, 2017 regular
15 Town Council meeting was adjourned at 4:30 p.m.
16

17 APPROVED:
18
19

20 _____
21 Richard M. Kleid
22 Town Council President

23 ATTEST:
24
25

26 _____
27 Kathleen Dominguez
28 Town Clerk
29
30
31

32 Date: _____
33

TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES OF THE TOWN COUNCIL MEETING

HELD ON WEDNESDAY OCTOBER 11, 2017

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order at 9:15 A.M. on Wednesday, October 11, 2017 in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

The Mayor expressed her concern on starting the meeting at 9:15 instead of 9:30. The early start was prompted by cancellation of the Development Review Meeting in September following Hurricane Irma.

III. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Araskog requested adding Public Safety Meeting to Any Other Matters.

V. COMMUNICATIONS FROM CITIZENS - None

VI. APPROVAL OF AGENDA

The following changes were made to the agenda:

Withdrawn: The following items were withdrawn:

- ITEM VII.A.4., Z-17-00035 VARIANCE

- ITEM VII.B.2.f., Z-17-00030 SPECIAL EXCEPTION

Deferrals:

The following items were deferred to the November 15, 2017 Town Council Meeting:

- ITEM VII.B.1.b., Z-17-00017 VARIANCE

- ITEM VII.B.2.a., Z-17-00023 VARIANCE

- ITEM VII.B.2.e., Z-17-00037 VARIANCE

- ITEM VII.B.2.i., Z-17-00033 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE

- ITEM VII.B.2.n., Z-17-00034 SITE PLAN REVIEW

The following items were deferred to the December 13, 2017 Town Council Meeting:

- ITEM VII.B.1.d., Variance 21-2017

- ITEM VII.B.2.d., Z-17-00031 VARIANCE

- ITEM VII.B.2.h., Z-17-00020 SPECIAL EXCEPTION WITH SITE PLAN REVIEW

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

VII. DEVELOPMENT REVIEWS

A. Appeals and Related Applications

1. ARCOM Appeal of Project Denial

Case No. B-008-2017

235 Via Vizcaya

Attorney Lynch provided a summary of the appeal.

Discussion took place on project denial versus deferral, excessively dissimilar, and ARCOM Ordinance's definition of mass.

Director Page provided history of the project. He stated that ARCOM's single, distinctive message was that the home is too big for the property. ARCOM denial occurred in September. ARCOM cited code section 18-205 as its basis for denial. Zoning Code Section 134-754 stipulates that zoning regulations are not intended to allow maximum development.

Mr. Lynch provided additional comments regarding how ARCOM cannot substitute its judgement regarding zoning criteria unless it considers those zoning criteria in relation to surrounding houses.

Director Page explained ARCOM's process.

Deputy Clerk Ruderman swore in all those who would providing testimony.

The following ex-parte communications were declared. Mayor Coniglio spoke with a homeowner on Via Vizcaya relative to a code enforcement action with respect to the property. Council Member Araskog attended and/or listened to several meetings regarding this project.

Town Attorney asked Town Attorney Lynch for clarification on the appeal.

Discussion took place on design and architecture.

Motion was made by Council Member Araskog, and seconded by Council Member Zeidman, to uphold the decision / deny the appeal. On roll call, the motion carried unanimously.

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

Motion was made by Council Member Araskog, and seconded by President Pro Tem Moore, to defer this issue to the December 13, 2017 Town council meeting. On roll call, the motion carried unanimously.

3. ARCOM Appeal of Project Denial

Case No. B-090-2017

901 North Ocean Boulevard

The following ex-parte communications were declared. Council Member Lindsay had a conversation with one of the owners. President Kleid attended a meeting where this was discussed. Council Member Zeidman spoke with Attorney Ziska only about the fact that this item was on the agenda.

Attorney Ziska provided a summary of the appeal and asked that the project be remanded back to ARCOM as a deferral and have the commissioners review the changes to the massing.

Director Page explained how ARCOM commissioners made their determination and how this was a massing issue.

Discussion took place on deferral versus denial, and application process details.

Motion was made by Council Member Lindsay, and seconded by Council Member Zeidman, that this project be remanded back to ARCOM with the caveat that ARCOM provide the applicant with design guidance and to grant a deferral. On roll call, the motion carried unanimously.

4. Z-17-00035 VARIANCE(S) Zoning District: R A Estate Residential

The application of FRIEDMAN LORRAINE L TRUST &, Owner, relative to property located at 901 N OCEAN BLVD, legal description on file, is described below. Application received from contract purchaser PBB Island Properties, LLC (Clark Beaty). A variance to allow the construction of a new 20,330 square foot two story residence with a point of measurement for height of 17.8 foot National Geodetic Vertical Datum ("NGVD") in lieu of the 17.4 foot NGVD maximum allowed for properties within the coastal construction control line. [Applicant's Representative Maura Ziska Esq] [The Architectural Commission denied the project at the September 27, 2017 meeting. Carried 7-0.]

Item was withdrawn

5. Appeal of Administrative Decision that Demolition of a Nonconforming Pool Cabana at 198 Via Marina Exceeded Demolition of More Than Fifty (50) Percent by Cubic Footage

The following ex-parte communication was declared. Council Member Araskog has a personal relationship with David Palmer.

David Palmer of Livingston Builders provided details of the project. He argued that Mr. Castro's interpretation of the Code is unnecessarily strict.

Zoning Administrator Castro provided Staff comments. He has consistently applied his interpretation of the Code to zoning projects for many years.

Discussion took place on cubic content ratio and cubic footage as well as the history of the applicable Code provision.

Motion was made by Council Member Araskog, and seconded by President Pro Tem Moore, to deny the appeal of administrative decision 198 Via Marina. On roll call, the motion carried unanimously.

Director Page explained the new development review process and its resulting "Staff Reports" that have been newly inserted into Council books. Council responded favorably.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

1 a. Z-17-00005 VARIANCE Zoning District: R-B Low Density Residential The
2 application of CAMPANA PB TRUST, Owner, relative to property located at 120
3 CANTERBURY LN, legal description on file, is described below. The applicant is
4 proposing to add a 495 square foot second story addition for a guest suite above the
5 existing one story guest suite (which will be converted to a garage) and a 69 square
6 foot 2 story stair addition that will be out of the setback. Because the property is in
7 excess of 20,000 square feet a variance is being requested to have a 15.2 east side
8 yard setback in lieu of the 26 foot minimum required. [Applicant's Representative:
9 Maura Ziska, Esq.] [The Architectural Commission Recommendation: Implementation
10 of the proposed variance will not cause negative architectural impact to the subject
11 property. Carried 4-3. The Architectural Commission approved the project at the
12 September 27, 2017 meeting. Carried 7-0]

13 The following ex-parte communications were declared. Council Member Lindsay,
14 Council President Kleid, Council Member Zeidman, and Council President Pro-Tem
15 Moore spoke with Attorney Ziska who advocated for the position of her client. Ms.
16 Moore also attended the ARCOM meeting where this project was discussed.

17 Attorney Ziska provided details of the project.

18 Architect Papadopoulos provided additional details.

19 Mr. Castro provided Staff comments

20 **Motion was made by Council Member Araskog that Variance #Z-17-00005 be denied because the**
21 **application does not meet all of the criteria applicable to this application as set forth in Section**
22 **134-201(a), items 1 through 7. Without a second, the motion was not considered.**

23 **Motion was made by Council President Pro-Tem Moore, and seconded by Council Zeidman, that**
24 **Variance #Z-17-00005 shall be granted with the caveat that the owner will provide a utility**
25 **easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, and find, in**
26 **support thereof, that all of the criteria applicable to this application as set forth in Section 134-**
27 **201(a), items 1 through 7 have been met. On roll call, the motion carried 4-1 with Council Member**
28 **Araskog dissenting.**
29

30 b. Z-17-00017 VARIANCE Zoning District: R-A Estate Residential The application of
31 OLD KAPOK LLC, Owner, relative to property located at 8 S LAKE TRL, legal
32 description on file, is described below. The applicant is requesting modifications to a
33 Landmarked residence which will require the following variances: 1. A request for a
34 variance to allow construction of a tennis court that will not be completely enclosed with
35 a fence and that the tennis court with appurtenances will have a 27 foot front yard
36 setback in lieu of the 35 foot minimum required. 2. A variance request to allow a
37 driveway back up space to be 17 feet in lieu of the 25 feet required. 3. A variance
38 request to construct a one story addition to the south side of the existing cabana that
39 will have a front yard setback of 33.8 feet in lieu of the 35 foot minimum required.
40 [Applicant's Representative: Maura Ziska, Esq.] [The Landmarks Preservation
41 Commission's September meeting was cancelled. This project will be heard at the
42 October 18, 2017 meeting.] Request for Deferral to the November 15, 2017 Town
43 Council Meeting Per Letter Dated September 28, 2017 from Maura Ziska

44 ***Item was deferred to the November 15, 2017 Town council meeting***

45 c. Z-17-00018 VARIANCE Zoning District: R-B Low Density Residential The application
46 of 130 DOLPHIN ROAD LLC, Owner, relative to property located at 130 DOLPHIN
47 RD, legal description on file, is described below. The applicant is proposing to

construct a 1,400 square foot, second floor addition (which includes a 260 square foot terrace) onto an existing one-story home. Adding a second story to an existing one story home causes the existing lot coverage of 32% to exceed the 30% maximum allowed for a two story residence in the R-B Zoning District. The variance request is for the lot coverage to be 32% in lieu of the 30% maximum allowed for a two story residence in the R-B Zoning District. [Applicant's Representative: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project as presented. Carried 5-2.]

The following ex-parte communications were declared. Council Member Lindsay spoke with Architect Torres and Attorney Ziska who advocated for the position of their client. She also drove by the property. Mayor Coniglio spoke with the architect and he advocated for the position of his client. She also reviewed the property. Council President Kleid spoke with Attorney Ziska who advocated for the position of her client. Council President Pro-Tem Moore spoke with Attorney Ziska who advocated for the position of her client and went by the property. Council Member Zeidman spoke with Attorney Ziska who advocated for the position of her client. All Council Members received an E-mail objecting to the project.

Attorney Ziska provided details of the project.

Architect Torres provided additional details.

Mr. Castro provided Staff comments.

Andrea Huainigg, homeowner, loves proposed design and hopes it will receive approval.

Discussion took place on E-mails that are received at the last minute.

Discussion took place on the second story and effect on neighboring properties.

Motion was made by Council Member Zeidman, and seconded by Council Member Lindsay, that Variance #Z-17-00018 shall be granted with the caveat that the owner will provide a utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met. On roll call, the motion carried 4-1 with Council Member Araskog dissenting.

d. VARIANCE #21-2017 The application of Vera Alfieri Monforte; relative to property commonly known as 218 Miraflores Dr., described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to construct a 1,230 square foot second story addition on the west side of the one story residence that will create two bedrooms, a gym and two bathrooms. The following variances are being requested: 1) lot coverage of 33.7% in lieu of the 30% maximum allowed for a two story residence, 2) a west side yard setback of 13 feet in lieu of the 15 foot minimum required, 3) a rear yard setback of 13.91 feet in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [The Architectural Commission deferred the project to the November 29, 2017 meeting. Carried 7-0.] Request for Deferral to the December 13, 2017, Town Council Meeting Per Letter Dated September 28, 2017 from Maura Ziska

Item was deferred to the December 13, 2017 Town council meeting

2. New Business

a. Z-17-00023 VARIANCE(S) Zoning District: R-B Low Density Residential The application of GULBRANDSEN ALLISON K & Owner, relative to property located at 211-217 EMERALD LN, legal description on file, is described below. PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 211 & 217 EMERALD LN. The applicant owns two adjacent properties in the R-B Zoning District and wishes to combine the properties to create a garden with accessory structures. Once combined, the resulting lot would have an area in excess of 20,000 square feet (29,000 square feet) and a width in excess of 200 feet. The following variances are being requested: 1) To allow a new one story tea house on the garden parcel to have a 12.5 foot east side yard setback in lieu of the 30 foot minimum setback required for lots with an area in excess of 20,000 square feet and a width in excess of 200 feet. 2) To allow the existing house to remain with the current west setbacks of 28.2 feet for the garage/guest house and 25.1 feet for the main house that become non-conforming once the lots are combined and the resulting lot area is in excess of 20,000 square feet and the resulting lot width is in excess of 200 feet. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. The Architectural Commission partially approved the project and deferred the remaining item to the October 25, 2017 meeting. Carried 7-0.] Request for Deferral to the November 15, 2017 Town Council Meeting Per Letter Dated September 28, 2017 from Maura Ziska

Item was deferred to the November 15, 2017 Town council meeting

Deputy Clerk Ruderman swore in all those who would be providing testimony.

b. Z-17-00024 VARIANCE(S) Zoning District R-C Medium Density Residential The application of KAUPPE SANDRA T, Owner, relative to property located at 266 ATLANTIC AVE, legal description on file, is described below. The owner is proposing to renovate an existing one-story residence that was constructed in 1920 which will require the following variances: 1. A request to allow construction of a 592.5 square foot one story addition for a master bedroom and covered porch and covered front entry that will result in a lot coverage of 34.3 % in lieu of the 22.52% existing and the 30% maximum allowed in the R-C Zoning District. 2. A request to allow a front yard setback to be 14.67 feet in lieu of the 25 foot minimum required in the R-C Zoning District to allow for a covered entry over the existing steps. 3. A request to allow a rear yard setback to be 10 feet in lieu of the 15 foot minimum required in the R-C Zoning District to allow for the master bedroom addition. 4. A request to allow a swimming pool on the east side of the property with a 6.67 foot west side yard setback in lieu of the 10 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project as presented. Carried 6-1.]

The following ex-parte communications were declared. Council Member Lindsay, President Kleid, President Pro Tem Moore and Council Member Zeidman spoke to Attorney Ziska who advocated for the position of her client. Ms. Moore also drove by the property, and has known the family for more than forty years. Ms. Zeidman stated that Raphael Saladrigas is her architect.

Attorney Ziska provided details of the project.

Architect Saladrigas provided additional details.

Mr. Castro provided Staff comments.

Director Page relayed that this project was received very enthusiastically at ARCOM.

Council Member Lindsay suggested that in this instance, the caveat that the owner will provide a utility easement if necessary, should be removed from this property because a portion of the public sidewalk lies on the private lot.

Motion was made by Council Member Araskog, and seconded by Council Member Zeidman, that Variance #Z-17-00024 shall be granted, and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met. Unless absolutely necessary this lot will not be subject to a utility easement or transformer. On roll call, the motion carried unanimously.

c. Z 17 00029 VARIANCE(S) Zoning District: R B Low Density Residential

The application of JOSEPH ROBERTA &, Owner, relative to property located at 2288 W IBIS ISLE RD, legal description on file, is described below.

The applicant is proposing to install a 14 foot tall sculpture in front of their residence (out of the setback) in lieu of the maximum 12 foot allowed for a statue and/or sculpture. [Applicant's Representative Maura Ziska Esq] [The Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 5-2. The Architectural Commission approved the project at the September 27, 2017 meeting. Carried 7-0.]

The following ex-parte communications were declared. Council Member Lindsay, President Kleid, President Pro Tem Moore, and Council Member Zeidman spoke with Attorney Ziska who advocated for the position of her client.

Attorney Ziska provided details of the project.

Architect Jackman provided additional details.

Mr. Castro provided Staff comments.

Discussion took place on view of the sculpture from the street, height of structure and height of hedges.

Motion was made by Council Member Lindsay, and seconded by Council Member Zeidman, that Variance #Z-17-00029 shall be granted with the caveat that the owner will provide a utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met. On roll call, the motion carried unanimously.

d. Z 17 00031 VARIANCE(S) Zoning District: R A Estate Residential

The application of SOLIMINE EMIL &, Owner, relative to property located at 830 S OCEAN BLVD, legal description on file, is described below. A variance request to allow the construction of a 590 square foot two story infill addition for two guest bedrooms that will result in a lot coverage of 26.2% in lieu of the 24.6% existing and the 25% maximum allowed. [Applicant's Representative Maura Ziska Esq] [The Architectural Commission deferred the project to the November 29, 2017 meeting. Carried 7-0.] Request for Deferral to December 13, 2017 Town Council Meeting Per Letter Dated September 28, 2017 from Maura Ziska

Item was deferred to December 13, 2017 Town council meeting

e. Z-17-00037 VARIANCE(S) Zoning District: R AA Large Estate Residential

1 The application of LOUWANA TRUST, Owner, relative to property located at 473 N
2 COUNTY RD, legal description on file, is described below. The Applicant is proposing to
3 renovate a Landmarked residence by adding a 67 square foot basement addition to the
4 laundry room, a 2,438 square foot two story guest suite with balcony, entry steps, a 960
5 square foot first floor garage with Mechanical Area and Back Entry, a 260 square foot first
6 floor garden shed, a 175 square foot first floor playroom addition, and a 350 square foot
7 second floor bedroom and bathroom addition. The following variances are being
8 requested in conjunction with the proposed renovation: a. North side yard basement
9 setback for the laundry room addition of 24.46 feet in lieu of the 30 foot minimum
10 required; b. North side yard first floor setback ranging from 13.5 feet to 29.58 feet for the
11 playroom, Garage, Guest Suite, Guest Suite entry steps, and garden shed in lieu of the
12 30 foot minimum required; c. North side yard second floor setback ranging from 13.5 feet
13 to 23.26 feet for the bedroom and bathroom addition, Guest Suite, and Guest Suite
14 Balcony in lieu of the 30 foot minimum required. d. Landscaped open space of 40% In
15 lieu of the 42% existing and 55% minimum required. [Applicant's Representative Maura
16 Ziska Esq] [The Landmarks Preservation Commission's September meeting was
17 cancelled. This project will be heard at the October 18, 2017 meeting.] Request for
18 Deferral to November 15, 2017 Town Council Meeting Per Letter Dated September 28,
19 2017 from Maura Ziska

20 ***Item was deferred to November 15, 2017 Town council meeting***

21 f. Z-17-00030 SPECIAL EXCEPTION Zoning District: C WA Worth Avenue

22 The application of 237 243 WORTH AVENUE LTD PARTN, Owner, relative to property
23 located at 243 WORTH AVE, legal description on file, is described below.

24 1. A request for a Special Exception with Site Plan Review to allow an apparel store
25 ("Marcus") to occupy 4,878 square feet of gross leasable area. Since the proposed space
26 is in excess of 4,000 square feet of gross leasable area, the Applicant is required to
27 obtain Town Council approval and a finding that the proposed use is town serving.
28 [Applicant's Representative Maura Ziska Esq]

29 ***Item was withdrawn***

30 g. Z-17-00036 SPECIAL EXCEPTION Zoning District: R C Medium Density Residential

31 The application of 224 ATLANTIC LLC, Owner, relative to property located at 224
32 ATLANTIC AVE, legal description on file, is described below. On May 8, 1979, The Town
33 Council granted Special Exception application #10-79. It allowed the developer to create
34 seven (7) supplemental parking spaces in conjunction with the construction of what was
35 then a two unit development. The supplemental parking spaces were agreed to be used
36 on a first come first serve basis by the subject property (224 Atlantic) and the
37 condominium across the street (223 Atlantic) which was also owned by the developer at
38 the time. The Special Exception approval was granted and the attached agreement
39 (Exhibit A) was recorded on October 26, 1979. The Applicant purchased both units in the
40 duplex (224 Atlantic Avenue) in 2013 and converted the two units into one single family
41 residence. As the structure is now a single family residence, the condominium documents
42 for 224 Atlantic Avenue were terminated. The Applicant is requesting to modify the
43 previous Special Exception #10 79 to remove the condition of the agreement attached as
44 Exhibit 1 and replace that agreement with a substitute agreement that would allow the
45 use of the seven (7) parking spaces to be shared with the property owners of 223 Atlantic
46 Avenue unless and until the 223 building or the Court releases 224 Atlantic from that
47 obligation and, upon release by the Town Council of the restrictions relating to the use of
48 the seven parking spaces, upon application filed by 224 within thirty days of the

1 conclusion of the pending litigation between 223 and 224. [Applicant's Representative
2 Maura Ziska Esq]

3 President Pro Tem Moore recused herself due to her former husband living at 223
4 Atlantic, which is involved in this litigation. President Kleid disclosed that he was a client
5 of the appellant's law firm many years ago. Council Member Lindsay, President Kleid and
6 Council Member Zeidman spoke to Attorney Ziska who advocated for the position of her
7 client.

8 Attorney Ziska provided details of the project.

9 Mr. Castro provided Staff comments with supporting legal comments from Town Attorney
10 Randolph.

11 Attorney Sheppard representing Palm Beach Atlantic Association provided his objections
12 to granting of this special exception.

13 Attorney Holodak on behalf of Palm Beach Atlantic Association amplified Mr. Shepard's
14 statements.

15 Rick Shankman, President of Palm Beach Atlantic Association provided additional
16 details.

17 Attorney Zoberg spoke on behalf of 224 Atlantic LLC. He wanted to clarify that there are
18 two condominiums and there was no Unity of Title. There is an existing agreement which
19 was completed in order to get the temporary Certificate of Occupancy. 224 Atlantic
20 would like to use that as an ongoing condition, and modify the agreement to allow for
21 striping. They would like to stripe the parking lot, and provide the parking. This will
22 allow litigation to end with the Town. Their intention is to resolve and dismiss four
23 lawsuits with the Town.

24 Mr. Castro provided Staff comments.

25 Discussion took place regarding the Unity of Title.

26 **Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, that**
27 **Special Exception #Z17-00036 be deferred to the November 15, 2017 Town council meeting with**
28 **the condition that it be remanded to the Code Enforcement Board. The Code Enforcement Board**
29 **is to consider stopping fines until the lawsuit is settled. On roll call, the motion carried**
30 **unanimously. President Pro Tem Moore was recused.**

31
32 h. Z-17-00020 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: C-TS
33 Town-Serving Commercial The application of CARRIAGE HOUSE PROPERTIES PART,
34 Owner, relative to property located at 264 S COUNTY RD SUITE: SITE, legal description
35 on file, is described below. A request for a special exception with site plan review
36 approval to allow a private club "Carriage House" to operate at 264 and 270 South
37 County Road in the C-TS Zoning District. The Club will have a membership cap of 264
38 members based on the principal of equivalency for parking requirements. [Applicant's
39 Representative: Maura Ziska, Esq] Request for Deferral to the December 13, 2017, Town
40 Council Meeting Per Letter Dated October 4, 2017 from Maura Ziska

41 ***Item was deferred to December 13, 2017 Town council meeting***

42 i. Z-17-00021 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: R-B
43 Low Density Residential The application of 211 PINE STREET LAND TRUST &, Owner,
44 relative to property located at 225 ARABIAN RD, legal description on file, is described

below. Request for special exception and site plan review approval to permit construction of a 4,247 square foot two-story single family residence on portions of platted lots with a width of 86 feet in lieu of the minimum 100 feet lot width requirement applicable to lots within the R-B District. [Applicant's Representative: Tim Hanlon, Esq.] [Architectural Commission recommendation: Implementation of the proposed site plan review and special exception will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project at the September 27, 2017 meeting. Carried 7-0.]

No ex-parte communications were declared.

Attorney Hanlon provided details of the project.

Mr. Castro provided Staff comments.

Motion was made by Council Member Araskog, and seconded by President Pro Tem Moore, that Special Exception #Z-17-00021 shall be granted, with the caveat that the owner will provide a utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met. On roll call, the motion carried unanimously.

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, that Site Plan #Z-17-00021 be approved, with the caveat that the owner will provide a utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11. On roll call, the motion carried unanimously.

j. Z-17-00022 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE

Zoning District: R-A Estate Residential The application of PBC REALTY, Owner, relative to property located at 910 S OCEAN BLVD, legal description on file, is described below.

1. Site Plan Approval requested to permit construction of a new 7,963 square foot two story house and pool on a platted lot with a width of 128.42 feet in lieu of 150 feet minimum required. 2. Request for site plan approval and special exception to permit construction of a new 500 square foot beach cabana on the portion of the property lying east of S. Ocean Blvd. 3. Request for a zero datum (point of measurement) for the construction of the proposed two story house of 21.5 feet National Geodetic Vertical Datum ("NGVD") in lieu of 18.34 feet NGVD allowed by Code. A building height plane variance and building height variance is requested in order to permit this new zero datum. [Applicant's Representative: Tim Hanlon, Esq.] [The Architectural Commission Recommendation: Implementation of the proposed special exception with site plan review and variance will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission conditionally approved the project at the September 27, 2017 meeting. Carried 7-0.]

No ex-parte communications were declared.

Attorney Hanlon provided details of the project.

Mr. Castro provided Staff comments.

1 **Motion was made by Council Member Lindsay, and seconded by President Pro Tem Moore, that**
2 **Variance #Z-17-00022 shall be granted and find, with the caveat that the owner provide a utility**
3 **easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, in support**
4 **thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a),**
5 **items 1 through 7 have been met. On roll call, the motion carried unanimously.**
6

7 **Motion was made by Council Member Araskog, and seconded by President Pro Tem Moore, that**
8 **Special Exception #Z-17-00022 shall be granted, with the caveat that the owner will provide a**
9 **utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, based**
10 **upon the finding that such grant will not adversely affect the public interest and that the**
11 **applicable criteria set forth in Section 134-229 of the Town Code have been met. On roll call, the**
12 **motion carried unanimously.**
13

14 **Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, that**
15 **Site Plan #Z-17-00022 be approved, with the caveat that the owner will provide a utility easement,**
16 **satisfactory to the Town of Palm Beach, prior to building permit issuance, based upon the finding**
17 **that the approval of the site plan will not adversely affect the public interest and that the Council**
18 **certifies that the specific zoning requirements governing the individual use have been met and**
19 **that satisfactory provision and arrangement has been made concerning Section 134-329, items 1**
20 **through 11. On roll call, the motion carried unanimously**

21 k. Z-17-00032 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: R B
22 Low Density Residential

23 The application of PALM BEACH TOWN OF, Owner, relative to property located at 340
24 SEAVIEW AVE : SITE, legal description on file, is described below.

25 Request to modify the previously approved special exception with site plan for the
26 proposed recreation center as follows: 1. Relocate the proposed entry arch approximately
27 40 feet to the northwest. 2. Re stripe the parking lot to 9 foot wide spaces instead of the
28 current 10 foot wide spaces which will result in a net gain of 3 parking spaces. 3.
29 Relocate existing electrical panel that services the tennis court lighting & pro shop
30 approximately 35 feet to the northeast and will be located on the back side of the hitting
31 wall and add a fence enclosure. 4. Reduce the depth of the northwest side of the building
32 next to the public school by two feet. 5. Add two more air conditioning units to the rooftop
33 of the building that will be out of the setback and meet the code. [Applicant's
34 Representative Maura Ziska Esq] [The Architectural Commission Recommendation:
35 Implementation of the proposed special exception and site plan review will not cause
36 negative architectural impact to the subject property. Carried 6-1. The Architectural
37 Commission conditionally approved the project at the September 27, 2017 meeting.
38 Carried 7-0.]

39 The following ex-parte communications were declared. Council Members Lindsay and
40 Zeidman spoke with Attorney Ziska who advocated for the position of her client.

41 Architect Freijomel described the minor changes to the site plan.

42 **Motion was made by Council Member Zeidman, and seconded by President Pro Tem Moore, that**
43 **Special Exception #Z-17-00032 shall be granted, with the caveat that the owner will provide a**
44 **utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, based**
45 **upon the finding that such grant will not adversely affect the public interest and that the**
46 **applicable criteria set forth in Section 134-229 of the Town Code have been met. On roll call, the**
47 **motion carried unanimously.**
48

1 **Motion was made by Council Member Zeidman, and seconded by President Pro Tem Moore, that**
2 **Site Plan #Z-17-00032 be approved, with the caveat that the owner will provide a utility easement,**
3 **satisfactory to the Town of Palm Beach, prior to building permit issuance, based upon the finding**
4 **that the approval of the site plan will not adversely affect the public interest and that the Council**
5 **certifies that the specific zoning requirements governing the individual use have been met and**
6 **that satisfactory provision and arrangement has been made concerning Section 134-329, items 1**
7 **through 11. On roll call, the motion carried 4-0 with Council Member Araskog dissenting.**

8 I. Z-17-00033 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)
9 Zoning District: R B Low Density Residential

10 The application of AINSLIE MICHAEL L &, Owner, relative to property located at 596 N
11 COUNTY RD, legal description on file, is described below. 1. Special Exception with
12 Site Plan Review to allow the construction of a 4,959 square foot two story single family
13 residence on a lot that is 72.3 feet in width in lieu of the 100 foot minimum required in the
14 R-B Zoning District. The following variances are being requested in conjunction with this
15 application: 2. A second story south side yard setback of 14 feet in lieu of the 15 foot
16 minimum required. 3. A second story north side yard setback of 14 feet in lieu of the 15
17 foot minimum required. [Applicant's Representative Maura Ziska Esq] [The Architectural
18 Commission deferred the project to the October 25, 2017 meeting. Carried 7-0.]
19 Request for Deferral to November 15, 2017 Town Council Meeting Per Letter Dated
20 September 28, 2017 from Maura Ziska

21 ***Item was deferred to November 15, 2017 Town council meeting***

22 m. Z-17-00038 SPECIAL EXCEPTION WITH VARIANCE(S) Zoning District: C TS Town
23 Serving Commercial The application of 257 RPW LLC, Owner, relative to property
24 located at 257 ROYAL POINCIANA WAY SUITE: BLDG 1, legal description on file, is
25 described below. 1. A request for special exception approval with site plan review to add
26 a parapet roof and replace the existing awning with a new awning on the south elevation
27 of the building. 2. A request for a variance to allow signage "Cucina" above the first floor
28 elevation of the building which is not allowed by code. The proposed top of sign will be at
29 a height of 15.5 feet. [Applicant's Representative Maura Ziska Esq.]

30 The following ex-parte communications were declared. Council Member Zeidman spoke
31 to Attorney Ziska who advocated for her client and with Nicholas Coniglio for 5 seconds.
32 President Pro Tem Moore spoke with Attorney Ziska who advocated for the position of
33 her client, was left a cell phone message from Mr. Coniglio, but she did not return the
34 call. President Kleid spoke with Attorney Ziska who advocated for the position of her
35 client and with Mr. Coniglio who spoke in favor of the application. Council Member
36 Lindsay spoke with Attorney Ziska who advocated for her client and was left a voice mail
37 from Mr. Coniglio but was unable to return the call. The Mayor recused herself.

38 Attorney Ziska provided details of the project.

39 Mr. Castro provided Staff comments.

40 Deputy Clerk Ruderman swore in all those who would be providing testimony.

41 Architect Spina provided additional details.

42 Discussion took place on Town Council and ARCOM procedures.

43 **Motion was made by Council Member Araskog that Variance #Z-17-00038 be deferred until**
44 **ARCOM has weighed in at the next ARCOM meeting. Without a second, the motion was not**
45 **considered.**

Deputy Clerk Ruderman swore in all those who would be providing testimony.

Nicholas Coniglio, 201 El Dorado Lane, spoke about the sign.

Motion was made by Council Member Zeidman, and seconded by President Pro Tem Moore, that Variance # Z-17-00038 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met, with further conditions that ARCOM review must occur and the owner must provide a utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance. On roll call, the motion carried 4-1 with Council Member Araskog dissenting.

Motion was made by Council Member Zeidman, and seconded by President Pro Tem Moore, that Special Exception #Z-17-00038 shall be granted, with the caveat that the owner will provide a utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met. On roll call, the motion carried 4-1 with Council Member Araskog dissenting.

n. Z-17-00034 SITE PLAN REVIEW Zoning District: R B Low Density Residential

The application of SHULMAN ALAN L, Owner, relative to property located at 377 N LAKE WAY, legal description on file, is described below. Site Plan Review to allow the construction of a 7,465 square foot two story, single family residence on a non conforming platted lot which is 89.11 feet in width in lieu of the 100 foot minimum width required in the R B Zoning District. [Applicant's Representative Maura Ziska Esq] [The Architectural Commission deferred the project to the October 25, 2017 meeting. Carried 7-0.] Request for Deferral to November 15, 2017 Town Council Meeting Per Letter Dated September 28, 2017 from Maura Ziska

Item deferred to the November 15, 2017 Town council meeting

o. Z-17-00025 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: R-C Medium Density Residential The application of MOSSANEN B & S, Owner, relative to property located at 100 SUNRISE AVE SUITE: PH 7, legal description on file, is described below.

1. A site plan modification with variances to allow five (5) retractable awning totaling 615 square feet over the terrace on the seventh floor of a seven-story condominium building.
2. A variance request to allow the awning at a height of 60 feet in lieu of the 23 1/2 foot maximum height allowed in the R-C Zoning District.
3. A variance request to allow the awning on the existing seventh floor penthouse of a seven-story building in lieu of the two story building maximum allowed in the R-C Zoning District.
4. A variance to allow the awning at an overall height of 61.96 feet in lieu of the 26 1/2 foot maximum allowed in the R-C Zoning District for a flat roof.
5. A front yard setback of 54.5 feet in lieu of the 122.11 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed site plan review and variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the project as presented. Carried 7-0.]

The following ex-parte communications were declared. President Pro Tem Moore, President Kleid and Council Member Lindsay spoke to Attorney Ziska who advocated the position of her client.

Attorney Ziska provided the details of the project.

Mr. Castro provided Staff comments.

1 **Motion was made by President Pro Tem Moore, and seconded by Council Member Zeidman, that**
2 **Variance #Z-17-00025 shall be granted and find, in support thereof, that all of the criteria**
3 **applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met.**
4 **On roll call, the motion carried unanimously.**

5
6 **Motion was made by President Pro Tem Moore, and seconded by Council Member Zeidman, that**
7 **Site Plan #Z-17-00025 be approved, based upon the finding that the approval of the site plan will**
8 **not adversely affect the public interest and that the Council certifies that the specific zoning**
9 **requirements governing the individual use have been met and that satisfactory provision and**
10 **arrangement has been made concerning Section 134-329, items 1 through 11. On roll call, the**
11 **motion carried unanimously.**

12 p. Z-17-00027 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: R-AA

13 Large Estate Residential The application of SANDERS ALICE &, Owner, relative to
14 property located at 615 N COUNTY RD, legal description on file, is described below. A
15 variance to allow the construction of a new 25,792 square foot two story residence with a
16 point of measurement for height and overall height to be 23.42 National Geodetic Vertical
17 Datum ("NGVD") in lieu of the 17.4 foot NGVD maximum allowed for properties within the
18 coastal construction control line. [Applicant's Representative: Maura Ziska Esq]
19 [Architectural Commission Recommendation: Implementation of the proposed site plan
20 review and variance will not cause negative architectural impact to the subject property.
21 Carried 7-0. The Architectural Commission conditionally approved the project at the
22 September 27, 2017 meeting. Carried 7-0.]

23 The following ex-parte communications were declared. Council Member Lindsay,
24 President Kleid, Council President Pro Tem Moore, and Council Member Zeidman spoke
25 with Attorney Ziska who advocated for the position of her client. Ms. Moore also attended
26 the ARCOM meeting where this was discussed.

27 Attorney Ziska provided details of the project.

28 **Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, that**
29 **Variance #Z-17-00027 shall be granted and find, with the caveat that the owner provide a utility**
30 **easement, satisfactory to the Town of Palm Beach, prior to building permit issuance, in support**
31 **thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a),**
32 **items 1 through 7 have been met. On roll call, the motion carried unanimously. It was noted that**
33 **the Site Plan Review is not technically necessary.**

34
35 3. Other

36 a. Proposed Staff Initiated Study Items

37 Mr. Castro explained recommendations that Staff would like to present to Planning &
38 Zoning Commission.

39 Discussion took place on study items.

40 **Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to**
41 **approve the request to send multiple items to the Planning & Zoning Commission, including**
42 **additional items pertaining to 1) Definition of Volume Calculations and 2) David Frisbie**
43 **Communication regarding FEMA/Structural safety. On roll call, the motion carried unanimously.**

44 b. Proposed Zoning Text Amendment Applications from Up Markets to 1) Study Code
45 Changes to Allow Property Identification Signage and 2) Study Code Changes to Allow

1 Outdoor Promotional Activity Related to Businesses in the Planned Center Zoning District
2 (C-PC)

3 Mr. Castro explained recommendations that Staff would like to present to the Planning
4 and Zoning Commission.

5 **Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, to**
6 **approve the request to send to the Planning & Zoning Commission. On roll call, the motion**
7 **carried unanimously.**

8 VIII. ANY OTHER MATTERS

9 A. PUBLIC SAFETY COMMITTEE MEETING REVIEW

10 Discussion took place on a wide variety of issues that should be addressed by the Public
11 Safety and the Public Works Committees.

12 Deputy Town Manager Boodheshwar will confirm committee assignments. He will also add
13 information to the Town website regarding Bufo toads.

14 B. CITY OF BOCA RATON'S REQUEST FOR AMICUS CURIAE PARTICIPATION

15 Town Attorney Randolph explained the request from the City of Boca Raton.

16 Discussion took place on pros and cons of joining the lawsuit.

17 Attorney Randolph was directed to respond positively if at least three other county
18 municipalities join in the lawsuit. He will follow up with further information or concerns.

19 IX. ADJOURNMENT

20 There being no further business, the Development Review Town Council meeting of October
21 11, 2017 was adjourned at 4:36 P.M.

APPROVED:

Richard M. Kleid, Town Council President

PREPARED BY:

Kathleen Ruderman, Deputy Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Minutes

Agenda Title

Approval of major matters considered by the Architectural Review Commission at its meeting of October 25, 2017.

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated October 27, 2017, from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Minutes of the Architectural Commission Meeting of October 25, 2017**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Approval of the Architectural Commission Meeting Minutes of October 25, 2017

Date: October 27, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of October 25, 2017.

BOARD OR COMMISSION RECOMMENDATION

The Architectural Commission recommends that the Town Council approve the major items that were considered at the regularly scheduled meeting of October 25, 2017.

GENERAL INFORMATION

These minutes are submitted to the Town Council for approval pursuant to Chapter 18-177 of the Town of Palm Beach Code of Ordinances.

Attachment

JSP:kmc



TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL COMMISSION MEETING HELD ON WEDNESDAY, OCTOBER 25, 2017

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. CALL TO ORDER

Vice Chair Vanneck called the meeting to order at 9:03 a.m.

II. ROLL CALL

Richard Sammons, Chairman	PRESENT (arrived at 9:11 a.m.)
Ann L. Vanneck, Vice Chairman	PRESENT
Robert N. Garrison, Member	ABSENT (unexcused)
Alexander C. Ives, Member	PRESENT
Michael B. Small, Member	PRESENT
Maisie Grace, Member	PRESENT
Robert J. Vila, Member	ABSENT (unexcused)
John David Corey, Alternate Member	PRESENT
Betsy Shiverick, Alternate Member	PRESENT
Katherine Catlin, Alternate Member	PRESENT

Staff Members present were:

John Page, Director of Planning, Zoning & Building

John Lindgren, Planning Administrator

Kelly Churney, Secretary to the Architectural Review Commission

Mrs. Vanneck noted that Mr. Corey and Ms. Shiverick would be voting in the absence of Mr. Garrison and Mr. Vila. She also noted that Ms. Catlin would be voting in the absence of Mr. Sammons if need be.

III. PLEDGE OF ALLEGIANCE

Mrs. Vanneck led the Pledge of Allegiance.

IV. APPROVAL OF THE MINUTES FROM THE SEPTEMBER 27, 2017 MEETING

Motion made by Mr. Small and seconded by Mr. Ives to approve the minutes from the September 27, 2017 meeting. Motion carried with all in favor.

V. **APPROVAL OF THE AGENDA**

Mr. Small requested to amend the agenda with the deferral of B-090-2017 901 N. Ocean Blvd and withdraw of A-033-2017 224 S. Ocean Blvd.

Mr. Lindgren stated that the whole project at 224 S. Ocean Blvd did not need to be withdrawn. He stated that most of the project had been approved with the exception of the dormer windows, which the architect had withdrawn from the application.

Motion made by Mr. Small and seconded by Mr. Ives to approve all items presented in June for the project at A-033-2017 224 S. Ocean Blvd, with the exception of the dormer windows. Motion carried with all in favor.

A second motion made by Mr. Small and seconded by Mr. Ives to approve the agenda as amended. Motion carried with all in favor.

VI. **ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY**

Ms. Churney administered the oath at this time and throughout the meeting as necessary.

VII. **COMMUNICATIONS FROM CITIZENS REGARDING NON-AGENDA ITEMS (3 MINUTE LIMIT PLEASE)**

There were no public comments heard at this time.

Mr. Page stated that Mr. Sammons declared a conflict for his project at 202 Onondaga Ave. at the September 27, 2017 meeting and had correctly completed the 8B form in accordance with State Law.

VIII. **PROJECT REVIEW**

A. **DEMOLITIONS AND TIME EXTENSIONS**

NONE

B. **MAJOR PROJECTS-OLD BUSINESS**

B-059-2017 Modifications

Address: 257 Royal Poinciana Way

Applicant: 257 RPW LLC

Architect: Keith Spina/GliddenSpina + Partners

Project Description: Changes to the front and rear façade.

This project has been deferred at both the July and August 2017 meetings at the request of the applicant to address zoning concerns.

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

Mr. Spina presented proposed modifications to the front and rear façade of the building. Mr. Spina clarified that there was no new signage proposed for Hampton Liquors.

Mr. Corey asked whether the HVAC lines were proposed for the back of the building. Mr. Spina responded.

Mr. Corey asked about the proposed 12 ft. awning and pointed out that other buildings on the street do not have large awnings. Maura Ziska, attorney for the applicant, stated that a variance had been granted for the awning.

Mr. Corey also added that he thought the finials at the top of the building were superfluous. He also suggested that the Cucina name on the sign was too large and should be reduced.

Ms. Grace agreed with Mr. Corey's assessment of the finials. She also agreed that the sign was too large and not characteristic for the street. Mr. Spina stated that the proposed sign was designed in accordance to the Code.

Mr. Ives agreed with the assessment of the finials. He also said he would prefer a smaller awning, but understood it is an existing awning. He asked about the dimensions for the proposed awning at Hampton Liquors. Mr. Spina responded.

Mr. Ives asked about the proposed use for the rear façade. Mr. Spina responded. Mr. Ives encouraged Mr. Spina to reconsider the landscaping for the rear of the building to enhance the area for customers. Mr. Spina agreed. Mr. Ives also agreed that the sign, although met the Code restrictions, seemed too large for the street.

Mrs. Vanneck was in favor of the project.

Motion made by Mrs. Vanneck and seconded by Mr. Small to approve the project as submitted.

Mr. Small thought the improvements were attractive and enhanced the beauty of the street.

Mrs. Vanneck suggested removing the finials.

Ms. Grace suggested that they should revisit the size of the awnings.

Mr. Sammons was in favor of the finials but suggested to reduce them in size. He also suggested reducing the size of the proposed banding on the top of the building to 4 inches.

Mr. Spina stated that he would like to withdraw the proposed finials from the application.

Motion amended by Mrs. Vanneck and seconded by Mr. Small to approve the project with the exception of the finials. Motion carried 6-1 with Ms. Grace opposed.

[B-072-2017 New Construction](#)

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SITE PLAN REVIEW AND VARIANCE(S) - Done 8/23/17

Address: 615 N. County Rd.

Applicant: Mr. & Mrs. Lewis Sanders

Architect: Smith Architectural Group, Inc.

Project Description: Construction of a new two-story French style home of approximately 25,500 square feet. Final landscape, hardscape and drainage to be included.

At the August meeting, a motion carried that the implementation of the proposed site plan review and variance will not cause negative architectural impact to the subject property. A second motion carried to defer the project to the September 27, 2017 meeting to restudy the south wing, approaches to the garages, to address the lack of shade trees and to restudy the landscaping. At the September 27, 2017 meeting, the architecture was conditionally approved however, the landscape portion of the project was deferred to the October 25, 2017 meeting.

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

Matt Jackman, Nievera Williams Design, presented the proposed landscape plan for the new residence.

Mr. Small asked if there was proposed gate for the southwest corner. Mr. Jackman responded.

Motion made by Mrs. Vanneck and seconded by Mr. Ives to approve the project as presented. Motion carried with all in favor.

[B-074-2017 Demolition/New Construction](#)

Address: 260 Clarke Ave.

Applicant: Nancy Kozak

Architect: M. Mark Marsh/Bridges, Marsh & Associates, Inc.

Project Description: Demolition of existing two-story residence, pool & landscape/hardscape. New two-story residence, pool, associated landscape/hardscape.

At the August meeting, a motion carried to defer the project for one month to the September 27, 2017 meeting. At the September 27, 2017 meeting, motions carried to approve the demolition and to defer the project for one month to the October 25, 2017 meeting for restudy.

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

Mr. Marsh presented the proposed modified plans for the new residence.

Ms. Grace was in favor of the changes. She suggested revisiting the height of the front portico as well as the thickness of the columns on the rear façade.

Mr. Corey suggested that there were many design styles in the proposed home and was not a harmonious composition. He thought the design needed further study.

Ms. Shiverick agreed with Mr. Corey. She questioned the proposed shutters and wondered if limestone should be used on all of the windows. She asked about the proposed roof color. Mr. Marsh responded.

Mr. Ives was in favor of some of the elements and thought the design could be refined. Mr. Ives asked Mr. Marsh if he would be willing to restudy the roof height. Mr. Marsh responded.

Ms. Catlin appreciated the changes but felt the total design was not cohesive.

Mr. Sammons felt that the design lacked cohesiveness. He questioned the Greek cornice and suggested removing the limestone.

Mr. Marsh explained and defended the elements of his design.

Mrs. Vanneck questioned the weight, heaviness and size of the portico. Mr. Marsh responded.

Ms. Grace thought the portico was too ornate and vertical. She also questioned whether the limestone was necessary.

Mr. Marsh asked for an approval with conditions.

Motion made Mrs. Vanneck and seconded by Mr. Ives to approve the project with the exception of the portico, which will return in one month at the November 29, 2017 meeting and with a dedication of a utility easement subject to the satisfaction of the Town. Motion carried 6-1 with Ms. Grace opposed.

Dustin Mizell, Environment Design Group, presented the proposed modifications to the landscaping plan.

A second motion made by Mrs. Vanneck and seconded by Mr. Small to approve the landscape plan as presented.

Mr. Corey mentioned a 14 ft. driveway was acceptable. He asked about the landscaping between the outdoor terrace and site wall. Mr. Mizell responded.

Motion carried with all in favor.

[B-080-2017 Demolition/New Construction](#)

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)

- Done 8/23/17

Address: 211-217 Emerald Lane

Applicant: Mr. & Mrs. Donald Gulbrandsen

Architect: MP Design & Architecture

Project Description: Demolition of existing house at east parcel. Proposed one story tea house with trellis, landscape/hardscape and pool.

At the August meeting, motions carried to approve the demolition, to recommend to the Town Council that implementation of the proposed variances will not cause negative architectural impact to the subject property and to approve the project as presented with the exception of the teahouse, which was deferred to the September 27, 2017 meeting for restudy. At the September meeting, the architect requested a deferral to the October 25, 2017 meeting.

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

Michael Perry, MP Design & Architecture, presented the proposed modifications for the teahouse.

Mr. Ives thought the design was still a bit too heavy but added he would support the design.

Mrs. Vanneck suggested reducing the roof height by one foot to alleviate the heaviness. Mr. Perry agreed.

Ms. Grace was in favor of the design.

Ms. Catlin stated the changes were substantive and more pleasing to the eye.

Ms. Shiverick was in favor of the changes but suggested an operable transom in the larger window to provide more lightness to the building. Mr. Perry agreed.

Mr. Corey asked about the proposed door heights. Mr. Perry responded. Mr. Corey suggested to remove the transom, increase the size of the door and to reduce the roof by one foot.

Mr. Sammons agreed that the roof needed to be lowered by one foot and that the cornice needed some restudy.

Motion by Mrs. Vanneck and seconded by Mr. Small to defer the project for one month to the November 29, 2017 meeting to restudy the roof height and the cornice details. Motion carried 6-1 with Ms. Grace opposed.

B-081-2017 Modifications

Address: 231 Seaspray Ave.

Applicant: André Trouillé

Architect: Todd MacLean/Todd MacLean Outdoor Living

Project Description: Add old growth pecky cypress gates, aluminum rail fencing, and minor landscaping.

At the September meeting, the architect requested a deferral to the October 25, 2017 meeting.

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

Mr. MacLean presented the proposed modifications for the residence.

Mr. Ives questioned the color of the pecky cypress in the rendering. Mr. MacLean responded.

Mr. Corey thought the gates matched the home but questioned whether the fit into the neighborhood, especially the driveway gate. He stated he would not be able to support the project.

Ms. Grace asked about changing the proposed driveway gate.

Mr. Small agreed with Mr. Corey's assessment of the driveway gate.

Mrs. Vanneck stated she could not support the gates. Ms. Shiverick agreed and thought the proposed pecky cypress was too foreboding. She suggested wrought iron for the gate.

Mr. Sammons agreed with the other Commissioners and thought the gates were not neighbor friendly. He also thought the design of the gate was incorrect.

Motion made by Mrs. Vanneck and seconded by Mr. Small to defer the project for one month to the November 29, 2017 meeting with a restudy of the style of the gates and the possibility of using wrought iron rather than pecky cypress as the material for the gate.

Mr. Corey suggested a smaller pedestrian gate.

After a roll call, the motion failed 2-5 with Messrs. Corey, Small, Sammons, Ives and Ms. Grace opposed.

A second motion made by Mr. Corey and seconded by Mr. Small to defer the project for one month to the November 29, 2017 meeting with a restudy of the pedestrian gate, making it smaller and possibly using a different material and to eliminate the driveway gate. Motion carried with all in favor.

The Commission took a short break at 10:20 a.m. The meeting resumed at 10:30 a.m.

[B-083-2017 New Construction](#)

Address: 266 Fairview Rd.

Applicant: Beacon 266 LLC

Architect: MHK Architecture & Planning

Project Description: New two story house with landscape, hardscape and pool.

A motion carried at the September meeting to defer the project for one month to the October 25, 2017 meeting for restudy.

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

Caroline Forrest, MHK Architecture & Planning, presented the proposed modifications for the project. She presented an alternate gate design on the overhead projector.

Mrs. Vanneck was in favor of the changes. She was in favor of the previously proposed front door and suggested a double swinging gate for the pedestrian gate.

Ms. Shiverick was in favor of the changes and asked about the proposed color change. Ms. Forrest responded.

Ms. Catlin was in favor of the previously proposed front door.

Mr. Corey appreciated the changes proposed. He asked about the proposed plenum above the first floor. Ms. Forrest responded. He questioned the proposed height of the first floor.

Mr. Small thought the changes were significant and supported the previously proposed door. Ms. Grace agreed with Mr. Small.

Mr. Sammons asked if the eaves on the first floor had been lowered. Ms. Forrest responded. He also asked if the floor-to-floor heights had been reduced. Ms. Forrest responded. Mr. Sammons also asked about the roof pitch. Ms. Forrest responded. Mr. Sammons indicated that he was in favor of the previously proposed front door.

Motion made by Mr. Small and seconded by Mrs. Vanneck to approve the project as presented with the caveat to include the original front door

proposed as well as a dedication of a utility easement subject to the satisfaction of the Town. Motion carried with all in favor.

[B-087-2017 Demolition/New Construction](#)

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SITE PLAN REVIEW

Address: 377 N. Lake Way

Applicant: Alan Shulman

Architect: Pat Segraves/SKA Architect + Planner

Project Description: Demolition and new construction of two story British Colonial style home to be approximately 7,500 square feet. Home will consist of five bedrooms, seven bathrooms, powder room, living room, dining room, kitchen, butlers pantry, family room, laundry room, wine bar, loggia and two car garage. Final landscape and hardscape to be provided.

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

At the September meeting, motions carried to approve the demolition and defer the project for one month to the October 25, 2017 meeting for restudy.

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

Mr. Segraves presented the proposed modifications to the architectural plans for the new residence. Mr. Segraves presented a proposed front façade rendering on the overhead projector.

Don Skowron presented the proposed landscaping plans for the residence.

Mrs. Vanneck felt like the house was not sophisticated enough and lacked personality for the area. Mr. Segraves responded. She felt it still needed restudy, especially on the north, south and west elevations. She felt that the landscaping did not enhance the residence on the east side.

Mr. Corey agreed with Mrs. Vanneck and thought the house needed more character and lacked interest. He questioned the front facing windows on the garage and the fenestration on the west elevation. He also was underwhelmed by the landscaping plan.

Ms. Shiverick agreed with Mr. Corey regarding the fenestration on the west elevation. She was in favor of some of the elements in the design. She offered some suggestions for the landscaping and thought the railings should be black rather than the proposed white.

Ms. Grace was in favor of the changes to the front façade but questioned the front door design. She thought the front and rear façades were too different.

Mr. Ives thought the changes were good but suggested further restudy.

Mr. Sammons stated he could not support the project. He questioned the scale of the fenestration on the west façade. He also questioned the details and overall proportions of the design. He suggested further refinement of the design.

Motion made by Mrs. Vanneck and seconded by Mr. Corey to defer the project for one month to the November 29, 2017 meeting for restudy. Motion carried with all in favor.

[B-088-2017 New Construction](#)

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SPECIAL EXCEPTION AND VARIANCE(S)

Address: 596 N. County Rd.

Applicant: Michael & Suzanne Ainslie

Architect: Nelo R. Freijomel/Freijomel & Boruff Architects, LLP

Project Description: Construction of a new two-story residence, covered porch, pool and pergola with associated hardscape and landscape.

SPECIAL EXCEPTION WITH VARIANCE(S) INFORMATION: 1. Special Exception with Site Plan Review to allow the construction of a 4,959 square foot two story single family residence on a lot that is 72.3 feet In width in lieu of the 100 foot minimum required in the R-B Zoning District. The following variances are being requested in conjunction with this application: 2. A second story south side yard setback of 14 feet in lieu of the 15 foot minimum required. 3. A second story north side yard setback of 14 feet in lieu of the 15 foot minimum required.

At the September meeting, a motion carried to defer the project for one month to the October 25, 2017 meeting for restudy.

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

Mr. Freijomel presented the proposed modifications to the architectural plans for the new residence. Mr. Freijomel presented a proposed rendering of the north elevation on the overhead projector.

Mrs. Vanneck was in favor of the changes. She asked for clarification on the proposed shutters. Mr. Freijomel responded with an explanation.

Mr. Corey was in favor the revised design and thought it would work well in the neighborhood. He suggested removing the shutters from all elevations with the exception of the front façade. He asked for clarification regarding the doors on the west elevation. Mr. Freijomel responded. He suggested restudying the proposed sliding door on the rear façade.

Ms. Grace was in favor of the changes to the front façade. She suggested one less panel in the proposed Nano wall.

Ms. Shiverick was in favor of the new design but also liked the previous design. She supported the new design but thought the location would have supported the previously proposed neoclassical design as well.

Mr. Sammons suggested that the garage and family room crowd the front façade. He offered a few suggestions for the eaves, the corbels on the garage and the corners on the rear porch.

Matt Jackman, Nievera Williams Design, presented the proposed landscaping plan for the new residence.

Mrs. Vanneck suggested restudying the landscaping on the west elevation to soften the area. Mr. Jackman responded.

Mr. Corey suggested removing some of the hardscape from the front. He also suggested adding more greenspace and larger trees, specifically in the front to help anchor the house on the street.

Mr. Sammons asked about the height of the proposed date palms. Mr. Jackman responded. He suggested more shade for the front yard.

Motion made by Mr. Corey and seconded by Mrs. Vanneck that implementation of the proposed special exception and variances will not cause negative architectural impact to the subject property. Motion carried with all in favor.

A second motion made by Mr. Corey and second by Ives to approve the architectural plans as presented, to defer the landscape plans for one month to the November 29, 2017 meeting and to include with a dedication of a utility easement subject to the satisfaction of the Town. Motion carried 4-3 with Mses. Vanneck, Grace and Mr. Small opposed.

[B-090-2017 New Construction](#)

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)

Address: 901 N. Ocean Blvd.

Applicant: Lorraine L. Friedman Trust

Architect: Stephen Roy/Roy & Posey

Project Description: Construction of a new 16,483 s.f. two story main house, a 1,263 s.f. two story pool house with a 710 s.f. pergola & a 2,688 s.f. two story guest house in the Bermuda Style.

VARIANCE INFORMATION: Application received from contract purchaser PBB Island Properties, LLC (Clark Beaty). A variance to allow the construction of a new 20,330 square foot two story residence with a point of measurement for height of 17.8 foot National Geodetic Vertical Datum ("NGVD") in lieu of the 17.4 foot NGVD maximum allowed for properties within the coastal construction control line.

Applicant appealed ARCOM's September 27th denial to the Town Council for consideration on October 11th. Per appeal, it was requested that ARCOM defer the application/project for further study in lieu of denial. The Town Council upheld the appeal, thereby directing that ARCOM defer the project for continued deliberation.

Mr. Page reviewed the Town Council's decision of the appeal of the Commission's denial for this project. He stated that part of their recommendation was that the Commission should provide some direction to the architect.

Maura Ziska, attorney for the project, updated the Commission on the lot split for the property and asked for some design direction from the Commissioners.

Mr. Roy presented a few slides for the overhead projector to solicit feedback from the Commissioners.

Mr. Ives indicated his problems with the previous design was more about the style rather than the massing. He made a few design suggestions.

Messrs. Ives and Small declared ex parte for the project.

Mrs. Vanneck thought the lot required a more sophisticated design than what was proposed.

Mr. Small stated that the lot is on a prominent curve in the Town and suggested a more sophisticated and less massive design.

Ms. Grace thought that scale and positioning on the lot were important in the design.

Ms. Catlin stated that while the previous design may have fit within the required numbers, it had the appearance that it was too large for the lot. She also suggested that the flow of the previous design seemed disjointed.

Mr. Sammons thought the previous design was a missed opportunity for not taking advantage of the view down North Ocean. He thought the previous design was unsuccessful in the scale (not size) and architectural literacy.

Ms. Ziska asked if the Commission had a consensus of the type of design style to recommend to the architect. Mr. Sammons responded.

Ms. Ziska asked for feedback from the Commission regarding the site placement presented. Mrs. Vanneck stated that the Commission looks at the project as a whole.

Motion made by Mrs. Vanneck and seconded by Mr. Ives to defer the project to the December 15, 2017 meeting for restudy. Motion carried with all in favor.

Mr. Page stated that the application for the lot split was still in progress for this property.

C. **MAJOR PROJECTS-NEW BUSINESS**

B-070-2017 Demolition/New Construction

Address: 225 Tangier Ave.

Applicant: ILLKM PB LLC

Architect: Benjamin Schreier/Affiniti Architects

Project Description: Demolition of an existing residence constructed in 1958, Construction of new one story Bermuda style 6,192 sq. ft. residence, with swimming pool, associated landscaping and landscape lighting.

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

Motion made by Mrs. Vanneck and seconded by Mr. Small to approve the demolition as requested with the caveat to remove all exotic and invasive plant species and to sod and irrigate the property within 30 days. Motion carried with all in favor.

Mr. Schreier presented the architecture plans for the proposed residence.

Mr. Ives questioned the opportunity for a design style and a possible two story that may fit in to the immediate area.

Mrs. Vanneck thought the plan was incongruent and not cohesive.

Ms. Grace was in favor the front façade with the exception of the front door. She was in favor of the single story.

Mr. Corey thought the design could work on the street with a few adjustments.

Ms. Catlin liked the position of the home on the lot but questioned the wall-to-wall pool in the courtyard. She thought the design called for strong landscaping. She also suggested a few minor changes to the design.

Mr. Sammons thought the lot coverage of the design was overdone. He suggested some of the elements on the home were too large for the design and thought the scale was distorted.

Mr. Schreier asked what Mr. Sammons considered an appropriate roof height. Mr. Sammons responded.

A second motion made by Mr. Small and seconded by Mr. Corey to defer the project for one month to the November 29, 2017 meeting for restudy based on the comments from the Commission. Motion carried 5-2 with Mr. Ives and Mrs. Vanneck opposed.

[B-095-2017 Additions/Modifications](#)

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)

Address: 2800 S. Ocean Blvd.

Applicant: J.V. Associates (P.B.) LLC

Architect: Leo A Daly

Project Description: New pool access stairs from guest rooms, two new mechanical chases, roof top pre-conditioning A/C units, reconfiguration of the outdoor bar shape/two windows, pool deck hardscape revisions including planters and terrace low walls.

SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE INFORMATION: The Four Seasons Resort Palm Beach is requesting a special exception modification and a site plan review for the modifications to the hotel site as follows: 1. Add two (2) 15 square foot mechanical chases to the north and south end of the main building. 2. Add two (2) sets of stairs to the Pool Deck Access (total of four staircases) to the north and south building pool side. 3. Modify the pool deck area to include hardscape and landscape changes. 4. Reconfiguration of the shape of the pool bar (number of seats remain the same) and add windows to kitchen and hallway. The following variances are being requested in association with the above improvements: 1. A variance is being requested for the mechanical chases to be at an overall height of 47.25 feet in lieu of the 40 foot maximum overall building height allowed. 2. A variance is being requested for the mechanical chases to be at a height of 44 feet in lieu of the 35 foot maximum building height allowed. 3. A variance to allow 2 air conditioning units on the roof that will be 7.17 feet above the roof in lieu of the 4 foot maximum allowed.

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

Maura Ziska, attorney for the applicant, reviewed the special exception, site plan review and variances in which she was seeking a favorable recommendation to the Town Council. She also explained an error in the notice that was sent to the public, which caused some confusion.

Brad Garvin, Leo Daly Architects, presented the proposed modifications to The Four Seasons.

Tim Johnson, Fernando Wong Outdoor Living Design, presented the proposed banyan tree that will be relocated.

Mr. Small thought the north side of the hotel was unsightly and inquired about any possible plans for the area. Mr. Garvin responded.

Motion made by Mrs. Vanneck and seconded by Mr. Ives that the implementation of the special exception, site plan and variances will not cause negative architectural impact to the subject property. Motion carried 6-1 with Mr. Small opposed.

A second motion by Mrs. Vanneck and seconded by Ms. Grace to approve the project as presented. Motion carried 6-1 with Mr. Small opposed.

D. MINOR PROJECTS - OLD BUSINESS

A-033-2017 Modifications

Address: 224 S. Ocean Blvd.

Applicant: Armen Manoogian

Architect: Jose A. Gonzalez, Gonzalez Architects

Project Description: Proposed work includes a new roof skylight and replacement of windows on the second floor of the east façade of the main home, relocation of the driveway with new landscaping and low, stuccoed site wall. Work at cabana side of property is to include relocation of existing chain link fencing, minor landscaping and removal of deck pavers as indicated.

A motion carried at the June meeting to approve the project as presented with the exception to restudy the sky light and to return to the July 26, 2017 meeting with a new design. A motion carried at the July meeting to defer the project to the August 23, 2017 meeting to allow the architect to obtain a zoning approval. A motion carried at the August meeting to defer the project for one month to the September 27, 2017 meeting.

Please note: This item was acted upon during Item V., Approval of the Agenda.

E. MINOR PROJECTS-NEW BUSINESS

A-044-2017 Modifications

Address: 2284 Ibis Isle Rd W.

Applicant: 2284 Ibis Isle, LLC

Architect: Todd MacLean/Todd MacLean Outdoor Living

Project Description: Remove circle driveway and landscaping and add new auto court with new landscaping.

Call for disclosure of ex parte communication: Disclosure by Mses. Vanneck and Catlin.

Mr. MacLean presented the proposed modifications for the residence.

Mrs. Vanneck inquired about the width of the driveway. Mr. MacLean responded.

Mr. Sammons and Mrs. Vanneck asked about the proposed hardscape. Mr. MacLean responded.

Mrs. Vanneck thought the landscape was lacking.

Mr. Corey was in favor of the one curb cut proposed but the landscape plan was underwhelming, too thin and needed larger trees.

Motion made by Mr. Corey and seconded by Mr. Small to defer the project for one month to the November 29, 2017 meeting for a restudy of the landscape plan. Motion carried with all in favor.

[A-045-2017 Modifications](#)

Address: 657 Island Dr.

Applicant: Andrea Ball

Architect: Fernando Wong/Fernando Wong Outdoor Living Design

Project Description: Relocate AC and pool equipment, add a central fountain and wall fountain and replace some landscape materials.

Call for disclosure of ex parte communication: Disclosure by Mses. Shiverick and Catlin.

Tim Johnson, Fernando Wong Outdoor Living Design, presented the proposed modifications to the landscaping plans. Mr. Johnson presented two photos of fountains on the overhead projector.

Ms. Shiverick asked about the location of one of the proposed fountains. Mr. Johnson responded.

Motion made by Mr. Small and seconded by Mr. Ives to approve the plans as presented. Motion carried with all in favor.

[A-047-2017 Modifications](#)

Address: 619 Island Dr.

Applicant: Kim and Ray Celedinas

Architect: Mario Nievera/Nievera Williams Design

Project Description: Proposed stone cladding on front columns; proposed light fixtures to be installed on front columns.

Call for disclosure of ex parte communication: Disclosure by Mses. Shiverick and Catlin.

Keith Williams, Nievera Williams Design, presented the proposed modifications to the residence.

Ms. Shiverick asked about the existing lanterns. Mr. Williams responded.

Mrs. Vanneck expressed her dismay about the proposed lanterns on the front columns.

Motion made by Mrs. Vanneck and seconded by Mr. Corey to approve the cladding of the columns and to deny the lantern fixtures on the columns. Motion failed 3-4 with Messrs. Ives, Small, Sammons and Ms. Shiverick opposed.

A second motion made by Mr. Small and seconded by Mr. Ives to approve the project as presented with the caveat that the lanterns on the columns will be smaller than the ones on proposed for ones to be installed on the home. Motion carried 5-2 with Mses. Vanneck and Grace opposed.

IX. **OTHER BUSINESS**

Mr. Page updated the Commissioners on the Town Council's action regarding the appeal of the Commission's decision for the project at 235 Via Vizcaya.

Mr. Page informed the Commissioners that he received another appeal for their decision at 202 Onondaga Ave, which will be presented to the Town Council at the November meeting. Mr. Page asked Mr. Ives if he could attend the Town Council meeting on behalf of the Commissioners. Mr. Ives agreed.

Mr. Page reminded the Commission that their next meeting would occur on the fifth Wednesday in November, which is November 29, 2017.

X. **ADDITIONAL COMMUNICATIONS FROM CITIZENS (3 MINUTE LIMIT PLEASE)**

There were no comments heard at this time.

XI. **COMMENTS OF THE ARCHITECTURAL COMMISSION AND DIRECTOR OF PLANNING, ZONING AND BUILDING DEPARTMENT**

Mr. Corey asked a question about the recommendation made to the Town Council regarding the site plan of the proposed Recreation Center. Mr. Lindgren responded.

XII. **ADJOURNMENT**

Motion made by Mr. Small and seconded by Mr. Ives to adjourn the meeting at 12:53 p.m. Motion carried with all in favor.

The next meeting will be held on Wednesday, November 29, 2017 at 9:00 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 S County Rd.

Respectfully Submitted,

Richard Sammons, Chairman
ARCHITECTURAL COMMISSION

kmc

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 190-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Amending Recreation Enterprise Fund Maintenance and Improvement Reserves Policy; Providing an Effective Date.

Presenter

Jane Struder, Director of Finance

ATTACHMENTS:

- ▣ **Memorandum Dated November 3, 2017, from Jane Struder, Director of Finance**
- ▣ **Resolution No. 190-2017**
- ▣ **Exhibit "A"**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jane Struder, Director of Finance

Re: Resolution No. 190-2017
Amendment of Financial Policy – Recreation Enterprise Fund – Maintenance and Improvement Reserves

Date: November 3, 2017

STAFF RECOMMENDATION

Staff recommends that Town Council approve Resolution No. 190-2017, amending the Recreation Enterprise Fund – Maintenance and Improvement Reserves Financial Policy.

GENERAL INFORMATION

Over the years, the Town has adopted 20 financial policies. The establishment of specific financial and reserve policies is an important part of the prudent financial management and the practice is strongly recommended by the Government Finance Officers Association (GFOA) and the National Advisory Committee on State and Local Budgeting (NACSLB). Reserve policies reduce ambiguity and guide the creation, maintenance, and use of resources for financial stabilization purposes. Rating agencies recommend the adoption of such policies and their rating reflect the presence of strong financial policies. We have received our AAA ratings in part because of our financial management and financial policies.

At the September 19, 2017 Town Council meeting, the Town Council tentatively approved the establishment of the Town Docks Maintenance and Improvement Fee. In addition, at the October 10, 2017 meeting, Town Council requested the modification of the existing Par 3 Golf Course Clubhouse Maintenance & Improvement Reserve policy to reflect a transfer, on an annual basis, of 25% of the net income from the operations of the course, with another 25% of the net income transferred into the Dock Replacement Fund. Staff is recommending the adoption of Resolution No. 190-2017 amending the Recreation Enterprise Fund – Maintenance and Improvement Reserves Policy to include a Docks Maintenance & Improvement Fee.

FUNDING/FISCAL IMPACT

It is anticipated that this policy change will generate approximately \$75,000 in Dock M&I fees in FY2018. In addition, the reserve transfer of 25% of net income into the Clubhouse M & I and the Dock Replacement Contribution is estimated to be \$92,000 for each account for fiscal year 2017.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed and approved Resolution No. 190-2017 for legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
Beth Zickar, Director of Recreation

RESOLUTION NO. 190-2017

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING
THE RECREATION ENTERPRISE FUND MAINTENANCE AND
IMPROVEMENT RESERVE POLICY; PROVIDING AND
EFFECTIVE DATE.**

WHEREAS, it is recommended by the Government Finance Officers Association (GFOA) and the National Advisory Committee on State and Local Budgeting (NACSLB) that all governments implemented financial policies; and

WHEREAS, it is important to adopt financial policies to guide the creation, maintenance and use of resources for financial stabilization purposes; and

WHEREAS, it is fiscally responsible to safeguard the Town's financial resources; and

WHEREAS, the Town of Palm Beach has current ample resources to establish the fund reserves; and

WHEREAS, the Town Council approved the financial reserve policy in Resolution No. 116-2015 at its August 11, 2015 meeting; and

WHEREAS, it is now necessary to amend the policy in order to add a Maintenance and Improvement Fee for the Town Docks.

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

Section 1: The forgoing recitals are hereby ratified and confirmed.

Section 2. The attached financial policy pertaining to the Recreation Enterprise Fund Maintenance and Improvement Reserves marked as Exhibit "A" incorporated by reference as part of this Resolution is hereby adopted and the Town Manager and the Director of Finance of the Town are directed to do all things necessary effectuate the financial policy and to report to the Town Council, or appropriate committee thereof, as may be needed relative to matters pertaining to same, in order to preserve and enhance the financial interest of the Town of Palm Beach.

Section 3. The effective date of the attached amended financial reserve policy shall be October 1, 2017.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 14th day of November, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Town Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez
Town Clerk

Margaret A. Zeidman, Town Council Member

Exhibit A**Town of Palm Beach, Florida****Subject Policy: Recreation Enterprise Fund – Maintenance and Improvement Reserves****Effective Date: October 1, 2017**

Purpose: The purpose of this policy is to create separate reserves within the Recreation Enterprise Fund to fund the costs of non-routine maintenance and improvement (M&I) projects at the Par 3 Golf Course, the Town Tennis Facilities and the Town Docks. These reserves will significantly reduce the budgetary fluctuations due to the varying costs of these projects.

Policy: It is the policy of the Town of Palm Beach to maintain reserves for funding maintenance and improvement projects at the Par 3 Golf Course, Tennis Facilities and Town Docks. Funds will be drawn from these reserves to fund the cost of non-routine maintenance and improvement projects.

The reserves will be funded as follows:

Par 3 Golf Course Clubhouse Maintenance and Improvement Reserve:

The reserve will be funded on an annual basis with a transfer of 25% of the net income from the operations of the Par 3 Golf Course. (The net income will be calculated using revenues less the Par 3 Maintenance and Improvement income, less all operating expenses, debt service, and golf course equipment depreciation.)

Dock Replacement Contribution- Using the same calculation noted above for the Par 3 Golf Course Clubhouse Maintenance and Improvement Reserve, an additional 25% of the net income from the operations of the Par 3 Golf Course will be transferred to the Dock Replacement Reserve as an additional annual contribution over and above the Dock Replacement Reserve contribution.

Par 3 Golf Course Maintenance and Improvement Reserve:

This reserve will be funded on an annual basis with the total fees collected from the M&I fee charged for each round of golf.

Tennis Facility Maintenance and Improvement Reserve:

This reserve will be funded on an annual basis with the total fees collected from the M&I fee charged for each court fee (daily, annual, or 12 Play Pass).

Town Docks Maintenance and Improvement Reserve:

This reserve will be funded on an annual basis with the total M&I fees collected from slip fee charges.

Requests for the use of these reserves should be made annually through the budget process, and approved by the Town Manager prior to Town Council consideration. In such a situation when the use of these reserves may be unexpectedly needed during the fiscal year, approval from the Town Council shall be required.

Responsibility: It is the responsibility of the Town Manager and the Director of Finance to advise the Town Council annually through the budget process of the projects and dollar amount of expenses charged to the reserves and to advise to the adequacy of the funding level of these reserves.

Original Approval Date: August 11, 2015

Revision Approved: November 14, 2017

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 200-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach, County, Florida, Awarding Bid No. 2017-41 for the D-4 Stormwater Pump Station Outfall Rehabilitation and Approving a Construction Contract to Quadex Lining Systems, LLC in the Amount of \$377,050 and Establishing a Construction Phase Budget of \$400,000.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated October 23, 2017, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **Resolution No. 200-2017**
- ▣ **Bid Tabulation Sheets**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P. E., Director of Public Works

RE: Award Bid No. 2017-41 and Approve a Construction Contract for the D-4 Stormwater Pump Station Outfall Rehabilitation
Resolution No. 200-2017

DATE: October 23, 2017

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 200-2017 awarding Bid No. 2017-41 and approving a construction contract to Quadex Lining Systems, LLC, for the D-4 Stormwater Pump Station Outfall Rehabilitation Project in the amount of \$377,050, and establishing a Construction Phase Budget of \$400,000.

GENERAL INFORMATION

The D-4 and D-10 Pump Station Improvements project was completed early in 2016. The project included many upgrades and repairs to the existing Stormwater pump stations in the north end of the Town. Towards the end of that project, access into the over 300 feet of outfall piping at the D-4 pump station was obtained and the pipe was assessed. It was determined that the pipe's deteriorating condition needed to be addressed but that was not part of the project scope. The rehabilitation of the D-4 stormwater pump station outfall is scheduled to begin after May 1, 2018.

The Town received three (3) quotes on September 19, 2017 (a copy of the tabulation sheet is attached). The quotes ranged from \$377,050 to \$534,680.

The low, responsive, responsible bid was from Quadex Lining Systems, LLC in the amount of \$377,050. Staff recommends awarding a construction contract to Quadex Lining Systems, LLC, for the bid amount of \$377,050, and establishing a construction phase budget of \$400,000.

FUNDING/FISCAL IMPACT

Funding for this project is fully contained within the Accelerated Capital Improvement Program-Phase 2.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This Resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachments

cc: Jane Struder, Director of Finance
Eric Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Jason Debrincat, P.E., Senior Project Engineer
Jeffrey Sanon, P.E., Project Engineer
Chassler Holm, Acting Water Resources Manager
Dean Mealy, Purchasing Manager

RESOLUTION NO. 200-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDED BID NO. 2017-41 FOR THE D-4 STORMWATER PUMP STATION OUTFALL REHABILITATION AND APPROVING A CONSTRUCTION CONTRACT TO QUADDEX LINING SYSTEMS, LLC IN THE AMOUNT OF \$377,050 AND ESTABLISHING A CONSTRUCTION PHASE BUDGET OF \$400,000.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

Section 1. The Town Council of the Town of Palm Beach hereby awards Bid No. 2017-14 and approves a construction contract to Quadex Lining Systems, LLC in the amount of \$377,050 for the D-4 Stormwater Pump Station Outfall Rehabilitation and establishes a construction phase budget of \$400,000.

Section 2. The Town Manager is hereby authorized to execute this contract on behalf of the Town of Palm Beach for this improvement.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the completion of the said project work, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 14th day of November 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Gwendolynn Peirce, CMC, Acting Town Clerk

Margaret A. Zeidman, Town Council Member



TOWN OF PALM BEACH
Bid No. 2017-41
D-4 STORMWATER PUMP STATION
OUTFALL REHABILITATION
TABULATION
 Due: 9/19/17 @ 2 p.m.

Vendor:	Murray Logan Construction, Inc.	Quadex Lining Systems, LLC	Vacvision Environmental, LLC
	313 65th Trail N.	9155 Wallisville Rd.	10200 US Highway 92 E
	West Palm Beach, FL 33413	Houston, TX 77029	Tampa, FL 33610
	561-686-3948	713-750-9081	864-236-7478
	561-686-3948	844-204-7996	813-626-0777
Address:			
Telephone:			
Fax:			
Contact:	David Logan	Nick Banchetti	Wesley A. Kingery

Item No.	Description	Qty	Unit	Price per Unit	Total	Price per Unit	Total	Price per Unit	Total
1	Mobilization/Demobilization	1	LS	\$ 74,000.00	\$ 74,000.00	\$ 12,500.00	\$ 12,500.00	\$ 12,000.00	\$ 12,000.00
2	Performance and Payment Bonds	1	LS	\$ 7,500.00	\$ 7,500.00	\$ 5,800.00	\$ 5,800.00	\$ 5,000.00	\$ 5,000.00
3	Insurance and Indemnification	1	LS	\$ 7,500.00	\$ 7,500.00	\$ 1,000.00	\$ 1,000.00	\$ 2,500.00	\$ 2,500.00
4	Demolition	1	LS	\$ 19,000.00	\$ 19,000.00	\$ 7,500.00	\$ 7,500.00	\$ 10,000.00	\$ 10,000.00
5	Outfall and Dewatering	1	LS	\$ 102,000.00	\$ 102,000.00	\$ 52,500.00	\$ 52,500.00	\$ 15,000.00	\$ 15,000.00
6	Outfall Pipe Rehabilitation	1	LS	\$ 295,180.00	\$ 295,180.00	\$ 276,250.00	\$ 276,250.00	\$ 350,000.00	\$ 350,000.00
7	Site Restoration	1	LS	\$ 9,500.00	\$ 9,500.00	\$ 11,500.00	\$ 11,500.00	\$ 10,000.00	\$ 10,000.00
8	Allowance for Unseen Conditions	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
TOTAL				\$	534,680.00	\$	377,050.00	\$	414,500.00

Opened by: John Cmar
 Witnessed by: Duke Basha

Apparent Awardee

**TOWN OF PALM BEACH****Bid No. 2017-41****D-4 STORMWATER PUMP STATION OUTFALL REHABILITATION****SCHEDULE OF BID ITEMS**

The undersigned as bidder does declare that no other persons other than the bidder herein named has any interest in this bid or in the contract to be taken, and that it is made without any connection with any other person or persons making bid for the same article, and is in all respects fair and without collusion or fraud.

The undersigned further declares that he has carefully examined the specifications and is thoroughly familiar with its provisions and with the quality type and grade of materials called for.

The undersigned further declares that he proposes to furnish the articles called for within the specified time in this bid for the following price:

Item No.	Description	Unit	Est. Qty.	Unit Price	Extended Price
1	MOBILIZATION / DEMOBILIZATION	LS	1	\$ 12,500.00	\$ 12,500.00
2	PERFORMANCE AND PAYMENT BONDS	LS	1	\$ 5,800.00	\$ 5,800.00
3	INSURANCE AND IDEMNIFICATION	LS	1	\$ 1,000.000	\$ 1,000.00
4	DEMOLITION	LS	1	\$ 7,500.00	\$ 7,500.00
5	OUTFALL DEWATERING	LS	1	\$ 52,500.00	\$ 52,500.00
6	OUTFALL PIPE REHABILITATION	LS	1	\$ 276,250.00	\$ 276,250.00
7	SITE RESTORATION	LS	1	\$ 11,500.00	\$ 11,500.00
8	ALLOWANCE FOR UNFORSEEN CONDITIONS	LS	1	\$ 10,000.00	\$ 10,000.00
TOTAL BID					\$377,050.00

Company Name: Quadex Lining Systems, LLC

Legend: SY = Square Yard; LF = Linear Foot; EA = Each; LS = Lump Sum; TON = Tonnage

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 201-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order in the Amount of \$96,966, to Kimley-Horn and Associates, Inc., for Professional Engineering Services Associated with Groundwater Monitoring and Consulting at the Town's Vegetative Landfill Sites, and Establishing a Project Budget of \$107,000.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated October 20, 2017, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **Resolution No. 201-2017**
- ▣ **Kimley Horn Proposal**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Approve a Purchase Order for Continued Groundwater Monitoring at the
Vegetative Landfill Sites
Resolution No. 201-2017

DATE: October 20, 2017

STAFF RECOMMENDATION

Town staff recommends that the Town Council approve Resolution No. 201-2017 authorizing a purchase order to Kimley-Horn and Associates, Inc. (KHA), for \$96,966 for continuing work associated with the groundwater monitoring and consulting tasks of the Town's vegetative landfill sites at Skees Road and Okeechobee Boulevard, and establishing an overall budget of \$107,000.

GENERAL INFORMATION

The Town's operating permits for the Class III vegetative landfill sites at Skees Road and Okeechobee Boulevard are issued by the Florida Department of Environmental Protection (FDEP) and are administered by the Palm Beach County Health Department (PBCHD). They require semi-annual and quarterly groundwater monitoring, sampling, and testing. Also included in the proposal is a task to perform photogrammetric mapping of the landfill sites to be used as a tool to determine current and future landfill capacities, and aid in the annual reporting to regulatory agencies as part of the new permit conditions. On January 30, 2019 both landfill operating permits expire. Applications must be submitted to the agencies for review by November 29, 2018. Included in this proposal is a task assignment and associated cost for the consultant to prepare the necessary documents and provide specific assistance in the filing and approval process. The application process typically begins approximately 90 days prior to the application submittal deadline.

A proposal for these services was received from KHA. The tasks include those activities required by permit, but do not include any extra sampling or testing that may be requested in the future by the PBCHD or the FDEP. Any such future requirement would be an additional service and may require additional funding. Also not included are fees for variance requests or requests for information from FDEP, if necessary. Staff recommends a ten percent (10%) contingency for unforeseen requirements such as those which are included in the overall budget of \$107,000.

FUNDING/FISCAL IMPACT

The Public Works Department FY2018 budget includes sufficient funds to accomplish this professional services task.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This Resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachments

cc: Jane Struder, Director of Finance
Eric Brown, P.E., Assistant Director of Public Works
Chester Purves, Services Division Manager
Dean Mealy, Purchasing Manager

RESOLUTION NO. 201-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PURCHASE ORDER IN THE AMOUNT OF \$96,966, TO KIMLEY-HORN AND ASSOCIATES, INC., FOR PROFESSIONAL ENGINEERING SERVICES ASSOCIATED WITH GROUNDWATER MONITORING AND CONSULTING AT THE TOWN'S VEGETATIVE LANDFILL SITES, AND ESTABLISHING A PROJECT BUDGET OF \$107,000.

* * * * *

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

Section 1. The Town Council of the Town of Palm Beach hereby approves a purchase order to Kimley-Horn and Associates, Inc. in the amount of \$96,966 for professional engineering services associated with groundwater monitoring and consulting at the Town's vegetative landfill sites and establishes a project budget of \$107,000.

Section 2. The Town Manager is hereby authorized to execute this contract on behalf of the Town of Palm Beach for these services.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the completion of the said project, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, assembled this 14th day of November 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member



October 20, 2017

Mr. Chester Purves
Town of Palm Beach
951 Old Okeechobee Road, Ste. "A"
West Palm Beach, FL 33401

**RE: *Skees Road and Okeechobee Boulevard Landfill Facilities
2018 On-Call Consulting, Compliance Sampling and Monitoring Proposal***

Dear Chet,

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "CONSULTANT") is pleased to submit this proposal to The Town of Palm Beach ("TOWN" or "CLIENT") for on-call consulting, permit compliance sampling and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities. Our project understanding, scope of services, fee basis, and schedule follow.

Project Understanding

The Town of Palm Beach currently owns and operates two Class III landfills. The sites are located on Okeechobee Blvd. and on Skees Road. The operating permits for the landfills require yearly monitoring with reports that are to be submitted to the FDEP. Kimley-Horn will work with a subconsultant to perform the semiannual and biennial compliance sampling and prepare the monitoring reports for the 2018 permit year for both facilities.

The Town previously renewed the operating permits for both facilities. The sampling and monitoring requirements described in those permits will be performed under this Scope of Services. Every five years, the operating permits for the landfills must be renewed. The Town has asked that Kimley-Horn assist the Town with the upcoming permit renewal application and supporting documentation for both facilities.

In 2012, the Town began a voluntary supplementary sampling program to compliment the compliance monitoring program for select parameters. This program will continue in 2018 in the form of two quarterly sampling events in the same manner as was performed in 2017.

The Town has also requested that KHA provide assistance related to monitoring the volume of debris deposited at the sites each year in the form of photogrammetric surveying. The topography generated by the photogrammetry will be used to develop a three-dimensional surface that can then be compared to the closure surface of the landfill and the surface that was developed based on the aerial photogrammetry that was collected in January 2017. This information will allow the Town to better account for the volume of debris being placed at the sites each year along with more accurate forecasting of remaining landfill capacity.

The Town has requested that Kimley-Horn provide on-call consulting services at each of the landfill sites. These services may consist of the design of various improvements at the facilities, recommendations regarding the operations at each facility, and/or assistance with the maintenance of each facility.

Based on this understanding, a description of the proposed scope of services is presented below.

Scope of Services

Task 1 – Operating Permit Compliance Monitoring, Groundwater Testing and Reporting

Kimley-Horn will employ the services of a subconsultant to perform groundwater sampling, testing and reporting in accordance with the Town's landfill operating permit conditions for both the Skees Road and Okeechobee Landfill sites. Samples will be obtained for the on-site monitoring wells and analyzed as specified in Appendix 6 of the Operating Permits on a semi-annual basis in January and July of 2018.

Reports will be generated that describe the laboratory testing results for each sampling event at each facility. These reports will be submitted to the Palm Beach County Health Department (PBCHD) as required by the operating permit conditions for both facilities. Kimley-Horn will review the reports prepared by the subconsultant prior to submission to the Town or the PBCHD and offer comments or recommendations as appropriate. Kimley-Horn staff will attend up to two (2) meetings with the Town to discuss the results of the supplemental sampling and analysis and will attend one (1) Town Council meeting to present the data, if required.

In accordance with Rule 62-701.510(7) F.A.C., if sampling parameters are detected at concentrations significantly higher than those concentrations normally expected for the site, or which are at levels above PBCHD/FDEP water quality standards or criteria specified in Chapter 62-520 F.A.C., Kimley-Horn may recommend to the Town that re-sampling be performed for confirmation purposes or recommend other appropriate alternative actions. Any re-sampling services or alternative actions shall be performed as additional services only after Kimley-Horn's receipt of written approval by the Town to perform such actions.

In accordance with Specific Condition #41 of the Operating Permit for both facilities, Kimley-Horn will prepare the Good Neighbor Program Annual Report for both the Skees and Okeechobee facilities for submittal to the PBCHD, PBC Fire Rescue, and the Solid Waste Authority. The Report will contain the following information:

- Pest Control Inspection Reports for the previous calendar year (provided by the Town)
- A labeled aerial photograph showing the following:
 - Landfill material cell locations
 - Footprint dimensions
 - Peak cell heights (in feet NGVD)
 - Descriptions of the areas of each cell where new material was deposited in the prior year.
 - Maximum depth of decomposing material for each cell

- Location and minimum width of firebreaks and access roads
- Water supply sources

The report will be submitted to the above listed entities by March 1, 2018 in accordance with the permit conditions.

Task 2 – Continued Supplemental Groundwater Monitoring

Skees Road Site Supplemental Quarterly Monitoring

Supplemental Monitoring at the Skees Road landfill consists of bi-annual sampling and reporting for Arsenic, Chloride, Sodium and Ammonia that is in addition to the semi-annual sampling events described in Task 1 above. This work will occur in April and October of 2018. Kimley-Horn proposes to employ the services of a subconsultant to perform the sampling and reporting. Kimley-Horn will coordinate their efforts and review their reports prior to submittal to the Town and the PBCHD.

Okeechobee Boulevard Site Supplemental Quarterly Monitoring

Supplemental Monitoring at the Okeechobee Blvd. landfill consists of bi-annual sampling and reporting for Cadmium, Lead, Chloride, Sodium and Ammonia that is in addition to the semi-annual sampling events that are already underway at the site. This work will occur in April and October of 2018. Kimley-Horn proposes to employ the services of a subconsultant to perform the sampling and reporting. Kimley-Horn will coordinate their efforts and review their reports prior to submittal to the Town and the PBCHD.

Task 3 – Photogrammetric Mapping and Landfill Capacity Estimation

Kimley-Horn will employ the services of a Florida Licensed Land Surveyor to perform photogrammetric mapping of the Skees Road and Okeechobee Blvd. landfill sites to obtain topographic information relative to each facility. The maps will be scaled at 1"=50' and will contain digital aerial photography. A DTM file will be generated that will allow a three dimensional surface to be generated for each site. Horizontal and vertical controls will be established on the ground to provide the control points for the photogrammetric mapping. Elevations will be established in the National Geodetic Vertical Datum (NGVD) with one foot contours.

Once the topographical maps and surfaces are created, Kimley-Horn will use this information to develop an updated existing surface model in AutoCAD Civil 3D. The closure elevation surfaces of each landfill that were previously developed will be overlaid onto the updated existing surface model. A three-dimensional cut/fill analysis will be performed using the Civil 3D program to estimate the remaining volumetric capacity in each landfill. Kimley-Horn will provide a copy of the photogrammetric map for each facility along with the results of the volumetric capacity analysis. The estimated remaining life and capacity of the landfill facilities will be provided to the Palm Beach County Health Department by April 1, 2018 per Specific Condition 21 of the operating permits for both facilities.

Task 4 – Operating Permit Renewal Application Assistance

Kimley-Horn will assist the Town in the preparation of FDEP Class III Landfill Operating Permit renewal packages for the Skees Road and Okeechobee Boulevard landfill facilities. We will assist Town staff

in the preparation and submittal of these packages to the Palm Beach County Health Department for review. Kimley-Horn will prepare the application and the necessary exhibits and supplemental reports to accompany the permit application. It is anticipated that much of the required information requested by the application will remain unchanged and will not need to be resubmitted. Kimley-Horn will attend up to four (4) meetings with the Town or regulatory staff as appropriate during the permit application preparation process.

Part of the monitoring and permit renewal process is to prepare an updated survey site plan of both the Skees Road and Okeechobee Boulevard Landfill Sites. We will perform the following survey services to meet this requirement:

Okeechobee Site

- Acquire elevations, state plane coordinates and latitude and longitude on the north top of pipe for the five onsite monitoring wells.
- Prepare a survey drawing illustrating the monitoring wells inside the boundary lines of the site.

Skees Road Site

- Acquire elevations, state plane coordinates and latitude and longitude on the north top of pipe for the nine onsite monitoring wells.
- Prepare a survey drawing illustrating the monitoring wells inside the boundary lines.

Four (4) signed and sealed survey drawings and an AutoCAD drawing in electronic format will be prepared and submitted to the Town for use in the permit application renewal process.

It is assumed that each facility already has any other required site development permits in place to renew the Class III landfill permit. As such, no additional permit application preparation is included in this scope of work. The Town will pay for any permit application or renewal fees that are required by the PBCHD/FDEP directly. Because it is known that groundwater samples from the site groundwater have been found to contain parameters that exceed applicable target levels, it is impossible to predict the level of review comments that may be generated by the regulatory agencies. For this reason, response to comments is not included in this scope of work. Additionally, no variance requests, if found to be required, are included in this scope of services. We will respond to agency generated comments only after receiving written authorization of a subsequent scope and fee by the Town.

Additional Services

Any services not specifically provided for in the above scope, as well as any changes in the scope you request, will be considered additional services. These services will be performed based on proposals approved by the Town prior to the performance of those requested additional services.

Fee and Billing

KHA will perform the services described in this Scope of Services on an hourly basis in accordance with our Contract with the Town. It is recommended that the following budgets be established for these services.

Task 1 – Operating Permit Compliance Monitoring, Groundwater Testing and Reporting	\$45,068
Task 2 – Continued Supplemental Groundwater Monitoring	\$21,923
Task 3 – Photogrammetric Mapping and Landfill Capacity Estimation	\$17,049
Task 4 – Operating Permit Renewal Application Assistance	\$12,926

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the terms and conditions in the Professional Services Agreement between the Town of Palm Beach and Kimley-Horn and Associates, Inc., dated January 27, 2016, which are incorporated by reference. As used in the Agreement, the term "CONSULTANT" shall refer to Kimley-Horn and Associates, Inc., and the term "TOWN" shall refer to The Town of Palm Beach.

If you concur in all the foregoing and wish to direct us to proceed with the services, please notify us by providing a purchase order for the scope and fee described above.

We appreciate the opportunity to provide these services to you. Please contact me at (561) 840-0820 or kevin.schanen@kimley-horn.com should you have any questions.

Sincerely,



By: Kevin Schanen, P.E.
Vice President

K:\WPB_Civil\General\Schanen\Proposals\Palm Beach\Landfill Monitoring\2018\Landfill 2018 Compliance Sampling
Proposal.docx

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda Resolutions

Agenda Title

RESOLUTION NO. 202-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying a Purchase Order Approved by the Town Manager for Emergency Replacement of Generator Parts for the D-8 Storm Water Pumping Station to Florida Detroit Diesel Inc., in an Amount of \$33,216.34, and Establishing a Budget of \$35,000, and Ratifying a Purchase Order Approved by the Town Manager for Emergency Temporary Generator Rental for the D-8 Storm Water Pumping Station to Pantropic Power Products Inc., in an Amount of \$30,928.50, and Establishing a Budget of \$34,000.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated October 24, 2017, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **Resolution No. 202-2017**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Ratification of Purchase Orders Approved by the Town Manager for Emergency Replacement of Generator Parts and Temporary Generator Rental for the D-8 Storm Water Pumping Station
Resolution No. 202-2017

DATE: October 24, 2017

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 202-2017 ratifying a purchase order to Florida Detroit Diesel Inc. in the amount of \$33,216.34 and establishing an overall budget of \$35,000 for replacement parts for the Town's D-8 Storm Water Pumping Station stand-by generator, and ratifying a purchase order to Pantropic Power Products Inc. in the amount of \$30,928.50 and establishing an overall budget of \$34,000 for rental of a temporary generator at the Town's D-8 Storm Water Pumping Station.

GENERAL INFORMATION

One of the impacts of Hurricane Irma was the failure of the Town's 800-KW back-up generator at the D-8 storm water pumping station on Country Club Road. Fortunately, the failure occurred after the majority of rain had subsided so there was no flooding because of it. This generator has been in service since 2005 with no advanced warning that it would fail, but the increased run time that it experienced during the storm may have played a role in it.

Staff immediately contacted our service provider for an estimate of repairs and were informed that the generator would be out of service for at least one month and no estimate could be provided until they had the opportunity to take the engine apart, which could delay the completion further. Staff then decided that one of our in-house diesel mechanics would diagnose and repair the engine in order to expedite the project and save the additional costs of the service provider's repairs. However, before we could begin to dismantle the engine we needed to secure a portable rental generator from Pantropic Power Products Inc. of Miami, Florida to assure that we had continuous power in the event of a power outage during our diagnosis and repair.

Based on the initial tear-down of the engine, it was determined that a complete rebuild of the internal components including the cylinder heads is necessary. Ratification of the approval of the purchase order for the repair parts is required, along with ratification of the approval of the purchase order for the temporary generator rental. The Town Manager had previously approved

both of those purchases as an emergency action to mitigate any further damage or negative impacts.

FUNDING/FISCAL IMPACT

The cost of parts and temporary generator rental were funded from the Hurricane Irma account for Public Works. Staff has filed a claim with our insurance provider and will also seek reimbursement from FEMA in the hopes of recovering as much of the cost as possible. The total project budget is recommended to be established at \$69,000 for this work.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

cc: Jane Struder, Director of Finance
Chassler Holm, Water Resources Division Manager (Acting)
Dean Mealy, Purchasing Manager

RESOLUTION NO. 202-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING A PURCHASE ORDER APPROVED BY THE TOWN MANAGER FOR EMERGENCY REPLACEMENT OF GENERATOR PARTS FOR THE D-8 STORM WATER PUMPING STATION TO FLORIDA DETROIT DIESEL INC., IN AN AMOUNT OF \$33,216.34, AND ESTABLISHING A BUDGET OF \$35,000, AND RATIFYING A PURCHASE ORDER APPROVED BY THE TOWN MANAGER FOR EMERGENCY TEMPORARY GENERATOR RENTAL FOR THE D-8 STORM WATER PUMPING STATION TO PANTROPIC POWER PRODUCTS INC., IN AN AMOUNT OF \$30,928.50, AND ESTABLISHING A BUDGET OF \$34,000.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

Section 1. The Town Council of the Town of Palm Beach hereby ratifies the approval of a purchase order to Florida Detroit Diesel Inc., for the emergency replacement of generator parts for the D-8 Storm Water Pumping Station, in the amount of \$33,216.34 and establishing a budget of \$35,000, and hereby ratifies the approval of a purchase order to Pantropic Power Products Inc., for the emergency temporary generator rental for the D-8 Storm Water Pumping Station, in the amount of \$30,928.50 and establishing a budget of \$34,000.

Section 2. The Town Manager is hereby authorized to execute a purchase order on behalf of the Town of Palm Beach for these parts and services, and is authorized to approve additional tasks, as necessary, within budget.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the completion of the said project, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 14th day of November 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 204-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town of Palm Beach to Submit, Ex Post Facto, an Application for the FY2017 President Elect Security Assistance Reimbursement Grant Program for Reimbursement of Applicable Law Enforcement Personnel Overtime and Equipment in the Amount of \$24,343.07 During the President Elect Transition Period; and Authorizing the Town Manager and Staff to Execute All Documents Necessary on Behalf of the Town of Palm Beach.

Presenter

Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- ▣ **Memorandum dated October 25, 2017, by Kirk W. Blouin, Director of Public Safety**
- ▣ **Resolution No. 204-2017**
- ▣ **Exhibit A**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk W. Blouin, Director of Public Safety

Re: FY2017 President Elect (PEOTUS) Security Assistance Reimbursement Grant Program
Resolution No: 204-2017

Date: October 25, 2017

STAFF RECOMMENDATION

Staff recommends the Town Council approve Resolution No. 204-2017 authorizing the Town of Palm Beach, ex post facto, to submit FY2017 Presidential Elect Security Assistance Reimbursement Grant Program application for reimbursement of qualifying law enforcement personnel overtime and applicable equipment for the protection of the President Elect during the transition while in the Town of Palm Beach.

GENERAL INFORMATION

The Florida Department of Law Enforcement (FDLE) was invited to submit a grant application for federal President Elect Security Assistance funds, as the non-federal pass-through entity and State Administering Agency. These funds were made available through the U.S. Department of Justice, Bureau of Justice Assistance. The Town of Palm Beach is requesting a distribution from FDLE for the cost of personnel overtime and applicable equipment as deemed appropriate by the grant guidelines during the presidential transition period of 11:00p.m. on November 9, 2016 through 12:00p.m. on January 20, 2017

FUNDING/FISCAL IMPACT

The Police Department has submitted the necessary documentation to FDLE for compilation purposes to support their request of funds from the U.S. Department of Justice, Bureau of Justice Assistance in order to secure reimbursement for the Town in the amount of \$24,343.07. This figure represents \$19,352.06 in overtime expenses and \$4,991.01 in applicable equipment. Funding will be distributed on a pro-rata basis.

PURCHASING REVIEW

This item is not applicable to the Purchasing Division.

TOWN ATTORNEY REVIEW

The resolution has been approved by the Town Attorney as to form and legal sufficiency.

KWB/lsg

cc: Jane Struder, Director of Finance
Ann-Marie Taylor, Deputy Chief of Police
John Randolph, Town Attorney

RESOLUTION NO. 204-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE TOWN OF PALM BEACH TO SUBMIT, EX POST FACTO, AN APPLICATION FOR THE FY2017 PRESIDENT ELECT SECURITY ASSISTANCE REIMBURSEMENT GRANT PROGRAM FOR REIMBURSEMENT OF APPLICABLE LAW ENFORCEMENT PERSONNEL OVERTIME AND EQUIPMENT IN THE AMOUNT OF \$24,343.07 DURING THE PRESIDENT ELECT TRANSITION PERIOD; AND AUTHORIZING THE TOWN MANAGER AND STAFF TO EXECUTE ALL DOCUMENTS NECESSARY ON BEHALF OF THE TOWN OF PALM BEACH.

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

Section 1. The Town Manager and staff are authorized, ex post facto, to submit an application to the Florida Department of Law Enforcement (FDLE) for reimbursement of applicable law enforcement personnel overtime and equipment expenses incurred during the president elect transition period of 11:00p.m. on November 9th, 2017 to 12:00p.m. on January 20th, 2017.

Section 2. A copy of the FY2017 President Elect Security Assistance Reimbursement Grant Program application submitted on behalf of the Town of Palm Beach is attached hereto as *Exhibit A* and is hereby incorporated within this Resolution and made a part hereof.

PASSED AND ADOPTED IN A REGULAR, ADJOURNED SESSION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH THIS 14TH DAY OF NOVEMBER, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member

Application for Funding Assistance

Florida Department of Law Enforcement
President-Elect Security Assistance

Section 1: Administration

Subgrant Recipient

Organization Town Of Palm Beach

County: Palm Beach

Chief Official

Name: Gail Coniglio

Title: Mayor

Address: 360 South County Road

City: Palm Beach

State: FL **Zip:** 33480-6735

Phone: 561-838-5414 **Ext:**

Fax:

Email: gconiglio@townofpalmbeach.com

Chief Financial Officer

Name: Jane Struder

Title: Finance Director

Address: 360 South County Road

City: Palm Beach

State: FL **Zip:** 33480

Phone: 561-838-5444 **Ext:**

Fax: 561-838-5417

Email: jstruder@townofpalmbeach.com

Application for Funding Assistance

Florida Department of Law Enforcement
President-Elect Security Assistance

Section 1: Administration

Implementing Agency

Organization Palm Beach Police Department
County: Palm Beach

Chief Official

Name: Kirk Blouin
Title: Chief of Police
Address: 345 South County Road
City: Palm Beach
State: FL **Zip:** 33480
Phone: 561-838-5460 **Ext:**
Fax: 561-835-4600
Email: kblouin@palmbeachpolice.com

Project Director

Name: Lisa Gorman
Title: Administrative Planner/Accreditation Manager
Address: 345 South County Road
City: Palm Beach
State: FL **Zip:** 33480
Phone: 561-227-6355 **Ext:**
Fax:
Email: lgorman@townofpalmbeach.com

Application for Funding Assistance

Florida Department of Law Enforcement
President-Elect Security Assistance

Section 2: Project

General Project Information

Project Title: OVERTIME FOR PRESIDENT-ELECT SECURITY
Subgrant Recipient: Town Of Palm Beach
Implementing Palm Beach Police Department
Project Start Date: 11/9/2016 **End** 11/30/2017

Problem Identification

Local, regional and state law enforcement agencies incurred extraordinary security-related law enforcement overtime costs to protect the President-elect of the United States during the transition period from 11:00pm November 9, 2016 through 12:00pm January 20, 2017.

Project Summary (Scope of Work)

The Palm Beach Police Department will use grant funds to pay overtime and straight time over and above regularly scheduled hours for sworn and non-sworn administrative, intelligence, operational and law enforcement personnel that conducted security-related activities for the President-elect during the eligible time period, as well as reimbursement for equipment related expenses incurred as a direct result of President-elect security.

Overtime pay will be commensurate with the Palm Beach Police Department's compensation and pay policy, and include salary and related benefits. Documentation to support expenditures will consist of timesheets, payroll, invoices, cancelled checks, etc. and be made available for review during monitoring.

Application for Funding Assistance

Florida Department of Law Enforcement
President-Elect Security Assistance

Section 3: Performance

General Performance Info:

Performance Reporting Frequency: Quarterly

Prime Purpose Area: PESA - President-Elect Security Assistance General Activity

State Purpose Area: PESA - President-Elect Security Assistance General Activity

Objectives and Measures

Objective 01 - General

Measure: A

Provide a description of the activities performed during the grant period.

Goal: Palm Beach Police Department is requesting reimbursement for extraordinary law enforcement overtime costs directly and solely associated with the extraordinary security required to protect the President-elect during the Presidential transition period.

Measure: B

Provide the total number of overtime hours worked on project related activities during the grant period.

Goal: 329.25

Measure: C

Provide the total number of agency personnel working on project related activities during the grant period.

Goal: 10

Measure: D

During the grant period, will you purchase any equipment or supplies?

Goal: Yes

Application for Funding Assistance

Florida Department of Law Enforcement
President-Elect Security Assistance

Section 4: Financial

General Financial Info:

Note: All financial remittances will be sent to the Chief Financial Officer of the Subgrantee Organization.

Financial Reporting Frequency for this Quarterly

Is the subgrantee a state agency?: No

FLAIR / Vendor Number: 596000402

Budget:

Budget Category	Prime	Match	Total
Salaries and Benefits	\$19,352.06	\$0.00	\$19,352.06
Contractual Services	\$0.00	\$0.00	\$0.00
Expenses	\$4,991.01	\$0.00	\$4,991.01
Operating Capital Outlay	\$0.00	\$0.00	\$0.00
Indirect Costs	\$0.00	\$0.00	\$0.00
-- Totals --	\$24,343.07	\$0.00	\$24,343.07
Percentage	100.0	0.0	100.0

Project Generated

Will the project earn project generated income No

Application for Funding Assistance

Florida Department of Law Enforcement
President-Elect Security Assistance

Section 4: Financial (cont.)

Budget Narrative:

Salaries and Benefits:

329.25 hours at a rate of \$25-\$75 per hour.

7.65% FICA benefits

Salaries and Benefits Total: \$19,351.99

Expenses:

3 Bullhorns with Siren Mode \$38.99 = \$116.97

1 Fujifilm Instax Mini Camera = \$98.95

25 Velcro Reflective Police Patch IDs (for mesh fencing) @ \$9.00 = \$225.00

15 EFF equipment duffel bags @17.76 each = \$266.40

3 Twin Pack of Film for Camera = \$39.04

23 EFF (masks) @ \$184.55 each = \$4,244.65

Expense Total: \$4991.01

Total: \$24,343

Shipping & Handling will be requested for reimbursement, if applicable. No extended warranties will be purchased with grant funds.

Any costs over the allocated grant amount will be paid for by the Palm Beach Police Department.

Application for Funding Assistance

Florida Department of Law Enforcement
President-Elect Security Assistance

Section 5: Standard Conditions

Insert Standard Conditions Page here.

Application for Funding Assistance

Florida Department of Law Enforcement

President-Elect Security Assistance

Section 6: Signatures

In witness whereof, the parties affirm they each have read and agree to the conditions set forth in this agreement, have read and understand the agreement in its entirety and have executed this agreement by their duty authorized officers on the date, month and year set out below.

**Corrections on this page, including Strikeovers,
whiteout, etc. are not**

**State of Florida
Department of Law Enforcement
Office of Criminal Justice Grants**

Signature _____

Typed Name and Title: _____

Date: _____

**Subgrant Recipient
Authorizing Official of Governmental Unit
(Commission Chairman, Mayor, or Designated Representative)**

Typed Name of Subgrant _____

Signature _____

Typed Name and Title: _____

Date: _____

**Implementing Agency
Official, Administrator or Designated Representative**

Typed Name of Implementing _____

Signature _____

Typed Name and Title: _____

Date: _____

Application for Funding Assistance

Florida Department of Law Enforcement
President-Elect Security Assistance

Section 7: Certifications and Authorizations

Insert Certifications and Authorizations here.

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 205-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town of Palm Beach to Submit, Ex Post Facto, an Application for the FY2017 Presidential Residence Protection Assistance (PRPA) Grant for Reimbursement of Applicable Law Enforcement Personnel Overtime Expenses in the Amount of \$71,270.09 During the Application Period; and Authorizing the Town Manager and Staff to Execute All Documents Necessary On Behalf of the Town of Palm Beach.

Presenter

Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- ▣ **Memorandum dated May 31, 2017, by Kirk W. Blouin, Director of Public Safety**
- ▣ **Resolution No. 205-2017**
- ▣ **Exhibit A**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk W. Blouin, Director of Public Safety

Re: FY2017 President Residence Protection Assistance (PRPA) Grant Reimbursement
Resolution No: 205-2017

Date: May 31, 2017

STAFF RECOMMENDATION

Staff recommends the Town Council approve Resolution No. 205-2017 authorizing the Town of Palm Beach, ex post facto, to submit FY2017 Presidential Residence Protection Assistance (PRPA) grant application for reimbursement of qualifying law enforcement personnel overtime for the protection of the President and family while in residence in the Town Palm Beach.

GENERAL INFORMATION

This grant program is administered by the Federal Emergency Management Agency (FEMA) under the Department of Homeland Security Appropriations Act, 2017, (Pub. L. No. 115-31) and provides for the reimbursement of overtime activities associated with the protection of any non-governmental residence of the President designated or identified to be secured by the United States Secret Service (USSS). Awards will be made on a rolling basis, therefore, so as to not jeopardize this grant reimbursement opportunity, the application was submitted on October 13, 2017.

FUNDING/FISCAL IMPACT

FEMA anticipates that all awards will be made no later than December 31, 2017. The Town has submitted the referenced application and anticipates receiving in \$71,270.09 in applicable overtime expenses incurred by police staff during the application period of January 20, 2017 – September 30, 2017.

PURCHASING REVIEW

This item is not applicable to the Purchasing Division.

TOWN ATTORNEY REVIEW

The resolution has been approved by the Town Attorney as to form and legal sufficiency.

KWB/lsg

cc: Jane Struder, Director of Finance
Ann-Marie Taylor, Deputy Chief of Police
John Randolph, Town Attorney

RESOLUTION NO. 205-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE TOWN OF PALM BEACH TO SUBMIT, EX POST FACTO, AN APPLICATION FOR THE FY2017 PRESIDENTIAL RESIDENCE PROTECTION ASSISTANCE (PRPA) GRANT FOR REIMBURSEMENT OF APPLICABLE LAW ENFORCEMENT PERSONNEL OVERTIME EXPENSES IN THE AMOUNT OF \$71,270.09 DURING THE APPLICATION PERIOD; AND AUTHORIZING THE TOWN MANAGER AND STAFF TO EXECUTE ALL DOCUMENTS NECESSARY ON BEHALF OF THE TOWN OF PALM BEACH.

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

Section 1. The Town Manager and staff are authorized, ex post facto, to submitted an application to the Federal Emergency Management Agency (FEMA) for reimbursement of applicable overtime expenses incurred by law enforcement personnel during the grant period of January 20, 2017 – September 30, 2017.

Section 2. A copy of the FY2017 Presidential Residence Protection Assistance (PRPA) Grant submitted on behalf of the Town of Palm Beach is attached hereto as *Exhibit A* and is hereby incorporated within this Resolution and made a part hereof.

PASSED AND ADOPTED IN A REGULAR, ADJOURNED SESSION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH THIS 14TH DAY OF NOVEMBER, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member



**NOTICE OF FUNDING OPPORTUNITY
 AND APPLICATION AVAILABILITY
 FOR
 FISCAL YEAR 2017
 PRESIDENTIAL RESIDENCE PROTECTION ASSISTANCE (PRPA) GRANT**

To: Members of Congress
From: Federal Emergency Management Agency
Subject: Fiscal Year 2017 Presidential Residence Protection Assistance (PRPA) Grant Application Period
Date: August 17, 2017

Comments:

This serves as notification that the application period for the U.S. Department of Homeland Security Federal Emergency Management Agency Fiscal Year (FY) 2017 **Presidential Residence Protection Assistance (PRPA) Grant** will open on Thursday, August 17, 2017 at 1:00 p.m. EDT and close on Tuesday, October 31, 2017 at 5:00 p.m. EDT.

The *Department of Homeland Security Appropriations Act, 2017* (Pub. L. No. 115-31), provides \$41 million for the Presidential Residence Protection Assistance Grant.

Under the **Presidential Residence Protection Assistance Grant**, Federal funds will be awarded to reimburse state and local law enforcement agencies for law enforcement personnel costs incurred while protecting any non-governmental residence of the President of the United States that is designated or identified to be secured by the United States Secret Service (USSS) in accordance with Section 544 of the *Department of Homeland Security Appropriations Act, 2017*.

Awards will be made on a rolling basis. Awards may be made as early as September 30, 2017. FEMA anticipates that all awards will be made no later than December 31, 2017.

Eligible applicants are limited to state and local law enforcement agencies, either directly or through the State Administrative Agency, that conducted protection activities associated with any non-governmental residence of the President designated or identified to be secured by the USSS. **The states with qualifying residences are Florida, New Jersey, and New York.**

Contact Information: For congressional inquiries, contact Chris Rizzuto at (202) 786-9450, Laura Cirillo Edwards at (202) 212-3041, or Kennedy Greenwood at (202) 447-5848.



Homeland Security

Fiscal Year 2017 Presidential Residence Protection Assistance Grant

Overview

The Fiscal Year (FY) 2017 Presidential Residence Protection Assistance (PRPA) Grant provides Federal funds to reimburse state and local law enforcement agencies for law enforcement personnel costs incurred while protecting any non-governmental residence of the President that is designated or identified to be secured by the United States Secret Service (USSS) in accordance with Section 544 of the *Department of Homeland Security Appropriations Act, 2017* (Pub. L. No. 115-31), which states in part:

In Fiscal Year 2017, FEMA is providing \$41,000,000 to reimburse state and local law enforcement agencies for extraordinary costs associated with protecting the President's residences.

(a) For an additional amount for “Federal Emergency Management Agency—Federal Assistance”, \$41,000,000, to remain available until September 30, 2018, exclusively for providing reimbursement of extraordinary law enforcement personnel costs for protection activities directly and demonstrably associated with any residence of the President that is designated or identified to be secured by the United States Secret Service.

Among the five basic homeland security missions noted in the Department of Homeland Security Quadrennial Homeland Security Review, the PRPA Grant supports the goal of Preventing Terrorism and Enhancing Security.

Funding

In FY 2017, the PRPA Grant provides \$41,000,000 to reimburse state and local law enforcement agencies for extraordinary costs associated with protecting the President's non-governmental residences.

The FY 2017 PRPA Grant Notice of Funding Opportunity (NOFO) is available online at www.grants.gov.

Eligibility

Eligible applicants are limited to state and local law enforcement agencies, either directly or through the State Administrative Agency (SAA), that conduct protection activities associated with any non-governmental residence of the President of the United States designated or identified to be secured

by the USSS. For FY 2017, the states with qualifying residences are Florida, New Jersey, and New York.

The SAA may apply on behalf of one or more eligible state or local law enforcement agencies. If the SAA submits an application on behalf of any law enforcement agency, those law enforcement agencies covered under the SAA's application cannot also apply directly to FEMA for funding under this NOFO. Multiple applications may result in a delay in reimbursement and/or an application to be denied funding. Coordination between the SAA and any eligible state or local law enforcement agency is therefore encouraged.

Funding Guidelines

Two options are available to applicants for submitting reimbursement requests:

- **Option 1:** Applicants may submit reimbursement requests (including the required documentation) with their application in [ND Grants](#) at any time during the period of performance, i.e., until September 30, 2017, at 5:00 pm EDT.
 - If Option 1 is used, the applicant may submit one additional reimbursement request (as an amendment in [ND Grants](#)) for incurred costs that were not included in the initial reimbursement request.
- **Option 2:** Applicants may wait until the end of the period of performance (September 30, 2017) and thereafter submit all reimbursement requests with their application in [ND Grants](#) no later than October 31, 2017, at 5:00 pm EDT.
 - If Option 2 is used, the applicant may not make an amendment request for additional costs.

Operational overtime activities are the **only** costs eligible for reimbursement under this grant, and must be incurred between January 21, 2017 and September 30, 2017.

Costs incurred as a result of normal agency activities (e.g., salaries incurred during normal patrol hours for security operations, also known as "straight time") are not allowable for reimbursement. Additionally, funding may not be used for hiring new or additional personnel or for purchasing equipment.

Awards will be made on a rolling basis. Awards may be made as early as September 30, 2017. FEMA anticipates that all awards will be made no later than December 31, 2017.

See the FY 2017 PRPA Grant NOFO for additional funding guidelines.

Application Process and Evaluation Criteria

Application Process

One Initial Application (via [grants.gov](#)) and one Final Application (via [ND Grants](#), due no later than October 31, 2017 at 5:00 pm EDT) are required for each applicant covering the full Period of Performance.

The SAA may apply on behalf of one or more eligible state or local law enforcement agencies. If the SAA submits an application on behalf of any law enforcement agency, those law enforcement agencies covered under the SAA's application cannot also apply directly to FEMA for funding under this NOFO.

Documentation

Documentation supporting reimbursement requests must be submitted as an attachment in ND Grants. All four categories of documentation (Investment Narrative, Detailed Budget Spreadsheet, Disclosure of Pending Applications, and Certification) are required in order to receive reimbursement. Information in these documents will be used to evaluate allowable costs.

Evaluation Criteria

FEMA will review each application and make a determination as to the level of reimbursement, if any, after considering the information provided in response to the requirements set forth in the FY 2017 PRPA Grant NOFO, and contingent upon available funding relative to reimbursement requests submitted by all applicants.

Applicants that have identified other sources of reimbursement (e.g., U.S. Department of Justice financial assistance, direct appropriation, etc.) for costs incurred protecting the President's designated residences may not be reimbursed or may not be reimbursed at the same level as other applicants.

The following criteria will be used to determine whether claimed costs are allowable for reimbursement:

Table 1: Application Evaluation Criteria

Application Evaluation Criteria
Were the costs incurred between January 21, 2017 and September 30, 2017?
Were the costs incurred by law enforcement personnel?
Were the costs incurred for operational overtime?
Were the costs incurred extraordinary – meaning costs over and above normally planned/budgeted expenditures of the law enforcement agency, which cumulatively present a financial burden on the law enforcement agency?
Were the costs incurred directly attributable to the protection and security of a non-governmental residence of the President designated or identified by the USSS?
Were the costs incurred as the result of an official request by the Director of the USSS pursuant to section 3 or section 4 of the <i>Presidential Protection Assistance Act of 1976</i> (Pub. L. No. 94-524)?
Does the applicant have any pending applications or open awards for Federally-funded grants or cooperative agreements that (1) include requests for funding to support the same Investment Narrative being proposed in the application under this NOFO, and (2) would cover any identical cost items outlined in the budget submitted to FEMA as part of the application under this NOFO?
Has the applicant been approved for overtime requests for the purposes outlined in this NOFO through any open FEMA Grant Award?

Allocation Priorities

Priority 1: Priority for allocation of funding will be to law enforcement agencies that incurred extraordinary law enforcement operational overtime costs while the President, First Lady, or their minor child were at the designated residence.

Priority 2: Additional funding may be allocated for operational overtime costs associated with transportation of the President, First Lady, or their minor child to and from the designated residence within the state.

Priority 3: Remaining funding may be provided on a pro-rata basis for reimbursement of extraordinary law enforcement operational overtime costs incurred by law enforcement agencies for maintaining the security of the designated residences in the absence of the President, First Lady, or their minor child.

PRPA Grant Resources

There are a variety of resources available to address programmatic, technical, and financial questions:

FEMA Headquarters Office

Federal Emergency Management Agency
Grant Programs Directorate
400 C Street SW
Washington, D.C. 20472

Applicants and recipients should contact their FEMA Headquarters (HQ) Program Analyst with any questions or concerns. Applicants or recipients that may be unsure of whom their respective FEMA HQ Program Analyst is should contact the Centralized Scheduling and Information Desk below.

Centralized Scheduling and Information Desk (CSID)

CSID is a non-emergency comprehensive management and information resource developed by FEMA for grant stakeholders. CSID provides general information on FEMA grant programs and maintains a comprehensive database containing key personnel contact information at the Federal, state, tribal, and local levels. When necessary, recipients will be directed to a Federal point of contact who can answer specific programmatic questions or concerns. CSID can be reached by phone at (800) 368-6498 or by e-mail at askcsid@fema.dhs.gov, Monday through Friday, 9:00 a.m. – 5:00 p.m. EDT.

GPD Grant Operations Division

GPD's Grant Operations Division Business Office provides support regarding financial matters and budgetary technical assistance. Additional guidance and information can be obtained by contacting the FEMA Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov.



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



October 13, 2017

Mr. Brock Long
FEMA Administrator
Federal Emergency Management Agency
400 C Street SW
Washington, DC 20472

Re: Certification – FY2017 PRPA Grant

Dear Mr. Long:

Pursuant to FY2017 Presidential Residence Protection Assistance (PRPA) Grant application instructions, this letter shall serve to certify that the protection activities provided by the Palm Beach Police Department were requested by the Director of the USSS, for all overtime for which reimbursement under this grant is requested.

Sincerely,

Kirk W. Blouin
Director of Public Safety

KWB:lsg

INVESTMENT NARRATIVE

Title: Presidential Residence Protection Assistance (PRPA) Grant

Date: October 13, 2017

Covered Agency: Town of Palm Beach Police Department

Description of Extraordinary Law Enforcement Protection:

Prior to and during the FY 2017 Presidential Residence Protection Assistance (PRPA) Grant Period of Performance the President of the United States maintained a residence in the Town of Palm Beach, hereto referred to as Mar-a-Lago. Prior to the 2017 Presidential Election, Mr. Trump and his family spent a good portion of the “season” at residence in the Town of Palm Beach. Since Mr. Trump’s election to President, these occurrences have not changed as might be expected. During the grant period, President Trump, the First Lady, their son Barron and other family members have frequented Mar-a-Lago. In addition to the First Family’s visits, President Trump has held many high profile events at his home, including visits by the Chinese President, the Prime Minister of Japan, Chief of Staff Priebus, and other high-ranking members of the Presidential staff.

During the FY 2017 PRPA Grant Period of Performance, the Palm Beach Police Department developed approximately 15 Operational Plans for Dignitary Visits for the President, the Presidential family, and many high profile world leaders and White House staff. Palm Beach staff members worked alongside and in conjunction with the United States Secret Service and the Palm Beach County Sheriff’s Office in developing operation plans and carrying out protective services in accordance with USSS practices.

The location of the Presidential Residence in the Town promotes logistical complications, as the Town of Palm Beach is unique in its geography and demographics. It is a barrier island 16 miles long and a half-mile wide, at its widest point. The main roadway that runs north and south throughout the Town of Palm Beach is Ocean Boulevard (SR A1A). The roadway is an 11.9 mile undivided roadway, with one lane north and one lane south. This roadway encompasses the east and south sides of the Presidential residence in the Town of Palm Beach. To the east side of the road is the Atlantic Ocean, and to the west side of the residence is the Intracoastal Waterway.

The center of town is an approximate 3.5 square mile mixed residential commercial area, which includes two public beaches, and a high traffic commercial district.

Since Mr. Trump began his campaign for President of the United States, the Town of Palm Beach has had a steady increase in curiosity seekers. This interest has multiplied since January 20, 2017 when Mr. Trump became President of the United States, and has not only attracted curiosity seekers, but also numerous demonstrations and protests on the road surrounding the Presidential Residence when the President is in residence and when he is not.

Descriptions of Financial Burden:

On January 20, 2017 when Mr. Trump became President of the United States, the Town of Palm Beach was in its 4th month of its Fiscal Year 2017 budget. Prior to January 20, 2017, Mr. Trump's visits to his residence during the campaign and post-election played a role in depleting the already established overtime budgets of the Palm Beach Police Department. With approximately 15 qualifying events during the PRPA Grant period of performance, each utilizing

approximately 9-15 staff members per shift, the overtime budget was quickly over-expended. At Fiscal Year End (September 30, 2017) the overtime budgets for units effected by Presidential security activities covered in the PRPA grant were over-expended by more than \$436,000. While not all of the overtime overage was related to activities covered by the PRPA grant, a huge finance burden was also placed on the Town of Palm Beach from campaign activities, the President Elect period and Hurricanes Matthew and Irma preparedness and recovery activities.

Memorandum of Understanding: The Town of Palm Beach did not enter an agreement or memorandum of understanding that was enacted for the purpose of security related activities undertaken to protect the designated residence.

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 206-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town of Palm Beach to Submit an Application to the Florida Department of Transportation (FDOT) for the FY2017 High Visibility Enforcement for Pedestrian and Bicycle Safety Grant for Reimbursement of Applicable Law Enforcement Personnel Overtime; Not to Exceed \$5,000; during the Application Period; and Authorizing the Town Manager and Staff to Execute All Documents Necessary on Behalf of the Town of Palm Beach.

Presenter

Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- ▣ **Memorandum dated October 13, 2017, by Kirk W. Blouin, Director of Public Safety**
- ▣ **Resolution No. 206-2017**
- ▣ **Exhibit A**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk W. Blouin, Director of Public Safety

Re: FY2017 High Visibility Enforcement Grant Application
Resolution No: 206-2017

Date: October 13, 2017

STAFF RECOMMENDATION

Staff recommends the Town Council approve Resolution No. 206-2017 authorizing the Town of Palm Beach to complete and submit a grant application for reimbursement of qualifying law enforcement personnel overtime expenses incurred during the High Visibility Enforcement for Pedestrian and Bicycle Safety initiative (August 2017 – May 2018).

GENERAL INFORMATION

This grant program is administered by the Florida Department of Transportation and the funds are intended as a crash mitigation tool. The enforcement activities are designed to target unsafe behaviors of all road users, including motorists, pedestrians, and bicyclists. Participating officers are required to complete designated training on the Alert Today Florida website prior to participation and distribute the provided Alert Today, Alive Tomorrow campaign educational materials as a routine component of all enforcement contact with the public.

FUNDING/FISCAL IMPACT

Upon completion of the grant period (May 31, 2018), the Town will submit overtime expenses documentation for applicable law enforcement personnel and to request reimbursement up to \$5,000.

PURCHASING REVIEW

This item is not applicable to the Purchasing Division.

FY2017 High Visibility Enforcement Grant Application
Resolution No: 206-2017
Page 2

TOWN ATTORNEY REVIEW

The resolution has been approved by the Town Attorney as to form and legal sufficiency.

KWB/lsg

cc: Jane Struder, Director of Finance
Ann-Marie Taylor, Deputy Chief of Police
John Randolph, Town Attorney

RESOLUTION NO. 206-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE TOWN OF PALM BEACH TO SUBMIT AN APPLICATION TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE FY2017 HIGH VISIBILITY ENFORCEMENT FOR PEDESTRIAN AND BICYCLE SAFETY GRANT FOR REIMBURSEMENT OF APPLICABLE LAW ENFORCEMENT PERSONNEL OVERTIME; NOT TO EXCEED \$5,000; DURING THE APPLICATION PERIOD; AND AUTHORIZING THE TOWN MANAGER AND STAFF TO EXECUTE ALL DOCUMENTS NECESSARY ON BEHALF OF THE TOWN OF PALM BEACH.

WHEREAS, the Town of Palm Beach desires to participate in the High Visibility Enforcement for Pedestrian and Bicycle Safety Grant administered by Florida Department of Transportation.

WHEREAS, the grant funds are to be used in accordance with grant guidelines as a crash mitigation tool and designed to target unsafe behaviors of all road users, including motorists, pedestrians, and bicyclists.

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

Section 1. The Town Manager and staff are authorized to submit an application to the Florida Department of Law Enforcement (FDOT) for reimbursement of overtime expenses incurred by applicable law enforcement personnel during the grant period of August 2017 – May 2018.

Section 2. A copy of the FY2017 High Visibility Enforcement for Pedestrian and Bicycle Safety grant application requirements are attached hereto as *Exhibit A* and is hereby incorporated within this Resolution and made a part hereof.

PASSED AND ADOPTED IN A REGULAR, ADJOURNED SESSION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH THIS 14TH DAY OF NOVEMBER, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member



High Visibility Enforcement for Pedestrian and Bicycle Safety

Crashes involving pedestrians and bicyclists are more likely to result in fatal or serious injuries than any other types of crashes, and the financial impacts and suffering caused by these crashes are significant. As a result, the Florida Department of Transportation (FDOT) is looking to supplement ongoing educational campaigns with high visibility enforcement operations in the most needed locations. FDOT now has funding available for law enforcement agencies to conduct High Visibility Enforcement operations for pedestrian and bicyclist safety.

High visibility enforcement funds are intended as a crash mitigation tool. These enforcement activities are designed to target unsafe **behaviors** of all road users, including motorists, pedestrians, and bicyclists. Under no circumstances should specific demographics be singled out or targeted.

The funds may only be used for officer overtime hours spent conducting on-street enforcement operations for the period of August 2017 through May 2018. The funding is not to be used for any of the following: production or printing of materials, training or administration, public or school outreach events, or to duplicate efforts already funded from another source such as an FDOT safety grant. To be eligible for these funds, law enforcement agencies must be located in one of the top 20 Florida counties with the greatest number of pedestrian and bicyclist fatalities: Miami-Dade, Monroe, Broward, Palm Beach, Orange, Volusia, Seminole, Brevard, Duval, Alachua, Escambia, Leon, Hillsborough, Pinellas, Pasco, Polk, Manatee, Lee, Sarasota, or Collier.

Minimum participation requirements are outlined below. Additional details and guidance will be provided upon receipt of a completed program application.

- Complete the required training (see more details below).
- Conduct repeated overtime enforcement operations following an education, warning, and citation enforcement progression, specifically targeting locations and issues identified by crash data.
- Distribute the provided Alert Today, Alive Tomorrow campaign educational materials as a routine component of all enforcement contacts with the public.
- Submit regular invoices and progress reports including documentation of each completed enforcement operation by location. The program will be administered by a contract with the University of South Florida's Center for Urban Transportation Research, and the regular documentation and evaluation is a primary component of this program.
- Create and distribute at least two press releases during the course of the contract. The first will announce the initiation of targeted enforcement activities, and the second will announce the change from warnings to citations. Additional press releases and media involvement are highly recommended.

Prior to beginning operations, your agency will be required to submit a signed and dated list of personnel authorized to perform overtime details on the contract. The letter shall include a certificate of completion of each required training for each officer and a fully-loaded hourly overtime rate range (including benefits) for each. Only hours from officers listed, and between the rates shown on the authorized personnel list, will be eligible for reimbursement. The authorized personnel list may be updated to add officers and update rates after the contract is completed, but no hours may be charged for any individual officer until after the updated personnel list has been signed and dated showing their billing rate and verifying training has been completed.



There will be two **required** training modules this year, that will be accessed for free through the www.AlertTodayFlorida.com website. All officers must meet all training requirements, regardless of previous training. Each officer will be responsible for taking the training and passing quizzes. These training modules will be available starting in early-July, and further details on how to access the training and quiz modules will be provided to agencies that apply. Officers do not have to be trained before the agency applies, but time for completion of these training requirements shall be in-kind.

The following **optional** training materials were created by the National Highway Traffic Safety Administration (NHTSA). Training is available through the National Law Enforcement Academy Resource Network (NLEARN), which can be accessed for free at the following website: <http://www.iadlest.org/Projects/NLEARN.aspx>. Further details on how to access the training will be provided upon receipt of the agency's application. Time for completion of these training requirements shall be in-kind.

- "Pedestrian Safety Training for Law Enforcement." A self-paced, interactive training.
- "Enhancing Bicycle Safety: Law Enforcement's Role". A self-paced, interactive training.

Applications will be accepted until funds are exhausted. If your agency is interested in conducting high visibility enforcement for pedestrian and bicyclist safety in your community, please submit an online application. To apply, visit www.AlertTodayFlorida.com/HVE, at the very top, complete the "Application for HVE Funding 2017-18".

If you have any questions about the application process, please contact Alex Cruz at USF-CUTR at acc2@cutr.usf.edu. If you have any questions about the program or FDOT's Alert Today, Alive Tomorrow campaign for pedestrian and bicyclist safety, please contact Tenda McPherson at 850-414-4025 or Tenda.McPherson@dot.state.fl.us.

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 207-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of five (5) Greensmaster Flex 2120 Walking Greens Mowers at a Cost of \$60,069.82 From WescoTurf for use at the Par 3 Golf Course, and Authorizing the Town Manager to Execute the Purchase on Behalf of the Town.

Presenter

Beth Zickar, Director of Recreation

ATTACHMENTS:

- ▣ **Memorandum Dated October 30, 2017 from Beth Zickar, Director of Recreation**
- ▣ **Resolution No. 207-2017**
- ▣ **Price Quote - WescoTurf - Greensmaster Flex 2120**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Beth Zickar, Director of Recreation

Re: Authorization to Purchase Five (5) Toro Greensmaster Flex 2120 Walk Greensmowers for the Par 3 Golf Course
Resolution No. 207-2017

Date: October 30, 2017

STAFF RECOMMENDATION

Staff recommends Town Council approve Resolution No. xxx - 2017 authorizing the purchase of five (5) Toro Greensmaster Flex 2120 Walk Greensmowers at a cost of \$60,069.82 from WescoTurf, via Florida State Contract # 21100000-15-1. This item is included in the Recreation Department's scheduled equipment replacement program.

GENERAL INFORMATION

This equipment will replace the six (6) 2009 Toro Greensmaster Flex 21 Walk Greensmowers, serial numbers 290000523, 290000530, 290000526, 290000607, 290000592, 290000529 (asset numbers 50100390, 50100400, 50100410, 50100420, 50100430, 50100440). The current mowers have been reliable until recent years when parts have started to deteriorate requiring frequent repairs and resulting in increasing periods of downtime. The cost of these repairs are expected to rise as the exposure to the environmental conditions have caused excessive rusting leading to the repeated failure of the equipment to perform the functions for which it is designed. The new Greensmaster Flex 2120 Walk Greensmowers utilizes an integrated flexible linkage system, creating a free-floating cutting unit which follows the contour of the ground for a smooth cut on uneven terrain.

FUNDING/FISCAL IMPACT

Funding for this replacement purchase has been appropriated within the Recreation Enterprise Fund's Equipment Replacement Fund for FY2018.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been approved by the Town Attorney for legal form and sufficiency.

cc: Jane Struder, Director of Finance
John C. Randolph, Town Attorney
Tony Chateauvert, Golf Manager
Tim Campbell, Golf Course Superintendent
Dean Mealy, Purchasing Manager

RESOLUTION NO. 207- 2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE PURCHASE OF FIVE (5) TORO GREENSMaster FLEX 2120 WALK GREENSMOWER AT A COST OF \$60,069.82 FROM WESCOTURF FOR USE AT THE PAR 3 GOLF COURSE, AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE PURCHASE ON BEHALF OF THE TOWN.

WHEREAS, the six (6) 2009 Toro Greensmaster Flex 21 Walk GreensMowers currently utilized at the Par 3 Golf Course are in need of replacement due to wear and tear from excessive use and exposure to environmental elements; and

WHEREAS, the replacement of these mowers was included and budgeted for in the equipment replacement schedule for fiscal year 2018; and

WHEREAS, pricing for the Toro Greensmaster Flex 2120 Walk Greensmowers were obtained in accordance with Florida State Contract No. 21100000-15-1 which covers and includes all labor, materials, equipment and freight.

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

Section 1. The Town Council hereby approves the purchase of five (5)) Toro Greensmaster Flex 2120 Walk Greensmowers from WescoTurf, in the amount of \$60,069.82 as outlined in the proposal.

Section 2. The Town Manager is hereby authorized to execute the purchase on behalf of the Town of Palm Beach.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate this purchase for five (5) walk greensmowers.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 14th day of November 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Town Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez,
Town Clerk

Margaret A. Zeidman, Town Council Member



October 16, 2017

Mr. Tim Campbell
Palm Beach Par 3
2345 S. Ocean Boulevard
Palm Beach, FL 33480
Via E-mail: tcampbell@townofpalmbeach.com

Customer:
Ship To:
Street Address
City, State Zip

All pricing is valid for thirty (30) days

**Toro Pricing per Florida State Contract # 21100000-15-1
Effective Through June 30, 2020**

Qty.	Model	Description	Extension Price	Requested Delivery Date
1	04044	Greensmaster Flex 2120	\$ 6,754.50	
1	04290	Flex 11 BL 21 Inch Cutting Unit	\$ 3,473.63	
1	04257	Front Full Roller	\$ 285.98	
1	04123	Wheel Kit	\$ 162.74	
1	04064	Flex Head Led Light Kit	\$ 496.91	
Total Price for 1 Unit(s)			\$ 11,173.76	
Total Price for 5 Unit(s)			\$ 55,868.80	
1	04238	Trans Pro 80	\$ 835.03	
1	04247	Rail Ramp Kit, TransPro 80	\$ 465.31	
Total Price for 1 Unit(s)			\$ 1,300.34	
Total Price for 3 Unit(s)			\$ 3,901.02	

Terms: Net 30

Equipment Total \$ 59,769.82
Freight Out \$ 300.00
State Sales Tax (0 + 0 County Surtax) **Tax Exempt**
Equipment Total **\$ 60,069.82**

Please indicate your acceptance of this quote as an order by signing below and returning via fax to Wesco Turf at 941.487.6889. Please include your preference for Height of Cut where applicable.

Mr. Tim Campbell

Date

The following quote meets or exceeds ANSI Safety Specification.

The preceding pricing is good for 30 days, not including Florida Sales Tax, after which time new pricing would have to be submitted.

Thank you for considering Wesco Turf, Inc. for your equipment needs. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Chris Fordney

Territory Manager
Commercial Division
Sarasota
(941) 650-1257; chris.fordney@wescoturf.com

PND/slg
CC: Pat Duggins

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Consent - Other

Agenda Title

Lake Trail Improvements - Update and Request For Extended Work Hours.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated October 24, 2017, from H. Paul Brazil, P.E.,
Director of Public Works**
- ▣ **Photographs**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P. E., Director of Public Works

RE: Lake Trail Improvements - Update

DATE: October 24, 2017

STAFF RECOMMENDATION

Town staff recommends that Town Council grant a waiver to Sections 42-198 through 42-199 and Sections 42-226 through 42-229 of the Town of Palm Beach Code of Ordinances to allow for work to continue in-season and for extended work hours from 8:00 a.m. to 6:00 p.m.

GENERAL INFORMATION

The pedestrian pathway (bike path) on Lake Trail is located parallel to the seawall along the Intracoastal waterway from Royal Palm Way to Reef Road. The approximate five (5) miles of asphalt pavement has had asphalt overlays and top coating applications applied to it throughout the years, along with other patch repairs. The Lake Trail was in varying degrees of disrepair throughout the length of the trail. At the May 9, 2017 Town Council Meeting, R and D Paving was awarded a construction contract to repair and improve the pavement deficiencies. This work was to be completed by October 13, 2017, but due to Hurricane Irma and the following excessive high tides the contract time was extended to November 17, 2017.

Currently, Lake Trail is open from the south end of Bradley Park to the northern limits of the trail near Reef Rd. The Bradley Park extension of Lake Trail will not be open to the public until the Bradley Park Improvements project is completed. Within the northern portion of the trail, the Dunbar Rd. access needs to be completed, but work cannot proceed until the excessive high tides subside. The rising coastal flooding is also a problem for the segment of work from Whitehall Way south towards the beginning of the trail near the Society of the Four Arts. Once the flooding on the path has receded, the contractor will be able to return and complete the project.

SPECIAL CONSIDERATIONS

Construction is scheduled to be completed by November 17, 2017, but with the uncertainty of the tide levels, it is possible that work will not be completed before December 1, 2017. Staff recommends that a waiver to the Town ordinance be granted to allow the contractor to complete the project within “the season”. Once the construction resumes the work will be completed within a month.

This staff recommendation includes waivers of the following sections of the Town Code of Ordinances:

- Section 42-198 - operation of certain machinery during winter, Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving.
- Section 42-199 - prohibits work between 5:00 p.m. and 8:00 a.m.
- Sections 42-226 through 229 – regulates noise, equipment operation, work hours and the standard Town requirement to “stand down for the season”.

FUNDING/FISCAL IMPACT

This update will not have any funding impacts.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

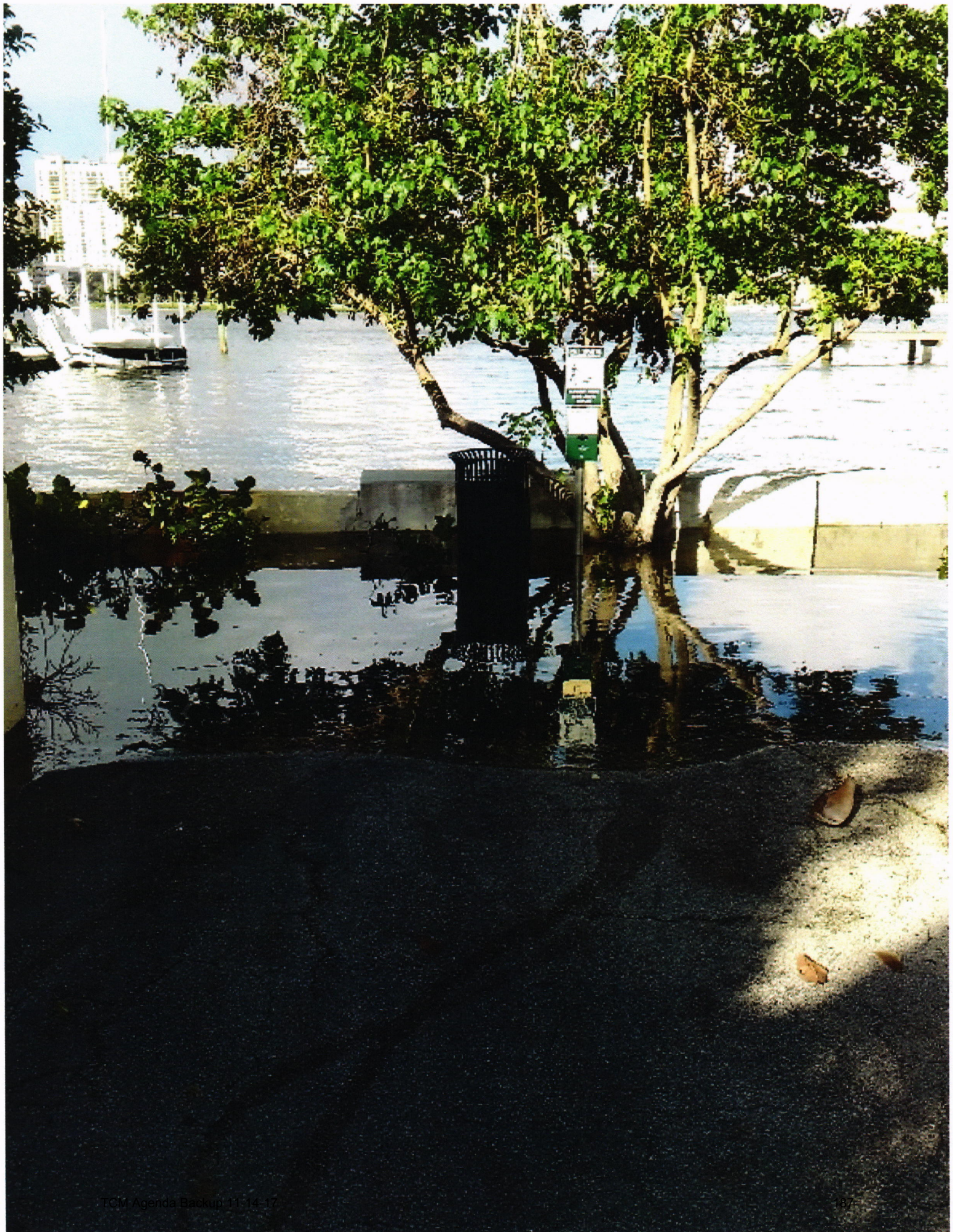
This resolution has been reviewed by the Town Attorney and approved as to legal form and sufficiency.

Attachments

cc: Jane Struder, Director of Finance
Eric Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Jason Debrincat, P.E., Senior Town Engineer
Jeffrey Sanon, P.E., Project Engineer
Dean Mealy, Purchasing Manager







TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Consent - Other

Agenda Title

Bradley Park Improvements - Update and Request For Extended Work Hours.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated October 24, 2017, from H. Paul Brazil, P.E.,
Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P. E., Director of Public Works

RE: Bradley Park Improvements - Update

DATE: October 24, 2017

STAFF RECOMMENDATION

Town staff recommends that Town Council grant a waiver to Sections 42-198 through 199 and Sections 42-226 through 229 of the Town of Palm Beach Code of Ordinances to allow for work to continue in-season and for extended work hours from 7:00 a.m. to 6:00 p.m.

GENERAL INFORMATION

The Town of Palm Beach is continuing its efforts to conduct improvements to Bradley Park which is located at the Northwest corner of the Royal Poinciana Way and Bradley Place intersection. This project is being funded by the Preservation Foundation of Palm Beach and the construction is being managed by the Town. At the April 13, 2017 Town Council Meeting, Council awarded Burkhardt Construction, Inc. (BCI) a Guaranteed Maximum Price construction contract for the Bradley Park Improvements. This work was to be completed by November 3, 2017, but due to the impacts of Hurricane Irma this project is now expected to be completed on December 16, 2017.

Two weeks of the delay is due to the time it took for the contractor to mobilize back onsite, coordinate clearing the work area, and bringing back the contractors involved on the project. The larger delay is due to impacts from Hurricanes Irma and Maria on the island of the Dominican Republic. The Dominican Coral that was to be delivered in late September has pushed back the delivery dates to the end of October. While waiting for the complete order of coral to arrive BCI has continued working on the park. The areas affected by the delay are the gazebo, terrace, and the fountain.

SPECIAL CONSIDERATIONS

Staff recommends that a waiver to the Town ordinance be granted to allow the contractor to complete the project within “the season”. Construction is scheduled to be completed by December 16, 2017.

This staff recommendation includes waivers of the following sections of the Town Code of Ordinances:

- Section 42-198 - operation of certain machinery during winter, Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving.
- Section 42-199 - prohibits work between 5:00 p.m. and 8:00 a.m.
- Sections 42-226 through 229 – regulates noise, equipment operation, work hours and the standard Town requirement to “stand down for the season”.

FUNDING/FISCAL IMPACT

This update will not have any funding impacts.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed by the Town Attorney and approved as to legal form and sufficiency.

Attachments

cc: Jane Struder, Director of Finance
Eric Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Jason Debrincat, P.E., Senior Town Engineer
Jeffrey Sanon, P.E., Project Engineer
Brett Madison, Facilities Division Manager
Dean Mealy, Purchasing Manager

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Consent - Other

Agenda Title

Status Report of Delinquent Accounts

Presenter

Jane Struder, Director of Finance

ATTACHMENTS:

- ▣ **Memorandum Dated October 31, 2017, from Jane Struder, Director of Finance**
- ▣ **Monies Owed to the Town**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jane Struder, Director of Finance

Re: Status Report of Delinquent Accounts and Request for Authorization to Write-off Uncollectible Accounts

Date: October 31, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council authorize staff to write off the balances identified in the report and summarized below:

Type of Charge	Write off Amount	FY2017 Revenue Collected	% of Write off vs. Total Revenue
EMS Charges	\$169,495	\$414,961	41%
Recreation Camp Fees	\$832	\$329,390	.002%
Parking Tickets (FY2014)			
Tickets	\$80,450	\$573,333	14.0%
Penalties	<u>\$86,445</u>	<u>\$149,645</u>	58%
Total	\$337,222	\$1,467,329	23%

GENERAL INFORMATION

Status of Delinquent Accounts - Year End Update

Attached is the September 30, 2017, Status of Delinquent Accounts report for your review. This report includes outstanding code enforcement liens, false alarm fees and fire prevention fees. The total amount of delinquent accounts on this report equals \$2,686,746.46. Most of the balance is made up of code enforcement liens. The numerous \$150 amounts under code enforcement liens represent code enforcement administrative fees.

Overall, aside from the code enforcement liens, the alarm and fire prevention accounts are mostly current and collection letters have been sent to the parties involved. This delinquent account report is prepared monthly and distributed to the Planning, Zoning and Building, Public Works, Fire-Rescue and the Police Departments to monitor for collection opportunities.

EMS Collections

Fire-Rescue is requesting the authority to write off \$169,495 in uncollectible EMS fees.

The Town of Palm Beach contracts with EMS M/C for ambulance billing services. EMS M/C attempts to collect payment through insurance providers and then through the patient directly. After at least four attempts at direct payment from the patient over time, EMS M/C considers the debt to be uncollectable by them and writes the debt off of their accounts receivables. The debt is then transferred to Security Collection Agency (SCA), the collection agency contracted by the Town.

Once a year, the Town Finance Department writes off its bad debt. Included in this write off is the ambulance billing debt written off by EMS M/C. While EMS M/C and the Town are removing this debt from their accounts receivables the debt is still being pursued by Security Collection Agency and a portion of any outstanding revenue collected is submitted to the Town.

The status of EMS revenue/collections as of 9/30/17 is shown below:

Total amount due on EMS accounts: \$158,530

Total amount of delinquent accounts: \$55,732

The collection rate for the FY2016 dates of service is 74.4%, the collection rate for the FY2015 dates of service is 75.6%

Total EMS revenue: \$414,961

Recreation Camp Fees

This write off is composed of two NSF checks for summer camp 2015. Certified Letters were mailed but were returned without being claimed. Recreation has marked their accounts to prevent further services from being extended unless the NSF checks have been paid in full.

Parking Tickets

The Town uses a collection agency, Enforcement Technology (ET) to collect on delinquent and out-of-state parking tickets. During FY17, their efforts to collect on delinquent tickets have produced \$67,188 in additional parking ticket revenue, an increase from \$8,372 in FY17. ET has been paid \$26,874 for their efforts during the year.

Revenues from parking tickets and associated penalties for FY17 were \$200,976 lower than FY16. The decline in revenue is due to the fact that the parking control officers were pulled away to assist with other assignments such as: POTUS detail when the President was in town, school crossings, hurricane relief at the bridges, etc.

Last year, Town Council authorized staff to write off tickets issued during fiscal year 2013. We are requesting that the Town Council authorize staff to write off outstanding parking tickets and penalties issued prior to September 30, 2014, totaling \$166,895. This total consists of original tickets issued in the amount of \$80,450 and \$86,445 in penalties. These tickets have been sent to the collection agency and all efforts have been made to collect these tickets. The collection agency will continue to pursue these outstanding tickets.

The chart below compares FY2016 vs. FY2017 write off and receivable balances.

Comparison of FY2016 vs. FY2017 Receivable Report

Write off Amounts

Type of Charge	FY2016	FY2017
EMS Charges	\$289,895	\$169,495
Code Enforcement	\$5,525	\$0.00
Recreation Camp Fees	\$0.00	\$832
Parking Tickets	\$138,980	\$166,895

Balance of Delinquent Accounts

Type of Charge	FY2016	FY2017
Code Enforcement Liens	\$2,232,153	\$2,679,578
Fire Prevention Fees	\$1,073	\$1,308
False Alarm Accounts	\$756	\$3,861
EMS Charges	\$206,346	\$158,530
Parking Tickets		
Tickets	\$360,525	\$289,754
Penalties	\$346,206	\$337,778

Revenues from above sources

Type of Charge	FY2016	FY2017
Code Enforcement Liens	\$190,705	\$178,244
EMS Fees	\$419,950	\$414,961
Parking Tickets and Penalties	\$923,954	\$722,979

**Town of Palm Beach
Delinquent Accounts
9/30/2017**

Name	Address	Case Number	Date of Violation	Principal Due	Penalty/Interest Due	Total Due	Date of Lien	Action Taken
Code Enforcement Liens								
Robert & Beverly Lowden	129 Chilian Ave	Case #07-2073	03/14/2007	\$150.00	\$35,227.84	\$35,377.84	04/12/2007	\$150 CEB Cost 3/15/07 \$250 Day, Adv Fee \$477.84
Susan Gibson- Case 1	226 Pendleton Ave	Case #07-2277	09/20/2007	\$150.00	\$43,250.00	\$43,400.00	08/11/2010	\$150 CEB 9/20/07 \$250 per day thru 3/20/08 (sewer)
Susan Gibson- Case 2	226 Pendleton Ave	Case #07-2277	10/17/2007	\$0.00	\$909,000.00	\$909,000.00	08/11/2010	Daily Running Fine of \$250.00 started 10/18/07
C.J.'s Simply Gourmet Inc	235 Sunrise Avenue	Case #08-2497	05/17/2008	\$400.00	\$0.00	\$400.00	07/31/2008	Fine of \$250.00: CEB Cost of \$150.00 5/17/08
C.J.'s Simply Gourmet Inc	235 Sunrise Avenue	Case #08-2498	05/17/2008	\$400.00	\$0.00	\$400.00	07/31/2008	Fine of \$250.00: CEB Cost of \$150.00 5/17/08
C.J.'s Simply Gourmet Inc	235 Sunrise Avenue	Case #08-2499	05/17/2008	\$150.00	\$500.00	\$650.00	07/31/2008	Fine of \$500.00: CEB Cost of \$150.00 5/17/08
C.J.'s Simply Gourmet Inc	235 Sunrise Avenue	Case #10-2706	04/10/2010	\$150.00	\$682,500.00	\$682,650.00	06/02/2010	Daily Fine of \$250.00 started 4/10/10 CEB costs
Susan C Lee	287 Pendleton Ave	Case #12-16	03/22/2012	\$150.00	\$291,750.00	\$291,900.00	04/27/2012	\$150 CEB on 3/22 - \$250 per day 4/07/12-stopped 6/18/15
Robert & Beverly Lowden	129 Chilian Ave	Case #14-152	04/15/2014	\$150.00	\$24,750.00	\$24,900.00	5/1/2014	\$150 CEB on 3/20/14 \$250 per day 4/15/14-comp 7/23/14
Ellis & Nancy Parker	2165 Ibis Isle Rd #8	Case #14-1212	01/10/2015	\$150.00	\$198,500.00	\$198,650.00	2/8/2015	\$150 CEB on 12/18/14 \$250 per day start 01/10/15
160 Royal Palm LLC	160 Royal Palm Way	Case #14-1360	02/27/2015	\$150.00	\$25,500.00	\$25,650.00	4/14/2015	\$150 CEB on 2/19/15 \$250 per day
Robert & Beverly Lowden	129 Chilian Ave	Case #15-57	04/11/2015	\$150.00	\$225,750.00	\$225,900.00	4/29/2015	\$150 CEB on 3/19/15 \$250 per day 4/11/15
Paul Pontifret	224 Atlantic Ave	Case #15-780	08/31/2015	\$0.00	\$1,200.00	\$1,200.00	10/14/2015	\$150 CEB on 7/16/15 paid \$50 per day 8/20/15
Steve Demetro & Crown PDR	168 Reef Road	Case #15-459	08/20/2015	\$150.00	\$250.00	\$400.00	6/9/2017	\$150 CEB & \$250 fine on 8/20/15
Steve Adams & Crown PDR	515 N Lake Way	Case #15-781	08/20/2015	\$150.00	\$250.00	\$400.00	6/9/2017	\$150 CEB & \$250 fine on 8/20/15
Matthew Gabelli	1157 N Lake Way	Case #15-964	11/19/2015	\$150.00	\$0.00	\$150.00	2/25/2016	\$150 CEB on 11/19/15 owes alarm fees
Sheldon Kramer & Savecard	302 S. County Rd	Case #15-1068	12/17/2015	\$0.00	\$250.00	\$250.00	6/9/2017	\$150 CEB on 12/17/15 and CEB fine of \$250
The Sweet Spot	100 Bk Chilian Ave	Case #16-7	01/21/2016	\$150.00	\$125.00	\$275.00	6/9/2017	\$150 CEB on 1/21/16 & \$125 Fine
Yoel Concepcion	2145 S Ocean Blvd	Case #16-406	09/15/2016	\$150.00	\$125.00	\$275.00	6/9/2017	\$150 CEB on 6/16/16 & \$125 Fine
Joshua & Celeste Leader	232 Cherry Lane	Case #16-680	11/05/2016	\$0.00	\$64,400.00	\$64,400.00	12/7/2016	\$150 CEB on 10/20/16
Cornelia M Lorentzen	353 Seaspray Ave	Case #16-709	11/17/2016	\$150.00	\$27,000.00	\$27,150.00	1/5/2017	\$150 CEB on 11/17/16
Brazilian Court Hotel	301 Australian Ave	Case #16-1107	04/20/2017	\$0.00	\$41,250.00	\$41,250.00	6/7/2017	\$150 CEB on 01/19/17 \$100 per day start 2/11/17
Susan Gibson	226 Pendleton Ave	Case #16-1116	03/16/2017	\$150.00	\$16,500.00	\$16,650.00	5/2/2017	\$150 CEB on 3/16/17
Geryl T Pearl	1237 N Lake Way	Case #17-30	05/18/2017	\$0.00	\$13,600.00	\$13,600.00	Still Working	\$150 CEB on 4/20/17 pd - \$100 per day fine 05/17/17
Costa Palm Beach & Wilson 150 Worth	150 Worth Ave #234	Case #17-122	06/15/2017	\$150.00	\$24,350.00	\$24,500.00	7/28/2017	\$150 CEB on 6/15/17
Le Macaron Palm Beach LLC	302 S. County Rd /296 So County	Case #17-221	04/20/2017	\$0.00	\$3,400.00	\$3,400.00	6/27/2017	\$150 CEB on 4/20/17 paid Admin \$25 Fine per day
Florida Capital Mgmt LLC	237 Brazilian Ave	Case #17-706	07/20/2017	\$150.00	\$46,000.00	\$46,150.00	7/28/2017	\$150 CEB on 7/20/17 \$500 a day Fine
Total CEB Fines				\$3,650.00	\$2,675,927.84	\$2,679,577.84		
Alarm Accounts								
Janet Vargas	115 Ocean View Rd	AL-003394	6/5/2017	\$600.00	\$278.46	\$878.46		Cent Ltr 08/10/17 - CEB on 09/21/17
Salvatore Ferragamo	200 Worth Ave	AL-000190	7/11/2017	\$300.00	\$274.79	\$574.79		Cent Ltr 09/21/17 - CEB on 10/06/17 - Paid in Oct
IL Sogno PB LLC	1520 South Ocean Blvd	AL-003095	7/11/2017	\$2,250.00	\$157.50	\$2,407.50		Cent Ltr 09/21/17 - CEB on 10/06/17
Total Alarm Calls				\$3,150.00	\$710.75	\$3,860.75		
Police Special Detail								
Kantis Direct	Invoice 5398	4/24/2017		\$529.37	\$0.00	\$529.37		Collection Letter emailed - Sent to CEB
Joel Harris	Invoice 5467	8/28/2017		\$1,050.00	\$0.00	\$1,050.00		Sent Past Due Notice
Meat Market	Invoice 5468	8/28/2017		\$420.00	\$0.00	\$420.00		Sent Past Due Notice
Total Special Detail				\$1,999.37	\$0.00	\$1,999.37		
Fire Prevention								
POWER ONE FITNESS	101 Bradley Place #203	17080326504	8/3/2017	\$110.00	\$0.00	\$110.00	Inspection 8/8/2017	Sent Past Due Letter
2560 South Ocean Blvd. Condo Association	400 Royal Palm Way #402	17071926501	7/19/2017	\$182.00	\$0.00	\$182.00	7/19/2017	Sent Past Due Letter
Reid Moore	313 North Avenue	17070715501	7/7/2017	\$121.00	\$0.00	\$121.00	7/7/2017	Sent Certified Past Due Letter
Bice	254 Sunrise Avenue	17062826511	6/28/2017	\$230.00	\$0.00	\$230.00	6/28/2017	Sent Certified Past Due Letter
Wells Fargo Bank	203 Royal Poinciana Way F. H	17062815501	6/28/2017	\$133.10	\$0.00	\$133.10	6/28/2017	Sent Certified Past Due Letter
ERIC SMITH	227 Sunrise Avenue C4	17061426500	6/14/2017	\$133.10	\$0.00	\$133.10	6/14/2017	Sent Certified Past Due Letter
PARADISE LOST	313 North Avenue B	17060715510	6/7/2017	\$133.10	\$0.00	\$133.10	6/7/2017	Sent Certified Past Due Letter
Biesk Jewelry	180 Royal Palm Way #211	17051915508	5/19/2017	\$133.10	\$0.00	\$133.10	5/19/2017	Sent Certified Past Due Letter
Thomas J. Barone				\$1,308.50	\$0.00	\$1,308.50		
Total Fire Inspection				\$1,308.50	\$0.00	\$1,308.50		
Total Monies due to the Town				\$10,107.87	\$2,676,638.59	\$2,686,746.46		

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Consent - Other

Agenda Title

Authorization to Direct Potential Zoning Code Change to the Planning & Zoning Commission : Governmental and/or Historic Signage on Public Property

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated November 1, 2017 From John S. Page, Director of Planning, Zoning & Building**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John Page, Planning, Zoning and Building Director

Re: Authorization to Direct Potential Zoning Code Change to the Planning and Zoning Commission: Government and/or Historic Signage on Public Property

Date: November 1, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council authorize the Planning and Zoning Commission to study potential amendments to the Zoning Code (Chapter 134) governing the use of governmental and/or historic signage on public property.

GENERAL INFORMATION

The Town Zoning Ordinance addresses signage regulations but lacks any provision for governmental signage related to State, County and municipal projects. Recent improvements to Bradley Park, including the intent to display historic markers (signs) therein, prompt Staff to recommend that new Code language be added to the Zoning Ordinance to allow for such signage. Staff envisions that any new regulations, if adopted, would clarify exactly what type of signage could be placed on public property which is not within public rights-of-way.

cc: John C. Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Consent - Other

Agenda Title

Confirmation of Caucus Time

Presenter

Kathleen Dominguez, Town Clerk

ATTACHMENTS:

- **Memorandum dated November 3, 2017, from Kathleen Dominguez, Town Clerk**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kathleen Dominguez, Town Clerk

Re: Scheduling of the 2018 Town Caucus

Date: November 3, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council schedule the 2018 Town Caucus for January 9, 2017, at 7:00 p.m., and, if required, the Special Town Council meeting to call the 2018 election for January 12, 2018, at 9:30 a.m.

GENERAL INFORMATION

Sec. 5.03(a) of the Charter of the Town of Palm Beach sets the date of the 2018 Town Caucus for the second Tuesday in January which means that the 2018 Town Caucus is scheduled for January 9, 2017. Historically the Town Caucus has commenced at 8:00 p.m.; however, after several preferences for an earlier start time were received and discussed, the Town Council scheduled the 2015, 2016 and 2017 Town Caucus for 7:00 p.m. Staff received positive feedback regarding the earlier start time and is seeking direction regarding the Town Council's preferred start time for the 2017 and future Town Caucuses.

Sec. 34-116 of the Town Code of Ordinances requires that the Town Council meet and either call for, or cancel, the 2018 general election within three days after Qualifying closes, which is Wednesday, January 10, 2018 at 5:00 p.m. This brief special meeting has historically been held at 9:30 a.m. on the Friday after the Caucus, which would be Friday, January 12, 2018. Holding the special meeting any earlier does not allow enough time to certify petitions submitted on Qualifying Day, prepare the Caucus Minutes and get them signed by the Caucus Chair and Secretary, provide adequate legal notice, or make the appropriate meeting arrangements. If the special meeting is scheduled for the third day after Qualifying closes, then it would fall on Saturday, January 13, 2018. Staff is seeking direction from the Town Council regarding the scheduling of the special Town Council meeting to either call for, or cancel, the 2018 Town of Palm Beach general election.

FUNDING/FISCAL IMPACT

There are no funding or fiscal impacts relative to these matters.

TOWN ATTORNEY REVIEW

This item has been reviewed by the Town Attorney.

cc: Jay Boodheshwar, Deputy Town Manager
Patricia Gayle-Gordon, Deputy Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Appeals

Agenda Title

ARCOM Appeal of Project Approval

Case No. B-020-2017

202 Onondaga Avenue

Presenter

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

ATTACHMENTS:

- ❑ **Memorandum Dated October 23, 2017 From John S. Page**
- ❑ **202 Onondaga Ave Rendering**
- ❑ **Letter Dated October 6, 2017 From John Dotterer**
- ❑ **Letter Dated November 8, 2017 from John Dotterer**
- ❑ **Letter dated November 8, 2017 from John Dotterer**
- ❑ **Letter Dated November 5, 2017 from James K. Green**
- ❑ **Letter Dated November 6, 2017 from James K. Green**
- ❑ **April 26, 2017 ARCOM Minutes Excerpt**
- ❑ **June 28, 2017 ARCOM Minutes Excerpt**
- ❑ **July 26, 2017 ARCOM Minutes Excerpt**
- ❑ **August 23, 2017 ARCOM Minutes Excerpt**
- ❑ **September 27, 2017 ARCOM Minutes Excerpt**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 15, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: ARCOM Appeal of Project Approval
Case No. B-020-2017
202 Onondaga Avenue

Date: October 23, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council consider and rule upon the appeal of multiple persons (John C. Dotterrer, Susan Gary, Bradford Gary, Elsa Messing, Gianni Sellers, Jacqueline Murphy & Richard Murphy), objecting to ARCOM's action on September 27, 2017, approving architectural changes at 202 Onondaga Avenue.

GENERAL INFORMATION

As an item of Major Projects, Old Business, ARCOM met on September 27 and continued deliberation of applicant 202 Onondaga LLC, containing the following Project Description:

Renovations to existing one story residence and partial 2nd floor addition to same.
Landscape and hardscape changed included.

The project was initially heard by ARCOM in April this year. Both an east side yard and a west side yard variance was initially included. It was ARCOM's decision at that time that the project could be designed in an architecturally suitable manner complying with all zoning regulations (thus recommending against the granting of variances), and that the project should be deferred to its June meeting. Subsequent deferrals followed in June, July, and August before final action was taken to approve the project in September. Multiple project revisions were presented throughout this history in response to ARCOM, including footprint alterations that eliminated the need for variances.

Several items of note should be made regarding the multiple-month history of ARCOM review:

- ARCOM Chairman Richard Sammons did not participate in the review process. He declared a voting conflict because his architectural business represents the applicant.

- Applicant's expert testimony included architects Jaime Torres and Ann Fairfax, attorneys James Green and Frank Lynch, appraiser Robert Reynolds, landscape architect Matt Jackman, and contractor Michael Conville.
- Expert testimony was also provided by persons opposing the project, including attorneys Ron Kolins and John Dotterrer, and architect Roger Cope.
- Letters of support and of opposition (more so opposing) have been received and were distributed to ARCOM members throughout project deliberation.
- Public comments were heard throughout project deliberation (more so opposing).
- Multiple revisions were made to the project throughout deliberation. Both of the original variances have been corrected/removed.

Minutes excerpts from each ARCOM meeting during which the project was considered have been attached. Objections were primarily focused on mass and size, with opposition to the second floor being expressed. Many positive comments about the design were made throughout the project's review history. Approval on September 27 was based on criteria set forth in the Code. Motion to approve carried 4-3 (members Small, Corey and Grace opposed).

The appeal letter from John Dotterrer and six others alleges that... "The applicant did not sustain its required burden of proof; the Ruling was errant, contrary to the manifest weight of the evidence, legally and procedurally defective, and therefore must be reversed by Council and the Application denied." He offers additional overview and commentary throughout the 19-page appeal letter. Staff believes that the Commission adhered to Code requirements throughout the deliberation process, and that there were no material defects in the quasi-judicial process.

Attachments

cc: John C. Randolph, Town Attorney
 John Dotterrer Attorney for all Appellants
 Jaime Torres, Architect for Applicant
 James Green, Attorney for Applicant
 Architectural Commissioners

RENDERING FROM
SEPTEMBER 27, 2017
ARCOM MEETING



FAIRFAX & SAMMONS
— NEW YORK ~ PALM BEACH —
202 ONONDAGA AVENUE
PALM BEACH, FL
PERSPECTIVE FROM NORTHWEST
SEPTEMBER 27, 2017

ARCOM #: B-020-2017
VARIANCE #: VAR-12-2017

Susan A. Owens; MPA, MMC
Town Clerk
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

October 6, 2017

RECEIVED

OCT 09 2017

TOWN CLERK

Appeal to Town Council

***Of Arcorm Case B-20-2017
202 Onondaga Ave.
rendered September 27, 2017***

We respectfully appeal to the Town Council, the decision of the Architectural Review Commission rendered on September 27, 2017 in ARCOM Case No. B – 20 – 2017 (“the Ruling”) regarding the Application of 202 Onondaga LLC for its proposed Development Project at that address (“Application”). The Applicant did not sustain its required burden of proof; the Ruling was errant, contrary to the manifest weight of the evidence, legally and procedurally defective, and therefore must be reversed by Council and the Application denied. Arcorm’s acknowledged and ordained purpose is beyond plan checking, to protect and preserve harmony and consistency under its governing Ordinance, Code Section 18-205, here specifically, 18-205(a)(6).

OVERVIEW

Endearing and, for 7 decades, enduring, the Enclave of Onondaga, Laurie, Debra, Esplanade (“Enclave”) and its 14 cottagey bungalows at issue here would be destroyed by the incongruent, excessive height, mass and resultant

dissimilarity the LLC's proposed Spec Development Project would impose upon the particular charm and characteristics of this unique environ that should be instead preserved. Once dismantled, it is unredeemable. Neighbors deplore the ominous prospect.

The Project would set horrifically bad precedent that would shrink tiny Onondaga (only 18' wide) , Debra (14') and Laurie (14') lanes to narrow gulches. Allowing the oversized, crammed construction onto such small lots would initiate, after 70 years of proportioned architectural peacefulness, a march of new projects that will overbear this Enclave of one story bungalows, intrude on their equal-linear privacy, block their natural sunlight, create canyons of the lanes, and chasms between rising too tightly packed structures. It would also invade privacy.

LEGAL FRAMEWORK AND PROTECTIONS

ARCOM was created by the Town just to prevent travesties such as this.

"ARTICLE III. - ARCHITECTURAL REVIEW DIVISION 1. – GENERALLY

Sec. 18-146. – Statement of findings and purpose.

- (a) The town council has found that Palm Beach is internationally known and has become a worldwide synonym for beauty, quality and value.

(d) The comprehensive plan and zoning codes are the most powerful legal enforcement of an overall urban concept, but they alone do not create beauty, aesthetic order, or amenity. The task of the architectural commission is therefore to preserve various elements of urban beauty and require that new projects enhance existing elements.

(e) The essential foundation of beauty in communities is harmony. The plan for achieving beauty must grow out of special local characteristics of site, aesthetic tradition and development potential”.

This is ARCOM’s legislatively determined purpose. Thus, while technical RB “District Regulations” of the Code furnish maximum mathematical parameters – the province of the planning and building departments, those provisions “alone do not create beauty, an aesthetic order, or amenity.” 18-146(d). Rather, ARCOM’s principal mission is fulfilled by applying the codified aesthetic criteria of Sec. 18-205. **That is precisely why ARCOM was created.** ARCOM is not a mere plan checker. Its responsibility is to apply, as written, the ARCOM ordinance criteria.

The Town’s controlling Code Section to be upheld and enforced by Arcom for the protection of the unique charm of the Island is Code Sec. 18-205, which ordains:

“Sec. 18-205. – Criteria for building permit.

- (a) The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter . . . only after consideration of whether the following criteria are complied with:”

In this case, the crucial criterion is:

(a)(6). “The proposed . . . Structure is not excessively dissimilar in relation to ***any other structure*** existing . . . within 200 feet of the proposed site in respect to ***one*** or more of the following features:

- a. Height of building or height of roof.
- c. Architectural compatibility
- e. Appearance of mass from the Street or from any perspective visible to the public or adjoining property owners.

g. Design features that will avoid the appearance of mass through improper proportions.

h. Design elements that protect the privacy of neighboring property.”

18-205(a)(6) is the preeminent provision of the Town of PB Code that ARCOM has the responsibility to enforce to protect existing residents. It guarantees that, if a Project is excessively dissimilar in relation to **any i.e. one structure within 200 feet** of the proposed Site, **as to even 1 (or more) of the listed features**, it must be denied. (And it is clear that the controlling 200 foot distance is measured from the project site property line to the dissimilar structure.)

Thus, if it is excessively dissimilar as to **even one feature** on **even one** structure within 200’ of the site, the application must fail, resulting in denial.

The term “excessively dissimilar” is easy to divine: as was demonstrated at the September 28, 2016 hearing at which another North end project (B20-2016) which was denied, 5-2 by Arcom on 18-205 grounds, from the Merriam Webster and English Oxford dictionary:

“dissimilar” means : “not the same, different or unlike”

“excessively” means: “going beyond what is usual, normal or proper, greater than what is usual or proper, to a greater degree.”

This governing ordinance is a deliberately stringent standard that ARCOM has the responsibility to enforce and apply in its quasi-judicial proceedings, sitting as judges, and this Council must enforce, in this quasi-judicial appeal .

I. APPLICANT HAS FAILED TO SUSTAIN ITS BURDEN OF PROOF THAT THERE ARE NO EXCESSIVELY DISSIMILAR STRUCTURES WITHIN 200 FEET OF THE PROJECT SITE.

It is the Applicant's burden, not neighbors, of proving by substantial competent evidence, that there is not one structure within 200 feet that is excessively dissimilar to the project in respect to any one of the cited features.

We contend that the statutory features, implicated and at issue here are:

- a. "Height of building or height of roof."**
- c. Architectural compatibility;**
- e, f – Mass**
- h. Privacy**

If the applicant doesn't establish that there are none, the application must fail. Here, Applicant did not even attempt to sustain that burden and submitted no substantially competent evidence that there were not excessively dissimilar structures within 200 feet. Applicant could not because the obvious facts on the ground are that there are 14 excessively dissimilar structures within 200 feet of the site. See, *infra*. So applicant did not and could not, possibly meet its legally required burden of proof.

Instead, Applicant took the inverse tack of reading, and trying to convince ARCOM to read its controlling ordinance, exactly backwards. Applicant in its application drawings and presentations sought to draw attention, to 9 structures, almost all outside of the 200 foot distance from the site that it submitted were similar. Application, Sheets A – 401, 405-410, especially A-406. As it turns out, only 3 are within 200' and they resoundingly different, see, *infra*.

But Ordinance, 18 – 205(a)(6), does not allow a project, whenever or simply because there is a structure, or a few, similar within the general neighboring area or even within 200 feet of the Site. **That there could be in theory, one or 2 or 3 structures that are similar does not allow passage.** Rather, one or more excessively dissimilar 200 foot structures are sufficient to cause the application to fail.

Here, Developer/Applicant-202 Onondaga LLC has not met its burden to prove by substantial competent evidence that there is not any, **not 1**, structure within 200 feet of the site that is not different, with respect to *any* of the features of height, mass, compatibility, and privacy. And it is impossible here in this unique Enclave that the developer proposes to invade, for the Developer to prove that, because just the opposite is conspicuously true.

II. THE RULING IS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE.

Rather than applicant sustain its burden of proof, Neighbors conclusively proved in uncontradicted fashion, by the manifest weight of the lay and expert evidence received at the April, June and September Arcom meetings, that there are not only one, but 14 excessively dissimilar structures within 200 feet of the Site.

A. 14 Excessively Dissimilar Structures Exist Within 200' of Site.

At the September 27, 2017 hearing, neighbors submitted into evidence Neighbors' Ex.1 – "Evidence of Dissimilarity of Structures within 200' of site" and Neighbors' Ex. 2 – tabulation of 14 "excessively dissimilar structures within 200 feet of site." (NEX 1, NEX 2). These exhibits were uncontradicted, fully explained, and supported by the expert witness testimony and opinions of Roger Cope,

.AIA, Chair of the Delray Beach Site Plan Review and Appearance Board, a body equivalent to ARCOM.

NEx 1, p. 2 sets forth the ordinance. Page 3 exactly delineates the homes having structures within 200 feet of the Site property lines, that is, within the **thick blue line**. Each of them is assigned a letter, A-R, with its address and distance from the site tabulated to the right of the 200' map.

Pages 4-9 display separate photographs of each of them, pictorially revealing 14 low scale, low mass cottagey/ranch existing structures within 200 feet, and citing with each of such photos, their distance from the site, height and mass expressed by Cubic Content Ratios, as determined from Town record drawings and Property Appraiser's published information. In Palm Beach, CCR is a codified measure of massing, both actual and apparent being also related to lot size. Code 134-2(6/9), 134-893(a)(13)a.2.

1. Height and Mass. 18-205(a)(6) a, d, g.

As Council can plainly see from the photographs on pages NEx 1 pp. 4-9, 14 (A-H, J-N and R), these 14 structures, all within 200 feet, are excessively dissimilar in height and mass from the proposed spec project.

The specifics of the 14 excessively dissimilar structures are conveniently tabulated in NEx 2. As NEx 2, and NEx 2 establishes, **they average 14.4 feet in height (all being one story), and have an average mass of 2.03 CCR.**

In stark contrast, the Project seeks approval of 23.9 feet in height, **66% more height and 3.43 CCR, 67% more mass.**

The apparent and actual mass is overbearing for the little Lane. It is importioned.

Architect Cope uncontradictedly opined in expert testimony that these 14 structures within the statutory 200 feet that are excessively dissimilar, as to height and mass. Therefore, this application cannot succeed.

2. Architectural Incompatibility (18-205(a)(6)c.

Neighbor exhibits 1 and 2 also conclusively establish by substantial competent evidence that the proposal is not architecturally compatible with 14 existing structures within the 200 feet. The photographs readily show that these structures are low rise, low sloped, low scale bungalows and American minimalist ranch, cottages, not two-story Montereys. The project is architecturally incompatible. Mr. Cope also rendered an uncontradicted expert opinion to this effect.

3. Privacy. 18-205(a)(6)h.

The project, being the only elevated structure on Onondaga, and in the Enclave for that matter, and backing up to three 1 story homes on Esplanade, including Mr. Turnipseed's at 211, will plainly invade privacy. See, NEx. 1 at p. 10, a photo taken by Applicant, apparently from the existing roof and published in sheet A- 413 of the application demonstrates the point. The Project will tower and loom over existing homes on the street.

Mr. Gianni Sellers, whose family trust owns 201 Onondaga, the low rise property directly across Onondaga, and 40 feet from the Site, and housing 90 year-old Mrs. Messing, his mother, who has lived there for 25 years, perhaps the longest resident of Onondaga, uncontradictedly testified that the Project will invade the privacy of their East garden. Mr. Cope also opined that the Project will compromise privacy.

4. Letters and Lay Testimony.

At the June 28, 2017 Arcom hearing, neighbors submitted into evidence . “Compiled Letters of Objection” as of 6/27/17 from 18 residents. Additional letters of opposition were submitted in advance of the September 2017 meeting. Several residents also testified in opposition to the project at the April, June, and September meetings. All of these letters and testimonials concentrated directly on the facts and factors at issue in applying Sections 18-146 and 18-205, often referring them directly by number, and asked the Commission to deny the application on those legislative bases. Such evidence is substantial competent evidence to be considered in the decision of *quasi*-judicial board. *Metropolitan Dade County v. Section 11 Property Corp.*, 719 So. 2d 1204 (Fla. 3d DCA 1998), *Board of County, etc. v. City of Clearwater*, 440 So. 2d 497 (Fla. 2d DCA 1983).

Developer’s pre-September letters in contrast, were 2 from the same household, and one emanating from 210 Debra Lane (Hobbs), that had just been acquired by the *Ken Development Company, Inc. of Bedminster New Jersey*. OR book 29112, page 1184, May 26 2017. Then on the day before the September hearing, developer submitted a packet of form letters, nearly word for word, that were based principally upon asserted effect on townwide markets and property values, not on 18-205 (a) (6). The latter is certainly not substantially competent evidence.

B. Applicant Did Nothing to Contradict or Dispute Neighbors' Uncontradicted Proof of 14 Existing Excessively Dissimilar Structures Within 200'.

As described above, applicant did not in any of the hearings, nor could not in good faith, dispute the Neighbors' overwhelming proofs of 14 excessively dissimilar structures. Instead, applicant attempted to ask the Town to read its Ordinance backwards, by suggesting that there were "Nearby 2 Story Homes". See, Applicant's Sht A-406, and hearing presentation. Applicant's 2 Story examples are all invalid comparisons and do not change the result that must be reached under Code 18 – 205(a)(6). The reasons for the total invalidity of Applicant's approach is summarized at NEx. 1, p. 12.

1. Applicant's proffered two-story specimens are invalid – beyond 200'.

With non-starters, Applicant makes casual use of the term "nearby" in its presentation and Rev 4 Sheet A 406. Applicant draws a "circle" having a "radius", **300 feet** from the Site. Sheet A-406. But 300 feet here is legally meaningless and arbitrary. It is not even the distance for Arcom notification, that is 250' [Code 18-201(1)] and is NOT the controlling distance for 18 - 205(a)(6) excessive dissimilarity. **That is 200'.** The Town attorney has advised that 200 feet is the controlling distance - other structure to Site property line - when it comes to adjudging similar or dissimilar. **9/28/16 TR. At 13, 15.**

The proper distance for dissimilarity comparison here is established by the thicker blue line, NEx. 1, pp 13 and 3. Applicant in previous iterations had cited approximately 20 other properties as comparisons. Most of those, after our

arguments that they were vastly inapplicable and afar, have now been dropped and Applicant in its Sept. 2017 Rev 4 is down to citing 9. However, 6 of the 9 suggested in its Rev. 4, Sheet A-406 are still structures more than 200 feet from the Site, but and therefore do not apply to 18-205(a)(6) scrutiny. Neighbors submitted the sole and uncontradicted competent evidence on this crucial point- measurements of actual distance from Applicant's asserted comp structures to the nearest Site property line. They are reported at NEx. 1, pp. 14-17, tabulated here as follows:

<u>Address Asserted by Appl.</u>	<u>Distance fr. Site</u>	<u>NEx. 1 page #</u>
127 Reef Rd. (4)	303'	14
277 Esplanade (7)	230'	15
200 Esplanade (9)	232'	15
1431 N. Ocean Way(10)	329'	15
1435 N. Ocean Way (12)	274'	16
1438 N. Ocean Way (13)	331'	16

Thus, the structures cited by Applicant, being more than 200 feet, are legally excluded from consideration. Measurements above were made from the nearest structure point to the nearest Site property line, using asserted comp drawings of record, information actually measured by a comp owner, or aerial official measurement tool. These separation distances were all reported and in evidence at NEx. 1, pages 12-17, and are the sole evidence in the record. Applicant submitted none on the 200 foot required comparison distance issue. (At NEx.1, pp. 14 to 17, the previously asserted comp structures now dropped by Applicant,

being way beyond the comparison distance and far afield, are marked as “dropped” in orange).

2. **Applicant’s cited Structures more than 200 feet are Additionally, Architecturally Inapplicable, having only small and recessed partial 2nd floors.**

And further differentiating the 6 more than 200’, too distant structures Applicant still cites are their actual characteristics. 127 Reef Rd. (lower left corner NEx.1 p. 14), [303 feet from Site on Reef Rd, not in Enclave], is a garage pop up only. 277 Esplanade (NEx. 1 p. 15)[plainly on applicant’s own map, is more than 200’ (230’) from Site], has a small partial 2nd floor confined and recessed to a back corner of the lot. 200 Esplanade (NEx. 1 p. 15, and A-406) [230’ from Site] is sited on a large double lot that carries through to Reef Rd. 1431 North Ocean Way, (NEx. 1 p. 15), [329’ from Site], has only an unnoticeable partial 2nd story over the garage, and 1435 North Ocean Way, (NEx.1 p. 16),[274’ from Site] has only a partial second story well recessed in back with a colinear roofline when viewed directly from the street is almost imperceptible. 1438 North Ocean Way (NEx.1 p. 16) [structure 331’ from Site] and also plainly fronts on N. Ocean Blvd. atop the dune. Only its garage is on N. Ocean Way. For 2 reasons, is not at all a comparable to replace the low scale, low rise ranch on Onondaga. The same is true of all of the addresses at NEx. 1 p. 17 which have been dropped as comparisons by Applicant and are so marked in orange.

3. Remaining 3 Cited Examples Inapplicable.

Examining the only 3 examples asserted within 200 feet, it is clear that they are inapplicable. In this connection, please remember that to meet the crucial 18 – 205 (a) (6) criterion, Applicant must establish that **there are not any excessively dissimilar structures within 200’**. Here, as undisputedly proven, there **are 14** that are excessively dissimilar within 200’. Apparently conceding this point, Applicant attempts to obfuscate the analysis by citing examples of alleged similarity. That, under 18 – 205 (a) (6), does not suffice because of the demonstrated dissimilar 14; but even so, Neighbors now show that the 3 remaining assertions are distinguishable irrelevant comps.

Turning to Developer’s remaining 3, Developer likes to cite to 1460 North Ocean Blvd. (NEx 1. p 6) , a large Mediterranean Developer wants to mimic in the height and mass. But if you look at NEx 1, p 6, you will see, and anyone who lives or travels up there knows, that 1460 N. Ocean Blvd. is totally distinguishable because it is squarely on the widest part of N. Ocean Blvd., there some 60 ‘ wide, not on narrow Onondaga. Of course the roofscapes on NOB are far different from Onondaga and the Enclave. The (NEx1 p6) photograph plainly shows this. One cannot even see Onondaga traveling southbound down NOB. But one drives right toward 1460 NOB. Mr. Cope opined to this effect. ARCOM has traditionally and consistently treated proposals on N. Ocean Blvd. and N. Lake Way differently from smaller sidestreets. In this case, interior lane Onondaga is so slim, only 18’ wide, that it is one way.

Applicant also cites to 1436 North Ocean Way (NEx 1 p. 8, right side photo). As Mr. Cope uncontradictedly explained, this structure has only a partial pop-up of less than 750 ft.² over the garage, which is not even seen in this

photograph taken from its Esplanade south elevation upon which the house major axis fronts. It is nothing like what is proposed here for Onondaga - a project with 2nd story high massing in front. The final extant cited comp, 220 Esplanade (NEx 1 p 9) also has only a partial 2nd story which is far recessed from the street in the back.

Thus, Applicant's cited comparables are totally inapplicable, being outside of the statutory 200' range, or are distinguishable as discussed. Here, despite Developer's attempt to proffer 2 floor, therefore taller instances, it is undisputed that there are 14 excessively dissimilar structures within 200' of the Site as to multiple features, and therefore, the application legally fails.

4. Appraiser's Report Irrelevant to Issues at Hand.

Applicant offered an appraiser, Mr. Reynolds whose report of course dwelt on perceptions of value, not 18-205(a)(6) criteria. And on cross examination, he admitted using only actual sales, but drew from the universe of hundreds of houses, north of the Palm Beach Country Club, not the 200' range prescribed by 18-205(a)(6) and offered no opinions on dissimilarity. It was not substantial competent evidence on the issue at hand.

Summary of Evidence – Sec. 18-205(a)(6)

Failure to meet any one of the 18-205 criteria as to any[1] structure within 200' is sufficient alone for denial. Here, the proposed Project offends at least 14 such structures and to them, violates not just 1, but multiple criteria as to all 14. With such ranging offense, in this unique location, denial is the compelling and obvious outcome.

III. IN AN ERROR OF LAW, ARCOM FAILED TO FOLLOW AND APPLY THE TOWN'S CONTROLLING ORDINANCE- CODE SECT. 18-205 (a) (6).

A. No Specific Finding of Compliance.

With such uncontradicted, overwhelming manifest weight of the evidence that the Project is excessively dissimilar to 14 structures within 200 feet, and no proof that it is not excessively dissimilar to any existing structure within 200 feet, it is clear that the 4 members supporting approval could not have adhered to Section 18 – 205 (a) (6). Nor did any of the Commissioners in their executive session discussion express, find or conclude that there were no excessively dissimilar structures within 200 feet, nor that 18 – 205 (a) (6) had been met. Bases of supporters ranged from liking the architecture to speculation of the effect of denial on future value. Expressions of the substantial bloc voting for denial found the Project to be out of character, dissimilar in massing, and does not fit. Movant did not include a finding that 18 – 205 (a) (6) had been complied with in the motion. After the motion was made, the Town Attorney suggested that it should be based on criteria of “the Code”, a voluminous work consisting of Chapters numbered 1 through 134, without specifying section 18 – 205 (a) (6).

Some commissioners have expressed misgivings of their perceived value of the governing ordinance: 18 – 205(a)(6). But it is not within the power or the discretion of the Commission to change it. ARCOM is bound to apply it. Sec. 18-205(a)(6) is the law and has been for 17 years ,[Ord. # 05-000 6/13/2000] and cannot be changed unless the legislative body, the Town Council does so. Council hasn't. Commissioners must apply the law as it exists, not how a member might like it to be.

B. Arcom's Precedent, Including In *257 Sandpiper* Should Be Followed Here.

Arcom's seminal and correct decision in *257 Sandpiper* should be respected as both applicable and controlling precedent here. There as here, the project was too high and too massive to comply on that 1 story low rise street.

An Application for a two-story Spec Project on the one story North End street of Sandpiper was considered and denied. [ARCOM Case B- 002 - 2015, 257 Sandpiper Dr., denied March 25, 2015] . See, Arcom action letter of denial. *Onondaga* is more compelling for denial than ARCOM'S decision in *Sandpiper*.

There, the Commission reviewed a proposed Spec Project on a principally one story street that is approximately 36 feet wide, nearly 2 times the width of one way Onondaga. In *257 Sandpiper*, only 6-7 neighbors filed objections; at 202 Onondaga, some 17 neighbors have opposed the Project.

After 3 successive hearings the excessively high two-story application was denied on the basis of Code Sections 18 – 205(a) 1, 4 & 5[sic]. [the minutes of the March 25, 2015 hearing state "(a)(5)",sic, however, this is an entry error, as (a)(5) relates to excessive similarity, and the audio recording reflects that excessive dissimilarity was the basis for denial, a ground that is expressly covered by (a)(6)].

To treat the neighbors of the Enclave differently than those on Sandpiper in application and adherence to the ARCOM Ordinances would be unfair and unequal. At the time of Applicant's acquisition of 202 in January 2017, the decision in *257 Sandpiper* had already been on the books, in the public record for 2 years and published as a significant story in the Palm Beach Daily News.

As a result of Arcom's March 25, 2015 denial, in April 2015, Mr. Jansen submitted a new one story *257 Sandpiper* application, Arcom Case # B – 041 – 2015. As reflected in the May 27th, 2015 minutes at page 10:

"Mr. Janssen reminded that he had previously presented a two-story residence which was denied by ARCOM. Since then, the program has been revised to a one-story residence with a center axis front door with a symmetrical façade."

Sandpiper, as a one story program was quickly approved, constructed with a huge bonus for the Developer, selling in 2017 for **\$6,000,000**. *See*, NEx.3 including PB Daily News, March 31, 2017, article p. B-1. The article reported that the Spec House's "single floor plan was a key marketing point", attractive to the many buyers who prefer not to climb stairs or use elevators. *Id.* at B-4. Such should become the case here. A viable one-story alternative is available having more square footage than in the Application as last submitted. Mr. cope opined that at least 4,427 ft.² could be realized in a low scale one-story without variances vs. the 4,201 ft.² of the Application.

A similar forced triumph for a Spec Developer of 225 West Indies began as a 2 story application, converted to 1 story sold in 2015 for **\$ 5,645,000**. Deed, ORB 27314, P 1119.

And Arcom on September 28, 2016 also denied, 5-2, the Application for 1021 NOB on 18 – 205 (A) grounds, in perhaps the most thorough ARCOM case ever conducted. In that case, the Town Attorney thoroughly "set the table" by opining on the 18 – 205 and quasi judicial process. 9/28/17 TR. at 7-16.

Following the sound decision of Arcom at 257 Sandpiper, 1021 North Ocean Blvd., Seagate and other cases the objecting neighbors to 202 Onondaga should be treated equally, and the subject Application denied.

IV. FINAL HEARING WAS CONDUCTED IN A MANNER DEPRIVING NEIGHBORS SUBMITTAL OF COMPETENT EVIDENCE, DENYING THEM DUE PROCESS.

Mr. Cope a qualified Florida architect, experienced and involved in municipal planning and approval matters as well as preservation, was offered as an expert witness by Neighbors. Mr. Cope was the only architect to testify for Neighbors. Yet, he was at times during the hearing cutoff and precluded from delivering his presentation by Arcom on the stated basis that some of his testimony might have overlapped with earlier evidence at hearings that were at least 3 months earlier. The town attorney had previously advised Arcom that parties must be given an opportunity to be heard in order to afford due process, and that the Commission should always err on the side of caution, giving the interested parties all the time they need to present their case. *e.g. Arcom 9/28/16 TR. at 8-12.* Here, whether or not Mr. Cope's opinions may have involved some degree of overlap is not a basis for precluding the testimony, for his opinions were being offered and expressed by a different witness – a well qualified architect expert witness - whose qualifications, experience and education, add a greater weight.

The expert testimony should not have been so limited and excluded; doing so constituted a deprivation of due process.

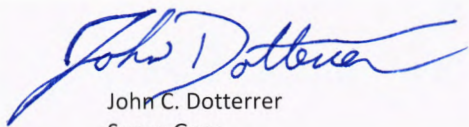
CONCLUSION

This project does not meet the requirements of the ordinance, and in this quasi-judicial review; applying the governing ordinance to these findings, the application should be denied. Allowing this would be a mistake, likely before long, and for a long time, to cause regret.

Oversized, overmassed, too high, dissonant from long established neighborhood character and tradition, the LLC's Spec Project applications that importune to aggrandize maximization should be denied. The unredeemable cottage charm that has lived on for decades should be preserved, not annihilated. If this development is allowed, others will surely follow, claiming precedent, and a gorge of overbearing structures erected on what was once proportioned pleasant spaciousness.

We therefore respectfully move Council to reverse Arcom's errant decision, and deny the Application.

Respectfully submitted,

A handwritten signature in blue ink, reading "John C. Dotterer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John C. Dotterer
Susan Gary
Bradford Gary
Elsa Messing
Gianni Sellers
Jacqueline Murphy
Richard Murphy

Susan A. Owens; MPA, MMC
Town Clerk
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

November 8, 2017

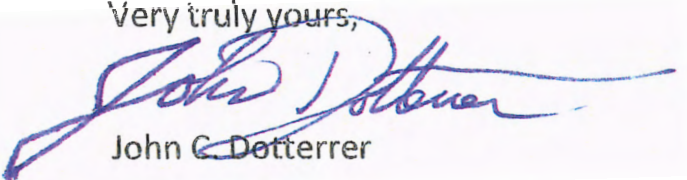
Appeal to Town Council

*Of Arcom Case B-20-2017
202 Onondaga Ave.
rendered September 27, 2017*

In this Appeal to the Town Council, Appellant Neighbors respectfully submit their Appendix From Record and Authorities .

Please file and distribute to Mayor and Members of the Town Council.

Very truly yours,



John C. Dotterer

Cc: John C. Randolph, Esq.
Paul Castro, AICP
James K. Green, Esq.
Ms. Kelly Churney

**Town of Palm Beach
Town Council**

APPEAL FROM THE ARCHITECTURAL REVIEW COMMISSION

ARCOM Case B-020-2017

Application of 202 Onondaga, LLC

Decisions at its September 27, 2017 Meeting

Dated October 6, 2017

(timely submitted to the Town Clerk October 9, 2017)

***NEIGHBORS' APPENDIX FROM RECORD BELOW
And Authorities***

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(timely submitted to the Town Clerk October 9, 2017)

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And Authorities***

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September 27, 2017

APPENDIX and AUTHORITIES

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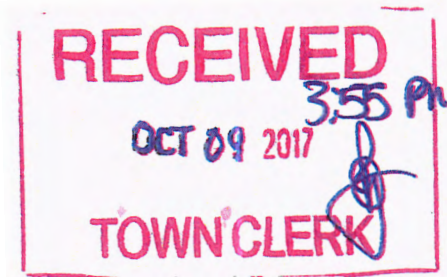
Susan A. Owens; MPA, MMC
Town Clerk
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480



October 6, 2017

Appeal to Town Council

*Of Arcom Case B-20-2017
202 Onondaga Ave.
rendered September 27, 2017*



We respectfully appeal to the Town Council, the decision of the Architectural Review Commission rendered on September 27, 2017 in ARCOM Case No. B – 20 – 2017 (“the Ruling”) regarding the Application of 202 Onondaga LLC for its proposed Development Project at that address (“Application”). The Applicant did not sustain its required burden of proof; the Ruling was errant, contrary to the manifest weight of the evidence, legally and procedurally defective, and therefore must be reversed by Council and the Application denied. Arcom’s acknowledged and ordained purpose is beyond plan checking, to protect and preserve harmony and consistency under its governing Ordinance, Code Section 18-205, here specifically, 18-205(a)(6).

OVERVIEW

Endearing and, for 7 decades, enduring, the Enclave of Onondaga, Laurie, Debra, Esplanade (“Enclave”) and its 14 cottagey bungalows at issue here would be destroyed by the incongruent, excessive height, mass and resultant

dissimilarity the LLC's proposed Spec Development Project would impose upon the particular charm and characteristics of this unique environ that should be instead preserved. Once dismantled, it is unredeemable. Neighbors deplore the ominous prospect.

The Project would set horrifically bad precedent that would shrink tiny Onondaga (only 18' wide) , Debra (14') and Laurie (14') lanes to narrow gulches. Allowing the oversized, crammed construction onto such small lots would initiate, after 70 years of proportioned architectural peacefulness, a march of new projects that will overbear this Enclave of one story bungalows, intrude on their equal-linear privacy, block their natural sunlight, create canyons of the lanes, and chasms between rising too tightly packed structures. It would also invade privacy.

LEGAL FRAMEWORK AND PROTECTIONS

ARCOM was created by the Town just to prevent travesties such as this.

"ARTICLE III. - ARCHITECTURAL REVIEW DIVISION 1. – GENERALLY

Sec. 18-146. – Statement of findings and purpose.

- (a) The town council has found that Palm Beach is internationally known and has become a worldwide synonym for beauty, quality and value.

- (d) The comprehensive plan and zoning codes are the most powerful legal enforcement of an overall urban concept, but they alone do not create beauty, aesthetic order, or amenity. The task of the architectural commission is therefore to preserve various elements of urban beauty and require that new projects enhance existing elements.

(e) The essential foundation of beauty in communities is harmony. The plan for achieving beauty must grow out of special local characteristics of site, aesthetic tradition and development potential”.

This is ARCOM’s legislatively determined purpose. Thus, while technical RB “District Regulations” of the Code furnish maximum mathematical parameters – the province of the planning and building departments, those provisions “alone do not create beauty, an aesthetic order, or amenity.” 18-146(d). Rather, ARCOM’s principal mission is fulfilled by applying the codified aesthetic criteria of Sec. 18-205. That is precisely why ARCOM was created. ARCOM is not a mere plan checker. Its responsibility is to apply, as written, the ARCOM ordinance criteria.

The Town’s controlling Code Section to be upheld and enforced by Arcom for the protection of the unique charm of the Island is Code Sec. 18-205, which ordains:

“Sec. 18-205. – Criteria for building permit.

(a) The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter . . . only after consideration of whether the following criteria are complied with:”

In this case, the crucial criterion is:

(a)(6). “The proposed . . . Structure is not excessively dissimilar in relation to *any other structure* existing . . . within 200 feet of the proposed site in respect to one or more of the following features:

- a. Height of building or height of roof.
- c. Architectural compatibility
- e. Appearance of mass from the Street or from any perspective visible to the public or adjoining property owners.

g. Design features that will avoid the appearance of mass through improper proportions.

h. Design elements that protect the privacy of neighboring property.”

18-205(a)(6) is the preeminent provision of the Town of PB Code that ARCOM has the responsibility to enforce to protect existing residents. It guarantees that, if a Project is excessively dissimilar in relation to **any i.e. one structure within 200 feet** of the proposed Site, **as to even 1 (or more) of the listed features**, it must be denied. (And it is clear that the controlling 200 foot distance is measured from the project site property line to the dissimilar structure.)

Thus, if it is excessively dissimilar as to **even one feature** on **even one** structure within 200’ of the site, the application must fail, resulting in denial.

The term “excessively dissimilar” is easy to divine: as was demonstrated at the September 28, 2016 hearing at which another North end project (B20-2016) which was denied, 5-2 by Arcom on 18-205 grounds, from the Merriam Webster and English Oxford dictionary:

“dissimilar” means : “not the same, different or unlike”

“excessively” means: “going beyond what is usual, normal or proper, greater than what is usual or proper, to a greater degree.”

This governing ordinance is a deliberately stringent standard that ARCOM has the responsibility to enforce and apply in its quasi--judicial proceedings, sitting as judges, and this Council must enforce, in this quasi-judicial appeal .

I. APPLICANT HAS FAILED TO SUSTAIN ITS BURDEN OF PROOF THAT THERE ARE NO EXCESSIVELY DISSIMILAR STRUCTURES WITHIN 200 FEET OF THE PROJECT SITE.

It is the Applicant's burden, not neighbors, of proving by substantial competent evidence, that there is not one structure within 200 feet that is excessively dissimilar to the project in respect to any one of the cited features.

We contend that the statutory features, implicated and at issue here are:

- a. "Height of building or height of roof."
- c. Architectural compatibility;
- e,f – Mass
- h. Privacy

If the applicant doesn't establish that there are none, the application must fail. Here, Applicant did not even attempt to sustain that burden and submitted no substantially competent evidence that there were not excessively dissimilar structures within 200 feet. Applicant could not because the obvious facts on the ground are that there are 14 excessively dissimilar structures within 200 feet of the site. See, *infra*. So applicant did not and could not, possibly meet its legally required burden of proof.

Instead, Applicant took the inverse tack of reading, and trying to convince ARCOM to read its controlling ordinance, exactly backwards. Applicant in its application drawings and presentations sought to draw attention, to 9 structures, almost all outside of the 200 foot distance from the site that it submitted were similar. Application, Sheets A – 401, 405-410, especially A-406. As it turns out, only 3 are within 200' and they resoundingly different, *see, infra*.

But Ordinance, 18 – 205(a)(6), does not allow a project, whenever or simply because there is a structure, or a few, similar within the general neighboring area or even within 200 feet of the Site. That there could be in theory, one or 2 or 3 structures that are similar does not allow passage. Rather, one or more excessively dissimilar 200 foot structures are sufficient to cause the application to fail.

Here, Developer/Applicant-202 Onondaga LLC has not met its burden to prove by substantial competent evidence that there is not any, *not 1*, structure within 200 feet of the site that is not different, with respect to *any* of the features of height, mass, compatibility, and privacy. And it is impossible here in this unique Enclave that the developer proposes to invade, for the Developer to prove that, because just the opposite is conspicuously true.

II. THE RULING IS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE.

Rather than applicant sustain its burden of proof, Neighbors conclusively proved in uncontradicted fashion, by the manifest weight of the lay and expert evidence received at the April, June and September Arcom meetings, that there are not only one, but 14 excessively dissimilar structures within 200 feet of the Site.

A. 14 Excessively Dissimilar Structures Exist Within 200' of Site.

At the September 27, 2017 hearing, neighbors submitted into evidence Neighbors' Ex.1 – "Evidence of Dissimilarity of Structures within 200' of site and Neighbors' Ex. 2 – tabulation of 14 " excessively dissimilar structures within 200 feet of site. ("NEx 1, NEx 2). These exhibits were uncontradicted, fully explained, and supported by a the expert witness testimony and opinions of Roger Cope,

AIA, Chair of the Delray Beach Site Plan Review and Appearance Board, a body equivalent to ARCOM.

NEx 1, p. 2 sets forth the ordinance. Page 3 exactly delineates the homes having structures within 200 feet of the Site property lines, that is, within the thick blue line. Each of them is assigned a letter, A-R, with its address and distance from the site tabulated to the right of the 200' map.

Pages 4-9 display separate photographs of each of them, pictorially revealing 14 low scale, low mass cottagey/ranch existing structures within 200 feet, and citing with each of such photos, their distance from the site, height and mass expressed by Cubic Content Ratios, as determined from Town record drawings and Property Appraiser's published information. In Palm Beach, CCR is a codified measure of massing, both actual and apparent being also related to lot size. Code 134-2(6/9), 134-893(a)(13)a.2.

1. Height and Mass. 18-205(a)(6) a, d, g.

As Council can plainly see from the photographs on pages NEx 1 pp. 4-9, 14 (A-H, J-N and R), these 14 structures, all within 200 feet, are excessively dissimilar in height and mass from the proposed spec project.

The specifics of the 14 excessively dissimilar structures are conveniently tabulated in NEx 2. As NEx 2, and NEx 2 establishes, they average 14.4 feet in height (all being one story), and have an average mass of 2.03 CCR.

In stark contrast, the Project seeks approval of 23.9 feet in height, 66% more height and 3.43 CCR, 67% more mass.

The apparent and actual mass is overbearing for the little Lane. It is importioned.

Architect Cope uncontradictedly opined in expert testimony that these 14 structures within the statutory 200 feet that are excessively dissimilar, as to height and mass. Therefore, this application cannot succeed.

2. Architectural Incompatibility (18-205(a)(6)c.

Neighbor exhibits 1 and 2 also conclusively establish by substantial competent evidence that the proposal is not architecturally compatible with 14 existing structures within the 200 feet. The photographs readily show that these structures are low rise, low sloped, low scale bungalows and American minimalist ranch, cottages, not two-story Monterey. The project is architecturally incompatible. Mr. Cope also rendered an uncontradicted expert opinion to this effect.

3. Privacy. 18-205(a)(6)h.

The project, being the only elevated structure on Onondaga, and in the Enclave for that matter, and backing up to three 1 story homes on Esplanade, including Mr. Turnipseed's at 211, will plainly invade privacy. See, NEx. 1 at p. 10, a photo taken by Applicant, apparently from the existing roof and published in sheet A- 413 of the application demonstrates the point. The Project will tower and loom over existing homes on the street.

Mr. Gianni Sellers, whose family trust owns 201 Onondaga, the low rise property directly across Onondaga, and 40 feet from the Site, and housing 90 year-old Mrs. Messing, his mother, who has lived there for 25 years, perhaps the longest resident of Onondaga, uncontradictedly testified that the Project will invade the privacy of their East garden. Mr. Cope also opined that the Project will compromise privacy.

4. Letters and Lay Testimony.

At the June 28, 2017 Arcom hearing, neighbors submitted into evidence . "Compiled Letters of Objection" as of 6/27/17 from 18 residents. Additional letters of opposition were submitted in advance of the September 2017 meeting. Several residents also testified in opposition to the project at the April, June, and September meetings. All of these letters and testimonials concentrated directly on the facts and factors at issue in applying Sections 18-146 and 18-205, often referring them directly by number, and asked the Commission to deny the application on those legislative bases. Such evidence is substantial competent evidence to be considered in the decision of *quasi* -judicial board. *Metropolitan Dade County v. Section 11 Property Corp.*, 719 So. 2d 1204 (Fla. 3d DCA 1998), *Board of County, etc. v. City of Clearwater*, 440 So. 2d 497 (Fla. 2d DCA 1983).

Developer's pre-September letters in contrast, were 2 from the same household, and one emanating from 210 Debra Lane (Hobbs), that had just been acquired by the *Ken Development Company, Inc. of Bedminster New Jersey*. OR book 29112, page 1184, May 26 2017. Then on the day before the September hearing, developer submitted a packet of form letters, nearly word for word, that were based principally upon asserted effect on townwide markets and property values, not on 18-205 (a) (6). The latter is certainly not substantially competent evidence.

B. Applicant Did Nothing to Contradict or Dispute Neighbors' Uncontradicted Proof of 14 Existing Excessively Dissimilar Structures Within 200'.

As described above, applicant did not in any of the hearings, nor could not in good faith, dispute the Neighbors' overwhelming proofs of 14 excessively dissimilar structures. Instead, applicant attempted to ask the Town to read its Ordinance backwards, by suggesting that there were "Nearby 2 Story Homes". See, Applicant's Sht A-406, and hearing presentation. Applicant's 2 Story examples are all invalid comparisons and do not change the result that must be reached under Code 18 – 205(a)(6). The reasons for the total invalidity of Applicant's approach is summarized at NEx. 1, p. 12.

1. Applicant's proffered two-story specimens are invalid – beyond 200'.

With non-starters, Applicant makes casual use of the term "nearby" in its presentation and Rev 4 Sheet A 406. Applicant draws a "circle" having a "radius", 300 feet from the Site. Sheet A-406. But 300 feet here is legally meaningless and arbitrary. It is not even the distance for Arcom notification, that is 250' [Code 18-201(1)] and is NOT the controlling distance for 18 - 205(a)(6) excessive dissimilarity. That is 200'. The Town attorney has advised that 200 feet is the controlling distance - other structure to Site property line - when it comes to adjudging similar or dissimilar. 9/28/16 TR. At 13, 15.

The proper distance for dissimilarity comparison here is established by the thicker blueline, NEx. 1, pp 13 and 3. Applicant in previous iterations had cited approximately 20 other properties as comparisons. Most of those, after our

arguments that they were vastly inapplicable and afar, have now been dropped and Applicant in its Sept. 2017 Rev 4 is down to citing 9. However, 6 of the 9 suggested in its Rev. 4, Sheet A-406 are still structures more than 200 feet from the Site, but and therefore do not apply to 18-205(a)(6) scrutiny. Neighbors submitted the sole and uncontradicted competent evidence on this crucial point-measurements of actual distance from Applicant's asserted comp structures to the nearest Site property line. They are reported at NEx. 1, pp. 14-17, tabulated here as follows:

<u>Address Asserted by Appl.</u>	<u>Distance fr. Site</u>	<u>NEx. 1 page #</u>
127 Reef Rd. (4)	303'	14
277 Esplanade (7)	230'	15
200 Esplanade (9)	232'	15
1431 N. Ocean Way(10)	329'	15
1435 N. Ocean Way (12)	274'	16
1438 N. Ocean Way (13)	331'	16

Thus, the structures cited by Applicant, being more than 200 feet, are legally excluded from consideration. Measurements above were made from the nearest structure point to the nearest Site property line, using asserted comp drawings of record, information actually measured by a comp owner, or aerial official measurement tool. These separation distances were all reported and in evidence at NEx. 1, pages 12-17, and are the sole evidence in the record. Applicant submitted none on the 200 foot required comparison distance issue. (At NEx.1, pp. 14 to 17, the previously asserted comp structures now dropped by Applicant,

being way beyond the comparison distance and far afield, are marked as “dropped” in orange).

2. Applicant’s cited Structures more than 200 feet are Additionally, Architecturally Inapplicable, having only small and recessed partial 2nd floors.

And further differentiating the 6 more than 200’, too distant structures Applicant still cites are their actual characteristics. 127 Reef Rd. (lower left corner NEx.1 p. 14), [303 feet from Site on Reef Rd, not in Enclave], is a garage pop up only. 277 Esplanade (NEx. 1 p. 15)[plainly on applicant’s own map, is more than 200’ (230’) from Site], has a small partial 2nd floor confined and recessed to a back corner of the lot. 200 Esplanade (NEx. 1 p. 15, and A-406) [230’ from Site] is sited on a large double lot that carries through to Reef Rd. 1431 North Ocean Way, (NEx. 1 p. 15), [329’ from Site], has only an unnoticeable partial 2nd story over the garage, and 1435 North Ocean Way, (NEx.1 p. 16),[274’ from Site] has only a partial second story well recessed in back with a colinear roofline when viewed directly from the street is almost imperceptible. 1438 North Ocean Way (NEx.1 p. 16) [structure 331’ from Site] and also plainly fronts on N. Ocean Blvd. atop the dune. Only its garage is on N. Ocean Way. For 2 reasons, is not at all a comparable to replace the low scale, low rise ranch on Onondaga. The same is true of all of the addresses at NEx. 1 p. 17 which have been dropped as comparisons by Applicant and are so marked in orange.

3. Remaining 3 Cited Examples Inapplicable.

Examining the only 3 examples asserted within 200 feet, it is clear that they are inapplicable. In this connection, please remember that to meet the crucial 18 – 205 (a) (6) criterion, Applicant must establish that there are not any excessively dissimilar structures within 200'. Here, as undisputedly proven, there are 14 that are excessively dissimilar within 200'. Apparently conceding this point, Applicant attempts to obfuscate the analysis by citing examples of alleged similarity. That, under 18 – 205 (a) (6), does not suffice because of the demonstrated dissimilar 14; but even so, Neighbors now show that the 3 remaining assertions are distinguishable irrelevant comps.

Turning to Developer's remaining 3, Developer likes to cite to 1460 North Ocean Blvd. (NEx 1. p 6) , a large Mediterranean Developer wants to mimic in the height and mass. But if you look at NEx 1, p 6, you will see, and anyone who lives or travels up there knows, that 1460 N. Ocean Blvd. is totally distinguishable because it is squarely on the widest part of N. Ocean Blvd., there some 60 ' wide, not on narrow Onondaga. Of course the roofscapes on NOB are far different from Onondaga and the Enclave. The (NEx1 p6) photograph plainly shows this. One cannot even see Onondaga traveling southbound down NOB. But one drives right toward 1460 NOB. Mr. Cope opined to this effect. ARCOM has traditionally and consistently treated proposals on N. Ocean Blvd. and N. Lake Way differently from smaller sidestreets. In this case, interior lane Onondaga is so slim, only 18' wide, that it is one way.

Applicant also cites to 1436 North Ocean Way (NEx 1 p. 8, right side photo). As Mr. Cope uncontradictedly explained, this structure has only a partial pop-up of less than 750 ft.² over the garage, which is not even seen in this

photograph taken from its Esplanade south elevation upon which the house major axis fronts. It is nothing like what is proposed here for Onondaga - a project with 2nd story high massing in front. The final extant cited comp, 220 Esplanade (NEx 1 p 9) also has only a partial 2nd story which is far recessed from the street in the back.

Thus, Applicant's cited comparables are totally inapplicable, being outside of the statutory 200' range, or are distinguishable as discussed. Here, despite Developer's attempt to proffer 2 floor, therefore taller instances, it is undisputed that there are 14 excessively dissimilar structures within 200' of the Site as to multiple features, and therefore, the application legally fails.

4. Appraiser's Report Irrelevant to Issues at Hand.

Applicant offered an appraiser, Mr. Reynolds whose report of course dwelt on perceptions of value, not 18-205(a)(6) criteria. And on cross examination, he admitted using only actual sales, but drew from the universe of hundreds of houses, north of the Palm Beach Country Club, not the 200' range prescribed by 18-205(a)(6) and offered no opinions on dissimilarity. It was not substantial competent evidence on the issue at hand.

Summary of Evidence – Sec. 18-205(a)(6)

Failure to meet any one of the 18-205 criteria as to any[1] structure within 200' is sufficient alone for denial. Here, the proposed Project offends at least 14 such structures and to them, violates not just 1, but multiple criteria as to all 14. With such ranging offense, in this unique location, denial is the compelling and obvious outcome.

III. IN AN ERROR OF LAW, ARCOM FAILED TO FOLLOW AND APPLY THE TOWN'S CONTROLLING ORDINANCE- CODE SECT. 18-205 (a) (6).

A. No Specific Finding of Compliance.

With such uncontradicted, overwhelming manifest weight of the evidence that the Project is excessively dissimilar to 14 structures within 200 feet, and no proof that it is not excessively dissimilar to any existing structure within 200 feet, it is clear that the 4 members supporting approval could not have adhered to Section 18 – 205 (a) (6). Nor did any of the Commissioners in their executive session discussion express, find or conclude that there were no excessively dissimilar structures within 200 feet, nor that 18 – 205 (a) (6) had been met. Bases of supporters ranged from liking the architecture to speculation of the effect of denial on future value. Expressions of the substantial bloc voting for denial found the Project to be out of character, dissimilar in massing, and does not fit. Movant did not include a finding that 18 – 205 (a) (6) had been complied with in the motion. After the motion was made, the Town Attorney suggested that it should be based on criteria of “the Code”, a voluminous work consisting of Chapters numbered 1 through 134, without specifying section 18 – 205 (a) (6).

Some commissioners have expressed misgivings of their perceived value of the governing ordinance: 18 – 205(a)(6). But it is not within the power or the discretion of the Commission to change it. ARCOM is bound to apply it. Sec. 18-205(a)(6) is the law and has been for 17 years ,[Ord. # 05-000 6/13/2000] and cannot be changed unless the legislative body, the Town Council does so. Council hasn't. Commissioners must apply the law as it exists, not how a member might like it to be.

B. Arcom's Precedent, Including In *257 Sandpiper* Should Be Followed Here.

Arcom's seminal and correct decision in *257 Sandpiper* should be respected as both applicable and controlling precedent here. There as here, the project was too high and too massive to comply on that 1 story low rise street.

An Application for a two-story Spec Project on the one story North End street of Sandpiper was considered and denied. [ARCOM Case B- 002 - 2015, 257 Sandpiper Dr., denied March 25, 2015] . See, Arcom action letter of denial.

Onondaga is more compelling for denial than ARCOM'S decision in *Sandpiper*.

There, the Commission reviewed a proposed Spec Project on a principally one story street that is approximately 36 feet wide, nearly 2 times the width of one way Onondaga. In *257 Sandpiper*, only 6-7 neighbors filed objections; at 202 Onondaga, some 17 neighbors have opposed the Project.

After 3 successive hearings the excessively high two-story application was denied on the basis of Code Sections 18 – 205(a) 1, 4 & 5[sic]. [the minutes of the March 25, 2015 hearing state "(a)(5)",sic, however, this is an entry error, as (a)(5) relates to excessive similarity, and the audio recording reflects that excessive dissimilarity was the basis for denial, a ground that is expressly covered by (a)(6)].

To treat the neighbors of the Enclave differently than those on Sandpiper in application and adherence to the ARCOM Ordinances would be unfair and unequal. At the time of Applicant's acquisition of 202 in January 2017, the decision in *257 Sandpiper* had already been on the books, in the public record for 2 years and published as a significant story in the Palm Beach Daily News.

As a result of Arcom's March 25, 2015 denial, in April 2015, Mr. Jansen submitted a new one story 257 *Sandpiper* application, Arcom Case # B – 041 – 2015. As reflected in the May 27th, 2015 minutes at page 10:

"Mr. Janssen reminded that he had previously presented a two-story residence which was denied by ARCOM. Since then, the program has been revised to a one-story residence with a center axis front door with a symmetrical façade."

Sandpiper, as a one story program was quickly approved, constructed with a huge bonus for the Developer, selling in 2017 for \$6,000,000. See, NEx.3 including PB Daily News, March 31, 2017, article p. B-1. The article reported that the Spec House's "single floor plan was a key marketing point", attractive to the many buyers who prefer not to climb stairs or use elevators. *Id.* at B-4. Such should become the case here. A viable one-story alternative is available having more square footage than in the Application as last submitted. Mr. cope opined that at least 4,427 ft.² could be realized in a low scale one-story without variances vs. the 4,201 ft.² of the Application.

A similar forced triumph for a Spec Developer of 225 West Indies began as a 2 story application, converted to 1 story sold in 2015 for \$ 5,645,000. Deed, ORB 27314, P 1119.

And Arcom on September 28, 2016 also denied, 5-2, the Application for 1021 NOB on 18 – 205 (A) grounds, in perhaps the most thorough ARCOM case ever conducted. In that case, the Town Attorney thoroughly "set the table" by opining on the 18 – 205 and quasi judicial process. 9/28/17 TR. at 7-16.

Following the sound decision of Arcom at 257 *Sandpiper*, 1021 North Ocean Blvd., Seagate and other cases the objecting neighbors to 202 Onondaga should be treated equally, and the subject Application denied.

IV. FINAL HEARING WAS CONDUCTED IN A MANNER DEPRIVING
NEIGHBORS SUBMITTAL OF COMPETENT EVIDENCE, DENYING THEM
DUE PROCESS.

Mr. Cope a qualified Florida architect, experienced and involved in municipal planning and approval matters as well as preservation, was offered as an expert witness by Neighbors. Mr. Cope was the only architect to testify for Neighbors. Yet, he was at times during the hearing cutoff and precluded from delivering his presentation by Arcom on the stated basis that some of his testimony might have overlapped with earlier evidence at hearings that were at least 3 months earlier. The town attorney had previously advised Arcom that parties must be given an opportunity to be heard in order to afford due process, and that the Commission should always err on the side of caution, giving the interested parties all the time they need to present their case. *e.g. Arcom 9/28/16 TR. at 8-12*. Here, whether or not Mr. Cope's opinions may have involved some degree of overlap is not a basis for precluding the testimony, for his opinions were being offered and expressed by a different witness – a well qualified architect expert witness - whose qualifications, experience and education, add a greater weight.

The expert testimony should not have been so limited and excluded; doing so constituted a deprivation of due process.

CONCLUSION

This project does not meet the requirements of the ordinance, and in this quasi-judicial review; applying the governing ordinance to these findings, the application should be denied. Allowing this would be a mistake, likely before long, and for a long time, to cause regret.

Oversized, overmassed, too high, dissonant from long established neighborhood character and tradition, the LLC's Spec Project applications that importune to aggrandize maximization should be denied. The unredeemable cottage charm that has lived on for decades should be preserved, not annihilated. If this development is allowed, others will surely follow, claiming precedent, and a gorge of overbearing structures erected on what was once proportioned pleasant spaciousness.

We therefore respectfully move Council to reverse Arcom's errant decision, and deny the Application.

Respectfully submitted,



John C. Dotterer
Susan Gary
Bradford Gary
Elsa Messing
Gianni Sellers
Jacqueline Murphy
Richard Murphy

APPENDIX and AUTHORITIES

2

ARTICLE III. - ARCHITECTURAL REVIEW**DIVISION 1. - GENERALLY****Sec. 18-146. - Statement of findings and purpose.**

- (a) The town council has found that Palm Beach is internationally known and has become a worldwide synonym for beauty, quality and value.
- (b) In recognition of the fact that beautiful communities can be created only through a deliberate search for beauty on the part of the community leadership, architects, planners, realtors and the building industry, backed by an appreciation of the visual world by the people, the town council has created the architectural commission.
- (c) Public action for improving community appearance, as embodied in the architectural commission, will provide the ultimate designers of individual structures with the larger contexts in which their particular works will be viewed. Since the beauty of a community involves the aesthetic quality of all one sees in moving about, it goes far beyond the design of individual architectural facades.
- (d) The comprehensive plan and zoning codes are the most powerful legal enforcement of an overall urban concept, but alone they do not create beauty, aesthetic order, or amenity. The task of the architectural commission is therefore to preserve various elements of urban beauty and require that new projects enhance the existing elements.
- (e) The essential foundation of beauty in communities is harmony. The plan for achieving beauty must grow out of special local characteristics of site, aesthetic tradition and development potential. Some local areas of natural beauty are the beaches, ocean and intracoastal waterway. The vistas and visual delight of these should be allowed only to be enhanced. It is the intent of this article to achieve a pleasant and comprehensive cohesiveness in community development.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

Secs. 18-147—18-165. - Reserved.

DIVISION 2. - ARCHITECTURAL COMMISSION**Sec. 18-166. - Membership; appointment.**

- (a) The architectural commission shall consist of seven members. At least two members, but not more than three members, of such commission shall be registered architects in the state. In the event there are, in the discretion of the town council, no bona fide applicants who are registered architects in the State of Florida, the town may solicit and appoint architects registered outside the State of Florida to fill one of the architect seats. In addition to the two registered architects, one member of such commission shall be a landscape architect, if available. However, in the event a landscape architect is not available, then one member of such commission shall be a master gardener or someone with equivalent expertise in landscape.
- (b) The members of such commission shall be appointed by the town council, and the commission shall designate a chair and a vice-chair.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

Sec. 18-167. - Qualifications of members.

25 TCM Agenda Backup 11-14-17

Sec. 18-205. - Criteria for building permit.

(a) The architectural commission **may approve**, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction **only after** consideration of whether the following criteria **are complied with**:

(1) The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.

(2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.

(3) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.

(4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.

* * *

6) The **proposed** building or structure **is not excessively dissimilar** in relation **to any other structure** existing or for which a permit has been issued or to any other structure included in the same permit application **within 200 feet of the proposed site** in respect to **one or more** of the following features:

a. **Height of building or height of roof.**

b. Other significant design features including, but not limited to, materials or quality of architectural design.

c. Architectural **compatibility**

d. Arrangement of the components of the structure.

e. **Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.**

f. Diversity of design that is **complimentary with size and massing of adjacent properties**

g. Design features that will **avoid the appearance of mass** through improper proportions

h. Design elements that **protect the privacy of** neighboring property.

(7)The proposed addition or accessory structure is subservient in style and massing to the principal or main structure.

(8)The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).

(9)The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.

(10)The project's location and design adequately protects unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.

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

(c)A decision or order of the commission or the planning, zoning and building department director or his/her designee shall not become effective until the expiration of ten working days after the date upon which a ruling of the commission or the planning, zoning and building department director or his/her designee has been made.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

Cabana (pool house) means an accessory structure usually used in connection with outdoor bathing, providing enclosed space for showering or changing clothes, with recreational cooking and/or bar facilities, but no sleeping rooms.

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.

Carport means an unenclosed accessory structure for the sheltering of an automobile(s).

Change in generic use means the change in the use of a parcel or structure thereon or portion thereof from one generic category of use to another, but not including a change of activity within a generic use category.

Club, private means buildings and/or facilities, not open to the general public, owned and operated by a corporation or association of persons for social or recreational purposes for members and their bona fide guests and which may render, as an accessory use, services that are customarily carried on as a business. Within residential zoning districts, a private club may provide living quarters for its bona fide employees only.

Commercial use means use of land or structures thereon or portions thereof, for the purpose of conducting business, including the provision of goods and/or services, not otherwise identified under the definition of other generic uses, to the general public or segments thereof. For the purposes of this definition, timesharing, motel and/or hotel uses and occupancy of residential properties for periods of less than three months more frequently than three times per calendar year shall be considered commercial uses.

Common open space means that area of a development site which is unencumbered by buildings, other structures, driveways for vehicular access, or automobile parking areas and storage. This area shall include all yard areas as well as those other open land areas located within the planned unit development site.

Cubic content ratio (CCR) means a measure of land use intensity, expressing the mathematical relationship between the cubic content of a building and the unit of land. It is arrived at by dividing the gross cubic content, as calculated by multiplying building height as stated in the definition of the term "building, height of (applicable only in the R-B district)" in this section times exterior building width times exterior building depth of all structures by the gross area of the lot.

Declaration of use means a town agreement signed under oath and recorded against the title of land in order to provide notice that the use of the land or structure is subject to certain limitations and/or conditions of approval, which unless otherwise determined by the town council, shall include provisions for remedies for violation of said limitations, conditions of approval and/or the Code of Ordinances and that the use will remain in compliance with the limitations in the Code of Ordinances and conditions of approval by the submittal of a certificate of compliance each year.

Dining room means any building or part thereof or any room or part thereof in which food is dispensed or served for profit or gratis to a restricted and limited clientele consisting of tenants and residents of the same premises and their bona fide guests, and private club members and their bona fide guests.

Dish antenna, television and communication means an accessory structure consisting of a satellite earth station designed to receive television or other broadcasts relayed by microwave signals from earth-orbiting communications satellite.

APPENDIX and AUTHORITIES

3

ORDINANCE NO. 5-00

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, OF THE TOWN CODE OF ORDINANCES AT ARTICLE III, ARCHITECTURAL REVIEW, AMENDING SECTION 18-205 RELATING TO CRITERIA FOR BUILDING PERMIT, AT ITEM (a)(6); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Chapter 18, Buildings and Building Regulations, of the Town Code of Ordinances is hereby amended at Article III, Architectural Review, Section 18-205, Criteria for Building Permit, item (a)(6), to read as follows:

"Sec. 18-205. Criteria for building permit.

- (a)(6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:
- a. Height of building or height of roof.
 - b. Other significant design features including, but not limited to, materials or quality of architectural design.
 - c. Architectural compatibility.
 - d. Arrangement of the components of the structure.
 - e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.
 - f. Diversity of design that is complimentary with size and massing of adjacent properties.
 - g. Design features that will avoid the appearance of mass through improper proportions.
 - h. Design elements that protect the privacy of neighboring property."

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 upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session on first reading this 13th day
of June, 2000, and for a second and final reading on this 11th day of July,
2000.

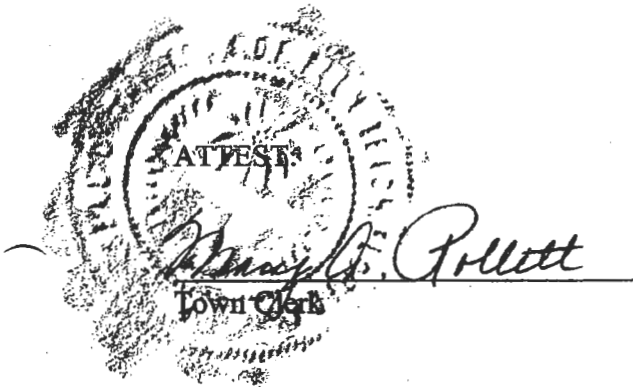
Lesly S. Swift
Mayor

[Signature]
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[Signature]

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Town Council



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June 29, 2000

APPENDIX and AUTHORITIES

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Architectural Commission 202 Onondaga Hearing
September 27, 2017

CITY OF PALM BEACH

ARCHITECTURAL COMMISSION

APPLICATION B-020-2017

APPLICANT:

202 Onondaga LLC

Wednesday, September 27, 2017
11:30 a.m. - 1:10 p.m.

360 South County Road
Palm Beach, Florida

Stenographically Reported By:
ROBIN L. MERKER, RPR, FPR
Registered Professional Reporter
Florida Professional Reporter

Architectural Commission 202 Onondaga Hearing
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 APPEARANCES: Commission Members Richard Sammons, Chair Ann Vanneck, Vice Chair Robert N. Garrison, Member Maisie Grace, Member Alexander C. Ives, Member Michael B. Small, Member Robert J. Vila, Member John David Corey, Alternate Member Betsy Shiverick, Alternate Member Katherine Catlin, Alternate Member On behalf of the Applicant: JAMES K. GREEN, P.A. 222 Lakeview Avenue Suite 1650 West Palm Beach, Florida 33401 561.659.2029 jkg@jameskgreenlaw.com BY: JAMES K. GREEN, ESQUIRE On behalf of the Neighbors: MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Avenue Suite 600 West Palm Beach, Florida 33401 561.655.2250 jdotterer@mrachek-law.com BY: JOHN DOTTERER, ESQUIRE - - -	Page 2 1 ordinances without the need for a variance. 2 A second motion carried to defer the project 3 for one month to the July 26, 2017, meeting. 4 A motion carried at the July meeting to defer 5 the project to the August 23rd meeting. 6 A motion carried at the August meeting to defer 7 the project to the September 27th meeting. 8 I know we've got ex-parte. 9 MR. VILA: I received many, many, many e-mails. 10 MS. VANNECK: That's not enough. 11 MR. VILA: I did not respond to any of them. I 12 missed last month's meeting so I'm a little bit 13 behind. 14 MS. GRACE: I visited the site and met with the 15 architect earlier, not on this revision, and I've 16 read many letters, most of them in opposition to the 17 project, from the neighborhood. 18 MR. GARRISON: I reviewed the plan that was 19 submitted as a part of the pack, and I received 20 numerous e-mails from the Town. 21 MS. VANNECK: I reviewed the mini sets. I have 22 had my e-mail explode with letters, mostly against, 23 but quite a few for. 24 MR. LINDGREN: Actually, they were half and 25 half. Page 4
Page 3 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 PROCEEDINGS ***** CHAIRMAN SAMMONS: I shall be recusing myself. MS. VANNECK: Okay. Roll up your sleeves everybody, here we go. Next item B-020-2017 Modifications. ARCOMM to make recommendations relative to variance which was done 4/26 and 6/28 of this year. The address is 202 Onondaga Avenue. The applicant is 202 Onondaga, LLC. Architect, Jaime Torres of Fairfax, Sammons & Partners. Project description: Renovations to existing one-story residence and partial second floor addition to same. Landscape and hardscaping changes included. Please note, this will be a conflict of interest for Mr. Sammons. At the April meeting a motion carried for the proposed project to be designed in an architecturally suitable manner in conformance to our code and ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017, meeting for restudy. A motion carried at the June meeting that the proposed project can be done in an architecturally suitable manner which conforms to the Town of Palm Beach code of	Page 5 1 MS. VANNECK: Okay. 2 MR. LINDGREN: Nine support -- there was one 3 e-mail that had, I think, seven or so letters in 4 support -- yes, letters in support. So it was nine 5 to nine. 6 MR. IVES: I met with the architect and I 7 visited the site, as other commission members have 8 mentioned. I received a large amount of e-mails. 9 Mr. Lindgren, I think, was right, almost about 50-50 10 e-mails from all over the country, even. 11 MR. SMALL: I visited the site neighboring 12 properties; reviewed the mini set; received numerous 13 e-mails, mostly in opposition. Several that were 14 duplicates in favor, including, I think, four or five 15 from Chilean Avenue, and spoke briefly with Mr. John 16 Dotterer. 17 MR. COREY: I studied the mini sets, I did a 18 site visit, and received the e-mails from the Town, 19 which is, from my recollection, seemed more against 20 the project. 21 MS. SHIVERICK: I drove by the site, and I had 22 read all of the letters, both in support and 23 opposition. 24 MS. CATLIN: I reviewed the mini set. I did 25 not re-drive the area. I reviewed all the e-mails,

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Page 6 1 both for and against. 2 MS. VANNECK: Mr. Corey, you will be voting on 3 this project? 4 MR. COREY: Yes. 5 MR. RANDOLPH: Madam Chair, may I speak in 6 regard to ex parte? 7 I've heard all of you talk about many e-mails 8 and then, at the end of the dais, I heard people 9 talking about they read all the e-mails supplied by 10 the Town. I am assuming that the e-mails that all of 11 you have spoken about are e-mails that have been 12 supplied by the Town, and they're part of the record 13 for anybody to read; is that correct? 14 MS. VANNECK: That is correct. 15 MR. RANDOLPH: Okay. 16 MS. VANNECK: Mr. Torres? 17 MS. GRACE: I have a question about the ex 18 parte. I was just wondering, because almost all of 19 the letters in favor come from, you know, outside of 20 the area. Some of them, I think, Laurie Lane. I 21 think that's within the area. And then most of them 22 are other area streets in town. 23 Do we consider letters from all over town and 24 over the country, like somebody else said? 25 MR. RANDOLPH: Yes. Anybody that wishes to	Page 8 1 required setback. 2 MS. VANNECK: So there are no variances — 3 MR. TORRES: So there are no variance requests, 4 exactly. 5 MS. VANNECK: Okay. 6 MR. TORRES: So that is all an ARCOMM issue 7 right now. 8 MS. VANNECK: Okay. 9 MR. TORRES: The second item that we — that we 10 changed is that we reduced the pitch of the roof to a 11 ratio of 4:12 to lower the overall height of the 12 building. 13 MS. VANNECK: And how much did that accomplish 14 lowering? How much height? 15 MR. TORRES: We actually had a 7:12 pitch, and 16 I think that's probably around 3 feet less. 17 MS. VANNECK: So you've lowered the overall 18 height of the house by another 3 feet? 19 MR. TORRES: Roughly, yes. 20 MS. VANNECK: Okay. Thank you. 21 MR. TORRES: And then the last and third change 22 was landscape/hardscape-related to accommodate the 23 current changes. 24 MS. VANNECK: Thank you. I think that we can 25 review that later.
Page 7 1 speak in regard to it may do so. 2 MS. GRACE: Okay. 3 MR. TORRES: Good morning. Jaime Torres for 4 Fairfax, Sammons & Partners, here for the record. 5 And since we have presented this project to you 6 twice already, we don't really want to dwell too much 7 on the specifics of the architecture, but we do need 8 to respond to comments from the community. 9 MS. VANNECK: Let's — Mr. Torres, let's review 10 the changes you've made since the last 11 presentation — 12 MR. TORRES: Okay. 13 MS. VANNECK: — and then you can respond to 14 comments. 15 MR. TORRES: Okay. 16 MS. VANNECK: Just quickly, any changes to the 17 previous presentation. 18 MR. TORRES: Okay. So from the previous 19 presentation, and the main comment was to come back 20 without any need for variances. So the current 21 design is virtually identical to the previous one, 22 with the exception of the removal or the elimination 23 of the need for a variance with respect to the garage 24 on the west side. So that wall on the west side of 25 the garage has been moved in 2'8" to conform with the	Page 9 1 Let's get to the bottom line. Okay. 2 Why don't you review the comments of the 3 neighborhood. 4 MR. TORRES: Okay. So the comments of the 5 neighborhood — 6 MR. GARRISON: Could I just raise one question? 7 Did I — I thought I just heard you say you 8 changed the roof pitch from (a) (6) — 9 MR. TORRES: From — I believe it was 7:12 peak 10 ratio — 11 MR. GARRISON: I'm looking at a drawing — both 12 drawings. It says previous roof elevation/proposed 13 roof elevation — 14 THE COURT REPORTER: I'm sorry, I can't hear. 15 MALE VOICE: I can't hear. 16 MR. GARRISON: Currently proposed north 17 elevation. The roof pitch shows 4:12. 18 MR. VILA: Right. 19 MR. GARRISON: The previous one above it shows 20 4:12. 21 MS. VANNECK: I think that there's an interim. 22 MR. TORRES: Yes. 23 MS. VANNECK: This was the original 24 presentation — 25 MR. TORRES: Correct.

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Page 10 1 MS. VANNECK: -- not the last presentation 2 which -- 3 MR. TORRES: Yes, ma'am. 4 MS. VANNECK: -- was supposed to be the one 5 that you showed. 6 MR. GARRISON: So the current just -- the 7 current is 4:12? 8 MR. TORRES: The current 4:12 is lower than the 9 intermediate one -- yes, that's what it was because 10 Mr. Sammons had increased the pitch of the roof for 11 the intermediate presentation. 12 Your suggestion was to lower the roof, so we 13 changed the pitch back down to 4:12. 14 MR. VILA: And so the ridge height is 31 -- 31' 15 4 3/4"; is that right? 16 MR. TORRES: It's on the streetscape elevation. 17 Let me just look here. 18 Yes, it is. Yes, it is. 19 MS. GRACE: So the streetscape, does that 20 reflect the change you made? 21 MR. TORRES: Yes, it does. The roof change and 22 the garage change. 23 Should I then continue with the presentation? 24 MS. VANNECK: Yeah. 25 MR. TORRES: Okay. So I'm going to try to	Page 12 1 These include 1460 North Ocean Boulevard, which is 2 5,572 square feet which is immediately adjacent to 3 the east of the subject property; as well as 1436 4 North Ocean Way, with 5,255 square feet; 200 5 Esplanade, 6,819 square feet; and 220 Esplanade Way, 6 5,043 feet. 7 Some neighbors have expressed a concern that a 8 two-story house on this site would take away ocean 9 breezes and/or views of the open sky. As we all 10 know, there are many other streets in Palm Beach with 11 two-story houses, where breezes flow freely, and 12 Onondaga would be no exception. In fact, a two-story 13 house currently exists on the adjacent lot to the 14 east, and breezes flow freely on this street. Full 15 adherence to setbacks, including an increased series 16 of setbacks in the front, reduced wall heights, 17 reduced roof pitches, and a second floor over only a 18 part of the footprint, all contribute to minimize any 19 impact on views of the open sky, if any were to be 20 lost. 21 The house has a smaller footprint than the 22 existing one-story home and, by not expanding the 23 footprint, it aims to be ecologically responsible. 24 It is a design, an addition, a renovation, which 25 reuses existing resources and wastes nothing. Our
Page 11 1 stick to a text here, and Scott's going to flip back 2 and forth through slides. 3 So during the very first presentation in April, 4 the commission recognized that a two-story house is 5 permitted in the district in general, and on this 6 site in this particular. This two-story proposal is 7 well within the parameters of what is allowed in the 8 R-B zoning district. 9 Also, during the June meeting, the commission 10 noted that there is a tradition in Palm Beach for 11 two-story houses as bookends to the middle blocks. 12 This house will contribute to the continuity of this 13 tradition. 14 We feel strongly that this design is respectful 15 of the traditions of the island and appropriately 16 understated to blend into the neighborhood. It is a 17 house which balances the concerns raised by certain 18 neighbors with the owner's right to develop the 19 property in accordance with their tastes and desires. 20 This house aims to be a very fair compromise in 21 terms of size and to address the neighbor's fear of 22 massive two-story houses. Massive two-story houses. 23 As you know, there are several much larger 24 two-story houses within the 200-foot radius required 25 for consideration under part of the ARCOMM code.	Page 13 1 responsibility as architects is to be efficient and 2 economical with existing resources. One of the three 3 elements or conditions for good architecture; beauty, 4 permanence, and economy, as stated long ago by 5 Vitruvius, is still relevant today. Economy is still 6 and always very important. 7 This is a house which, without being bold or 8 calling attention to itself, is attractive, well 9 proportioned, low in height, not massive, with its 10 mass broken up into a reasonable number of smaller 11 blocks to positively impact the streetscape, well 12 detailed, and modest. 13 This is an Anglo-Caribbean style house with a 14 Monterey style porch on the second floor of the main 15 elevation, which fits in quite well with the 16 character of both the street and the island. The 17 style and massing are well suited to the basic parti 18 of the existing house and many other Ranch style 19 houses on the island. Additionally, many strictly 20 Monterey style houses on the island share the same 21 parti. The development of the house, as proposed, is 22 natural and organic, whereas a horizontal 23 single-story addition would have been more of an 24 imposition on the house and on the site. 25 This is a "beachy" house that fits well with

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Page 14 1 the character of the neighborhood and the island. 2 Now, on the issue of the dissimilarity, or 3 rather excessive dissimilarity, which has been 4 brought up as an argument for rejection, I would like 5 to present the following response, point by point, 6 based on the criteria required. 7 One, height of building or height of roof. 8 There is a taller house right next door, and three 9 others within the applicable radius. The overall 10 building height was kept to a minimum, at 18'5" 11 instead of the allowed 22 feet. The roof pitch has 12 been lowered to a 4:12 ratio as a compromise to 13 diminish the overall height. 14 Two, significant features, materials, and 15 architectural design. The house is well designed, 16 well detailed, in an appropriate style, and should be 17 considered an architectural contribution to the 18 street, the neighborhood, and the island. 19 Three, architectural compatibility. Although 20 the house does not aim to copy any of the other 21 houses on the street, it is not incompatible with 22 other houses on the street or the neighborhood. 23 There are plenty of stylistic dissimilarities and 24 so-called incompatibilities on the street in its 25 current form; house range in the style from Ranch,	Page 16 1 greatly contributed to a more scaled-down reading of 2 its broken-up massing. 3 Eight, design elements that protect privacy of 4 the neighboring properties. All setbacks are either 5 met or exceeded, and landscape also used to protect 6 the privacy of the neighbors. The neighbor 7 immediately behind, to the south, reached out to the 8 architect and, after an explanation, was satisfied 9 that his privacy would be maintained. 10 Now, moving for more specific information, the 11 following data applies to this proposal. 12 One, side yard and rear setbacks are met and 13 the front yard setback is exceeded. The front yard 14 setback requirement of 30 feet for two-story houses 15 is exceeded by almost 4'8" in its northernmost 16 portion of the building, while the other portions 17 step back even more. The open second floor porch is 18 an additional 4 feet back and 38'8" from the property 19 line. The main block of the house is 9 feet away 20 from the front of the house and 43'8" away from the 21 property line. Finally, the west wing of the house 22 is yet another 6 feet back from the main block, and 23 49'8" away from the property line. 24 Two, the building lot coverage is only 25 23.66 percent or 2,698 square feet instead of the
Page 15 1 Mediterranean, and Bermuda, to very Modern. 2 Four, arrangement of the components. The house 3 is well proportioned, reflects good taste and design, 4 and has basic elements and details that are in 5 harmony to each other. The house is also quite 6 normal, modest, and doesn't present any outlandish or 7 out-of-place elements. 8 Five, appearance of mass. The building's mass 9 is broken up into a series of smaller blocks which 10 move progressively away from the street, much more 11 than required by code, and which greatly reduce the 12 impact of the house as perceived from the street. 13 Six, diversity of design, complementary with 14 the size and mass of adjacent properties. The 15 two-story portion of the house is adjacent to the 16 two-story house to the east; and the one-story 17 portion of the house is adjacent to the one-story 18 house to the west. This solution was readily 19 observed during a previous meeting by Mr. Vila. 20 Seven, design features which will avoid the 21 appearance of mass through improper proportions. 22 With the redesign of the house between the first and 23 second presentations, whatever sense of large massing 24 or lack of detail existed, which was the comment made 25 by Mr. Corey, were resolved. The detail on the house	Page 17 1 30 percent or 3,420 square feet allowed for a 2 two-story house on this property. This represents 3 722 square feet of building our client is not taking 4 advantage of. 5 Three, the building height is only 18'5". That 6 is a fairly significant 3'7" lower than the 22-foot 7 maximum allowed by code. 8 Overall building height is 23'-10 1/2" in lieu 9 of the 30-foot maximum allowed by code. 10 Four, the cubic content ratio has been kept at 11 3.42 instead of 3.98 maximum allowed. 12 Five, the maximum angle of vision for this 13 property is 100 degrees. As currently proposed, the 14 angle of vision is diminished from the existing 86 15 degrees to 82 degrees. 16 All of the above points should be viewed in 17 contrast to what a new structure on the site, under 18 the current regulations, could potentially represent. 19 And in closing, we have presented you with an 20 attractive house, consistent with the timeless 21 architecture for which is Palm Beach is renowned, 22 which addresses key issues raised by ARCOMM members, 23 and represents a fair compromise between the concerns 24 of neighbors and the property rights of the owners. 25 We have done everything requested by ARCOMM.

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Page 18 1 We have eliminated all the non-conformities needed, 2 and a need for variances. We have reduced the size 3 scale and massing of the building, and we have 4 refined its architecture. 5 We believe that this is a very nice addition to 6 the street and to the island. And we respectfully 7 request that you approve our proposal. Thank you. 8 MS. VANNECK: Just to cross our -- dot our I's 9 and cross our I's, Jaime, did you get sworn in? 10 MR. TORRES: Yes, I did. 11 MS. VANNECK: Good. Skip, do we hear from the 12 audience now, or should we go -- 13 MR. RANDOLPH: If they're finished with their 14 presentation, unless you have any questions of him, 15 you can begin to hear from the public. You should 16 hear from the public before you go into 17 deliberations, but if you have questions, you can ask 18 those questions. 19 MS. VANNECK: Anyone have any questions? I've 20 got two lights on, but... all right. 21 MR. GARRISON: I would like you to -- I believe 22 it's page 8, and I don't know that you show that. 23 It's the 8th page back which illustrates -- I just 24 want to make sure that that page illustrates the 25 setbacks that you just mentioned in your -- that	Page 20 1 30 feet; right? 2 MR. TORRES: We were actually allowed 22 for 3 the building itself, and I believe 8 feet more for 4 the roof. So altogether 30 feet. 5 MR. IVES: Okay. And then on the setback, as 6 Mr. Garrison was going over, but just to clear it in 7 numbers for me, as a two-story, you could be 4 feet 8 closer to the street. 9 MR. TORRES: I believe 4'8". 10 MR. IVES: Okay. And then if you were a 11 one-story, how much closer could you be to the 12 street. 13 MR. TORRES: I believe we could be at 25'. 14 MR. IVES: So 10 feet closer, if my math is 15 right. 16 MR. TORRES: Yes. 17 MR. IVES: Okay. And -- hold on one minute, I 18 just have one other thing. 19 MR. GARRISON: (Inaudible.) 20 THE COURT REPORTER: I'm sorry? 21 MR. IVES: Just one more question, just give me 22 one moment. 23 Ah. You were comparing it to the structure to 24 the west of you. And I think you were talking about 25 the floor and ceiling heights were the same, or did I
Page 19 1 page, yes, that's correct. 2 MR. TORRES: That page actually is a study 3 of -- yes, the very top drawing reflects the setback 4 of the house as proposed, and the other two drawings 5 reflect -- 6 MR. GARRISON: They're the setbacks that are 7 zone setbacks. The top one is the setbacks that 8 you're proposing which exceed those setbacks -- 9 MR. TORRES: Correct. 10 MR. GARRISON: -- is that correct? 11 MR. TORRES: Correct. 12 MR. GARRISON: Thank you, I just wanted to 13 clarify. 14 MS. VANNECK: Mr. Ives had a question. 15 MR. IVES: You answered some of this, sort of, 16 already, but I want to make sure I'm understanding 17 you correctly. 18 The house is now, from grade, 23 feet tall? Is 19 it that to -- 20 MR. TORRES: The house itself is 18'5" to the 21 top of the beam cornice -- 22 MR. IVES: And then with the roof 23. 23 MR. TORRES: 23' 10 3/4". 24 MR. IVES: Okay. And then you could have 25 done -- or, I should say you're allowed under zoning,	Page 21 1 have that wrong? I just want to get that straight. 2 MR. TORRES: The floor and ceiling heights in 3 comparison to the house next door? 4 MR. IVES: Yes, the house to the west. Not the 5 two-story to the east, the one to the west, the 6 single-story. 7 MR. TORRES: Oh, the single-story, actually 8 that house is twins to the existing house. 9 MR. IVES: So floors to ceilings all the same? 10 MR. TORRES: The first floor is all exactly the 11 same, yes. 12 MR. IVES: So wait, are you telling me that the 13 two houses right next to you, to the west, are 14 basically the same design? It doesn't look like that 15 to me. 16 MR. TORRES: No, no, no. 17 MR. IVES: Just the floor to ceiling -- 18 MR. TORRES: The existing house on our property 19 is exactly the same as the house next door to the 20 west. 21 MR. IVES: But not also to the west, just on 22 the -- 23 MR. TORRES: No, I don't believe that is. 24 MR. IVES: Okay. Thank you. 25 MS. VANNECK: Ms. Grace?

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Page 22 1 MS. GRACE: Yeah, I just have two questions. 2 Between, I think the previously proposed and 3 this one, did you — maybe — the roof came down or 4 the windows went up. So I guess maybe the roof went 5 down and that's why the windows on the second floor 6 appear to have less space between? 7 MR. TORRES: That is correct. The roof came 8 down. 9 MS. GRACE: Okay. And then those shutters are 10 all operable; right? 11 MR. TORRES: They're all operable. 12 MS. GRACE: Okay. Thanks. 13 MS. VANNECK: Okay. Mr. Small? 14 MR. SMALL: Yes, I have just one question, and 15 this would be through JP also, because I haven't 16 heard it mentioned yet this morning. 17 Have you made provision for the undergrounding 18 easement? Are we doing that still? 19 MR. PAGE: Yes, we'll be recommending that with 20 most — most projects that come your way. 21 MR. SMALL: Okay. Have you made provision for 22 that? 23 MR. TORRES: Believe — 24 MR. PAGE: I have a correction to make. 25 There was a point in time that's very, very	Page 24 1 Mr. Reynolds is an appraiser. He has prepared 2 a report. Attached to the report are photographs of 3 six residences on Debra Lane: 1470 North Ocean, 215 4 Onondaga, 250 Esplanade, and then there's one that's 5 not marked that is 209 Debra Lane. He has also, in 6 handwriting, initialed a slight change on page 1. 7 If I could pass this out. 8 Mr. Reynolds, you were sworn in as a witness? 9 MR. REYNOLDS: I was. 10 MS. VANNECK: Make sure you're speaking in the 11 microphone, please. 12 MR. REYNOLDS: I'm sorry. 13 MS. VANNECK: Skip, is this correct to keep the 14 following, or? 15 MR. RANDOLPH: As I understand it, this is part 16 of the applicant's presentation, so this is when it 17 should take place. 18 MS. VANNECK: Thank you very much. 19 MR. RANDOLPH: And quasi-judicial proceedings, 20 there's opportunity for cross-examination. If 21 somebody's going to present a witness, somebody might 22 cross-examine. 23 MS. VANNECK: Thank you. 24 MR. GREEN: And I'm handing a copy to a 25 Mr. Dotterer.
Page 23 1 critical here, and I think that date was June 14th, 2 if I'm speaking correctly off the top, when the town 3 council entered into a contract for undergrounding to 4 occur. 5 Because this project was in the pipeline and 6 had been submitted to the town prior to that date, 7 that rule will not apply in this particular instance. 8 MR. SMALL: I see. So it would be voluntary 9 then? 10 MR. PAGE: Yes. 11 MS. VANNECK: Okay. Now, we're going to go to 12 the audience participation and — 13 THE WITNESS: Excuse me. 14 MR. GREEN: Oh, excuse me, excuse me. 15 MS. VANNECK: Mr. Green? 16 MR. GREEN: Yes, James K. Green, West Palm 17 Beach, I'm counsel for the applicant. 18 I do just have one additional part of the main 19 presentation. Do you want to wait until — I think 20 we need to do that part of our initial presentation 21 so that the — 22 CHAIRMAN SAMMONS: Well, you're the lawyer 23 then, I'm not. 24 MR. GREEN: Okay. Mr. Bob Reynolds, are you 25 here?	Page 25 1 MS. VANNECK: Make sure you state that into the 2 microphone, please. 3 MR. GREEN: And I'm going to offer these into 4 the record. 5 MR. DOTTERER: Do you have one more copy, Jim? 6 MR. GREEN: No. I think I made a copy for you. 7 MR. IVES: It's been asked that you all please 8 make sure to speak into the microphone. 9 MR. GREEN: I'm sorry. 10 MS. VANNECK: Are there copies for us too? 11 MR. GREEN: Yes, yes, I handed them to 12 Mr. Page. 13 Actually, I think I have another one. 14 MR. GARRISON: And this is related to what? To 15 the architecture? 16 MR. GREEN: No. This is related to the 17 provision in ARCOMM — 18 MS. CHURNEY: Into the microphone, please. 19 MR. GREEN — 18-205, I think it's (a)(3), that 20 the application not cause the nature of the local 21 environment to materially depreciate in appearance 22 and value. And Mr. Reynold's report addresses those 23 at the last page of, as I said, the photographs of 24 six residences within 200 feet. 25 MS. VANNECK: Mr. Page, you were sworn in?

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CORRECTED ARCOMM MEETING

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26 to 29

CORRECTED ARCOMM MEETING Page 26 September 27, 2017	CORRECTED ARCOMM MEETING Page 28 September 27, 2017
1 MR. REYNOLDS: I'm Mr. Reynolds. 2 MS. VANNECK: Oh, Mr. Reynolds, sorry. 3 Would you like to swear him in? 4 MR. GREEN: He's already sworn in. 5 MS. VANNECK: Oh, he is sworn in. Thank you. 6 MR. GREEN: And his report that we just filed 7 with the -- 8 MS. CHURNEY: Your microphone, please. 9 MR. GREEN: Does the report that we just filed 10 with the Town fairly and accurately represent your 11 opinions and the photographs of the six residences 12 depicted on the last page? 13 MR. REYNOLDS: It does. 14 MR. GREEN: Nothing further. 15 MR. RANDOLPH: Jim, I realize you're 16 establishing a record, but could you just put into 17 the record verbally the conclusory remarks in the 18 last paragraph? 19 MR. GREEN: Oh, I'll be glad to, Skip. 20 On the last, see Footnote 2, he authenticates 21 the photographs of existing -- various existing 22 structures in the so-called enclave. And then he 23 states that he has never seen any reference in real 24 estate listing to be a north end district called the, 25 quote, enclave, end quote. Most of those real estate	1 inferior quality. You can compare the renderings to 2 the photographs of the residences in the adjacent 3 neighborhood, such as to cause the nature of the 4 local environment to materially depreciate in 5 appearance and value. That's the entire provision of 6 18-205 subsection a, subsection 3. 7 MS. GRACE: Okay. I just didn't see the 8 tie-in -- 9 MS. VANNECK: Let's use our buttons to ring in. 10 Have we finished all our questions? Okay. 11 Mr. Dotterer, you, as representing whoever you 12 are representing -- well -- 13 UNIDENTIFIED MALE: Excuse me, excuse me. Just 14 for the record, do you want to hear about the 15 landscape changes that took place? 16 MS. VANNECK: No. I'm always honest. 17 Okay. I won't give you a limit of three 18 minutes. 19 MR. DOTTERER: Thank you. 20 MS. VANNECK: But I don't -- we don't want to 21 hear repetitiousness from other people if they've 22 already written letters, or they're -- they can do it 23 succinctly within three minutes' time limit. 24 You, as being the representative, will have 25 unlimited time.
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1 listings use terms like cozy, warm, bungalow, or 2 beach house which are generic to the whole island. 3 And many of the north end streets have large 4 two-story homes. And replacing one-story homes with 5 two-story homes will increase square footage, thereby 6 increasing value. 7 MR. GARRISON: So in summary, this is a report 8 saying that the -- if a two-story house is 9 constructed, it will not diminish the value of the 10 one-story houses in the area, is that the summary? 11 MR. GREEN: Exactly. And then I think, also, 12 you can look at the photographs on the -- at the end 13 and compare those to the photographs depicted in 14 the or the -- excuse me -- renderings that have been 15 presented, and I think the renderings presented will 16 obviously increase the -- the value of the local 17 environment. 18 MS. GRACE: How does that tie into the 19 ordinances section that you quoted? Because it talks 20 about design and appearance of inferior quality, but 21 it doesn't talk about one and two-stories as related 22 to value. 23 MR. GREEN: Well, if you look -- first of all, 24 18-205(a)(3) says the proposed building or structure 25 is not, in its exterior design and appearance of	1 MR. DOTTERER: Thank you. Madam Chair -- 2 MR. GARRISON: Press the microphone button, 3 John. 4 MR. DOTTERER: Is that better? 5 MR. GARRISON: Yes. 6 MR. DOTTERER: Okay. Thank you. 7 Thank you, Madam Chair. 8 Before we proceed to that, I have a couple of 9 very quick questions for the witness who just 10 testified, on cross-examination of the applicant's 11 case. It will be very short. 12 MS. CHURNEY: Can you state your name for the 13 record, please? 14 MR. DOTTERER: My name is John Dotterer, and I 15 reside at 1470 North Ocean Boulevard, Palm Beach. 16 MS. VANNECK: Mr. Reynolds? 17 MR. DOTTERER: Bob, good morning, good to see 18 you again. 19 MR. REYNOLDS: Hi, John. 20 MR. DOTTERER: Good to see you again. 21 How many properties did you study in arriving 22 at this report? 23 MR. REYNOLDS: As I stated, I looked at all of 24 the properties north of the clubs, which I consider, 25 and most real estate appraisers consider, to be the

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1 same market as the subject.
2 MR. DOTTERER: Okay. I'm going to try to move
3 quickly.
4 So north of the Palm Beach Country Club; right?
5 MR. REYNOLDS: Correct.
6 MR. DOTTERER: To the end of the island, to
7 Annie's Dock?
8 MR. REYNOLDS: To Annie's Dock, correct.
9 MR. DOTTERER: All right. And did you study
10 any specific values in writing up this report? I
11 mean, it's a lot of houses. It's hundreds, right?
12 MR. REYNOLDS: Right. What I looked at,
13 specifically, was whether or not the small bungalow
14 cottage beach house varied in value as street to
15 street, or whether or not the general value of those
16 houses was similar.
17 MR. DOTTERER: Okay. And you've come to
18 conclusions here. Can you tell us specifically which
19 houses you studied that were within — the structures
20 of those houses were within 200 feet of the property
21 line of the proposed project?
22 MR. REYNOLDS: I believe there was only one
23 sale that took place within that area. I was doing a
24 study referring to the entire north end.
25 MR. DOTTERER: I understand, and I want to make

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1 this quick, because I know the committee wants to go
2 to lunch here.
3 But, so, you only studied — you only studied
4 sales first of all —
5 MR. REYNOLDS: Correct.
6 MR. DOTTERER: — actual sales, where there was
7 a deed recorded —
8 MR. REYNOLDS: Right.
9 MR. DOTTERER: — which is usual for
10 appraisers; right?
11 And only one of the houses that you studied was
12 within 200 feet of the subject site.
13 MR. REYNOLDS: I believe that's correct.
14 MR. DOTTERER: Thank you.
15 That concludes those questions.
16 MR. SMALL: Madam Chair, before the witness
17 leaves, I have a question.
18 On your back page, sir, you indicate replacing
19 one-story homes with two-story homes will increase
20 square footage, thereby increasing value.
21 Are you suggesting that if this home, as it now
22 exists, was replaced with a one-story home, it would
23 not increase the value?
24 MR. REYNOLDS: No, not at all. I'm speaking
25 only to the fact of what you can build as opposed —

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1 using a one-story house as opposed to the square
2 footage that you can get using a two-story house.
3 MR. SMALL: Maybe Mr. Jansen would help me with
4 the address. I think it's 257 Sandpiper. Are you
5 familiar with that example? That was a similar
6 situation considered by the commission, perhaps two
7 years ago, where a proposed two-story house was
8 denied, a one-story was built, and it was
9 subsequently sold for, I believe, \$6 million.
10 Did you consider that in your opinion?
11 MR. REYNOLDS: I referred to that in my report,
12 and to 225 West Indies, which was quoted in
13 Mr. Dotterer's letter.
14 MR. SMALL: 257, I see it, thank you. Very
15 good.
16 MS. VANNECK: Okay. Mr. Dotterer?
17 MR. DOTTERER: Yes, thank you.
18 MS. VANNECK: Are we going break to for dinner,
19 or are we going to break for lunch?
20 MR. DOTTERER: As you like it. But certainly
21 we won't take until dinnertime, and I'm sensitive to
22 the lunch desires of the —
23 MS. VANNECK: Well, it's not that. It's just
24 that, you know, we've heard ad infinitum almost, on
25 this subject and, you know, it's not your first

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1 appearance here so —
2 MR. DOTTERER: That's correct and —
3 MS. VANNECK: — just take a little bit of
4 consideration for us, that we've now been fairly
5 educated on this project. Thank you.
6 MR. DOTTERER: Thank you, we will.
7 So the neighbors are ready to proceed. And the
8 first thing I'd like to do is file a few items for
9 the record of the case.
10 MR. IVES: Do we need to be clear on who he
11 represents exactly?
12 MS. VANNECK: Yes, he does.
13 MR. IVES: I mean, just because I didn't — you
14 know, we have letters in support, and I don't — you
15 follow what I'm saying, thank you.
16 MS. VANNECK: Mr. —
17 MR. DOTTERER: Sure. Madam Chair, I —
18 MR. GREEN: Excuse me, John. Do you have
19 copies for —
20 MR. DOTTERER: Yeah, I'm coming. Which would
21 you like first?
22 MR. GREEN: The copies.
23 MR. DOTTERER: Sure. Pardon me.
24 I have hard copies for any members who might
25 like to —

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1 MS. VANNECK: Let's just --
2 MR. DOTTERER: Okay. I represent about ten
3 persons as an attorney in this case, who are
4 residents of the area there. One of them is me, so I
5 must have at least one fool for a client.
6 MR. GARRISON: Are all ten of those within
7 200 feet?
8 MR. DOTTERER: No. Many of them are, but not
9 all ten.
10 MR. GARRISON: Would you mind telling us what
11 the addresses are of people that do, so we can
12 understand where they are?
13 MR. DOTTERER: Let's see.
14 MR. GARRISON: I would think, since this
15 200 feet has become such a big issue, that would have
16 been at least part of -- they're the only ones that
17 everybody is interested in, basically.
18 MR. DOTTERER: Well, let's see. I don't have
19 all of the addresses or maybe even any of the
20 addresses, but -- let's see.
21 I represent the Rose Veith family which reside
22 at 1464, I think it is, North Ocean Boulevard.
23 That's a little over 100 feet from the site.
24 I represent Mr. Turnipseed, who lives at 211
25 Esplanade, who is well within 200 feet of the site.

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1 I represent Jacqueline Murphy, who lives at 230
2 Onondaga, and just slightly over 200 feet from the
3 site.
4 I represent the Debra Lane Trust, which is
5 slightly over 200 feet.
6 And that's about it. A few others that are
7 outside 200 feet, if that's your question.
8 MS. GRACE: Do you think that they are all
9 within 500 feet?
10 MR. DOTTERER: Uh --
11 MS. GRACE: Or a thousand feet, just because --
12 MR. DOTTERER: Yes, except for --
13 MR. GARRISON: Your screen says, dissimilar
14 structures within 200 feet.
15 MR. DOTTERER: That's correct.
16 MR. GARRISON: So that's really all you're
17 concerned with, according to your presentation, that
18 we're concerned with.
19 MS. GRACE: Okay.
20 MR. DOTTERER: I'll answer that --
21 MS. VANNECK: We're not here to do this right
22 now. Let's have him make his presentation, and we
23 have questions afterwards. But if we keep going like
24 this, we're going to be here until tomorrow morning.
25 MR. DOTTERER: Thank you, Ms. Vanneck.

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1 We'd like to begin with an expert witness also
2 who is Roger Cope, an architect, and I'll turn the
3 podium over to him.
4 MR. COPE: Good morning, ARCOMM.
5 MS. VANNECK: Afternoon.
6 MR. COPE: Good afternoon.
7 MS. CHURNEY: State your name for us.
8 MR. COPE: For the record, Roger Cope. I'm an
9 architect in the state of Florida, Registration
10 No. 13552.
11 My address, office address, is 701 -- for the
12 record, 701 Southeast First Street, Delray Beach,
13 Florida 33483.
14 MS. VANNECK: Let me ask you, Mr. Cope, have
15 you ever presented before ARCOMM of Palm Beach
16 before.
17 MR. COPE: I have not.
18 MS. VANNECK: Okay. Thank you.
19 MR. COPE: In the interests of time I'm going
20 to make this brief and not belabor any points, but I
21 have a brief outline that I'd like to present to you
22 first.
23 I'm going to give you an introduction.
24 Secondly, I'm going to talk to you about some very
25 important terms that are used, that you are all

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1 familiar with. And I'm going to take a position on
2 the application, and that is one of opposition, and
3 I'll tell you why.
4 And I'm going to then address three of the
5 pertinent two-story structures that are within the
6 200-foot zone of relevance that the applicant has
7 also referenced. They reference the fourth as a
8 two-story at 200 Esplanade Way. I'm not familiar
9 with that piece of property so I can't speak to that
10 one, but I will speak to the three that they
11 referenced prior to that.
12 I'm going to offer you an alternate solution.
13 MS. VANNECK: Okay. Let's just get on with it
14 instead saying what I'm going to offer --
15 MR. COPE: Okay.
16 MS. VANNECK: -- please. That's what we
17 requested.
18 MR. COPE: Okay. Absolutely.
19 MS. VANNECK: Thank you.
20 MR. COPE: To give you a little bit more
21 background on myself, I am the current chair of the
22 site plan review and appearance board, which is in
23 the city of Delray Beach. Our task is very much like
24 yours, we're obligated to pass judgment on every
25 multifamily and commercial project that occurs within

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1 our central business district. So I am current chair
2 of that board, so I can relate to the task at hand
3 that -- that ARCOMM represents.

4 So I'm also a past member of the historic
5 preservation board in Delray Beach, the code
6 enforcement board, a current charter and board member
7 of the Delray Beach Historic Society, and also the
8 Preservation Trust, which is a private not --
9 not-for-profit organization that has the preservation
10 of architecture in general at its core value.

11 The important terms, that we're all, at this
12 point, very familiar with, I'm going to start with
13 the one that is "enclave."

14 The people that are -- are most affected by
15 this structure are, in my opinion, in an enclave in
16 this part of the island. And that enclave, by
17 definition, to me anyway, is one of a very quaint
18 neighborhood, one of -- one of very low-lying
19 single-story homes, low-sloping roofs, very
20 low-profile homes, very narrow paved streets. Quaint
21 little paths to the ocean.

22 Those people have a beautiful way of life that
23 they've chosen as their homestead and places of
24 residences. So -- so I would like for the fact that
25 these people enjoy a certain lifestyle that I'm going

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1 to classify as an enclave, and they are the streets
2 of Onondaga Avenue, Esplanade Way, North Ocean Way.

3 MS. VANNECK: I'm going to be a little bit of
4 an attorney myself.

5 You're offering this as evidence, not a fact.

6 MR. COPE: This particular point would be
7 evidence, an opinion, yes.

8 MS. VANNECK: Well, you said "fact," so let's
9 keep it factual.

10 MR. COPE: Laurie Lane and Debra Lane, those
11 are secondary arteries that comprise this enclave.

12 Conversely the two primary arteries that frame
13 or box it, are North Ocean Boulevard and North Lake
14 Avenue, first to the east, the second to the west.

15 It's my understanding that -- that projects on
16 those two arteries are not to be taken into
17 consideration when analysis is given to the subject
18 property at 202 Onondaga. So -- and I'll circle back
19 around and tell you why that's important, because one
20 of the primary subject properties is on North Ocean
21 Boulevard.

22 The second term that we should highlight is
23 "excessively dissimilar." That's a very, very
24 important term. It's not acceptably dissimilar, it's
25 not necessarily slightly dissimilar, it's not even

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1 moderately dissimilar. Excessively dissimilar is
2 exactly what it states.

3 And then "cubic content ratio," we all know
4 what that is. It's the unit of measurement, that's
5 basically a land use intensity.

6 We've done a very exhaustive study to analyze
7 the cubic content ratio of all the homes within this
8 200-foot --

9 MS. VANNECK: That was presented to us last
10 month, all of that information.

11 MR. COPE: Okay. And it was 2.03. What I
12 would say to you is, we've re-reviewed the data that
13 went into that research, trying to --

14 MS. VANNECK: I'm just trying to keep it, you
15 know, as whatever we've already been lectured by,
16 Mr. Dotterer went over these facts at least twice.

17 MR. COPE: Perfect.

18 MS. VANNECK: Right, Mr. Dotterer?

19 MR. COPE: My point, to just button that up, is
20 that the cubic content ratio of the product that is
21 there is 2.03. The cubic content ratio of the
22 proposed revised project, as it's presented today, is
23 3.43. And the -- I would say to you that's a
24 67 percent increase over the existing cubic content
25 ratio and, in my opinion, that is excessively

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1 dissimilar.

2 The position that I'd like to take on behalf of
3 the enclave, is that when you take the 200-foot
4 radius into consideration, it eliminates 14 of the
5 prior examples that the applicant had listed. It
6 only brings the three in that I'm about to announce,
7 that are actually relevant.

8 You've referenced it earlier today, your
9 ordinance, Section 18-205, criteria for building
10 permit, subsection 6, not that -- the project not be
11 excessively dissimilar in relation to any other
12 structure that is existing. The key word "any
13 other." I would suggest to you that the project, as
14 submitted, is excessively dissimilar to every
15 structure in this enclave.

16 Subsection (6) (a) deals with height, height of
17 the roof, height of the plate. You have spoken very
18 eloquently and very appropriately, all morning long
19 about architectural compatibility. You've talked
20 about mass from the street. The architecture being
21 presented needs to be complimentary with that of the
22 neighborhood, with specific issues addresses massing,
23 and adjacent -- massing of adjacent properties even.
24 And then even privacy is -- is very relevant in your
25 ordinance.

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1 So getting to the three examples that are cited
2 as comparisons: 1460 North Ocean Boulevard, the
3 two-story that's immediately adjacent to southeast of
4 their site, should be eliminated from the mix because
5 it has an address of North Ocean, it should not even
6 be taken into consideration. Properties on the
7 enclave on the secondary streets, within that
8 200-foot zone of relevance should.

9 The second example was 1436 North Ocean Way.
10 That, I would suggest to you, is a very, very minor
11 partial two-story, what I would call a pop-up. It's
12 a very tiny little piece that pops up on the backside
13 of the house. It represents less than 750 square
14 feet, and is -- is fairly -- barely viewable from the
15 public right of way. There are conflicting
16 photographs in their presentation that sort of show
17 it from the backside, or the side, I should say. And
18 it shows -- it gives a little bit more relevance to
19 that pop-up. If you photograph the house from the
20 street, you can barely even tell that it's even
21 there. It's a front facade home, it's -- it reads
22 clearly as a one-story home, and it's a very weak
23 example for their argument.

24 The last item is the most relevant, and it's at
25 220 Esplanade Way. It's definitely the most valid

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1 example. It is a two-story, but it's -- the
2 two-story portion is substantial, but it's fully
3 recessed from the public facade.

4 So taking those three examples into
5 consideration, I would suggest to you that the
6 project, as submitted, is excessively dissimilar.

7 Alternate solutions, you guys began to talk
8 about it, in reference options, just a few moments
9 ago. The subject lot is 11,004 gross square feet.
10 If a one-story alternative solution were developed,
11 they have a huge incentive on the lot coverage
12 percentage. It goes from a more restrictive
13 30 percent if two-story to a 40 percent if
14 single-story. I would suggest to you that a viable
15 alternate solution is a single-story structure. If
16 the applicant walked into the room with a
17 single-story structure months ago, we wouldn't be
18 here.

19 A single-story structure would -- I've done
20 math and some calculations, would provide -- well
21 designed, would provide slightly more square footage
22 than the project as presented.

23 MR. SMALL: Gives us details, please. How much
24 more? What are we talking about, square footage?
25 MR. COPE: I'll tell you, I'll tell you.

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1 Excellent question.

2 Their home, as presented right now, is 4,201
3 gross square feet, two-story solution.

4 If you factor in the exact same size rear and
5 front setbacks that they're abiding by now, you can
6 get as much as a 4,424 gross square foot home.

7 MS. VANNECK: Does that include the variances
8 needed for it?

9 MR. COPE: It does not. If you include -- if
10 you include the nonconforming components of the
11 house, as it sits right now, which I believe you've
12 already gone on record as saying you would support,
13 you could increase it even further, and that's why
14 you guys are in place to support --

15 MS. VANNECK: But we don't support it. That's
16 why we're here.

17 MR. COPE: I'm sorry, not the variance. The
18 nonconforming -- apparently two little tiny slices of
19 the home --

20 MS. VANNECK: Gone.

21 MR. COPE: -- as it sits right now --

22 CHAIRMAN SAMMONS: Gone.

23 MR. COPE: What do you mean they're gone?

24 MS. VANNECK: There are no variances connected
25 with this.

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1 MR. COPE: I'm -- if I used the word
2 "variance," I apologize.

3 There are two nonconforming components of the
4 house as it sits right now. The little --

5 MS. VANNECK: Correct.

6 MR. COPE: So if you were to support allowing
7 the applicant to retain those nonconforming pieces --

8 MS. VANNECK: We can't.

9 MR. COPE: You can't. Okay.

10 MS. VANNECK: New house --

11 MR. COPE: No, I'm saying if they renovate and
12 present a single-story solution.

13 MS. VANNECK: They won't.

14 MR. COPE: Okay. So then --

15 MS. VANNECK: Because with 50 percent, it had
16 to be code.

17 MR. COPE: Then -- then, to answer Mr. Small,
18 4,424 square feet, a 10 percent increase perhaps,
19 over -- or at least a couple of hundred square feet
20 above and beyond the presentation that they have
21 today.

22 So -- so in terms of the viability of a more
23 sizable product, there's no argument that going to a
24 single-story solution would impede that and, in fact,
25 allows them greater opportunities to have a slightly

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1 larger home.
2 And, as you referenced, the Sandpiper house
3 sold for \$6 million. It was a 5,000-square-foot
4 house. It sold for \$1,200 a gross square foot --
5 foot. So if you took that \$1,200 per foot and -- and
6 applied that to the 200 additional feet that they --
7 that they could accommodate, this would be a more
8 profitable project for them.
9 In fact, the Realtor, so I've been told, that
10 sold that home, said that the end user actually
11 preferred a single-story home on that site at 257
12 Sandpiper. So --
13 MS. VANNECK: You're -- you're diverging.
14 Let's keep on the subject.
15 MR. COPE: I'm at my conclusion.
16 The conclusion is, please deny the project.
17 Uphold all the values that you have -- that you've
18 been upholding all morning long.
19 Your 18-205, the buzz words there are harmony.
20 There's no harmony. There's no -- there's no
21 appropriate compatibility with this two-story
22 product. The massing is wrong. The privacy issues
23 to the adjacent properties are wrong.
24 It doesn't have the proper character and -- and
25 flavor that the enclave has, the existing enclave

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1 had.
2 You have more letters of opposition than you do
3 of support, I believe.
4 And again, your code clearly says that it only
5 has to be excessively dissimilar to any structure
6 within its --
7 MS. VANNECK: Does Mr. Ives have a question?
8 MR. IVES: I do. I have a few. I'll try to
9 make this quick.
10 On this issue of excessively -- well, let me
11 ask this: What would you consider the style of this
12 house that's being proposed?
13 MR. COPE: It's a -- to me, it's irrelevant
14 what the style of it is.
15 MR. IVES: Very well. Would you say the style
16 of this house -- not the height and all those other
17 issues -- is excessively similar, dissimilar,
18 slightly, somewhat? Does the style, is that an
19 issue --
20 MR. COPE: Moderate --
21 MR. IVES: -- that's not an issue?
22 MR. COPE: -- middle of the road moderate.
23 MR. IVES: So you mentioned on -- oh, one other
24 issue, which the applicant had brought up: The
25 floor-to-ceiling heights, not the two-story, but just

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1 the floor-to-ceiling, are those excessively similar
2 or dissimilar to the surrounding houses?
3 MR. COPE: I don't really know what his first
4 floor ceiling, finished ceiling height is.
5 MR. IVES: Okay.
6 MR. COPE: But I do know, after studying all
7 the other existing low-sloping homes that are -- that
8 we're talking about a plate height of 8 feet, 8'1",
9 8'2", and in few cases 9.
10 MR. IVES: Okay.
11 MR. COPE: So I can't imagine they're
12 developing this project with anything less than a
13 9-foot interior finished ceiling height on the first
14 floor. I would hope it's 11 or 12 feet.
15 MR. IVES: Okay. Just -- I've only got two or
16 three more questions quickly here.
17 So you brought up that issue of, that it says
18 excessively dissimilar, not slightly or lightly or --
19 there's allowance for some dissimilarity.
20 MR. COPE: Correct.
21 MR. IVES: And so if I'm following your
22 argument correctly, what you're saying is that the
23 other two-story buildings within the area that you
24 would consider not excessively, but fall under,
25 maybe, slightly dissimilar, are not excessive because

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1 they have a front section that's one-story and the
2 second-story section is back from that front section;
3 correct?
4 MR. COPE: Correct.
5 MR. IVES: So, given that, what I'm trying to
6 understand here is, if they were to propose a
7 building for this area, which could even be, as we've
8 heard, you know, 4 feet, 5 feet closer to the road,
9 that was two-story, but there was a section in which
10 the front of it was one-story, and the two-story
11 section in the back, that would not be excessively
12 dissimilar to you?
13 MR. COPE: It would be far more similar to the
14 other product in the enclave. Their house, to me, at
15 this point in time is clearly defined as a full
16 two-story solution, where the one-story garage off to
17 the right, or to the west, is -- is an admirable
18 attempt to scale it down and mitigate it as it goes
19 towards that direction. But it's clearly a full
20 two-story home. There isn't a full two-story home
21 anywhere around this piece of property. You have to
22 eliminate the house to its east.
23 MR. IVES: Thank you.
24 MS. VANNECK: Are you finished, Mr. Dotterer?
25 Or did you want to continue or --

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1 MR. DOTTERER: Yes, please.
2 MR. COPE: Thank you for your time, and I also
3 want to thank Kelly for helping us with the slide
4 presentation. Very, very helpful, thank you.
5 MR. DOTTERER: John Dotterer, again, 1470 North
6 Ocean Boulevard.
7 By the way, I don't think I was here when you
8 administered the oath earlier, and I adopt what I
9 said previously.
10 MS. CHURNEY: If there's anyone else that needs
11 to be sworn in, you can do so at this time. Please
12 stand.
13 Do you swear or affirm the evidence you are
14 about to give will be the truth, the whole truth, and
15 nothing but the truth so help you God?
16 MR. DOTTERER: I do.
17 CHAIRMAN SAMMONS: Okay. Let me just say one
18 thing to the rest of the audience: This is it before
19 lunch, okay.
20 I guess everybody is interested in seeing
21 what's going on.
22 MR. RANDOLPH: When will you come back?
23 Madam Chair, if you're breaking for lunch, will
24 you tell them when you're coming back?
25 MS. VANNECK: Mr. Dotterer, how long do you

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1 think you're going to be?
2 MR. DOTTERER: One hour. I hope to be more
3 like 10 to 20 minutes. I'll try to make it as short
4 as possible.
5 MS. VANNECK: So let's try for 2:00 o'clock.
6 And give us some leniency, please. If you want to
7 come back, that's when we come back.
8 Because I'm going to hold you to that 10 to
9 20 minutes. That gets us to 1:00 o'clock.
10 MR. DOTTERER: Okay. And thank you.
11 MS. VANNECK: And that gives us ten minutes to
12 talk.
13 MR. DOTTERER: There -- well, I'll be -- we
14 have a couple of neighbors who wish to speak within
15 the three-minute limit. There's not that many, so...
16 MS. VANNECK: All right.
17 MR. DOTTERER: That's coming up.
18 MR. GARRISON: Are they people you represent,
19 or other people?
20 MR. DOTTERER: They're other people.
21 You may have to dim the lights. I'd like to
22 turn to the slide that was up. This is Sheet A005
23 from the applicant's drawings.
24 And is there a way to zoom in on this, Kelly?
25 So this just gives a little bit of an idea of

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1 what's going on here, but not shown throughout the
2 entire application. The darkened house in the center
3 is the proposed site at 202 Onondaga.
4 And if you look to the right, you see how the
5 rest of the street is going to the west. And this is
6 excessively dissimilar. The appearance is double the
7 height, and it's -- and the mass is way more as
8 measured by the CCR.
9 Now, of course, the applicant -- sorry.
10 The applicant, of course, likes to cite to 1460
11 North Ocean Boulevard which, on this drawing, looks
12 like it's on the same street, but it's not. I won't
13 take the time to go back to the photograph that we
14 have that's been shown in past meetings of that, but
15 if you drive down North Ocean Boulevard, all you see
16 is the house to the left of the proposal, and it's
17 really on its own and should not be considered as a
18 comparable. And if you look at the other side of the
19 street on Onondaga, within 200 feet, all of the
20 houses are on the same scale as the two that are
21 shown in the upper right-hand corner, as are 1464
22 Laurie Lane and a few others. And we contend that
23 that's excessively dissimilar.
24 Now, here's the really important point: The
25 applicant has tried to support this by putting on

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1 Sheet A406 -- I don't know if we can get to that -- a
2 bunch of other properties which they say are
3 two-story or partially two-story. Here's the
4 important point: Your ordinance that you must apply,
5 that you must enforce, which is 18-205(a) (6),
6 specifically says, you know, whether the following
7 criteria have been met, whether there is any -- any
8 structure, which means one or more, within 200 feet
9 of the site. So that's 200 feet from the other
10 structure to the property line of this site, that is
11 excessively dissimilar as to height, mass, and so on.
12 And in this case, we've shown from prior
13 drawings, by taking the proper distance from the
14 site, that there are not one, but there are 14 houses
15 that are similar to the ones on the plan that I just
16 showed you, 14. So because they -- so most of what
17 they cite on this drawing, A406, are outside of the
18 200 feet and can't be considered under the terms of
19 your ordinance, it's irrelevant.
20 But more so, even if there were -- and there's
21 only three out of the 20 that they originally cited
22 that are within 200 feet, partially, that does not
23 qualify the project under your ordinance, because if
24 there's any one that's excessively dissimilar,
25 that's -- that's a ground for -- that is the ground

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1 for a denial and the application must fail. That's
2 the case here. It's overwhelming evidence that there
3 are 14 that are excessively dissimilar.

4 I'd like to turn to the brief discussion of the
5 history of the height of this project because I -- I
6 tracked it. And originally it was submitted at a
7 little over, I think, 24'3". And then in, I think,
8 Revision No. 3, when they submitted it to you, they
9 actually increased the height to over 26 feet by
10 raising the slope. And then, now, in this
11 application, it's been taken down to 23.9 feet, which
12 is actually still higher than what they initially
13 filed. So the reduction that was mentioned about 3
14 feet or 2 feet is really a reduction from an interim
15 increase that was in their application.

16 I've been at several ARCOMM meetings in which
17 it's been expressed from the chair, and from the
18 commission, that houses that are on North Lake Way or
19 North Ocean Boulevard are treated differently from
20 those on -- that are interior properties on the side
21 streets. And so the only real reliance that they
22 cite -- and again it's not enough, because if there's
23 any dissimilar structure then it must be denied, and
24 there's 14. The one at 1460 North Ocean Boulevard
25 should not be considered.

1 contradictory evidence of that submitted, no
2 competent substantial evidence at all that that is
3 not the case, it must be denied.

4 Finally on the letters that were submitted,
5 there have been 17 or 20 opposition letters that were
6 detailed yesterday. A bunch of them came in that
7 were in support, they're form letters, they're all
8 word for word the same. Some of them, I think, are
9 from condo or apartment buildings on Chilean. None
10 of them address whether there's 14 excessively
11 dissimilar structures within 200 feet and, therefore,
12 I suggest that -- that it's not evidence that makes
13 any difference in this case. And the evidence that
14 has been submitted is overwhelming, that this is a
15 case that must be denied.

16 Thank you.

17 MS. VANNECK: Thank you, Mr. Dotterer.

18 Three minutes per person, if anyone wishes to
19 speak.

20 MR. SELLERS: Good morning. Thank you for the
21 opportunity to present to you today.

22 My name is Johnny Sellers. I'm the son of Elsa
23 Messing who resides at 201 Onondaga Avenue. She is
24 directly across the street from the proposed project
25 and 40 feet, so she is practically the closest.

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1 And in support of that point, I submitted a --
2 as Exhibit No. 2, if you're marking -- this is --
3 Kelly, this is No. 1, this is No. 2, and this is
4 No. 3 -- is a one-page tabulation of the 14
5 excessively dissimilar structures. And if you take a
6 moment to review that, we could pass it around,
7 you'll see that they are all clearly excessively
8 dissimilar, averaging 14.4 feet in height and a cubic
9 content ratio of 2.03.

10 And the final exhibit that we submit is a
11 report on 257 Sandpiper, which was a case that came
12 to you as a two-story developer project. The
13 neighbors on the street objected, as they have here.
14 ARCOMM heard the case for three different meetings,
15 it was denied. Mr. Jansen then came back very
16 quickly with a one-story design, submitted it, it was
17 approved at the first meeting seven to zero. It was
18 built. And in the same year, sold for \$6 million.
19 And we suggest that there is an alternative here that
20 will be consistent with the neighborhood, and which
21 everyone can win. And we ask that you do that, that
22 this application be denied.

23 Under the terms of your compulsory ordinance
24 18-205(a) (6), because there are 14 excessively
25 dissimilar structures, and there's been no

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1 My mother is 90 years old. She is in frail
2 physical condition, mentally alert, and she would
3 have loved to be here, but she asked me to attend and
4 to make a case of objection to this proposal.

5 My mother has been a resident of Palm Beach for
6 over 45 years. We moved down here in the early
7 1970s, so we've seen the island very well.

8 She's been living 25 years on Onondaga, at 201
9 Onondaga, and she is probably the longest resident of
10 the street. She's seen it all, basically, through
11 the years.

12 Our objection to the proposal is very simple.
13 As been stated already numerous times, what is
14 proposed is a two-story building in front of my
15 mother's house, 40 feet away, that would not only be
16 excessively dissimilar to the rest of the houses in
17 the area, but would also impact on her privacy on the
18 east garden. Should note also that it was brought up
19 before, 1460, which is the building next to my
20 mother -- to the proposed project, if you do indeed
21 drive through North Lake Way, you will notice that
22 that house really belongs to North Ocean Boulevard.
23 It has no impact, it has no bearing on Onondaga.

24 Onondaga Avenue is composed of all similar,
25 essentially, one-story houses, living harmoniously,

Page 58 1 all in a style of different architectural style, but 2 very, very, very similar in style. 3 I would propose to you that to allow this 4 project is to bring on the street a structure which 5 will not be harmonious with the rest of the street. 6 And I'm talking about specifically Onondaga. I'm not 7 talking about North Ocean Boulevard, I'm not talking 8 about North Lake Way. They have long histories of 9 private homes, of two stories high, of being 10 different architectural styles. That's fine. 11 We're talking about a very short street. If 12 any of you have walked from one end to the other, 13 which literally takes probably five minutes, you will 14 see that they're all very much harmonious. 15 So I would urge you, as your mandate to 16 historically preserve the character of the island, 17 and specifically in this case to Onondaga, would urge 18 you strongly to deny the applicant's request. 19 MS. VANNECK: Thank you. 20 Mrs. Gary? You know you're in trouble when I 21 know your last name. 22 MS. GARY: I was going to say that. But thank 23 you. Unfortunately, we've all been here before a 24 town meeting — 25 MS. VANNECK: State your name for the record.	Page 60 1 of us want to see. So we just ask you to please do 2 your duty as ARCOMM, and help preserve Palm Beach. 3 Thank you very much. 4 MS. VANNECK: Thank you for the campaign 5 speech. 6 All right. So now we've got — oh, yes, you 7 have rebuttal. But quickly, Mr. Green. Please be a 8 nice neighbor. 9 MR. GREEN: Go ahead, Jaime. 10 MR. TORRES: Okay. So just very quickly, as 11 much as I can remember. There's a lot that was said. 12 So starting with the architect from Delray 13 Beach. You know, we appreciate his qualifications. 14 Now, we did not show up with this plan just out 15 of the blue. You know, we are professional 16 architects too, and we did studies for this lot 17 before we came up with this. 18 Something that you failed — you failed to 19 mention is that by putting that amount of square 20 footage on this property, you leave no open space in 21 this lot. So that is why, during part of my 22 presentation, I said this is natural and organic. 23 We're growing up, we're being ecologically 24 responsible, we're leaving open space in this 25 property. Okay.
Page 59 1 MS. GARY: — for the fourth time on this 2 project. 3 Susan Gary, at 229 Onondaga. 4 We have been before you on two other occasions 5 on this developer home. It also went before our town 6 council. When you denied the variance, they appealed 7 for a variance. And unfortunately that's the case. 8 I was very much pleased, though, to hear this 9 morning the passion from the ARCOMM members about 10 preserving and protecting our neighborhoods, and how 11 your mission is so different than just zoning. And 12 that's what this decision at 202 Onondaga is all 13 about. And your — your ordinances are very clear, 14 and it appears that it is very much within your 15 purview to deny this application. It's a developer 16 application. It's the camel's nose in the tent, and 17 that's what we fear so much. 18 We're not opposed to development. There's been 19 alternates that were mentioned today. I think we 20 need to send a message, though, and that message is 21 the Town of Palm Beach is not for sale. This is not 22 about greed. This is — these are our houses, our 23 streets, our neighborhoods, our town, and our future. 24 And that's why we feel so passionately about this 25 particular house and starting down a road that none	Page 61 1 Now, as far as the radius. You know, there is 2 a mandate to us, as architects, to look at the 3 200-foot radius. So we do have four houses that are 4 two stories, and that are larger in square footage, 5 in cubic content, in that immediate radius. 6 Now, removing the house next door from the 7 count is not part of the mandate as far as I 8 understand it. 9 You also did fail to mention the house on 200 10 Esplanade Way, which is actually even larger, and has 11 even more cubic content than the other three that you 12 mentioned. 13 Also, now, going to Mr. Dotterer's comments, 14 about any dissimilarity to any other properties. If 15 this was the case, if — if that word was to be taken 16 literally and followed through, nothing in Palm Beach 17 could be built, no two-story houses could ever be 18 built, not any one next to a one-story house. There 19 would be plenty of dissimilarities in many senses, 20 and nothing could be ever be built in Palm Beach. 21 Again, that house next door to the 202 22 Onondaga, if you argue that is not part of the 23 Onondaga, which we all do know that when the house 24 was built it had an Onondaga Avenue address, which 25 was later changed as convenience to a non-Onondaga

Page 62 1 Way. So you — it's a rationalization and it's a 2 technicality. 3 Physically and realistically speaking, it is 4 right next to Onondaga Way. It's on Onondaga. And 5 it is within the 200-foot range, and it has to be 6 included as part of what is being looked at. 7 If that is not the case, then there is a 8 precedent for bookend houses on the streets in Palm 9 Beach. So our proposal would be that two-story house 10 at the end of the block. This was already mentioned 11 in our previous presentation, which you were not here 12 at. 13 I think that is pretty much what — oh, I'm 14 sorry. 15 Also, it was said that the roof on the house 16 has not been lowered from the original presentation. 17 That is a mistake on your part, Mr. Dotterer, because 18 it has been lowered by six inches from the original 19 presentation. Obviously much more from the previous 20 one where we moved it up. 21 MS. VANNECK: All right. 22 MR. TORRES: I think that is — 23 MS. VANNECK: All right. We'll go — 24 Mr. Dotterer, I'm going to say this: This is a 25 quasi-judicial. They have a right to rebut. I don't	Page 64 1 asked Mr. Randolph. Okay. I mean, we've had since 2 April. 3 But anyway, let me tell you this: If you 4 start — keep talking, you might lose some votes. 5 MR. DOTTERER: Thank you. I understand that. 6 MR. GREEN: And for record, on behalf of the 7 applicant, if Mr. Dotterer wants to file a brief 8 written proffer within 24 hours, we would have no 9 objection to that as long as we get some kind of — I 10 don't — that's only for the purposes of the record. 11 It's not for the purposes of — 12 MS. VANNECK: Exactly. 13 MR. GREEN: Okay. 14 MR. DOTTERER: Okay. Thank you. That's a nice 15 offer. I appreciate it. 16 MR. GREEN: I'd just like — this will take me 17 two minutes. I'd like to make a few comments in 18 closing. 19 The applicant has done everything that ARCOMM 20 has asked. It's come in without variances. 21 There were a number of comments at the 22 June 28th meeting, where various members who voted 23 against the variance did say that they liked the 24 architecture. 25 Mr. Dotterer has made some comments about
Page 63 1 believe you have the right to followup and continue 2 an argument. 3 Is that correct, Mr. Randolph? 4 MR. RANDOLPH: You do not. You don't need to 5 over surrebuttal. The usual presentation here is 6 applicant, those who wish to speak to it, and then 7 rebuttal. That's how it's usually done — 8 MS. VANNECK: That's what I thought. 9 MR. RANDOLPH: — so it's within your 10 discretion. 11 MS. VANNECK: And so, Mr. Dotterer, I think 12 we're going to hear from Mr. Green, and I will ask 13 you to be seated. 14 MR. DOTTERER: You'll — I'm sorry? 15 CHAIRMAN SAMMONS: I'll ask you to be seated. 16 MR. DOTTERER: Okay. I would like to just 17 proffer something — 18 MS. VANNECK: No, no. Done. Thank you. 19 MR. DOTTERER: So I'm not permitted to speak 20 more — 21 MS. VANNECK: No. 22 MR. DOTTERER: — because I do have a couple of 23 things to say. 24 Okay. I just want the record to reflect that. 25 MS. VANNECK: I just want you — that's why I	Page 65 1 either similar, and then sometimes he says 2 excessively similar. ARCOMM — some of ARCOMM's 3 mandates, not all. Some say, I mean, total 4 environment; some say the neighborhood. But in terms 5 of the excessively dissimilar, that criterion, uses 6 the word "similar" and then qualifies it by 7 excessively similar. 8 The ARCOMM code does not say that it's got to 9 be identical. Otherwise, we'd have a Levittown in 10 the north end of Palm Beach. 11 In fact, the code says excessively dissimilar. 12 If we accepted Mr. Dotterer's argument, there 13 would be no diversity of design; there would be no 14 diversity of streetscape; or any other of the 15 criteria set forth in ARCOMM's mandate. 16 And finally, I'd ask that you take a look at 17 some of the other photographs of homes in the 18 immediate neighborhood. We believe that this 19 two-story structure will enhance, not detract from 20 the overall neighborhood, whether you define it as 21 within 200 feet, or whether you define it as — in a 22 broader sense as the ARCOMM mandate says on a couple 23 of other provisions. 24 Thank you. 25 MS. VANNECK: Thank you.

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1 Okay. We're going into executive session.
2 So you may — everybody else can sit down.
3 First off is Ms. Grace.
4 MS. GRACE: Can I ask them a question?
5 MS. VANNECK: Sure.
6 MS. GRACE: I was just wondering, because I'm
7 looking at this diagram, I don't see numbers on your
8 pages, but the one where you have all the pictures of
9 the houses that — they're the ones that are pink.
10 And I'm wondering, can you tell me which ones — does
11 it indicate somewhere on this chart where the ones
12 within 200 feet are?
13 MR. TORRES: Yes, I'm sorry. That's going to
14 be on the screen in a second.
15 So that is it. So you see 202 Onondaga, and
16 you see the house next door to the east, and you see
17 the — exactly that house there on North Ocean Way,
18 and two houses on Esplanade Way.
19 MS. GRACE: Sorry. Is it all these houses
20 within the circle?
21 MR. TORRES: Yes. All those houses are within
22 the circle — are within the 200-foot radius.
23 MS. GRACE: Okay. Thank you.
24 MS. VANNECK: All right.
25 MS. GRACE: Okay. Then — am I free to speak?

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1 MS. VANNECK: Okay.
2 MS. GRACE: I mean, my overall view of it, I
3 know that — I don't know if you were quoting me or
4 somebody else earlier. I know I previously said I
5 liked the architecture of the house. And that's
6 still, I mean, predominantly true. But I — I never
7 said I liked it in this location. So I want to make
8 sure that you understood.
9 When I'm looking at, you know, charged to look
10 at this ordinance, when I'm looking at the pictures
11 of the houses that you've shown for two-story in the
12 area, I just feel like they have a lot of different
13 character than the house that you presented, because
14 lots of the ones I look at, I don't know, the roof
15 lines are different, there's more variation. And I
16 feel like this house is a very long mass, and then it
17 has a very small garage next to it. It seems a
18 little bit out of keeping but, I mean, it's okay.
19 But I really feel that there must be a way that
20 you could do this, you know, and have some two-story
21 portion, but not have it be like this expansive,
22 long, you know, longitudinal sort of house, which I
23 feel is out of keeping with the neighborhood.
24 You know, when I've walked up and down the
25 street, which I've done every month now, that you've

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1 appeared, I just feel like it's — it's very much out
2 of character, the way the neighborhood — and I think
3 there must be some way that you could do it, you
4 know, probably having to sacrifice some mass, but not
5 that you couldn't have some two-story portion, but
6 just some, trying to find another way to do it.
7 And when I think about the bookend, I know that
8 you said that this house originally was on Onondaga,
9 and then it got readdressed for North Ocean
10 Boulevard, which makes sense to me because, I mean it
11 definitely would be the bookend of the street. I
12 mean, it's definitely at the end of North Ocean
13 Boulevard. Like, if you didn't turn, you'd run smack
14 into it, you know, you have to make, like, almost a
15 90-degree turn to do it. And to say that one, that
16 was one in, was somehow now a bookend because of the
17 readdressing, you know, doesn't — that doesn't make
18 any sense to me.
19 So I just feel like it — it's not charming and
20 it doesn't fit in.
21 MS. VANNECK: Thank you, Ms. Grace.
22 Let's keep it succinct.
23 Mr. Corey.
24 MR. COREY: Very succinct. Thank you very
25 much, Chair.

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1 Well, I do — the architect made a couple of
2 points that I just wanted to bring up.
3 He says that they waste nothing by doing this
4 design. And this is sort of aside, but I disagree
5 because we are ripping the whole roof off, we're
6 raising the floor. And if you look at the demolition
7 page on page 10, almost every wall is coming out, but
8 that's besides the point.
9 I do look — and I also think that — the
10 architect did say something about having a small
11 streetscape and then have the houses be bookend on
12 either side. And I do think that prototype does
13 work, and it's done quite often, and successful. I
14 personally, though, view the house on North Ocean
15 Boulevard as the bookend. So I do apologize by
16 saying that, but I find that that house is a
17 two-story house, has a very large pavement in front
18 of it, and it is — it doesn't feel like it's part of
19 this smaller community. So I have to view this house
20 as the first house within the smaller community. So
21 I do see the massing of this structure very much
22 dissimilar from the other ones on Onondaga.
23 So I could never — I couldn't support this
24 project as it is, and I think that it might have been
25 helpful to maybe deny it early on, versus try to save

Page 70 1 it. But I do see that the massing is quite 2 dissimilar from other small-scale houses, and I think 3 it's unfortunate to come this far, but I would like 4 to see it be denied. 5 MS. VANNECK: Thank you, Mr. Corey. 6 Mrs. Catlin. 7 MS. CATLIN: You know, I echo a lot of the 8 sentiments of my fellow commissioners. And I want 9 also to speak to the report the appraiser put in 10 front of us, which I think actually occurs for me 11 almost a little bit of fear mongering because, first 12 of all, in part of the report, he's accurate that if 13 you restrict building of two-story homes, that you 14 impact the value. 15 We're not restricting anything. We're talking 16 about a specific home on a specific lot. We're not 17 changing zoning. So that really is not applicable to 18 what we're doing here. 19 The second is, that the example that the homes 20 that have sold that are not two stories would be of 21 lesser value is another inaccuracy. 22 The builders work on percentages, and this is a 23 nationally known fact, that the amount that somebody 24 is willing to pay for a lot as a developer is a 25 percentage. A finished lot is worth a particular	Page 72 1 Similarly on Sandpiper. 2 I want to complement the architects. I think 3 that you have done an excellent job. 4 The problem is that it's somewhat similar to 5 the analogy that I'm somewhat fond of sometimes 6 using, of the log cabin. I once saw the most 7 beautiful log cabin in the world up in Tennessee, but 8 that doesn't mean that log cabin would fit right here 9 on Clark Avenue in Palm Beach. 10 This does not fit. It's not in harmony with 11 the character of the neighborhood. Why do I say 12 that? Because we heard from the neighborhood. The 13 neighborhood has told us what its character is. We 14 have heard it collectively, and we've heard it 15 individually. 16 Now, certainly people from Chilean, who live in 17 a condo, or whatever, have a right to speak on this. 18 But we don't accept what they have to say the same as 19 we do on people that live directly on the street. 20 I've lived in that immediate area for 47 years, 21 since 1970. It is an enclave, whether your expert 22 wants to admit it or not. The enclave is Onondaga, 23 Debra Lane, Manana Lane. These are narrow streets 24 more like lanes, than they are like the broader 25 streets.
Page 71 1 percentage to a builder of what they can sell an end 2 product for. So there's no diminution of value 3 because something is one-story or two stories. 4 The other thing is, that the reference to 5 replacing one-story homes with two-story homes will 6 increase square footage, and thereby increasing 7 value, that's only by one method that appraisers use, 8 and that is by the square footage method. 9 There are many other methods of appraisal that 10 do not lean entirely on the — on the square footage. 11 And, in fact, the trend throughout the United States 12 is for smaller, more efficient homes. 13 MS. VANNECK: Thank you. 14 Mr. Small? 15 MR. SMALL: Yes, thank you. 16 Following up on my fellow commissioners' 17 remarks, with which I entirely agree, we're faced 18 with somewhat of a dilemma, but it's not, certainly, 19 a dilemma that we haven't faced before in the very 20 same area. 21 For most of you, you'll recall the northwest 22 corner of Debra Lane and North Ocean Boulevard, we 23 were faced with a similar issue. There, a house had 24 been demolished, and a proposed new story, and the 25 lot is still vacant. The proposal was denied.	Page 73 1 For example, I live on East Inlet, it's 30 feet 2 wide, it's a much broader street. But these narrow 3 streets. So if it doesn't fit, it's not going to go. 4 So I'm opposed to it. 5 MS. VANNECK: Thank you. 6 Ms. Shiverick. 7 MS. SHIVERICK: Thank you. 8 I ask the question why wouldn't anyone want a 9 good-looking house in the enclave? I mean, this is a 10 good-looking house. It's thoughtfully designed by 11 someone who has a lot of, you know, historical 12 accuracy, and it's a style that I think — I 13 personally think fits. 14 This house has a lot of charm, and I think it 15 would add to the street as well as to the whole north 16 end. And I know, we've determined this in the past, 17 that it will be built with very high-end materials, 18 which is also very important in a house like this, 19 which keeps being referred to as a developer house. 20 So I would support it. 21 MS. VANNECK: Thank you. 22 Mr. Ives? 23 MR. IVES: In our discussions of this house, 24 and the surrounding area — and I asked this several 25 times, and I've got somewhat of an answer from the

Page 74 1 applicant, but no one really else, and with all 2 respect to my fellow commissioners, you know, never 3 really heard it stated by them either. 4 What is the style that's not fitting here? 5 Along the line of what Mrs. Shiverick has just said, 6 this is a charming house. I don't think that 7 there's — I don't see how you can make an argument 8 that this — the style of the house does not fit with 9 the other houses in that area. 10 I think, when you come to these statements 11 about the longitudinality of the house, the mass, I 12 mean, Mr. Corey is right, this house is basically a 13 demo and a rebuild. But it's still essentially 14 matching the footprint, or the footprint to the — to 15 — a certain level is matching the footprint that is 16 already there of the existing house. Yes, there's a 17 second-story added on, but as we've seen argued 18 throughout this process from — through April, the 19 concern seems to be looking at this surrounding area, 20 the idea of a house that is — has single-story 21 sections and two-story sections, which this house 22 commits to, which the expert seemed to testify was 23 something that fell within slightly dissimilar and, 24 therefore, okay. 25 I always respect neighbor comments, comments	Page 76 1 a bit about this, and Ms. Shiverick. 2 There's a house exactly like this, or this 3 style, 99 percent like this, on my street on 4 Seabreeze. And if we follow these, all this time 5 that we heard about excessively similar and 6 excessively dissimilar, none of the houses on Clark 7 or Seabreeze or any of the Sea streets would have 8 been built because they're all, in their own way, we 9 have many Mizners, we have Bermuda style, we have 10 all. So my dilemma is, if we reject this house and 11 we say no, you can't build this house, that means 12 that the only thing you can build, living here, is a 13 one-story house. So we go to the one-story houses. 14 If you look at the one-story houses there, I 15 defy you to say that some of them are not excessively 16 dissimilar than other ones. So that term, to me, 17 doesn't meet. 18 I think this house is well done. You've come 19 back. You've — the example — and the reason I 20 asked you to put that sheet up, this house sits 21 further back than any other house on that street. It 22 gives more light and air. I always hear light and 23 air on the street. This house opens up that street, 24 opens up that corner, gives more light and air. 25 And, you know, I'm — I'm in favor of the
Page 75 1 from the general public, whether you're right next 2 door or you're, you know, far away, you just care 3 about the community. Whether for or against, which 4 we've gotten this, yes, seems about 60 percent 5 opposed, 40 percent for. 6 But our job is good architecture. And I think, 7 as Mrs. Shiverick said, as I've said before, comity, 8 firmness, and delight, has this reached that in its 9 execution? 10 This is a house that is executed with grace and 11 style and wit, calmness, elegance. It's not 12 overdone. It's underneath a lot of requirements. 13 And then I would also add we have to look at, a 14 little bit, how we have guided them through this 15 process since April. And they have constantly met — 16 they might not have appeased every single neighbor 17 that's out there. But what we have asked as a 18 commission, voting as a synthesis of all ten of us, 19 they — I think they've matched that. And so it 20 would, to me, be very unfair, very unfortunate too, 21 to reject a house of this charm and simple elegance. 22 So I'm in full support. 23 MS. VANNECK: Thank you. 24 Mr. Garrison. 25 MR. GARRISON: I actually agree with Alex quite	Page 77 1 house. I think that — I'm sorry that people think 2 that we should keep building one-story houses that 3 were built 40-50 years ago. But times have changed, 4 needs have changed for people. And we — if this 5 talk about good architecture, earlier today we talked 6 about zoning. Whether zoning is good, bad. And it 7 was very clear that we overlay zoning, that we are 8 charged with doing something that, as Alex said, is 9 good architecture. And so I believe this is good 10 architecture, I believe this is fine, and I would 11 support it. 12 MS. VANNECK: Thank you. 13 Ms. Grace. 14 MS. GRACE: Yeah, I just — I just want to get 15 back, because I also said I thought it was good 16 architecture. But I believe that our ordinances 17 charges us to look beyond just the architecture, but 18 also to see how it fits in with the surrounding 19 community, whether it's in harmony with the area, 20 whether it's in harmony with the — I mean, so we 21 can't look at it as a void and a vacuum and just say 22 it's a nice house. 23 Some of the other two-story ones that are ones 24 that they've cited are on larger lots. And I think 25 it's a little bit like the one we looked at — some

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1 of the ones we looked at earlier today, where you
2 have to consider the size of the house, the mass and
3 everything in proportion to the lot size. You can't
4 just build just because it's a nice house. You have
5 to look at that, and it's like not to overlook. And
6 I know that often Clark Avenue gets cited, but Clark
7 Avenue, to me, is a street that has many new houses
8 on it, not the original houses that were on Clark
9 Avenue for most of Clark Avenue. So I do think that
10 it represents a lot of disparate styles which,
11 therefore, allow a lot of different things to fit in
12 onto Clark Avenue.

13 But I think in this area, there's a lot more
14 harmony and scale, and I think that there are ways
15 they could make changes to design, you know, and
16 perhaps still have a second-story section in some
17 part, but just not have the large mass the way they
18 have it presented today.

19 MS. VANNECK: Mr. Vila.
20 MR. VILA: Thank you, Mr. Ives and Mr. Garrison
21 and Ms. Shiverick.

22 I think it's important to underscore the fact
23 that there's an enormous amount of quality and time
24 and talent that have gone into producing this design,
25 and I commend you for coming back month after month

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1 with revisions that are very good.

2 Mr. Small put it very well in terms of the
3 concept of enclave. I've always thought of that as
4 having more to do with the people that live there as
5 opposed to architecture.

6 But anyhow, the — these streets are very
7 beautiful in terms of this scale, and yet I do see
8 this location as being a corner location, and I see
9 the house across the street, which is a very dated
10 early '70s design, as being a corner location that
11 possibly will also be replaced at some point in the
12 future.

13 There is the whole element of obsolescence that
14 has to be taken into consideration when you think
15 about preservation. When it's obsolescence of a
16 Victorian that's recognized again 100 years later as
17 being high quality, that's one thing. I don't think
18 we're dealing with that here.

19 But ultimately, for me, the argument regarding
20 open space is a very, very important one. And
21 the fact is that a developer can scrap the existing
22 house and, as we know, cover a big, big amount of
23 this lot with a splan, and I would not like to see
24 that. So I have to support it.

25 MS. VANNECK: Thank you, Mr. Vila.

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1 Okay. It's my turn. I've given a lot of
2 thought to this. And as an enclave, I don't think
3 you — what's going to happen is, if we deny this
4 process, every single home on Onondaga will never
5 ever be able to be a two-story. That will affect you
6 down the line, and when your children, or whatever,
7 decide to sell your house, it's going to be a
8 one-story house. A lot of the houses on Onondaga
9 need updating. They're going to be scrapped. How
10 many people do you think who are going to buy them
11 are going to want to have a one-story home. You have
12 to look at that as well. Okay.

13 Yeah, it's where the pocketbook hits the road.

14 I did say in the past that I thought that 202
15 Onondaga qualified as a corner house on that street.
16 I'm looking at air, harmony, beautification, and I'm
17 looking at the future as well as the past and the
18 present.

19 So to make a long story short, this is very
20 good architecture. I said before that I think that
21 if you don't accept it, you're going to shoot
22 yourself in the foot because what's going to come up
23 next is going to make you puke.

24 And excuse my lack of language, it's not very
25 quasi-judicial. However, I need to put it into words

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1 and caution you. And a lot of people have said some
2 pretty nasty things in our e-mails, you know, what we
3 need to do and how we need to do this, and that is
4 not what we're for. We're here for the architecture
5 and the beauty of Palm Beach.

6 So Mr. Vila, do you want to make a motion?

7 MR. VILA: I'd like to make a motion to approve
8 the project as presented.

9 MR. IVES: Second.

10 MS. VANNECK: We have a motion.

11 MR. RANDOLPH: Is that based upon the criteria
12 set forth in the code? Do you make those findings as
13 part of your —

14 MR. VILA: Yes, I do.

15 Do you want me to read them into —

16 MR. RANDOLPH: No, just as long as you make
17 those findings that you feel that it has met all the
18 criterion of the —

19 MR. VILA: I do.

20 MS. VANNECK: We have a motion and a second.

21 All in favor?

22 MR. VILA: Aye.

23 MR. IVES: Aye.

24 MR. GARRISON: Aye.

25 MS. VANNECK: Opposed?

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1 MR. VILA: Opposed.
2 MS. GRACE: Opposed.
3 MR. COREY: Opposed.
4 MS. VANNECK: Could we have a roll call,
5 please?
6 MS. CHURNEY: Mr. Vila?
7 MR. VILA: Aye.
8 MS. CHURNEY: Mr. Ives?
9 MR. IVES: Yes.
10 MS. CHURNEY: Mrs. Vanneck?
11 MS. VANNECK: Yes.
12 MS. CHURNEY: Mr. Garrison?
13 MR. GARRISON: Yes.
14 MS. CHURNEY: Mr. Small?
15 MR. SMALL: No.
16 MS. CHURNEY: Ms. Grace?
17 MS. GRACE: No.
18 MS. CHURNEY: Mr. Corey?
19 MR. COREY: No.
20 MS. CHURNEY: Motion passed four to three.
21 MS. VANNECK: Thank you. We are recessed until
22 2:10.
23 *****
24 (The hearing was concluded at 1:10 p.m.)
25

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1 CERTIFICATE OF REPORTER
2 - - -
3
4 I, Robin L. Merker, Registered Professional
5 Reporter, Florida Professional Reporter, certify that I
6 was authorized to and did stenographically report the
7 foregoing proceedings and that the transcript, pages 1
8 through 82, is a true and complete record of my
9 stenographic notes.
10
11
12 Dated this 12th day of October, 2017.
13
14
15
16
17 
18
19 Robin L. Merker
20 Registered Professional Reporter
21 Florida Professional Reporter
22
23
24
25



TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL COMMISSION MEETING HELD ON WEDNESDAY, **SEPTEMBER 27, 2017**

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. CALL TO ORDER

Chairman Sammons called the meeting to order at 9:01 a.m.

II. ROLL CALL

Richard Sammons, Chairman	PRESENT
Ann L. Vanneck, Vice Chairman	PRESENT
Robert N. Garrison, Member	PRESENT
Alexander C. Ives, Member	PRESENT (arrived at 9:02 a.m.)
Michael B. Small, Member	PRESENT
Maisie Grace, Member	PRESENT
Robert J. Vila, Member	PRESENT
John David Corey, Alternate Member	PRESENT
Betsy Shiverick, Alternate Member	PRESENT
Katherine Catlin, Alternate Member	PRESENT

Staff Members present were:

John Page, Director of Planning, Zoning & Building
John Lindgren, Planning Administrator
Kelly Churney, Secretary to the Architectural Review
Commission

III. PLEDGE OF ALLEGIANCE

Mr. Sammons led the Pledge of Allegiance.

IV. APPROVAL OF THE MINUTES FROM THE AUGUST 23, 2017 MEETING

Motion made by Mr. Small and seconded by Mrs. Vanneck to approve the minutes from the August 23, 2017 meeting. Motion carried with all in favor.

V. APPROVAL OF THE AGENDA

Mr. Small requested the following changes to the agenda: withdraw project A-030-2017 1120 N. Lake Way; defer projects B-080-2017 211/217 Emerald Ln. and A-033-2017 224 S. Ocean Blvd. for one month to the October 25, 2017 meeting; and to move

57a

meeting. A motion carried at the May meeting to defer the project to the July 26, 2017 meeting for restudy. A motion carried at the July meeting to defer the project to the September 27, 2017 meeting.

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

Mr. Paine presented the proposed modifications for the project.

Mr. Ives questioned the operability of the shutters. Mr. Paine responded. Mrs. Vanneck added that the shutters should be operable. Mr. Paine provided some clarification on the shutters.

Ms. Catlin thought the design fit on the street but it dwarfed the adjacent house.

Mrs. Vanneck questioned an open space in the design. Mr. Paine responded.

Mr. Sammons questioned the fenestration and suggested using sash windows.

Mr. Vila questioned a sheet in the mini-sets. Mr. Paine responded.

Motion by Mr. Garrison and seconded by Mr. Ives to approve the project as presented with the caveats to change the windows on the first floor to sash windows and that the shutters are operable. Motion carried 6-1 with Mr. Sammons opposed.

B-020-2017 Modifications

***ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE* -**

Done 4/26/17 and 6/28/17

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Jaime Torres/Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

Please note: This will be a conflict of interest for Richard Sammons

At the April meeting, a motion carried that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for restudy. A motion carried at the June meeting that the proposed project can be designed in an architecturally suitable manner, which conforms to the Town of Palm Beach Code of Ordinances without the need for a variance. A second motion carried to defer the project for one month to the July 26, 2017 meeting. A motion carried at the July meeting to defer the project to the August 23, 2017 meeting. A motion carried at the August meeting to defer the project to the September 27, 2017 meeting.

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

Mr. Sammons disclosed a conflict of interest for the project.

Please note: Mrs. Vanneck stated that Mr. Corey would be voting in the absence of Mr. Sammons.

Town Attorney Randolph asked for clarification on the ex parte given by the Commissioners.

Mr. Torres presented the proposed modifications to the project.

Mr. Garrison asked for clarification on the roof pitch. Mr. Torres responded.

Mr. Torres responded to the neighbor's concerns for the design.

Mr. Garrison asked about the proposed setbacks. Mr. Torres responded.

Mr. Ives asked for clarification on the roof height and setbacks. Mr. Torres responded.

Ms. Grace asked for clarification on the window height and the operability of the shutters. Mr. Torres responded.

Mr. Small asked about the easement for utilities. Mr. Page stated that this project was submitted prior to the requirement for a utility easement.

James Green, Attorney for the applicant, stated that he would like to present an appraisal by Robert Reynolds, realtor, for surrounding properties within 200 feet of the proposed project. Mr. Green summarized the report for the Commissioners. There was a short conversation regarding this report.

John Dotterer, 1470 N. Ocean Blvd. asked if he could ask Mr. Reynolds a few questions. Mr. Dotterer asked Mr. Reynolds questions regarding the report that he submitted. Mr. Reynolds responded.

Mr. Small asked Mr. Reynolds a question from his report regarding an increase in home value with a one story home compared to a two story home. Mr. Reynolds responded.

Mr. Dotterer named the individuals that he represented. He introduced architect Roger Cope as an expert witness.

Mr. Cope presented his opinion in opposition to the proposed project.

Mr. Ives asked Mr. Cope's opinion about the style of the house and height. Mr. Cope responded. A short discussion ensued regarding this project.

Mr. Dotterrer presented his opposition to the proposed project.

John Sellers, son of Elsa Messing at 201 Onondaga Ave., stated his objections to the project.

Susan Gary, 229 Onondaga Ave., stated her objections to the project.

Mr. Torres provided a rebuttal to the objections by Mr. Cope and Mr. Dotterrer.

Town Attorney Randolph weighed in on the whether Mr. Dotterrer could respond to the rebuttal.

Mr. Green added a few comments in response to Mr. Dotterrer's objections.

Ms. Grace asked about the homes that were located within 200 feet to the proposed project. Mr. Torres responded. Ms. Grace stated she was in favor of the design but questioned the location. She thought the proposed home was out of character for the neighborhood.

Mr. Corey thought the massing of the proposed project was dissimilar to the surrounding homes.

Ms. Catlin disputed some of the information that was in the report submitted from Robert Reynolds.

Mr. Small thought the proposed home did not fit on the street and could not support the project.

Ms. Shiverick thought the proposed home had charm, would have high quality materials and would be a nice addition to the street.

Mr. Ives stated the proposed home was well designed and stated he would support the home.

Mr. Garrison argued that some of the homes on the Sea Streets would never have been built using the same logic as the opposition. He stated that the home was well designed and that he was in support of the home.

Ms. Grace stated that she thought the home was well designed but the Ordinance charges the Commission to consider more than just the architecture to determine whether it fits in the area.

Mr. Vila stated the proposed home was designed well. He considered the location as a corner that would support a two story home and stated was in favor of the project.

Mrs. Vanneck stated that not approving this project because of the second story would set precedence for the future. She stated that the project was well designed.

Motion made by Mr. Vila and seconded by Mr. Ives to approve the project as presented.

Town Attorney Randolph asked for confirmation that the motion made was based on criteria set forth in the Code. Mr. Vila stated that his motion was based on the criteria.

Motion carried 4-3 with Messrs. Small, Corey and Ms. Grace opposed.

Please note: A lunch break was taken at 1:10 p.m. The meeting resumed at 2:12 p.m.

B-029-2017 Additions/Modifications

***ARCOM TO MAKE RECOMMENDATIONS RELATIVE VARIANCES* -
Done 4/26/17**

Address: 1055 N. Ocean Blvd.

Applicant: 3200 Washington, LLC

Architect: Pat Segraves/SKA Architect + Planner

Landscape Architect: Keith Williams/Nievera Williams Design

Project Description: Major renovation of existing one story 6,667 square foot home. Partial demolition of first floor to include trellis area, addition of 4,665 square foot second floor, and change of style to Mediterranean. Final landscape and hardscape to be included.

At the April meeting, a motion carried that the implementation of the proposed variances will cause negative architectural impacts to the subject property and that the proposed project can be designed in an architecturally suitable manner which conforms to our Code of Ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for a major restudy. A motion carried at the June meeting to defer the project to the July 26, 2017 meeting to restudy the architecture. A motion carried at the July meeting to approve the plans as presented with the west loaded garage and a caveat to return with a new gate design. A motion carried at the August meeting to defer the review of a new gate design to the September 27, 2017 meeting.

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

Mr. Williams presented the proposed modifications to the gate.

City of Palm Beach Meeting

June 28, 2017

CITY OF PALM BEACH

ARCHITECTURAL COMMISSION

APPLICATION B-020-2017

APPLICANT:

202 Onondaga LLC

EXCERPT OF PROCEEDINGS

VOICE-TO-TEXT TRANSCRIPTION

AUDIO-RECORDED MEETING

Wednesday, June 28, 2017

360 South County Road
Palm Beach, Florida

LOIS L. MCINNIS-KELLEHER, FPR
Florida Professional Reporter

City of Palm Beach Meeting
June 28, 2017

18 to 21

Page 18 1 MR. TORRES: Yes. 2 Good morning. Jaime Torres for Fairfax 3 and Sammons architects. 4 And I think what you're referring to, sir, 5 is the overall height of the building. What 6 we're referring to was the massing of the 7 building itself, not the roof. 8 So the massing of the building itself was 9 reduced six inches in the -- from the top down, 10 and it was also reduced six inches from the 11 bottom up, by raising the grade. So, in fact, 12 it's not only six inches, it's twelve inches. 13 MR. KOLINS: Well, then why -- I -- 14 MR. TORRES: (Inaudible) -- 15 MR. KOLINS: I'm sorry to do this, but, I 16 mean, a review of the plan shows that it's 17 higher by a foot eight inches. 18 MR. TORRES: Yes. 19 MR. KOLINS: I'm talking about the overall 20 height of the two-story portion. 21 MR. TORRES: Yeah. You are talking about 22 the overall height of the building. We're 23 talking about the building itself 24 (inaudible) -- 25 MR. KOLINS: No. No. I'm talking about	Page 20 1 MR. KOLINS: Yes. Thank you. 2 CHAIRWOMAN VANNECK: So, Mr. Torres, 3 you're up. 4 MR. TORRES: Thank you. 5 Actually, Mrs. Ann Fairfax will be making 6 the presentation for Richard Sammons. 7 CHAIRWOMAN VANNECK: Thank you. 8 * * * * * 9 CHAIRWOMAN VANNECK: Seeing none, we are 10 now going to listen to the audience. And if 11 you're not an attorney, or representing an 12 attorney, three minutes is the limit. 13 Mr. Kolins, I thought you retired, but 14 I'll still give you the full time limit. 15 MR. KOLINS: This case brought me out of 16 retirement, I'm assuring you of that. 17 Your procedure, the last time you heard 18 this case, Madam Chair, was to have any 19 speakers that were proponents of the 20 application to go first. I think that might be 21 the best thing to do, if you agree. 22 CHAIRWOMAN VANNECK: I don't listen to 23 anyone in any particular order. It's -- 24 MR. KOLINS: Okay. 25 CHAIRWOMAN VANNECK: -- it's whoever gets
Page 19 1 what you've got in (inaudible.) 2 MALE SPEAKER: Might I interject, Ron? 3 MR. KOLINS: Yes. 4 MALE SPEAKER: It seems to -- may I have 5 the mike? 6 MR. KOLINS: I'm sorry. 7 I didn't want you to get it, but 8 (inaudible.) 9 MALE SPEAKER: It seems to me that that is 10 something that you can argue in the 11 presentation of the application, but I -- I 12 don't -- you -- you've received a response in 13 regard. 14 Now you're becoming argumentative in 15 regard to it, so I think -- 16 MR. KOLINS: I didn't want to do that, 17 after what we heard earlier today about being 18 civil. 19 So, okay, I'll, uh -- I'll save more of 20 this, if I need to, for later on, if that's 21 okay with you, Madam Chair. 22 CHAIRWOMAN VANNECK: Well, you can have -- 23 you have time after -- after the presentation. 24 MR. KOLINS: Yes. Exactly. 25 CHAIRWOMAN VANNECK: Thank you.	Page 21 1 up first, gets to speak first. 2 MR. KOLINS: All right. Let me go ahead. 3 My name is Ron Kolins, K-O-L-I-N-S. I am 4 here today representing a consortium of 5 homeowners, citizens of this town, who own 23 6 properties in and about this area. 7 With your permission, I'd like to submit 8 the list of the people that I'm representing, 9 for the record. I can read all the names, if 10 you'd like, but, in any event, suffice it that 11 there are 23. Probably a bit larger a group of 12 opponents than you're used to, which speaks 13 volumes about this case. 14 I do regret that it appears that at least 15 some of you have made statements suggesting you 16 made up your mind about this case before I or 17 anyone else from the public could be heard, but 18 I ask you to try to reopen your minds and 19 listen to some of the things that we have to 20 say. 21 The first thing is, I'd like to renew my 22 request earlier, um, that this matter must be 23 deferred because the public notice is 24 defective. 25 And I renew it because the architect for

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Page 22 1 the applicant admitted, when he made his 2 presentation in response to a question, I 3 think, from Mr. Corey, but I'm not certain, 4 that, in fact, the, uh, height was higher than 5 it was before, even though the notice says that 6 it is lower. That is a critically important 7 issue. 8 The notice is defective; and, based on 9 that, I ask that this matter be deferred. 10 CHAIRWOMAN VANNECK: Uh, Mr. Randolph, I'm 11 passing the buck. 12 MR. RANDOLPH: It looks like the -- the 13 applicant wished to speak to that issue. I 14 don't know if he did, but that might be -- 15 may -- may or may not be relevant. 16 MR. TORRES: Yes, I do. 17 Um, when we start working on these 18 buildings, the first thing that we do is, 19 obviously, look at the zoning code. And the 20 zoning code has two definitions; building 21 height and overall building height. 22 And what I stated in that application, 23 what we said in that application, was building 24 height, not overall building height. 25 So, you know --	Page 24 1 MR. KOLINS: Please. 2 CHAIRWOMAN VANNECK: -- because I haven't 3 made up my mind yet. 4 Um, I think that it could be prejudicial 5 if we got the notices, but we don't. We have 6 no clue about it. 7 So how can that prejudice us? 8 MR. KOLINS: I will explain, Madam Chair. 9 CHAIRWOMAN VANNECK: Uh, no. No. 10 So, in -- in that regard, I don't think 11 that I find it prejudicial or intentional. And 12 I think we have spent too much time and money, 13 on the part of everyone, um, to re -- restart 14 this whole process. 15 MR. KOLINS: Um, clearly, I understand 16 that you're very likely to follow 17 Mr. Randolph's advice. So, for the record, I'd 18 just like to make one statement about it, and 19 then I'll move on. 20 Um, I'm very disappointed to learn today, 21 in both in the first point of procedure I had 22 and this one, that apparently your rules are 23 interpreted rather loosely. 24 Even if they're mandatory, they're 25 interpreted to be meaningful only if somebody
Page 23 1 MR. RANDOLPH: Well, let me just say this: 2 Obviously, the purpose of notice is to 3 give the neighbors, who have an interest, an 4 opportunity to appear and be heard in regard to 5 the project. 6 Mr. Kolins says he represents 23 people. 7 I know that Mr. Dotterrer is here representing 8 other people. And I'm not sure how anyone 9 could be prejudiced by this alleged defect in 10 the notice. 11 I think if the, uh, notice were such that 12 they were going to put in a one-story house, 13 and they were actually going to put in a 14 two-story house, that that would be certainly 15 defective and prejudicial to the neighbors but 16 I'm not sure, when we're talking about a slight 17 defect in height, if it is a defect, that that 18 is prejudicial. 19 So I -- based upon that, I see no reason 20 to have to readvertise this, and only to have 21 it come back to have the same neighbors that 22 are here today, um, object to the project. 23 CHAIRWOMAN VANNECK: Okay. Thank you. 24 Um, Mr. Kolins, I'm going to wade in for 25 one second, okay, um --	Page 25 1 decides somebody was hurt by it or prejudiced 2 by it, but not if you're not sure that they 3 were. That's not what the code is about, and 4 that's not what it's for. 5 So I think these rulings -- and to my good 6 friend Skip Randolph, I think he's just 7 monumentally incorrect on this. 8 But be that as it may, just in response to 9 what you said, Madam Chair, he talked about 10 who's prejudiced. The people that are 11 prejudiced are people that get these notices, 12 and, based on them, decide whether or not they 13 support or object to something, and whether or 14 not they want to come before you and give their 15 views, which is part of a record that you 16 should consider when you make a decision. 17 So I would disagree with Skip. I would 18 disagree with you. But if you tell me that my 19 request is going to be denied, I'll move on. 20 MR. GARRISON: Do we need a motion to deny 21 it? 22 CHAIRWOMAN VANNECK: Yes. I think it 23 would be more appropriate. 24 MR. GARRISON: I'll make a motion that we 25 deny it, and we move on.

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Page 26 1 CHAIRWOMAN VANNECK: Okay. A motion and a 2 second. 3 All in favor? 4 MEMBERS: Aye. 5 CHAIRWOMAN VANNECK: Opposed? 6 Okay. 7 MR. KOLINS: Um, as you know, I represent 8 a substantial number of citizens, of residents 9 of the town, in opposition to this. And I want 10 to talk to you first about what this case is 11 really about. 12 And interestingly enough, earlier today in 13 your discussion of another case, unrelated to 14 this one, I think Mr. Corey made a statement 15 that I think is very applicable, and kind of 16 very succinctly sums it up. 17 He said, and I think I'm quoting you 18 correctly, Mr. Corey, Palm Beach is a 19 neighborhood kind of town. And that's true, 20 and that's why I'm here, and that's why my 21 clients have asked me to represent them. 22 This is not a case about a single house. 23 I've heard many of you say, and the architects 24 spend most of their time telling you, what a 25 terrific architectural house this is. And it	Page 28 1 Now, I'm not suggesting to you that the 2 houses that are there, many of which are old, 3 and not in the greatest shape, that those 4 houses need be preserved. They need not be 5 preserved. The question is, what will you 6 allow in their place? 7 And if this decision allows this house of 8 this height, and two stories, then there is no 9 stopping anyone, who can buy any of those 10 houses and lots, from doing the same, and this 11 neighborhood will be destroyed and lost 12 forever. 13 So I ask you to consider things in that 14 light, not whether the applicants or architects 15 have done a good job, but the bigger picture, 16 as you're required to do under your code. 17 Now, the applicant is proposing a house, 18 notwithstanding what was said by somebody here, 19 wanting to satisfy families. I think that's 20 just so much nonsense. 21 The applicant -- you're not supposed to 22 use the "D" word anymore, so call him what you 23 like. The owner of the property is going to 24 build the biggest house he can, to make the 25 most money. That's what he's trying to do.
Page 27 1 may be, I'm not questioning that, but that is 2 not the issue. 3 One of the things you need to do in these 4 cases, of course, is to judge the architect of 5 the specific building; but, as you know far 6 better than I, your obligations go well beyond 7 that. 8 It's not a question of style. It is a 9 question of character. It is a question of 10 compatibility with its neighborhood. And the 11 question becomes whether ARCOM will, as it is 12 required to do by all of your -- so many of 13 your criteria, whether you will protect that 14 neighborhood's character and protect its 15 residents from a house, well designed though it 16 may be, that does not belong there. 17 And your decision in this case is even 18 more important, because I truly believe that 19 whatever your decision is, in this case, will 20 dictate the ultimate fate of this neighborhood. 21 Now, this neighborhood is an old Palm 22 Beach, north end, single-story, low, cottagy 23 type of neighborhood. It's what Palm Beach 24 was, and it's one of the last remaining areas 25 of what Palm Beach was.	Page 29 1 We heard he's committed to this two-story 2 project. And you know what, I don't blame him. 3 I don't have anything against a property owner, 4 be he a "D" word person, or an owner, or 5 anybody else, doing the best for himself that 6 he can. 7 The question is whether what he wants to 8 do is appropriate. And that's where you come 9 in. Because this house may be fantastic, and 10 it may work very well somewhere else in town. 11 The question is, does it belong here? 12 CHAIRWOMAN VANNECK: Okay. 13 (Brief telephone interruption.) 14 MR. KOLINS: We'll wait for that. 15 CHAIRWOMAN VANNECK: Thank you. 16 Mr. Kolins, if you could move it along. 17 MR. KOLINS: Well, I have some things to 18 say, and I want to just get through them. I'll 19 go as quickly as I can. 20 So the issues are -- 21 CHAIRWOMAN VANNECK: Thank you. 22 MR. KOLINS: -- the issues are one of 23 scale, of harmony, and whether or not this 24 house is excessively dissimilar to what is 25 around it.

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Page 30 1 In a little while Mr. Dotterrer, who's an 2 engineer, who will come as an expert for us, 3 who's done a study of the area, will 4 specifically show you, these houses are not in 5 scale, not in harmony, and this house is 6 excessively dissimilar. 7 And given those criteria that you have to 8 work with, you must -- I respectfully suggest, 9 you must deny this application, whether you 10 like this house or not. 11 Now, there are ten reasons to deny. And 12 I'll try and move it along for you, 13 Madam Chair. 14 Look at the purpose statement in the code 15 of what ARCOM is to do, Section 18146D. And it 16 talks about comprehensive plan and zoning 17 codes, quote, alone do not create beauty, 18 aesthetic order, or amenity. 19 And it says that ARCOM is to, quote, 20 preserve various elements of urban beauty, and 21 require that new projects enhance the existing 22 elements. 23 Section 14 -- 18146B says, the essential 24 foundation of beauty in communities is harmony. 25 The plan for achieving beauty must -- must grow	Page 32 1 acknowledged the standards that I'm talking 2 about, and either denied or suggested changes, 3 in the case of Mockingbird, to make things in 4 harmony and consistent, and not excessively 5 dissimilar. 6 There is still a variance, even though you 7 directed that there be none. That is an issue 8 we will take up with the town council, as 9 somebody here suggested, and I think 10 appropriately so. 11 This neighborhood has very narrow streets. 12 If the two -- if two-story or tall houses go on 13 these -- on these streets, it will not only 14 result in a tunnel effect, but it will 15 suffocate the neighborhood, because they're so 16 narrow. You can't get but one car going in one 17 direction down those streets at any given time. 18 We heard a bit of a threat from the 19 builder for the applicant saying basically that 20 if you deny this, and they have to come in with 21 something else, it's going to be worse. 22 Nonsense. If they are directed to come in 23 with a house that's lower, preferably a one- 24 story house, there's no question they can 25 design one without variances, and they can
Page 31 1 out of special local characteristics of sites 2 and aesthetic tradition. 3 That's what we're asking you to do. The 4 application is inconsistent with 18205 5 criteria, including sub 4, because it's not in 6 harmony. It is excessively dissimilar in 7 relation to any other structure within 200 feet 8 of the proposed site in the various -- in these 9 various respects, among others: 10 The height of the building, the height of 11 the roof, the architectural compatibility, and 12 the appearance amassed from the street, or from 13 any perspective, visible to the public or 14 adjoining property owners. 15 The fact that they're setting the house 16 back, to the extent they're setting it at -- 17 back, does not change that. 18 The applicant asks ARCOM to apply criteria 19 in ways which are inconsistent with recent 20 ARCOM decisions. And I'll give you three, just 21 to make the point, 257 Sandpiper, 1021 North 22 Ocean Boulevard, and 200 Mockingbird, which is 23 still under your consideration. It was 24 deferred, and it's coming back to you. 25 In all those cases, you recognized and	Page 33 1 design one that's beautiful, and they can 2 design one that will make the owner money. And 3 God bless him if he can do that. I'm all for 4 it. 5 With that, I'm going to ask you to 6 consider the overall picture, the issues of 7 mass, and harmony, and compatibility, and 8 dissimilarity. And I think if you do that, you 9 are going to be led to deny this application, 10 and direct the applicant, with their very 11 skilled architects, to come back with a house 12 that fits the neighborhood. 13 Now, with that, and to go into some of the 14 specifics of the kinds of things I was talking 15 to, in terms of scale and harmony, I'm going to 16 introduce John Dotterrer, who is, on the one 17 hand, a neighbor, but he's also an engineer, an 18 expert witness for us. And I'm sure you'll 19 grant him appropriate time, as such, 20 Madam Chair. 21 And I thank you and the Members of the 22 Commission very much. 23 MR. DOTTERRER: Thank you, Madam Chair. 24 I'm John C. Dotterrer from 1470 North 25 Ocean Boulevard. Uh, I --

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Page 34 1 CHAIRWOMAN VANNECK: Hello. 2 Are you -- 3 MR. DOTTERRER: Pardon me? 4 CHAIRWOMAN VANNECK: -- are you an 5 accredited, uh, engineer? 6 I thought you were a lawyer. 7 MR. DOTTERRER: I -- I am an accredited 8 lawyer, and I have a, uh, degree in 9 engineering, uh, in civil and environmental 10 engineering from the University of Michigan. 11 And, uh, I worked in the construction 12 industry as a -- a field layout engineer on 13 large projects, and as an estimator, and as 14 a, uh -- I did some con -- some, uh, 15 construction management, as well. 16 So I've worked with plans a lot, and so I 17 think the -- what I have to say is within my 18 realm of expertise. Yes. 19 CHAIRWOMAN VANNECK: Um, I'm -- I'm 20 listening to, um, my colleague. 21 MALE MEMBER: I'll make it very clear. 22 Are you a licensed professional engineer in the 23 state of Florida or not? 24 MR. DOTTERRER: No. No, sir, nor an 25 architect. No.	Page 36 1 MR. DOTTERRER: -- 16 slides. 2 And I can move through some of them very 3 quickly, uh, but, uh -- 4 CHAIRWOMAN VANNECK: I will ask you to do 5 that, but -- but when you get to ten minutes, 6 time's up. 7 MR. DOTTERRER: Okay. Thank you. 8 CHAIRWOMAN VANNECK: Is that fair? 9 MR. DOTTERRER: Uh, I hope so. Yes. I 10 hope so, if that's what the -- 11 CHAIRWOMAN VANNECK: Okay. 12 MR. DOTTERRER: -- ruling is. 13 CHAIRWOMAN VANNECK: Okay. 14 MR. DOTTERRER: Um -- 15 CHAIRWOMAN VANNECK: Now -- now you can 16 start the clock. 17 You're on the clock, Mr. Dotterrer. 18 MR. DOTTERRER: Okay. 19 Now, uh, I prepared a PowerPoint 20 presentation. I just learned that, um, it's 21 difficult to operate it from this podium and 22 this computer, where -- where I have my other 23 materials. 24 As an alternative, I have some extra 25 copies that I could pass out. And I would like
Page 35 1 MALE MEMBER: We usually get a CV when we 2 have expert witnesses. So maybe for the vice 3 and the chair -- 4 MR. DOTTERRER: Sure. 5 MALE MEMBER: Do we have the three-minute 6 limit here? 7 CHAIRWOMAN VANNECK: I'm going to give him 8 five, and that's it. 9 MR. DOTTERRER: Okay. Um -- 10 CHAIRWOMAN VANNECK: And we'll -- we'll 11 start the clock now. We'll reset it, and we'll 12 start it now. 13 MR. DOTTERRER: May I raise a point of 14 order and -- 15 CHAIRWOMAN VANNECK: Yes. 16 MR. DOTTERRER: -- technical ability, 17 Madam Chair? 18 Uh, I prepared a PowerPoint presentation 19 to show you. Uh, I understand -- 20 CHAIRWOMAN VANNECK: And what -- what kind 21 of length, please? 22 MR. DOTTERRER: Oh, maybe six, or seven, 23 or eight minutes. It's not that long. It's, 24 um -- 25 CHAIRWOMAN VANNECK: Okay.	Page 37 1 to, um, file it for the record, as well, and -- 2 so I hope the clock hasn't really started -- 3 CHAIRWOMAN VANNECK: Well -- 4 MR. DOTTERRER: -- yeah -- while we handle 5 that. 6 I could pass them out, and we can look at 7 them together, quickly, I think, would be 8 more -- 9 MALE SPEAKER: Just give them to me, and 10 I'll (inaudible.) 11 MR. DOTTERRER: -- more efficient. 12 Sure. 13 MALE SPEAKER: (Inaudible.) 14 SPEAKERS: (Inaudible.) 15 MALE SPEAKER: And, uh, Madam Chair, may I 16 come up, to pass these out? 17 CHAIRWOMAN VANNECK: Certainly. 18 MR. DOTTERRER: Okay. 19 CHAIRWOMAN VANNECK: Uh, you're still on 20 the clock. 21 MR. DOTTERRER: Okay. 22 Well, I -- I have one other point of 23 order. I haven't really begun my presentation 24 yet. But I -- I do have, uh, an exhibit I'd 25 like to file for the record, as well as that

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Page 38 1 one, which is a compilation of the letters from 2 the community. 3 CHAIRWOMAN VANNECK: That should have been 4 done earlier. 5 Let's move along, please. 6 MALE MEMBER: At your service. 7 MR. DOTTERRER: Okay. 8 Let's go to, uh, page two. The applicant, 9 in support of this project, submitted, uh, 10 sheets M406 through M410, in which it submits, 11 uh, photographs of, uh, two-story houses, so it 12 raised the issue. 13 And, uh, drew a radius of, um, 14 approximately 300 feet, which is the light 15 line, and it's been crossed out, and placed on 16 the map, uh, 20 different, uh, properties, 17 which are the little numbers on the map. 18 MALE SPEAKER: Mr. Dotterrer, is there an 19 extra copy of that presentation that -- that 20 the staff can look at? 21 MR. DOTTERRER: Sure. 22 SPEAKERS: (Inaudible.) 23 MALE SPEAKER: Is there an extra copy for 24 the opposing attorney to look at? 25 MR. DOTTERRER: Um --	Page 40 1 the -- the requirement is not met. 2 Here we not only have one property -- one 3 structure within 200 feet that's excessively 4 dissimilar, we have 14 -- 14 that are 5 excessively dissimilar. And those are shown on 6 the next page, which is page eight. And I put 7 little -- I put, uh, block letters on each one, 8 uh, that are within the 200 feet. 9 And the photographs follow, showing the 10 distance from the site, the, uh, height of each 11 one, and, uh, importantly, the cubic content 12 ratio, because those are all matters of the 13 code section that you must apply. 14 And as you can see, they're all very low 15 scaled, low cubic content, cottagy. The -- all 16 three of these streets that are affected are -- 17 is a cottagy bungalow feel. 18 The one house that they, uh, mention on 19 the east side is actually on North Ocean 20 Boulevard. And if you look at, uh, sheet 11, 21 on the right-hand side, it's, uh, property 22 number I or letter I, you see that the house 23 looks directly at North Ocean Boulevard. And 24 when you drive down North -- North Ocean 25 Boulevard, you see the house. It is not on
Page 39 1 SPEAKERS: (Inaudible.) 2 MR. DOTTERRER: Almost all of those, uh, 3 properties are outside of the radius that you 4 must consider, under section 18205. 5 Six, which requires you to deny an 6 application anytime there is any structure 7 within 200 feet that is excessively dissimilar. 8 On the next several slides, uh, are 9 photographs of those, and, uh, we've, uh, 10 crossed out the ones that are not within the 11 radius. 12 Um, on page number two, the thick blue 13 line is the proper radius to be -- or the 14 proper perimeter for -- to be considered, uh, 15 by you. 16 And, uh, we've indicated what the actual 17 distance is of these, uh, houses they've 18 submitted. Some of them are more than 700 19 feet. 20 If we move to, uh, slide number seven, 21 this is on the proper application of the 22 ordinance with which you're familiar, that if 23 there's any structure within 200 feet that is 24 excessively dissimilar, uh, in terms of 25 compatibility, mass, or height, uh, then, uh,	Page 41 1 Onondaga. You don't even see Onondaga. 2 These are the houses that should be -- 3 that must be compared, under the terms of the 4 ordinance. And that goes through sheet 14. 5 Completely different. 6 Now, uh, this shows what we're concerned 7 about, on slide 15. How's that for quick 8 movement? 9 Uh, apparently somebody from the 10 applicant's side was standing on the roof of 11 the subject property, 202 Onondaga, and looking 12 down the street. This is what the rooflines 13 and the roofscapes look like. This will tower 14 over the rest of the street. 15 Page 16, uh, is a comparison. The first 16 column shows the average of the heights within 17 200 feet. It's 14.3 feet, and a cubic content 18 of only 2.02. 19 The existing house there is -- as a 20 height, is shown on their drawings of 21 12-and-a-half feet, and a cubic content of 22 about the same, around 2. 23 And revision number one, which they 24 submitted to you, the -- the height of the 25 roof, which is what we see, was 24 feet. Now

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1 it's been increased almost 2 feet, 1.8 feet, to
2 26.17 feet. That's an increase, due to the
3 increase in the slope, from four on two to six
4 on two. The houses in this neighborhood are
5 three on two and four on two.
6 And the cubic content ratio is being
7 requested of 3.49, which is 72 percent more
8 than the 14 properties within the 200 feet,
9 which are to be compared, when considered.
10 You were shown a drawing of, um -- of a
11 one story -- a theoretical one story on the
12 property, but that is quite theoretical, and
13 would be the maximum under the district regu --
14 regulations, but it does not conform to, uh,
15 this neighborhood at all.
16 And the important point here, as
17 Mr. Kolins said, is that if this one is
18 approved, then there's going to be application
19 after application to fill in all of Onondaga,
20 all of Lorie Lane, and all of Deborah Lane.
21 Uh, the house right next door, 210
22 Onondaga, is, uh, owned by an LLC, also. I
23 understand it just changed hands. And I just
24 found out this morning that the 1,200 square
25 foot house, on a 7,600, uh, square foot lot,

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1 next to me, has been bought by the Ken
2 Development Company, Inc. of Bedminster, New
3 Jersey. And so that is what concerns us, uh, a
4 lot, is what is come -- coming next.
5 Under the terms of the ordinance that is
6 governing the decisions of this board, in a
7 quasi judicial capacity, there's no question
8 that this must be denied, when you consider
9 that there are 14 excessively dissimilar
10 properties within the realm that the ordinance
11 requires you to consider.
12 We request that this application be
13 denied, respectfully. Thank you very much.
14 CHAIRWOMAN VANNECK: Thank you.
15 Mr. Lynch.
16 MR. LYNCH: May I respond?
17 CHAIRWOMAN VANNECK: I -- I thought you
18 had fallen asleep.
19 MALE SPEAKER: (Inaudible.)
20 MALE SPEAKER: Excuse me. There may be
21 more people from the public, before Mr. Lynch
22 responds.
23 CHAIRWOMAN VANNECK: Um --
24 MR. LYNCH: I'll defer.
25 MALE SPEAKER: I'm sorry.

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1 CHAIRWOMAN VANNECK: Okay. All right.
2 Let's -- three minutes limit on the time clock,
3 please.
4 And please don't be repetitious.
5 MS. GARY: My name is Susan Gary. I think
6 I'm the only here who can claim that. And I
7 reside at 229 Onondaga, which is the street
8 in -- in question.
9 And, um, I'm not going to be repeating
10 what people have said. I've been before you,
11 um, in April on this similar application. And
12 it's about more than -- than just the
13 architecture.
14 It's the -- it's the casualness, the
15 outdoorsiness of the neighborhood that is
16 supported by the architecture, and -- and
17 that's what we're trying to preserve.
18 And really, you can utilize AROOM as a
19 measure. It provides the toolbox to you, so to
20 speak. It provides us the -- the very
21 specific, um, sections in that code that
22 they -- they have both spoken about to provide
23 you with the opportunity to -- to protect what
24 we have up there.
25 It is different. That whole street is --

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1 I know you don't like to hear the term "one
2 story," but roof heights that are very, very
3 low. So we don't have a -- a tunnel. We get
4 the breezes directly fresh from the ocean. I
5 wake up to them every morning.
6 And -- and this is -- this really is the
7 camel's nose in the tent, and that's what we're
8 afraid of. And -- and you're our last -- our
9 only ability to help preserve what we have up
10 there, the very cottagy bungalow feel of the
11 place.
12 And we are unlike other parts of town --
13 other parts of town. We're not grand, we don't
14 have grand homes, but we like what we have.
15 And all of those homes, on those three
16 contiguous streets, they're original.
17 And -- and we know they're going to be
18 changed, but we're just asking that, because of
19 who you are, and what you can do, is to help us
20 keep that environment that we all love.
21 There are people, like Loris Nolans, who,
22 when he moved up there -- and you know the
23 name. He's part of our group to preserve
24 what's up there, because there are people that
25 like what's there. And it's the openness, the

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46 to 49

Page 46 1 blue sky, the breezes. 2 We have streets that are -- two of these 3 three streets are 14-feet wide. My street, 4 Onondaga, is on 18-feet wide. They're very, 5 very narrow streets. It's not like a lot of 6 other streets in town where, if you have a -- a 7 tall building, it's not so confrontational. 8 And we -- we are outside all the time. 9 People -- the Metzgers were here. They walk 10 their dog. Their kids play the street. And -- 11 and so it's -- it's a different kind of 12 environment. And -- and the architecture up 13 there very much supports that, and that's what 14 we're asking you to do. We're pleading with 15 you. 16 Thank you very much for considering our 17 request to deny. 18 CHAIRWOMAN VANNECK: Thank you. 19 Um, anyone else? 20 MS. PEPPER: Uh, Anne Pepper, 333 21 Seaspray. 22 CHAIRWOMAN VANNECK: Ms. Pepper -- 23 MS. PEPPER: Yes. 24 CHAIRWOMAN VANNECK: -- you were not here 25 when they swore in --	Page 48 1 neighborhoods, whether it's the estate section, 2 the 1s, the biggest streets, the biggest -- 3 most gracious grounds and nice size houses, the 4 midtown where I live, and the north end. 5 And it seems that the -- the -- the -- 6 each has a specific local scale and harmony. 7 And ARCOM's ordinance -- its mandate is to 8 preserve the harmony of each neighborhood, 9 making sure that these projects are not too 10 dissimilar or too similar, so they look like 11 tract housing. And nowhere does it say in the 12 ordinance that financial considerations should 13 be, uh, considered in any way. 14 Last year, Paul, uh, Brazil was speaking, 15 I believe, in a town council meeting about 16 zoning, and he said, quote, just because 17 something can be built, does not mean that it 18 should be built, unquote. 19 I would posit that that is ARCOM's, uh, 20 job to decide what should be built, not based 21 just on what is permissible by your code and 22 our code. 23 So allowing a two-story, overscaled, 24 oversized house in a street, and using that 25 the -- the house is facing North Lake Way or
Page 47 1 MS. PEPPER: Oh. 2 CHAIRWOMAN VANNECK: -- twice. 3 FEMALE SPEAKER: Does anyone else need to 4 be sworn in, at this time? 5 Do you swear or affirm that the testimony 6 which you're about to give is the truth, the 7 whole truth, and nothing but the truth, so -- 8 MS. PEPPER: I -- 9 FEMALE SPEAKER: -- help you God? 10 MS. PEPPER: -- I do. 11 I'd like to just read a brief note from, 12 uh, Susan Watts, who couldn't stay. 40 -- she 13 is at 44 Cocoanut Row, and said, I am a 14 concerned residence -- resident, and I oppose 15 the variance and the scale of this project, 16 with all due respect to Fairfax and Sammons. 17 A 72 percent increase in cubic content 18 ratio is not in keeping with the small street 19 and cottage architecture on Onondaga. Please 20 do not approve this project. 21 For me, Anne Pepper, 333 Seaspray, I would 22 just like to say that I live in a distinctive 23 small neighborhood, and our town's history is 24 contained in the history -- history and 25 development is contained in these.	Page 49 1 North Ocean as it's sort of okay, is -- is 2 really very questionable. So I ask you to 3 think, although it can be built, should it be. 4 Thank you. 5 CHAIRWOMAN VANNECK: Thank you. 6 Do I dare ask if someone else wants to get 7 up and speak? 8 Okay. Boy. 9 * * * * * 10 (Thereupon, the recording ended.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

City of Palm Beach Meeting
June 28, 2017

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Page 50

CERTIFICATE

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I, Lois L. McInnis-Kelleher, Court

Reporter/Transcriptionist do hereby certify that I
was authorized to and did listen to and transcribe
the foregoing recorded proceedings and that the
transcript is a true record to the best of my
professional ability.

Dated this 3rd day of November 2017.



LOIS L. MCINNIS-KELLEHER

6/28/17



TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL COMMISSION MEETING HELD ON WEDNESDAY, JUNE 28, 2017

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. CALL TO ORDER

The meeting was called to order at 9:00 a.m. by Mrs. Vanneck.

II. ROLL CALL

Richard Sammons, Chairman	ABSENT (excused)
Ann L. Vanneck, Vice Chairman	PRESENT
Robert N. Garrison, Member	PRESENT
Alexander C. Ives, Member	PRESENT
Michael B. Small, Member	PRESENT
Maisie Grace, Member	PRESENT
Robert J. Vila, Member	PRESENT
John David Corey, Alternate Member	PRESENT (Left at 5:45 p.m.)
Betsy Shiverick, Alternate Member	PRESENT
Katherine Catlin, Alternate Member	PRESENT

Mr. Corey voted in the absence of Mr. Sammons.

Staff Members present were:

John Page, Director of Planning, Zoning & Building
Logan Elliott, Zoning Technician
Kelly Churney, Secretary to the Architectural Review Commission
Skip Randolph, Town Attorney
Paul Castro, Zoning Administrator

III. PLEDGE OF ALLEGIANCE

Mrs. Vanneck led the Pledge of Allegiance.

IV. APPROVAL OF THE MINUTES FROM THE MAY 24, 2017 MEETING

Motion made by Mr. Small and seconded by Mr. Garrison to approve the minutes from the May 24, 2017 meeting. Motion carried with all in favor.

V. APPROVAL OF THE AGENDA

B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE -

Done 4/26/17

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Anne Fairfax & Jaime Torres/Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

VARIANCE INFORMATION: The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof off the one story house. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required. ***ARCOM DID NOT SUPPORT THIS VARIANCE REQUEST***

At the April meeting, a motion carried that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for restudy.

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

Frank Lynch, attorney for the applicant, stated that his client is still seeking a diminished variance on west side for the non-conformity but has eliminated the east side variance.

Ron Kolins, attorney on behalf of 23 neighbors, asked to speak on a point of order. Mr. Kolins stated that the application for the project is defective due to the fact that a member of ARCOM has a conflict of interest on the case and it was not disclosed on the application and agenda. Mr. Randolph responded and stated that it did not make the application defective. Mr. Kolins read the Code of the section regarding the conflict of interest and asked that the application be dismissed. Mrs. Vanneck stated that the Commission has already heard the application and thinks they should continue to do so. Mr. Randolph asked how the public has been prejudiced by the information not appearing on the application. Mr. Kolins responded. Mr. Randolph stated he still thinks they should hear the application.

Motion made by Mr. Small and seconded by Mr. Garrison to continue hearing the application. Motion carried by all in favor.

Mr. Kolins stated that the notice to the neighbors is factually incorrect as the description of the project was not accurate. Mrs. Vanneck asked about the notice was sent out to the neighbors. Mr. Torres provided an explanation for the project

description. Mr. Randolph stated he did not feel the notice was defective and that the Commission could continue hearing the project.

Ms. Fairfax presented the modifications for the proposed residence. She presented a comparison of heights, site plan, existing and proposed roof plans.

Jaime Torres presented a cubic content ratio diagram for the residence.

Ms. Fairfax presented a streetscape, floor plans and colored, rendered elevations.

Mr. Torres stated that the bulk of the changes have to do with the massing of the building. Mr. Torres presented the modifications to the proposed residence. He stated the person most affected by the changes to the home was the neighbor to the south, who supports the project. Mr. Torres presented colored renderings of the proposed home.

Mr. Small asked for clarification for the garage design. Mr. Castro explained the requirements for a garage.

Mr. Ives was in favor of the changes. Mr. Ives stated he did not think the variance request negatively affected the architecture. He thought the house was charming and was sensitive in its design.

Mr. Corey stated that the plans and drawings are not all consistently oriented in the north direction. He asked for all of the architects to do so in the future.

Mr. Corey was in favor of the color and quoins. He asked about the height roof pitch. Mr. Torres provided an explanation. Mr. Corey stated he was in favor of the lower roof profile. Mr. Corey asked about the amount of demolition. Mr. Corey questioned the need for the variance.

Mr. Garrison favorably discussed the proposed setbacks. He stated he was in favor of the design and thought it was sensitive to the neighbors.

Mr. Vila agreed with Mr. Ives and Mr. Garrison and stated his support of the project. He also stated that the design was sensitive in its design.

Ms. Grace was in favor of the design but preferred the first design. She questioned whether the home fit into the neighborhood.

Ms. Shiverick asked about the proposed angle of vision. Mr. Torres responded. Ms. Shiverick stated her agreement with Messrs. Ives, Vila and Garrison.

Ms. Catlin was in agreement with the other Commissioners. She asked for clarification on the variance request. Mr. Torres responded.

58 ml

Mr. Small asked for clarification about the amount of the structure to be demolished. Mr. Torres responded.

Mr. Torres showed a one-story footprint would look like on the site. He stated his reasons for keeping part of the existing home.

Michael Conville with Beacon Construction, talked about the savings in the building timeframe as well as a savings in the cost to salvage the existing home.

Matt Jackman, Nievera Williams Design, presented the proposed landscaping for the residence. He presented a site plan, a rendered site plan and colored renderings.

Mrs. Vanneck suggested the palm tree on the eastern side be moved westward to mitigate the two-story element.

Mr. Kolins submitted a list of 23 homeowners that he was representing to the clerk. He asked for the project to be deferred, as the notice was incorrect to the public. Mr. Torres responded to Mr. Kolins's objection. Mr. Randolph stated his opinion to allow the Commission to continue hearing the project. Mrs. Vanneck stated her reasons for allowing the application to be heard. Mr. Kolins stated his objections that the rules and Code were not followed.

A second motion by Mr. Garrison and seconded by Mr. Vila to deny Mr. Kolins request. Motion carried with all in favor.

Mr. Kolins, on behalf of the 23 homeowners, stated his objections to the project and his reason that he believes the Commission should deny the application.

John Dotterrer, 1470 N Ocean Blvd, stated his credentials. He presented and reviewed materials submitted in objection to the proposed residence. He requested the Commission to deny the application.

Susan Gary, 229 Onondaga Ave, stated her objections to the proposed project.

Anne Pepper, read a statement from Susan Watts, 44 Coconut Row, who objects to the project.

Anne Pepper, 333 Seaspray Ave, stated her objections to the proposed project.

Frank Lynch, attorney for the applicant, presented material in rebuttal to the opposition. Mr. Kolins provided rebuttal to the comments made by Mr. Lynch. Mr. Lynch provided rebuttal to the comments made by Mr. Kolins.

Mr. Ives stated that he did not have any preconceived opinions about the project and looks only at the architecture when making his decision.

Mr. Small stated his reasons for not voting in favor of the project.

Mr. Garrison read an excerpt from one of the neighbors on Debra Lane and stated his reasons for supporting the design.

Ms. Grace asked for clarification on the map that Mr. Lynch presented. Mr. Lynch responded. She expressed her reasons for why this design is too dissimilar for the neighborhood.

Mr. Ives restated his reasons that he is supporting the project.

Ms. Catlin stated that the design is very considerate to the street.

Mr. Vila stated his reasons that he is supporting the project.

Ms. Grace stated she was in favor of the architecture but was concerned about its location in the neighborhood.

Mr. Corey stated he was in support of the architectural but thought the roof could be lowered. He also stated the house could be restudied to eliminate the variance.

Mrs. Vanneck stated she was in favor of the architecture but thought the variance could be eliminated. She stated her reasons for supporting the design.

A third motion made by Mr. Vila and seconded Ives by that the implementation of the proposed variance will not cause negative architectural impacts to the subject property. Motion failed 4-3 with Meses. Vanneck, Grace and Messrs. Small and Corey opposed.

Mr. Vila expressed his concern and questioned how the project could be designed in order to eliminate the variance.

A fourth motion made by Mr. Corey and seconded by Grace the proposed project can be designed in an architecturally suitable manner, which conforms to the Town of Palm Beach Code of Ordinances without the need for a variance. Motion carried 4-3 with Messrs. Garrison, Ives and Vila opposed.

A fifth motion made by Mr. Corey and seconded by Mr. Small to defer the project for one month to the July 26, 2017 meeting. Motion carried 4-3 with Messrs. Ives, Vila and Garrison opposed.

B-021-2017 Additions/Modifications

Address: 1900 S. Ocean Blvd.

Applicant: Keith Frankel

APPENDIX and AUTHORITIES

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Submitted by
Ron Kolins
6/28/17

ARCOM Case No. 20-2017

202 Onondaga Avenue

Group in Opposition

The following residents of the Town of Palm Beach are collectively being represented by
Ron Kolins:

1. John C. Dotterer: 1470 North Ocean Boulevard
2. Susan and Brad Gary: 229 Onondaga Avenue
3. Jackie and Dick Murphy: 230 Onondaga Avenue
4. Elsa Messing: 201 Onondaga Avenue
5. Marie Drelich: 215 Onondaga Avenue
6. Ben Turnipseed: 211 Esplanade Way
7. Tom and Kathi Holland: 321 Arabian
8. Susi Rose and Lisa Lager: 1464 North Ocean Boulevard
9. David Leavitt: 1480 Via Manana
10. Per and Rachel Lorentzen: 231 Osceola Way
11. Virginia (Cooky) Donaldson: 227 Brazilian Avenue
12. Lawrence Moens: 1480 North Lake Way
13. Lawrence Moens: 1473 North Lake Way

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14. John Giffert: 2777 Columbus Avenue
15. Kristina Wren: 142 Sengene Road
16. Anne and Brian Norton: 277 Esplanade Way
17. Charmaine Murphy: 180 Dunstaff Avenue
18. Tracy Worthington: 1014 Lake Lane
19. Jennifer Santiago: 242 Esplanade Way
20. Betty Williams: 1422 North Lake Way
21. Kelly Norman: 1132 North Lake Way
22. Suzie Piers: 1424 North Ocean Boulevard
23. Deborah Wilson: 1421 North Ocean Boulevard

APPENDIX and AUTHORITIES

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202 ONONDAGA

ARCOM CASE B-022-2017

VARIANCE # 12-2017

COMPILED LETTERS OF OBJECTION

as of

4/25/17

Maria Drelich
215 Onondaga Avenue

Susan Gary
225 Onondaga Avenue

Jacqueline Murphy
230 Onondaga Avenue

Tracy Huntington
1464 Laurie Lane

G. Ben Turniszed
211 Esplanade Way

Jennifer Garrigues
246 Esplanade Way

Kathy Delaney
1465 North Lake Way

Melvin Noonan
1465 North Lake Way

Lawrence Moens
1470/1480 North Lake Way

Susie Rose
1464 North Ocean Blvd.

John Dotterrer
1470 North Ocean Blvd.

Margaret Wilkins
1480 North Ocean Blvd.

David Leavitt
1480 Manana Way

Per and Rachel Lorentzen
231 Orceola Way

Nixon Griffiths
217 Caribbean Road

Maria Drelich
215 Onondaga Avenue
Palm Beach, FL 33480
April 21, 2017

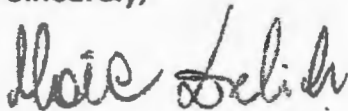
Dear ARCOM, Mayor, and Council,

I am deep in the process of redoing my home on Onondaga Avenue and am very upset upon hearing of applications to knock down and rebuild across the street from me. I understand that the application is for a home that is massive compared to others on Onondaga.

Do not let this happen. I decided to make a substantial investment on remodeling precisely because I love Onondaga Avenue. I bought here in the first place because of the natural beauty. If I walk to the beach or ride my bike I am inundated with a myriad of greens and the blue sky. The same goes if I walk or bike toward the Lake Trail. If you approve this application, what I have here (and what I am doing with my renovation) would be destroyed. It is completely out of character for the neighborhood.

It is excessively dissimilar and not in harmony with the other homes on Onondaga. I urge you not to do this to the owners on Onondaga. I am aware that there are precedents for not allowing this travesty to happen.

Sincerely,



Maria Drelich

April 22, 2017

229 Onondaga Avenue

Palm Beach, Florida 33480

The Mayor, Town Council of Palm Beach, ARCOM members

RE: 202 ONONDAGA APPLICATION

We respectfully request that you deny this application.

We are full time residents at 229 Onondaga Avenue and have lived in this small scale and family friendly north end neighborhood for eighteen years. We cherish the blue sky, ocean breezes and the cottages that dominate the neighborhood.

I was told by the architect for this project that 202 Onondaga is a developer- lead project where the goal is to maximize the square footage of the home to increase the profit! Those are his words.

Where does this leave the residents of this narrow, one-way street filled with homes that are half the size and mass of the proposed home? We will be left here to deal with this eyesore for the remaining years of our lives.

I am writing to request you deny this proposed plan as it does not currently comply with the ARCOM ordinances. It is not harmonious with anything on Onondaga and it is excessively dissimilar to ALL (not just ANY) of the eight existing homes with an Onondaga address.

The proposed 202 Onondaga plan would double the height and mass relative to other homes in the immediate area. The existing homes on Onondaga, Laurie Debra and the north side of Esplanade - have roof heights averaging fourteen feet or less and contain approximately 2,300 square feet. The cubic ratio of the homes

in the surrounding area is less than 2.0 while the proposed home at 202 Onondaga has a cubic ratio of nearly 4.0.

The developer is an out of state real estate speculator with no apparent connection to our community. Once the developer leaves the residents must deal with the consequences forever. We will no longer experience the spaciousness, enjoy the charm, or the lovely ocean breezes of our street. All of the reasons we moved here suddenly disappear due to the intrusion of the new "detoxed" home at 202 Onondaga. It will be massive when viewed by the public from the street.

The ARCOM ordinance notes in Section 18-146, Statement of Findings and Purpose concludes that it is "The intent of this article is to achieve a pleasant and comprehensive cohesiveness in community development." The current plans for 202 Onondaga do not achieve the desired result. We therefore request you deny this proposal.

Very truly yours,

L. Michael J. Juchacz

230 Onondaga Avenue
Palm Beach, FL 33480
5 April 2017

I am writing with concern about a proposed two-story home to be developed on Onondaga Avenue after the present one-story structure is demolished. I will present two arguments in support of my strong opposition against this possibility on my street.

First, and more importantly, there are points from the architectural commission, for example, that the proposed structure would not be excessively dissimilar in relation to other structures on the street. The street is only one-story homes. The appearance from the street would be visible to the adjoining property owners as well as to the others. Furthermore, the privacy of the neighboring properties would be violated. A two-story structure is above the hedge line, and the adjoining as well as the transverse properties would lose protection

Secondly, in addition to the argument from the guidelines of the architectural commission, I would like to give a personal story. We looked all over Florida to replace our condo in Miami as our entire building was purchased by a developer. We tried Ocean Reef, Sanibel, Key West, Jupiter, Fort Lauderdale and so on. When we eventually saw the North End of Palm Beach, we knew this was the place. But even more so, when we saw the house on Onondaga Avenue, we realized that we had found the spot. It reminded us of the islands as we walked to the beach – unspoiled, beautiful, yet simple.

Consequently, building a large two-story house destroys this vision. Please take into consideration the feelings of the residents of Onondaga. Develop the property, but keep it one story to blend with the ambiance of the neighborhood.

Unfortunately, we are out of town and will not be able to attend the meetings.

Sincerely,

Jacqueline Murphy

John Lindgren

From: Tracy Huntington <tracybrent1@comcast.net>
Sent: Saturday, April 22, 2017 8:46 PM
To: John Lindgren
Subject: Fwd: Letter for Review/April 26/ARCOM Meeting

Dear Sirs

I am sending this letter again because I forgot to include my PE Address at the top of the letter.

Please see below.

My apologies

Begin forwarded message:

From: Tracy Huntington <tracybrent1@comcast.net>
Subject: Letter for Review/April 26/ARCOM Meeting
Date: April 22, 2017 at 8:41:33 PM EDT
To: jlindgren@townofpalmbeach.com
Cc: Tracy Huntington <tracybrent1@comcast.net>

Tracy B. Huntington
1464 Laurie Lane
Palm beach, FL, 33480
April 19, 2017

Dear ARCOM, The Mayor, and Town Council:

The Purpose of this letter is twofold. I would like to seriously object to the Desecration of my idyllic surroundings with the 'Out-of-Place' House that is being proposed for Onondaga Avenue. I would also like to present some personal observations.

Firstly, the proposed new, two-story structure is radically different from the surrounding one-story homes.

I don't necessarily have a problem with a Spec House going up but what I do have a problem with is the actual proposed size of this new house!

I have seen lovely one-story Spec Homes going up which are congruous with the flavor of the neighborhood.

There is no need to overbuild in order to maximize profits. I would argue that keeping the neighborhood as is, with new homes that are on the same size scale as the older existing homes, actually maintains the 'Value' of our neighborhood and draws environmentally minded and private people who want to live amongst nature.

Sections 18-146, 205 and 134-201, 327, 329 of both ARCOM and Town Council can be used as precedents.

Secondly, but just as important to my case, are my personal feelings against this Project.

I am a native Palm Beacher and have been coming here for 60 years. My Families have been here since 1927.

Both sets of Grandparents lived in Palm Beach till the end of their days and since then members of my extended Family still live here today, including my children.

I feel very strongly that approving this project will set a dangerous precedent and forever change the course of our cherished North End.

In the past 4 years my husband and I have seen Huge and Overwhelming Homes being built that have literally destroyed the natural beauty of our small community.

These Large, looming 'out of place' homes, have caused disruption to the only understated enclave left on the Island.

Not only do these second story monstrosities loom over the smaller homes but they project shadows over our landscapes and obstruct our open skies.

Our Privacy is also at risk. It is very disconcerting to imagine people looking down on you whether you are outside or inside your home.

Additionally, the ratio of the size of the new houses going up vs. the surrounding landscape is anathema to me.

I am always so amazed with the stillness and quietness of the North End. Its charm and simplicity is what brought us here.

When we walk to the beach or the Lake Trail I am immediately brought back to Nature and its beauty. It is my saving grace from the stressful world.

It is a piece of heaven and there are no overbuilt houses to break the magical spell.

Along with many others in the neighborhood, I do not want another "look at me" house to destroy the rare space that we all cherish.

In Conclusion, from a legal and personal standpoint I implore you not to approve this plan. Thank You for your consideration.

Sincerely,

Tracy Brent Huntington

**G. Ben Turnipseed
211 Esplanade Way
Palm Beach Fl 33480**

April 21, 2017

**Mayor
Town Council
Architectural Review Commission
Town of Palm Beach**

**Re: 202 Onondaga Ave.
Opposition to Applications**

My wife and I, only in February, 2 months ago, selected and closed on the purchase of the charming single story home at 211 Esplanade through a trust of which I am Trustee. We selected the house specifically because of the alluring cottage feel of the neighborhood. Esplanade, especially on our side is lined with low scale informal dwellings as are all of Onondaga, Laurie and Debra. That is exactly why we chose to locate here in Palm Beach.

However, soon after moving in, we received the disturbing notifications that a much larger, much higher, much more massive project is proposed on speculation by a Developer "kitty cornered" to our pool area and backyard on Onondaga. This is imposing and out of character to the environs. It will be excessively dissimilar in height and mass from surrounding homes within 200 feet including ours and therefore should be prevented by TPB Sections 18-146, 18-205(a)6. Surely, there is no hardship simply because a Developer wishes to build something bigger decades on. And so,

variances should be denied too. TPB Sections 134-201; 134-327 - 329.

The Commission and Council should take their responsibilities under the above ordinances seriously and recognize how deeply immediate neighbors can be affected by invading overdevelopment.

There is a charmed ambience that should be saved here. Once the Developers demolish it, forever it will be lost. Please exercise your powers as you are rightfully and legally enabled to do, and wisely; decline these Applications.

Yours truly,



G. Ben Turnipseed

To: Arcom, Mayor, Town Council

19 April 2017

**Re. 202 Onondaga Applications;
Letter of Objection and Request for Denial**

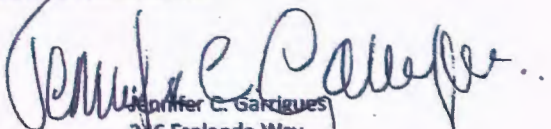
I have recently received notification of 2 Town meetings for Arcom Approval and recommendation, variances and site plan approval of the above project that is oversized in Height and Mass, presents no hardship, does not seek minimal variance and would denigrate the balance, spaciousness, harmony and charm of surrounding properties including those within 200 feet. It is excessively dissimilar to those properties.

Onondaga, Laurie and Debra Lanes, and Esplande comprise a unique quiet low rise, low key environment in which I have chosen to live for 22 years. I was attracted by the smaller scale and cottage like feel of the houses. I enjoy walking dogs in it nearly every day.

ARCOM and the Town Council have the opportunity here to preserve and protect one of the original 1 story bungalow/cottage enclaves. Developers should not be encouraged to enclose yet more open skies.

The proposal is excessive for the lot and the neighborhood, is excessively dissimilar under all applicable criteria and should be denied. Developers' perpetual quests for profits should not be allowed to destroy the charm and harmony we have always had. Both Applications should be denied.

In the event that I am not able to attend these Town meetings when they are conducted, I ask that this letter be considered as fully as if I had attended. Thank you for your kind attention and consideration.


Jennifer C. Gardigues
246 Esplande Way
Palm Beach

*Submitted
via email*

Kathy Delaney

April 18, 2017
1465 North Lake Way
Palm Beach, FL 33480

Hon. Gail L. Coniglio, Mayor
Members of the Town Council
Architectural Review Commission
C/O Mr. John Lindgren AICP Planning Administrator

Please Distribute to Town Officials

Re: 202 ONONDAGA ARCOM# B-020-2017 ZONING
VARIANCE #12-2017

Dear Mayor, Town Council and Architectural Review Commission,

After reviewing the proposed application for 202 Onondaga, I kindly ask that the project be scaled back in height and size more compatible with existing structures on the street and in the neighborhood. While I am not opposed to improvement, I do object to the disproportionate size of the proposed renovation. It is proposed to be twice the height and mass of any of the two dozen homes that comprise the unique and charming cottage enclaves. It is therefore excessively dissimilar to several structures within 200 feet.

I have been the home owner for over twenty years at 1465 North Lake Way and am sad to see homes that dwarf their lot size going up all over the north end. Yes, new building and renovations are an asset, but maximizing every cubic inch of properties is ruining the charm of the north end.

When I bought my house my realtor called the north end 'not the estate section'. Now the size of homes is being pushed to change dramatically but lot sizes are still the same. We are losing green space, blue sky and ocean breeze because of this over building!

I ask that proposed renovations at 202 Onondaga be rejected and kept to a level suitable for lot size, halving both the height and mass.

Warm regards,

Kathy Delaney

ARCOM

April 24, 2017

c/o John Lindgren

Re: 202 Onondaga

I live at the corner of North Lake Way and Debra Lane. Unfortunately I am not able to attend the meeting April 26, 2017.

As was the case with 201 Debra Lane, the idea of approving a large house on Onondaga is not a good one for this neighborhood. The small, one-story homes have size and appropriate setbacks that create a lovely sense of openness and charm. Larger and two story houses dwarf these houses and create privacy concerns. Please reject approval of the project for 202 Onondaga.

Sincerely,

Molly Noonan
Molly Noonan *with permission*

1469 North Lake Way

Lawrence A. Moens
1480 North Lake Way
Palm Beach, Florida 33480
(561) 655-5510

April 22, 2017

Hon. Gail L. Coniglio, Mayor
Hon. President and Members of the Town Council
Members of the Architectural Review Commission
Town of Palm Beach

Subject: 202 Onondaga Council and Arcom Applications

Dear Mayor, Council and Arcom Members:

I reside at 1480 North Lake Way, and by way of LLC also own the 1 floor cottage style residence fronting on Debra Lane (1473 N. Lake Way), in the same enclave as the proposed Spec Development Project sought at 202 Onondaga. Like my Debra Lane cottage, the proposed structure will front on Onondaga – now a quaint little row of single story cottage/bungalow type dwellings.

In the 202 Onondaga Applications, a speculator seeks approval for a structure that is excessively dissimilar in height and mass from the 8 low rise houses on Onondaga, both houses on Laurie Lane and all of Debra Lane. It seeks to almost double those immediate surroundings in both height and mass. For these reasons, I am opposed the submitted project, and believe both Council and Commission retain more than adequate codified authority to decline this proposal. 18-146, 18-205

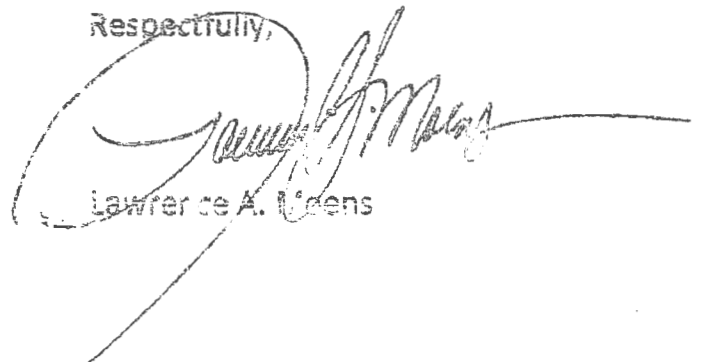
Onondaga, and Laurie and Debra Lanes, are legacies to the quiet understated open sky North End heritage. They should be preserved. I also believe that the scale of the residences such as we have on Onondaga, Laurie and Debra Lanes have their desirability and economic riches; in the long-term, may

pieces of comparable value to the sometimes overpursued quest for maximized mass. There is certainly a demand and market for one floor living which many buyers seem to prefer.

The disparate mass is not in harmony or balance. Moreover, no hardship is presented. 134-200.

On these principles, these subject applications should be accordingly declined.

Respectfully,

A large, stylized handwritten signature in dark ink, appearing to read 'Lawrence A. Udens', is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lawrence A. Udens

Susie Rose

April 23, 2017

Re. 202 Onondaga Proposed Project: Letter in Opposition

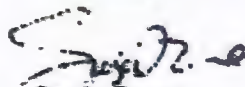
To: Mayor, Arcam, Town Council

I am a daughter and beneficiary of Walter and Meira Veith (deceased) of 1464 North Ocean Blvd., our family home, held in a family trust, is 2 houses north of the proposed Development project at 202 Onondaga. It was our childhood home and has been the family home for decades. My family was attracted to the neighborhood by the simple low scale architectural and quiet way of island life so close to the sea. I know that in recent times larger, taller, more massive Development Projects were proposed as incursions to neighborhood landscapes and our Mom wrote letters and appeared at meetings to oppose them.

Similarly, now, we think the 202 Onondaga project is too high and too massive to be compatible with the surrounding structures and is not in harmony and as a result excessively dissimilar under Sections 18-146 and 18-205. There is also no hardship that justifies the request for variance to the former 1 story setback when a new 2 story is proposed. In addition, a minimal variance is not sought. Section 134-201. The applications should therefore be denied or scaled back to compatible size, mass and proportions, without variances.

Thank you for your attention and consideration.

Sincerely,


Susie Rose

12501 S Sawdust Court • Draper • Utah • 84020
rosefamilyut@gmail.com • 801-556-2861

JOHN C. DOTTERER
1470 North Ocean Blvd.
Palm Beach, FL 33480

April 24, 2017

Architectural Review Commission,
Town of Palm Beach

Richard Sammons, Chairman
Ann L. Vanneck, Vice Chair
Robert N. Garrison
Maisie Grace
Alexander C. Ives
Michael B. Small
Robert J. Villa
John David Corey
Betsy L. Shevrick

c/o John Lindgren, ACIP
Planning Administrator
jlindgren@townofpalmbeach.com

Town Council
Town of Palm Beach

Hon. Gail L. Coniglio,
Mayor

Richard M. Kleid, Pres.
Daniella P. Moore, Pres. PT
Julie Araskog
Bobbie Lindsay
Margaret Zeldman

c/o Paul W. Castro, ACIP
Zoning Administrator
pcastro@townofpalmbeach.com

Re: 202 Onondaga Ave: LETTER IN OPPOSITION

ARCOM Application B-22-2017 (202 Onondaga LLC)
Hearing Date: Wednesday, April 26, 2017
Variance # 12-2017

Dear Madame Mayor, Members of Council and Commission:

The endearing and, for 7 decades, enduring, enclave of Onondaga, Laurie, Debra, Esplanade ("Enclave") would be disassembled by the incongruent, excessive height, mass and resultant dissimilarity the LLC's proposed Spec Development Project would impose upon the particular charm and characteristics of this unique environ that should be instead preserved. Once destroyed, it is unredeemable. Many neighbors deplore the ominous prospect.

The Project would set horrifically bad precedent that would shrink tiny Onondaga, Debra and Laurie lanes to narrow gulches. Allowing the oversized, crammed construction onto such small lots would initiate, after 70 years of proportioned architectural peacefulness, a march of new projects that will overbear this Enclave of one story bungalows, intrude on their equal-linear privacy, block their natural sunlight, create canyons of the lanes, and chasms between rising too tightly packed structures.

Instead, the Commission should adhere to the wise precedent it established at 257 Sandpiper [Arcom Case # B-002-2015], in which the objections of neighbors on that one story Street were heeded and respected, the two-story application denied. Afterward, a one floor program was harmoniously completed, and that Spec Development sold just weeks ago for \$ 6,000,000. By approving a harmoniously heightened proposal, the LLC Developer and neighbors can both win.

That is the right result; it can easily and should be applied here.

Because the Developer has, with its Arcom Application, simultaneously filed with Council, application for variances, and because the dates and precepts before both chambers overlap, opposition to the companion Council application is here included.

I. OPPOSITION TO 202 IS SUBSTANTIAL

Largely concerned with the devastating potential negative precedential effect, opposition to 202 has swelled. Many residents have already registered their objections. More may be on the way.

The opposition is overwhelming and widespread among longstanding residents and recent purchasers alike. At least 2 recent purchasers at 220 Onondaga and 211 Esplanade (behind the Project) inform that they recently purchased specifically to enjoy life in the understated low rise charm of the Enclave. They too, protest the project

The neighborhood doesn't want this escalation and ARCOM is fully and legislatively empowered to decline the Project, including under Code Sections 18-146 and 18-205, and ARCOM'S Sandpiper precedent.

III. DOES NOT MEET Sec. 18-205 Criteria.

While technical RB "District Regulations" of the Code furnish maximum mathematical parameters, initially left to the planning and building departments, those provisions "alone do not create beauty, an aesthetic order, or amenity." 18-146(d). Rather, ARCOM's principal mission is fulfilled by applying the codified aesthetic criteria of Sec. 18-205. **That is precisely why ARCOM was created.** ARCOM is not a mere plan checker. Those criteria include:

(a)(1) "conformity with good taste", contributing to "spaciousness, balance, taste, fitness, charm . . ." [emphasis added].

The Spec Project does not contribute to the spaciousness, balance and charm of the neighborhood, but rather invades it with Boca style crowding.

(a)(4) " . . . the proposed structure is in harmony . . ." [emphasis added].

This project is dissonant. 8 out of the 8 houses on Onodaga, and all houses on adjoining Laurie and Debra are low rise, low mass structures with which the LLC Project is notably out of tune.

(a)(6). "The proposed . . . Structure is not excessively dissimilar in relation to **any other structure** existing . . . within 200 feet of the proposed site in respect to **one** or more of the following features: "

[18-205(a)(6) is undoubtedly the preeminent provision of the Town of PB Code that ARCOM has the responsibility to enforce to protect existing residents. Importantly, if the Project is excessively dissimilar in relation to **any i.e. one structure within 200 feet** of the proposed site, it must be denied.

And if it is excessively dissimilar as to **even one feature** to even one nearby structure, that alone can warrant, can militate for denial.

Here, a simple 200' sweep with a scaled draftsman's compass on the tax appraisers map and analysis of the properties within that ring establishes that there is not only one, but are at least **14 structures** that are excessively dissimilar in, at least, **height, and mass**. They are: 201,210,215,220,221 Onondaga; 211,245, 251, 253 Esplanade (northside backing up to the project south side of Onondaga); 1464, 1465 Laurie Lane; 1440 North Ocean Way; 1464, 1470 North Ocean Blvd.

a. **"Height of building or height of roof."**

The LLC's proposed project height is 24.5 feet. In contrast, the average height of 14 homes within 200 feet, as extracted from sheets 12-13 of the data reported to the Commission by the 201 Debra applicant, and a scaled from existing drawings on file with the building department, is 14.6 feet. For many of those existing homes, the peak height is only for part of the structure, not all. Thus, at 10 feet higher - 67% more. The LLC proposed structure is excessively dissimilar not only to one, but to 14 structures within the radius.

LLC may try to compare to 1460 North Ocean Blvd., but that 2 story is on the widest part of North Ocean Blvd. Despite its existence, there still are at least 14 excessively dissimilar structures within 200 feet of the project site, establishing a clear cut basis for denial under the Ordinance.

b. **"Architectural compatibility."**

The Spec proposition is incompatible. All homes in the Enclave are bungalows-ranch, not overbuilt over elevated "Monterey's". There is no visual consonance, or compatibility with its long-standing neighbors.

c. **"Avoid the appearance of mass through improper proportions."**

The mass of this project is not only visually disproportionate to other structures in the 200 foot radius, it is measurably and objectively excessively dissimilar in mass.

LLC's proposed Cubic Content Ratio ("CCR"), by code defined as the gross cubic content (volume) in cubic feet/the lot area in square feet (Section 134-2) is 3.73. The CCR is a requirement of RB district regulations and is therefore a codified measure of massing, both mathematically and apparent. In stark and excessively dissimilar contrast to the average CCR of 14 homes within the 200 foot radius is a modest 2.08 CCR. The LLC therefore presumes to impose a full 80% more mass. This is unacceptable.

The apparent and actual mass is overbearing for the little Lane. It is impropotioned.

d. "... is appropriate in relation to the established character of other structures in the immediate area or neighboring areas ... as viewed from any public or private way."

This is among the greatest and most disqualifying faults of the speculation here. This developer has burst into the neighborhood with a deeply and venerated uniform established character that has served its small size, admirably and the aesthetically for some 70 years. Allowance of this project would destroy all that and with each cottage that would change hands, attract developers to do the same. The sad result would be a chasm of buildings in what is now charmed, palm lined, spaciousness. Not every hovel in ZIP Code 33480 is required to be a McMansion.

There is a need, a niche, and a place for petite cottages and bungalows too.

One such place is this Enclave, where the original proportioned houses survive. Its post-war style and minimalism, allowed persons, not of astounding wealth or income to stake their claim to the alluring island of Palm Beach – intrinsic to fabric and character of the Town. That tradition is alive today. But this project would begin to eliminate that spectrum. It should not be allowed to cause extinction. Preservation is integral to the purpose and need for this Commission. After the Spec Developer sells, he is gone, but, with us, the aftermath remains.

It is expected that recent sales and opinions may show a demand a value for well renovated or built low rise residences.

(a)(10) "The project's location and design adequately protects unique site characteristics, such as scenic views ..."

Again, the project does not protect unique site characteristics; it derogates them. Perpetration of the project and its likely progeny will fill our eyespace and skyspace.

Summary – Sec. 18-205

Failure to meet any one of the above criteria as to any[1] structure within 200' is sufficient alone for denial. Here, the proposed Project offends at least 14 such structures and to them, violates not just 1, but multiple criteria as to all 14. With such ranging offense, in this unique location, denial is a compelling and obvious outcome.

IV. THE PRECEDENT IN SANDPIPER SHOULD BE FOLLOWED HERE

Arcom's seminal and courageous 2015 decision in 257 Sandpiper should be respected as both applicable and controlling precedent. There as here, the project was too high and too massive to be in harmony. And Onondaga is much smaller; about half the width of Sandpiper.

Two years ago, an Application for a two-story Spec Project on the one story North End street of Sandpiper was considered and denied. [ARCOM Case B- 002 - 2015, 257 Sandpiper Dr., denied March 25, 2015] . See, Arcom action letter of denial. *Onondaga* is more compelling for denial than ARCOM'S decision in Sandpiper.

In *257 Sandpiper*, the Commission reviewed a proposed Spec Project on a principally one story street that is approximately 36 feet wide, nearly 2 times the width of one way Onondaga. In *257 Sandpiper*, only 6-7 neighbors filed objections; at 202 Onodaga, more neighbors oppose the Project.

After 3 successive hearings the excessively high two-story application was denied on the basis of Code Sections 18 – 205(a) 1, 4 & 5[sic]. [the minutes of the March 25, 2015 hearing state "(a)(5)",sic, however, this is an entry error, as (a)(5) relates to excessive similarity, and the audio recording reflects that excessive dissimilarity was the basis for denial, a ground that is expressly covered by (a)(6)].

To treat the neighbors of the Enclave and environs differently than those on Sandpiper in application and adherence to the ARCOM Ordinances would be unfair and unequal.

At the time of Applicant's acquisition of 202 in January 2017, the decision in 257 Sandpiper had already been on the books, in the public record for 2 years and published as a significant story in the Palm Beach Daily News.

As a result of Arcom's March 25, 2015 denial, in April 2015, Mr. Jansen submitted a new one story application, Arcom Case # B – 041 – 2015. As reflected in the May 27th, 2015 minutes at page 10:

"Mr. Janssen reminded that he had previously presented a two-story residence which was denied by ARCOM. Since then, the program has been revised to a one-story residence with a center axis front door with a symmetrical façade."

Sandpiper, as a one story program was approved, constructed with a huge bonus for the Developer, selling a month ago for \$6,000,000. See PB Daily News, March 31, 2017, lead article p. B-1. The article reported that the Spec House's "single floor plan was a key marketing point", attractive to the many buyers who prefer not to climb stairs or use elevators. *Id.* at B-4. A similar forced triumph for a Spec Developer of 225 West Indies began as a 2 story application, converted to 1 story sold in 2015 for \$ 5,645,000. Deed, ORB 27314 P 1119.

Such should become the case here. Adequate square footage, 4,560 (40%) is allowed for a one story. There are numerous examples of 1 story recent constructions on the North End, including one recently completed at nearby 1475 N. Lake Way, on the corner of, and facing Manana Lane.

Following the sound decision of Arcom at 257 Sandpiper, the objecting neighbors to 202 Onondaga should be treated equally, and the subject Application denied.

TOWN COUNCIL APPLICATION

Council should defer to Arcom's action or recommendation on the petition for variances that entirely relies upon the very same drawings submitted to Council. This established and current protocol would promotes efficiency, reduces deliberative labor, and best provides for consistent results.

V. The Requested Variance Should be Denied.

A. No Actionable Hardship.

This LLC closed on the existing low rise home and site on February 1, 2017 (ORB 28865 Page 1791), obviously knowing both its limitations and that 8 out of 8 homes on Onodaga have remained at much lower average heights with low massing for decades. These facts were obvious before purchase, but apparently ignored on the ambition of doubling the size and mass through an undeserved Variance request despite the clear 18-205 violations and lack of real hardship.

Thus any asserted claim of special conditions and circumstances do result from the actions of the applicant, contravening Section 134-201 (a) (2). Any claim of hardship, is imagined, or at best, self-imposed. There is no literal interpretation here that would deprive the applicant or work an unnecessary or undue hardship. Section 134 - 201 (a) (4). A lower scale house served the owners and neighbors admirably for 6 decades. The existing structure was built in 1954. Never a complaint was heard nor an application for enlargement filed in all that time. It is only the speculative ambitions of this LLC that impel it to seek this variance.

And Developer provides no cognizable reason in the LLC's Application for hardship as the law requires. 202 Onondaga LLC's answer to Item 4, "Exhibit D-Request For Variance blithely offers only an unsupported generalism: "A literal interpretation of the ordinance would deprive the Applicant of the opportunities enjoyed by neighboring properties in the area". This is both untrue and unsupported. No examples are provided. In fact, there is no uncommon, variant deprivation. Applicant merely wants to build in a setback where RB district regulations do not allow in self aggrandizement. There is no unique feature peculiar to this land, 202, not applicable to other lands, that deprives this LLC of anything. 134-201(a)(1). The site enjoys dimensions (100' x 114') identical to most lots in Esplanade Estates. The requirement of real, not conjured or invented, hardship should be adhered by Arcorn and Council. 134-201. Otherwise district regulations are worthless.

B. Would Confer Special Privilege.

The LLC requests a major 2 story east side setback variation. Applicant seeks to project upward from an existing 1 story nonconformity of 11.8 feet for 2 stories without setting back the new proposed second story to the current 15'

minimum, which would have thereby reduced mass. This expansion demands an unneeded special privilege, violating 134-201(a)(2).

C. Not Minimum Variance.

As shown above, the variance is not minimum; it could have been much less. Applicant could meet the current setback for both and certainly the second proposed story. Reasonable use could be made with full or better compliance. Therefore it must be denied. 134-201(a)(3)

D. Not Harmonious.

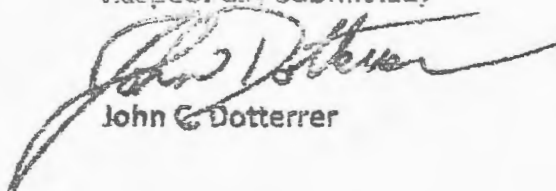
The oversize, double high, double massed, proposed structure is not in harmony with the neighborhood nor general intent and purpose of the chapter. Section 134 - 201 (a) (7).

Accordingly, ARCOM should recommend denial of, and Council should deny, the requested Variance.

CONCLUSION

Oversized, overmassed, too high, dissonant from long established neighborhood character and tradition, the LLC's Spec Project applications that importune to aggrandize maximization should be denied. The unredeemable cottage charm that has lived on for six to seven decades should be preserved, not annihilated. If this development is allowed, others will surely follow, claiming precedent, and a gorge of overtearing structures erected on what was once proportioned pleasant spaciousness.

Respectfully Submitted,


John C. Dotterer

Cc: John C. Randolph, Esq.

Maureen Wilkens
1491 North Ocean Blvd.
Palm Beach, Florida 33480

Hon. Gail L. Coniglio, Mayor
Members of the Town Council
Members of Arcom, Town of Palm Beach

April 18, 2017

Re. Applications (ARCOM and Council) for New Residence – 202 Onondaga

Dear Mayor, Town Council, and Architectural Review Commission

I reside at 1491 North Ocean Boulevard, across North Ocean Boulevard from 202 Onondaga, and a few houses to the north. That property is part of what has historically been a tiny quaint way, in the open air, quiet North End that now seems to be threatened anew everyday.

I am concerned about and oppose the project that is proposed to be packed into parcel and the overdevelopment precedent it will undoubtedly incentivize.

Debra and Laurie Lanes and Onondaga are 3 surviving delightful lanes that for some 60+ years have been homogeneously lined with single-story bungalows. They are proportioned perfectly to the small lots on which they were built by those who platted this especially beautiful end of Palm Beach. It is to this quiet landscape that my late husband and I were drawn to spend our winters several decades ago.

Among the responsibilities of the Town Boards involved here are:

ARCOM:

- to preserve special local characteristics of site, aesthetic tradition, vistas, visual cohesiveness
- to assure spaciousness, balance, taste and charm
- to prevent excessive dissimilarity, including with respect to height, compatibility of appearance and mass, complimentary sizing with adjacent properties, avoiding improper proportions
- to protect privacy of neighboring properties

Sections 18-146, 18-285.

Town Council

- protecting against imbalanced intensity in relation to nearby and adjacent properties
- ensuring screens and buffers
- minimize invisible bulk of structures to drivers and pedestrians
- minimizing nonconformities
- granting variances only in cases of genuine hardship
- restricting variances to the minimum necessary

Sections 134-201, 327, 329.

The proposed 202 Onondaga spec development project defies all of these codified standards.

It is massed larger and higher than any of the Debra/Onondaga properties. It boasts a roof rising far above the surrounding houses on these lanes.

The applicant Developer will sell it, and be gone, encouraging others to fill in the sky space as other lots become available. The result would be a canyon.

My family and I have treasured walks and bike rides on these charming Lanes for years. For profit, a Developer proposes to fill them in. Preservation of harmony, spaciousness, charm, special characteristics should prevail over short-term profit.

Sincerely,

Maureen Wilkens

Maureen Wilkens

PS/ While our home is large, it is recessed on large acreage on the ocean far from the street and so heavily landscaped, that is barely visible from any thoroughfare.

John Lindgren

From: David Leavitt <dileavitt@verizon.net>
Sent: Sunday, April 23, 2017 1:07 PM
To: John Lindgren
Subject: 202 Onondaga

David Leavitt
1480 Manana Way
Palm Beach, Florida 33480

April 23, 2017

RE: 202 Onondaga Avenue

Dear ARCOM members, Mayor and members of the Town Council,

I oppose the application for 202 Onondaga. The proposed house is much larger and taller than all the other homes on Onondaga. We have a few streets still left on the north end that have small lots and cottage style houses. I feel there is an esthetic value to these streets; Laurie, Debra, Esplanade and Onondaga.

ARCOM ordinances state that proposed homes not be excessively dissimilar to any structure included within 200 feet. The proposed house is excessively dissimilar in height and mass to all the other homes on this narrow, one way street. Section 18-205, section 6 of the ARCOM ordinances lists 3 items that make this proposal unacceptable:

- + height of the roof (6A)
- + appearance of mass from the street or any perspective visible to the public (6E)
- + diversity of design that is complimentary with size and massing of adjacent properties (6F)

I grew up in this neighborhood in the '50s and it holds a special place in my heart for that reason. I have watched its houses gradually be torn down and larger houses take over most of our streets. I find them too large for the lot sizes to be aesthetically pleasing. So now we have a new big, rectangular, 2 story north end home. I feel we need to preserve the few streets where these big homes have not yet taken over, especially when the streets are narrow and the lots are small.

Please preserve this rare neighborhood.

Thank you for our consideration,

David Leavitt

**Per and Rachel Lorentzen
231 Osceola Way
Palm Beach FL 33480**

April 23, 2017

**Hon. Gail L. Coniglio, Mayor
Architectural Review Commission
Town Council**

**Subject: 202 Onondaga Arcom and Varlance Applications;
Letter In Opposition.**

As longtime residents of Palm Beach, now living a few blocks from the above proposed project, we feel strongly that Onondaga along with the other small lanes nearby constitute a neighborhood having a pleasant sense of openness and charm derived from the historical proportioning of the bungalow houses and gardens to the little lanes and lots. We are fortunate that this special character has been preserved since original construction. We often enjoy this unique low scaled area of the town.

However, Developers, at an increasing pace seem to be attempting to invade this harmony by proposing much larger projects for profit, then leaving the longstanding residents with the overdeveloped aftermath. It is a burgeoning problem all over our unique and charming North End and if allowed would despoil our community and convert us to becoming like developments elsewhere Florida that we all sought to avoid.

Here, the Developer's dual applications for 202 Onondaga would for the first time, apparently since mid-century, change the neighborhood and begin an onslaught of maximized for profit larger hovering structures. The height and steepness of what is now proposed would imposingly tower over the lane and its existing bungalows, and spoil the spaciousness. It is excessively dissimilar from so many structures within 200 feet in height and mass and should be denied. 18-146, 18-205.

Also, for a home that has been perfectly adequate for so many decades, there is no hardship to justify the requested variances which are

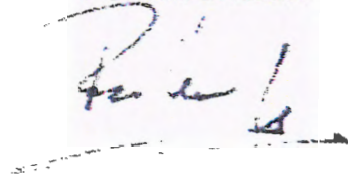
not minimized. The Town has for far too long doled out variances without hardships. So what is the point of the variance ordinance? Here, a 2 story variance is sought to the 1 story former setback for a new project, doubled in size. The request should be denied. 134-201.

Any project that is built on the site should be scaled to the existing lot, lane and architecture. The proposed disproportionate project is just too much. It should be disapproved by both boards.

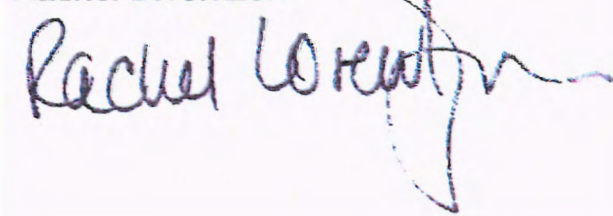
Thank you for your attention and consideration of this important townwide issue.

Sincerely,

Per Lorentzen

A handwritten signature in dark ink, appearing to be 'Per Lorentzen', written over a light blue rectangular background.

Rachel Lorentzen

A handwritten signature in dark ink, appearing to be 'Rachel Lorentzen', written over a light blue rectangular background.

Dear Members of ARCOM,

Imagine if you will: You have lived in Palm Beach long enough to call it home. You have come to love the beauty of your surroundings. That habitat created and conserved by past architectural commissions. You wake up one morning and you go to your favorite enclave for your morning cup of coffee. You sit in your chair, the birds are singing, and it is a beautiful day....

A sip or two of coffee and you awaken. You look out where, yesterday, you saw blue sky, foliage, and sunshine. You now see the disproportionately large mass of your neighbor's new house. (Worse yet, it is that of speculators who have no fear that the same loss of vista and ambience can happen to them) ...

So, imagine you have an hundred foot two dimensional view from your morning vantage point. The home of your last neighbor is gone. Your loss of natural beauty is presently diminished by anywhere from seventy-five percent or less. Further, you notice that where there was sunshine reaching your pool area, your garden, and you, now there is shade for three or four hours more. You live in Florida partly to enjoy the warmth and health giving properties of the sun. How easily it is taken away.....

You finish your coffee and go about your day with less than your normal peace of mind. That night, while you and your wife are readying for sleep, you look up out of your bedroom window. That window gave you your view of a gibbous moon and the night's stars. Now, that view, too, is gone. In its' place is a balcony or a window that looks right into the privacy of your refuge. In fact, there are two very loud people having their drinks and laughing out on the balcony. You caution your wife not to walk past your picture window until you both figure out a privacy screen for this new low-quality development. This bad day's condition is not temporary. It will not last a day or a week or even a month, but for as long as you live in this home.

This loss of beauty, from your living space, brings feelings of anger, sadness, or whatever mis-emotion that you, the reader, are now imagining and feeling in this position. ARCOM members please understand what we have been experiencing these past eight years in the north end. We ask you to renew your commitment to Ordinance Number 11-2015, 1 (Att.), 4-15-15. Sec. 18-147 – 18-

165. and Sec 18-205. Please draw a stronger line on density, disproportionate mass, the loss of privacy, reduced home-based businesses and diminishing natural vistas.

Thank you for your consideration, vigilance and the effort that you take to make our town of Palm Beach a place of beauty, spaciousness, balance, taste, fitness, charm, and high quality.

Respectfully,

Nick S. Ellis
217 Caribbean Way

APPENDIX and AUTHORITIES

7

Submitted
6/28/17
TR 37/21 -
38/2

202 ONONDAGA

ARCOM CASE B-022-2017

VARIANCE # 12-2017

COMPILED LETTERS OF OBJECTION
(most)

as of

6/27/17

Elsa S. Messing
Gianni Sellers
201 Onondaga Avenue

Khooshe A. Aiken
145 Seagate Road

Anne and William Metzger
277 Esplanade Way

Maria Drellich
215 Onondaga Avenue

Susan Gary
229 Onondaga Avenue

Jacqueline Murphy
230 Onondaga Avenue

Tracy Huntington
1464 Laurie Lane

G. Ben Turnipseed
211 Esplanade Way

Jennifer Garrigues
246 Esplanade Way

Kathy Delaney
1465 North Lake Way

Molly Noonan
1469 North Lake Way

Lawrence Moens
1473/1480 North Lake Way

Susie Rose
1464 North Ocean Blvd.

John Dotterrer
1470 North Ocean Blvd.

Maureen Wilkins
1491 North Ocean Blvd.

David Leavitt
1480 Manana Way

Per and Rachel Lorentzen
231 Osceola Way

Nixon Griffiths
217 Caribbean Road

Elsa S. Messing
Gianni Sellers
201 Onondaga Ave.
Palm Beach FL 33480

June 23, 2017

Dear Madame Mayor, Town Council, ARCOM:

**Subject: 202 Onondaga; Objection to Arcorm and Council
Applications of 202 Onondaga LLC – Continued Letter of Objection.**

We live directly across Onondaga from the proposed Project. Our Letter of Objection of May 18, 2017 stands as to the Applications as they have been revised on June 13, 2017 and any further revisions in 2 story or similar excessive mass and height. We continue to ask that the Applications be denied.

Sincerely,



Elsa S. Messing
Gianni Sellers
201 Onondaga Ave.
Palm Beach FL 33480

May 18, 2017

Dear Madame Mayor, Town Council, ARCOM:

**Subject: 202 Onondaga; Objection to Arcom and Council
Applications of 202 Onondaga LLC.**

Our family trust owns the home at 201 Onondaga, directly across Onondaga from the proposed project at 202 Onondaga, and having an immediate frontal view of it, we will perhaps be the property most directly affected by the 202 spec project, which we believe would be dramatic and negative. Ms. Messing has lived in the open spaciousness of Onondaga Ave. for 25 years; she is perhaps the longest residing Onondagian and her views should be respected accordingly. We are likely unable to attend in person the next scheduled town meetings on the 202 project.

Please record our wholehearted objection to the proposal. The added height of the proposed two-story house would be very intrusive, whereas a well-designed lower height, lower scale would satisfy the Developer's desire for profit, as well as keeping with the character of low height and mass of the neighborhood.

The neighborhood of Onondaga, adjoining North side of Esplanade, and adjacent streets are unique in their architectural simplicity. The low scale houses have been updated as evidenced by at least 2 complete recent one-story renovations on Onondaga alone, including 1 next door to us. These renovations at 215 and 230 Onondaga are in keeping with the ambience of the neighborhood. To allow an overwhelming multilevel structure would degrade the continued harmony that these recently renovated houses have achieved and preserved.

All 8 of 8 houses on Onondaga, 2 of 2 on Laurie Lane and 7 and 7 on Debra Lane are low scale, about 14 feet high with low massing. To allow a much higher, more

massive construction when there are at least a dozen homes of low scale within 200 feet establishes that it would be excessively dissimilar and a clear violation of 18 – 205 (6). Also that section provides that “the appearance of mass from the street” is a basis for denial. The section also provides that “diversity and design” should be complimentary “with the size and massing of adjacent properties”. The proposal will similarly not “protect the privacy” of our east garden.

ARCOM’s reason for existence and mission is to keep Palm Beach harmonious and in scale. Please extend this philosophy to our neighborhood and decline the 202 Onondaga applications.



Elsa S. Messing
Trustee, Elsa S.
Messing Trust

Gianni Sellers
Son and Beneficiary

KHOOSHE A AIKEN

June 25, 2017

To: Architectural Review Commission
Members of Town Council

**Re: 202 Onondaga ARCOM and Variance Applications;
Letter in Opposition.**

As a longtime resident of Palm Beach, I feel strongly that Onondaga along with the other small lanes nearby constitute a neighborhood having a pleasant sense of openness and charm derived from the historical proportioning of the bungalow houses and gardens to the little lanes and lots. We are fortunate that this special character has been preserved since original construction. I often enjoy this unique low scaled area of the town.

However, unfortunately, Developers at an increasing pace invade this harmony by pursuing much larger projects, then leaving residents with the aftermath. I have personally endured this plague at my home and on my street, Seagate. It is a spreading and long term problem. It should not be allowed to happen again and to spread to the pristine little lanes of Onondaga, Laurie and Debra. Sections 18-146, 18-205.

Also, there is no hardship regarding the requested variance. The request should be denied. 134-201.

ARCOM has shown some recent support in rejecting the overscaled proposals at 257 Sandpiper, 1021 North Ocean Blvd. and most recently, Mockingbird. Those precedents should be followed and the Onondaga Applications denied.

Thank you for your attention and consideration of this important North End issue.

Sincerely,



Khooshe Aiken

145 SEAGATE ROAD . PALM BEACH . FLORIDA . 33480

Tel 561.315.6901 Email: kaiken@renaissancepartners.com

Letter to ARCOM Members re: 202 Onondaga Way

jwmetzger@aol.com

Tue 6/27/2017 10:27 PM

To:jlindgren@townofpalmbeach.com <jlindgren@townofpalmbeach.com>;
kchurney@townofpalmbeach.com <kchurney@townofpalmbeach.com>;

Cc:annegm44@gmail.com <annegm44@gmail.com>;

Hello, John and Kelly,
Please include our letter below in the members' packets for the ARCOM meeting
on Wednesday, June 28, 2017.

Thank you very much,
Bill and Anne Metzger.

Dear Members of the Architectural Commission:

The revised proposal for a new house at 202 Onondaga Avenue being presented at
your ARCOM meeting on Wednesday, June 28, 2017 does not satisfactorily
address our comments or overcome the objections we raised at your earlier
meeting.

While it is an attractive design, the revised version is still too massive.

A plan with no need for variances would be more acceptable. As we spoke at your meeting when the application was originally presented, a two-story house could work, however it needs to be a more moderate approach with less cubic content.

Thank you very much,
Bill and Anne Metzger

TCM Agenda Backup 11-14-17

277 Esplanade Way

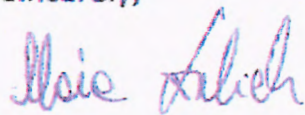
Maria Drelich
215 Onondaga Avenue
Palm Beach, FL 33480

June 23, 2017

Dear ARCOM, Mayor, and Council,

Please register my continued opposition to the above Project as revised, as stated in my letter of April 21, 2017 previously filed with the Town.

Sincerely,

A handwritten signature in blue ink that reads "Maria Drelich". The signature is written in a cursive, flowing style.

Maria Drelich

Maria Drelich
215 Onondaga Avenue
Palm Beach, FL 33480
April 21, 2017

Dear ARCOM, Mayor, and Council,

I am deep in the process of redoing my home on Onondaga Avenue and am very upset upon hearing of applications to knock down and rebuild across the street from me. I understand that the application is for a home that is massive compared to others on Onondaga.

Do not let this happen. I decided to make a substantial investment on remodeling precisely because I love Onondaga Avenue. I bought here in the first place because of the natural beauty. If I walk to the beach or ride my bike I am inundated with a myriad of greens and the blue sky. The same goes if I walk or bike toward the Lake Trail. If you approve this application, what I have here (and what I am doing with my renovation) would be destroyed. It is completely out of character for the neighborhood.

It is excessively dissimilar and not in harmony with the other homes on Onondaga. I urge you not to do this to the owners on Onondaga. I am aware that there are precedents for not allowing this travesty to happen.

Sincerely,



Maria Drelich

April 22, 2017

229 Onondaga Avenue

Palm Beach, Florida 33480

The Mayor, Town Council of Palm Beach, ARCOM members

RE: 202 ONONDAGA APPLICATION

We respectfully request that you deny this application.

We are full time residents at 229 Onondaga Avenue and have lived in this small scale and family friendly north end neighborhood for eighteen years. We cherish the blue sky, ocean breezes and the cottages that dominate the neighborhood.

I was told by the architect for this project that 202 Onondaga is a developer- lead project where the goal is to maximize the square footage of the home to increase the profit! Those are his words.

Where does this leave the residents of this narrow, one-way street filled with homes that are half the size and mass of the proposed home? We will be left here to deal with this eyesore for the remaining years of our lives.

I am writing to request you deny this proposed plan as it does not currently comply with the ARCOM ordinances. It is not harmonious with anything on Onondaga and it is excessively dissimilar to ALL (not just ANY) of the eight existing homes with an Onondaga address.

The proposed 202 Onondaga plan would double the height and mass relative to other homes in the immediate area. The existing homes on Onondaga, Laurie Debra and the north side of Esplanade - have roof heights averaging fourteen feet or less and contain approximately 2,300 square feet. The cubic ratio of the homes

in the surrounding area is less than 2.0 while the proposed home at 202 Onondaga has a cubic ratio of nearly 4.0.

The developer is an out of state real estate speculator with no apparent connection to our community. Once the developer leaves the residents must deal with the consequences forever. We will no longer experience the spaciousness, enjoy the charm, or the lovely ocean breezes of our street. All of the reasons we moved here suddenly disappear due to the intrusion of the new "botoxed" home at 202 Onondaga. It will be massive when viewed by the public from the street.

The ARCOM ordinance notes in Section 18-146, Statement of Findings and Purpose concludes that it is "The intent of this article is to achieve a pleasant and comprehensive cohesiveness in community development." The current plans for 202 Onondaga do not achieve the desired result. We therefore request you deny this proposal.

Very truly yours.

230 Onondaga Ave

230 Onondaga Avenue
Palm Beach, FL 33480
6 April 2017

I am writing with concern about a proposed two-story home to be developed on Onondaga Avenue after the present one-story structure is demolished. I will present two arguments in support of my strong opposition against this possibility on my street.

First, and more importantly, there are points from the architectural commission, for example, that the proposed structure would not be excessively dissimilar in relation to other structures on the street. The street is only one-story homes. The appearance from the street would be visible to the adjoining property owners as well as to the others. Furthermore, the privacy of the neighboring properties would be violated. A two-story structure is above the hedge line, and the adjoining as well as the transverse properties would lose protection

Secondly, in addition to the argument from the guidelines of the architectural commission, I would like to give a personal story. We looked all over Florida to replace our condo in Miami as our entire building was purchased by a developer. We tried Ocean Reef, Sanibel, Key West, Jupiter, Fort Lauderdale and so on. When we eventually saw the North End of Palm Beach, we knew this was the place. But even more so, when we saw the house on Onondaga Avenue, we realized that we had found the spot. It reminded us of the islands as we walked to the beach – unspoiled, beautiful, yet simple.

Consequently, building a large two-story house destroys this vision. Please take into consideration the feelings of the residents of Onondaga. Develop the property, but keep it one story to blend with the ambiance of the neighborhood.

Unfortunately, we are out of town and will not be able to attend the meetings.

Sincerely,

Jacqueline Murphy

John Lindgren

From: Tracy Huntington <tracybrent1@comcast.net>
Sent: Saturday, April 22, 2017 8:46 PM
To: John Lindgren
Subject: Fwd: Letter for Review/April 26/ARCOM Meeting

Dear Sirs

I am sending this letter again because I forgot to include my PB Address at the top of the letter.

Please see below.

My apologies

Begin forwarded message:

From: Tracy Huntington <tracybrent1@comcast.net>
Subject: Letter for Review/April 26/ARCOM Meeting
Date: April 22, 2017 at 8:41:33 PM EDT
To: jlindgren@townofpalmbeach.com
Cc: Tracy Huntington <tracybrent1@comcast.net>

Tracy B. Huntington
1464 Laurie Lane
Palm beach, FL, 33480
April 19, 2017

Dear ARCOM, The Mayor, and Town Council:

The Purpose of this letter is twofold. I would like to seriously object to the Desecration of my idyllic surroundings with the 'Out-of-Place' House that is being proposed for Onondaga Avenue. I would also like to present some personal observations.

Firstly, the proposed new, two-story structure is radically different from the surrounding one-story homes.

I don't necessarily have a problem with a Spec House going up but what I do have a problem with is the actual proposed size of this new house!

I have seen lovely one-story Spec Homes going up which are congruous with the flavor of the neighborhood.

There is no need to overbuild in order to maximize profits. I would argue that keeping the neighborhood as is, with new homes that are on the same size scale as the older existing homes, actually maintains the 'Value' of our neighborhood and draws environmentally minded and private people who want to live amongst nature.

Sections 18-146, 205 and 134-201, 327, 329 of both ARCOM and Town Council can be used as precedents.

Secondly, but just as important to my case, are my personal feelings against this Project.

I am a native Palm Beacher and have been coming here for 60 years. My Families have been here since 1927.

Both sets of Grandparents lived in Palm Beach till the end of their days and since then members of my extended Family still live her today, including my children.

I feel very strongly that approving this project will set a dangerous precedent and forever change the course of our cherished North End.

In the past 4 years my husband and I have seen Huge and Overwhelming Homes being built that have literally destroyed the natural beauty of our small community.

These Large, looming 'out of place homes', have caused disruption to the only understated enclave left on the Island.

Not only do these second story monstrosities loom over the smaller homes but they project shadows over our landscapes and obstruct our open skies.

Our Privacy is also at risk. It is very disconcerting to imagine people looking down on you whether you are outside or inside your home.

Additionally, the ratio of the size of the new houses going up vs. the surrounding landscape is anathema to me.

I am always so amazed with the stillness and quietness of the North End. Its charm and simplicity is what brought us here.

When we walk to the beach or the Lake Trail I am immediately brought back to Nature and its beauty. It is my saving grace from the stressful world.

It is a piece of heaven and there are no overbuilt houses to break the magical spell.

Along with many others in the neighborhood, I do not want another "look at me" house to destroy the rare space that we all cherish.

In Conclusion, from a legal and personal standpoint, I implore you not to approve this plan. Thank You for your consideration.

Sincerely,

Tracy Brent Huntington

**G. Ben Turnipseed
211 Esplanade Way
Palm Beach, FL 33480**

June 26, 2017

Mayor
Town Council
Architectural Review Commission
Town of Palm Beach

Re: 202 Onondaga Ave.: Opposition to Arcom and Council Applications

Our filed letter of Objection dated April 24, 2017 continues to apply to Applicant's June 13, 2017, and any similar subsequent revisions. We live behind the proposed Project One lot to the east and have a property corner touching the site. We request you deny these subject applications.

Unfortunately, we will not be able to attend the June 28, 2017 town meeting.

Yours truly,

G. Ben Turnipseed

**G. Ben Turnipseed
211 Esplanade Way
Palm Beach Fl 33480**

April 21, 2017

**Mayor
Town Council
Architectural Review Commission
Town of Palm Beach**

**Re: 202 Onondaga Ave.
Opposition to Applications**

My wife and I, only in February, 2 months ago, selected and closed on the purchase of the charming single story home at 211 Esplanade through a trust of which I am Trustee. We selected the house specifically because of the alluring cottage feel of the neighborhood. Esplanade, especially on our side is lined with low scale informal dwellings as are all of Onondaga, Laurie and Debra. That is exactly why we chose to locate here in Palm Beach.

However, soon after moving in, we received the disturbing notifications that a much larger, much higher, much more massive project is proposed on speculation by a Developer "kitty cornered" to our pool area and backyard on Onondaga. This is imposing and out of character to the environs. It will be excessively dissimilar in height and mass from surrounding homes within 200 feet including ours and therefore should be prevented by TPB Sections 18-146, 18-205(a)6. Surely, there is no hardship simply because a Developer wishes to build something bigger decades on. And so,

variances should be denied too. TPB Sections 134-201; 134-327 - 329.

The Commission and Council should take their responsibilities under the above ordinances seriously and recognize how deeply immediate neighbors can be affected by invading overdevelopment.

There is a charmed ambience that should be saved here. Once the Developers demolish it, forever it will be lost. Please exercise your powers as you are rightfully and legally enabled to do, and wisely; decline these Applications.

Yours truly,



G. Ben Turnipseed

To: Arcom, Mayor, Town Council

19 April 2017

**Re. 202 Onondaga Applications;
Letter of Objection and Request for Denial**

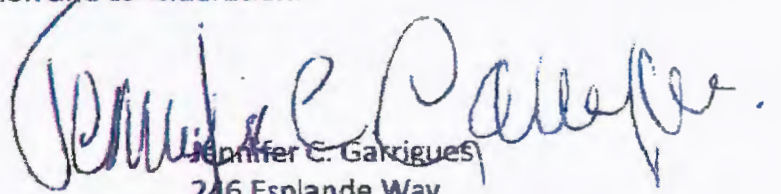
I have recently received notification of 2 Town meetings for Arcom Approval and recommendation, variances and site plan approval of the above project that is oversized in Height and Mass, presents no hardship, does not seek minimal variance and would denigrate the balance, spaciousness, harmony and charm of surrounding properties including those within 200 feet. It is excessively dissimilar to those properties.

Onondaga, Laurie and Debra Lanes, and Esplande comprise a unique quiet low rise, low key environment in which I have chosen to live for 22 years. I was attracted by the smaller scale and cottage like feel of the houses. I enjoy walking dogs in it nearly every day.

ARCOM and the Town Council have the opportunity here to preserve and protect one of the original 1 story bungalow/cottage enclaves. Developers should not be encouraged to enclose yet more open skies.

The proposal is excessive for the lot and the neighborhood, is excessively dissimilar under all applicable criteria and should be denied. Developers' perpetual quests for profits should not be allowed to destroy the charm and harmony we have always had. Both Applications should be denied.

In the event that I am not able to attend these Town meetings when they are conducted, I ask that this letter be considered as fully as if I had attended. Thank you for your kind attention and consideration.


Jennifer C. Garrigues
246 Esplande Way
Palm Beach

*Submitted
in email*

Kathy Delaney

April 18, 2017
1465 North Lake Way
Palm Beach, FL 33480

Hon. Gail L. Coniglio, Mayor
Members of the Town Council
Architectural Review Commission
C/O Mr. John Lindgren AICP Planning Administrator

Please Distribute to Town Officials

Re: 202 ONONDAGA ARCOM# B-020-2017 ZONING
VARIANCE #12-2017

Dear Mayor, Town Council and Architectural Review Commission,

After reviewing the proposed application for 202 Onondaga, I kindly ask that the project be scaled back in height and size more compatible with existing structures on the street and in the neighborhood. While I am not opposed to improvement, I do object to the disproportionate size of the proposed renovation. It is proposed to be twice the height and mass of any of the two dozen homes that comprise the unique and charming cottage enclaves. It is therefore excessively dissimilar to several structures within 200 feet.

I have been the home owner for over twenty years at 1465 North Lake Way and am sad to see homes that dwarf their lot size going up all over the north end. Yes, new building and renovations are an asset, but maximizing every cubic inch of properties is ruining the charm of the north end.

When I bought my house my realtor called the north end 'not the estate section'. Now the size of homes is being pushed to change dramatically but lot sizes are still the same. We are loosing green space, blue sky and ocean breeze because of this over building!

I ask that proposed renovations at 202 Onondaga be rejected and kept to a level suitable for lot size, halving both the height and mass.

Warm regards,

Kathy Delaney

ARCOM

April 24, 2017

c/o John Lindgren

Re: 202 Onondaga

I live at the corner of North Lake Way and Debra Lane. Unfortunately I am not able to attend the meeting April 26, 2017.

As was the case with 201 Debra Lane, the idea of approving a large house on Onondaga is not a good one for this neighborhood. The small, one-story homes have size and appropriate setbacks that create a lovely sense of openness and charm. Larger and two story houses dwarf these houses and create privacy concerns. Please reject approval of the project for 202 Onondaga.

Sincerely,

Molly Noonan

1489 North Lake Way

**Lawrence A. Moens
1480 North Lake Way
Palm Beach, Florida 33480
(561) 655-5510**

June 22, 2017

Hon. Gail L. Coniglio, Mayor
Hon. President and Members of the Town Council
Members of the Architectural Review Commission
Town of Palm Beach

Subject: 202 Onondaga; Council and Arcom Applications

Dear Mayor, Council and Arcom Members:

I continue to object to the current (June 13, 2017) version of the above applications and any similar future revisions. Please see, consider and apply my letter of April 22, 2017 in this regard.

On the principles expressed in that letter, and any that may be stated at a hearing, the subject Applications should be declined.

Respectfully,

Lawrence A. Moens

Lawrence A. Moens
1480 North Lake Way
Palm Beach, Florida 33480
(561) 655-5510

April 22, 2017

Hon. Gail L. Coniglio, Mayor
Hon. President and Members of the Town Council
Members of the Architectural Review Commission
Town of Palm Beach

Subject: 202 Onondaga; Council and Arcom Applications

Dear Mayor, Council and Arcom Members:

I reside at 1480 North Lake Way, and by way of LLC also own the 1 floor cottage style residence fronting on Debra Lane (1473 N. Lake Way), in the same enclave as the proposed Spec Development Project sought at 202 Onondaga. Like my Debra Lane cottage, the proposed structure will front on Onondaga – now a quaint little row of single story cottage/bungalow type dwellings.

In the 202 Onondaga Applications, a speculator seeks approval for a structure that is excessively dissimilar in height and mass from the 8 low rise houses on Onondaga, both houses on Laurie Lane and all of Debra Lane. It seeks to almost double those immediate surroundings in both height and mass. For these reasons, I am opposed the submitted project, and believe both Council and Commission retain more than adequate codified authority to decline this proposal. 18-146, 18-205

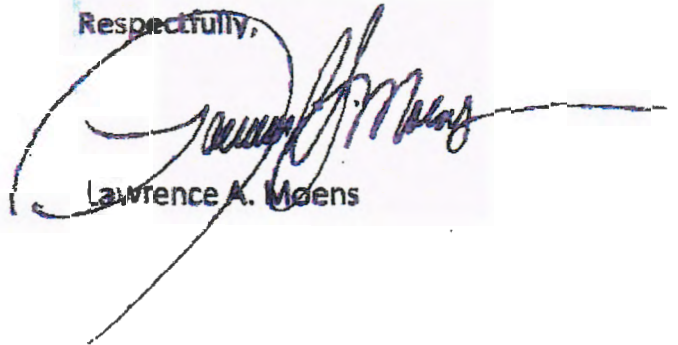
Onondaga, and Laurie and Debra Lanes, are legacies to the quiet understated open sky North End heritage. They should be preserved. I also believe that the scale of the residences such as we have on Onondaga, Laurie and Debra Lanes have their desirability and economic niche; in the long-term, may

prove of comparable value to the sometimes overpursued quest for maximized mass. There is certainly a demand and market for one floor living which many buyers seem to prefer.

The disparate mass is not in harmony or balance. Moreover, no hardship is presented. 134-201.

On these principles, these subject Applications should be accordingly declined.

Respectfully,

A handwritten signature in blue ink, appearing to read "Lawrence A. Moens", is written over a light blue rectangular background. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lawrence A. Moens

Susie Rose

12601 Somerdowns Court, Draper, UT 84020 | 801-556-3861 | RoseFamilyUT@msn.com

June 23, 2017

Re: 202 Onondaga Proposed Project: Letter in Opposition

To: Mayor, Arcom, Town Council

Our letter of ~~Objection~~ to the above Project of April 23, 2017 continues to apply. Please decline the Project.

Thank you for your consideration

Sincerely,



Susie Rose

Susie Rose

April 23, 2017

Re. 202 Onondaga Proposed Project: Letter in Opposition

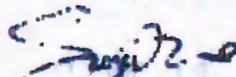
To: Mayor, Arcam, Town Council

I am a daughter and beneficiary of Walter and Melra Veith (deceased) of 1464 North Ocean Blvd., our family home, held in a family trust, is 2 houses north of the proposed Development project at 202 Onondaga. It was our childhood home and has been the family home for decades. My family was attracted to the neighborhood by the simple low scale architectural and quiet way of island life so close to the sea. I know that in recent times larger, taller, more massive Development Projects were proposed as incursions to neighborhood landscapes and our Mom wrote letters and appeared at meetings to oppose them.

Similarly, now, we think the 202 Onondaga project is too high and too massive to be compatible with the surrounding structures and is not in harmony and as a result excessively dissimilar under Sections 18-146 and 18-205. There is also no hardship that justifies the request for variance to the former 1 story setback when a new 2 story is proposed. In addition, a minimal variance is not sought. Section 134-201. The applications should therefore be declined or scaled back to compatible size, mass and proportions, without variance.

Thank you for your attention and consideration.

Sincerely,


Susie Rose

12601 S Somersdown Court • Draper • Utah • 84020
rosefamilyut@msn.com • 801-556-3861

JOHN C. DOTERRER
1470 North Ocean Blvd.
Palm Beach, FL 33480

June 25, 2017

Architectural Review Commission,
Town of Palm Beach

Richard Sammons, Chairman
Ann L. Vanneck, Vice Chair
Robert N. Garrison
Maisie Grace
Alexander C. Ives
Michael B. Small
Robert J. Villa
John David Corey
Betsy L. Shevrick

c/o John Lindgren, ACIP
Planning Administrator
jlindgren@townofpalmbeach.com

Town Council
Town of Palm Beach

Hon. Gail L. Coniglio,
Mayor

Richard M. Kleid, Pres.
Danielle H. Moore, Pres. PT
Julie Araskog
Bobbie Lindsay
Margaret Zeidman

c/o Paul W. Castro, ACIP
Zoning Administrator
pcastro@townofpalmbeach.com

Re: 202 Onondaga Ave: LETTER IN OPPOSITION

ARCOM Application B-22-2017 (202 Onondaga LLC)

Hearing Date: Wednesday, June 28, 2017

Variance # 12-2017

Dear Madame Mayor, Members of Council and Commission:

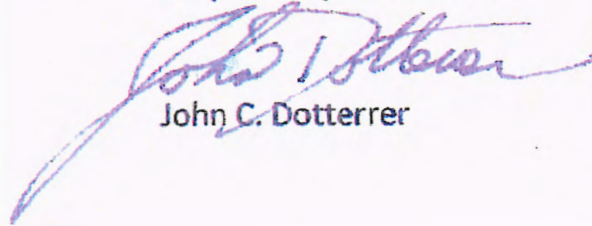
Please consider that my April 24, 2017 Letter in Opposition on file is reiterated as to applicant's revised plans and submittal of June 13, 2017, as those objections still apply. (copy attached for convenience). In addition, the revised plans:

- Reassert a request for variance despite Arcom's ruling in April that the Project can be designed in a suitable manner without variances.

- Increase the overall roof height.
- Increase the roof pitch (to 6 on 12 from 4 on 12);
- Contain apparent discrepancies between the June 13, 2017 summary of changes and the actual changed plans.
- Rely on invalid comparisons under the terms of controlling ordinances. 18-146, 18-205.

Thus, as before, it is respectfully requested that the Applications be denied. If this LLC Spec project that is double the height and mass, and out of scale to the 200' neighborhood, others will surely follow, claiming precedent, and a gorge of overbearing structures erected walling in what has always been proportioned pleasant spaciousness.

Respectfully Submitted,



John C. Dotterer

Maureen Wilkens
1491 North Ocean Blvd.
Palm Beach, Florida 33480

Hon. Gail L. Coniglio, Mayor
Members of the Town Council
Members of Arcom, Town of Palm Beach

June 23, 2017

Re. Applications (ARCOM and Council) for New Residence - 202 Onondaga

Dear Mayor, Town Council, and Architectural Review Commission

Please apply my April 19, 2017 Letter of Objection to the above Applications as revised and to any future revisions that may be substantially the same with such excessively dissimilar height and mass. I will not be able to attend the June 28, 2017 meeting as I am out of Town for the Summer.

Sincerely,

Maureen Wilkens



Maureen Wilkins
1491 North Ocean Blvd.
Palm Beach, Florida 33480

Hon. Gall L. Coniglio, Mayor
Members of the Town Council
Members of Arcom, Town of Palm Beach

April 19, 2017

Re. Applications (ARCOM and Council) for New Residence – 202 Onondaga

Dear Mayor, Town Council, and Architectural Review Commission

I reside at 1491 North Ocean Boulevard, across North Ocean Boulevard from 202 Onondaga, and a few houses to the north. That property is part of what has historically been a tiny quaint way, in the open air, quiet North End that now seems to be threatened anew everyday.

I am concerned about and oppose the project that is proposed to be packed into parcel and the overdevelopment precedent it will undoubtedly incentivize.

Debra and Laurie Lanes and Onondaga are 3 surviving delightful lanes that for some 50+ years have been homogeneously lined with single-story bungalows. They are proportioned perfectly to the small lots on which they were built by those who platted this especially beautiful end of Palm Beach. It is to this quiet landscape that my late husband and I were drawn to spend our winters several decades ago.

Among the responsibilities of the Town Boards involved here are:

ARCOM:

- to preserve special local characteristics of site, aesthetic tradition, vistas, visual cohesiveness
- to assure spaciousness, balance, taste and charm
- to prevent excessive dissimilarity, including with respect to height, compatibility of appearance and mass, complimentary sizing with adjacent properties, avoiding improper proportions
- to protect privacy of neighboring properties

Sections 18-144, 18-205.

Town Council

- protecting against imbalanced intensity in relation to nearby and adjacent properties
- ensuring screens and buffers
- minimize invisible bulk of structures to drivers and pedestrians
- minimizing nonconformities
- granting variances only in cases of genuine hardship
- restricting variances to the minimum necessary

Sections 134-201, 327, 329.

The proposed 202 Onondaga spec development project defies all of these codified standards.

It is massed larger and higher than any of the Debra/Onondaga properties. It boasts a roof rising far above the surrounding houses on those lanes.

The applicant Developer will sell it, and be gone, encouraging others to fill in the sky space as other lots become available. The result would be a canyon.

My family and I have treasured walks and bike rides on these charming Lanes for years. For profit, a Developer proposes to fill them in. Preservation of harmony, spaciousness, charm, special characteristics should prevail over short-term profit.

Sincerely,



Maureen Wilkens

PS/ While our home is large, it is recessed on large acreage on the ocean far from the street and so heavily landscaped, that is barely visible from any thoroughfare.

Kelly Churney

From: Veronica Close
Sent: Tuesday, June 20, 2017 6:43 PM
To: Kelly Churney
Subject: FW: for ARCOM re. 202 Onondaga

Please see below...

Veronica W Close Assistant Director

Town of Palm Beach
Planning, Zoning and Building Department
380 S. County Road
Palm Beach, FL 33480
Phone: 561-227-6401
Fax: 561-835-4621
www.townofpalmbeach.com

From: David Leavitt [mailto:dileavitt@verizon.net]
Sent: Tuesday, June 20, 2017 6:22 PM
To: Veronica Close <VClose@TownofPalmBeach.com>
Subject: for ARCOM re. 202 Onondaga

David Leavitt
1480 Manana Way
Palm Beach, Florida 33480

June 19, 2017

RE: 202 Onondaga Avenue

Dear ARCOM members,

I oppose the application for 202 Onondaga. The newly proposed house is much larger and taller than all the other homes on Onondaga. We have a few streets still left on the north end that have small lots and cottage style houses. I feel there is an esthetic value to these streets; Laurie, Debra, Esplanade and Onondaga.

ARCOM ordinances state that proposed homes not be excessively dissimilar to any structure included within 200 feet. The proposed house is excessively dissimilar in height and mass to all the other homes on this narrow, one way street. Section 18-205, section 6 of the ARCOM ordinances lists 3 items that make this proposal unacceptable:

- + height of the roof (6A)
- + appearance of mass from the street or any perspective visible to the public (6E)
- + diversity of design that is complimentary with size and massing of adjacent properties (6F)

I grew up in this neighborhood in the '50s and it holds a special place in my heart for that reason. I have watched its houses gradually be torn down and larger houses take over most of our streets. I find them too large for the lot sizes to be aesthetically pleasing. So now we have a new big, rectangular, 2 story north end home. I feel we need to preserve the few streets where these big homes have not yet taken over, especially when the streets are narrow and the lots are small.

Please preserve this rare neighborhood.

Thank you for our consideration,

David Leavitt

27

John Lindgren

From: David Leavitt <dleavitt@verizon.net>
Sent: Sunday, April 23, 2017 1:07 PM
To: John Lindgren
Subject: 202 Onondaga

David Leavitt
1480 Manana Way
Palm Beach, Florida 33480

April 23, 2017

RE: 202 Onondaga Avenue

Dear ARCOM members, Mayor and members of the Town Council,

I oppose the application for 202 Onondaga. The proposed house is much larger and taller than all the other homes on Onondaga. We have a few streets still left on the north end that have small lots and cottage style houses. I feel there is an esthetic value to these streets; Laurie, Debra, Esplanade and Onondaga.

ARCOM ordinances state that proposed homes not be excessively dissimilar to any structure included within 200 feet. The proposed house is excessively dissimilar in height and mass to all the other homes on this narrow, one way street. Section 18-205, section 6 of the ARCOM ordinances lists 3 items that make this proposal unacceptable:

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I grew up in this neighborhood in the '50s and it holds a special place in my heart for that reason. I have watched its houses gradually be torn down and larger houses take over most of our streets. I find them too large for the lot sizes to be aesthetically pleasing. So now we have a new big, rectangular, 2 story north end home. I feel we need to preserve the few streets where these big homes have not yet taken over, especially when the streets are narrow and the lots are small.

Please preserve this rare neighborhood.

Thank you for our consideration,

David Leavitt

111 Osceola Way
Palm Beach FL 33480

June 23, 2017

Mr. [Name]
[Address]
Palm Beach, FL

Subject: 202 Onondaga Access and Variance Applications

Continued Letter in Opposition

I am writing to express my opposition to the Applications dated April 21, 2017
regarding the Applications for 2017 revisions and to any similar further
[illegible]

The proposed [illegible] project should be
[illegible] by the [illegible] It should be [illegible]

I am writing to you [illegible] and [illegible] of this [illegible]

[Signature]
[Name]
[Title]

**Per and Rachel Lorentzen
231 Osceola Way
Palm Beach FL 33480**

April 23, 2017

**Hon. Gail L. Coniglio, Mayor
Architectural Review Commission
Town Council**

**Subject: 202 Onondaga Arcom and Variance Applications;
Letter In Opposition.**

As longtime residents of Palm Beach, now living a few blocks from the above proposed project, we feel strongly that Onondaga along with the other small lanes nearby constitute a neighborhood having a pleasant sense of openness and charm derived from the historical proportioning of the bungalow houses and gardens to the little lanes and lots. We are fortunate that this special character has been preserved since original construction. We often enjoy this unique low scaled area of the town.

However, Developers, at an increasing pace seem to be attempting to invade this harmony by proposing much larger projects for profit, then leaving the longstanding residents with the overdeveloped aftermath. It is a burgeoning problem all over our unique and charming North End and if allowed would despoil our community and convert us to becoming like developments elsewhere Florida that we all sought to avoid.

Here, the Developer's dual applications for 202 Onondaga would for the first time, apparently since mid-century, change the neighborhood and begin an onslaught of maximized for profit larger hovering structures. The height and steepness of what is now proposed would imposingly tower over the lane and its existing bungalows, and spoil the spaciousness. It is excessively dissimilar from so many structures within 200 feet in height and mass and should be denied. 18-146, 18-205.

Also, for a home that has been perfectly adequate for so many decades, there is no hardship to justify the requested variances which are

130

not minimized. The Town has for far too long doled out variances without hardships. So what is the point of the variance ordinance? Here, a 2 story variance is sought to the 1 story former setback for a new project, doubled in size. The request should be denied. 134-201.

Any project that is built on the site should be scaled to the existing lot, lane and architecture. The proposed disproportionate project is just too much. It should be disapproved by both boards.

Thank you for your attention and consideration of this important townwide issue.

Sincerely,

Per Lorentzen

Rachel Lorentzen

RE: 202 Onondaga LLC and North End Future Building

Dear Members of ARCOM,

Imagine if you will: You wake up one morning; you sit down with your coffee, there by your window with your favorite view.

A sip or two of java and you awaken to clarity. You look out. Where, before you saw blue sky and colorful foliage, now, you see the huge mass of your neighbor's new house. (Worse yet, it belongs to speculators who have no fear that the same loss of vista and ambience will happen to them.) You notice that where there was sunshine reaching you, your gardens and your pool area, there is now shade for an additional two or three hours.It gets worse.

That night, you look up out of your bedroom window which opened to sights of gibbous moons and the stars. That too is gone. In its' place is a balcony or a window that looks right into the privacy of your sleeping chambers. In fact, just now there are two very loud people having their drinks out on the balcony. You caution your husband or your wife not to walk past that window until you both figure out a privacy screen..... This day's condition is not temporary. It will last for as long as you live in your home. Your loss of quality brings feelings of anger, sadness or whatever mis-emotion that you are now imagining and feeling in this reality.

Please understand what the culture of the North-end is losing and has been experiencing these past eight years in this quiet cul-de-sac neighborhood. We ask you to increase your commitment to Ordinance Number 11-2015, § 1 (Att.), 4-15-15, Sec. 18-146, 18-147-- 18-165 and Sec 18-205. Please draw a stronger line on density, disproportionate mass, the loss of privacy, reduced sun, lost views of blue skies and diminishing natural vistas.

Thank you for your consideration, your time and the effort that you take to make our town of Palm Beach a place of beauty, spaciousness, balance, charm, and high quality.

Respectfully,
Nixon S. Griffis

Dear Members of ARCOM,

Imagine if you will: You have lived in Palm Beach long enough to call it home. You have come to love the beauty of your surroundings. That habitat created and conserved by past architectural commissions. You wake up one morning and you go to your favorite endave for your morning cup of coffee. You sit in your chair, the birds are slinging, and it is a beautiful day....

A sip or two of coffee and you awaken. You look out where, yesterday, you saw blue sky, foliage, and sunshine. You now see the disproportionately large mass of your neighbor's new house. (Worse yet, it is that of speculators who have no fear that the same loss of vista and ambience can happen to them) ...

So, imagine you have an hundred foot two dimensional view from your morning vantage point. The home of your last neighbor is gone. Your loss of natural beauty is presently diminished by anywhere from seventy-five percent or less. Further, you notice that where there was sunshine reaching your pool area, your garden, and you, now there is shade for three or four hours more. You live in Florida partly to enjoy the warmth and health giving properties of the sun. How easily it is taken away.....

You finish your coffee and go about your day with less than your normal peace of mind. That night, while you and your wife are readying for sleep, you look up out of your bedroom window. That window gave you your view of a gibbous moon and the night's stars. Now, that view, too, is gone. In its' place is a balcony or a window that looks right into the privacy of your refuge. In fact, there are two very loud people having their drinks and laughing out on the balcony. You caution your wife not to walk past your picture window until you both figure out a privacy screen for this new low-quality development. This bad day's condition is not temporary. It will not last a day or a week or even a month, but for as long as you live in this home.

This loss of beauty, from your living space, brings feelings of anger, sadness, or whatever mis-emotion that you, the reader, are now imagining and feeling in this position. ARCOM members please understand what we have been experiencing these past eight years in the north end. We ask you to renew your commitment to Ordinance Number 11-2015, 1 (Att.), 4-15-15. Sec. 18-147 -- 18-

165. and Sec 18-205. Please draw a stronger line on density, disproportionate mass, the loss of privacy, reduced home-based blue skies and diminishing natural vistas.

Thank you for your consideration, your time and the effort that you take to make our town of Palm Beach a place of beauty, spaciousness, balance, taste, fitness, charm, and high quality.

Respectfully,

Nixon S. Griffis
217 Caribbean Road

City of Palm Beach Meeting
June 28, 2017

CITY OF PALM BEACH
ARCHITECTURAL COMMISSION

APPLICATION B-020-2017

APPLICANT:

202 Onondaga LLC

EXCERPT OF PROCEEDINGS

VOICE-TO-TEXT TRANSCRIPTION

AUDIO-RECORDED MEETING

Wednesday, June 28, 2017

360 South County Road
Palm Beach, Florida

LOIS L. MCINNIS-KELLEHER, FPR
Florida Professional Reporter

City of Palm Beach Meeting

June 28, 2017

34 to 37

Page 34 1 CHAIRWOMAN VANNECK: Hello. 2 Are you -- 3 MR. DOTTERRER: Pardon me? 4 CHAIRWOMAN VANNECK: -- are you an 5 accredited, uh, engineer? 6 I thought you were a lawyer. 7 MR. DOTTERRER: I -- I am an accredited 8 lawyer, and I have a, uh, degree in 9 engineering, uh, in civil and environmental 10 engineering from the University of Michigan. 11 And, uh, I worked in the construction 12 industry as a -- a field layout engineer on 13 large projects, and as an estimator, and as 14 a, uh -- I did some con -- some, uh, 15 construction management, as well. 16 So I've worked with plans a lot, and so I 17 think the -- what I have to say is within my 18 realm of expertise. Yes. 19 CHAIRWOMAN VANNECK: Um, I'm -- I'm 20 listening to, um, my colleague. 21 MALE MEMBER: I'll make it very clear. 22 Are you a licensed professional engineer in the 23 state of Florida or not? 24 MR. DOTTERRER: No. No, sir, nor an 25 architect. No.	Page 36 1 MR. DOTTERRER: -- 16 slides. 2 And I can move through some of them very 3 quickly, uh, but, uh -- 4 CHAIRWOMAN VANNECK: I will ask you to do 5 that, but -- but when you get to ten minutes, 6 time's up. 7 MR. DOTTERRER: Okay. Thank you. 8 CHAIRWOMAN VANNECK: Is that fair? 9 MR. DOTTERRER: Uh, I hope so. Yes. I 10 hope so, if that's what the -- 11 CHAIRWOMAN VANNECK: Okay. 12 MR. DOTTERRER: -- ruling is. 13 CHAIRWOMAN VANNECK: Okay. 14 MR. DOTTERRER: Um -- 15 CHAIRWOMAN VANNECK: Now -- now you can 16 start the clock. 17 <u>You're on the clock, Mr. Dotterrer.</u> 18 MR. DOTTERRER: Okay. 19 Now, uh, I prepared a PowerPoint 20 presentation. I just learned that, um, it's 21 difficult to operate it from this podium and 22 this computer, where -- where I have my other 23 materials. 24 As an alternative, I have some extra 25 copies that I could pass out. And I would like
Page 35 1 MALE MEMBER: We usually get a CV when we 2 have expert witnesses. So maybe for the vice 3 and the chair -- 4 MR. DOTTERRER: Sure. 5 MALE MEMBER: Do we have the three-minute 6 limit here? 7 CHAIRWOMAN VANNECK: I'm going to give him 8 five, and that's it. 9 MR. DOTTERRER: Okay. Um -- 10 CHAIRWOMAN VANNECK: And we'll -- we'll 11 start the clock now. We'll reset it, and we'll 12 start it now. 13 MR. DOTTERRER: May I raise a point of 14 order and -- 15 CHAIRWOMAN VANNECK: Yes. 16 MR. DOTTERRER: -- technical ability, 17 Madam Chair? 18 Uh, I prepared a PowerPoint presentation 19 to show you. Uh, I understand -- 20 CHAIRWOMAN VANNECK: And what -- what kind 21 of length, please? 22 MR. DOTTERRER: Oh, maybe six, or seven, 23 or eight minutes. It's not that long. It's, 24 um -- 25 CHAIRWOMAN VANNECK: Okay.	Page 37 1 to, um, file it for the record, as well, and -- 2 so I hope the clock hasn't really started -- 3 CHAIRWOMAN VANNECK: Well -- 4 MR. DOTTERRER: -- yeah -- while we handle 5 that. 6 I could pass them out, and we can look at 7 them together, quickly, I think, would be 8 more -- 9 MALE SPEAKER: Just give them to me, and 10 I'll (inaudible.) 11 MR. DOTTERRER: -- more efficient. 12 Sure. 13 MALE SPEAKER: (Inaudible.) 14 SPEAKERS: (Inaudible.) 15 MALE SPEAKER: And, uh, Madam Chair, may I 16 come up, to pass these out? 17 CHAIRWOMAN VANNECK: Certainly. 18 MR. DOTTERRER: Okay. 19 CHAIRWOMAN VANNECK: Uh, you're still on 20 the clock. 21 MR. DOTTERRER: Okay. 22 Well, I -- I have one other point of 23 order. I haven't really begun my presentation 24 yet. But I -- <u>I do have, uh, an exhibit I'd</u> 25 <u>like to file for the record, as well as that</u>

City of Palm Beach Meeting

June 28, 2017

38 to 41

Page 38 1 one, <u>which is a compilation of the letters from</u> 2 <u>the community.</u> 3 CHAIRWOMAN VANNECK: That should have been 4 done earlier. 5 Let's move along, please. 6 MALE MEMBER: At your service. 7 MR. DOTTERRER: Okay. 8 Let's go to, uh, page two. The applicant, 9 in support of this project, submitted, uh, 10 sheets A406 through A410, in which it submits, 11 uh, photographs of, uh, two-story houses, so it 12 raised the issue. 13 And, uh, drew a radius of, um, 14 approximately 300 feet, which is the light 15 line, and it's been crossed out, and placed on 16 the map, uh, 20 different, uh, properties, 17 which are the little numbers on the map. 18 MALE SPEAKER: Mr. Dotterrer, is there an 19 extra copy of that presentation that -- that 20 the staff can look at? 21 MR. DOTTERRER: Sure. 22 SPEAKERS: (Inaudible.) 23 MALE SPEAKER: Is there an extra copy for 24 the opposing attorney to look at? 25 MR. DOTTERRER: Um --	Page 40 1 the -- the requirement is not met. 2 Here we not only have one property -- one 3 structure within 200 feet that's excessively 4 dissimilar, we have 14 -- 14 that are 5 excessively dissimilar. And those are shown on 6 the next page, which is page eight. And I put 7 little -- I put, uh, block letters on each one, 8 uh, that are within the 200 feet. 9 And the photographs follow, showing the 10 distance from the site, the, uh, height of each 11 one, and, uh, importantly, the cubic content 12 ratio, because those are all matters of the 13 code section that you must apply. 14 And as you can see, they're all very low 15 scaled, low cubic content, cottagy. The -- all 16 three of these streets that are affected are -- 17 is a cottagy bungalow feel. 18 The one house that they, uh, mention on 19 the east side is actually on North Ocean 20 Boulevard. And if you look at, uh, sheet 11, 21 on the right-hand side, it's, uh, property 22 number I or letter I, you see that the house 23 looks directly at North Ocean Boulevard. And 24 when you drive down North -- North Ocean 25 Boulevard, you see the house. It is not on
Page 39 1 SPEAKERS: (Inaudible.) 2 MR. DOTTERRER: Almost all of those, uh, 3 properties are outside of the radius that you 4 must consider, under section 18205. 5 Six, which requires you to deny an 6 application anytime there is any structure 7 within 200 feet that is excessively dissimilar. 8 On the next several slides, uh, are 9 photographs of those, and, uh, we've, uh, 10 crossed out the ones that are not within the 11 radius. 12 Um, on page number two, the thick blue 13 line is the proper radius to be -- or the 14 proper perimeter for -- to be considered, uh, 15 by you. 16 And, uh, we've indicated what the actual 17 distance is of these, uh, houses they've 18 submitted. Some of them are more than 700 19 feet. 20 If we move to, uh, slide number seven, 21 this is on the proper application of the 22 ordinance with which you're familiar, that if 23 there's any structure within 200 feet that is 24 excessively dissimilar, uh, in terms of 25 compatibility, mass, or height, uh, then, uh,	Page 41 1 Onondaga. You don't even see Onondaga. 2 These are the houses that should be -- 3 that must be compared, under the terms of the 4 ordinance. And that goes through sheet 14. 5 Completely different. 6 Now, uh, this shows what we're concerned 7 about, on slide 15. How's that for quick 8 movement? 9 Uh, apparently somebody from the 10 applicant's side was standing on the roof of 11 the subject property, 202 Onondaga, and looking 12 down the street. This is what the rooflines 13 and the roofscapes look like. This will tower 14 over the rest of the street. 15 Page 16, uh, is a comparison. The first 16 column shows the average of the heights within 17 200 feet. It's 14.3 feet, and a cubic content 18 of only 2.02. 19 The existing house there is -- as a 20 height, is shown on their drawings of 21 12-and-a-half feet, and a cubic content of 22 about the same, around 2. 23 And revision number one, which they 24 submitted to you, the -- the height of the 25 roof, which is what we see, was 24 feet. Now

U.S. LEGAL SUPPORT

866-339-2608

APPENDIX and AUTHORITIES

8

Submitted by
John C. Doffer
6/28/17

Arcom B-020-2017
Variance #12-2017
202 Onondaga LLC

Applicant's proffered comparisons of 2 story specimens are invalid
(Sheets A-406 to A-410)

Ordinance requires comparisons of structures within 200' of Site
Code, Section 18-205(a)(6)

Of 20 numbered properties applicant proffers (sheets A-406-410), 18 are
outside the 200' required comparative distance and therefore must be
excluded from consideration.

The remaining are distinguishable from the Project:

- They are nominal 2nd floor pop ups (e.g., 746 sq. ft. over garage)
- On N. Ocean Blvd

Applicant's Casual use of term "Nearby" is improper. Sheet A-406, Sect. 18-
205(a)(6)

35

Corrected

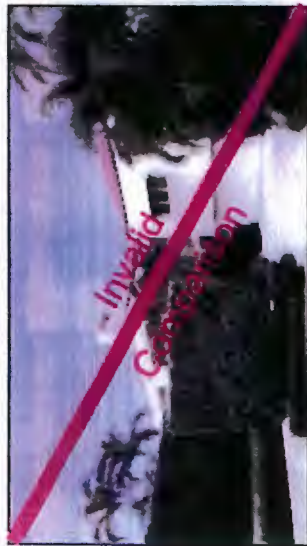


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WWW.UMICH.EDU

Outside 200' [569' from Site] On N. Ocean Blvd - Triple Lot  Invalid Comparison	Outside 200' [487' from Site] On N. Ocean Blvd - Large Lot  Invalid Comparison	Outside 200' [424' from Site] Pop Up Over Garage  Invalid Comparison	1 102 REEF RD. - STREETSCAPE PHOTO NTA 2 1420 N OCEAN BLVD. - STREETSCAPE PHOTO NTA 3 111 REEF RD. - STREETSCAPE PHOTO NTA	4 131 REEF RD. - STREETSCAPE PHOTO NTA 5 152 REEF RD. - STREETSCAPE PHOTO NTA	Outside 200' [303' from Site] Garage Pop Up Only Outside 200' [292' from Site] Partial Low Rise 2nd Floor Away from Street	VARIANCE #12-2017 ARCOM CASE #: B-020-2017 302 ONONDAGA AVENUE ALBANY, NY 12206-1108 SEAL 12/10/2017 15/10/2017 NEW SHEET 0 137
--	--	---	---	---	--	--

Pop Up Over Garage 2nd Floor 746 sq. ft.		11 144 N OCEAN WAY - STREETSCAPE PHOTO NTA	Outside 200' [274' from Site] Small Partial 2nd (only 644 sq. ft.) Low Rise - Recessed in Back Almost Imperceptible from Street		12 143 N OCEAN WAY - STREETSCAPE PHOTO NTA	Outside 200' [331' from Site] On N. Ocean Blvd on Dune		13 142 N OCEAN WAY - STREETSCAPE PHOTO NTA		14 140 N OCEAN BLVD. - STREETSCAPE PHOTO NTA	Far Beyond 200' [556' from Site] Faces N. Ocean Blvd		15 203 MANANA LN. - STREETSCAPE PHOTO NTA	Far Beyond 200' [419' from Site] Partial Bedroom Recessed Pop Up		16 221 MANANA LN. - STREETSCAPE PHOTO NTA	Far Beyond 200' [445' from Site] Small Partial Pop Up	VARIANCE #12-2017	ARCOM CASE #: B-020-2017	204 ONONDAGA AVENUE FREDERICKS	NEARBY PHOTOGRAPHIC REPRESENTATION	DATE: 11/14/17 BY: [Signature] NEW SHEET	0
---	---	---	--	--	---	---	---	---	--	---	---	---	--	---	--	--	--	------------------------------	---	---	---	---	----------

Far Beyond 200' [661' fr Site]
On Private Cul de Sac



17 1445 VIA MANANA - STREETSCAPE PHOTO
NTA

Far Beyond 200' [718' fr Site]
On Private Cul de Sac



18 1480 VIA MANANA - STREETSCAPE PHOTO
NTA

Far Beyond 200' [579' fr Site]
Large Acreage Lakefront Estate
Partial 2nd Floors - Variegated



19 1445 N LAKE WAY - STREETSCAPE PHOTO
NTA

Way Beyond 200' [750' fr Site]
On/Faces N. Ocean Blvd
Not on Side Street



20 1480 N OCEAN BLVD - STREETSCAPE PHOTO
NTA

VARIANCE
#12-2017

ARCOM
CASE #:
B-020-2017

102 ONONDAGA
AVENUE
4400 WEST 11

NABLA TWO SIXTYEIGHT
880/TORRAN JUDY

11/10/17
13-410
NEW SHEET

0

1. ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
2. DATE 11/10/17 BY 13-410
3. AUTHORITY 5 U.S.C. 552

PROPER APPLICATION

OF

Sect. 18-205(a)(6)

"(a) ... whether the following criteria are complied with ...

(6) The proposed building ... is not excessively dissimilar in relation to **any** other structure ... within 200 feet of the proposed site in respect to **any one** or more of the following:

- a. Height of building or height of roof ...
- c. Architectural **compatibility** ...
- e. Appearance of **mass** from the street or from any prospective visible to the public or adjoining property owners.
- f. Diversity of design that is complimentary with **size and massing** of adjacent properties.
- g. ... avoid the appearance of **mass** ...
- h. ... protect the **privacy** of neighborhood property."

Thus, if **any 1 structure** within 200' of the Site is excessively dissimilar as to **any 1** of the subcriteria such as height, mass, privacy, the proposal should be denied.

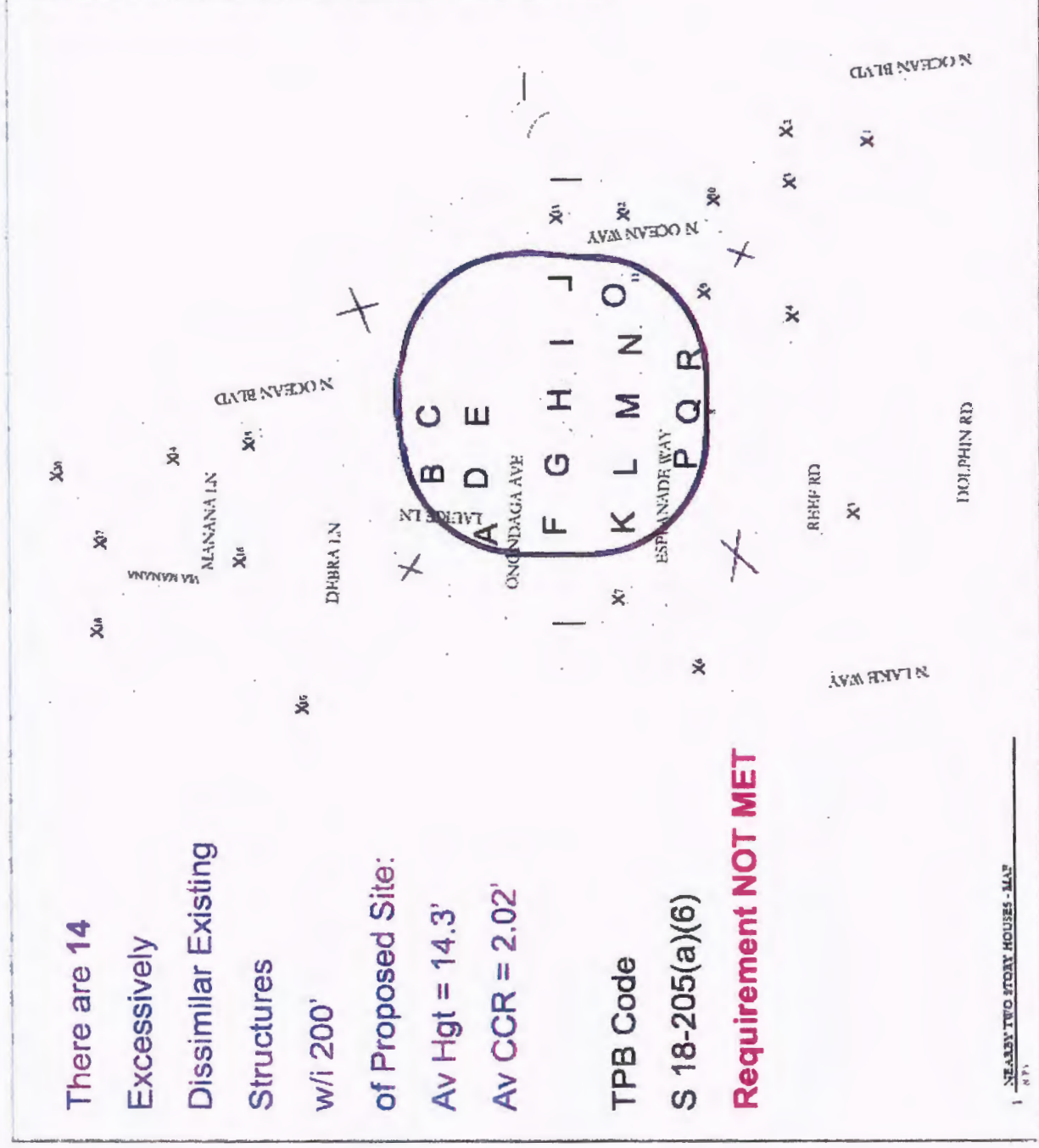
Here, there are not 1, **but 14** excessively dissimilar existing structures within 200'.

Accordingly, the Application must plainly be denied.

There are 14
Excessively
Dissimilar Existing
Structures
w/i 200'
of Proposed Site:
Av Hgt = 14.3'
Av CCR = 2.02'

TPB Code
S 18-205(a)(6)
Requirement NOT MET

STR.	ADDR.	DIST. SITE
A	221 On	184
B	1461 LL	138
C	1464 NOB	117
D	215 On	63
E	201 On	40
F	220 On	113
G	210 On	12
H	202 On	0
J	1440 NOW	114
K	253 E	128
L	251 E	58
M	245 E	16
N	211 E	32
O	1436 NOW	113
Q	220 E	180
R	210 E	169



VARIANCE
#12-2017

ARCOM
CASE #:
B-020-2017

302 ONONDAGA AVENUE
PERMIT # 18

STAFF TELLER ONLY (SEALER)
DATE: 01/01/2017

DATE: 01/01/2017
TIME: 10:00 AM
NAME: JEFFREY

0

241



[C] 1464 N Ocean BLVD

117' from Site
15.9' Hgt.
2,501 SF
2.05 CCR



[B] 1465 Laurie Lane

138' from Site
15' Hgt.
2,023 SF
1.79 CCR



[A] 221 Onondaga

184' from Site
13' Hgt.
1,791 SF
1.58 CCR



63' from Site
17' Hgt.
2,209 SF
1.94 CCR



40' from Site
16' Hgt.
2,877 SF
1.95 CCR



113' from Site
10' Hgt.
2,872 SF
2.02 CCR



[G] 210 Onondaga

12' from Site
12.5' Hgt.
3,320 SF
2.33 CCR



[H] 202 Onondaga

0' from Site
12.5' Hgt.
2,470 SF
1.73 CCR



[I] 1460 N. Ocean Blvd

SQUARELY ON N. OCEAN BLVD
Differentiable -- Fronts on Ocean Blvd
Not Onondaga



114' from Site
16' Hgt.
3,578 SF
2.19 CCR



128' from Site
15' Hgt.
2,792 SF
1.96 CCR



58' from Site
15.2' Hgt.
2,275 SF
1.60 CCR



16' from Site
13.2' Hgt.
3,803 SF
2.67 CCR



32' from Site
15' Hgt.
3,098 SF
2.17 CCR



Differentiable – Only Garage
“Pop Up” – 2nd Floor
(746 SF)



173' from Site
Vacant



Partial 2nd Floor
Well Recessed from Street
Differentiated – Only Recessed
Partial 2nd Floor



169' from Site
15' Hgt.
3,560 SF
2.14 CCR



VIEW FROM PROPOSED 2ND STORY, LOOKING WEST

N.T.S.

3

(From Sheet A-113)

14 Existing Dissimilar Structures
Within 200' from Site

vs.

Proposed Project of 202 Onondaga LLC

14
Existing
Average

202
Existing

REV 1
(3/22/17)

REV 2
(6/13/17)

Hgt.

14.3

12.5

24.5

26.17

CCR

2.02

2.03

3.73

3.49

05/1

10

(

(

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APPENDIX and AUTHORITIES

9

202 Onondaga Ave
 B-020-001
 PRELIM & 9/11/11
 AIRBORNE PHOTOGRAPHY



FAIRFAX & SAMMONS
 NEW YORK - PALM BEACH
202 ONONDAGA AVENUE

ONONDAGA AVENUE
 PALM BEACH, FL 33480

152

153

VARIANCE
#12-2017

ARCOM

CASE #:

B-020-2017

202 ONONDAGA
AVENUE

1400 - 1411

NEARBY TWO STORY HOUSES
MAP

1400 - 1411

1400 - 1411

1400 - 1411

1400 - 1411

1400 - 1411

1400 - 1411

1400 - 1411

1400 - 1411

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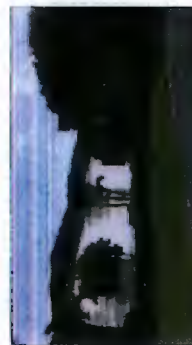
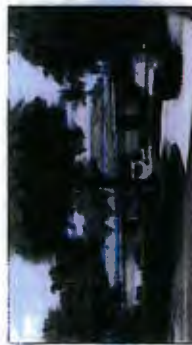
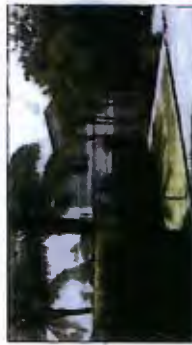
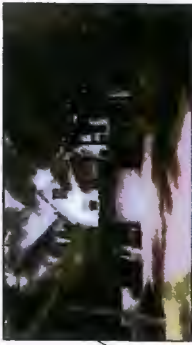
1400 - 1411

1400 - 1411

1400 - 1411

1400 - 1411

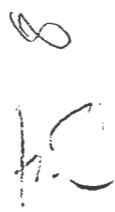
1400 - 1411



NORTH



1 NEARBY TWO STORY HOUSES - MAP



9/13/17

VARIANCE
#12-2017

ARCOM
CASE #:
B-020-2017

202 ONONDAGA
- AVENUE

PLUM VILL

EXISTING & PROPOSED
NORTH ELEVATIONS

DATE: 10/1/17

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

PROJECT: A-200

1/8" = 1'-0"

1/8" = 1'-0"

1/8" = 1'-0"

1/8" = 1'-0"

1/8" = 1'-0"

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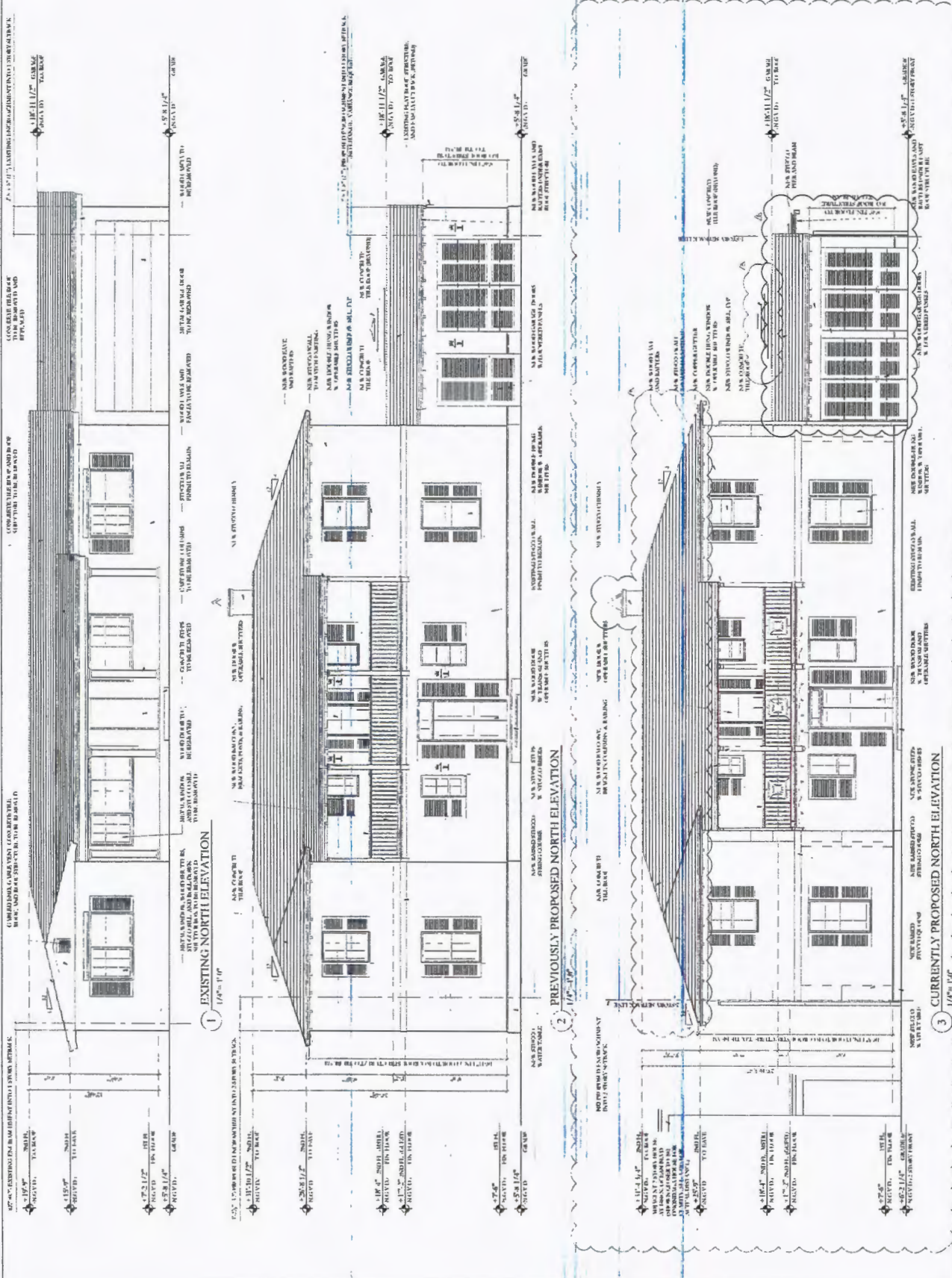
1/8" = 1'-0"

1/8" = 1'-0"

1/8" = 1'-0"

1/8" = 1'-0"

1/8" = 1'-0"



4
154

202 ONONDAGA
AVENUE
A-004
VOLUME CALLIATIONS
AND DIMENSION

404

2 VIEW FROM SOUTHWEST N.T.S.

[illegible]

REFLECT SHEET AREA FOR ADDITIONAL ZONING INFORMATION

生

APPENDIX and AUTHORITIES

10

155

Arcom B-020-2017
Variance #12-2017
202 Onondaga LLC

**Evidence
of
Dissimilarity of Structures within 200' of Site
- and -
Invalidity of Applicant's Proffered Comparisons
Under Town Code of Ordinances, Section 18-205**

PROPER APPLICATION

OF

Sect. 18-205(a)(6)

"(a) ... whether the following criteria are complied with ...

(6) The proposed building ... is not excessively dissimilar in relation to **any other structure ... within 200 feet** of the proposed site in respect to **any one or more** of the following:

- a. **Height** of building or height of roof ...
- c. Architectural **compatibility** ...
- e. Appearance of **mass** from the street or from any prospective visible to the public or adjoining property owners.
- f. Diversity of design that is complimentary with **size and massing** of adjacent properties.
- g. ... avoid the appearance of **mass** ...
- h. ... protect the **privacy** of neighborhood property."

Thus, if **any 1 structure** within 200' of the Site is excessively dissimilar as to **any 1** of the subcriteria such as **height, mass, privacy**, the proposal should be denied.

Here, there are not 1, **but 14** excessively dissimilar existing structures within 200'.

Accordingly, the Application must plainly be denied.

TCM Agenda Backup 11-14-17

of Proposed Site:

$$Av\ CCR = 2.03'$$

S 18-205(a)(6)

408

10.5.1.9

ARCOM
CASE #:
B-020-2017

202 ONONDAGA
AVENUE

FROM THE
STORY LINE

15 JUN 2017

C

POLICE OF BIRMINGHAM
OFFICE OF THE CHIEF OF POLICE
1000 17TH AVENUE, SUITE 1000
BIRMINGHAM, AL 35203
205-325-1234
WWW.BIRMINGHAMPOLICE.ORG



158
3



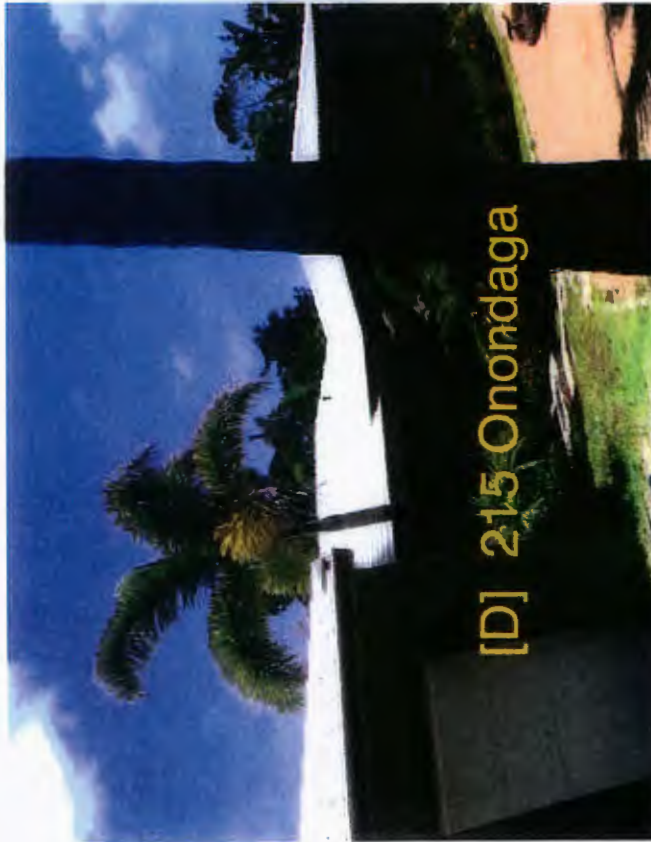
184' from Site
13' Hgt.
1,791 SF
1.58 CCR



138' from Site
15' Hgt.
2,023 SF
1.79 CCR



117' from Site
15.9' Hgt.
2,501 SF
2.05 CCR



63' from Site
14.3' Hgt.
2,209 SF
1.94 CCR



40' from Site
16' Hgt.
2,877 SF
1.95 CCR



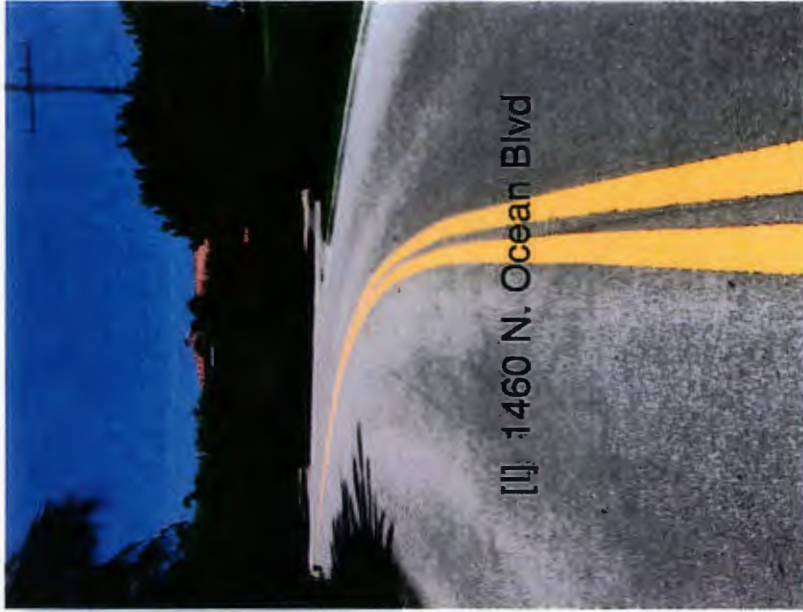
113' from Site
11' Hgt.
2,872 SF
2.02 CCR



12' from Site
12.5' Hgt.
3,320 SF
2.33 CCR



0' from Site
12.5' Hgt.
2,898 SF
2.03 CCR



SQUARELY ON N. OCEAN BLVD
Differentiable – Fronts on Ocean Blvd
Not Onondaga



114' from Site
15.5' Hgt.
3,578 SF
2.19 CCR



128' from Site
16.3' Hgt.
2,792 SF
1.96 CCR



58' from Site
14.8' Hgt.
2,275 SF
1.60 CCR

7

162



16' from Site
13.2' Hgt.
3,803 SF
2.67 CCR



32' from Site
16' Hgt.
3,098 SF
2.17 CCR



Differentiable – Only Garage
“Pop Up” – 2nd Floor
(746 SF)



173' from Site
Vacant



Partial 2nd Floor
Well Recessed from Street
Differentiated – Only Recessed
Partial 2nd Floor



169' from Site
15' Hgt.
3,560 SF
2.14 CCR



VIEW FROM PROPOSED 2ND STORY, LOOKING WEST

3

N.T.S.

(From Sheet A-413)

14 Existing Dissimilar Structures
Within 200' from Site

vs.

Proposed Project of 202 Onondaga LLC

	<u>14</u> <u>Existing</u> <u>Average</u>	202 <u>Existing</u>	REV 4 <u>(9/13/17)</u>	
Hgt.	14.4	12.5	23.9	+66%
CCR	2.03	2.03	3.43	+67%

Applicant's proffered comparisons of 2 story specimens are invalid
(Sheets A-406 to A-410)

Ordinance requires comparisons of structures **within 200' of Site**
Code, Section 18-205(a)(6)

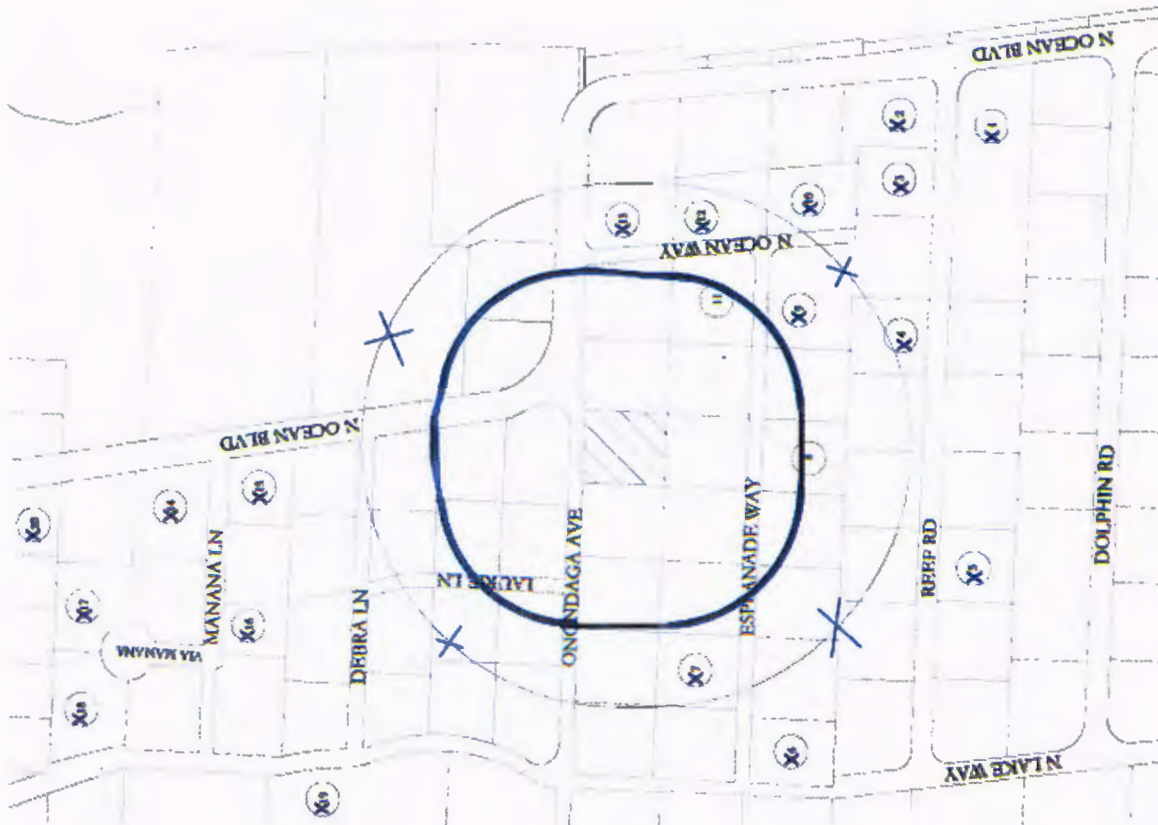
Of 9 numbered structures applicant now proffers (down from 20), 6 are **outside the 200' required comparative distance** and therefore must be excluded from consideration.

The remaining are distinguishable from the Project:

- They are nominal 2nd floors or pop ups (e.g., 746 sq. ft. over garage)
- On N. Ocean Blvd

Applicant's Casual use of term "Nearby" in Rev 4 Sheet A-406 (9/13/17) is improper.

Applicant's A-406 Corrected



1 NEARBY TWO STORY HOUSES - MAP
FEES



VARIANCE
#12-2017

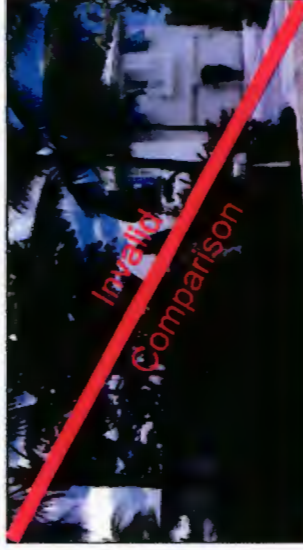
ARCOM
CASE #:
B-020-2017

202 ONONDAGA
AVENUE
FARMVILLE, N.C.

NEARBY TWO STORY HOUSES
LEFT MAP

TO JUNE 2017
DATE
A-406
NEW STREET

PLANNING & ZONING
COMMISSION
RESOLUTION NO. 12-2017
APPROVED FOR THE TOWN OF ONONDAGA
ON JUNE 12, 2017
BY THE PLANNING & ZONING COMMISSION
AT A PUBLIC HEARING HELD AT THE TOWN OF ONONDAGA
COURT HOUSE, 100 N. OCEAN BLVD., FARMVILLE, N.C.
ON JUNE 12, 2017, AT 7:00 P.M.

{Dropped by Applicant} Outside 200' [569' from Site] On N. Ocean Blvd - Triple Lot  102 REEF RD. - STREETSCAPE PHOTO N/A	{Dropped by Applicant} Outside 200' [487' from Site] On N. Ocean Blvd - Large Lot  1420 N OCEAN BLVD. - STREETSCAPE PHOTO N/A	{Dropped by Applicant} Outside 200' [424' from Site] Pop Up Over Garage  111 REEF RD. - STREETSCAPE PHOTO N/A	✓  127 REEF RD. - STREETSCAPE PHOTO N/A Outside 200' [303' from Site] Garage Pop Up Only  152 REEF RD. - STREETSCAPE PHOTO N/A Outside 200' [292' from Site] Partial Low Rise 2nd Floor Away from Street {Dropped by Applicant}	VARIANCE #12-2017 ARCOM CASE #: B-020-2017 202 ONONDAGA AVENUE BALDWIN, NY APPLICANT: [blank] PROPERTY: [blank] PROJECT: [blank] PHOTOGRAPHED BY: [blank] DATE: 11/15/17 TIME: 10:00 AM LOCATION: NEW STREET 0 14
--	--	---	--	--

691

{Dropped by Applicant}

Outside 200' [385' from Site]

Partial Recessed 2nd Floor



6 200 ESPLANADE WAY - STREETSCAPE PHOTO
NTA

Outside 200' [230' from Site]

Recessed Partial 2nd Floor



7 277 ESPLANADE WAY - STREETSCAPE PHOTO
NTA

Partial 2nd Floor

Recessed from Street



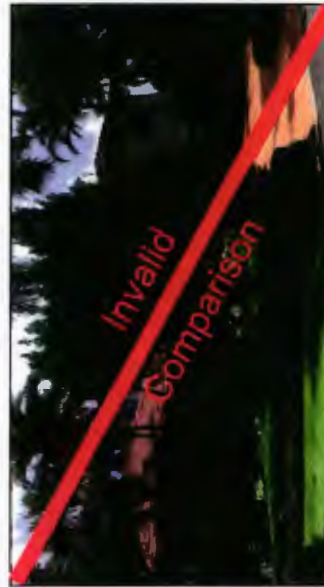
8 220 ESPLANADE WAY - STREETSCAPE PHOTO
NTA



9 200 ESPLANADE WAY - STREETSCAPE PHOTO
NTA

Outside 200' [232' from Site]

On Large Double Lot



10 1431 N OCEAN WAY - STREETSCAPE PHOTO
NTA

Outside 200' [329' from Site]

Partial 2nd (only 609 sq. ft.)
over Garage; Barely perceptible
from Street



VARIANCE
#12-2017

ARCOM

CASE #:

B-020-2017

202 ONONDAGA
AVENUE
MIAMI BEACH, FL

HEAVY TWO STORY RESIDENTIAL
PHOTOGRAPH SHEET

DATE: 12/08/2017

BY: A-408

PROJECT: NEW SHEET

0

PREPARED BY: [Signature]

DATE: 12/08/2017

PROJECT: NEW SHEET

0

PREPARED BY: [Signature]

DATE: 12/08/2017

PROJECT: NEW SHEET

0

PREPARED BY: [Signature]

DATE: 12/08/2017

11 1436 N OCEAN WAY - STREETSCAPE PHOTO N74

Small Partial 2nd (only 644 sq. ft.)
Low Rise – Recessed in Back
Almost Imperceptible from Street



12 1438 N OCEAN WAY - STREETSCAPE PHOTO N.T.1

13 1438 N OCEAN WAY - STREETSCAPE PHOTO NTA

{Dropped by Applicant}



14 1400 N OCEAN BLVD. - STREETSCAPE PHOTO NT4

{Dropped by Applicant}



15 202 MANANA LN. - STREETSCAPE PHOTO NTA

{Dropped by Applicant}



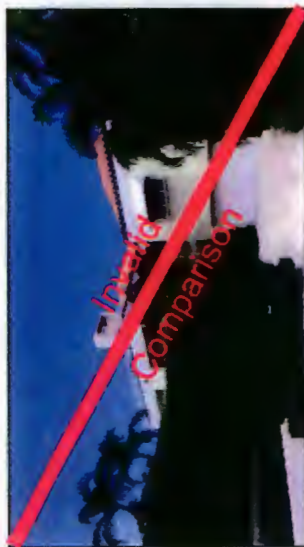
16 234 MANANA LN. - STREETSCAPE PHOTO NTA

FRANZISKE & SONS, INC.
1000 15th St. N.W.
Washington, D.C. 20004

{Dropped by Applicant}

Far Beyond 200' [661' fr Site]

On Private Cul de Sac



19 1495 VIA MANANA - STREETSCAPE PHOTO
NTA

{Dropped by Applicant}

Far Beyond 200' [718' fr Site]

On Private Cul de Sac



19 1495 VIA MANANA - STREETSCAPE PHOTO
NTA



19 1495 N LAKE WAY - STREETSCAPE PHOTO
NTA

Far Beyond 200' [579' fr Site]

**Large Acreage Lakefront Estate
Partial 2nd Floors - Variegated
{Dropped by Applicant}**



19 1495 N OCEAN BLVD. - STREETSCAPE PHOTO
NTA

Way Beyond 200' [750' fr Site]

**On/Faces N. Ocean Blvd
Not on Side Street
{Dropped by Applicant}**



VARIANCE
#12-2017
ARCOM
CASE #:
B-020-2017

302 ONONDAGA
AVENUE
MIAMI BEACH, FL

PROJECT NAME
HARVEY TWO STORY HOUSE
PHOTOGRAPH SHEET

DATE
11/14/2017
SHEET NO.
A-410
NEW SHEET

SCALE
0

DESIGNED BY
ENGINEER
APPROVED BY
CITY OF MIAMI BEACH

APPENDIX and AUTHORITIES

11

N. Ex 3 7/21/18 7K. 33,300

ENCLAVE COTTAGEY EXCESSIVELY DISSIMILAR STRUCTURES WITHIN 200' OF SITE

STR #	MAP	ADDRESS STREET	PEAK HGT (FT)	CCR
1	E	201 Onondaga	16	1.95
2	G	210 "	12.5	2.33
3	D	215 "	14.3	1.94
4	F	220 "	11	2.02
5	A	221 "	13	1.58
6	N	211 Esplanade	16	2.17
7	M	245 "	13.2	2.67
8	L	251 "	14.8	1.60
9	K	253 "	16.3	1.96
10	B	1465 Laurie Lane	15	1.79
11	J	1440 N.O. Way	15.5	2.19
12	C	1464 N.O. Blvd	15.9	2.05
13	H	202 Onondaga	12.5	2.03
14	R	210 Esplanade	15	2.14

AVERAGE 14.4 2.03

PROPOSED 202 23.9 3.43

+66% +67%

741

CITY OF PALM BEACH
ARCHITECTURAL COMMISSION

APPLICATION B-020-2017

APPLICANT:

202 Onondaga LLC

Wednesday, September 27, 2017
11:30 a.m. - 1:10 p.m.

360 South County Road
Palm Beach, Florida

Stenographically Reported By:
ROBIN L. MERKER, RPR, FPR
Registered Professional Reporter
Florida Professional Reporter

Page 30 1 same market as the subject. 2 MR. DOTTERER: Okay. I'm going to try to move 3 quickly. 4 So north of the Palm Beach Country Club; right? 5 MR. REYNOLDS: Correct. 6 MR. DOTTERER: To the end of the island, to 7 Annie's Dock? 8 MR. REYNOLDS: To Annie's Dock, correct. 9 MR. DOTTERER: All right. And did you study 10 any specific values in writing up this report? I 11 mean, it's a lot of houses. It's hundreds, right? 12 MR. REYNOLDS: Right. What I looked at, 13 specifically, was whether or not the small bungalow 14 cottage beach house varied in value as street to 15 street, or whether or not the general value of those 16 houses was similar. 17 MR. DOTTERER: Okay. And you've come to 18 conclusions here. Can you tell us specifically which 19 houses you studied that were within — the structures 20 of those houses were within 200 feet of the property 21 line of the proposed project? 22 MR. REYNOLDS: I believe there was only one 23 sale that took place within that area. I was doing a 24 study referring to the entire north end. 25 MR. DOTTERER: I understand, and I want to make	Page 32 1 using a one-story house as opposed to the square 2 footage that you can get using a two-story house. 3 MR. SMALL: Maybe Mr. Jansen would help me with 4 the address. I think it's 257 Sandpiper. Are you 5 familiar with that example? That was a similar 6 situation considered by the commission, perhaps two 7 years ago, where a proposed two-story house was 8 denied, a one-story was built, and it was 9 subsequently sold for, I believe, \$6 million. 10 Did you consider that in your opinion? 11 MR. REYNOLDS: I referred to that in my report, 12 and to 225 West Indies, which was quoted in 13 Mr. Dotterer's letter. 14 MR. SMALL: 257, I see it, thank you. Very 15 good. 16 MS. VANNECK: Okay. Mr. Dotterer? 17 MR. DOTTERER: Yes, thank you. 18 MS. VANNECK: Are we going break to for dinner, 19 or are we going to break for lunch? 20 MR. DOTTERER: As you like it. But certainly 21 we won't take until dinnertime, and I'm sensitive to 22 the lunch desires of the — 23 MS. VANNECK: Well, it's not that. It's just 24 that, you know, we've heard ad infinitum almost, on 25 this subject and, you know, it's not your first
Page 31 1 this quick, because I know the committee wants to go 2 to lunch here. 3 But, so, you only studied — you only studied 4 sales first of all — 5 MR. REYNOLDS: Correct. 6 MR. DOTTERER: — actual sales, where there was 7 a deed recorded — 8 MR. REYNOLDS: Right. 9 MR. DOTTERER: — which is usual for 10 appraisers; right? 11 And only one of the houses that you studied was 12 within 200 feet of the subject site. 13 MR. REYNOLDS: I believe that's correct. 14 MR. DOTTERER: Thank you. 15 That concludes those questions. 16 MR. SMALL: Madam Chair, before the witness 17 leaves, I have a question. 18 On your back page, sir, you indicate replacing 19 one-story homes with two-story homes will increase 20 square footage, thereby increasing value. 21 Are you suggesting that if this home, as it now 22 exists, was replaced with a one-story home, it would 23 not increase the value? 24 MR. REYNOLDS: No, not at all. I'm speaking 25 only to the fact of what you can build as opposed —	Page 33 1 appearance here so — 2 MR. DOTTERER: That's correct and — 3 MS. VANNECK: — just take a little bit of 4 consideration for us, that we've now been fairly 5 educated on this project. Thank you. 6 MR. DOTTERER: Thank you, we will. 7 So the neighbors are ready to proceed. And the 8 first thing I'd like to do is file a few items for 9 the record of the case. 10 MR. IVES: Do we need to be clear on who he 11 represents exactly? 12 MS. VANNECK: Yes, he does. 13 MR. IVES: I mean, just because I didn't — you 14 know, we have letters in support, and I don't — you 15 follow what I'm saying, thank you. 16 MS. VANNECK: Mr. — 17 MR. DOTTERER: Sure. Madam Chair, I — 18 MR. GREEN: Excuse me, John. Do you have 19 copies for — 20 MR. DOTTERER: Yeah, I'm coming. Which would 21 you like first? 22 MR. GREEN: The copies. 23 MR. DOTTERER: Sure. Pardon me. 24 I have hard copies for any members who might 25 like to —

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Page 54

1 for a denial and the application must fail. That's
2 the case here. It's overwhelming evidence that there
3 are 14 that are excessively dissimilar.
4 I'd like to turn to the brief discussion of the
5 history of the height of this project because I — I
6 tracked it. And originally it was submitted at a
7 little over, I think, 24'3". And then in, I think,
8 Revision No. 3, when they submitted it to you, they
9 actually increased the height to over 26 feet by
10 raising the slope. And then, now, in this
11 application, it's been taken down to 23.9 feet, which
12 is actually still higher than what they initially
13 filed. So the reduction that was mentioned about 3
14 feet or 2 feet is really a reduction from an interim
15 increase that was in their application.
16 I've been at several ARCOMM meetings in which
17 it's been expressed from the chair, and from the
18 commission, that houses that are on North Lake Way or
19 North Ocean Boulevard are treated differently from
20 those on — that are interior properties on the side
21 streets. And so the only real reliance that they
22 cite — and again it's not enough, because if there's
23 any dissimilar structure then it must be denied, and
24 there's 14. The one at 1460 North Ocean Boulevard
25 should not be considered.

Page 55

1 And in support of that point, I submitted a —
2 as Exhibit No. 2, if you're marking — this is —
3 Kelly, this is No. 1, this is No. 2, and this is
4 No. 3 — is a one-page tabulation of the 14
5 excessively dissimilar structures. And if you take a
6 moment to review that, we could pass it around,
7 you'll see that they are all clearly excessively
8 dissimilar, averaging 14.4 feet in height and a cubic
9 content ratio of 2.03.
10 And the final exhibit that we submit is a
11 report on 257 Sandpiper, which was a case that came
12 to you as a two-story developer project. The
13 neighbors on the street objected, as they have here.
14 ARCOMM heard the case for three different meetings,
15 it was denied. Mr. Jansen then came back very
16 quickly with a one-story design, submitted it, it was
17 approved at the first meeting seven to zero. It was
18 built. And in the same year, sold for \$6 million.
19 And we suggest that there is an alternative here that
20 will be consistent with the neighborhood, and which
21 everyone can win. And we ask that you do that, that
22 this application be denied.
23 Under the terms of your compulsory ordinance
24 18-205(a) (6), because there are 14 excessively
25 dissimilar structures, and there's been no

Page 56

1 contradictory evidence of that submitted, no
2 competent substantial evidence at all that that is
3 not the case, it must be denied.
4 Finally on the letters that were submitted,
5 there have been 17 or 20 opposition letters that were
6 detailed yesterday. A bunch of them came in that
7 were in support, they're form letters, they're all
8 word for word the same. Some of them, I think, are
9 from condo or apartment buildings on Chilean. None
10 of them address whether there's 14 excessively
11 dissimilar structures within 200 feet and, therefore,
12 I suggest that — that it's not evidence that makes
13 any temporary difference in this case. And the
14 evidence that has been submitted is overwhelming,
15 that this is a case that must be denied.
16 Thank you.
17 MS. VANNECK: Thank you, Mr. Dotterer.
18 Three minutes per person, if anyone wishes to
19 speak.
20 MR. SELLERS: Good morning. Thank you for the
21 opportunity to present to you today.
22 My name is Johnny Sellers. I'm the son of Elsa
23 Messing who resides at 201 Onondaga Avenue. She is
24 directly across the street from the proposed project
25 and 40 feet, so she is practically the closest.

Page 57

1 My mother is 90 years old. She is in frail
2 physical condition, mentally alert, and she would
3 have loved to be here, but she asked me to attend and
4 to make a case of objection to this proposal.
5 My mother has been a resident of Palm Beach for
6 over 45 years. We moved down here in the early
7 1970s, so we've seen the island very well.
8 She's been living 25 years on Onondaga, at 201
9 Onondaga, and she is probably the longest resident of
10 the street. She's seen it all, basically, through
11 the years.
12 Our objection to the proposal is very simple.
13 As been stated already numerous times, what is
14 proposed is a two-story building in front of my
15 mother's house, 40 feet away, that would not only be
16 excessively dissimilar to the rest of the houses in
17 the area, but would also impact on her privacy on the
18 east garden. Should note also that it was brought up
19 before, 1460, which is the building next to my
20 mother — to the proposed project, if you do indeed
21 drive through North Lake Way, you will notice that
22 that house really belongs to North Ocean Boulevard.
23 It has no impact, it has no bearing on Onondaga.
24 Onondaga Avenue is composed of all similar,
25 essentially, one-story houses, living harmoniously,

APPENDIX and AUTHORITIES

12

THE SHINY SHEET™
Palm Beach Daily NewsN. Ex 3
9/27/17

TR. 33,55

New one-story on Palm Beach's North End brings \$6 million

By Dairrell Hofheinz - Daily News Staff Writer



8



Developed on speculation, a four-bedroom, single-story house at 257 Sandpiper Drive has changed hands for \$6 million, the price recorded with the deed. Photo by VHT Studios, courtesy of the Corcoran Group

Posted: 6:00 a.m. Friday, March 31, 2017

The North End has seen plenty of houses developed on speculation and sold in the years since end of the Great Recession.

And most of those have been two-story residences, which typically allow developers to build the most square-footage based on the lot size, according to town codes.

But, occasionally, a new one-story spec house rises on a sizable lot, as was the case last week with 257 Sandpiper Drive, a Bermuda-style house that sold for a recorded \$6 million.

The buyer was **The Palm Beach Family Trust 2017**, a Canadian entity for which **Gail Sise Drummond** serves as trustee. She is married to **Bob Dorrance**, chairman, CEO and president of **TD Securities** and group head of wholesale banking for **TD Bank Group**. The couple is noted for supporting a variety of Canadian arts groups.

The deed recorded March 22 lists the trust's address as in care of Dorrance's office at TD Securities' worldwide headquarters in Toronto. Dorrance and Drummond declined to comment on the purchase.

TCM Agenda Backup 11-14-17

Broker **Christian J. Angle** of **Christian Angle Real Estate**, who represented the buyer's side of the sale, is also keeping mum.

Four streets north of the Palm Beach Country Club, the four-bedroom house stands on a midblock lot of nearly one-third acre. With 5,080-square feet of living space, inside and out, it was developed and sold by **Gary Purucker** and **Patrick Marrano** of **Corcoran Group** in Palm Beach Gardens.

Corcoran Group agents **Craig** and **Heather Bretzlaff**, Purucker's daughter, had the property priced at \$6.7 million. She declined to discuss specifics of the deal or the buyers.

But she did say the house's single-level floor plan was a key marketing point, especially attractive to house-hunters who don't necessarily want to climb stairs or take an elevator, now or in the future.

"This was the newest one-story on the North End," she said about the house, which entered the market about a year ago, several months before it was completed.

The challenge for the developers was "finding a lot with enough square footage and then coming up with a design that fit," she added.

With its rear service drive, the property had a number of other selling points, including an open floor plan and "transitional"-style décor featuring materials and finishes that included limestone and bleached-oak floors, she said.

Architect **Roger Janssen** of **The Janssen Group** designed the house, which also features a summer kitchen, a rear-entry garage and a well-equipped kitchen among its amenities. **Corcoran Group**, the firm headed by Palm Beacher **Heather Bretzlaff**, handled the interiors.

The developers, meanwhile, have another spec project that just entered the market — a five-bedroom, 6,450-square-foot house at 110 Indian Road near the inlet at the northern tip of the island. Priced at \$7.495 million, the West Indies-influence house was designed by **Michael Perry's** **Design & Architecture**.

*

Darrell Hofheinz writes about real estate and edits Home & Loggia. He welcomes news items about Palm Beach real estate for this column. Email dhofheinz@pbdailynews.com, call 820-3831 or tweet @PBDN_Hofheinz.

About the Author

DARRELL HOFHEINZ



Reader Comments

Next Up in Local News



Several Palm Beach design firms on roster of in-the-works show house

TCM Agenda Backup 11-14-17



DODGE ESTATES

Palm Beach County Property Appraiser

Homesite & Easement No. E-0191



Location Address 257 SANDPIPER DR
Municipality PALM BEACH
Parcel Control Number 50-43-43-10-24-000-0080
Subdivision DODGE ESTATES IN
Official Records Book 28965 **Page** 747
Sale Date MAR-2017
Legal Description DODGE ESTATES LOT 8

Owners
 PALM BEACH FAMILY TRUST
 DRUMMOND GAIL SISE TR

Mailing address
 TD SECURITIES
 66 WELLINGTON STREET W, 8TH FLOOR ONTARIO M5K
 1A2 CANADA

Sales Date	Price	OR Book/Page	Sale Type	Owner
MAR-2017	\$6,000,000	28965 / 00747	WARRANTY DEED	PALM BEACH FAMILY TRUST
OCT-2014	\$2,500,000	27099 / 00096	WARRANTY DEED	G W PURUCKER HOMES JV
OCT-2014	\$10	27099 / 00094	WARRANTY DEED	CAIN JOE
MAR-2006	\$2,050,000	20088 / 01646	WARRANTY DEED	XCEL TEXAS INC
JUN-2000	\$825,000	11895 / 01572	WARRANTY DEED	EVANS LESLIE R &

12

No Exemption Information Available.

Number of Units 1 ***Total Square Feet** 5004 **Acres** 0.29
Use Code 0100 - SINGLE FAMILY **Zoning** RB - (50-PALM BEACH)

Tax Year	2016	2015	2014
Improvement Value	\$0	\$212,860	\$8,859
Land Value	\$2,181,877	\$1,897,284	\$1,649,813
Total Market Value	\$2,181,877	\$2,110,144	\$1,658,672

All values are as of January 1st each year

Tax Year	2016	2015	2014
Assessed Value	\$2,181,877	\$2,110,144	\$1,459,285
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$2,181,877	\$2,110,144	\$1,459,285

Tax Year	2016	2015	2014
Ad Valorem	\$37,529	\$37,803	\$27,994
Non Ad Valorem	\$0	\$170	\$175
Total tax	\$37,529	\$37,973	\$28,169

Property Detail

Parcel Control Number: 50434310240000080

Location Address: 257 SANDPIPER DR

Owners: PALM BEACH FAMILY TRUST ,DRUMMOND GAIL SISE TR

Mailing Address: TD SECURITIES,66 WELLINGTON STREET W, 8TH FLOOR ONTARIO M5K 1A2 CANADA,

Last Sale: Not available

Book/Page#: 28965 / 747

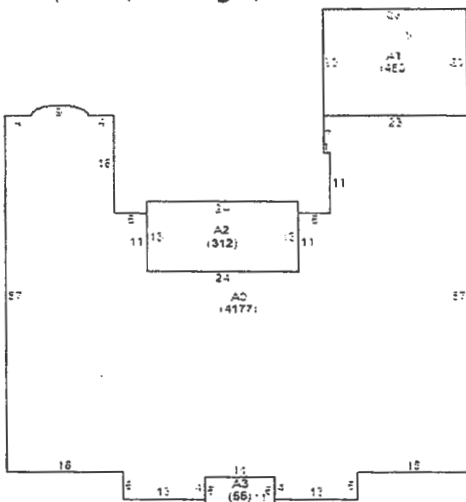
Price: Not available

Legal Description: DODGE ESTATES LOT 8

2016 Values (Current)

Improvement Value	\$0
Land Value	\$2,181,877
Total Market Value	\$2,181,877
Assessed Value	\$2,181,877
Exemption Amount	\$0
Taxable Value	\$2,181,877

All values are as of January 1st each year

Building Footprint (Building 1)

2016 Taxes

Ad Valorem	\$37,529
Non Ad Valorem	\$0
Total Tax	\$37,529

2016 Qualified Exemptions

No Details Found

Applicants

No Details Found

Subarea and Square Footage (Building 1)

Description	Area	Sq. Footage
BAS BASE AREA	1	4177
FGR FINISHED GARAGE	2	460
FOP FINISHED OPEN PORCH	3	312
FOP FINISHED OPEN PORCH	4	55

Total Square Footage : 5004

Total Area Under Air : 4177

Extra Features

Description	Unit
POOL - IN-GROUND	96
BBQ	1

Unit may represent the perimeter, square footage, linear footage, total number or other measurement.

Structural Details (Building 1)

No	Description	
1.	Exterior Wall 1	CB STUCCO
2.	Year Built	2016
3.	Air Condition Desc.	HTG & AC
4.	Heat Type	FORCED AIR DUCT
5.	Heat Fuel	ELECTRIC
6.	Bed Rooms	4
7.	Full Baths	4
8.	Half Baths	
9.	Exterior Wall 2	N/A
10.	Roof Structure	WOOD TRUSS
11.	Roof Cover	CONC. TILE
12.	Interior Wall 1	DRYWALL
13.	Interior Wall 2	N/A
14.	Floor Type 1	HARDWD/PARQUET
15.	Floor Type 2	N/A
16.	Stories	1

Acres 0.29

MAP

Dorothy Jacks, CFA, AAS PALM BEACH COUNTY PROPERTY APPRAISER www.pbcgov.org/PAPA

5/4/2017

Owner: PALM BEACH FAMILY TRUST ,DRUMMOND GAIL SISE TR PCN: 50434310240000080

1 of 1

W/C#27

This Document Prepared By and Return to:
Charles S. Bolz, Esq.
HORIZON TITLE SERVICES, INC.
5 Harvard Circle, Suite 100
West Palm Beach, FL 33409

CFN 20170099796

OR BK 28965 PG 0747
RECORDED 03/22/2017 15:21:21
AMT 6,000,000.00
Doc Stamp 42,000.00
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pg 0747; (1ps)

Parcel ID Number: 50-43-43-10-24-000-0080

Warranty Deed

This Indenture, Made this 20 day of March, 2017 A.D., Between
G.W. PURUCKER HOMES, J.V., a Florida general partnership

of the County of Palm Beach, State of Florida, grantor, and
GAIL SISE DRUMMOND, as Trustee of THE PALM BEACH FAMILY TRUST 2017, u/a/d
2/13/17, as may be amended, with full power and authority to protect,
to conserve, to sell, to lease, to encumber, or otherwise to manage and
dispose of the real property herein described

whose address is: c/o Magdalena Sugimura, TD Securities, 66 Wellington Street W,
8th Floor, Ontario, Canada M5K 1A2

of the City of Ontario, Country of Canada, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS,
and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has
granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate,
lying and being in the County of Palm Beach, State of Florida, to wit:

Lot 8, of PLAT OF DODGE ESTATES, according to the Plat thereof, as
recorded in Plat Book 27, Page 119, of the Public Records of Palm
Beach County, Florida.

Subject to covenants, conditions, limitations, restrictions,
reservations and easements of record, if any, and taxes subsequent to
2016.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

G.W. PURUCKER HOMES, J.V., a Florida
general partnership

By: G.W. PURUCKER HOMES, INC., a
Florida corporation, GENERAL PARTNER

By: Gary W. Purucker (Seal)

GARY W. PURUCKER, President

P.O. Address: 5608 PGA Blvd., Suite 208
Palm Beach Gardens, FL 33418

Printed Name: Nan Bolz

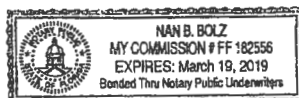
Witness

Printed Name: Larry H. Green

Witness

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 20 day of March, 2017 by
GARY W. PURUCKER, President of G.W. PURUCKER HOMES, INC., a Florida
corporation and a general partner of G.W. PURUCKER HOMES, J.V., a
Florida general partnership,
who is personally known to me or who has produced his Florida driver's license as identification.



Printed Name: NAN BOLZ

Notary Public

My Commission Expires:

CITY OF PALM BEACH
ARCHITECTURAL COMMISSION
APPLICATION B-020-2017

APPLICANT:

202 Onondaga LLC

Wednesday, September 27, 2017
11:30 a.m. - 1:10 p.m.

360 South County Road
Palm Beach, Florida

Stenographically Reported By:
ROBIN L. MERKER, RPR, FPR
Registered Professional Reporter
Florida Professional Reporter

Page 30 1 same market as the subject. 2 MR. DOTTERER: Okay. I'm going to try to move 3 quickly. 4 So north of the Palm Beach Country Club; right? 5 MR. REYNOLDS: Correct. 6 MR. DOTTERER: To the end of the island, to 7 Annie's Dock? 8 MR. REYNOLDS: To Annie's Dock, correct. 9 MR. DOTTERER: All right. And did you study 10 any specific values in writing up this report? I 11 mean, it's a lot of houses. It's hundreds, right? 12 MR. REYNOLDS: Right. What I looked at, 13 specifically, was whether or not the small bungalow 14 cottage beach house varied in value as street to 15 street, or whether or not the general value of those 16 houses was similar. 17 MR. DOTTERER: Okay. And you've come to 18 conclusions here. Can you tell us specifically which 19 houses you studied that were within -- the structures 20 of those houses were within 200 feet of the property 21 line of the proposed project? 22 MR. REYNOLDS: I believe there was only one 23 sale that took place within that area. I was doing a 24 study referring to the entire north end. 25 MR. DOTTERER: I understand, and I want to make	Page 32 1 using a one-story house as opposed to the square 2 footage that you can get using a two-story house. 3 MR. SMALL: Maybe Mr. Jansen would help me with 4 the address. I think it's 257 Sandpiper. Are you 5 familiar with that example? That was a similar 6 situation considered by the commission, perhaps two 7 years ago, where a proposed two-story house was 8 denied, a one-story was built, and it was 9 subsequently sold for, I believe, \$6 million. 10 Did you consider that in your opinion? 11 MR. REYNOLDS: I referred to that in my report, 12 and to 225 West Indies, which was quoted in 13 Mr. Dotterer's letter. 14 MR. SMALL: 257, I see it, thank you. Very 15 good. 16 MS. VANNECK: Okay. Mr. Dotterer? 17 MR. DOTTERER: Yes, thank you. 18 MS. VANNECK: Are we going break to for dinner, 19 or are we going to break for lunch? 20 MR. DOTTERER: As you like it. But certainly 21 we won't take until dinnertime, and I'm sensitive to 22 the lunch desires of the -- 23 MS. VANNECK: Well, it's not that. It's just 24 that, you know, we've heard ad infinitum almost, on 25 this subject and, you know, it's not your first
Page 31 1 this quick, because I know the committee wants to go 2 to lunch here. 3 But, so, you only studied -- you only studied 4 sales first of all -- 5 MR. REYNOLDS: Correct. 6 MR. DOTTERER: -- actual sales, where there was 7 a deed recorded -- 8 MR. REYNOLDS: Right. 9 MR. DOTTERER: -- which is usual for 10 appraisers; right? 11 And only one of the houses that you studied was 12 within 200 feet of the subject site. 13 MR. REYNOLDS: I believe that's correct. 14 MR. DOTTERER: Thank you. 15 That concludes those questions. 16 MR. SMALL: Madam Chair, before the witness 17 leaves, I have a question. 18 On your back page, sir, you indicate replacing 19 one-story homes with two-story homes will increase 20 square footage, thereby increasing value. 21 Are you suggesting that if this home, as it now 22 exists, was replaced with a one-story home, it would 23 not increase the value? 24 MR. REYNOLDS: No, not at all. I'm speaking 25 only to the fact of what you can build as opposed --	Page 33 1 appearance here so -- 2 MR. DOTTERER: That's correct and -- 3 MS. VANNECK: -- just take a little bit of 4 consideration for us, that we've now been fairly 5 educated on this project. Thank you. 6 MR. DOTTERER: Thank you, we will. 7 So the neighbors are ready to proceed. And the 8 first thing I'd like to do is file a few items for 9 the record of the case. 10 MR. IVES: Do we need to be clear on who he 11 represents exactly? 12 MS. VANNECK: Yes, he does. 13 MR. IVES: I mean, just because I didn't -- you 14 know, we have letters in support, and I don't -- you 15 follow what I'm saying, thank you. 16 MS. VANNECK: Mr. -- 17 MR. DOTTERER: Sure. Madam Chair, I -- 18 MR. GREEN: Excuse me, John. Do you have 19 copies for -- 20 MR. DOTTERER: Yeah, I'm coming. Which would 21 you like first? 22 MR. GREEN: The copies. 23 MR. DOTTERER: Sure. Pardon me. 24 I have hard copies for any members who might 25 like to --

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1 for a denial and the application must fail. That's
2 the case here. It's overwhelming evidence that there
3 are 14 that are excessively dissimilar.
4 I'd like to turn to the brief discussion of the
5 history of the height of this project because I — I
6 tracked it. And originally it was submitted at a
7 little over, I think, 24'3". And then in, I think,
8 Revision No. 3, when they submitted it to you, they
9 actually increased the height to over 26 feet by
10 raising the slope. And then, now, in this
11 application, it's been taken down to 23.9 feet, which
12 is actually still higher than what they initially
13 filed. So the reduction that was mentioned about 3
14 feet or 2 feet is really a reduction from an interim
15 increase that was in their application.
16 I've been at several ARCOMM meetings in which
17 it's been expressed from the chair, and from the
18 commission, that houses that are on North Lake Way or
19 North Ocean Boulevard are treated differently from
20 those on — that are interior properties on the side
21 streets. And so the only real reliance that they
22 cite — and again it's not enough, because if there's
23 any dissimilar structure then it must be denied, and
24 there's 14. The one at 1460 North Ocean Boulevard
25 should not be considered.

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1 And in support of that point, I submitted a —
2 as Exhibit No. 2, if you're marking — this is —
3 Kelly, this is No. 1, this is No. 2, and this is
4 No. 3 — is a one-page tabulation of the 14
5 excessively dissimilar structures. And if you take a
6 moment to review that, we could pass it around,
7 you'll see that they are all clearly excessively
8 dissimilar, averaging 14.4 feet in height and a cubic
9 content ratio of 2.03.
10 And the final exhibit that we submit is a
11 report on 257 Sandpiper, which was a case that came
12 to you as a two-story developer project. The
13 neighbors on the street objected, as they have here.
14 ARCOMM heard the case for three different meetings,
15 it was denied. Mr. Jansen then came back very
16 quickly with a one-story design, submitted it, it was
17 approved at the first meeting seven to zero. It was
18 built. And in the same year, sold for \$6 million.
19 And we suggest that there is an alternative here that
20 will be consistent with the neighborhood, and which
21 everyone can win. And we ask that you do that, that
22 this application be denied.
23 Under the terms of your compulsory ordinance
24 18-205(a) (6), because there are 14 excessively
25 dissimilar structures, and there's been no

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1 contradictory evidence of that submitted, no
2 competent substantial evidence at all that that is
3 not the case, it must be denied.
4 Finally on the letters that were submitted,
5 there have been 17 or 20 opposition letters that were
6 detailed yesterday. A bunch of them came in that
7 were in support, they're form letters, they're all
8 word for word the same. Some of them, I think, are
9 from condo or apartment buildings on Chilean. None
10 of them address whether there's 14 excessively
11 dissimilar structures within 200 feet and, therefore,
12 I suggest that — that it's not evidence that makes
13 any temporary difference in this case. And the
14 evidence that has been submitted is overwhelming,
15 that this is a case that must be denied.
16 Thank you.
17 MS. VANNECK: Thank you, Mr. Dotterer.
18 Three minutes per person, if anyone wishes to
19 speak.
20 MR. SELLERS: Good morning. Thank you for the
21 opportunity to present to you today.
22 My name is Johnny Sellers. I'm the son of Elsa
23 Messing who resides at 201 Onondaga Avenue. She is
24 directly across the street from the proposed project
25 and 40 feet, so she is practically the closest.

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1 My mother is 90 years old. She is in frail
2 physical condition, mentally alert, and she would
3 have loved to be here, but she asked me to attend and
4 to make a case of objection to this proposal.
5 My mother has been a resident of Palm Beach for
6 over 45 years. We moved down here in the early
7 1970s, so we've seen the island very well.
8 She's been living 25 years on Onondaga, at 201
9 Onondaga, and she is probably the longest resident of
10 the street. She's seen it all, basically, through
11 the years.
12 Our objection to the proposal is very simple.
13 As been stated already numerous times, what is
14 proposed is a two-story building in front of my
15 mother's house, 40 feet away, that would not only be
16 excessively dissimilar to the rest of the houses in
17 the area, but would also impact on her privacy on the
18 east garden. Should note also that it was brought up
19 before, 1460, which is the building next to my
20 mother — to the proposed project, if you do indeed
21 drive through North Lake Way, you will notice that
22 that house really belongs to North Ocean Boulevard.
23 It has no impact, it has no bearing on Onondaga.
24 Onondaga Avenue is composed of all similar,
25 essentially, one-story houses, living harmoniously,

N.E's
1, 2, 3

APPENDIX and AUTHORITIES

13

TOWN OF PALM BEACH
ARCHITECTURAL COMMISSION MEETING

September 28, 2016
1-4

Page 1	Page 3
1 2 3 4 5 6 7 8 TOWN OF PALM BEACH 9 ARCHITECTURAL COMMISSION MEETING 10 11 12 9:00 A.M. - 11:27 A.M. 13 SEPTEMBER 28, 2016 14 TOWN OF PALM BEACH 15 ARCHITECTURAL COMMISSION MEETING 16 17 AGENDA ITEM B20-2016 18 19 20 21 22 23 Reported by Louanne Rawls 24 Notary Public, State of Florida 25 West Palm Beach Office #J0447188	1 MEETING 2 --- 3 MS. VANNECK: Next item is project review, major projects - 4 old business. Item number B20-2016, demolition and new 5 residence. Address is 1021 North Ocean Boulevard. Applicant is 6 Maura Ziska, Attorney. Architect is MP Design & Architecture, 7 Inc. Landscape Architect is Keith Williams with Nievera Williams 8 Design. 9 Project description: Demolition of existing residence, new 10 two story residence with basement, pool, landscape and 11 hardscape. 12 At the May meeting a motion carried to approve the 13 demolition. A second motion carried to defer the architecture 14 for two months to the July 27th, 2016 meeting. At the July 15 meeting a motion carried to defer the project for one month at 16 the attorney's request. 17 At the August meeting a motion carried to defer the project 18 to the September 28th, 2016 meeting for restudy of the west 19 elevation including the landscaping, the approach to the home 20 and the possibility of installing gates. 21 Ex-parte? 22 MR. SMALL: I exchanged emails with Mr. Perry, I picked up 23 and reviewed the plans in preparation for the meeting, was 24 called by Attorney Greg Kino on behalf of some of the neighbors. 25 I received perhaps 10 different emails and letters in
Page 2	Page 4
1 IN ATTENDANCE: 2 3 RICHARD SAMMONS, CHAIR 4 ANN VANNECK, VICE CHAIR 5 PETER I.C. KNOWLES, II, MEMBER 6 ROBERT N. GARRISON, MEMBER 7 ALEXANDER C. IVES, MEMBER 8 MICHAEL B. SMALL, MEMBER 9 MARTIN D. GRUSS, MEMBER 10 MAISIE GRACE, ALTERNATE MEMBER 11 JOHN DAVID COREY, ALTERNATE MEMBER 12 BETSY SHIVERICK, ALTERNATE MEMBER 13 14 15 16 17 18 19 20 21 22 23 24 25	1 opposition. I drove by the site, and do daily, and the 2 neighboring properties. I think that covers it. 3 MR. RANDOLPH: Mr. Small, when you say you exchanged emails, 4 can you be more specific about what the subject -- 5 MR. SMALL: Yes. 6 MR. RANDOLPH: -- matter of that was? 7 MR. SMALL: Mr. Perry had emailed me and requested if I had 8 time to get together. And I had responded that I intended to 9 pick up the packet from the Town Hall on Friday and I'd like to 10 do that and also visit all the project sites. His email was not 11 limited strictly to this property but to some others that he 12 had. And, as it turned out, I wasn't able to do it. 13 MR. IVES: Very similar to Mr. Small, I received, I think it 14 is, about 10 or 11 emails in opposition to the project. I met 15 with Michael Perry and Caroline Koons Forrest at MP Design's 16 office for about an hour where they went over the project. And, 17 I mean, there's been a little bit of press on this one so at 18 Publix people have walked up to me and said certain things about 19 liking the project. So that's -- that's my ex-parte. 20 MR. GARRISON: I have the same, just to repeat what he said, 21 except I met with Mr. Perry yesterday in his office. I had an 22 email back from him. I've also had the 10 or 12 or 15 emails in 23 opposition and plus all the discussion that we had here last 24 month. 25 MS. VANNECK: I'm more or less the same. I did speak with



TOWN OF PALM BEACH
ARCHITECTURAL COMMISSION MEETING

September 28, 2016
5-8

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1 Mr. Kino on the phone. I received emails from both Keith
2 Williams and Michael Perry. I said I had picked up my mini sets
3 and reviewed them. I received the onslaught of negative emails
4 from neighbors and have had just some few discussions with
5 people saying -- who have not been in favor of the project.
6 MR. GRUSS: Since the last meeting I've visited the site in
7 the neighborhood. I received eight letters from the Town of
8 objection, received long letters from lawyers of objection and
9 received one call late last night from a resident in objection.
10 MALE SPEAKER: How late?
11 MS. VANNECK: No, you can't --
12 MR. GRUSS: Six thirty.
13 MALE SPEAKER: That's not late.
14 MR. KNOWLES: Pretty much the same. I met with -- in Michael
15 Perry's office yesterday. Since the TOWN OF PALM BEACH
ARCHITECTURAL COMMISSION MEETING
16 approximately a dozen emails forwarded by the Town to me all in
17 opposition to the project. That's about it.
18 MS. GRACE: I visited the site. I think I've received about
19 12 or more email letters in opposition to the project. I've also
20 run into people at Publix opposed to the project. I received
21 phone calls from a few neighbors in opposition and I met with
22 Mr. Perry regarding the project.
23 MR. COREY: I received the letters forwarded from the Town,
24 10 plus letters from the neighbors who were voicing opposition
25 to the project. I did receive an email from Mr. Perry but did

Page 6

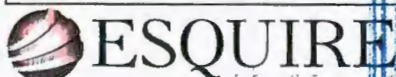
1 not respond.
2 MS. SHIVERICK: I met with Mr. Perry and Ms. Koons in their
3 office yesterday. I've reviewed the plans. I've driven by the
4 site. I've read all of the letters in opposition and in addition
5 to the lawyers' correspondence. I received a phone call from
6 someone in opposition to the project.
7 MS. VANNECK: Mr. Randolph?
8 MR. RANDOLPH: First, a comment in regard to your ex parte
9 communications. In spite your having had these ex parte
10 communications, do each of you agree that you will base your
11 decision today on the evidence presented at this hearing and
12 prior hearings and not on the ex parte communications? You're to
13 base your decision on the record that's made here.
14 MS. VANNECK: It's always been my belief that we come here
15 with a background but we make up our minds given the
16 presentation.
17 MR. RANDOLPH: So each of you will affirm that you will base
18 -- you're not prejudiced by your -- the previous information and
19 you'll base your decision on the facts that are presented at
20 this hearing and the previous hearings?
21 MR. GARRISON: When you say the previous hearings, are you
22 talking --
23 MR. RANDOLPH: The hearings relating to this matter.
24 MR. GARRISON: That we heard last month; the two hours that
25 we heard last month?

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1 MR. RANDOLPH: Well, yes. All of it is part of the same
2 application.
3 MR. GARRISON: Yes. So the answer for me is yes.
4 (BACKGROUND DISCUSSION)
5 MR. RANDOLPH: I assume the -- unless I hear to the contrary
6 I assume that's -- and one further thing, not to belabor the
7 point, but there were a lot of letters that I saw that came in
8 from neighbors. Do either of the -- the objectors or the
9 applicants want to hear the names of all those letters and hear
10 any more information in regard to the letters that have been
11 received? Because you're entitled to know that information, as
12 you know, as part of ex parte communication? No? Applicant's
13 fine? Nothing --
14 MR. LINDGREN: All the letters, Skip, were forwarded to the
15 applicant's attorney and architect, as well.
16 MR. RANDOLPH: Okay. Thank you. If I may, I would just like
17 to briefly set the table in regard to today's hearing. As you
18 know, the -- the evidence that has been presented at the prior
19 hearings to this, to today, is part of your hearing today. So it
20 will all be considered in the event this matter ever goes up on
21 appeal to the Town or -- or to the circuit court. So you will be
22 considering that prior evidence in addition to the evidence that
23 you hear today.
24 This matter was deferred as the chairman has announced, with
25 direction that the applicant restudy the west elevation of the

Page 8

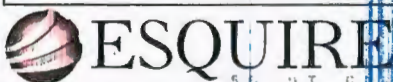
1 house, including the landscaping, the possibility of installing
2 gates and to look at the approach to the house. You are to
3 review those changes in conjunction with all of the evidence
4 which you've already heard and which has already been presented.
5 There's no obligation, unless the applicant wishes to, for
6 applicant to re-address matters it has already presented.
7 Having said that, your deliberations today are not confined
8 to the re-study of the west elevation. Although the applicant's
9 attorney stated on the record that she was hoping for an
10 approval of the project subject to bringing back the west
11 elevation for final approval of that elevation, the chair made
12 it clear that the entire project was deferred, meaning that the
13 entire project is still under consideration and subject to
14 review and appeal -- and approval.
15 I would remind you that this is a quasi-judicial hearing. A
16 quasi-judicial hearing requires notice to all the affected
17 parties. It requires a reasonable opportunity for affected
18 parties to be heard. And the Town, I would urge you, should
19 ensure that due process is afforded to all parties.
20 That includes not only a fair opportunity to be heard, but
21 rights of cross-examination and the rights to present expert
22 testimony. And you've already heard some expert testimony and
23 you may or may not hear additional expert testimony.
24 Some of the interested parties have expressed concerns that
25 they were not afforded enough time to present their case. I



TOWN OF PALM BEACH
ARCHITECTURAL COMMISSION MEETING

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Page 9 1 would urge this commission to err on the side of caution and 2 giving interested parties all the time they need to present 3 their case. As you know, whatever decision you make in regard to 4 this application is subject to appeal, first to the Town Council 5 and then by petition for writ of certiorari to the Circuit Court 6 of the Fifteenth Judicial Circuit in and for Palm Beach County. 7 If it goes to Court, the Court will review whether due 8 process had been afforded the parties, whether the correct law 9 has been followed and whether there was substantial competent 10 evidence presented to support your decision. Substantial 11 competent evidence is evidence which a reasonable person could 12 use exercising reasonable discretion to support the decision 13 that is ultimately made. The court will not substitute its 14 decision for your decision as long as there is substantial 15 competent evidence, you provided due process and you followed the 16 the correct law. 17 As you know, your decision shall be made using the criteria 18 set forth in the code, not based on whether you personally like 19 it or dislike it or whether neighbors personally like it or 20 dislike it, but rather based upon facts presented which support 21 or do not support the applicant's case based upon all of the 22 criteria set forth in your code. 23 Just as a court can set reasonable parameters on a court 24 hearing, you may set reasonable parameters on how long the 25 hearing can go on, how much of the evidence presented is -- is	Page 11 1 MR. GARRISON: -- are forced to do. 2 MR. RANDOLPH: I think you should use your discretion as the 3 hearing proceeds and at some point make a determination as to 4 whether the hearing is going on too long or whether it is 5 repetitive. But I understand that there are attorneys involved 6 today that were not here before. They should be given an 7 opportunity to present and to present any expert testimony that 8 they might wish to present, along with any comments there may be 9 by affected property owners, which we would hope would be new 10 evidence and not repetitive evidence. 11 MS. VANNECK: Okay. 12 MR. GARRISON: Thank you. 13 MS. VANNECK: On the -- on the presentation from the 14 neighbors, if they have written a letter to us, so that's 15 already in evidence, and they get up and wish to read that 16 letter again or reiterate what they wrote in the letter, is -- 17 can we ask, sort of have a blanket saying if it's already in the 18 record do you need to have -- come up and speak with -- 19 MR. RANDOLPH: I think it's reasonable for -- for the chair 20 and the Board to indicate to persons that have presented letters 21 that they not be repetitive of what's in the letter. But you 22 should give them an opportunity to summarize their thoughts so 23 that they can have that opportunity to make -- make clear what 24 they've said in their letter. But no, they don't need to read 25 the letter again if it's in, but I think you should give them an
Page 10 1 repeat evidence, et cetera. Having said that, I urge you to take 2 account of due process and urge on the side of allowing an 3 opportunity for everybody to -- to be heard. 4 Letters and comments by -- by residents have been ruled by 5 courts to be substantial competent evidence as long as they are 6 factual and not just based upon a person's likes or dislikes. So 7 you may consider the comments of residents and affected parties 8 and the correspondence that you've received. 9 I just wanted to set the table and if you have any questions 10 in regard to my comments, I'd be happy to answer them. 11 MS. VANNECK: Mr. Garrison? 12 MR. GARRISON: I -- I've asked you this before. The comments 13 that we heard and the testimony that we heard last month for two 14 hours, if that is repeated again today does that -- do we have 15 to hear that or can it simply be new evidence presented today 16 that was not presented in the two hours last month that we spent 17 here listening? Because I, for one, am not willing to sit and 18 listen to two more hours of the same stuff that we heard last 19 month. 20 I'm perfectly willing to listen to -- I read -- heard the 21 tape, I've read the minutes and I'm -- I think all of us are 22 more than willing to hear anything that's new. But to get up and 23 all of the evidence and to repeat the same thing we heard last 24 month I don't think is something that we should do -- 25 MR. RANDOLPH: I think you should --	Page 12 1 opportunity to be heard in regard to their letter. 2 MS. VANNECK: Okay. 3 MR. SMALL: Madam Chair? 4 MS. VANNECK: Yes, Mr. Small. 5 MR. SMALL: I just wanted to add and point out we do have a 6 different voting makeup this month than we did last month. Ms. 7 Grace is back this month and, as such, I would certainly agree 8 with Mr. Randolph that if we err at all, it should be on the 9 side of caution and liberality and allowing anyone who wants to 10 speak on the subject to do so fully. 11 MS. VANNECK: Right. And -- 12 MR. RANDOLPH: Thank you. 13 MS. VANNECK: Thank you. Ms. Grace? 14 MS. GRACE: I had a question, if you could just refresh 15 something for me regarding ARCOM ordinance. I did listen to the 16 tape of last month's meetings. I heard it a couple of times, I 17 think I heard it clearly, and I've reviewed all the 18 correspondence that we've received. And there's been -- one of 19 the things that seems to keep coming up is a question about how 20 many feet from the proposed project are we supposed to be 21 considering. 22 In the ordinance I see a lot of reference to 200 feet and I 23 -- you know, I've heard from Mr. Perry that the Town Council 24 looks at 300 feet. And then this -- this particular project that 25 they've put up here, I think it goes further; I think it's



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1 further than 300 feet. So if you could just clarify for the
2 ARCOM ordinance exactly what we should be considering in that
3 regard.
4 MR. RANDOLPH: Well, JP has the ordinance in front of him; I
5 don't. But just in answer to your question, it depends on which
6 of the criteria that you're applying. If you're applying the
7 criteria that relates to whether something is essentially
8 similar or dissimilar, we're talking about 200 feet within the
9 property.
10 And we're talking about structures within 200 feet of the
11 property. So that's what you look at in considering that. You
12 don't necessarily look at the 300, but there is also a provision
13 in there that indicates the project needs to be in harmony with
14 the essential character of the neighborhood; does it not? And so
15 --
16 MS. GRACE: Yes. I -- I --
17 MR. RANDOLPH: That's another criteria that you consider.
18 But that's --
19 MS. GRACE: I have it in front of me, the ordinance, but as
20 you know, with respect to the last segment that you mentioned,
21 it doesn't give a particular distance.
22 MR. RANDOLPH: No, it doesn't.
23 MS. GRACE: So unless there's a catch all --
24 MR. RANDOLPH: But I think --
25 MS. GRACE: -- somewhere else --

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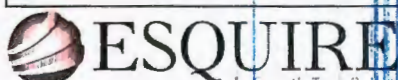
1 MR. RANDOLPH: I think the neighborhood would generally be
2 described as that area within which you've given notice. So that
3 would be greater than the 200 feet.
4 MS. GRACE: So is that 250 feet for the notice?
5 MR. PAGE: Here is the exact answer. The excessively similar
6 and excessively dissimilar language mentions 200 feet.
7 MR. RANDOLPH: Right.
8 MR. PAGE: The notice that goes out to abutting properties
9 goes out 250 feet.
10 MS. GRACE: Okay. So with respect to this model here, should
11 we be considering the stuff that's beyond 250 feet? That's part
12 of my question.
13 MR. RANDOLPH: You know, you're -- there's -- there's some
14 amount of discretion allowed in a hearing such as this. And even
15 though your notice goes out to 250 feet, although I don't think
16 your ordinance describes the neighborhood, I think it says in
17 harmony with the -- with the neighborhood, I think it's
18 reasonable to -- to use the 250 feet notice requirements. But I
19 think you can take the entire -- you shouldn't rule out anything
20 which the parties wish to present, but when you make your
21 determination you should make it based upon the criteria set
22 forth in the code.
23 In other words, I wouldn't want you to say we're not going
24 to consider that to somebody and not let them present. I would
25 let them present and then when you get down to your final

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1 determination you can make your determination as to whether or
2 not it's consistent with the general character of the
3 neighborhood, which is not described but which you give notice
4 of 250 feet, and then base it upon 200 feet of the structures
5 when you consider essentially similar or essentially dissimilar.
6 MS. GRACE: Okay. So we should -- we should hear everything
7 but when we get down to actually making our decision we should
8 keep it limited to what the code provides?
9 MR. RANDOLPH: Yes.
10 MS. GRACE: Thank you.
11 MS. VANNECK: I do need to add one ex parte. I spoke briefly
12 to Ms. Ziska on another matter and we touched upon some of this
13 in a phone call.
14 MR. PAGE: If I can say something for just a moment because
15 Mr. Sammons just arrived, Mr. Sammons, we haven't begun any
16 consideration yet, but Mr. Randolph has given the Commission
17 instructions on how we will be proceeding today. We went through
18 a very detailed ex parte round with Commissioners. It's probably
19 appropriate for Mr. Sammons to do that now before we get
20 started.
21 MR. RANDOLPH: Yes, it is.
22 MR. SAMMONS: Okay. I received and read a great number of
23 letters, mostly against. I have received a phone call from the
24 applicant's attorney yesterday and I have -- obviously, we had
25 our review yesterday. I think that's --

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1 MR. RANDOLPH: If I were to summarize my comments, which I
2 won't repeat just for you, Mr. Sammons, I would just want to
3 state that your decision in a quasi-judicial hearing will be
4 based upon the criteria set forth in your code, not based upon
5 whether you personally like or dislike a project or whether the
6 neighbors personally like or dislike the project. It has to be
7 based on the criteria. Thank you.
8 MS. VANNECK: Mr. Ives?
9 MR. SAMMONS: Mr. Ives,
10 MR. IVES: Mr. Randolph, just one question. We -- the last
11 time this project came up we had several people who were not in
12 the neighborhood; they weren't attorneys and they weren't
13 representatives of organizations. They should still allow to be
14 -- be allowed to speak on this project; correct?
15 MR. RANDOLPH: Yes.
16 MR. IVES: Okay.
17 MR. RANDOLPH: Whether they would have standing on appeal is
18 another question but they should be heard.
19 MS. VANNECK: Could they be notified that they -- they
20 should not try to antagonize the council -- commission?
21 MR. RANDOLPH: Well, I would hope no one is here to attempt
22 to antagonize.
23 MS. VANNECK: Well, they did a pretty good job last month.
24 So just a word of caution, please, and decorum.
25 MR. SAMMONS: Thank you.



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1 MR. SMALL: Thank you, Mr. Chairman. And thank all of you.
2 This has been extremely informative. But it's our time now, our
3 time to weigh the evidence that we have heard. I have received
4 received, our time to discuss, our time to deliberate and our
5 time to decide. And in that respect, as Mr. Randolph pointed
6 out, we are a quasi-judicial Commission and we are acting as the
7 judges today to make this decision.
8 On one hand we have an applicant who seeks to exercise his
9 property rights, which is his absolute right, to build that
10 which he chooses within the law. He's respected. He lives on a
11 prominent piece of property and has a significant value in that
12 property.
13 On the other hand we have an outpouring from the neighbors
14 in opposition who all say this is excessively dissimilar, this
15 is not in harmony with the established character of our
16 neighborhood. This is what we weigh. This is what we weigh.
17 The outpouring is overwhelming so I said to myself is there
18 precedent for this because Alex mentioned I don't recall ever
19 having a hearing similar to this with cross examination, et
20 cetera, or somebody said that. And, in fact, if you recall, just
21 two years ago we had similar circumstances.
22 Do you all recall the northeast corner of Seagate and North
23 Lake Way across the street from the Sailfish Club? Mr. Thompson
24 appeared before us, similar to Mr. Burns, and he said allow me
25 to demolish the existing structure. And we said, in accordance

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1 with our law, yes, go ahead. Mr. Thompson then went out and he
2 retained an internationally renowned architect and he came back
3 with a striking two story contemporary home, similar.
4 There was an outpouring from the neighborhood, all those in
5 the immediate area, and they said, no, not here, don't build
6 that here, it's excessively dissimilar. It doesn't fit in within
7 our neighborhood, it's not in harmony with the established
8 character of our neighborhood. Neighbors in the area even
9 appeared and they said --
10 And Maura I remember you appearing before us, not
11 professionally but as a neighborhood -- a neighbor and we all
12 live in the north end. And you said I'm familiar with that
13 property, I regularly walk my dog by there and I object to that.
14 Jeff Smith, a respected architect, appeared as a resident and
15 said don't allow this contemporary home to be built there; it's
16 not in harmony with the established character of the
17 neighborhood.
18 This Commission then took it up. Martin, you made the
19 motion, I seconded it. Unanimously we denied that application.
20 Mr. Thompson was understandably disappointed. He appealed to the
21 Town Commission. The Town Commission said we affirm ARCOM. Mr.
22 Thompson then made the decision he didn't want to build that
23 house there, or a house that would be allowed, and sold the
24 property. And now, as you all know, there's a new house being
25 built there that is in harmony with the neighborhood.

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1 One of the purposes of what we all do, and what I
2 particularly enjoy because I didn't have it really in my
3 professional life, is we get to see the results of what we
4 approve. What we approve has a reasonable shelf life of maybe 50
5 years. That means the neighbors immediately in this area, and
6 everybody who drives by, is going to see this contemporary home
7 which is not in harmony with the established character of that
8 neighborhood every day for the next 50 years, and I hope we all
9 live that long.
10 But the point simply is this. We can't afford to make
11 another mistake. Every day I drop by, or drive by what I think
12 is the contemporary commercial appearing office building at the
13 corner of North Ocean and Angler, which is excessively massive
14 and excessively dissimilar. And I think to myself, gee, I wish
15 ARCOM had not approved that, I wish they had not approved that.
16 So I'm prepared to make a similar motion that I made last
17 month and that is to deny the application based upon a failure
18 to follow the requirements of Section 18-205, which I'm likewise
19 prepared to point out.
20 MR. SAMMONS: I'm going to hold that motion until we've
21 heard from other Commissioners, but it is -- it is noted. Ms.
22 Grace?
23 MS. GRACE: Yeah. I just wanted to say that I -- I know that
24 a lot of people think that maybe ARCOM doesn't get as much done
25 as we should and other people think that ARCOM just does what

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1 the zoning ordinance is meant to do, but I think there is a big
2 distinction between what ARCOM responsibilities are and what the
3 zoning ordinances dictate. And I think it's important that we
4 consider, like Mr. Small said, charm and the beauty of the neigh
5 -- of the neighborhood when we consider something.
6 In this particular case, if I recollect properly, originally
7 the applicant was going to build out their structure beyond or
8 to the line where the existing pool is, so, you know, right now
9 they have that removed and so it's much better. And I appreciate
10 those changes that they've made.
11 And with respect to the west side that they're showing us
12 right now, I think it's much more attractive than it was
13 previously. And to me it just sort of, unfortunately, begs the
14 question that I look on the east side because I don't know
15 exactly where the public access points are but I know when I
16 want to walk on the beach at the north end that there's some
17 paths with garbage cans out front that I think the Town puts
18 out, I take my bike and I go down those paths so that I can
19 access the beach. And this is a particular area of the north end
20 that I really like to walk on on the beach.
21 So I appreciate it but when I look at this side now it makes
22 me look on the other side and I say, well, I mean, I think that
23 this style of architecture is not harmonious with the area. But,
24 I mean, if we were going to get into a discussion of it I would
25 say, well, now the east side would look better if it was set

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Page 81 1 back and had all these breakups that the west side has. But 2 overall, I think that it's still a monolithic structure and it 3 stands out in the neighborhood. And I think that the massing is 4 too strong. 5 And I know that there's a lot of underground square footage. 6 I don't know if some of that 8,000 square foot could be livable 7 so that you could reduce the above ground square footage so that 8 -- and use the below ground. 9 With respect to the, I think the height of the houses across 10 the street which you didn't have on this dem -- on this project 11 model, I think that they're -- my guess is they're quite a bit 12 lower than the house that you're proposing to build. And the 13 thickening of the vegetation, in terms of the privacy which is 14 one of the things that we're supposed to be considering, I don't 15 think that it will help the neighbors because I think that the 16 thickening is occurring at places where you won't notice it and 17 that -- 18 One of the pictures that was put up where you had a view of 19 the proposed project from the house to the north looking south, 20 I believe it was, it still seemed to me like it would invade on 21 their privacy a lot. And one difference between the current 22 vegetation, I noticed particularly at Ms. Hultar's entrance to 23 her house, the shape of the Seagrape trees and the entrance is, 24 you know, it's much prettier. I think the shape of the trees and 25 you've had to raise your trees and choose other things to make	Page 82 1 them taller; that's all because of the massing and the height of 2 the building and I'm not sure that it works. But I appreciate 3 the changes. 4 MR. SAMMONS: Thank you. Mr. Garrison? 5 MR. GARRISON: Thank you, Mr. Chairman. This morning I drove 6 up past the site because I wanted to make sure that what I 7 thought and when I walked it two months ago and when I drove 8 past before that I was correct. 9 When you come around the corner from the -- going north, as 10 you drive along there is only one house, only one elevation of a 11 house on the right hand side, on the ocean side, that you 12 actually see the house all the way up until you come to that 13 house that was approved that's, in my opinion, a monstrosity. 14 So when you drive up on the right hand side the only thing 15 you see, and if I -- I would urge you to look at that, is a 16 hedge. You're not going to see -- you don't see any of the 17 houses. So, aside from that, if you go beyond the hedge, if you 18 look at the slide that was presented, number five, by the 19 architect -- 20 MR. SAMMONS: By Gonzalez. 21 MR. GARRISON: Yes, Mr. Gonzalez, and he says there are 22 three styles of architecture. He makes my, in my opinion, he 23 makes my case. He shows one, two, three, four, five, six houses 24 that are all three styles, all three dissimilar styles. So to 25 put another style across the street from these other three	Page 83 1 styles that were built there to me is part of something that 2 makes Palm Beach what it is. There are diverse enough styles. 3 I know I'm not supposed to say it; I live on Seabreeze. If 4 you drive down Seabreeze there's every style of architecture 5 known to Palm Beach except a Mizner house. So the other 6 interesting point that I'd like to make, and it's one of the -- 7 I believe one of the attorneys said, in Section 18-146(c), the 8 task -- I quote. 9 "The task of the Architectural Commission is therefore to 10 preserve various elements of urban beauty and require that new 11 projects enhance the existing elements." 12 I believe this project fits in with that deposition -- 13 definition that there are three other styles there and this just 14 provides a fourth style that will enhance it. 15 However, you will never see this if you walk that site. If 16 you drive up to 30 miles an hour you will not see this house 17 unless you're invited to go beyond the gates and go in. The 18 exception to that is if you're walking on the beach, of course 19 you're going to see this house and of course you're going to see 20 a bunch of other houses and you're not going to know whether 21 they're within 200 feet or 400 feet or whatever. 22 So I'm prepared to make the opposite motion of Mr. Small 23 because I believe this will be something that we need to pr -- 24 approve. 25 MR. SAMMONS: However, Mr. Small's motion is on hold until	Page 84 1 we finish. 2 MR. GARRISON: Well, I know. I'm just saying that I'm on the 3 opposite side. 4 MR. SAMMONS: Okay. Mr. Corey, please. 5 MR. COREY: Thank you for recognizing me. Well, I could not 6 disagree with Mr. Garrison more. Looking at the images from 7 Architect Gonzalez on five, even if you just took a very quick 8 look at the houses and structures, Georgian, Regency or Bermuda, 9 those styles have been read from some of these from thousands 10 and thousands of years of architecture. 11 The style that's proposed here is a very -- I see it as a 12 very modern, it's a new style that's inserted into the fabric 13 and I do not see it as similar or cohesive in any way. I think 14 that it violates many of the items on our code as far as 15 fenestrations, massing, height, the parapet flat roofs. 16 I do think that while the landscape architecture is trying 17 to do its job, I don't think it's fair to lean on landscaping to 18 hide this house from the street. I think we talked -- the code 19 talks about a neighborhood. I mean, most neighborhoods don't 20 have -- I mean, people want their privacy but blocking off the 21 architecture from even a glimpse of the street or solving the 22 architecture problems with landscaping I don't feel is the role 23 for the landscape. So I discount that quite a bit. 24 So based on many of those items that I mentioned, I do think 25 the house is excessively dissimilar and I hope the Commission
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Page 85 1 will really take that seriously. Thank you. 2 MR. SAMMONS: Ms. Vanecek? 3 MS. VANECEK: Thank you, Mr. Sammons. I'll say this. I have 4 a couple of things that have become clear to me, and having 5 weighed this for months, I find that the overall impression of 6 this house is institutional. Clear story. Where do you have 7 clear stories on a residential house? And it's only there so 8 that they can't look down on their neighbors. It just -- well, 9 it's one thing that makes it lack charm. 10 As far as presentation to the street, yes, it may be at the 11 same distance from the street as the previous home but only one 12 part of that home faced the street. Because this whole façade, 13 west façade, faces the street it will give you an incredible 14 more sense of mass and structure there. 15 So I -- as I said last month, this is not in harmony with 16 its neighbors. The neighbors are all set back. They all have the 17 sense of presence and entry and charm. This house is in your 18 face and has no charm that I can see. Thank you. 19 MR. SAMMONS: Mr. Ives? 20 MR. IVES: I just wanted to touch on two things. I think Mr. 21 Corey makes a great point that we should definitely -- and it's 22 something that concerns me when these conversations come forth. 23 We shouldn't just go, we'll rely on the landscaping and that 24 hides the house. Obviously I've expressed pleasure with the 25 house. But, you know, I do also think on that landscaping	Page 87 1 different in this deferral from the first time you came before 2 us? Nothing. They had not responded to our request as an 3 Architectural Review Commission. That's one of the reasons -- 4 that's the main reason why I voted no that day on that second 5 meeting with that house. 6 This applicant and this whole process that has involved the 7 neighborhood and us, there has been changes. It's a 22 percent 8 reduction in the original size of the house. And, you know, even 9 if this house is to not make it and be denied or we go through 10 another deferral, whatever happens, that's a different 11 situation. They -- there has been a response to our comments and 12 there has been a democratic dialogue that's occurred here that I 13 think are very positive and I think that needs to be recognized. 14 I won't go on. 15 But, anyway, I think that's where we are in this 16 conversation, as I said before. Thank you. 17 MR. SAMMONS: Okay. I've been sitting on my hands here for a 18 long time. I don't believe that this project meets any of the 19 criteria, mass, height (indiscernible). 20 Certainly beautiful spaciousness. When you do two stories to 21 your setback it's not spacious. Balance. There's no taste. 22 Questionable fitness. Probably the least fit architecture for a 23 tropical climate you can imagine. Charm, there's not a person in 24 Crisenton (phonetic) who can convince me that this house is 25 charming. And high quality, look at the details, it's -- it's --
Page 86 1 they've done a great job and that was very much a concern of 2 many of the opposition that came in here and we, of course, do 3 consider landscaping. 4 I think on these issues of style and harmony, in our last 5 meeting there was a sheet that was provided that's still part of 6 the record, as I understand it, that was done as a red graph 7 that showed numerically the size, the height of this proposed 8 project compared to others and it was very much in keeping and 9 equivalent to the rest of the other projects. Someone could have 10 even, I think, make an argument excessively similar if you 11 wanted to. 12 But, you know, one of the things we heard today is -- by Mr. 13 Kino, counsel -- counselor for the members of the opposition to 14 this, the neighbors, variety is a natural thing in this Town. We 15 -- things are dissimilar and different in the surrounding area. 16 So we -- I think we move past that and we get into the issues 17 that Ann mentioned, which I disagree with her but I think that's 18 really where our conversation is today, you know, what is the 19 quality here that we're seeing. 20 But to one thing I did want to say that ties into that, Mr. 21 Small mentioned a Seagate house. And the Seagate house came 22 before us in one meeting. We gave a clear direction and deferred 23 that project. In the second meeting, and I'm not positive but I 24 think I opened the discussion because this is what upset me 25 about it, I asked their architect and their applicant what is	Page 88 1 I wouldn't call it particularly high quality. 2 Is it excessively dissimilar than any property within 200 3 feet? Oh, yeah. It's incredibly dissimilar from properties 4 within 200 feet. And if I was one of the neighbors to the north 5 or the south and I had to look at that very long flat elevation, 6 albeit screened, on a very long wall of green, I don't think I'd 7 be very happy. 8 So personal taste aside, I'm looking purely at mass and when 9 I look at scale I see a complete dissimilarity in scale. I also 10 see that the, you know, scale has to do with the elements and 11 the elements of that to adjoining houses and even the house 12 which -- to the north of that, which is similar in lot coverage 13 and lot size and everything, its scale is nevertheless similar 14 to the scale of the more traditional houses, that is the 15 elements of it are similar in size, the elements, the bays are 16 similar in size, the pitched roof has a lot less impact than a 17 flat roof, particularly a flat roof with an overhang parapet. 18 If I were walking on the beach or sailing by here I would 19 say I would be kind of rather -- you know, I'd say it looks -- 20 you're turning something which had a little bit of a harmonious 21 stretch there into, you know, a dis -- you know, you've got 22 something that clearly doesn't match the others, you know, which 23 one of these. So there's -- I don't think there's a reasonable 24 person in the world that if shown the evidence or even shown 25 these things at first glance would ever concur that these are in



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Page 89 1 harmony with the neighbors. Thank you. 2 We have a motion to deny. 3 TOWN OF PALM BEACH 4 MR. SAMMONS: Okay. 5 MR. SMALL: The motion is to deny project B, as in boy. 6 20-2016 based upon failure to comply with Section 18-205 of the 7 code, paragraphs A sub 4, paragraph A 6, sub C, sub E, sub F, 8 and paragraph A sub 8. 9 MS. VANNECK: Mr. Small, would you like to include A sub 10 paragraph 4, harmony? 11 MR. SMALL: I did say A 4. 12 MS. VANNECK: Okay. And also and 6 C and D? 13 MR. SMALL: Yes. 14 MR. SAMMONS: Good with that, Skip? Okay. That motion is 15 good? 16 MS. VANNECK: Yes? 17 MR. RANDOLPH: Yes. I just wanted to make sure he included 18 the criteria within his motion which he did. 19 MS. VANNECK: And I will second that motion. 20 MR. SAMMONS: I have a motion and I have a second. Can we 21 have a vote? I believe it's going to have to be, you know, roll 22 call. 23 CLERK: Mr. Small? 24 MR. SMALL: Yes. 25 CLERK: Ms. Vanneck?	Page 91 CERTIFICATE September 28, 2016 I, LOUANNE RAWLS, certify that I was authorized to report the foregoing proceedings and that the transcript is a true and complete record of my notes. Dated this 5th day of October, 2016. <i>Louanne Rawls</i> LOUANNE RAWLS, #J0447148 
Page 90 1 MS. VANNECK: Yes. 2 CLERK: Mr. Knowles? 3 MR. KNOWLES: Yes. 4 CLERK: Mr. Gruss? 5 MR. GRUSS: Yes. 6 CLERK: Mr. Garrison? 7 MR. GARRISON: No. 8 CLERK: Mr. Ives? 9 MR. IVES: No. 10 CLERK: Mr. Sammons? 11 MR. SAMMONS: Yes. 12 CLERK: Motion passes five to two. 13 MR. SAMMONS: Thank you. 14 (AGENDA ITEM CONCLUDED) 15 16 17 18 19 20 21 22 23 24 25	800.211.DEPO (3376) EsquireSolutions.com



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APPENDIX and AUTHORITIES

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District Court of Appeal of Florida,
Second District.

BOARD OF COUNTY COMMISSIONERS

OF PINELLAS COUNTY, as the
Pinellas County Water and Navigation
Control Authority, Petitioner,

v.

CITY OF CLEARWATER, Respondent.

No. 83-21.

Nov. 9, 1983.

The City's dock application was denied by Board of County Commissioners acting as governing authority of a county water and navigation control authority, and the Circuit Court, Pinellas County. Philip A. Federico, J., granted relief by way of certiorari, quashing the denial of the application. On petition for writ of certiorari, the District Court of Appeal, Hobson, Acting C.J., held that at hearings on city's application to construct public pier local, lay individuals with firsthand knowledge of vicinity were as qualified as "expert witnesses" to offer views on the ethereal, factual matter of whether dock would materially impair natural beauty and recreational advantages of area, and the county commissioners so acting, if they found such objections credible, were entitled to accord overriding weight to the cumulative objections, as against contention that no expert testimony was presented and that accordingly there was not sufficient competent substantial evidence to support denial.

Reversed and remitted, with instructions to reinstate administrative denial of the application.

West Headnotes (2)

[1] **Administrative Law and Procedure**

:- Conflicting evidence

Administrative Law and Procedure

:- Credibility

Though it is for circuit court acting in its appellate capacity to ascertain if administrative action is supported by substantial competent evidence, court departs from essential requirements of law if, in determining such issue, it reevaluates credibility of evidence or reweighs conflicting evidence.

7 Cases that cite this headnote

[2] **Zoning and Planning**

:- Water-related uses and regulations

At hearings at city's application to construct public pier, local, lay individuals with firsthand knowledge of vicinity were as qualified as "expert witnesses" to offer views on the ethereal, factual matter of whether dock would materially impair natural beauty and recreational advantages of area, and county commissioners acting as governing authority of county water and navigation control authority, if it found their objections credible, was entitled to accord overriding weight to their cumulative objections, as against contention that no expert testimony was presented and that accordingly there was not sufficient competent substantial evidence to support denial. Laws 1955, ch. 31182, § 1 et seq., as amended.

5 Cases that cite this headnote

Attorneys and Law Firms

*498 Jean H. Kwall, Asst. County Atty., Clearwater, for petitioner.

Thomas A. Bustin, City Atty., Clearwater, for respondent.

Opinion

HOBSON, Acting Chief Judge.

Petitioner, Board of County Commissioners of Pinellas County, acting as the governing authority of the Pinellas County Water and Navigation Control Authority (hereinafter "Authority"), seeks a writ of certiorari to reverse an appellate order of the Circuit Court for Pinellas County which quashed the Authority's denial of a dock application submitted by respondent, City of Clearwater (hereinafter "City"). We grant the writ of certiorari, reverse, and remand, because the circuit court departed from the essential requirements of law.

The City filed an application with the Authority requesting a permit to construct a public pier to extend into Clearwater Harbor from upland owned by the City. The pier was to be 200 feet in length and was to have a 100 foot long T-end. Located approximately 200 feet to the north of the site of the proposed T-shaped pier is the eastern end of the Memorial Causeway. This end of the Memorial Causeway is bordered directly to the south by a narrow, abandoned bridge. Situated about 200 feet to the south of the site is the Pierce 100 Condominium.

Subsequent to filing its application, the City submitted permits which it had obtained from the United States Army Corps of Engineers and the State of Florida, Department of Environmental Regulation. The Authority's staff later held a preliminary hearing on the application, after which it presented to the Authority a recommendation that the application be granted.

The Authority thereafter held two public hearings to consider the City's application. The minutes of these hearings reveal that a total of about 60 residents from the vicinity appeared in opposition. Also, several letters from local residents were introduced in opposition. One of the main reasons submitted by them in opposition was that the proposed dock would have a material adverse affect upon the natural beauty and recreational advantages of the area.

The Authority's rules and regulations governing the construction of docks within Pinellas County, which were adopted pursuant *499 to the

Authority's enabling legislation, Chapter 31182, Laws of Florida (1955), as amended by Chapter 72-664, Laws of Florida (1972) and Chapter 78-602, Laws of Florida (1978), grant the Authority the right to deny a permit for the construction of a dock where it is determined that such construction will adversely affect the natural beauty and recreational advantages of the county. *See* section 5G(5), *Rules and Regulations Governing the Construction of Docks, Piers and Wharves Within Pinellas County* (1981).

The Authority ultimately denied the application solely upon a positive finding of fact that the proposed pier would have a material adverse affect on the natural beauty and recreational advantages of the county.

The City appealed the Authority's decision to the circuit court. After reviewing the record on appeal, the court reversed, stating: "[T]here was no expert testimony presented by opponents to the application and the opinions expressed by a number of citizens who appeared before the [Authority] do not constitute sufficient competent substantial evidence to support the Authority's finding."

[1] Although it is for a circuit court acting in its appellate capacity to ascertain if administrative action is supported by substantial competent evidence, *see City of Deerfield Beach v. Vaillant*, 419 So.2d 624 (Fla.1982), a circuit court acting in such a capacity departs from the essential requirements of law if, in determining whether the administrative action is supported by substantial competent evidence, it reevaluates the credibility of evidence, *see City of Miramar v. Giordano*, 423 So.2d 1032 (Fla. 4th DCA 1982), or reweighs conflicting evidence, *see Town of Mangonia Park v. Palm Beach Oil, Inc.*, 436 So.2d 1138 (Fla. 4th DCA 1983); *Giordano*.

[2] In the case at bar, the circuit court departed from the essential requirements of law by reevaluating the competency of the evidence; it usurped the Authority's fact-finding function. **The local, lay individuals with first-hand knowledge of the vicinity who were heard in opposition at the two public hearings were as qualified as**

"expert witnesses" to offer views on the ethereal, factual matter of whether the City's proposed dock would materially impair the natural beauty and recreational advantages of the area. Hence, assuming it found their objections credible, the Authority was entitled to accord great weight to their cumulative objections. Its decision to deny the application on the sole ground that the proposed dock would materially impair the natural beauty and recreational advantages of the area implicitly shows that it found their objections credible, and, as a result, attached overriding weight to their objections.

Accordingly, we grant the writ of certiorari, reverse, and remand with instructions that the Authority's denial of the City's application be reinstated.

REVERSED and REMANDED.

RYDER and LEHAN, JJ., concur.

All Citations

440 So.2d 497

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719 So.2d 1204

District Court of Appeal of Florida,
Third District.

METROPOLITAN DADE COUNTY a/

k/a Miami-Dade County, Petitioner,

v.

SECTION 11 PROPERTY
CORPORATION and Waycar Commercial
Properties, Inc., Respondents.

No. 98-761.

Aug. 12, 1998.

Rehearing Denied Nov. 18, 1998.

County commission denied requested special exception to permit land to be developed as mini self-storage facility. Property owners appealed. The Circuit Court, Dade County, Appellate Division, Michael B. Chavies, Marc Schumacker, and Jeri B. Cohen, JJ., reversed denial of special exception. County petitioned for writ of certiorari. The District Court of Appeal, Goderich, J., held that evidence supported commission's denial of special exception, as commission could consider aesthetics as well as use in examining issue of compatibility.

Petition granted, order quashed, and county commission's resolution reinstated.

West Headnotes (1)

[1] **Zoning and Planning**

➤ Warehousing and storage

Evidence supported county commission's **denial** of requested special exception that would permit land to be developed as mini self-storage facility, as commission could consider aesthetics as well as use in examining issue of compatibility; along with site plan, elevation drawings, and aerial photograph, **commission received testimony of several neighbors**

who characterized project as industrial and who stated that project would be aesthetically incompatible with surrounding residential neighborhood.

8 Cases that cite this headnote

Attorneys and Law Firms

*1204 Robert A. Ginsburg, County Attorney, and Jay W. Williams, Assistant County Attorney, for petitioner.

Bilzin Sumberg Dunn Price & Axclrod, Stanley Price, Eileen Ball Mehta and Michael W. Larkin, Miami, for respondents.

Before COPE, GODERICH and SORONDO, JJ.

Opinion

GODERICH, Judge.

The petitioner, Metropolitan Dade County, seeks a writ of certiorari to the circuit court, appellate division, quashing the circuit court's opinion. We grant the petition.

In the underlying case, Section 11 Property Corporation and Waycar Commercial Properties, Inc., the owners of a three-acre parcel of property currently zoned BU-1A (limited business district), petitioned the Metropolitan Dade County Commission for a special exception that would permit the land to be developed as a mini self-storage facility.¹

¹ A self-storage facility is a permitted use in the BU-1A zone if approved as a special exception by a public hearing.

At the hearing, the applicants presented a site plan, elevation drawings, and an aerial photograph. The proposed development, located in a mostly residential area, included six single-story storage buildings and a large two-story storage building connected to a small two-story office building. Four of the seven long, rectangular buildings, including the two-story storage building, were each longer

than a football field. Except for the small office building, each of the buildings was windowless with access to the storage bays through garage-style overhead metal doors.

At the hearing, the County's Planning and Zoning Divisions recommended approval of the application for the special exception stating that the self-storage facility, with a landscape buffer, would be compatible with the surrounding areas and would be consistent with the County's Comprehensive Development Master Plan. The County's Zoning Division opined that the proposed use would generate substantially less traffic volume than other permitted uses. On the other *1205 hand, neighbors vehemently opposed the proposed use. Neighbors stated that there was no need for such a facility, and that such a facility would increase traffic and noise, decrease property values, and be industrial-looking and not aesthetically pleasing. After considering all the evidence, the County Commission passed a resolution denying the application for a special exception finding that "the requested special exception would not be compatible with the area and its development and would not conform with the requirement and intent of the Zoning Procedure Ordinance, and that the requested exception would have an adverse impact upon the public interest...."

The applicants appealed this denial to the circuit court sitting in its appellate capacity. In its opinion, the circuit court properly explained that a special exception is a permitted use to which the applicant is entitled unless the zoning authorities determine that the use would adversely affect the public interest and that once the applicant demonstrates compliance with the applicable legislative criteria, there is a presumption that the use applied for is permitted and the burden shifts to those who oppose the exception to demonstrate by substantial competent evidence that the proposed use is adverse to the public interest. The circuit court then noted that in this case the County had conceded that the applicants had met the legislative criteria and that the sole issue before it was to determine whether the County Commission's finding of incompatibility was supported by substantial competent evidence. The circuit court then reviewed the evidence

presented at the hearing and determined that the only opposition testimony heard was that of the neighbors who stated that there was no need for such a facility, and that such a facility would increase traffic and noise, decrease property values, and be industrial-looking and not aesthetically pleasing. The circuit court then noted that although fact-based citizen testimony can constitute substantial competent evidence, in this case, the citizen testimony was merely opinion. On this basis, the circuit court found that the County Commission's finding of incompatibility was not supported by substantial competent evidence and reversed the County Commission's denial of the special exception.

The County now petitions this Court for a writ of certiorari to the circuit court quashing the circuit court's order. The County contends that the circuit court departed from the essential requirements of law by reversing the County Commission's denial of the requested special exception where the Commission's denial was supported by substantial competent evidence. We agree.

In the instant case, when the Commission examined the issue of compatibility, it properly considered aesthetics, as well as use. *Encuentros Familiares, Inc. v. Musgrove*, 511 So.2d 645, 648 (Fla. 3d DCA 1987); *City of St. Petersburg v. Cardinal Indus. Dev. Corp.*, 493 So.2d 535, 537-38 (Fla. 2d DCA 1986). The Commission received the testimony of several neighbors who characterized the project as "industrial" and who stated that the project would be incompatible with the surrounding residential neighborhood. Specifically, one neighbor stated that the self-storage facility would be "an eyesore." He commented that any proposed landscaping to try to enhance the appearance of the self-storage facility would not be effective and stated, "it's almost like trying to put an elephant in a Volkswagon, you still know the elephant is there." This fact-based testimony regarding the aesthetic incompatibility of the project with the surrounding neighborhood, coupled with the site plan, elevation drawings, and the aerial photograph constituted substantial competent evidence supporting the denial of the exception. *Metropolitan Dade County v. Sportacres Dev. Group, Inc.*, 698 So.2d 281,

Metropolitan Dade County v. Section 11 Property Corp., 719 So.2d 1204 (1998)

23 Fla. L. Weekly D1866

282 (Fla. 3d DCA 1997); *Metropolitan Dade County v. Blumenthal*, 675 So.2d 598, 607 (Fla. 3d DCA), *review dismissed*, 680 So.2d 421 (Fla.1996). Where, as here, the County Commission's denial of the special exception was supported by substantial competent evidence, we find that the circuit court departed from the essential requirements of the law.

We grant the petition for writ of certiorari, quash the order of the circuit court, and reinstate the County Commission's resolution *1206 denying the application for the special exception.

All Citations

719 So.2d 1204, 23 Fla. L. Weekly D1866

End of Document

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APPENDIX and AUTHORITIES

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FW: 202 Onondaga Proffer re 9 27 17 hearing

Kelly Churney <KChurney@TownofPalmBeach.com>

Thu 9/28/2017 2:39 PM

Inbox

To: James K. Green <jkg@jameskgreenlaw.com>; John C. Dotterer <jdotterer@hotmail.com>;

Cc: John Lindgren <JLindgren@TownofPalmBeach.com>;

Gentleman,

The Town has received the proffer submitted by John Dotterer in regard to ARCOM case B-020-2017 202 Onondaga Avenue and the said proffer will be included as part of the Record of these proceedings.

Thank you,

Kelly Churney
Office Assistant III

Town of Palm Beach
Planning, Zoning & Building
360 S. County Rd.
Palm Beach, FL 33480
561-227-6408
561-835-4621 (fax)
www.townofpalmbeach.com

From: John C. Dotterer [mailto:jdotterer@hotmail.com]
Sent: Wednesday, September 27, 2017 8:33 PM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Cc: John Lindgren <JLindgren@TownofPalmBeach.com>
Subject: 202 Onondaga Proffer re 9 27 17 hearing

Please file the following Neighbors' timely proffer in abbreviated form of some material not allowed to be heard at the end of presentations at the Arcom 9 27 17 hearing on 202 Onondaga; Applicant's counsel agreed could be submitted within 24 hours:

- 1. Allowing project would set horrific precedent to build oversized future projects on Onondaga and surroundings causing canyon effects on these unique small lanes.**

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2. Merriam Webster, etc. definitions: "dissimilar" - unlike, not the same, different; "excessively" - exceeding, going beyond what is usual, normal, greater than what is usual or proper, to a greater degree.
3. Mr. Cope determined that the distance from the structure at 200 Esplanade to the Site is 225', beyond the 200' required by 18-205(a)(6).

Please forward a copy to Mr. James Green, counsel for Applicant. I do not yet have his email address and will be travelling tomorrow.

Thank you.

Best Wishes,

John C. Dotterer

Jdotterer@hotmail.com

Please be advised that under Florida law, e-mails and e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact the Town of Palm Beach by phone at (561) 838-5400, or in writing: 360 S. County RD, Palm Beach, FL 33480.

Susan A. Owens; MPA, MMC
Town Clerk

Richard M. Kleid, President
Town Council

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

November 8, 2017

Appeal to Town Council

***Of Arcom Case B-20-2017
202 Onondaga LLC.
rendered June 28, 2017***

I note that one of two Appeals in Arcom Case B-020-2017 (202 Onondaga), that is, from the Arcom decisions rendered on September 27, 2017 filed October 9, 2017 has been placed on Council's November 14, 2017 Agenda.

An earlier separate Appeal from the Arcom June 28, 2017 decisions in the same case had been duly tendered to the Clerk on July 10, 2017 and filed and the filing fee paid. However, I have not seen that this earlier Appeal has been placed on any Council agenda for hearing (despite the expiration of the 45 days, on August 24, 2017 for decision under Code Sec. 18-177).

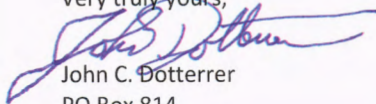
In connection therewith, we submit *Appendix from the Record Below and Authorities* supporting that earlier Appeal to the Town Council of the Arcom

decisions stated therein made on *June 28, 2017*. The Appendix includes a copy of that Letter of Appeal at Sec. 1.

Please ask staff to file and distribute this submittal to Mayor and Members of the Town Council.

Would the Town please advise as to the Council hearing status ?

Very truly yours,



John C. Dotterer

PO Box 814

Palm Beach FL 33480

jdotterer@hotmail.com

(561) 475- 9500

Cc: John C. Randolph, Esq.

John S. Page, *Director of Planning and Zoning*

Paul Castro, *Zoning Administrator*

James K. Green, Esq.

Ms. Kelly Churney

**Town of Palm Beach
Town Council**

APPEAL FROM THE ARCHITECTURAL REVIEW COMMISSION

**From ARCOM CASE B-020-2017
Application of 202 Onondaga, LLC**

Decisions at its June 28, 2017 Meeting

On

**Neighbors' Motion to Dismiss
(timely submitted to the Town Clerk July 10, 2017)**

***NEIGHBORS' APPENDIX FROM RECORD BELOW
And Authorities***

APPEAL FROM THE ARCHITECTURAL REVIEW COMMISSION

Decisions at its June 28, 2017 Meeting

Arcom Case B-020-2017

Application of 202 Onondaga, LLC.

(timely submitted to the Town Clerk July 10 , 2017)

Index to:

***NEIGHBORS' APPENDIX of RECORD BELOW
And Authorities***

- | | |
|---|----------------|
| 1. Letter of Appeal to Town Clerk | July 7, 2017 |
| 2. Town of Palm Beach Code 18-170(b) | |
| 3. Group In Opposition List, Mr. Kolins | June 28, 2017 |
| 4. Transcript - Excerpts of Hearing | June 28, 2017 |
| 5. ARCOM Application | March 22, 2017 |
| 6. Agenda, ARCOM | April 26, 2017 |
| 7. Minutes, ARCOM | April 26, 2017 |
| 8. Agenda, ARCOM | June 28, 2017 |
| 9. Minutes, ARCOM | June 28, 2017 |
| 10. Application, "Rev 1" for hearing | June 13, 2017 |
| June 28, 2017[excerpt, annotated] | |
| 11. Town of Palm Beach Code 18-177 | |

APPENDIX and AUTHORITIES

1

RECEIVED

Susan A. Owens; MPA, MMC
Town Clerk
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480
July 10, 2017

11-14-17 TOWN CLERK

Re. Appeal to Town Council
Of Arcom Case B-22-2017
202 Onondaga Ave.
rendered June 28, 2017 on
Neighbors' Motion to Dismiss

We respectfully appeal to the Town Council, the decision of the Architectural Review Commission rendered on June 28, 2017 in Arcom Case No. B – 22 – 2017 on Neighbors' Motion to Dismiss ("Motion"). The motion was made on the record at the beginning of the June 28 Arcom hearing because the March 22, 2017 Application was fatally defective for at least 2 reasons:

1. Applicant and its Architect had failed to comply with the mandatory requirements of Code 18-170, requiring that Members of the Commission ("ARCOM"), whose firm represents an Applicant before the Commission shall state the conflict of interest:
 - a. On the Application at the time it is submitted; and
 - b. On the Agenda of the Hearing.

Here, Richard Sammons, Chairman of Arcom, whose firm, Fairfax and Sammons, represents the Applicant did not state the conflict either on the Application as filed, as revised, nor on the Agenda.

2. The Application, as revised stated in its June 13, 2017 opening "Written Narrative of Changes to ARCOM Revision #2 Record Drawings – June 13, 2017" - the "executive summary" most likely to be relied upon for basic information, stated: "Overall height of two story portion of the residence has been decreased by 6 " " [underscore added], when in fact the drawings on no less than 5 sheets A-100, A-200, 201, 202, 203

establish that the "Overall Height," had been increased by 1.79 feet (from 24 feet 4 1/4 inches originally to 26' 2" in REV 2). Sht. A-100 summary table: "Overall Height . . . of Two Story . . . = 26' 2" ." [June 13 Rev 2 at A-100]. On elevation sheets A-200, 201, 202, 203, overall height on is now dimensioned on "CURRENTLY PROPOSED" at 26'- 2" vs. 24'-4 1/2" on "PREVIOUSLY PROPOSED".

Thus, the drawings, as admitted at the hearing, contradict the "Narrative of Changes" summary: The "Overall Height" was actually increased by 1.79 feet, rather than being decreased by 6" (.5') as represented in Applicant's narrative.

Overall height has always been a central issue in the case and among the main reasons that so many residents registered objection to the Spec Project on this entirely low roofed Enclave of some 14 excessively dissimilar structures within 200 feet of the Site. Code 18 – 205 (a) (6).

Applicant's excuse at the hearing that it was referring to the building height is unavailing. The Application "Narrative" touted a 6 inch decrease in "Overall Height," when in fact the plans themselves show an increase of "overall height." Sheet A-001, June 13, 2017 REV 2, actually uses the words "MAX. OVERALL HEIGHT: . . . TWO STORY: "at 26'-2".

Thus, the Application was materially misleading and did not properly inform the public

We therefore respectfully move Council to reverse Arcom's errant decision, and grant the Motion to Dismiss.

Respectfully submitted,

W. Bradford and Susan Gary
229 Onondaga Avenue,
Palm Beach. FL 33480

APPENDIX and AUTHORITIES

2

Sec. 18-170. - Conflicts of interest.

- (a) If excessive conflicts of interest arise during any one calendar year, the architectural commission member shall be automatically removed from the commission. Excessive conflicts of interest are defined as five or more conflicts of interest in any one calendar year. Continuing conflicts of interest on a single application, once declared, shall not be counted as additional conflicts of interest. This rule shall apply from the date of adoption to the end of the 2013 calendar year and shall be applicable, thereafter, on a calendar year basis.
- (b) If a member of the commission has a conflict of interest resulting from that member or the member's firm representing an applicant before the commission, it shall be the duty and obligation of the member having the conflict to comply with the following requirements:
- (1) Notification of the conflict of interest shall be noted on the application form at the time of the submission of the application. The conflict will be identified on the commission agenda.
 - (2) The member having the conflict of interest shall not participate in the discussion and shall leave the chamber until the item is concluded.
 - (3) The member having the conflict shall not present the project to the commission, except in a case where the commission member is a sole practitioner who is unable to represent a client through an associate.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

APPENDIX and AUTHORITIES

3

Submitted by
Ron Kolins
6/29/17

ARCOM Case No. 20-2017

202 Onondaga Avenue

Group in Opposition

The following residents of the Town of Palm Beach are collectively being represented by
Ron Kolins:

1. John C. Dotterer: 1470 North Ocean Boulevard
2. Susan and Brad Gary: 229 Onondaga Avenue
3. Jackie and Dick Murphy: 230 Onondaga Avenue
4. Elsa Messing: 201 Onondaga Avenue
5. Marie Drelich: 215 Onondaga Avenue
6. Ben Turnipseed: 211 Esplanade Way
7. Tom and Kathi Holland: 321 Arabian
8. Susi Rose and Lisa Lager: 1464 North Ocean Boulevard
9. David Leavitt: 1480 Via Manana
10. Per and Rachel Lorentzen: 231 Osceola Way
11. Virginia (Cooky) Donaldson: 227 Brazilian Avenue
12. Lawrence Moens: 1480 North Lake Way
13. Lawrence Moens: 1473 North Lake Way

14. Nixon Griffis: 217 Mediterranean Avenue
15. Kooshe A. Aiken: 145 Seagate Road
16. Anne and William Metzger: 277 Esplanade Way
17. Jacqueline Murphy: 230 Onondaga Avenue
18. Tracy Huntington: 1464 Laurie Lane
19. Jennifer Garrigues: 246 Esplanade Way
20. Kathy Delaney: 1465 North Lake Way
21. Molly Noonan: 1469 North Lake Way
22. Susie Rose: 1464 North Ocean Boulevard
23. Maureen Wilkens: 1491 North Ocean Boulevard

APPENDIX and AUTHORITIES

4

//

City of Palm Beach Meeting

June 28, 2017

CITY OF PALM BEACH

ARCHITECTURAL COMMISSION

APPLICATION B-020-2017

APPLICANT:

202 Onondaga LLC

EXCERPT OF PROCEEDINGS

VOICE-TO-TEXT TRANSCRIPTION

AUDIO-RECORDED MEETING

Wednesday, June 28, 2017

360 South County Road
Palm Beach, Florida

LOIS L. MCINNIS-KELLEHER, FPR
Florida Professional Reporter

City of Palm Beach Meeting
June 28, 2017

6 to 9

Page 6 1 opposition to the proposed project; I met with 2 the architect, Mr. Torres; and I also met with 3 an attorney, Ron Kolins, representing, I 4 believe, 13 people in opposition. 5 Thank you. 6 I reviewed the plans, I should say. 7 MALE MEMBER: I met, uh, with the 8 architect, uh, on site. I, um, walked the 9 entirety of, uh, Esplanade, Onondaga, Lorie 10 Lane, Deborah Lane, Manana Lane. 11 I received all of the same, uh, e-mails 12 right up until about 8:45, uh, this morning, 13 the majority of which were in opposition; some 14 were in favor. 15 I met with attorney Ron Kolins, who 16 represents some individuals in opposition; and 17 I spoke with John Dotterrer, a neighbor, who, 18 uh, also spoke in opposition. 19 MALE MEMBER: Um, I made another site 20 visit. Uh, I received e-mails forwarded from 21 the town, uh, mostly against the project, and 22 some for it. 23 I also took a call from, uh, Susan Gary, 24 who expressed, um, massing of the proposed 25 house concerns.	Page 8 1 listen to that sort of stuff, and I only judge 2 each project because of the architecture. 3 Thank you. 4 FEMALE MEMBER: I also need to amend that 5 I also met with a project architect. 6 CHAIRWOMAN VANNECK: Anybody else? 7 Okay. Thank you. 8 MR. LYNCH: Good morning, Frank Lynch. 9 Just as a point of order, we are still seeking 10 a variance. Uh, it relates to the existing 11 nonconformity of the house on the east side. 12 Um, we did remove the variance as it 13 relates to the west side. But, because we are 14 renovating more of the structure -- I'm sorry, 15 I've got it reversed. Mr. Ives corrected me, 16 and thank you. 17 We have removed the variance on the east 18 side. We have the nonconformity on the west 19 side that will remain, although it is being 20 diminished. 21 Um, so that variance continues, because we 22 are renovating more than 50 percent of the 23 cubic footage of the structure. So you will 24 still need to -- to, um, give a recommendation, 25 based on that.
Page 7 1 FEMALE MEMBER: I met with the architect 2 at their office, uh, recently, uh, for the 3 second time, and reviewed the revised plan with 4 him. And I received and read all of the 5 letters of support and opposition. 6 I am also acquainted with the builder on 7 this project, and we've had a couple of 8 conversations regarding this project. 9 FEMALE MEMBER: I drove the area -- I 10 drove the area -- drove the area, and reviewed 11 the mini sets multiple times. I reviewed the 12 correspondence that was relayed to the town. 13 Um, I also re-reviewed the minutes from the 14 previous meeting that this was discussed at. 15 Um, I did meet with Ms. Gary, very 16 briefly, but we did not really discuss the 17 property, other than she expressed that she was 18 not in support. 19 FEMALE MEMBER: Um, before you start, I 20 have to amend. I did receive a phone -- two 21 phone calls from the builder, um, requesting to 22 meet, and because he said he felt that he had 23 been misrepresented by certain people. 24 And I told him, point blank, that, after 25 17 years with Landmarks and ARCOM, I don't	Page 9 1 And, with that, I'll turn it over to 2 Ms. Fairfax. 3 CHAIRWOMAN VANNECK: Can you use your -- 4 can you use your microphone, please. It's not 5 on. And state your name, for the record. 6 MR. KOLINS: Oh, there we go. I'm sorry. 7 I'm sorry to interject. My name is Ron 8 Kolins. But I have a point of procedure that 9 I'd like bring, before -- before the 10 substantive presentation on behalf of the 11 applicant begins. 12 SPEAKERS: (Inaudible.) 13 CHAIRWOMAN VANNECK: This is new to me 14 that we don't do the presentation first, and 15 then have some -- 16 MALE MEMBER: I guess he -- he has a 17 procedural question or comment, which I think 18 you can listen to prior to the substance of 19 this, but -- 20 CHAIRWOMAN VANNECK: Okay. Thank you. 21 MALE MEMBER: -- I'm not sure what it is. 22 CHAIRWOMAN VANNECK: Mr. Kolins. 23 MR. KOLINS: Uh, I have two of them, and, 24 uh, let me start with the first one. And the 25 reason that I wanted to bring this up now is

City of Palm Beach Meeting

June 28, 2017

10 to 13

Page 10 1 because I believe that it will make the 2 presentation today moot. 3 Uh, I believe that this application is 4 fatally defective, and defective on its face, 5 because it violates Section 18170 of your code. 6 Pardon me. 7 Section 1 -- 18170 requires, it 8 mandates -- it's not discretionary -- it 9 mandates that when a member of ARCOM has a 10 conflict of interest in a case, that conflict 11 must be reflected on the application and, in 12 turn, be reflected in the, uh -- the, uh -- uh, 13 the agenda. 14 I looked at the application pretty 15 carefully. That conflict was not disclosed. 16 In turn, it does not appear on the agenda. 17 That means that this application must be 18 dismissed, because it is facially and fatally 19 defective. 20 CHAIRWOMAN VANNECK: Okay. You're up. 21 MR. RANDOLPH: I have no idea what -- 22 what -- what commissioner had a conflict, but 23 normally -- 24 CHAIRWOMAN VANNECK: Uh, Mr. Sammons is 25 part of the architectural, uh, firm.	Page 12 1 application not go forward. 2 MR. KOLINS: Well, if, uh -- that may be 3 Skip's opinion. And I would like to just 4 complete my record on this point, and then you 5 can rule as you will. 6 But I would like to quote from the section 7 of the code. Notwithstanding that Mr. Sammons 8 may have recused himself at the last meeting, 9 the code says, if a member of the commission 10 has a conflict of interest resulting from that 11 member or member's firm representing an 12 applicant before the commission, it shall be 13 the duty and obligation of the member having 14 the conflict to comply with the following 15 requirements: 16 One, notification of the conflict of 17 interest shall be noted on the application form 18 at the time of submission of the application. 19 The conflict will be identified on the 20 commission agenda. 21 Now, notwithstanding Skip's approach, 22 which says, well, since he announced the 23 conflict, it's okay; it's not okay. This is 24 clear. This is mandatory. And I ask that the 25 application be dismissed, on that basis.
Page 11 1 MR. RANDOLPH: Oh. 2 Well, has -- haven't you and JP 3 previously, uh, disclosed that? 4 MALE MEMBER: Mr. Sammons was here at last 5 month's meeting, and he did recuse himself 6 publicly from this discussion. Of course, he's 7 not here today. 8 MR. RANDOLPH: And then it's a 9 procedural -- procedurally, you announce on the 10 minutes what -- 11 MALE MEMBER: He completes a -- he 12 completes a -- a conflict form for public 13 record purposes, correct. 14 MR. RANDOLPH: And he did that? 15 MALE MEMBER: I would have to take a look 16 at Kelly. 17 MR. RANDOLPH: Okay. 18 Well, I think -- 19 KELLY: It's in the minutes. 20 MALE MEMBER: Okay. 21 MR. RANDOLPH: Okay. 22 And that's in the minutes? 23 MALE MEMBER: Uh-huh. 24 MR. RANDOLPH: I do not consider that a -- 25 a procedural defect that would make this, uh,	Page 13 1 CHAIRWOMAN VANNECK: Um, thank you, 2 Mr. Kolins. Um -- 3 MR. RANDOLPH: Do you want to keep -- 4 CHAIRWOMAN VANNECK: Because we've already 5 heard this once, I think that the horse has 6 left the barn. That is my opinion. We can 7 poll the rest of the commissioners. 8 MR. RANDOLPH: Can I ask a question of -- 9 CHAIRWOMAN VANNECK: You may. 10 MR. RANDOLPH: -- of Mr. Kolins? 11 How -- 12 MR. KOLINS: Sure. 13 MR. RANDOLPH: -- how has your client been 14 prejudiced as a result of what you consider a 15 procedural defect? 16 MR. KOLINS: The issue is not prejudice, 17 because we don't know how many people out there 18 in the public have been prejudiced by this. I 19 don't know. 20 The question is whether or not this is a 21 mandatory requirement. I think, Skip, if you 22 look at this language, you would have to agree 23 that it is. And if it's a mandatory 24 requirement, and it hasn't been met, the 25 application is defective.

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Page 14 1 MR. RANDOLPH: I -- I believe you can 2 proceed. I do not believe that -- that -- that 3 this is fatally defective to the, uh, 4 application moving forward. 5 It is a procedural requirement, but I do 6 not feel that it is fatally -- fatally 7 defective to this application going forward, 8 because I believe the purpose of this is to -- 9 for you to be informed, uh, of the -- of the, 10 uh, conflict, and for the person that has the 11 conflict to announce it at the public meeting, 12 and to file the appropriate form. 13 CHAIRWOMAN VANNECK: Thank you. 14 As I said, I think the horse has left the 15 barn. And you can, you know, if -- you can 16 appeal it to the town council. 17 Um, Mr. Ives, do you have an opinion? 18 MR. IVES: That was -- I was going to say 19 that, I think we've gotten Skip's opinion, and, 20 if you want to appeal this, and criticize our 21 procedure -- 22 MR. KOLINS: Sure. I just -- I just -- 23 MR. IVES: -- to the town council, you 24 can. 25 MR. KOLINS: -- I just want to know what	Page 15 1 your decision is on it, and -- 2 CHAIRWOMAN VANNECK: All right. 3 MR. KOLINS: -- just tell me whatever it 4 is. 5 CHAIRWOMAN VANNECK: I think that we have 6 a lot of people here, who have spent an awful 7 lot of time on this projectment. And while I 8 personally would -- am getting up there, um, I 9 think we need to hear it. 10 MR. KOLINS: So that's that the -- 11 MR. SMALL: Madam Chair, I'd like to, uh, 12 move that, uh, we proceed in accordance with 13 our counsel's, uh, legal advice. 14 MR. KOLINS: Can I make a -- 15 MR. GARRISON: I second that motion. 16 MR. KOLINS: I'm sorry. 17 CHAIRWOMAN VANNECK: All -- all in favor? 18 MALE MEMBER: Yes. 19 CHAIRWOMAN VANNECK: Opposed? 20 MR. KOLINS: I'd like to make a second 21 procedural point, ma'am, if I may. 22 THE CHAIRPERSON: Sure. 23 MR. KOLINS: As part of, uh, the public 24 notice, um, people that get notification get 25 something called notification to property	Page 16 1 owners. And that was, in fact, done in this 2 case, and I have a copy of it here. 3 Now, I stand to be corrected if my 4 technical analysis is wrong, and if the 5 architects for the applicant can show that I'm 6 wrong, so be it; however, there are two 7 statements made on this notice to the public 8 that I believe are factually incorrect. 9 One, it says -- and this is comparing the 10 application as it is before you today, as 11 compared to the plans you had back in April. 12 It says the overall height of the 13 two-story portion of the residence decreased -- 14 decreased by six inches. As I and other people 15 who are more knowledgeable than me about these 16 things have looked at the plans themselves, 17 that is incorrect, and, in point of fact, it 18 has been raised by 1.8 inches or one foot eight 19 inches. 20 The second point says, overall -- overall 21 height of the one-story guest bedroom pavilion 22 has been decreased by three inches. Our review 23 shows that also is incorrect, and, in fact, it 24 is one foot four inches higher. 25 Now, unless the applicant can show that	Page 17 1 I'm wrong, the notification to the public is 2 wrong. And I think, at the very least, this 3 case would have to be deferred, so that they 4 can correct that, uh, uh, error, if, indeed, 5 it's an error. If I'm wrong, I will stand 6 corrected, but I don't think so. 7 CHAIRWOMAN VANNECK: Is this in the notice 8 to, uh, the neighbors -- 9 MR. KOLINS: Yes, ma'am. It's the full -- 10 CHAIRWOMAN VANNECK: -- and -- yes, but 11 wait a second. 12 MR. KOLINS: Yes. 13 CHAIRWOMAN VANNECK: Was this executed 14 this month or a prior month? 15 MR. KOLINS: No. This is -- this is for 16 this month. Um, uh, this -- this talks about, 17 as I understand it -- and again, please, if I'm 18 wrong, I will stand corrected. 19 But these changes reflect, as I understand 20 it, changes from the last plans to these plans. 21 If that's not true, then I will be quiet and 22 let them proceed, but that's my understanding. 23 CHAIRWOMAN VANNECK: Okay. 24 Mr. Torres, if you would identify 25 yourself.
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Page 18 1 MR. TORRES: Yes. 2 Good morning. Jaime Torres for Fairfax 3 and Sammons architects. 4 And I think what you're referring to, sir, 5 is the overall height of the building. What 6 we're referring to was the massing of the 7 building itself, not the roof. 8 So the massing of the building itself was 9 reduced six inches in the -- from the top down, 10 and it was also reduced six inches from the 11 bottom up, by raising the grade. So, in fact, 12 it's not only six inches, it's twelve inches. 13 MR. KOLINS: Well, then why -- I -- 14 MR. TORRES: (Inaudible) -- 15 MR. KOLINS: I'm sorry to do this, but, I 16 mean, a review of the plan shows that it's 17 higher by a foot eight inches. 18 MR. TORRES: Yes. 19 MR. KOLINS: I'm talking about the overall 20 height of the two-story portion. 21 MR. TORRES: Yeah. You are talking about 22 the overall height of the building. We're 23 talking about the building itself 24 (inaudible) -- 25 MR. KOLINS: No. No. I'm talking about	Page 20 1 MR. KOLINS: Yes. Thank you. 2 CHAIRWOMAN VANNECK: So, Mr. Torres, 3 you're up. 4 MR. TORRES: Thank you. 5 Actually, Mrs. Ann Fairfax will be making 6 the presentation for Richard Sammons. 7 CHAIRWOMAN VANNECK: Thank you. 8 * * * * * 9 CHAIRWOMAN VANNECK: Seeing none, we are 10 now going to listen to the audience. And if 11 you're not an attorney, or representing an 12 attorney, three minutes is the limit. 13 Mr. Kolins, I thought you retired, but 14 I'll still give you the full time limit. 15 MR. KOLINS: This case brought me out of 16 retirement, I'm assuring you of that. 17 Your procedure, the last time you heard 18 this case, Madam Chair, was to have any 19 speakers that were proponents of the 20 application to go first. I think that might be 21 the best thing to do, if you agree. 22 CHAIRWOMAN VANNECK: I don't listen to 23 anyone in any particular order. It's -- 24 MR. KOLINS: Okay. 25 CHAIRWOMAN VANNECK: -- it's whoever gets
Page 19 1 what you've got in (inaudible.) 2 MALE SPEAKER: Might I interject, Ron? 3 MR. KOLINS: Yes. 4 MALE SPEAKER: It seems to -- may I have 5 the mike? 6 MR. KOLINS: I'm sorry. 7 I didn't want you to get it, but 8 (inaudible.) 9 MALE SPEAKER: It seems to me that that is 10 something that you can argue in the 11 presentation of the application, but I -- I 12 don't -- you -- you've received a response in 13 regard. 14 Now you're becoming argumentative in 15 regard to it, so I think -- 16 MR. KOLINS: I didn't want to do that, 17 after what we heard earlier today about being 18 civil. 19 So, okay, I'll, uh -- I'll save more of 20 this, if I need to, for later on, if that's 21 okay with you, Madam Chair. 22 CHAIRWOMAN VANNECK: Well, you can have -- 23 you have time after -- after the presentation. 24 MR. KOLINS: Yes. Exactly. 25 CHAIRWOMAN VANNECK: Thank you.	Page 21 1 up first, gets to speak first. 2 MR. KOLINS: All right. Let me go ahead. 3 My name is Ron Kolins, K-O-L-I-N-S. I am 4 here today representing a consortium of 5 homeowners, citizens of this town, who own 23 6 properties in and about this area. 7 With your permission, I'd like to submit 8 the list of the people that I'm representing, 9 for the record. I can read all the names, if 10 you'd like, but, in any event, suffice it that 11 there are 23. Probably a bit larger a group of 12 opponents than you're used to, which speaks 13 volumes about this case. 14 I do regret that it appears that at least 15 some of you have made statements suggesting you 16 made up your mind about this case before I or 17 anyone else from the public could be heard, but 18 I ask you to try to reopen your minds and 19 listen to some of the things that we have to 20 say. 21 The first thing is, I'd like to renew my 22 request earlier, um, that this matter must be 23 deferred because the public notice is 24 defective. 25 And I renew it because the architect for

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Page 22 1 the applicant admitted, when he made his 2 presentation in response to a question, I 3 think, from Mr. Corey, but I'm not certain, 4 that, in fact, the, uh, height was higher than 5 it was before, even though the notice says that 6 it is lower. That is a critically important 7 issue. 8 The notice is defective; and, based on 9 that, I ask that this matter be deferred. 10 CHAIRWOMAN VANNECK: Uh, Mr. Randolph, I'm 11 passing the buck. 12 MR. RANDOLPH: It looks like the -- the 13 applicant wished to speak to that issue. I 14 don't know if he did, but that might be -- 15 may -- may or may not be relevant. 16 MR. TORRES: Yes, I do. 17 Um, when we start working on these 18 buildings, the first thing that we do is, 19 obviously, look at the zoning code. And the 20 zoning code has two definitions; building 21 height and overall building height. 22 And what I stated in that application, 23 what we said in that application, was building 24 height, not overall building height. 25 So, you know --	Page 24 1 MR. KOLINS: Please. 2 CHAIRWOMAN VANNECK: -- because I haven't 3 made up my mind yet. 4 Um, I think that it could be prejudicial 5 if we got the notices, but we don't. We have 6 no clue about it. 7 So how can that prejudice us? 8 MR. KOLINS: I will explain, Madam Chair. 9 CHAIRWOMAN VANNECK: Uh, no. No. 10 So, in -- in that regard, I don't think 11 that I find it prejudicial or intentional. And 12 I think we have spent too much time and money, 13 on the part of everyone, um, to re -- restart 14 this whole process. 15 MR. KOLINS: Um, clearly, I understand 16 that you're very likely to follow 17 Mr. Randolph's advice. So, for the record, I'd 18 just like to make one statement about it, and 19 then I'll move on. 20 Um, I'm very disappointed to learn today, 21 in both in the first point of procedure I had 22 and this one, that apparently your rules are 23 interpreted rather loosely. 24 Even if they're mandatory, they're 25 interpreted to be meaningful only if somebody
Page 23 1 MR. RANDOLPH: Well, let me just say this: 2 Obviously, the purpose of notice is to 3 give the neighbors, who have an interest, an 4 opportunity to appear and be heard in regard to 5 the project. 6 Mr. Kolins says he represents 23 people. 7 I know that Mr. Dotterrer is here representing 8 other people. And I'm not sure how anyone 9 could be prejudiced by this alleged defect in 10 the notice. 11 I think if the, uh, notice were such that 12 they were going to put in a one-story house, 13 and they were actually going to put in a 14 two-story house, that that would be certainly 15 defective and prejudicial to the neighbors but 16 I'm not sure, when we're talking about a slight 17 defect in height, if it is a defect, that that 18 is prejudicial. 19 So I -- based upon that, I see no reason 20 to have to readvertise this, and only to have 21 it come back to have the same neighbors that 22 are here today, um, object to the project. 23 CHAIRWOMAN VANNECK: Okay. Thank you. 24 Um, Mr. Kolins, I'm going to wade in for 25 one second, okay, um --	Page 25 1 decides somebody was hurt by it or prejudiced 2 by it, but not if you're not sure that they 3 were. That's not what the code is about, and 4 that's not what it's for. 5 So I think these rulings -- and to my good 6 friend Skip Randolph, I think he's just 7 monumentally incorrect on this. 8 But be that as it may, just in response to 9 what you said, Madam Chair, he talked about 10 who's prejudiced. The people that are 11 prejudiced are people that get these notices, 12 and, based on them, decide whether or not they 13 support or object to something, and whether or 14 not they want to come before you and give their 15 views, which is part of a record that you 16 should consider when you make a decision. 17 So I would disagree with Skip. I would 18 disagree with you. But if you tell me that my 19 request is going to be denied, I'll move on. 20 MR. GARRISON: Do we need a motion to deny 21 it? 22 CHAIRWOMAN VANNECK: Yes. I think it 23 would be more appropriate. 24 MR. GARRISON: I'll make a motion that we 25 deny it, and we move on.

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Page 34 1 CHAIRWOMAN VANNECK: Hello. 2 Are you -- 3 MR. DOTTERRER: Pardon me? 4 CHAIRWOMAN VANNECK: -- are you an 5 accredited, uh, engineer? 6 I thought you were a lawyer. 7 MR. DOTTERRER: I -- I am an accredited 8 lawyer, and I have a, uh, degree in 9 engineering, uh, in civil and environmental 10 engineering from the University of Michigan. 11 And, uh, I worked in the construction 12 industry as a -- a field layout engineer on 13 large projects, and as an estimator, and as 14 a, uh -- I did some con -- some, uh, 15 construction management, as well. 16 So I've worked with plans a lot, and so I 17 think the -- what I have to say is within my 18 realm of expertise. Yes. 19 CHAIRWOMAN VANNECK: Um, I'm -- I'm 20 listening to, um, my colleague. 21 MALE MEMBER: I'll make it very clear. 22 Are you a licensed professional engineer in the 23 state of Florida or not? 24 MR. DOTTERRER: No. No, sir, nor an 25 architect. No.	Page 36 1 MR. DOTTERRER: -- 16 slides. 2 And I can move through some of them very 3 quickly, uh, but, uh -- 4 CHAIRWOMAN VANNECK: I will ask you to do 5 that, but -- but when you get to ten minutes, 6 time's up. 7 MR. DOTTERRER: Okay. Thank you. 8 CHAIRWOMAN VANNECK: Is that fair? 9 MR. DOTTERRER: Uh, I hope so. Yes. I 10 hope so, if that's what the -- 11 CHAIRWOMAN VANNECK: Okay. 12 MR. DOTTERRER: -- ruling is. 13 CHAIRWOMAN VANNECK: Okay. 14 MR. DOTTERRER: Um -- 15 CHAIRWOMAN VANNECK: Now -- now you can 16 start the clock. 17 You're on the clock, Mr. Dotterrer. 18 MR. DOTTERRER: Okay. 19 Now, uh, I prepared a PowerPoint 20 presentation. I just learned that, um, it's 21 difficult to operate it from this podium and 22 this computer, where -- where I have my other 23 materials. 24 As an alternative, I have some extra 25 copies that I could pass out. And I would like
Page 35 1 MALE MEMBER: We usually get a CV when we 2 have expert witnesses. So maybe for the vice 3 and the chair -- 4 MR. DOTTERRER: Sure. 5 MALE MEMBER: Do we have the three-minute 6 limit here? 7 CHAIRWOMAN VANNECK: I'm going to give him 8 five, and that's it. 9 MR. DOTTERRER: Okay. Um -- 10 CHAIRWOMAN VANNECK: And we'll -- we'll 11 start the clock now. We'll reset it, and we'll 12 start it now. 13 MR. DOTTERRER: May I raise a point of 14 order and -- 15 CHAIRWOMAN VANNECK: Yes. 16 MR. DOTTERRER: -- technical ability, 17 Madam Chair? 18 Uh, I prepared a PowerPoint presentation 19 to show you. Uh, I understand -- 20 CHAIRWOMAN VANNECK: And what -- what kind 21 of length, please? 22 MR. DOTTERRER: Oh, maybe six, or seven, 23 or eight minutes. It's not that long. It's, 24 um -- 25 CHAIRWOMAN VANNECK: Okay.	Page 37 1 to, um, file it for the record, as well, and -- 2 so I hope the clock hasn't really started -- 3 CHAIRWOMAN VANNECK: Well -- 4 MR. DOTTERRER: -- yeah -- while we handle 5 that. 6 I could pass them out, and we can look at 7 them together, quickly, I think, would be 8 more -- 9 MALE SPEAKER: Just give them to me, and 10 I'll (inaudible.) 11 MR. DOTTERRER: -- more efficient. 12 Sure. 13 MALE SPEAKER: (Inaudible.) 14 SPEAKERS: (Inaudible.) 15 MALE SPEAKER: And, uh, Madam Chair, may I 16 come up, to pass these out? 17 CHAIRWOMAN VANNECK: Certainly. 18 MR. DOTTERRER: Okay. 19 CHAIRWOMAN VANNECK: Uh, you're still on 20 the clock. 21 MR. DOTTERRER: Okay. 22 Well, I -- I have one other point of 23 order. I haven't really begun my presentation 24 yet. But I -- I do have, uh, an exhibit I'd 25 like to file for the record, as well as that

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Page 38 1 one, which is a compilation of the letters from 2 the community. 3 CHAIRWOMAN VANNECK: That should have been 4 done earlier. 5 Let's move along, please. 6 MALE MEMBER: At your service. 7 MR. DOTTERRER: Okay. 8 Let's go to, uh, page two. The applicant, 9 in support of this project, submitted, uh, 10 sheets A406 through A410, in which it submits, 11 uh, photographs of, uh, two-story houses, so it 12 raised the issue. 13 And, uh, drew a radius of, um, 14 approximately 300 feet, which is the light 15 line, and it's been crossed out, and placed on 16 the map, uh, 20 different, uh, properties, 17 which are the little numbers on the map. 18 MALE SPEAKER: Mr. Dotterrer, is there an 19 extra copy of that presentation that -- that 20 the staff can look at? 21 MR. DOTTERRER: Sure. 22 SPEAKERS: (Inaudible.) 23 MALE SPEAKER: Is there an extra copy for 24 the opposing attorney to look at? 25 MR. DOTTERRER: Um --	Page 40 1 the -- the requirement is not met. 2 Here we not only have one property -- one 3 structure within 200 feet that's excessively 4 dissimilar, we have 14 -- 14 that are 5 excessively dissimilar. And those are shown on 6 the next page, which is page eight. And I put 7 little -- I put, uh, block letters on each one, 8 uh, that are within the 200 feet. 9 And the photographs follow, showing the 10 distance from the site, the, uh, height of each 11 one, and, uh, importantly, the cubic content 12 ratio, because those are all matters of the 13 code section that you must apply. 14 And as you can see, they're all very low 15 scaled, low cubic content, cottagy. The -- all 16 three of these streets that are affected are -- 17 is a cottagy bungalow feel. 18 The one house that they, uh, mention on 19 the east side is actually on North Ocean 20 Boulevard. And if you look at, uh, sheet 11, 21 on the right-hand side, it's, uh, property 22 number I or letter I, you see that the house 23 looks directly at North Ocean Boulevard. And 24 when you drive down North -- North Ocean 25 Boulevard, you see the house. It is not on
Page 39 1 SPEAKERS: (Inaudible.) 2 MR. DOTTERRER: Almost all of those, uh, 3 properties are outside of the radius that you 4 must consider, under section 18205. 5 Six, which requires you to deny an 6 application anytime there is any structure 7 within 200 feet that is excessively dissimilar. 8 On the next several slides, uh, are 9 photographs of those, and, uh, we've, uh, 10 crossed out the ones that are not within the 11 radius. 12 Um, on page number two, the thick blue 13 line is the proper radius to be -- or the 14 proper perimeter for -- to be considered, uh, 15 by you. 16 And, uh, we've indicated what the actual 17 distance is of these, uh, houses they've 18 submitted. Some of them are more than 700 19 feet. 20 If we move to, uh, slide number seven, 21 this is on the proper application of the 22 ordinance with which you're familiar, that if 23 there's any structure within 200 feet that is 24 excessively dissimilar, uh, in terms of 25 compatibility, mass, or height, uh, then, uh,	Page 41 1 Onondaga. You don't even see Onondaga. 2 These are the houses that should be -- 3 that must be compared, under the terms of the 4 ordinance. And that goes through sheet 14. 5 Completely different. 6 Now, uh, this shows what we're concerned 7 about, on slide 15. How's that for quick 8 movement? 9 Uh, apparently somebody from the 10 applicant's side was standing on the roof of 11 the subject property, 202 Onondaga, and looking 12 down the street. This is what the rooflines 13 and the roofscapes look like. This will tower 14 over the rest of the street. 15 Page 16, uh, is a comparison. The first 16 column shows the average of the heights within 17 200 feet. It's 14.3 feet, and a cubic content 18 of only 2.02. 19 The existing house there is -- as a 20 height, is shown on their drawings of 21 12-and-a-half feet, and a cubic content of 22 about the same, around 2. 23 And revision number one, which they 24 submitted to you, the -- the height of the 25 roof, which is what we see, was 24 feet. Now

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Page 42 1 <u>it's been increased almost 2 feet, 1.8 feet, to</u> 2 <u>26.17 feet. That's an increase, due to the</u> 3 <u>increase in the slope, from four on two to six</u> 4 <u>on two. The houses in this neighborhood are</u> 5 <u>three on two and four on two.</u> 6 And the cubic content ratio is being 7 requested of 3.49, which is 72 percent more 8 than the 14 properties within the 200 feet, 9 which are to be compared, when considered. 10 You were shown a drawing of, um -- of a 11 one story -- a theoretical one story on the 12 property, but that is quite theoretical, and 13 would be the maximum under the district regu -- 14 regulations, but it does not conform to, uh, 15 this neighborhood at all. 16 And the important point here, as 17 Mr. Kolins said, is that if this one is 18 approved, then there's going to be application 19 after application to fill in all of Onondaga, 20 all of Lorie Lane, and all of Deborah Lane. 21 Uh, the house right next door, 210 22 Onondaga, is, uh, owned by an LLC, also. I 23 understand it just changed hands. And I just 24 found out this morning that the 1,200 square 25 foot house, on a 7,800, uh, square foot lot,	Page 44 1 CHAIRWOMAN VANNECK: Okay. All right. 2 Let's -- three minutes limit on the time clock, 3 please. 4 And please don't be repetitious. 5 MS. GARY: My name is Susan Gary. I think 6 I'm the only here who can claim that. And I 7 reside at 229 Onondaga, which is the street 8 in -- in question. 9 And, um, I'm not going to be repeating 10 what people have said. I've been before you, 11 um, in April on this similar application. And 12 it's about more than -- than just the 13 architecture. 14 It's the -- it's the casualness, the 15 outdoorsiness of the neighborhood that is 16 supported by the architecture, and -- and 17 that's what we're trying to preserve. 18 And really, you can utilize AROOM as a 19 measure. It provides the toolbox to you, so to 20 speak. It provides us the -- the very 21 specific, um, sections in that code that 22 they -- they have both spoken about to provide 23 you with the opportunity to -- to protect what 24 we have up there. 25 It is different. That whole street is --
Page 43 1 next to me, has been bought by the Ken 2 Development Company, Inc. of Bedminster, New 3 Jersey. And so that is what concerns us, uh, a 4 lot, is what is come -- coming next. 5 Under the terms of the ordinance that is 6 governing the decisions of this board, in a 7 quasi judicial capacity, there's no question 8 that this must be denied, when you consider 9 that there are 14 excessively dissimilar 10 properties within the realm that the ordinance 11 requires you to consider. 12 We request that this application be 13 denied, respectfully. Thank you very much. 14 CHAIRWOMAN VANNECK: Thank you. 15 Mr. Lynch. 16 MR. LYNCH: May I respond? 17 CHAIRWOMAN VANNECK: I -- I thought you 18 had fallen asleep. 19 MALE SPEAKER: (Inaudible.) 20 MALE SPEAKER: Excuse me. There may be 21 more people from the public, before Mr. Lynch 22 responds. 23 CHAIRWOMAN VANNECK: Um -- 24 MR. LYNCH: I'll defer. 25 MALE SPEAKER: I'm sorry.	Page 45 1 I know you don't like to hear the term "one 2 story," but roof heights that are very, very 3 low. So we don't have a -- a tunnel. We get 4 the breezes directly fresh from the ocean. I 5 wake up to them every morning. 6 And -- and this is -- this really is the 7 camel's nose in the tent, and that's what we're 8 afraid of. And -- and you're our last -- our 9 only ability to help preserve what we have up 10 there, the very cottagy bungalow feel of the 11 place. 12 And we are unlike other parts of town -- 13 other parts of town. We're not grand, we don't 14 have grand homes, but we like what we have. 15 And all of those homes, on those three 16 contiguous streets, they're original. 17 And -- and we know they're going to be 18 changed, but we're just asking that, because of 19 who you are, and what you can do, is to help us 20 keep that environment that we all love. 21 There are people, like Loris Nolans, who, 22 when he moved up there -- and you know the 23 name. He's part of our group to preserve 24 what's up there, because there are people that 25 like what's there. And it's the openness, the

APPENDIX and AUTHORITIES

5



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 S. County Rd.
Palm Beach, FL 33480

APPLICATION

dated 3/22/17

APPLICATION FOR PROJECT REVIEW BY THE ARCHITECTURAL REVIEW COMMISSIONApplication Number: B-020-2017Date: MARCH 22, 2017

Application Type:

☐
Major
Minor
☒
Combination*
Minor with notice

*If Town Council review required, include Zoning Application Number: _____

I. PROJECT ADDRESS: 202 ONONDAGA AVE / PALM BEACH, FL 33405II. DESCRIPTION OF THE REQUEST: The exact wording in this section will appear on the ARCOM Agenda. Please include a comprehensive summarized description of the proposed project.

RENOVATIONS TO EXISTING ONE STORY
RESIDENCE AND PARTIAL 2ND FLOOR ADDITION
TO SAME. LANDSCAPE AND HARDSCAPE
CHANGES INCLUDED.

Number of Stories: 2 Roof Material (type): CONC. TILEConst. Type: CBS: YES Frame: NO Colors: Building: WHITE Roof: WHITETrim: WHITE Shutters: BLUE *this information to be included on the cover sheet of the ARCOM plansIII. DESIGN PROFESSIONAL(S):
☒
Architect
Landscape Architect
Other: _____
☐
Design Consultant
EngineerName of Professional: FAIRFAX SAMMONS & PARTNERS License #: AR0016906Phone number: 561-805-8591 Email address: JTORRES@FAIRFAXANDSAMMONS.COMIV. OWNER/AGENT INFORMATION:Property Owner's Name: 202 ONONDAGA LLCOwner's Address (if different from Subject Address): 11750 LAKE SHORE PL.NORTH PALM BEACH, FL 33408 Phone number: 617-497-3550Signature (owner or owner's legally authorized agent*): JAIME TORRES - CRUZ
*if signed by a legally authorized agent, must be accompanied by a Power of Attorney or statement from the property owner authorizing the signer to sign on the owner's behalf.(printed name and title) JAIME TORRES - CRUZ (PROJECT MANAGER FOR ARCHITECT)



Jaime Torres-Cruz <jtorres@fairfaxandsammons.com>

202 Onondaga Avenue - Town Council/Arcom Submittal Status

Jim DiBiase <Jim.DiBiase@brcap.com>

Mon, Feb 13, 2017 at 5:42 PM

To: Mike Conville <Mike@beaconconstructiongroup.com>, Jaime Torres-Cruz <jtorres@fairfaxandsammons.com>

Cc: Elizabeth DiBiase <libjim11@comcast.net>, Richard Sammons <rsammons@fairfaxandsammons.com>, Scott Collison <SCollison@fairfaxandsammons.com>

Jaime,

I can also provide a check and can sign the application tomorrow if that's easier, or you can take this email as your authorization to sign the application on behalf of 202 Onondaga LLC. Please let me know what is easier.

Jim

From: Mike Conville [Mike@beaconconstructiongroup.com]

Sent: Monday, February 13, 2017 5:27 PM

To: Jaime Torres-Cruz

Cc: Elizabeth DiBiase; Jim DiBiase; Richard Sammons; Scott Collison

Subject: Re: 202 Onondaga Avenue - Town Council/Arcom Submittal Status

[Quoted text hidden]

Detail by Entity Name

Florida Limited Liability Company
202 ONONDAGA LLC

Filing Information

Document Number	L17000006750
FEI/EIN Number	NONE
Date Filed	01/09/2017
Effective Date	01/09/2017
State	FL
Status	ACTIVE
Last Event	LC STMNT CORR
Event Date Filed	01/19/2017
Event Effective Date	NONE

Principal Address

605 NORTH OLIVE AVENUE
2ND FLOOR
WEST PALM BEACH, FL 33401

Mailing Address

605 NORTH OLIVE AVENUE
2ND FLOOR
WEST PALM BEACH, FL 33401

Registered Agent Name & Address

LYNCH, FRANCIS X
605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL 33401

Authorized Person(s) Detail**Name & Address**

Title MGR

DEJ PROPERTIES LLC
605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL 33401

Annual Reports

No Annual Reports Filed

Document Images

[01/19/2017 - CORLCSTCOR](#)

[View image in PDF format](#)

[01/09/2017 - Florida Limited Liability](#)

[View image in PDF format](#)

Detail by Entity Name

Florida Limited Liability Company
DEJ PROPERTIES LLC

Filing Information

Document Number	L17000009971
FEI/EIN Number	NONE
Date Filed	01/12/2017
Effective Date	01/09/2017
State	FL
Status	ACTIVE

Principal Address

605 NORTH OLIVE AVENUE
2ND FLOOR
WEST PALM BEACH, FL 33401

Mailing Address

605 NORTH OLIVE AVENUE
2ND FLOOR
WEST PALM BEACH, FL 33401

Registered Agent Name & Address

LYNCH, FRANCIS X
605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL 33401

Authorized Person(s) Detail**Name & Address**

Title AR

DIBIASE, JAMES
605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL 33401

Annual Reports

No Annual Reports Filed

Document Images

[01/12/2017 -- Florida Limited Liability](#)

[View image in PDF format](#)

Florida Department of State, Division of Corporations

NOTICE AFFIDAVIT

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

BEFORE ME THIS DAY PERSONALLY APPEARED FRANCIS X. J. LYNCH WHO BEING DULY SWORN, DEPOSES AND SAYS THAT:

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in Exhibit A; and
2. The accompanying Property Owners List is, to the best of his knowledge, a complete and accurate list of all property owners' mailing addresses and property control numbers dated no more than 90 days prior to the Town Council hearing at which the subject application will be heard, and as recorded in the latest official tax rolls for the subject property and all other property within three hundred (300) feet of the real property described in Exhibit A, or all property within three hundred (300) feet of all contiguous property owned wholly or in part by the owner of the real property described in Exhibit A, if applicable; and
3. A copy of each page of the application plus supporting documentation is included in each envelope submitted for mailing, using the label provided by the Property Appraiser.

FURTHER AFFIANT SAYETH NOT.

The foregoing instrument was acknowledged before me this 21ST day of FEBRUARY, 2017, by
Month/Year

FRANCIS X. J. LYNCH who is personally known to me or who has produced
(Name of person acknowledging)

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

Kim Hoffman
(Signature of Person Taking Acknowledgment)

KIM HOFFMAN
(Printed Name of Acknowledger)

(Title or Rank)

(Serial Number, if any)

(Notary Seal)



[Signature]
Applicant's Signature

FRANCIS X. J. LYNCH
Applicant's Printed Name

605 N. Olive Avenue, 2nd Floor
Street Address

West Palm Beach, FL 33401
City, State, Zip Code

(561) 721-4004
Telephone Number



ZONING APPLICATION
TOWN OF PALM BEACH

VARIANCE #12-2017
(Zoning Case Number)

This application includes requests for:

- ☐ Site Plan Review
- ☐ Special Exception
- ☒ Variance

TO BE HEARD BY THE TOWN COUNCIL ON MAY 10, 2017 AFTER 9:30 A.M., IN THE TOWN OF PALM BEACH COUNCIL CHAMBERS LOCATED ON THE 2ND FLOOR, 360 SOUTH COUNTY ROAD, PALM BEACH.

Pursuant to the Town Zoning Code of Ordinances, Sections 134-172 (Special Exceptions and Variances) and/or 134-328 (Site Plan Review), this application is being sent to all property owners within 300' of the location of the subject zoning application. A copy of this application along with all exhibits such as large drawings and other supporting documents that are not attached to this application are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Rd., east entrance, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

All interested persons may appear and be heard at said Public Hearing and may likewise submit written statements prior to and at said Public Hearing. If any person decides to appeal any decision made by the Town Council with respect to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

Please be advised that the Town does not enforce private covenants or deed restrictions.

I. SUBJECT ADDRESS: 202 ONONDAGA AVENUE

Zoning District **R-B**

Legal Description: **LOT 6, ESPLANADE ESTATES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 12, PAGE 13, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

Fee Simple Property Owner's Name: **202 ONONDAGA, LLC, a Florida limited liability company**

Name and address of person who can receive service of process for purposes of litigation in

Palm Beach County: **Francis X. J. Lynch, 605 N. Olive Ave, 2nd Flr, West Palm Beach, FL 33401**

Applicant Name: **202 ONONDAGA, LLC**

Contact Phone **561-721-4004**

II. DESCRIPTION OF THE REQUEST TO BE HEARD BY TOWN COUNCIL, citing applicable Town Zoning Code Section Number(s):

A. Applicable Zoning Code Section Number(s):

1. **Section 134-201 – Variances – Findings prior to authorization.**
2. **Section 134-893(a)(7)(b) – Lot, yard and area requirements (side yard, two story).**
3. **Section 134-419 – Enlargement, extension, reconstruction or alteration.**

B. Description of request by Zoning Section Number(s):

1. **Applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof off the one story house.**

The following variances are being requested:

- a. **an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required for the proposed second story addition.**
- b. **a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required for the one story portion to remain as existing.**

NO OTHER VARIANCES ARE REQUIRED.

III. **APPLICATIONS CONTAINING SITE PLAN REVIEW** **N/A**

If the application contains Site Plan Review, complete **Exhibit B**, and briefly describe below the reasons why such application should be approved. This explanation should be a summary of information provided in Exhibit B (Site Plan Review by Town Council as stated in the Town's Zoning Code at Section 134-329).

IV. **APPLICATIONS CONTAINING SPECIAL EXCEPTIONS** **N/A**

If the application contains requests for Special Exceptions, complete **Exhibit C**, and briefly describe below the reasons why such application should be approved. This explanation should be a summary of information provided in Exhibit C (Requirements for granting Special exceptions by the Town Council as stated in the Town's Zoning Code at Section 134-229).

V. **APPLICATIONS CONTAINING VARIANCES**

If the application contains requests for variances, please respond to the questions below, and complete **Exhibit D** (Findings for authorizing a variance as stated in the Town's Zoning Code at Section 134-201).

- a. Applicant should provide a brief description of the special conditions which when subjected to a literal enforcement of the provisions of the zoning ordinance will result in unnecessary and undue **HARDSHIP**. This explanation should be a summary of information provided in Exhibit D.
- b. Applicant should address how granting of a variance for these special conditions will not be contrary to the public's interest.

VAR #12 -2017
Zoning Case Number

VI. **SITE HISTORY**

Please provide a detailed history in chronological order of all zoning-related requests processed on or after January 1, 1970 applicable to this property. This information should be attached as **Exhibit E - SITE HISTORY**.

Respectfully submitted,

202 ONONDAGA, LLC
By: DEJ PROPERTIES, LLC

By: _____
Authorized Representative
Applicant's Signature

Francis X. J. Lynch (561) 721-4004
Attorney for Applicant
Typed name & telephone #

202 ONONDAGA, LLC
By: DEJ PROPERTIES, LLC

By: _____
Authorized Representative
Fee Simple Property Owner's Signature
(or his/her duly authorized attorney)

Francis X. J. Lynch (561) 721-4004
Attorney for Applicant
Typed name & telephone #

VAR #12-2017
Zoning Case Number

EXHIBIT A - LEGAL DESCRIPTION

Lot 6, ESPLANADE ESTATES, according to the Plat thereof, as recorded in Plat Book 12, Page 13, of the Public Records of Palm Beach County, Florida.

EXHIBIT D - REQUEST FOR VARIANCE

CRITERIA FOR AUTHORIZING A VARIANCE

The Town Council must find the application in conformance with a number of criteria. Please address each of the criteria completely in order to provide the Council with sufficient information to make a determination on your application.

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

The structure was built in 1955 and the setbacks were established at that time.

2. Indicate how the special conditions and circumstances do not result from the actions of the applicant.

The non-conformity of the structures existed long before the Applicant acquired it.

3. Demonstrate that the granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

The proposed addition does not increase the non-conformity of the structure, as the setback was established when the house was built in 1955.

4. Demonstrate how literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

A literal interpretation of the ordinance would deprive the Applicant of the opportunities enjoyed by neighboring properties in the area.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The variance being requested for the proposed new improvement results from the non-conformity of the existing structure and will afford the Applicant the same use of its land enjoyed by its neighbors.

6. For granting of a variance to sections 134-387, or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings must be demonstrated pertaining to the nonconforming use for which the variance is requested:

- a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
- b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area, and, further, such variance shall
 1. Be granted only for the continuation of the same hotel or residential use; and,
 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

N/A

VAR #12-2017
Zoning Case Number

7. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Granting the variance will enable the Applicant to enjoy its property in the manner its neighbors enjoy their properties.

VAR #12-2017
Zoning Case Number

EXHIBIT E - SITE HISTORY

Please provide a detailed history of all zoning-related requests applicable to this property processed on or after January 1, 1970, in chronological order, including but not limited to variances, special exceptions, site plan reviews, and existing agreements.

NONE

VAR #12-2017
Zoning Case Number

EXHIBIT F - PARKING STATEMENT

Please provide a detailed parking statement which includes details of all available off-street parking, including information regarding the number of parking spaces designated for service use (for example: lawn service, pool service, staff/employee use, etc.)

COMMERCIAL PROPERTIES MUST: N/A

- PROVIDE NUMBER OF OFF-STREET PARKING SPACES AVAILABLE FOR EMPLOYEES ON THE SUBJECT PROPERTY: _____
- PROVIDE NUMBER OF EMPLOYEES/STAFF PER SHIFT: _____
- INDICATE LOCATION WHERE EMPLOYEES PARK OFF-SITE: _____

RESIDENTIAL PROPERTIES MUST:

- PROVIDE NUMBER OF OFF-STREET PARKING SPACES AVAILABLE ON THE SUBJECT PROPERTY: **4**
- PROVIDE NUMBER OF EMPLOYEES/STAFF PER SHIFT: **0**
- INDICATE LOCATION WHERE EMPLOYEES/STAFF PARK OFF-SITE: **N/A**

APPENDIX and AUTHORITIES

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4/26/17



TOWN OF PALM BEACH

REVISED

8:46 am, Apr 24, 2017

TENTATIVE AGENDA
SUBJECT TO REVISION

**ARCHITECTURAL COMMISSION
360 SOUTH COUNTY ROAD
2ND FLOOR, TOWN COUNCIL CHAMBERS**

April 26, 2017

09:00 A.M.

The progress of this meeting maybe monitored by visiting townofpalmbeach.com and click on "Meeting Audio" in the left hand column. If you have any questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 12 hours after the conclusion of the meeting under "Agendas, Minutes, and Audio."

I. CALL TO ORDER

II. ROLL CALL

Richard Sammons, Chairman
Ann L. Vanneck, Vice Chairman
Robert N. Garrison, Member
Alexander C. Ives, Member
Michael B. Small, Member
Maisie Grace, Member
Robert J. Vila, Member
John David Corey, Alternate Member
Betsy Shiverick, Alternate Member

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF THE MINUTES FROM THE MARCH 22, 2017 MEETING

V. APPROVAL OF THE AGENDA

VI. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY

Applicant: Desiree Luccio

Architect: Pat Segraves/SKA Architect + Planner

Project Description: Demolition of existing two story home. New two story home to be approximately 3,800 square feet. Home will consist of three bedrooms, four and one half bathrooms, living room, dining room, family room, kitchen, laundry, loggia, two car garage and renovation to the existing guest house and cabana. Final landscape plan to be included.

At the March meeting, to defer the demolition to the April 26, 2017 meeting.

Call for disclosure of ex parte communication.

C. **MAJOR PROJECTS-NEW BUSINESS**

B-019-2017 Additions/Modifications

Address: 120 Jungle Rd.

Applicant: Leo & Kathryn Vecellio

Architect: Bridges, Marsh & Associates, Inc.

Project Description: Expansion of existing 2 story garage and associated landscape/hardscape.

Call for disclosure of ex parte communication.

B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

VARIANCE INFORMATION: The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof off the one story house. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required.

Call for disclosure of ex parte communication.

B-021-2017 Additions/Modifications

Address: 1900 S. Ocean Blvd.

Applicant: Keith Frankel

Architect: Nievera Williams Design

Project Description: Main entry gate and columns and service gate with columns.

Call for disclosure of ex parte communication.

B-022-2017 New Construction

APPENDIX and AUTHORITIES

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4/26/17



TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL COMMISSION MEETING HELD ON WEDNESDAY, APRIL 26, 2017

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. CALL TO ORDER

The meeting was called to order at 9:01 a.m. by Mrs. Vanneck.

II. ROLL CALL

Richard Sammons, Chairman	ABSENT (unexcused)
Ann L. Vanneck, Vice Chairman	PRESENT
Robert N. Garrison, Member	PRESENT
Alexander C. Ives, Member	PRESENT
Michael B. Small, Member	PRESENT (Left at 11:13 a.m.)
Maisie Grace, Member	PRESENT
Robert J. Vila, Member	PRESENT
John David Corey, Alternate Member	PRESENT
Betsy Shiverick, Alternate Member	PRESENT

Staff Members present were:

John Page, Director of Planning, Zoning & Building
John Lindgren, Planning Administrator
Kelly Churney, Secretary to the Architectural Review Commission
Skip Randolph, Town Attorney

III. PLEDGE OF ALLEGIANCE

Mrs. Vanneck led the Pledge of Allegiance.

IV. APPROVAL OF THE MINUTES FROM THE MARCH 22, 2017 MEETING

Motion made by Mr. Small and seconded by Mr. Garrison to approve the minutes from the March 22, 2017 meeting. Motion carried with all in favor.

V. APPROVAL OF THE AGENDA

Mr. Small asked to defer projects B-001-2017 242 Cherry Ln., B-016-2017 210 Fairview Rd. and A-006-2017 329 Worth Ave. to the May 24, 2017 meeting at the request of the architects. He also asked to withdraw A-003-2017 686 Island Rd. from the agenda at the

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Call for disclosure of ex parte communication: Disclosure by Messrs. Garrison, Ives and Ms. Shiverick.

Mr. Marsh presented an aerial photo, surrounding property photos, an existing and proposed site plan, a floor plan of addition, elevations, detail sheets, a color sample and described a proposed change in the color for the pavers.

Motion made by Mr. Ives and seconded by Mr. Garrison to approve the project as presented.

Mr. Corey asked if there will be additional height to the landscaping on the south side for the neighbors. Mr. Marsh indicated that there is a large separation between this property and the neighbors.

Motion carried 6-0 with all in favor.

A lunch break was taken at 12:43 p.m. The meeting resumed at 1:45 p.m.

After the lunch break, Mrs. Vanneck asked for any public comment regarding the project B-019-2017, 120 Jungle Road. There was none.

B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Jaime Torres/Fairfax, Sammons & Partners

Landscape Architect: Matt Jackman/Nievera Williams Design

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

VARIANCE INFORMATION: The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof off the one story house. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required.

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

Mr. Torres presented an aerial photo, a survey, a site plan, a streetscape, CCR details, floor plans, colored rendered elevations, section details, existing property photos, existing exterior photos and material details.

Mr. Ives asked the architect if he considered the style of the area when creating his design. Mr. Torres stated that he did a survey of the area and felt the design was consistent with surrounding homes. Some more discussion continuing about the styles in the area. Mr. Ives also asked about the floor to ceiling heights. Mr.

Torres responded. Mr. Ives thought it was consistent with the street and thought the design was an improvement on the lot. He was in favor of the shutters.

Mr. Garrison asked about their choice to use stone rather than stucco. Mr. Torres stated he did not feel stone was appropriate for the style. Mr. Garrison also pointed out how the design respected both east and west neighbors by its design.

Ms. Grace was in favor of the design but questioned whether it fit on the street.

Mr. Corey expressed concern about the variances that were requested and questioned whether the house could be designed without any variances. Mr. Torres responded and explained the design.

Mrs. Vanneck thought since the request was to remove more than 50% of the home, it would be wise to demolish the existing house and rebuild new. She also agreed that the house could be built without variances.

Mr. Garrison was not in favor of a home design that creates a need for a variance.

Mr. Ives was in favor of the design and thought it would be a nice addition to the area.

Mr. Vila agreed that the scale of the house was good and sensitive to the neighbors. He was in favor of the project and spoke about preservation of the existing home.

Ms. Shiverick liked the details on the house and was in favor of the project.

Mr. Corey asked about the shutters. Mr. Torres responded.

Mr. Torres explained how the design had broken up the mass of the home as well as reviewed the details of the home.

Mr. Jackman presented the proposed landscape and hardscape plan for the project. He showed a site plan, renderings and elevations.

Ms. Shiverick suggested that the hedge on the exterior view was too much and needed to be shorter.

Susan Gary, 229 Onondaga Ave., asked if the neighbors in favor of the project could speak first.

Allison Brown, 1465 Laurie Lane, was in favor of the design and thought it would be an improvement to the neighborhood.

Susan Gary, 229 Onondaga Ave., objected to the size and mass of the proposed home.

Per Lorentzen, 231 Osceola Way, expressed his objections to the two story home.

Bill Metzger, 277 Esplanade Way, read a letter which applauded the design of his two story home where the second story portion in in the rear of the home.

John Dotterer, 1470 N. Ocean Blvd., spoke on behalf of Jacqueline Murphy and G. Ben Turnipseed as well as himself. He submitted a compilation of letters of objections to the clerk. He expressed concerns about the scale of the proposed home.

Mr. Corey asked to rule on the variances first and thought the home could be designed without any variances. Ms. Grace agreed with Mr. Corey.

Motion by Mr. Ives and seconded by Ms. Shiverick that the implementation of the proposed variances will not cause negative architectural impacts to the subject property. Motion failed 2-5 with Mses. Grace, Vanneck and Messrs. Garrison, Vila and Corey opposed.

A second motion made by Mr. Corey and seconded by Mr. Vila that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. Motion carried 5-2 with Mr. Ives and Ms. Shiverick opposed.

Mr. Torres asked if the motion referred to a design without a second story. Mrs. Vanneck responded. Mr. Vila suggested putting the second story in the attic.

A third motion made by Mr. Corey and seconded by Mr. Garrison to defer the project to the June 28, 2017 meeting for restudy. Motion carried 6-1 with Mr. Ives opposed.

B-021-2017 Additions/Modifications

Address: 1900 S. Ocean Blvd.

Applicant: Keith Frankel

Architect: Keith Williams/Nievera Williams Design

Project Description: Main entry gate and columns and service gate with columns.

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

Mr. Williams stated his requests to install main drive entry and service gates. He presented renderings of the gates and columns for the main and service entrance.

APPENDIX and AUTHORITIES

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6/28/17



TOWN OF PALM BEACH

TENTATIVE AGENDA
SUBJECT TO REVISION

**ARCHITECTURAL COMMISSION
360 SOUTH COUNTY ROAD
2ND FLOOR, TOWN COUNCIL CHAMBERS**

June 28, 2017

09:00 A.M.

The progress of this meeting maybe monitored by visiting townofpalmbeach.com and click on "Meeting Audio" in the left hand column. If you have any questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 12 hours after the conclusion of the meeting under "Agendas, Minutes, and Audio."

I. CALL TO ORDER

II. ROLL CALL

Richard Sammons, Chairman
Ann L. Vanneck, Vice Chairman
Robert N. Garrison, Member
Alexander C. Ives, Member
Michael B. Small, Member
Maisie Grace, Member
Robert J. Vila, Member
John David Corey, Alternate Member
Betsy Shiverick, Alternate Member
Katherine Catlin, Alternate Member

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF THE MINUTES FROM THE MAY 24, 2017 MEETING

V. APPROVAL OF THE AGENDA

required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58 feet in depth in lieu of the 150 foot minimum required.

A motion carried at the January meeting to defer the project to the February meeting at the request of the architect. A motion carried at the February meeting to defer the project to the April meeting for major restudy. A motion carried at the April meeting to defer the project to the June 28, 2017 meeting for restudy.

Please note: The architect has requested a one-month deferral to the July 26, 2017 meeting.

B-009-2017 New Construction

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SITE PLAN REVIEW

Address: 12 Via Vizcaya

Applicant: JDC Florida Properties, LLC

Architect: Pat Segraves, SKA Architect + Planner

Landscape Architect: Steve West, Parker-Yanette Design Group, Inc.

Project Description: Classical Style two-story home to be 6,958 square feet consisting of 4 bedrooms, five and one half bathrooms, kitchen, dining room, family room, library, loggias, and two car garage. Final landscape, hardscape and drainage to be included.

SITE PLAN REVIEW INFORMATION: The applicant is requesting a site plan review to allow the construction of a 7,444 square foot two-story, single family residence on a non-conforming platted lot which is 15,344 square feet in area in lieu of the 20,000 square foot minimum area required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58 feet in depth in lieu of the 150 foot minimum required.

A motion carried at the January meeting to defer the project to the February meeting for major restudy. A motion carried at the February meeting to defer the project to the April meeting for restudy. A motion carried at the April meeting to defer the project for better coordination with the proposed home at 235 Via Vizcaya and to restudy the scale of the home.

Please note: The architect has requested a two-month deferral to the August 23, 2017 meeting.

B-020-2017 Modifications

***ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE* -**

Done 4/26/17

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Jaime Torres/Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

VARIANCE INFORMATION: The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof off the one story house. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required.
ARCOM DID NOT SUPPORT THIS VARIANCE REQUEST

At the April meeting, a motion carried that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for restudy.

Call for disclosure of ex parte communication.

B-021-2017 Additions/Modifications

Address: 1900 S. Ocean Blvd.

Applicant: Keith Frankel

Architect: Nievera Williams Design

Project Description: Main entry gate with columns and service gate with columns.

At the May meeting, a motion carried to defer the project to the June 28, 2017 meeting for restudy.

Call for disclosure of ex parte communication.

B-024-2017 Demolition/New Construction

Address: 144 Seminole Ave.

Applicant: Ebil Management Limited

Architect: Daniel Menard/LaBerge & Menard, Inc.

Project Description: Demolition of existing 1-story single-family residence and construction of a new 2-story single-family residence, new hardscape and landscape.

At the April meeting, a motion carried to approve the demolition. A second motion carried to defer the project to the June 28, 2017 meeting for restudy as well as a request for more details in the next presentation.

Call for disclosure of ex parte communication.

B-029-2017 Additions/Modifications

***ARCOM TO MAKE RECOMMENDATIONS RELATIVE VARIANCES* -**

Done 4/26/17

Address: 1055 N. Ocean Blvd.

Applicant: 3200 Washington, LLC

Architect: Pat Segraves/SKA Architect + Planner

Landscape Architect: Keith Williams/Nievera Williams Design

APPENDIX and AUTHORITIES

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6/28/17



TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL COMMISSION MEETING HELD ON WEDNESDAY, JUNE 28, 2017

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. CALL TO ORDER

The meeting was called to order at 9:00 a.m. by Mrs. Vanneck.

II. ROLL CALL

Richard Sammons, Chairman	ABSENT (excused)
Ann L. Vanneck, Vice Chairman	PRESENT
Robert N. Garrison, Member	PRESENT
Alexander C. Ives, Member	PRESENT
Michael B. Small, Member	PRESENT
Maisie Grace, Member	PRESENT
Robert J. Vila, Member	PRESENT
John David Corey, Alternate Member	PRESENT (Left at 5:45 p.m.)
Betsy Shiverick, Alternate Member	PRESENT
Katherine Catlin, Alternate Member	PRESENT

Mr. Corey voted in the absence of Mr. Sammons.

Staff Members present were:

John Page, Director of Planning, Zoning & Building
Logan Elliott, Zoning Technician
Kelly Churney, Secretary to the Architectural Review Commission
Skip Randolph, Town Attorney
Paul Castro, Zoning Administrator

III. PLEDGE OF ALLEGIANCE

Mrs. Vanneck led the Pledge of Allegiance.

IV. APPROVAL OF THE MINUTES FROM THE MAY 24, 2017 MEETING

Motion made by Mr. Small and seconded by Mr. Garrison to approve the minutes from the May 24, 2017 meeting. Motion carried with all in favor.

V. APPROVAL OF THE AGENDA

B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE -

Done 4/26/17

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Anne Fairfax & Jaime Torres/Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

VARIANCE INFORMATION: The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof off the one story house. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required. ***ARCOM DID NOT SUPPORT THIS VARIANCE REQUEST***

At the April meeting, a motion carried that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for restudy.

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

Frank Lynch, attorney for the applicant, stated that his client is still seeking a diminished variance on west side for the non-conformity but has eliminated the east side variance.

Ron Kolins, attorney on behalf of 23 neighbors, asked to speak on a point of order. Mr. Kolins stated that the application for the project is defective due to the fact that a member of ARCOM has a conflict of interest on the case and it was not disclosed on the application and agenda. Mr. Randolph responded and stated that it did not make the application defective. Mr. Kolins read the Code of the section regarding the conflict of interest and asked that the application be dismissed. Mrs. Vanneck stated that the Commission has already heard the application and thinks they should continue to do so. Mr. Randolph asked how the public has been prejudiced by the information not appearing on the application. Mr. Kolins responded. Mr. Randolph stated he still thinks they should hear the application.

Motion made by Mr. Small and seconded by Mr. Garrison to continue hearing the application. Motion carried by all in favor.

Mr. Kolins stated that the notice to the neighbors is factually incorrect as the description of the project was not accurate. Mrs. Vanneck asked about the notice was sent out to the neighbors. Mr. Torres provided an explanation for the project

description. Mr. Randolph stated he did not feel the notice was defective and that the Commission could continue hearing the project.

Ms. Fairfax presented the modifications for the proposed residence. She presented a comparison of heights, site plan, existing and proposed roof plans.

Jaime Torres presented a cubic content ratio diagram for the residence.

Ms. Fairfax presented a streetscape, floor plans and colored, rendered elevations.

Mr. Torres stated that the bulk of the changes have to do with the massing of the building. Mr. Torres presented the modifications to the proposed residence. He stated the person most affected by the changes to the home was the neighbor to the south, who supports the project. Mr. Torres presented colored renderings of the proposed home.

Mr. Small asked for clarification for the garage design. Mr. Castro explained the requirements for a garage.

Mr. Ives was in favor of the changes. Mr. Ives stated he did not think the variance request negatively affected the architecture. He thought the house was charming and was sensitive in its design.

Mr. Corey stated that the plans and drawings are not all consistently oriented in the north direction. He asked for all of the architects to do so in the future.

Mr. Corey was in favor of the color and quoins. He asked about the height roof pitch. Mr. Torres provided an explanation. Mr. Corey stated he was in favor of the lower roof profile. Mr. Corey asked about the amount of demolition. Mr. Corey questioned the need for the variance.

Mr. Garrison favorably discussed the proposed setbacks. He stated he was in favor of the design and thought it was sensitive to the neighbors.

Mr. Vila agreed with Mr. Ives and Mr. Garrison and stated his support of the project. He also stated that the design was sensitive in its design.

Ms. Grace was in favor of the design but preferred the first design. She questioned whether the home fit into the neighborhood.

Ms. Shiverick asked about the proposed angle of vision. Mr. Torres responded. Ms. Shiverick stated her agreement with Messrs. Ives, Vila and Garrison.

Ms. Catlin was in agreement with the other Commissioners. She asked for clarification on the variance request. Mr. Torres responded.

Mr. Small asked for clarification about the amount of the structure to be demolished. Mr. Torres responded.

Mr. Torres showed a one-story footprint would look like on the site. He stated his reasons for keeping part of the existing home.

Michael Conville with Beacon Construction, talked about the savings in the building timeframe as well as a savings in the cost to salvage the existing home.

Matt Jackman, Nievera Williams Design, presented the proposed landscaping for the residence. He presented a site plan, a rendered site plan and colored renderings.

Mrs. Vanneck suggested the palm tree on the eastern side be moved westward to mitigate the two-story element.

Mr. Kolins submitted a list of 23 homeowners that he was representing to the clerk. He asked for the project to be deferred, as the notice was incorrect to the public. Mr. Torres responded to Mr. Kolins's objection. Mr. Randolph stated his opinion to allow the Commission to continue hearing the project. Mrs. Vanneck stated her reasons for allowing the application to be heard. Mr. Kolins stated his objections that the rules and Code were not followed.

A second motion by Mr. Garrison and seconded by Mr. Vila to deny Mr. Kolins request. Motion carried with all in favor.

Mr. Kolins, on behalf of the 23 homeowners, stated his objections to the project and his reason that he believes the Commission should deny the application.

John Dotterrer, 1470 N Ocean Blvd, stated his credentials. He presented and reviewed materials submitted in objection to the proposed residence. He requested the Commission to deny the application.

Susan Gary, 229 Onondaga Ave, stated her objections to the proposed project.

Anne Pepper, read a statement from Susan Watts, 44 Cocoanut Row, who objects to the project.

Anne Pepper, 333 Seaspray Ave, stated her objections to the proposed project.

Frank Lynch, attorney for the applicant, presented material in rebuttal to the opposition. Mr. Kolins provided rebuttal to the comments made by Mr. Lynch. Mr. Lynch provided rebuttal to the comments made by Mr. Kolins.

Mr. Ives stated that he did not have any preconceived opinions about the project and looks only at the architecture when making his decision.

Mr. Small stated his reasons for not voting in favor of the project.

Mr. Garrison read an excerpt from one of the neighbors on Debra Lane and stated his reasons for supporting the design.

Ms. Grace asked for clarification on the map that Mr. Lynch presented. Mr. Lynch responded. She expressed her reasons for why this design is too dissimilar for the neighborhood.

Mr. Ives restated his reasons that he is supporting the project.

Ms. Catlin stated that the design is very considerate to the street.

Mr. Vila stated his reasons that he is supporting the project.

Ms. Grace stated she was in favor of the architecture but was concerned about its location in the neighborhood.

Mr. Corey stated he was in support of the architectural but thought the roof could be lowered. He also stated the house could be restudied to eliminate the variance.

Mrs. Vanneck stated she was in favor of the architecture but thought the variance could be eliminated. She stated her reasons for supporting the design.

A third motion made by Mr. Vila and seconded Ives by that the implementation of the proposed variance will not cause negative architectural impacts to the subject property. Motion failed 4-3 with Meses. Vanneck, Grace and Messrs. Small and Corey opposed.

Mr. Vila expressed his concern and questioned how the project could be designed in order to eliminate the variance.

A fourth motion made by Mr. Corey and seconded by Grace the proposed project can be designed in an architecturally suitable manner, which conforms to the Town of Palm Beach Code of Ordinances without the need for a variance. Motion carried 4-3 with Messrs. Garrison, Ives and Vila opposed.

A fifth motion made by Mr. Corey and seconded by Mr. Small to defer the project for one month to the July 26, 2017 meeting. Motion carried 4-3 with Messrs. Ives, Vila and Garrison opposed.

B-021-2017 Additions/Modifications

Address: 1900 S. Ocean Blvd.

Applicant: Keith Frankel

APPENDIX and AUTHORITIES

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TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 S. County Rd.
Palm Beach, FL 33480

REV 1
Filed 6/13/17
for
Hearing 6/28/17

APPLICATION FOR PROJECT REVIEW BY THE ARCHITECTURAL REVIEW COMMISSION

Application Number: B-020-2017

Date: MARCH 22, 2017

Application Type:

☐

Major
Minor

☒

Combination*
Minor with notice

*If Town Council review required, include Zoning Application Number: _____

I. PROJECT ADDRESS: 202 ONONDAGA AVE, PALM BEACH, FL 33405

II. DESCRIPTION OF THE REQUEST: The exact wording in this section will appear on the ARCOM Agenda. Please include a comprehensive summarized description of the proposed project.

RENOVATIONS TO EXISTING ONE STORY
RESIDENCE AND PARTIAL 2ND FLOOR ADDITION
TO SAME. LANDSCAPE AND HARDSCAPE
CHANGES INCLUDED.

Number of Stories: 2 Roof Material (type): CONC. TILE

Const. Type: CBS: YES Frame: NO Colors: Building: WHITE Roof: WHITE

Trim: WHITE Shutters: BLUE *this information to be included on the cover sheet of the ARCOM plans

III. DESIGN PROFESSIONAL(S):

☒
☒
☐

Architect
Landscape Architect
Other: _____

☐
☐

Design Consultant
Engineer

Name of Professional: FAIRFAX SAMMONS & PARTNERS License #: AZ0016906

Phone number: 561-805-8591 Email address: JTORRES@FAIRFAXAND
SAMMONS.COM

IV. OWNER/AGENT INFORMATION:

Property Owner's Name: 202 ONONDAGA LLC

Owner's Address (if different from Subject Address): 11750 LAKE SHORE PL.

NORTH PALM BEACH, FL 33408 Phone number: 617-497-3550

Signature (owner or owner's legally authorized agent): JAIME TORRES - Cruz
*If signed by a legally authorized agent, must be accompanied by a Power of Attorney or statement from the property owner authorizing the signer to sign on the owner's behalf.

(printed name and title) JAIME TORRES - CRUZ (PROJECT MANAGER
FOR ARCHITECT)



Written Narrative of Changes to ARCOM Revision #2 Record Drawings –June 13, 2017

202 Onondaga Avenue
Palm Beach, Florida 33480

General

- East side yard setback encroachment was eliminated completely. The building was reduced by 3.2' in order to accomplish this
- Most of the west side yard setback encroachment was eliminated; only the garage encroachment into the setback was kept--the guest wing encroachment was eliminated
- Exterior color of the building was changed from white to pale yellow
- Shutter, main door, and garage door color was changed from blue to green
- Overall height of two story portion of residence decreased by 6"
- Overall height of the one story guest bedroom pavilion decreased by 3"
- Overall height of the guest loggia decreased by 2"
- Overall height of the one story connector between the garage and the guest bedroom pavilion increased by 10"
- A watertable was added to the one story portion of the guest wing
- A stucco frieze was added under the eave of the two story portion
- Roof pitch of two-story portion of residence and one-story guest bedroom pavilion changed from 4:12 to 6:12, although the "kick" on the eaves was maintained at 4:12
- Flat portion at one story wing addition was eliminated, and changed to 3:12 pitched roof
- Roof pitch of North balcony changed from 3:12 to 4:12
- String course moved 10 1/2" lower on façade
- Eave depth was increased from 16" to 24"
- Rafter tail detail was changed
- Balcony railing design was changed
- Gutters and downspouts were added to the elevations

North (Front) Elevation

- Grade level on the front elevation of the two story portion was raised by 6" in order to visually decrease the overall height of the building
- Quoins were added to the building corners facing the street side
- Garage doors were changed from a one-and-a-half door arrangement to two full doors in order to comply with the two-car garage requirement from the zoning dept.
- Balcony posts on North balcony were changed from square posts to turned columns with entasis
- Height of step down to North Balcony deck decreased slightly, to 4"



- North balcony straight fascia board was replaced with arched fascia board with decorative finials; decorative finials also added below balcony beams

South Elevation

- Double posts are now proposed at the corners of the South balcony

East Elevation

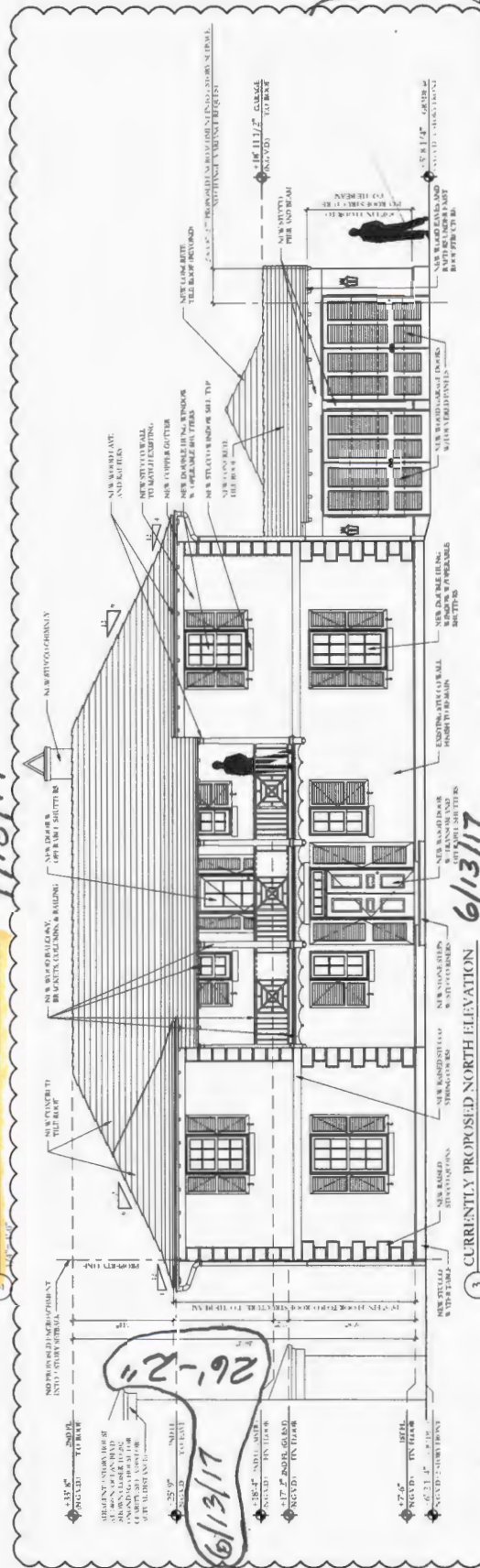
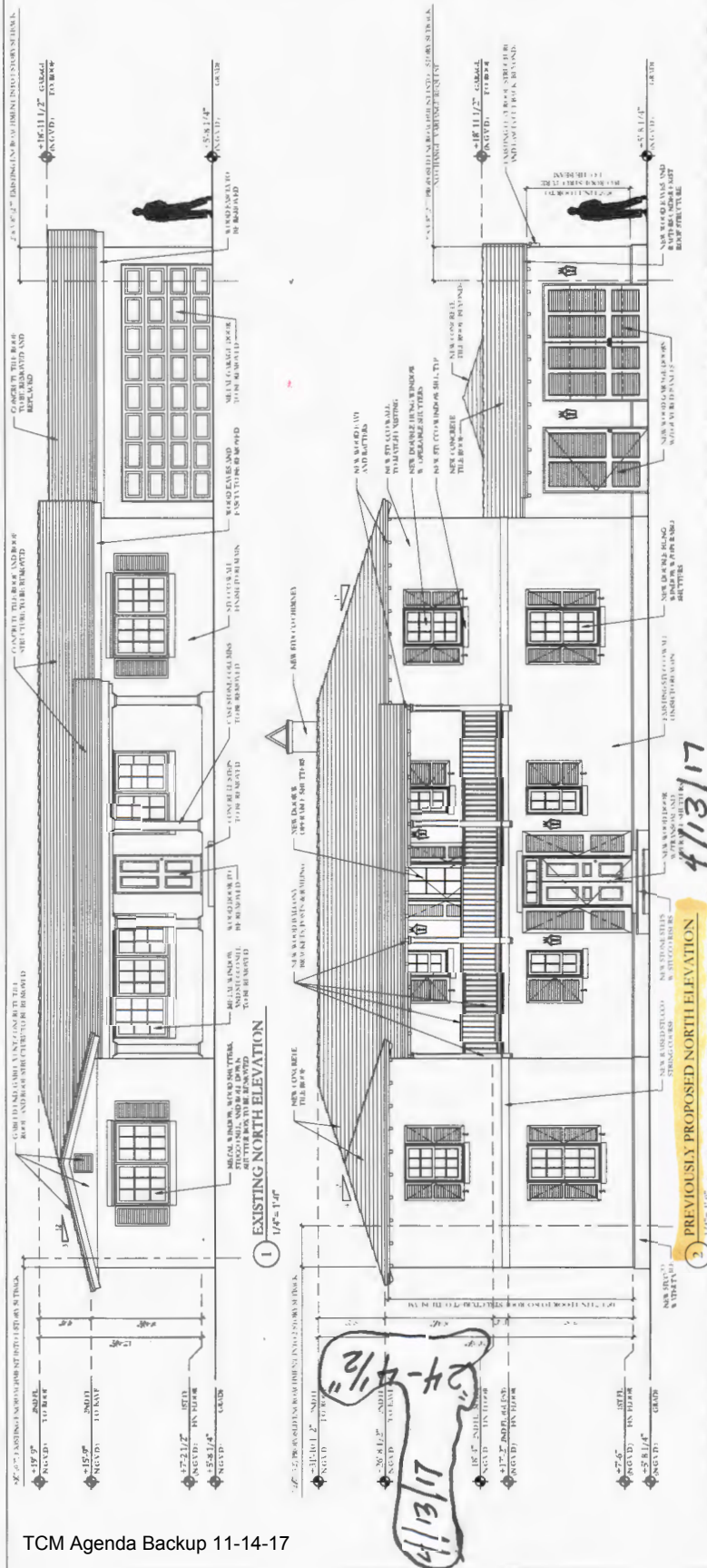
- Double posts are now proposed for the corners of the South balcony

West Elevation

- Scalloped beadboard added to the gabled end of the north balcony
- Straight fascia board replaced with arched fascia board with decorative finials, and decorative finials also added below balcony beams, at the North balcony
- North balcony posts were changed from square posts to turned columns with entasis
- Quoins were added to the front building corners
- Door into previously proposed closet removed as well as previously proposed closet

6/13/17
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6-13-17

VARIANCE
#12-2017

ARCOM
CASE #:
B-020-2017

202 ONONDAGA
AVENUE,
PALM BEACH, FL

EXISTING & PROPOSED
NORTH ELEVATIONS

DATE SUBMITTED
6-13-17

PROJECT NO.
A-200

SCALE
1" = 16'-0"

DATE
6-13-17

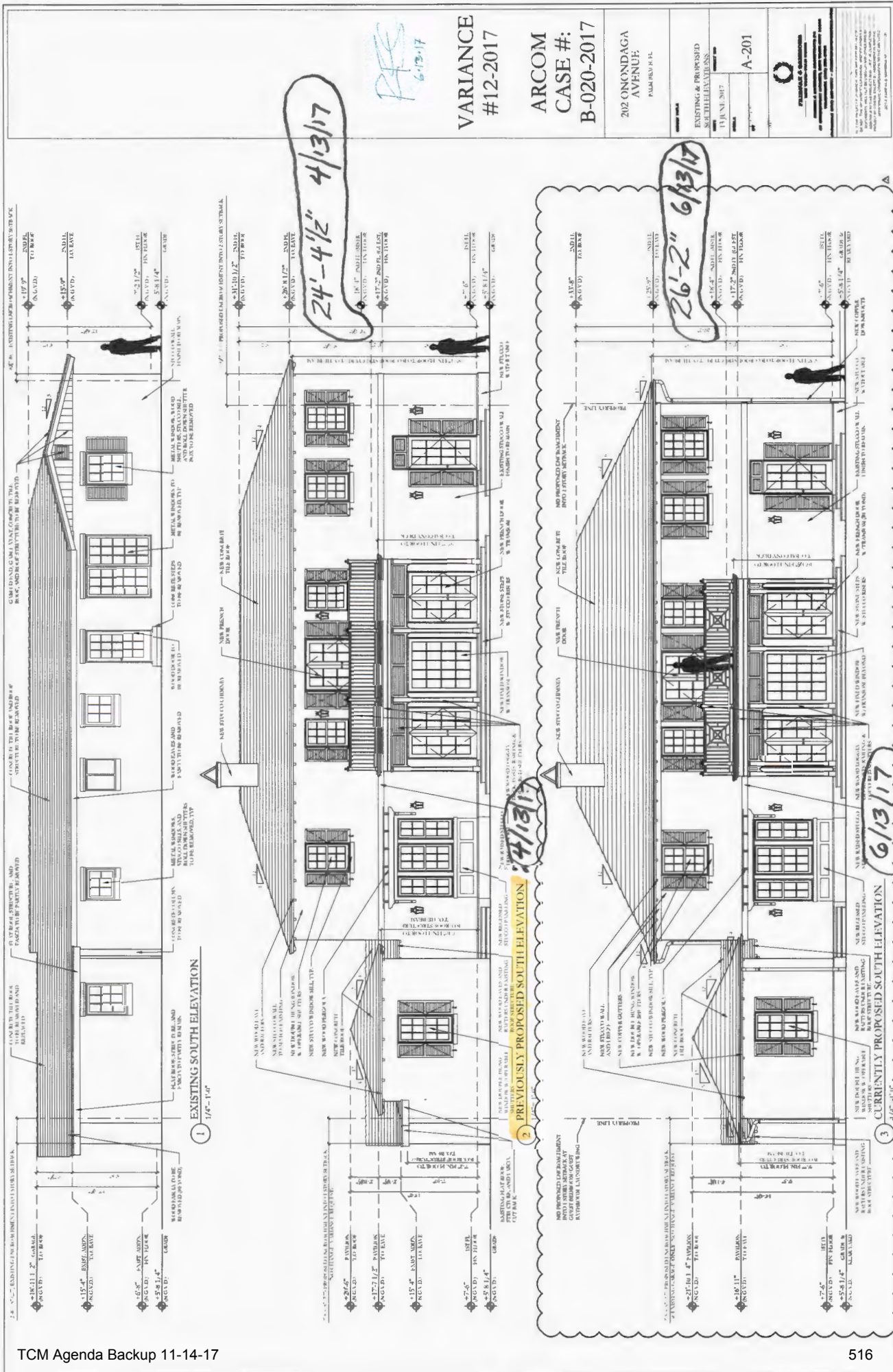
PROJECT NO.
A-200

SCALE
1" = 16'-0"

DATE
6-13-17

13 JUNE 2017
48

+ 1.79' OVERALL HEIGHT from 4/13/17 to 6/13/17



VARIANCE
#12-2017

ARCOM
CASE #:
B-020-2017

202 ONONDAGA
AVENUE
PALM BEACH, FL

EXISTING & PROPOSED
SOUTH ELEVATIONS

13 JUNE 2017

A-201

0

PREPARED BY: [illegible]

DATE: [illegible]

SCALE: [illegible]

PROJECT: [illegible]

CLIENT: [illegible]

ARCHITECT: [illegible]

ENGINEER: [illegible]

DATE: [illegible]

SCALE: [illegible]

PROJECT: [illegible]

13 JUNE 17

49

+ 1.79'
OVERALL HGT. from
4/13/17 to 6/13/17

6/13/17

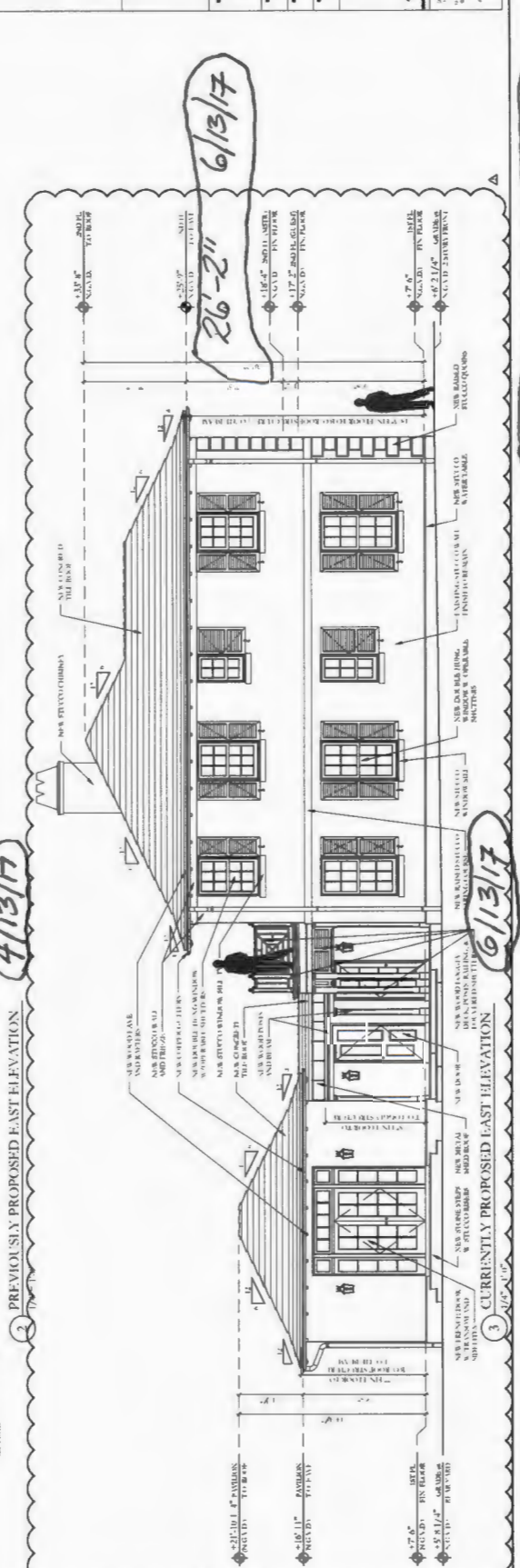
EXISTING SOUTH ELEVATION

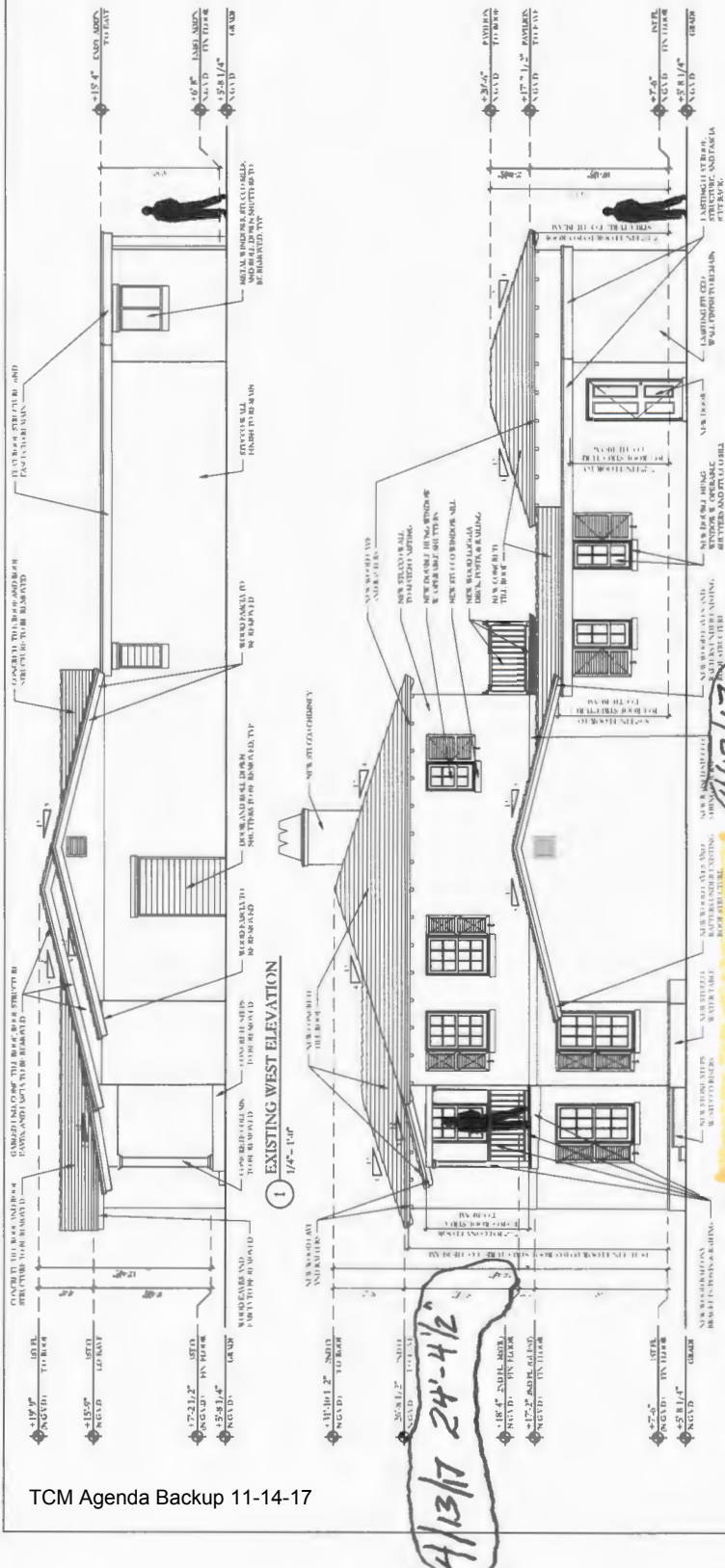
PREVIOUSLY PROPOSED SOUTH ELEVATION

EXISTING SOUTH ELEVATION

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

+1.79' OVERALL HEIGHT
from 4/13/17 to 6/13/17





RE
6-13-17

VARIANCE
#12-2017

ARCOM
CASE #:
B-020-2017

202 ONONDAGA
AVENUE
PALM BEACH, FL

EXISTING & PROPOSED
WEST ELEVATIONS

15-JUNE-2017
1" = 1'-0"
3/8"

A-203



DATE: 15-JUNE-2017
SCALE: 1" = 1'-0"
SHEET: 3/8"

13 JUNE 17
51

+1.79' OVERALL HEIGHT from 4/13/17 to 6/13/17

APPENDIX and AUTHORITIES

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Sec. 18-177. - Appeals and review.

An applicant or any interested party may file an appeal to the town council on any ruling by the architectural commission or the director of the planning, zoning and building department or his/her designee made pursuant to this article. The appeal shall take the form of a letter addressed to the town clerk. In the case of an appeal from the architectural commission, the appeals shall be filed or made within ten calendar days of the date of the meeting at which the decision of the commission is rendered. In the case of an appeal from the decision of the director of planning, zoning and building, the appeal shall be filed or made within ten calendar days of the date the director of the planning, zoning and building department or his or her designee renders the decision in writing. Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this Code. The town council shall decide an appeal within 45 days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall suspend any building permit issued pursuant to the ruling of the architectural commission or director of the planning, zoning and building department or his/her designee until the town council has decided the appeal. The town council may review any decision of the architectural commission or the director of the planning, zoning and building department and its disposition of the matter shall be final. In addition to appeals, the town council shall consider major projects as defined in the ARCOM Project Designation Manual at the next regularly scheduled town council meeting, subsequent to the meeting of the commission. The disposition of such matters by the town council shall be final. Appeals filed pursuant to this section shall be based on the record of the proceedings below and shall not be presented de novo. The time allotted for presentation of an appeal shall be determined by the town council president.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

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JAMES K. GREEN, P.A.

LAWYERS

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

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

November 5, 2017

By Hand Delivery

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

Re: Applicant's Response to Appeal in *Dotterrer, et al. v. ARCOM*
202 Onondaga Avenue

Dear Mayor and Honorable Town Councilmembers:

I represent 202 Onondaga, LLC, the owner of 202 Onondaga Avenue (the "Applicant"). The Applicant made three presentations before ARCOM. The first two requested variances, which were rejected; the third did not request any variances and was approved. Some neighbors appealed the decision. This is the Applicant's Response.

I. INTRODUCTION

The Appeal to the Town Council dated October 7, 2017 ("Appeal") would lead the Town Council to believe that ARCOM should landmark the so-called "Enclave" -- consisting of Onondaga Avenue, Debra Lane, and Laurie Lane -- which contains "14 cottagey bungalows" that present a "particular charm and characteristics of this unique environ that should be ...preserved." Appeal at 1-2. In effect, Appellants asked ARCOM, and now ask the Town Council here, to landmark the "Enclave" as an historic district because it "[c]onstitutes a unique area of architecture, landscaping and planning," Town Code § 54-162(5), and to effectively rezone the area to prohibit two-story homes. This invitation to use this appeal to, in effect, landmark or rezone should be rejected. Landmarking is initiated by the Landmark Commission; rezoning is initiated by the Planning & Zoning Commission.

A reading of Appellants' Appeal would also lead the Town Council to believe that the so-called "Enclave" would "be destroyed by the incongruent, excessive height, mass and resultant dissimilarity" of the proposed two-story home at the end of the block and next to another two-story

home. Appeal at 1-2. Nothing could be further from the truth. Here is the proposed home approved by ARCOM after three full hearings¹:



Here is the streetscape:



Here are six homes in the so-called “Enclave” within 200 feet, whose style the Appellants argue must be preserved:

221 Debra



210 Debra



¹ The three hearings were held on April 26, June 28 and September 27, 2017.

1470 N. Ocean



215 Onondaga



250 Esplanade



209 Debra



Appellants' attempt to use ARCOM and this Council to impose an unwritten one-story height restriction on the middle block of the Town's north end should be rejected. Their attempt to impose an unwritten one-story height restriction on corner homes on the middle block of the Town's north end should also be rejected.

ARCOM's decision to approve the home proposed by Fairfax, Sammons & Partners for a modest two-story home of about 4,000 square feet was based on substantial competent evidence. It is adjacent to another two-story home. The zoning code allows two-story homes. Every ARCOM member who spoke about the architecture said it was "good" or "very good" and blended well with the surrounding architecture.

II. REQUEST FOR RECUSAL

If any Town Council Member is unable to objectively and impartially review the appeal because of close ties to Mr. Dotterer or the neighbors, we respectfully request that he or she recuse himself or herself in accordance with the rules governing a quasi-judicial body.

III. ARCOM ACTED PROPERLY

A. Standard of Review

The standard of review is whether there was competent substantial evidence to support ARCOM's decision. Competent substantial evidence is such evidence that establishes a substantial basis of fact from which a fact at issue can be reasonably inferred, and that is sufficiently relevant as a reasonable mind would accept as adequate to support the conclusion reached. *Fort Lauderdale v. Multidyne Med. Waste Mgmt., Inc.*, 567 So. 2d 955, 957 (Fla. 4th DCA 1990). In determining whether competent substantial evidence supported the conclusion, the test is not whether the reviewing Town Council agrees or disagrees with ARCOM's evaluation of the evidence, but rather, whether there was any competent substantial evidence upon which to base the commission's conclusion. *Id.* "Evidence contrary to the agency's decision is outside the scope of the inquiry...for the reviewing [body] above all cannot reweigh the 'pros and cons' of conflicting evidence." *Dusseau v. Metro. Dade County Board of County Commissioners*, 794 So. 2d 1270, 1274 (Fla. 2001).

Town Code § 18-177 prohibits the Town Council from conducting a *de novo* review of the ARCOM decision.² As the Town Attorney will advise in his preliminary comments, the Council's job is to decide if competent substantial evidence supported ARCOM's decision -- not to substitute the Council's own opinion for that of ARCOM.

The Town Council refrains from determining whether it would vote the same way that ARCOM voted. Instead, the Council's focus is whether ARCOM made its choice on the basis of adequate evidence.

B. Town Law

The laws and regulations of the Town are set forth in its Code of Ordinances (the "Code" or "Town Code"). The Code's Architectural Review provisions include a "Statement of findings and purpose" which contains aspirational language for the pursuit by ARCOM of beauty, harmony, aesthetic quality, and cohesiveness. But these factors must be balanced against the rights of individual property owners to build homes as they may reasonably design. Code § 18-146.

In deciding whether to approve an application for a building permit, ARCOM considers the criteria set forth in Code § 18-205. The specific criteria at issue in this case - regarding "excessive dissimilarity" - are set forth in subparagraph (a)(6) thereof. As it relates to this case, therefore, the Code provides as follows:

Sec. 18-205. - Criteria for building permit.

² Appeals filed pursuant to this section "shall be based on the record of the proceedings below and shall not be presented *de novo*." *Id.*

(a) The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:

(1) The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.

(2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.

(3) **The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.**

(4) The proposed building or structure is in **harmony with the proposed developments on land in the general area**, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.

(5) The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:

- a. Apparently visibly identical front or side elevations;
- b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the elevation facing the street, including reverse arrangement; or
- c. Other significant identical features of design such as, but not limited to, material, roof line and height of other design elements.

(6) **The proposed building or structure is not excessively dissimilar** in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:

- a. Height of building or height of roof.
- b. Other significant design features including, but not limited to, materials or quality of architectural design.
- c. Architectural compatibility.
- d. Arrangement of the components of the structure.
- e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.
- f. Diversity of design that is complimentary with size and massing of adjacent properties.
- g. Design features that will avoid the appearance of mass through improper proportions.

h. Design elements that protect the privacy of neighboring property.

(7) The proposed addition or accessory structure is subservient in style and massing to the principal or main structure.

(8) The proposed building or structure is appropriate in relation to the established character of other structures in the **immediate area or neighboring areas** in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).

(9) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.

(10) The project's location and design adequately protects unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.

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

(c) A decision or order of the commission or the planning, zoning and building department director or his/her designee shall not become effective until the expiration of ten working days after the date upon which a ruling of the commission or the planning, zoning and building department director or his/her designee has been made.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

Significantly, Code § 18-177 provides that “[a]ppeals filed pursuant to this section *shall be based on the record of the proceedings below and shall not be presented de novo.*” (emphasis added). In other words, no further evidence may be offered or considered at the appeal to the Town Council. And the Town Council is not tasked with re-weighing the evidence heard by ARCOM.

ARCOM is about architecture, and this Council's duty is to defer to ARCOM's special expertise in design where there is any competent substantial evidence to support its decision.

C. Substantial, Competent Evidence Supported ARCOM's Ruling

1. Overview

ARCOM acted in accordance with these principles when it approved the Application. As detailed herein, the Applicant presented substantial, competent evidence to ARCOM that the design for this home meets the requirements of § 18-205. ARCOM approved the design based on the record of competent, substantial evidence customarily presented - that is, the testimony of architects, which constitutes expert testimony, and professional plans and drawings, photographs, and similar proof that the proposed home complies with the Code.

Specifically, the substantial, competent evidence supporting ARCOM's approval included:

- (1) The sworn testimony of Anne Fairfax and Jaime Torres-Cruz of Fairfax, Sammons & Partners, licensed Florida architects. One of the principals of that architectural firm, Richard Sammons, is the current chair of ARCOM and recused himself for that reason;
- (2) The sworn testimony of Matt Jackman with Navarro, Williams Design, a licensed Florida landscape architect;
- (3) The sworn testimony of Appraiser Bob Reynolds that the proposed home would enhance, and not detract from, neighboring property values;³
- (4) The complete and detailed Application for ARCOM review filed by Fairfax, Sammons & Partners, together with voluminous documents attached thereto; and
- (5) Multiple depictions and renderings presented at the hearing before ARCOM.

2. The Specific Evidence in the Record

The Applicant, through Architect Torres-Cruz's testimony, described the design to ARCOM and gave his expert opinion that the home was harmonious with neighboring properties, including the adjacent, two-story home. He testified, based upon his expertise, that:

1. The plans approved by ARCOM responded to its request for a design that did not require any variances. Since all non-conformities (and hence variance requests) have been removed, revised plans became strictly an aesthetic ARCOM issue;
2. The design is virtually identical to the version presented at the June 28, 2017 ARCOM hearing, with just a few exceptions, all undertaken to address concerns communicated by the Commission during the June meeting. In addition to eliminating the need for a variance with respect to the garage on the west side, the garage wall was moved in by 2'8" to cause it to conform to the required setback. The Applicant also reduced the height of the roof to further lower the overall height of the building. The landscape and hardscape were revised accordingly;
3. During the very first presentation in April, the Commission recognized that a two-story house is permitted in this district in general, and on this site in particular. This two-story proposal is well within the parameters of what is allowed in the R-B zoning district;
4. During the June meeting, the Commission noted that there is a tradition in Palm Beach for two-story houses as bookends to the middle blocks. This house will contribute to the continuity of this tradition;

³ See Expert Report of Bob Reynolds, Exhibit A.

5. The design is respectful of the traditions of the island and appropriately understated to blend into the neighborhood. It is a house that balances the concerns raised by certain neighbors with the property owner's rights to develop the property in accordance with the owner's tastes and desires;
6. This house aims to be a fair compromise in terms of size, and to address the neighbors' fear of "massive" two-story houses;
7. There are several, much larger two-story houses within the 200-foot radius required for consideration under parts of the ARCOM code. These include 1460 N. Ocean Blvd. (5,572 square feet), which is immediately adjacent to the east of the subject property, as well as 1436 N. Ocean Way (5,295 square feet), 200 Esplanade Way (6,819 square feet), and 220 Esplanade Way (5,043 square feet);
8. Some neighbors have made the unsubstantiated complaints that a two-story house on this site will take away ocean breezes or views of the open sky. There are many other streets in Palm Beach with two-story houses where breezes blow freely, and Onondaga would be no exception. In fact, a two-story house currently exists on the adjacent lot to the east, and breezes flow freely on this street. The revised plan adheres fully to setbacks (and offers a series of setbacks in the front), reduces wall heights, reduces roof pitches, and places a second floor over only a part of the footprint, all of which minimize any impact on views of the open sky;
9. This house has a smaller footprint than the existing one-story home and, by not expanding the footprint, it aims to be ecologically responsible. It is a design, an addition, and a renovation that reuses existing resources and wastes nothing;
10. This is a house that, without being bold or calling attention to itself, is attractive, well proportioned, low in height, NOT massive (with its mass broken up into a reasonable number of smaller blocks to positively impact the streetscape), well detailed, and modest;
11. This is an Anglo-Caribbean style house with a Monterey style porch on the second floor of the main elevation, which fits quite well with the character of both the street and the island. The style and massing are well suited to the basic parti of the existing house and many other Ranch style houses on the island. Additionally, many strictly Monterey style houses on the island also share the same parti. The development of the house, as proposed, is natural and organic, whereas a horizontal, single story addition would be more of an imposition on the house and on the site. It is a "beachy" house that fits well with the character of the neighborhood and the island;
12. On the issue of dissimilarity, or, more accurately, *excessive* dissimilarity, which has been brought up as an argument for rejection, the Applicant responded, point by point, based on the required criteria:
 - a) **Height of building or height of roof** - There is a taller house right next door and three (3) others within the applicable radius. The overall building height was kept to a minimum at 18'5", instead of

the allowed 22'0." The roof pitch was lowered to a 4:12 ratio, as a compromise to diminish the overall height;

b) Significant features, materials, and architectural design

- The house is well designed, well detailed, in an appropriate style, and should be considered an architectural contribution to the street, the neighborhood, and the island;

c) Architectural compatibility

- Although the house does not aim to copy any of the other houses on the street, *it is not incompatible* with other houses on the street or the neighborhood. There are plenty of stylistic dissimilarities and so-called incompatibilities on the street in its current form; houses range in style from Ranch, Mediterranean, and Bermuda, to very Modern;

d) Arrangement of the components

- The house is well proportioned, reflects good taste and design, and has basic elements and details that are in harmony to each other. The house is quite normal, fairly modest, and doesn't present any outlandish or out-of-place elements;

e) Appearance of mass

- The building's mass is broken up into a series of smaller blocks which move progressively away from the street - much more than required by code - and which greatly reduce the impact of the house as perceived from the street;

f) Diversity of design complementary with size and massing of adjacent properties

- The two-story portion of the house is adjacent to the two-story house to the east; and the one-story portion of the house is adjacent to the one-story house to the west. This solution was readily observed during a previous meeting by Mr. Vila;

g) Design features that will avoid the appearance of mass through improper proportions

- With the re-design of the house between the first and second presentations, whatever sense of large massing or lack of detail existed (as per an early comment made by Mr. Corey) were resolved. The detail on the house greatly contributes to a more scaled-down reading of its already broken-up massing;

h) Design elements that protect the privacy of the neighboring properties

- All setbacks are either met or exceeded, and landscaping is also used to protect the privacy of the neighbors. The neighbor immediately behind, to the south, reached out to the architect, and after an explanation, was satisfied that his privacy would be maintained.

Sept. 27, 2017 Tr. at 6-22.

In addition, the Applicant noted through its architect that:

- 1. The side yard and rear setbacks are met and the front yard setback is exceeded.** The front yard setback requirement of 30 feet for two-story houses is exceeded by almost 4'8" in its northern-most portion of the building, while the other portions step back even more. The open second floor porch is an additional 4'0" back and 38'8" from the property line. The main block of the house is 9'0" away from the front of the house and 43'8" away from the property line. The west wing of the house is yet another 6'0" back from the main block and 49'8" away from the property line.
- 2. The building lot coverage is only 23.66% or 2,698 sq. ft., instead of the 30% or 3,420 sq. ft. allowed for a two-story house on this property. This represents 722 sq. ft. of building our client is not taking advantage of.**
- 3. The building height is only 18'5";** that is a significant 3'7" lower than the 22'0" maximum allowed by code. **The overall building height is 23'10½",** in lieu of the 30'0" maximum allowed by code.
- 4. The CCR has been kept at 3.42 instead of the 3.98 maximum allowed.**
- 5. The maximum angle of vision for this property is 100 degrees. As currently proposed, the angle of vision is diminished from the existing 86 degrees to 82 degrees.**

Id. at 16-17.

All of the above points should be viewed in contrast to what a new structure on the site, under current regulations, could potentially represent.

3. Competent substantial evidence supported ARCOM's approval.

As noted above, Code § 18-205 sets forth the criteria for approval of a new residential construction. If the standards set forth in the Code are met, the plans must be approved as a matter of law. As the Florida Supreme Court made clear in *Broward County v. G.B.V. International, Ltd.*, 787 So. 2d 838, 846 (Fla. 2001):

[A] local government agency may deny a plat application only if the agency demonstrates that the applicant failed to meet the objective legal requirements for approval. Thus, for the County to prevail on remand, the record must contain competent substantial evidence to support the conclusion that G.B.V. failed to meet the County's published criteria for plat approval. Otherwise, the Commission's decision must be quashed.

See also Park of Commerce Assocs. v. City of Delray Beach, 606 So. 2d 633, 634-635 (Fla. 4th DCA 1992) (where all legal requirements for approval of site plans have been met, there is no residual discretion to refuse approval); *City Nat'l Bank of Miami v. City of Coral Springs*, 475 So. 2d 984, 985 (Fla. 4th DCA 1985) ("It is elementary that once a party complies with all legal requirements for platting there is no discretion in government authority to refuse approval of the plat."); *City of Gainesville v. GNV Invests., Inc.*, 413 So. 2d 770 (Fla. 1st DCA 1982) (where property owner's site plan petition to construct a permitted skate center on property zoned "shopping center" met all technical requirements of city's ordinances regarding site plan approval, city plan board's denial of the petition for site plan approval was unlawful and arbitrary); *Broward Cnty. v. Narco Realty, Inc.*, 359 So. 2d 509 (Fla. 4th DCA 1978) (county had no discretion to refuse plat approval where landowner met all legal requirements for platting land); *accord S. Coop. Dev. Fund v. Driggers*, 696 F.2d 1347, 1351-1352 (11th Cir. 1983) (lack of standards "would permit the Commission to hold in reserve unpublished requirements capable of general application for occasional use as the Commission deems desirable").

In *Narco Realty*, for example, the applicant met all of the standards for plat approval. 359 So. 2d at 510. The county, however, asserted that it maintained discretion on a case-by-case basis to deny such applications. *Id.* The Fourth District disagreed, restating the long-standing law on this issue:

All persons similarly situated should be able to obtain plat approval *upon meeting uniform standards*. Otherwise, the official approval of a plat application would depend upon the whim or caprice of the public body involved.

Id. (emphasis added).

Fact-based testimony and recommendations from professional staff constitute competent substantial evidence. *See City of Hialeah Gardens v. Miami-Dade Charter Foundation, Inc.*, 857 So. 2d 202, 204-05 (Fla. 3d DCA 2003). The Applicant's four experts gave such fact-based testimony, and they are highly respected in their fields and in the Town.

D. ARCOM'S Ruling Was Well Reasoned

ARCOM reasonably and properly exercised its discretion in approving the new home, with the following comments from three separate hearings, which reflect the thoughtful basis for their decision:

"[B]y building two stories you save open space."

"[T]he scale of this house is quite low."

"[...there aren't any outstanding examples of anything on this street . . . there's a lot of obsolete houses. There's a lot of houses that doesn't meet FEMA requirements. It's too low. It's going to flood. Two of them are for sale. . . And you know, there are certain property rights that we have to respect."

"I'm in support of this from the idea of architecture of the grace and charm it adds in its design adds to the area in a proteios line of commodity of fulfillment and delight."

"I want to make the point that we are not a binary commission here. This isn't a divorce court where we have one side come in and another side and we're choosing a side. I don't vote for an owner or an applicant. I don't vote for neighbors, nor do I vote against them. I'm here on good, bad architecture. That's all I'm voting on. **And I think that this is architecture that does fit in. Time is a variable. Things are 50 years old and they represent their time from 50 years ago and this is now.**"

"This architecture is good. I'd like to state the obvious that a neighborhood is not 200 feet. A neighborhood is 200 people and a neighborhood is laid back depending on the people that live there. And sometimes the people that live there get to live there because they have a lot of money or they don't have a lot of money. The town is changing."

"So to simply address the architecture, it's good architecture. So talk about the location, it's not the middle of the block. It could well be on Ocean. It opens to Onondaga, but it's not in the middle of it. And our job I think is not to try to stall change or try to affect the market but simply to talk about the architecture."

"The architecture I think is good. As Mr. Corey said, if you lowered the roof and brought in that garage,⁴ it would be a slam dunk just because of the way it works with the street and so forth and so on. It's a fact this is an enclave of single story homes. We usually look at the corners, the end streets as being more prominent, larger homes, taller maybe. And as you said, this house next door to it is on North Ocean Boulevard. **So this is the first house on Onondaga. That makes it the end block. And I don't think that by letting the end block home be a two-story will negatively affect Onondaga in the future because we're not setting a precedent and I want to make that extremely clear.**"

"I think it's important to underscore the fact that there's an enormous amount of quality and time and talent that have gone into producing this design, and I commend you for coming back month after month with revisions that are very good. Mr. Small put it very well in terms of the concept of enclave. I've always thought of that as having more to do with the people that live there as opposed to architecture. But anyhow, the -- these streets are very beautiful in terms of this scale, and yet I do see this location as being a corner location, and I see the house across the street, which is a very dated early '70s design, as being a corner location that possibly will also be replaced at some point in the future. There is the whole element of obsolescence that has to be taken into

⁴ These design changes were subsequently incorporated by the Applicant.

consideration when you think about preservation. When it's obsolescence of a Victorian that's recognized again 100 years later as being high quality, that's one thing. I don't think we're dealing with that here. But ultimately, for me, the argument regarding open space is a very, very, very important one. And the fact is that a developer can scrap the existing house and, as we know, cover a big, big amount of this lot with a splanch, and I would not like to see that. So I have to support it."

ARCOM Chair Vanneck concluded with these comments at the September 27th hearing:

I've given a lot of thought to this. And as an enclave, I don't think you -- what's going to happen is, if we deny this process, every single home on Onondaga will never ever be able to be a two-story. **That will affect you down the line, and when your children, or whatever, decide to sell your house, it's going to be a one-story house. A lot of the houses on Onondaga need updating. They're going to be scrapped. How many people do you think who are going to buy them are going to want to have a one-story home. You have to look at that as well. Okay. Yeah, it's where the pocketbook hits the road.** I did say in the past that I thought that 202 Onondaga qualified as a corner house on that street. I'm looking at air, harmony, beautification, and I'm looking at the future as well as the past and the present.

So to make a long story short, **this is very good architecture.** I said before that I think that if you don't accept it, you're going to shoot yourself in the foot because what's going to come up next is going to make you puke. And excuse my lack of language, it's not very quasi-judicial. However, I need to put it into words and caution you. **And a lot of people have said some pretty nasty things in our e-mails, you know, what we need to do and how we need to do this, and that is not what we're for. We're here for the architecture and the beauty of Palm Beach.**

(emphasis added).

IV. THE APPELLANTS' ARGUMENTS SHOULD BE REJECTED

The Appellants make numerous arguments as to why ARCOM's decision should be reversed, but those arguments should be rejected. They contend that the Application was "procedurally defective" (Appeal at 1), but they never say in what way it was procedurally defective.

They argue the proposed development is "incongruent." *Id.* To the contrary, the evidence submitted by the Applicant establishes that the home fits in nicely with the surrounding homes and improves the neighborhood, as the Commissioners also noted prior to voting to approve the Application.

The Appellants cite the “excessive height” of the proposed structure (*id.*), but the structure is not higher than the other two-story homes in the area and in fact, is lower than the maximum allowed, as discussed above. *See also* the streetscape set forth on page 2, *supra*.

The Appellants cite the “excessive mass” of the home (Appeal at 1), but as discussed above, the mass has been shrunk in response to the Commissioners’ preferences at the earlier hearings, and as noted above, ARCOM observed that the scale of the home “is quite low.”

The Appellants argue that the home would block the neighbors’ natural sunlight. Appeal at 2. As discussed above, this is simply not the case. In any event, neighbors do not have rights to each other’s airspace through which sunlight may pass. Nor would the home invade any neighbor’s privacy, as the positioning of the building and the landscaping proposed for the home would ensure privacy for the surrounding neighbors.

The Appellants claim that § 18-205(a)(6) -- the excessive dissimilarity provision -- is the “preeminent provision of the Town of P[alm] B[each] Code.” Appeal at 4. They cite no authority for this assertion. In fact, that provision is just one of many provisions that ARCOM must, and did, consider. Appellants imply that excessive conformity and broad government regulation should somehow be Town policies.

Moreover, the ARCOM ordinance lays out a framework of criteria for ARCOM members to consider. ARCOM members are “appointed on the basis of experience in art, architecture, community planning, land development, real estate, landscape architecture, or other relevant business, profession, or civic interest. At least two members, but no more than three members, of ARCOM are registered architects in the state.” <http://townofpalmbeach.com/Index.aspx?NID=95> ARCOM’s job is to review applications for their architecture, exercise their professional judgment, and vote their collective wisdom based on the weight of the evidence presented. Indeed, ARCOM’s mission, which it diligently carried out here, is to use its collective expertise and its members’ professional judgment to balance all of the factors present with respect to a given application in order to render a fair and thoughtful decision.

The Appellants argue that if the structure is excessively dissimilar to even *one* structure in relation to just one aspect, such as height, architectural compatibility, or appearance of mass, within 200 feet, the application must be denied. Appeal at 4. There is absolutely no precedent for the Appellants’ interpretation here. Appellants cite no instances where the Code has been enforced in such a manner by ARCOM or by the Town Council.⁵ In fact, the Appellants’ reading of the

⁵ Appellants cite 257 Sandpiper (“Sandpiper”), 1021 North Ocean Blvd. and vague references to two other properties as precedent for its position on how § 18-205 should be read. The only reference in the record to Sandpiper - a Shiny Sheet article - is neither sworn nor otherwise constitutes competent substantial evidence.

Even if ARCOM considered the Shiny Sheet article to be competent or substantial evidence, the actual record before ARCOM reveals that it is not a precedent that helps Appellants. Its rejection of the two-story Sandpiper application was based on bad architecture and not the fact that it was two-stories.

Code cannot be reconciled with the existence of the two-story home directly adjacent to 202 Onondaga or the other two-story homes within the 200' radius.

As Mr. Torres-Cruz testified at the hearing, embracing the Appellants' pinched and absurd construction of § 18-205(a)(6) would hamstring ARCOM from carrying out its core mission and stifle good architecture in Palm Beach (as well as call into question the validity of any number of previous decisions by ARCOM):

[N]ow, going to Mr. Dotterer's comments, about any dissimilarity to any other properties. If this was the case, ... if that word was to be taken literally and followed through, nothing in Palm Beach could be built, no two-story houses could ever be built, not any one next to a one-story house. There would be plenty of dissimilarities in any sense, and nothing could ever be built in Palm Beach.

Sept. 27, 2017 Tr. at 61:13-20. Similarly, as the Applicant stated at the September 27 hearing, there is no prohibition against similar or dissimilar homes, only ones that are excessively so, and the determination of "excessively" is delegated to the professional judgment of ARCOM:

The ARCOM code does not say that it's got to be identical. Otherwise, we'd have a Levittown in the north end of Palm Beach. In fact, the code says *excessively*

The actual record before ARCOM in Sandpiper, the "seminal decision" according to the Appellants, Appeal at 16, shows the following: A two-story home was proposed in the middle of the block. As here, there was a mix of one- and two-story homes within the 200' radius of Sandpiper and a minority of neighbors in the area objected to the project. ARCOM denied the two-story design submitted, and the applicant returned, at its discretion, with a one-story design that was ultimately approved. However, nothing prevented the applicant from proposing a different two-story design than the one rejected by ARCOM, and ARCOM never issued an edict that prohibited a two-story design at Sandpiper based on the excessively dissimilar or any other criterion. To the contrary, Commissioners Garrison and Vila, who both voted in favor of the Applicant's two-story design but against the proposed two-story at Sandpiper, went out of their way to make it clear that the reason Sandpiper was denied was the architecture, not the fact that the proposed design was for a two-story home. As Mr. Garrison stated: "I just want to make it absolutely clear that it has nothing to do with being two-stories. It is dissimilar. And people talk about the house across the street. The house across the street because it has a mansard roof that was done in the fifties and sixties makes it appear to be two-stories ... and that house [which is in fact two-stories] is not similar to any houses in almost all of north Palm Beach so I want to make it clear that it has nothing to do with two-stories. It's just the house itself." And Mr. Vila summed it up in two words: "The architecture." See March 25, 2015 ARCOM meeting denying approval: http://townofpalmbeach.granicus.com/MediaPlayer.php?view_id=2&clip_id=1505 at 2:06:55 to 2:07:30.

In none of the cases cited by the Appellants did ARCOM embrace Appellants' narrow view of § 18-205. In any event, thanks to numerous references to it made by the Appellants, ARCOM was well aware of its decision in Sandpiper when reviewing, and ultimately approving, the application at issue in this case.

dissimilar. If we accepted Mr. Dotterer's argument, there would be no diversity of design; there would be no diversity of streetscape; or any other of the criteria set forth in ARCOM's mandate.

Sept. 27, 2017 Tr. at 65:4-15. (emphasis added).

The Appellants argue that the Applicant has failed to sustain its burden of proof (competent, substantial evidence) that there are no excessively dissimilar structures within 200 feet. Appeal at 5. They go so far as to say that the Applicant did not even *attempt* to sustain its burden. *Id.* This is false, as the foregoing discussion makes clear. The Appellants are distorting the requirements before ARCOM, requirements which were indeed met by the Applicant.

The Appellants claim that there are 14 excessively dissimilar structures within 200 feet, because they are one-story homes. As discussed above, the fact that one home is a one-story and another home is two-story does not make them excessively dissimilar. The Applicant presented testimony to that effect, and such testimony constitutes competent substantial evidence: the difference between one-story versus two-story does not constitute excessive dissimilarity. Thus, this Council should also reject Appellants' hyperbolic, and incorrect, argument that "neighbors *conclusively proved, in uncontradicted fashion,*" that there are 14 excessively dissimilar structures. Appeal at 6. It is simply not true.

The Appellants next argue that there are "only" three two-story structures within 200 feet,⁶ and they are "resoundingly different." Appeal at 13. However, the fact that some of the homes are one-story, of different mass or cubic content ratio, or of different style does not make them "excessively dissimilar" on their face. As noted above, ARCOM is tasked with balancing a number of factors in determining whether to approve a proposed structure. Among other things, the Commission must ensure that the homes in Palm Beach are neither excessively dissimilar nor excessively similar, and Appellants have failed to establish that ARCOM erred in balancing these criteria. Moreover, the fact that there are 4 two-story homes within 200 feet establishes that a home cannot be excessively dissimilar merely because it is a two-story home; otherwise, Palm Beach would be excessively similar, with cookie cutter homes only.

The Appellants assert that the proposed structure is the "only elevated structure on Onondaga, and in the Enclave." Appeal at 8. This is incorrect. The house immediately to the east is a two-story home. As Mr. Torres-Cruz explained, although the house address is 1460 N. Ocean Boulevard:

[T]hat house next door to the 202 Onondaga, if you argue that it is not part of the Onondaga, which we all do know that **when the house was built it had an Onondaga Avenue address**, which was later changed as convenience to a non-Onondaga Way. So you -- it's a rationalization and it's a technicality. Physically and realistically speaking, it is right next to Onondaga Way. It's on Onondaga. And it is within the 200-foot range, and it has to be included as part of what is being

⁶ Appellants conveniently ignore the 6,819-square foot home at 200 Esplanade in their analysis.

looked at. If that is not the case, then there is a precedent for bookend houses on the streets in Palm Beach. So our proposal would be that two-story house at the end of the block.

Sept. 27, 2017 Tr. at 61:21-62:10 (emphasis added).⁷

So to be clear, when the adjacent two-story home at 1460 N. Ocean Boulevard was built, it had an Onondaga address, meaning it was within the so-called “Enclave” as defined by the Appellants and created precedent for two-story homes both within the “Enclave” and on Onondaga. Since the adjacent home no longer has an Onondaga address, the Applicant’s home at 202 Onondaga is now the end block to the east.

Commissioner Vanneck referred to the precedent of having two-story homes at the end of the block. June 28, 2017 Tr. at 79 (“It’s a fact this is an enclave of single story homes. We usually look at the corners, the end streets as being more prominent, larger homes, taller maybe. And as you said, this house next door to it is on North Ocean Boulevard. So this is the first house on Onondaga. That makes it the end block. And I don’t think that by letting the end block home be a two-story will negatively affect Onondaga in the future because we’re not setting a precedent and I want make that extremely clear.”). *See also* Commissioner Vila, *id.* at 77 (“I’d like to state the obvious that a neighborhood is not 200 feet. A neighborhood is 200 people and a neighborhood is laid back depending on the people that live there. And sometimes the people that live there get to live there because they have a lot of money or they don’t have a lot of money. The town is changing. I’ve been on Everglades Island since 1976 in and out. I’ve seen it change. I still have a lot of laid back neighbors. We still have neighbors over. We still do potlucks occasionally. Architecture doesn’t dictate how people are. So to simply address the architecture, it’s good architecture. So talk about the location, it’s not the middle of the block. It could well be on Ocean. It opens to Onondaga, but it’s not in the middle of it. And our job I think is not to try to stall change or try to affect the market but simply to talk about the architecture.”).

The Appellants claim that the letters from the neighbors in opposition constitute substantial competent evidence. This is incorrect. **None of these letters was sworn, and therefore they do not constitute evidence - competent or otherwise.** They constitute merely public comment. While “citizen *testimony* in a zoning matter is perfectly permissible and constitutes substantial competent evidence, so long as it is fact-based. ... [m]ere generalized statements of opposition are to be disregarded....” *Metropolitan Dade County v. Blumenthal*, 675 So. 2d 598, 607 (Fla. 3d DCA 1996) (on rehearing *en banc*) (citing *City of Apopka v. Orange County*, 299 So. 2d 657, 659 (Fla. 4th DCA 1974)). Furthermore, most arguments made against the application were not supported by any evidence. These include extraordinary claims that the proposed structure would restrict air flow in the neighborhood, leading to an explosion in the mosquito population and that allowing a two-story structure at 202 Onondaga would cause a rush to convert all the other homes in the area to two-story homes (the so-called “camel’s nose in the tent” argument). Boiled down,

⁷ Notably, the ARCOM code makes no reference to “street,” “block,” or “enclave.” It references “within **200 feet**,” the “nature of the **local environment**,” the “proposed developments on land in the **general area**,” and the “immediate area or **neighboring areas**.” §§ 18-205(a)(3), (4) and (8). (emphasis added).

aside from the misplaced legal arguments advanced by Mr. Dotterrer, the letters and public comments in opposition represent nothing more than thinly veiled subjective preferences of a few residents that ARCOM rejected.

Even if their statements had been sworn, Florida law is clear that public land use hearings are not popularity contests. *City of Apopka*, 299 So. 2d at 659 (“it was not the function of the [City Commission] to hold a plebiscite on the [conditional use] application”); *Conetta v. City of Sarasota*, 400 So. 2d 1051, 1053 (Fla. 2d DCA 1981) (“a popularity poll of the neighborhood” was an improper basis for denial). In *City of Apopka*, the Fourth District Court of Appeal explained that the purpose of a public hearing before a city commission or zoning board is not to conduct an opinion poll, but instead to allow the public to present facts from which the Board may make a decision. 299 So. 2d at 659. “The Board should base their determination upon facts which they find to have been established, instead of upon the wishes of persons who appear for or against the granting of the application.” *Id.* (citation omitted).

The Appellants next contend that the appraiser’s testimony that property values will be enhanced, rather than lessened, by the proposed structure is “not competent substantial evidence” because such testimony does not address the “issue at hand” of excessive dissimilarity. Appeal at 14. Appellants go so far as to assert that § 18-205(a)(6) (addressing excessive dissimilarity) is the “controlling ordinance.” Appeal at 5, 15. This is simply not the case; all the provisions of the Code are equally important and applicable. Appellants seek to ignore the other factors that, in combination, are intended to promote good architecture and aesthetics in Palm Beach. The appraiser’s report addressed, *inter alia*, the criterion in § 18-205(a)(3) (“The proposed building or structure is **not**, in its exterior design and appearance, of inferior quality such as to **cause the nature of the local environment to materially depreciate in appearance and value.**”) (emphasis added). ARCOM is tasked with assessing *all* of the criteria. Appellants act as if excessive dissimilarity is the only criterion to be considered, which is not the case.

Moreover, the Appellants contradict themselves in asserting that property value is irrelevant to the issue at hand; they cite property value when it suits their purposes, such as when they argue that the one-story plan for 257 Sandpiper was a “key marketing point” for people who did not want to climb stairs and that other single-story homes in the neighborhood sold for \$6 million. See Appeal at 17. Appellant’s selective consideration of what is relevant and important should be rejected.

Appellants contend that the presence of nearby two-story homes is irrelevant if they are more than 200 feet from the proposed structure and if they are not located on Onondaga Avenue. Appeal at 10-11, 13-14. However, the Code does not speak to whether the structure is on the same street; rather, it speaks to what is located within 200 feet from the proposed structure. Furthermore, §§ 18-205(a)(3), (4) and (8) speak to the “nature of the **local environment**,” the “proposed developments on land **in the general area**,” and the “**immediate area or neighboring areas**.” Consequently, the presence of two-story homes in the neighboring or immediate areas is indeed a relevant and proper consideration by ARCOM. The 200-foot radius is not some talismanic ARCOM criterion – “local environment,” the “general area,” and the “immediate area or neighboring areas” are all co-equal criteria.

Appellants claim that there was no specific finding of compliance with § 18-205(a)(6). Appeal at 15. This is incorrect. When Mr. Vila made his motion to approve the Application, the following exchange occurred, establishing that *all* the criteria set forth in the Code were met:

MS. VANNECK: We have a motion.

MR. RANDOLPH: Is that based upon the criteria set forth in the code? Do you make those findings as part of your --

MR. VILA: Yes, I do. Do you want me to read them into --

MR. RANDOLPH: No, **just as long as you make those findings that you feel it has met all the criterion** of the --

MR. VILA: **I do.**

MS. VANNECK: We have a motion and a second. All in favor?

Sept. 27, 2017 Tr. at 81:10-21 (emphasis added). The Commissioners voted on that motion, and it was approved by ARCOM.

The Appellants argue that ARCOM members cannot change the code provisions, even if they do not like the excessive dissimilarity provision. Appeal at 15. The Applicant agrees, but submits that ARCOM is not trying to change the Code. In actuality, it is the *Appellants* who are seeking to re-write the Code by arguing that only one-story homes should be allowed in the “Enclave.”

Appellants point to their architect’s testimony that a one-story home could have up to 4427 square feet, versus the 4201 square feet that ARCOM approved for 202 Onondaga, and therefore the Applicants should be required to build a one-story home. Appeal at 17. However, a one-story structure of that size would increase the existing footprint, thus decreasing yard space, which would make it *less* rather than more harmonious with surrounding homes.

Finally, the Appellants argue that the neighbors were denied due process because their architect, Mr. Cope, was not allowed to present certain evidence that overlapped with evidence presented at earlier hearings. Appeal at 18. Without citation to any cases, they contend that this constituted a denial of due process. However, they fail to allege or establish that they were prejudiced in any way by being denied the opportunity to present evidence that had already been presented or should have been presented earlier. Nor did they object to the procedure employed at the hearing, and therefore they failed to preserve that argument for appeal.

V. TOWN COUNCIL’S OBLIGATION TO AFFIRM

Since the Town Council’s role is limited to a review for possible ARCOM mistakes, and there were none, it should affirm the approval of this modest home. The testimony of the Applicant’s witnesses and other evidence supported the approval by ARCOM. ARCOM conducted three lengthy hearings on this case and its consideration of the criteria in § 18-205 was thorough and thoughtful. Moreover, John C. (“Skip”) Randolph, Esq., the Town Attorney, was present throughout the ARCOM hearing, and he did not identify or correct a single mistake in ARCOM’s approval of this home. The Appellants’ brief is nothing more than an invitation for

Town Council to superimpose its judgment for that of ARCOM's, in clear conflict with the Code. Furthermore, the Appellants' self-serving, tortured reading of § 18-205, if embraced by the Town Council, will have a chilling effect on the ability of the Town of Palm Beach to issue building permits and ultimately, on the rights of homeowners to make reasonable modifications to their private property.

VI. CONCLUSION

The Town Council must affirm the ARCOM decision. The proposed residence will enhance the north end neighborhood.

Very truly yours,

s/ James K. Green

Enclosures

ccs: John Dotterer, Esq.
John C. Randolph, Esq.

JAMES K. GREEN, P.A.

LAWYERS

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

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

November 6, 2017

By Hand Delivery

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

Re: Applicant's Response to Appeal in *Dotterrer, et al. v. ARCOM*
202 Onondaga Avenue

Dear Mayor and Honorable Town Councilmembers:

Enclosed please find exhibits to Applicant's Response to Appeal filed with the Town of Palm Beach Clerk of Court on November 3, 2017 as follows:

1. Expert report of Robert R. Reynolds III dated September 26, 2017 with photographs of nearby homes; and
2. Map of nearby two-story homes within 200 feet of 202 Onondaga Avenue.

Very truly yours,

/s/

James K. Green

Encs.

ccs: John Dotterrer, Esq.
John C. Randolph, Esq.

ROBERT R. REYNOLDS III
III R III REALTY
1125 CLARE AVENUE
WEST PALM BEACH FL 33401
561.832.8068

202 Onondaga A
B-020-2017
presented @ 9/27
ARCOM meeting
RECEIVED

2017 NOV 6 PM 12:31 TWH CLERK

September 26, 2017

Mr. James K. Green, Esq.
James K Green, P.A.
222 Lakeview Avenue, Suite 1650
West Palm Beach, FL 33401

RE: 202 Onondaga Avenue, Palm Beach, FL

Dear Mr. Green,

I am an appraiser and have appraised hundreds of residential properties in Palm Beach over the last 40-plus years.

At your request, I have undertaken an analysis of houses in the "North End" of Palm Beach.

The "North End" is considered by the Board of Realtors to be that part of the island of Palm Beach north of Dunbar Road. As an active and experienced real estate appraiser in this market, I believe that the market for 202 Onondaga is north of the "Clubs," i.e., from Bahama Lane north to the Palm Beach Inlet.

This was the last major area of the town to be developed. Most of the houses were built in the 50's, 60's and 70's and were primarily single-story ranch style homes with less than 3,000 sf under roof.

There are numerous two-story homes in the North End, a great number of which have been built in the past 10 years. The median square footage of all homes (single and two-story) in the North End is 5,500 sf, much larger than the proposed project at 202 Onondaga.

The entire North End is zoned to allow two-story construction and sales of one-story homes reflect that fact. If some or all of the existing properties with one-story homes in the North End are barred from building two-story homes, either by law or by administrative action, the value of such properties will decline in relationship to other properties in the North End.¹

Some refer to the area near Onondaga, Laurie, Debra, and Esplanade as the "Enclave." None of these houses in the so-called Enclave has been "Landmarked" as being architecturally or historically significant.² Nor am I am aware of any single-story homes in the North End built in the 50s, 60s and 70s that have been "Landmarked" as being architecturally or historically significant.³

There is an inference by some that being located in the "Enclave" is very desirable or enhances value, but sales of smaller homes in the "North End" all reflect a value of \$1,000 per square foot of air conditioned living area.

Some people refer to the structures in the area as "beach cottages." Most of the homes in the area are ranch-style homes with very typical mid-50's Florida architecture.

257 Sandpiper Drive and 225 West Indies Drive have been cited as proof of the appeal of single story houses, but both were over 5,000 square feet which is very reflective of the overall market, and which focuses primarily on the size of homes, not whether they are one- or two-story structures.

¹ For example, the home at 210 Debra Lane recently sold at a lower value than any recent sale in the North End primarily because the cost of renovations would add little if any overall value to the property. Allowing only one-story construction on interior lots in the North End would generate downward pressure on the value of such properties.

² Attached are photographs of various existing structures in the so-called "Enclave."

³ There are only three (or maybe four) landmarked houses in the North End and two are two-story homes built in 1939 and 1940 and one was partially landmarked as to its façade. None of these are located in the "Enclave."

In conclusion:

1. I have never seen any reference in real estate listings to a North End "Enclave." Most listings use terms like cozy, warm, bungalow or beach house which are generic to the whole island.
2. Many of the North End streets have large two-story homes.
3. Replacing one-story homes with two-story ones will increase square footage, thereby increasing value.

If you require additional information or have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Reynolds III", with a stylized, flowing script.

Robert R. Reynolds III
State-certified Residential Appraiser No. RD 61



221 Debra



210 Debra



1470 N OCEAN



215 Onondaga

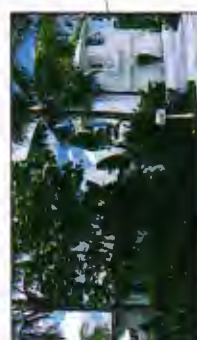


250 Esplande





FAIRFAX & SAMMONS
 — NEW YORK — PALM BEACH —
202 ONONDAGA AVENUE
 PALM BEACH, FL
 NEARBY TWO STORY HOUSES - MAP
 SEPTEMBER 27, 2017



B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Jaime Torres/Fairfax, Sammons & Partners

Landscape Architect: Matt Jackman/Nievera Williams Design

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

VARIANCE INFORMATION: The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof off the one story house. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required.

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

Mr. Torres presented an aerial photo, a survey, a site plan, a streetscape, CCR details, floor plans, colored rendered elevations, section details, existing property photos, existing exterior photos and material details.

Mr. Ives asked the architect if he considered the style of the area when creating his design. Mr. Torres stated that he did a survey of the area and felt the design was consistent with surrounding homes. Some more discussion continuing about the styles in the area. Mr. Ives also asked about the floor to ceiling heights. Mr. Torres responded. Mr. Ives thought it was consistent with the street and thought the design was an improvement on the lot. He was in favor of the shutters.

Mr. Garrison asked about their choice to use stone rather than stucco. Mr. Torres stated he did not feel stone was appropriate for the style. Mr. Garrison also pointed out how the design respected both east and west neighbors by its design.

Ms. Grace was in favor of the design but questioned whether it fit on the street.

Mr. Corey expressed concern about the variances that were requested and questioned whether the house could be designed without any variances. Mr. Torres responded and explained the design.

Mrs. Vanneck thought since the request was to remove more than 50% of the home, it would be wise to demolish the existing house and rebuild new. She also agreed that the house could be built without variances.

Mr. Garrison was not in favor of a home design that creates a need for a variance.

Mr. Ives was in favor of the design and thought it would be a nice addition to the area.

Mr. Vila agreed that the scale of the house was good and sensitive to the neighbors. He was in favor of the project and spoke about preservation of the existing home.

Ms. Shiverick liked the details on the house and was in favor of the project.

Mr. Corey asked about the shutters. Mr. Torres responded.

Mr. Torres explained how the design had broken up the mass of the home as well as reviewed the details of the home.

Mr. Jackman presented the proposed landscape and hardscape plan for the project. He showed a site plan, renderings and elevations.

Ms. Shiverick suggested that the hedge on the exterior view was too much and needed to be shorter.

Susan Gary, 229 Onondaga Ave., asked if the neighbors in favor of the project could speak first.

Allison Brown, 1465 Laurie Lane, was in favor of the design and thought it would be an improvement to the neighborhood.

Susan Gary, 229 Onondaga Ave., objected to the size and mass of the proposed home.

Per Lorentzen, 231 Osceola Way, expressed his objections to the two story home.

Bill Metzger, 277 Esplanade Way, read a letter which applauded the design of his two story home where the second story portion is in the rear of the home.

John Dotterer, 1470 N. Ocean Blvd., spoke on behalf of Jacqueline Murphy and G. Ben Turnipseed as well as himself. He submitted a compilation of letters of objections to the clerk. He expressed concerns about the scale of the proposed home.

Mr. Corey asked to rule on the variances first and thought the home could be designed without any variances. Ms. Grace agreed with Mr. Corey.

Motion by Mr. Ives and seconded by Ms. Shiverick that the implementation of the proposed variances will not cause negative architectural impacts to the subject property. Motion failed 2-5 with Ms. Grace, Vanneck and Messrs. Garrison, Vila and Corey opposed.

A second motion made by Mr. Corey and seconded by Mr. Vila that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. Motion carried 5-2 with Mr. Ives and Ms. Shiverick opposed.

Mr. Torres asked if the motion referred to a design without a second story. Mrs. Vanneck responded. Mr. Vila suggested putting the second story in the attic.

A third motion made by Mr. Corey and seconded by Mr. Garrison to defer the project to the June 28, 2017 meeting for restudy. Motion carried 6-1 with Mr. Ives opposed.

B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE - Done
4/26/17

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Anne Fairfax & Jaime Torres/Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

VARIANCE INFORMATION: The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof off the one story house. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required. ***ARCOM DID NOT SUPPORT THIS VARIANCE REQUEST***

At the April meeting, a motion carried that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for restudy.

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

Frank Lynch, attorney for the applicant, stated that his client is still seeking a diminished variance on west side for the non-conformity but has eliminated the east side variance.

Ron Kolins, attorney on behalf of 23 neighbors, asked to speak on a point of order. Mr. Kolins stated that the application for the project is defective due to the fact that a member of ARCOM has a conflict of interest on the case and it was not disclosed on the application and agenda. Mr. Randolph responded and stated that it did not make the application defective. Mr. Kolins read the Code of the section regarding the conflict of interest and asked that the application be dismissed. Mrs. Vanneck stated that the Commission has already heard the application and thinks they should continue to do so. Mr. Randolph asked how the public has been prejudiced by the information not appearing on the application. Mr. Kolins responded. Mr. Randolph stated he still thinks they should hear the application.

Motion made by Mr. Small and seconded by Mr. Garrison to continue hearing the application. Motion carried by all in favor.

Mr. Kolins stated that the notice to the neighbors is factually incorrect as the description of the project was not accurate. Mrs. Vanneck asked about the notice was sent out to the neighbors. Mr. Torres provided an explanation for the project description. Mr. Randolph stated he did not feel the notice was defective and that the Commission could continue hearing the project.

Ms. Fairfax presented the modifications for the proposed residence. She presented a comparison of heights, site plan, existing and proposed roof plans.

Jaime Torres presented a cubic content ratio diagram for the residence.

Ms. Fairfax presented a streetscape, floor plans and colored, rendered elevations.

Mr. Torres stated that the bulk of the changes have to do with the massing of the building. Mr. Torres presented the modifications to the proposed residence. He stated the person most affected by the changes to the home was the neighbor to the south, who supports the project. Mr. Torres presented colored renderings of the proposed home.

Mr. Small asked for clarification for the garage design. Mr. Castro explained the requirements for a garage.

Mr. Ives was in favor of the changes. Mr. Ives stated he did not think the variance request negatively affected the architecture. He thought the house was charming and was sensitive in its design.

Mr. Corey stated that the plans and drawings are not all consistently oriented in the north direction. He asked for all of the architects to do so in the future.

Mr. Corey was in favor of the color and quoins. He asked about the height roof pitch. Mr. Torres provided an explanation. Mr. Corey stated he was in favor of the lower roof profile. Mr. Corey asked about the amount of demolition. Mr. Corey questioned the need for the variance.

Mr. Garrison favorably discussed the proposed setbacks. He stated he was in favor of the design and thought it was sensitive to the neighbors.

Mr. Vila agreed with Mr. Ives and Mr. Garrison and stated his support of the project. He also stated that the design was sensitive in its design.

Ms. Grace was in favor of the design but preferred the first design. She questioned whether the home fit into the neighborhood.

Ms. Shiverick asked about the proposed angle of vision. Mr. Torres responded. Ms. Shiverick stated her agreement with Messrs. Ives, Vila and Garrison.

Ms. Catlin was in agreement with the other Commissioners. She asked for clarification on the variance request. Mr. Torres responded.

Mr. Small asked for clarification about the amount of the structure to be demolished. Mr. Torres responded.

Mr. Torres showed a one-story footprint would look like on the site. He stated his reasons for keeping part of the existing home.

Michael Conville with Beacon Construction, talked about the savings in the building timeframe as well as a savings in the cost to salvage the existing home.

Matt Jackman, Nievera Williams Design, presented the proposed landscaping for the residence. He presented a site plan, a rendered site plan and colored renderings.

Mrs. Vanneck suggested the palm tree on the eastern side be moved westward to mitigate the two-story element.

Mr. Kolins submitted a list of 23 homeowners that he was representing to the clerk. He asked for the project to be deferred, as the notice was incorrect to the public. Mr. Torres responded to Mr. Kolins's objection. Mr. Randolph stated his opinion to allow the Commission to continue hearing the project. Mrs. Vanneck stated her reasons for allowing the application to be heard. Mr. Kolins stated his objections that the rules and Code were not followed.

A second motion by Mr. Garrison and seconded by Mr. Vila to deny Mr. Kolins request. Motion carried with all in favor.

Mr. Kolins, on behalf of the 23 homeowners, stated his objections to the project and his reason that he believes the Commission should deny the application.

John Dotterrer, 1470 N Ocean Blvd, stated his credentials. He presented and reviewed materials submitted in objection to the proposed residence. He requested the Commission to deny the application.

Susan Gary, 229 Onondaga Ave, stated her objections to the proposed project.

Anne Pepper, read a statement from Susan Watts, 44 Cocoanut Row, who objects to the project.

Anne Pepper, 333 Seaspray Ave, stated her objections to the proposed project.

Frank Lynch, attorney for the applicant, presented material in rebuttal to the opposition. Mr. Kolins provided rebuttal to the comments made by Mr. Lynch. Mr. Lynch provided rebuttal to the comments made by Mr. Kolins.

Mr. Ives stated that he did not have any preconceived opinions about the project and looks only at the architecture when making his decision.

Mr. Small stated his reasons for not voting in favor of the project.

Mr. Garrison read an excerpt from one of the neighbors on Debra Lane and stated his reasons for supporting the design.

Ms. Grace asked for clarification on the map that Mr. Lynch presented. Mr. Lynch responded. She expressed her reasons for why this design is too dissimilar for the neighborhood.

Mr. Ives restated his reasons that he is supporting the project.

Ms. Catlin stated that the design is very considerate to the street.

Mr. Vila stated his reasons that he is supporting the project.

Ms. Grace stated she was in favor of the architecture but was concerned about its location in the neighborhood.

Mr. Corey stated he was in support of the architectural but thought the roof could be lowered. He also stated the house could be restudied to eliminate the variance.

Mrs. Vanneck stated she was in favor of the architecture but thought the variance could be eliminated. She stated her reasons for supporting the design.

A third motion made by Mr. Vila and seconded Ives by that the implementation of the proposed variance will not cause negative architectural impacts to the subject property. Motion failed 4-3 with Mses. Vanneck, Grace and Messrs. Small and Corey opposed.

Mr. Vila expressed his concern and questioned how the project could be designed in order to eliminate the variance.

A fourth motion made by Mr. Corey and seconded by Grace the proposed project can be designed in an architecturally suitable manner, which conforms to the Town of Palm Beach Code of Ordinances without the need for a variance. Motion carried 4-3 with Messrs. Garrison, Ives and Vila opposed.

A fifth motion made by Mr. Corey and seconded by Mr. Small to defer the project for one month to the July 26, 2017 meeting. Motion carried 4-3 with Messrs. Ives, Vila and Garrison opposed.

B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE - Done
4/26/17 and 6/28/17

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Jaime Torres/Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

This will be declared as a conflict of interest for Richard Sammons

At the April meeting, a motion carried that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for restudy. A motion carried at the June meeting that the proposed project can be designed in an architecturally suitable manner, which conforms to the Town of Palm Beach Code of Ordinances without the need for a variance. A second motion carried to defer the project for one month to the July 26, 2017 meeting.

This item was deferred to the August 23, 2017 meeting with the approval of the agenda, Item V.

B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE - Done
4/26/17 and 6/28/17

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Jaime Torres/Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

Please note: This will be a conflict of interest for Richard Sammons

At the April meeting, a motion carried that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for restudy. A motion carried at the June meeting that the proposed project can be designed in an architecturally suitable manner, which conforms to the Town of Palm Beach Code of Ordinances without the need for a variance. A second motion carried to defer the project for one month to the July 26, 2017 meeting. A motion carried at the July meeting to defer the project to the August 23, 2017 meeting.

This item was deferred to the September 27, 2017 meeting with the approval of the agenda, Item V.

B-020-2017 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE - Done
4/26/17 and 6/28/17

Address: 202 Onondaga Ave.

Applicant: 202 Onondaga LLC

Architect: Jaime Torres/Fairfax, Sammons & Partners

Project Description: Renovations to existing one story residence and partial 2nd floor addition to same. Landscape and hardscape changes included.

Please note: This will be a conflict of interest for Richard Sammons

At the April meeting, a motion carried that the proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. A second motion carried to defer the project to the June 28, 2017 meeting for restudy. A motion carried at the June meeting that the proposed project can be designed in an architecturally suitable manner, which conforms to the Town of Palm Beach Code of Ordinances without the need for a variance. A second motion carried to defer the project for one month to the July 26, 2017 meeting. A motion carried at the July meeting to defer the project to the August 23, 2017 meeting. A motion carried at the August meeting to defer the project to the September 27, 2017 meeting.

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

Mr. Sammons disclosed a conflict of interest for the project.

Please note: Mrs. Vanneck stated that Mr. Corey would be voting in the absence of Mr. Sammons.

Town Attorney Randolph asked for clarification on the ex parte given by the Commissioners.

Mr. Torres presented the proposed modifications to the project.

Mr. Garrison asked for clarification on the roof pitch. Mr. Torres responded.

Mr. Torres responded to the neighbor's concerns for the design.

Mr. Garrison asked about the proposed setbacks. Mr. Torres responded.

Mr. Ives asked for clarification on the roof height and setbacks. Mr. Torres responded.

Ms. Grace asked for clarification on the window height and the operability of the shutters. Mr. Torres responded.

Mr. Small asked about the easement for utilities. Mr. Page stated that this project was submitted prior to the requirement for a utility easement.

James Green, Attorney for the applicant, stated that he would like to present an appraisal by Robert Reynolds, realtor, for surrounding properties within 200 feet of the proposed project. Mr. Green summarized the report for the Commissioners. There was a short conversation regarding this report.

John Dotterrer, 1470 N. Ocean Blvd. asked if he could ask Mr. Reynolds a few questions. Mr. Dotterrer asked Mr. Reynolds questions regarding the report that he submitted. Mr. Reynolds responded.

Mr. Small asked Mr. Reynolds a question from his report regarding an increase in home value with a one story home compared to a two story home. Mr. Reynolds responded.

Mr. Dotterrer named the individuals that he represented. He introduced architect Roger Cope as an expert witness.

Mr. Cope presented his opinion in opposition to the proposed project.

Mr. Ives asked Mr. Cope's opinion about the style of the house and height. Mr. Cope responded. A short discussion ensued regarding this project.

Mr. Dotterrer presented his opposition to the proposed project.

John Sellers, son of Elsa Messing at 201 Onondaga Ave., stated his objections to the project.

Susan Gary, 229 Onondaga Ave., stated her objections to the project.

Mr. Torres provided a rebuttal to the objections by Mr. Cope and Mr. Dotterrer.

Town Attorney Randolph weighed in on the whether Mr. Dotterrer could respond to the rebuttal.

Mr. Green added a few comments in response to Mr. Dotterrer's objections.

Ms. Grace asked about the homes that were located within 200 feet to the proposed project. Mr. Torres responded. Ms. Grace stated she was in favor of the design but questioned the location. She thought the proposed home was out of character for the neighborhood.

Mr. Corey thought the massing of the proposed project was dissimilar to the surrounding homes.

Ms. Catlin disputed some of the information that was in the report submitted from Robert Reynolds.

Mr. Small thought the proposed home did not fit on the street and could not support the project.

Ms. Shiverick thought the proposed home had charm, would have high quality materials and would be a nice addition to the street.

Mr. Ives stated the proposed home was well designed and stated he would support the home.

Mr. Garrison argued that some of the homes on the Sea Streets would never have been built using the same logic as the opposition. He stated that the home was well designed and that he was in support of the home.

Ms. Grace stated that she thought the home was well designed but the Ordinance charges the Commission to consider more than just the architecture to determine whether it fits in the area.

Mr. Vila stated the proposed home was designed well. He considered the location as a corner that would support a two story home and stated was in favor of the project.

Mrs. Vanneck stated that not approving this project because of the second story would set precedence for the future. She stated that the project was well designed.

Motion made by Mr. Vila and seconded by Mr. Ives to approve the project as presented.

Town Attorney Randolph asked for confirmation that the motion made was based on criteria set forth in the Code. Mr. Vila stated that his motion was based on the criteria.

Motion carried 4-3 with Messrs. Small, Corey and Ms. Grace opposed.

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

COMMITTEE REPORTS

Agenda Title

Report of the Ordinances, Rules and Standards Committee Meeting Held on October 5, 2017.

Presenter

Bobbie Lindsay, Chair

ATTACHMENTS:

- ▣ **Memorandum Dated November 5, 2017, from John S. Page, Director of Planning, Zoning & Building**
- ▣ **Report of the October 5, 2017 ORS Meeting**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

Via: Jay Boodheshwar, Deputy Town Manager

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

Re: Supplemental Information for October 5, 2017, ORS Report, Relative to Construction Hours and Landscape Maintenance

Date: November 5, 2017

STAFF RECOMMENDATION

The information below serves as supplemental information to the ORS Report from October 5, 2017, included in your back-up. Said information pertains to construction hours and landscape maintenance, which have been subjects of discussion at ORS for many months.

GENERAL INFORMATION

Construction Hours

ORS has reviewed permissible construction work hours (as outlined in Chapter 42, Environment, Town Code of Ordinances) to determine whether or not modifications are needed. Discussion has evolved around ideas that might bring relief to the “construction-weary” sentiment that has escalated in recent years. The Code differentiates between seasons. In short, work is allowed Monday – Saturday, 8:00 a.m. to 6:00 p.m. May – November (“off-season”), with more restrictive hours of Monday – Friday, 8:00 a.m. to 5:00 p.m. December – April. After much discussion, focus moved to the more liberal off-season work hours, believing that year-round residents would benefit for any restriction(s) that would generate less traffic and/or noise.

After completing significant research of other communities and their permissible work hours, the Committee determined that existing Monday – Friday work hours are reasonable. Attention narrowed even further to Saturday work during the off-season (May – November). A number of options were considered that, if implemented, would curtail related disruption to the general public. The Committee has recommended that Saturday work continue to be allowed, but that the following changes be incorporated into Town Code:

Off-Season (May – November) Saturdays

- Reduce existing work hours of 8:00 a.m. to 6:00 p.m. to new hours of 9:00 a.m. to 5:00 p.m. (an 8-hour work day).
- Restrict all construction activity to quiet work only (staff will further define that term, likely by identifying prohibited use of heavy equipment, at time of Ordinance preparation).
- Disallow all material deliveries, yet provide that the Building Official should be given discretion to so allow on a case-by-case basis if timing/conditions are compelling.
- Disallow all concrete pours and concrete sawing.
- Disallow demolition work (debris clean-up permissible, but no razing of building allowed).
- Amend the high winter season, which now extends from December – April to commence approximately one week earlier, annually on the Monday before Thanksgiving.

Landscape Maintenance

During the Summer/Fall of 2016, the ORS Committee had significant discussion regarding existing rules governing the hours of operation, days of the week and time of the year for the use of landscape maintenance equipment. The ORS Committee ultimately recommended an amendment to the Town Code to revise the schedule of days/hours in which the use of landscape maintenance equipment are permitted. The intent was to create greater consistency between the winter and summer months, while ensuring sufficient quiet time during certain hours of the day so that residents can enjoy their outdoor spaces with minimal noise.

Ordinance No. 21-2016 was first introduced at the December 13, 2016, Council meeting but after public comments and brief discussion it was referred back to ORS for further review in light of public comments. At the January 12, 2017, ORS meeting committee members agreed on language changes to better clarify the intent of Ord. No. 21-2016 and recommended Council approval. The Ordinance was subsequently deferred at the February 14, 2017, Town Council meeting to the April 13, 2017, meeting. At the April 13, 2017, Town Council meeting this ordinance was deferred again to an unspecified future Council meeting to provide the ORS Committee sufficient time to consider potential Code changes to address concerns about construction related noise before taking action on landscaping noise.

After considering the original intent of Ordinance 21-2016 and reviewing the language included in said ordinance at the October 5, 2017, ORS meeting, the committee felt that it should be further modified to include regulations for spraying pesticides and herbicides and a provision to temporarily waive landscaping restrictions in the aftermath of a major emergency, such as a hurricane. It was also confirmed that lawn maintenance work is limited to the hours outlined for construction work in section 42-199 of the Code so if any changes are made to this section is approved, they would also apply to lawn maintenance.

cc: John Randolph, Town Attorney
 H. Paul Brazil, Director of Public Works
 Kirk Blouin, Director of Public Safety
 Ann-Marie Taylor, Deputy Police Chief
 Bill Bucklew, Building Official

**REPORT OF THE ORDINANCES, RULES AND STANDARDS
COMMITTEE MEETING HELD ON THURSDAY, OCTOBER 5, 2017**

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules and Standards Committee Meeting was called to order at 9:30 a.m. in the Council Chambers. On roll call, all elected officials were found to be present.

II. APPROVAL OF AGENDA

Motion to approve the agenda was made by Committee Member Araskog, and seconded by Committee Chair Lindsay.

III. COMMUNICATIONS FROM CITIZENS - *None*

IV. REGULAR AGENDA

Deputy Town Manager Boodheshwar gave an overview of the old business items relating to the modification of dates for construction season and landscape maintenance. He then introduced John Page, Director of Planning, Zoning and Building to give a presentation on the dates and hours for the construction season.

A. Old Business

1. Potential Code Change to Modify Dates of Construction Season

Director Page gave an overview of the current dates and hours regarding the construction season for both in-season and off-season. He reviewed the following options:

- Limiting the number of permissible work hours.
- Restricting all construction activity to quiet work only.
- Restricting all construction activity to interior work only.
- Disallowing all material deliveries.
- Disallowing all concrete pours.
- Disallowing demolition work.
- Restricting all on-street construction right-of-way parking.
- Prohibiting work altogether when active utility undergrounding construction is occurring.
- Amending high winter season timeframe.
- Any combination of the above options.

1 Mr. Page spoke regarding the importance of maintaining a “balance” between
2 making life more pleasant for residents and the interests of property
3 owners/contractors. He suggested the following amendment to try to achieve
4 that balance:

5
6 “Saturday work is permissible from 9:00 a.m. until 5:00 p.m. Use of heavy
7 equipment, material deliveries, concrete pours, and concrete sawing is
8 prohibited. Construction parking shall not be allowed on public/private streets
9 if viable parking exists on private property.”

10
11 Director Page pointed out that sometimes there will be special circumstances
12 that will require discretion such as completing a roof before a storm. As such
13 he would recommend the following amendment be added:

14
15 “The Town Building Official, acting on his or her own accord, shall have the
16 discretion to waive and/or alter Saturday construction hours and other
17 restrictions when extraordinary conditions exist that compel an exception(s).”

18
19 A discussion ensued regarding demand for Saturday construction.

20
21 In response to a question from Chair Lindsay regarding how many private
22 contractors were willing to pay overtime to work on Saturdays, Bill Bucklew,
23 Building Official, stated that most Saturday work only takes place near
24 completion of the project. A conditional certificate of occupancy is
25 sometimes awarded, typically for a 90-day period, so owners can move in.
26 Most times this is needed to complete landscaping or pool work.

27
28 In response to a question from Council Member Araskog, Ben Alma, Code
29 Enforcement Manager, reported on the number of noise complaints received
30 on Saturdays.

31
32 Mayor Coniglio spoke regarding the history of the construction work season
33 in Town.

34
35 Eric Brown, Assistant Director of Public Works, pointed out the drawbacks to
36 shortening the Saturday work hours.

37
38 Deputy Town Manager Boodheshwar reminded the committee members of
39 the ordinance that was being held in abeyance until a decision was reached by
40 the Council.

41
42 Danielle Moore, resident, inquired about demolition which started during the
43 week and needs to be completed on the weekend. Mr. Bucklew’s response
44 was that if completion of the work is hauling the debris away, that could be
45 allowed.
46

1 **It was the consensus of the Committee to recommend to the Town Council to allow**
2 **quiet interior construction work on Saturdays from 9 a.m. to 5 p.m.**

- 3
4 1. Amendment of Town Code, Relative to Landscape Maintenance (Jay
5 Boodheshwar, Deputy Town Manager)

6
7 Deputy Town Manager Boodheshwar presented clarification regarding
8 landscape maintenance hours vs. landscape equipment usage.

- 9
10 2. Review of Drone Ordinance for Conflicts with FAA Regulations and
11 Permitting Requirements (Jay Boodheshwar, Deputy Town Manager)

12
13 Deputy Town Manager Boodheshwar presented an overview of the FAA
14 regulations and the Town's ordinance regarding drones. He explained that
15 an ordinance was adopted in June 2016 but no citation schedule was
16 created. He suggested a modification to the ordinance or to define an
17 unmanned aircraft system (UAS) or drone in the existing aircraft
18 ordinance.

19
20 In response to Committee Member Araskog, Ben Alma, Code
21 Enforcement Manager explained that voyeurism laws also apply to drones.

22
23 Dragana Connaughton, 267 Merrain Road, Photographer and Realtor,
24 explained that using drones to take photographs was very helpful in her
25 business. She also expressed her concern regarding several construction
26 projects taking place at the same time on a single street.

27
28 **B. New Business**

- 29
30 1. Proposed Meetings Dates for Calendar Year 2018 (Jay Boodheshwar,
31 Deputy Town Manager)
- 32
33 2. Deputy Town Manager Boodheshwar presented dates for the upcoming
34 calendar year's meetings. It was decided that January 4, 2018, no meeting
35 would be held.

36
37 **It was the consensus of the Committee to hold meetings on February 8, March 8,**
38 **April 5, May 3, June 7, September 6, October 4, November 8 and December 6, 2018.**

39
40 **V. ANY OTHER MATTERS - None**

41
42 **VI. ADJOURNMENT**

43
44 There being no further business the Ordinances, Rules and Standards Committee Meeting
45 of October 5, 2017, was adjourned at 11:30 a.m.

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APPROVED:

Bobbie Lindsay
Chair

ATTEST:

Kathleen Dominguez
Town Clerk

Date

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

COMMITTEE REPORTS

Agenda Title

Report of the Finance and Taxation Committee Meeting Held on October 12, 2017.

Danielle H. Moore, Chair

1. Summary Presentation

Dean Mealy, Purchasing Manager

Presenter

ATTACHMENTS:

- ❑ **Report of the October 12, 2017, Finance & Taxation Committee Meeting**
- ❑ **Threshold Limits Presentation**
- ❑ **What is Six Sigma?**

**REPORT OF THE FINANCE AND TAXATION COMMITTEE
MEETING HELD ON THURSDAY, OCTOBER 12, 2017**

I. CALL TO ORDER AND ROLL CALL

The Finance and Taxation Committee meeting was called to order on Thursday, October 12, 2017, at 1:30 p.m., in the Town Council Chambers. On roll call, all Committee Members were found to be present.

II. PLEDGE OF ALLEGIANCE

Chair Moore led the Pledge of Allegiance.

III. COMMUNICATIONS FROM CITIZENS - None

IV. APPROVAL OF AGENDA

Motion was made by Committee Member Kleid, and seconded by Chair Moore, to approve the Agenda. The motion carried unanimously.

V. REVIEW OF PURCHASING THRESHOLDS AND PROCESS IMPROVEMENTS

Jane Struder introduced Dean Mealy, Purchasing Manager and Duke Basha, Assistant Purchasing Manager.

Dean Mealy, Purchasing Manager, gave an overview of his past experience in Miami Dade County as Chief Purchasing Officer, New York City working with the Bloomberg administration as Executive Director of Logistics, and as Purchasing Manager with the City of Riviera Beach.

Duke Basha, Assistant Purchasing Manager, gave an overview of his experience with the Federal Government as a General Services Assistant and Procurement Supervisor and with the City of Delray Beach.

Dean Mealy reviewed the Purchasing process and the existing thresholds. He spoke about the cost savings of \$143,000 by negotiating current contracts. In response to Mr. Kleid's query to be more explicit, he identified Fire Rescue equipment, where they actually obtained reduced pricing for the same equipment with another in-state vendor.

He addressed several improvements to the purchasing process such as:

- Increasing the Purchasing thresholds;
- Checking the inventory at the warehouse with a view to reduce certain item quantities; and
- Improving the Town's Purchasing Card system with greater scrutiny and reporting.

Chair Moore then recognized Mayor Coniglio and Councilmember Lindsay in the audience.

Discussion ensued regarding the change of the Purchasing thresholds.

Mr. Kleid commented that sometimes items are removed from the Consent Agenda, not due to the cost, but because of the timing of some projects especially engineering and capital improvement projects.

Chair Moore agreed with Mr. Kleid that the proposed threshold of \$65,000 for council review would cause some angst among members of the Council. She commented that a lower number would probably be more appropriate.

Chair Moore requested that the new program be included in the back-up for the next Town Council meeting. In response to Ms. Struder, Chair Moore said she personally was not in agreement with the proposed threshold of \$65,000 but was more agreeable to \$49,999.

Mr. Kleid asked the Town Manager his thoughts on the new threshold. Mr. Bradford responded that he was delighted with the way the process is being streamlined. He explained that the \$25,000 threshold was set about 15 years ago and with inflation that figure was probably about \$35,000 to \$50,000. He thinks this revision is long overdue and this will now lead to training sessions for various department personnel in negotiating contracts. He was fine with either figure of \$50,000 or \$64,999.

Chair Moore commented that if Mr. Bradford believed this change in threshold was needed he should have brought it to the attention of the Town Council earlier. Mr. Bradford responded that he had no way of articulating it in a proper fashion to show that the current process was archaic until the new Purchasing Manager was hired and a review of the purchasing process was carried out.

It was the consensus of the Finance and Taxation Committee to bring the matter of the following thresholds before the next Town Council meeting for review.

- **Up to \$34,999 – Purchasing Manager**
- **\$35,000 to \$64,999 – Town Manager**
- **\$65,000 and up – Town Council**

**REPORT OF THE FINANCE AND TAXATION COMMITTEE MEETING
HELD ON THURSDAY, OCTOBER 12, 2017**

VI. ANY OTHER MATTERS – *None*

VII. ADJOURNMENT

There being no further business, the Finance and Taxation Committee meeting of Thursday, October 12, 2017, was adjourned at 2:23 p.m.

APPROVED:

Danielle H. Moore
Chair

ATTEST:

Kathleen Dominguez
Town Clerk

Date

TOWN COUNCIL NOVEMBER 14, 2017

PROCESS IMPROVEMENT – PURCHASING THRESHOLDS



Efficiencies and Process Improvement

Purchasing is reviewing processes with the goal of eliminating unnecessary operating steps that provide no value or are duplicated within the procedure(s).

- To accomplish this task, **Best Business Modeling** and **Six Sigma** principals are being utilized to achieve optimal results.

Six Sigma is recognized world-wide as a metric to review existing processes and eliminate waste by identifying unnecessary processes utilizing the following tools:

- **Define** the goals of the improvement activity.
- **Measure** the existing system.
- **Analyze** the system to identify ways to eliminate the gap between the current performance of the system or process and the desired goal.
- **Improve** the system.
- **Control** the new system.

Overview of Six Sigma for Process Improvements

- Define
- Measure
- Analyze
- Improve
- Control

What is Six Sigma?

- First used by Motorola in 1988, followed by G.E., Toyota, Ford, and Boeing to bring about a new evolution to Total Quality Management using internal work forces to review the processes, define wastes and create a lean organization to produce a quality end product at the best cost and least amount of defects.
- Now accepted by Government Institutions such as Federal Government, State of Ohio, New York State, City of New York, and various cities and municipalities in the State of Florida to examine internal processes within Human Resources, Accounts Payable, Maintenance and Operations, Purchasing and other processes within government operations to achieve cost savings, promote efficiencies and lean operations by:
 - **Flowchart all processes to identify value and non-value added metrics. A collaboration of internal stakeholders participate in the flowcharting of the work processes.**
 - **Goal is to reduce steps and improve timelines for process to be completed and thereby save money and promote efficiencies.**

Initial Efficiency Improvements for Discussion

- First processes being reviewed are:
 - **Purchasing Thresholds** to provide a quicker and more efficient process for ordering goods and services. This metric is benchmarked to SE Chapter of NIGP. This item requires change to Code.
 - **JIT (Just In Time Inventory)** How inventory parts are purchased and maintained in the central storeroom. This is part of the internal process associated to purchasing manual.
 - **P-card** – Purchasing is recommending implementation of a new purchasing card system to provide better internal controls, track commodity purchases and for the Town to obtain annual rebate for use of card. The Town currently receives no rebate from current bank.
 - **Multi-Year Contract Awards** to provide more efficiencies to purchasing and user departments/divisions. This process is benchmarked as a best practice. Goal is to maintain pricing for three to five years. Under current practice, each new bid may subject Town to higher pricing. This is part of the purchasing manual.
 - **Bidding Thresholds** to be competitive with benchmarked best practices with goal of securing best value while maintaining integrity of purchasing manual. This item is not part of code, but within the purchasing manual.

Purchasing Threshold Benchmark

➤ A review was completed of award authority of various municipalities in South Florida. The information was compiled by the South Florida National Institute of Government Purchasing chapter members and is updated annually.

SE Chapter of NIGP Purchasing Threshold Comparison 2017 Study

Cooperative Survey	Town of Palm Beach					
	Boca Raton		City of Palm Beach Gardens		Town of Jupiter (see note 3)	
	City of Delray Beach		Village of Wellington		City of West Palm Beach	
	under 1,000		under 2,500		under \$2,500	
	1,000-25,000		greater than 2500		25,000	
	End User and Purchasing		End User & Purchasing		End User and Purchasing	
What is the threshold for a non-competitive quote	5,000		2,500		under \$2,500	
What is the threshold for a competitive quote	5000-49,999		greater than 2500		25,000	
Who obtains the quotes, Purchasing or the end-user Department	End User under 5, Purchasing		End User & Purchasing		End user < \$10K, Purchasing >10K	
What is the threshold for an advertised competitive bid	25/50/100 (See note 2)		10,000		49,999	
What is city/town/village manager threshold	25/50/100 (See note 2)		64,999		49,999	
What is the threshold for Council/Commission approval	50,000		65,000		50,000	

Notes:

- 1) 25,000 Term Contract, 50,000 Services/Supplies, 100,000 Construction
- 2) 25,000 Services/Supplies, 50,000 Vehicles & Electrical Construction , 100,000 Construction
- 3) Town of Jupiter does not participate in SE FL NIGP, thresholds pulled from their website

Village of Wellington is currently reviewing threshold approval.

Efficiency and Process Improvement

Purchasing is recommending streamlining the approval threshold for the Purchasing Manager, Town Manager and Town Council based on the SE Florida National Institute of Government Purchasing Survey (NIGP).

Efficiencies Gained	
Recommended Change	
Increase Purchasing Manager threshold for requisitions and contracts from \$4,999 to \$34,999 (the current threshold is \$4,999 for the Purchasing Manager)	Currently Purchasing Manager approves 65% of all requisitions, the requested change will change that amount to 93%. Requisitions will be able to be processed faster enabling staff to complete work more efficiently.
Increase Town Manager threshold for requisitions and contracts from \$25,000 to \$49,999 (the current threshold is \$24, 999 for Town Manager)	Currently the Town Manager approves 16% of all requisitions, the requested change will change that amount to 1%. Streamlining the approval process will provide greater efficiency. The requisition will have already been reviewed by purchasing agent, department manager or director, finance and Purchasing Manager.
Designate Town Council threshold for all new requisitions, contracts and renewals for amounts greater than \$50,000 (the current threshold is \$25,000 or greater for Town Council).	The Town Council currently reviews 9% of all requisitions and contracts. The requested change would decrease the amount to 6%.

Threshold Proposal Highlights

Commodities and Services – Non Construction

- Raise Purchasing Manager to \$34,999
- Raise Town Manager from \$24,999 to \$49,999
- Town Council for all values greater than \$50,000
- Promote use of multi-year contracts which in turn will allow Town Council to see majority of proposed contract awards. For example, contracts currently valued under \$25,000 are not currently reviewed by Town Council. It would be proposed that contracts be awarded for multi-year depending on approved budgets. A current contract for \$20,000 would now be for up to 5 years and would have an estimated value of \$100,000 depending on number of years. This contract would now be review and approved by Town Council.

Between June 27, 2015 and June 27, 2017, the Town processed 3,764 Purchase Orders. The chart reflects percentage of change creating greater efficiency for user departments/division/purchasing.

Current Threshold Dollar Amount	Total No. of Purchase Orders	%	Current Approver	Proposed Threshold Dollar Amount	Total No. of Purchase Orders	%	Proposed Approver
<\$999	1890	50%	Purchasing Mgr.	<\$2,500	2436	65%	Purchasing Mgr.
\$1,000 - \$4,999	939	25%	Purchasing Mgr.	\$2,500 - \$34,999	1052	28%	Purchasing Mgr.
\$5,000 - \$24,999	595	16%	Town Manager	\$35,000 - \$49,999	45	1%	Town Manager
>\$25,000	340	9%	Town Council	>\$50,000	231	6%	Town Council

Efficiencies To Be Achieved by Change of Bidding Thresholds Associated to Purchasing Manual

Recommended Changes	Efficiencies Gained
Increase one quote threshold from \$1,000 to \$2,500 that user departments secure	User departments will spend less time securing quotes for goods or services. This will allow requisitions and purchase orders to be processed faster to obtain necessary goods and services. Note that purchasing will still verify pricing submitted to ensure that best value is obtained for Town.
Increase quote threshold from \$4,999 to \$9,999 that user departments secure	The majority of all purchases processed by purchasing fall within this category. This will expedite the timeline to secure the goods or services. Note that purchasing will still verify pricing submitted to ensure that best value is obtained for the Town.
The proposed changes for bidding are only reflected in the Purchasing Manual and are not associated to the Town Code.	

Highlight of Efficiencies Gained by Change of Purchasing Threshold

- Town Council approves the operating and capital budgets when the budget is reviewed and approved. By eliminating agenda items less than \$50,000, a reduction of approximately 109 agenda items would be achieved.
- Based on a review of the last two years of agenda and resolution backup, if the change of threshold was increased to \$50,000, in the range of 270-300 **hours of time could be reallocated to other tasks annually**. This includes the time for the administrative staff that prepare the backup, and the time of the Department Directors, Program Managers, Purchasing Manager, Finance Director, Town Attorney and Town Manager review of the Town Council backup.
- Changing the threshold for obtaining one quote to \$2,500 would represent a savings of an estimated **300 hours of labor hours** by operating departments, without significantly compromising potential cost savings.
- The time savings can be reallocated to other efficiency measures that departments may wish to pursue. Purchasing staff time would be allocated to do more research on consolidation of commodities and other initiatives to save costs throughout the Town.

Internal Controls/ Check and Balances

All purchases for goods and services are processed by means of a requisition before a purchase order can be issued within the ERP Software, Tyler Eden regardless of dollar amount.

For the majority of requisition approvals, the requesting employee's supervisor, the division manager, department director have to approve the requisition before it can be sent to purchasing for processing.

Once purchasing approves the requisition within Eden, the requisition is forwarded electronically to Finance, and depending on amount, Town Manager for approval.

- Finance verifies if the budget exists to move the requisition forward for approval and reviews whether the item is a capital asset for asset tracking. Finance reviews Information Technology purchases greater than \$1,500 and general commodities and services valued at \$2,500 or more.
- Purchasing verifies if the appropriate vendor was contacted for quote and that all subsequent paperwork is properly attached to requisition to ensure a good audit trail. More importantly, purchasing ensures that competition for goods and services is sought.

Improvement Accomplishments To-Date

- Outreach to user departments to learn both short and long term needs with goal of providing best value contracts to Town.
- Eliminated printing of purchase orders generated daily, time spent faxing to vendors and replaced with system generated purchase order sent via email after final approval in Eden.
- Reviewed slow moving inventory in stock and coordinated review with user departments. Approximately 40% of the inventory was identified as obsolete.
- Contracted with Public Surplus to auction obsolete fleet and equipment with goal of increasing surplus revenue by 20%. The Town has previously utilized the County Thrift Store for sale of equipment which only had a local Palm Beach County audience. Public Surplus will give access to two continents for sale of equipment.
- Have worked with provider of online services for the posting of bids (ITB's) to electronically receive them vs. mailing them in which will provide greater transparency.
- **Identified cost savings of \$143,321 since May 22, 2017. Several examples include \$32,810 for Fire related to the purchase of their new Self Contained Breathing Apparatus, Negotiated cost savings of \$38,345 for the Parking Meters, Negotiated cost savings of \$35,764 for the Town Docks and \$17,816.25 for the rental of a generator.**

Improvements for the Future

- Build a solid negotiation team to review proposals and obtain cost savings to Town. - Negotiation training was held in October. Potential significant cost savings through **NEGOTIATIONS.**

- Best value in solicitations. It will be the goal of purchasing to review all needs and solicit bids to gain best advantage. Purchasing has recently been focusing procurement of goods and services by commodity code. In some cases it may be more efficient for a department to have one supplier vs. several. As single provider contracts are rolled out, it would be the goal to negotiate pricing and discounts to be the most advantageous to the Town.

- It will be the goal to meet with user departments to understand their needs and to develop bids, RFP's and RFQ's collaboratively using best procurement methodologies and take a fresh look at all contracts. All solicitations should be reviewed; explore options and develop scopes of work that will benefit the long term needs of the Town.

- Annual performance evaluation for all vendors. Hold vendors accountable for poor performance.

Next Steps

Section 2-566, Code of Ordinances would need to be modified. The Code currently states dollar thresholds for construction as well as commodities and services.

Other local municipalities have modified their Code to reference procedure manual for threshold amounts vs. within Code.

- The National Institute of Government Purchasing (NIGP) recommends placing approval thresholds within the Purchasing Manual as they are easier to modify as business models and technology advances change. Any future changes would still be reviewed and approved by the Town Council.

Promote efficiencies in each phase of the business process.

Issue new revised Purchasing Manual associated to: Purchasing Thresholds, Bidding Threshold, and Multi-year contracts. Just in Time inventory practices will be addressed within Purchasing Procedures and P-Card will be addressed within P-card Manual.

New Purchasing Manual has been drafted and is ready to be issued upon review and approval of new proposed proposals.

Six Sigma

Six Sigma (**6σ**) is a set of techniques and tools for process improvement. It was introduced by engineers Bill Smith & Mikel J Harry while working at Motorola in 1986.^{[1][2]} Jack Welch made it central to his business strategy at General Electric in 1995.

It seeks to improve the quality of the output of a process by identifying and removing the causes of defects and minimizing variability in manufacturing and business processes. It uses a set of quality management methods, mainly empirical, statistical methods, and creates a special infrastructure of people within the organization who are experts in these methods. Each Six Sigma project carried out within an organization follows a defined sequence of steps and has specific value targets, for example: reduce process cycle time, reduce pollution, reduce costs, increase customer satisfaction, and increase profits.

The term *Six Sigma* (capitalized because it was written that way when registered as a Motorola trademark on December 28, 1993) originated from terminology associated with statistical modeling of manufacturing processes. The maturity of a manufacturing process can be described by a *sigma* rating indicating its yield or the percentage of defect-free products it creates. A six sigma process is one in which 99.99966% of all opportunities to produce some feature of a part are statistically expected to be free of defects (3.4 defective features per million opportunities). Motorola set a goal of "six sigma" for all of its manufacturing operations, and this goal became a by-word for the management and engineering practices used to achieve it.

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Doctrine

Six Sigma doctrine asserts:

- Continuous efforts to achieve stable and predictable process results (e.g. by reducing process variation) are of vital importance to business success.
- Manufacturing and business processes have characteristics that can be defined, measured, analyzed, improved, and controlled.
- Achieving sustained quality improvement requires commitment from the entire organization, particularly from top-level management.



The common Six Sigma symbol

Features that set Six Sigma apart from previous quality-improvement initiatives include:

- A clear focus on achieving measurable and quantifiable financial returns from any Six Sigma project.
- An increased emphasis on strong and passionate management leadership and support.
- A clear commitment to making decisions on the basis of verifiable data and statistical methods, rather than assumptions and guesswork.

The term "six sigma" comes from statistics and is used in statistical quality control, which evaluates process capability. Originally, it referred to the ability of manufacturing processes to produce a very high proportion of output within specification. Processes that operate with "six sigma quality" over the short term are assumed to produce long-term defect levels below 3.4 defects per million opportunities (DPMO).^{[3][4]} Six Sigma's implicit goal is to improve all processes, but not to the 3.4 DPMO level necessarily. Organizations need to determine an appropriate sigma level for each of their most important processes and strive to achieve these. As a result of this goal, it is incumbent on management of the organization to prioritize areas of improvement.

"Six Sigma" was registered June 11, 1991 as U.S. Service Mark 1,647,704 (<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=1647704>). In 2005 Motorola attributed over US\$17 billion in savings to Six Sigma.^[5]

Other early adopters of Six Sigma include Honeywell and General Electric, where Jack Welch introduced the method.^[6] By the late 1990s, about two-thirds of the Fortune 500 organizations had begun Six Sigma initiatives with the aim of reducing costs and improving quality.^[7]

In recent years, some practitioners have combined Six Sigma ideas with lean manufacturing to create a methodology named Lean Six Sigma.^[8] The Lean Six Sigma methodology views lean manufacturing, which addresses process flow and waste issues, and Six Sigma, with its focus on variation and design, as complementary disciplines aimed at promoting "business and operational excellence".^[8] Companies such as GE,^[9] Accenture, Verizon, GENPACT, and IBM use Lean Six Sigma to focus transformation efforts not just on efficiency but also on growth. It serves as a foundation for innovation throughout the organization, from manufacturing and software development to sales and service delivery functions.

The International Organization for Standardization (ISO) has published in 2011 the first standard "ISO 13053:2011" defining a Six Sigma process.^[10] Other "standards" are created mostly by universities or companies that have so-called first-party certification programs for Six Sigma.

Difference between related concepts

Lean management and Six Sigma are two concepts which share similar methodologies and tools. Both programs are Japanese influenced, but they are two different programs. Lean management is focused on eliminating waste and ensuring efficiency while Six Sigma's focus is on eliminating defects and reducing variability.

Methodologies

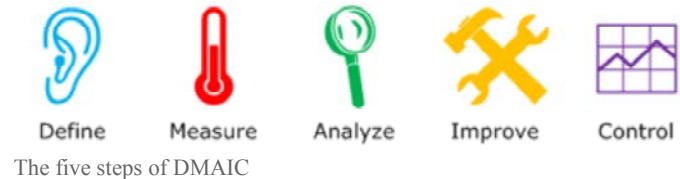
Six Sigma projects follow two project methodologies inspired by Deming's Plan-Do-Check-Act Cycle. These methodologies, composed of five phases each, bear the acronyms DMAIC and DMADV.^[7]

- DMAIC ("duh-may-ick", /dʌ.ˈmeɪ.ɪk/) is used for projects aimed at improving an existing business process.^[7]
- DMADV ("duh-mad-vee", /dʌ.ˈmæd.vi/) is used for projects aimed at creating new product or process designs.^[7]

DMAIC

The DMAIC project methodology has five phases:

- *Define* the system, the voice of the customer and their requirements, and the project goals, specifically.
- *Measure* key aspects of the current process and collect relevant data; calculate the 'as-is' Process Capability.
- *Analyze* the data to investigate and verify cause-and-effect relationships. Determine what the relationships are, and attempt to ensure that all factors have been considered. Seek out root cause of the defect under investigation.
- *Improve* or optimize the current process based upon data analysis using techniques such as design of experiments, poka yoke or mistake proofing, and standard work to create a new, future state process. Set up pilot runs to establish process capability.
- *Control* the future state process to ensure that any deviations from the target are corrected before they result in defects. Implement control systems such as statistical process control, production boards, visual workplaces, and continuously monitor the process. This process is repeated until the desired quality level is obtained.



Some organizations add a *Recognize* step at the beginning, which is to recognize the right problem to work on, thus yielding an RDMAIC methodology.^[11]

DMADV or DFSS

The DMADV project methodology, known as DFSS ("Design For Six Sigma"),^[7] features five phases:

- *Define* design goals that are consistent with customer demands and the enterprise strategy.
- *Measure* and identify CTQs (characteristics that are Critical To Quality), measure product capabilities, production process capability, and measure risks.
- *Analyze* to develop and design alternatives
- *Design* an improved alternative, best suited per analysis in the previous step
- *Verify* the design, set up pilot runs, implement the production process and hand it over to the process owner(s).



Quality management tools and methods

Within the individual phases of a DMAIC or DMADV project, Six Sigma utilizes many established quality-management tools that are also used outside Six Sigma. The following table shows an overview of the main methods used.

- 5 Whys
- Statistical and fitting tools
 - Analysis of variance
 - General linear model
 - ANOVA Gauge R&R
 - Regression analysis

- Correlation
- Scatter diagram
- Chi-squared test
- Axiomatic design
- Business Process Mapping/Check sheet
- Cause & effects diagram (also known as fishbone or Ishikawa diagram)
- Control chart/Control plan (also known as a swimlane map)/Run charts
- Cost-benefit analysis
- CTQ tree
- Design of experiments/Stratification
- Histograms/Pareto analysis/Pareto chart
- Pick chart/Process capability/Rolled throughput yield
- Quality Function Deployment (QFD)
- Quantitative marketing research through use of Enterprise Feedback Management (EFM) systems
- Root cause analysis
- SIPOC analysis (Suppliers, Inputs, Process, Outputs, Customers)
- COPIS analysis (Customer centric version/perspective of SIPOC)
- Taguchi methods/Taguchi Loss Function
- Value stream mapping

Implementation roles

One key innovation of Six Sigma involves the absolute "professionalizing" of quality management functions. Prior to Six Sigma, quality management in practice was largely relegated to the production floor and to statisticians in a separate quality department. Formal Six Sigma programs adopt a kind of elite ranking terminology (similar to some martial arts systems, like judo) to define a hierarchy (and special career path) that includes all business functions and levels.

Six Sigma identifies several key roles for its successful implementation.^[12]

- *Executive Leadership* includes the CEO and other members of top management. They are responsible for setting up a vision for Six Sigma implementation. They also empower the other role holders with the freedom and resources to explore new ideas for breakthrough improvements by transcending departmental barriers and overcoming inherent resistance to change.^[13]
- *Champions* take responsibility for Six Sigma implementation across the organization in an integrated manner. The Executive Leadership draws them from upper management. Champions also act as mentors to Black Belts.
- *Master Black Belts*, identified by Champions, act as in-house coaches on Six Sigma. They devote 100% of their time to Six Sigma. They assist Champions and guide Black Belts and Green Belts. Apart from statistical tasks, they spend their time on ensuring consistent application of Six Sigma across various functions and departments.
- *Black Belts* operate under Master Black Belts to apply Six Sigma methodology to specific projects. They devote 100% of their valued time to Six Sigma. They primarily focus on Six Sigma project execution and special leadership with special tasks, whereas Champions and Master Black Belts focus on identifying projects/functions for Six Sigma.
- *Green Belts* are the employees who take up Six Sigma implementation along with their other job responsibilities, operating under the guidance of Black Belts.

According to proponents of the system, special training is needed^[14] for all of these practitioners to ensure that they follow the methodology and use the data-driven approach correctly.

Some organizations use additional belt colours, such as *Yellow Belts*, for employees that have basic training in Six Sigma tools and generally participate in projects and "White belts" for those locally trained in the concepts but do not participate in the project team. "Orange belts" are also mentioned to be used for special cases.^[15]

Certification

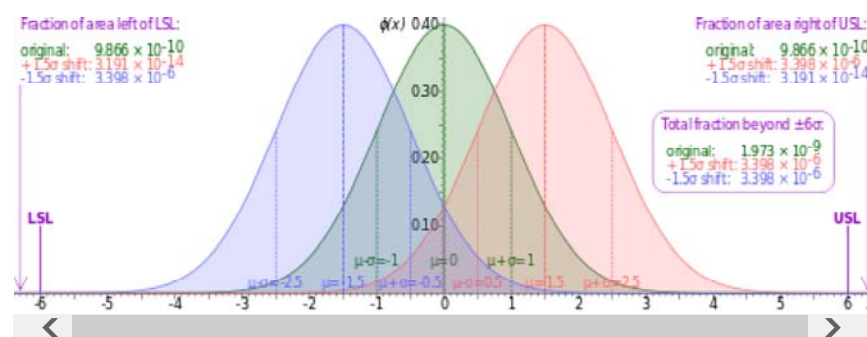
General Electric and Motorola developed certification programs as part of their Six Sigma implementation, verifying individuals' command of the Six Sigma methods at the relevant skill level (Green Belt, Black Belt etc.). Following this approach, many organizations in the 1990s started offering Six Sigma certifications to their employees.^{[7][16]} Criteria for Green Belt and Black Belt certification vary; some companies simply require participation in a course and a Six Sigma project.^[16] There is no standard certification body, and different certification services are offered by various quality

associations and other providers against a fee.^{[17][18]} The American Society for Quality for example requires Black Belt applicants to pass a written exam and to provide a signed affidavit stating that they have completed two projects or one project combined with three years' practical experience in the body of knowledge.^{[16][19]}

Etymology of "six sigma process"

The term "six sigma process" comes from the notion that if one has six standard deviations between the process mean and the nearest specification limit, as shown in the graph, practically no items will fail to meet specifications.^[3] This is based on the calculation method employed in process capability studies.

Capability studies measure the number of standard deviations between the process mean and the nearest specification limit in sigma units, represented by the Greek letter σ (sigma). As process standard deviation goes up, or the mean of the process moves away from the center of the tolerance, fewer standard deviations will fit between the mean and the nearest specification limit, decreasing the sigma number and increasing the likelihood of items outside specification. One should also note that calculation of Sigma levels for a process data is independent of the data being normally distributed. In one of the criticisms to Six Sigma, practitioners using this approach spend a lot of time transforming data from non-normal to normal using transformation techniques. It must be said that Sigma levels can be determined for process data that has evidence of non-normality.^[3]



Graph of the normal distribution, which underlies the statistical assumptions of the Six Sigma model. In the centre at 0, the Greek letter μ (mu) marks the mean, with the horizontal axis showing distance from the mean, marked in standard deviations and given the letter σ (sigma). The greater the standard deviation, the greater is the spread of values encountered. For the green curve shown above, $\mu = 0$ and $\sigma = 1$. The upper and lower specification limits (marked USL and LSL) are at a distance of 6σ from the mean. Because of the properties of the normal distribution, values lying that far away from the mean are extremely unlikely: approximately 1 in a billion too low, and the same too high. Even if the mean were to move right or left by 1.5σ at some point in the future (1.5 sigma shift, coloured red and blue), there is still a good safety cushion. This is why Six Sigma aims to have processes where the mean is at least 6σ away from the nearest specification limit.

Role of the 1.5 sigma shift

Experience has shown that processes usually do not perform as well in the long term as they do in the short term.^[3] As a result, the number of sigmas that will fit between the process mean and the nearest specification limit may well drop over time, compared to an initial short-term study.^[3] To account for this real-life increase in process variation over time, an empirically based 1.5 sigma shift is introduced into the calculation.^{[3][20]} According to this idea, a process that fits 6 sigma between the process mean and the nearest specification limit in a short-term study will in the long term fit only 4.5 sigma – either because the process mean will move over time, or because the long-term standard deviation of the process will be greater than that observed in the short term, or both.^[3]

Hence the widely accepted definition of a six sigma process is a process that produces 3.4 defective parts per million opportunities (DPMO). This is based on the fact that a process that is normally distributed will have 3.4 parts per million outside the limits, when the limits are six sigma from the "original" mean of zero and the process mean is then shifted by 1.5 sigma (and therefore, the six sigma limits are no longer symmetrical about the mean).^[3] The former six sigma distribution, when under the effect of the 1.5 sigma shift, is commonly referred to as a 4.5 sigma process. However, it should be noted that the failure rate of a six sigma distribution with the mean shifted 1.5 sigma is not equivalent to the failure rate of a 4.5 sigma process with the mean centered on zero.^[3] This allows for the fact that special causes may result in a deterioration in process performance over time and is designed to prevent underestimation of the defect levels likely to be encountered in real-life operation.^[3]

The role of the sigma shift is mainly academic. The purpose of six sigma is to generate organizational performance improvement. It is up to the organization to determine, based on customer expectations, what the appropriate sigma level of a process is. The purpose of the sigma value is as a comparative figure to determine whether a process is improving, deteriorating, stagnant or non-competitive with others in the same business. Six sigma (3.4 DPMO) is not the goal of all processes.

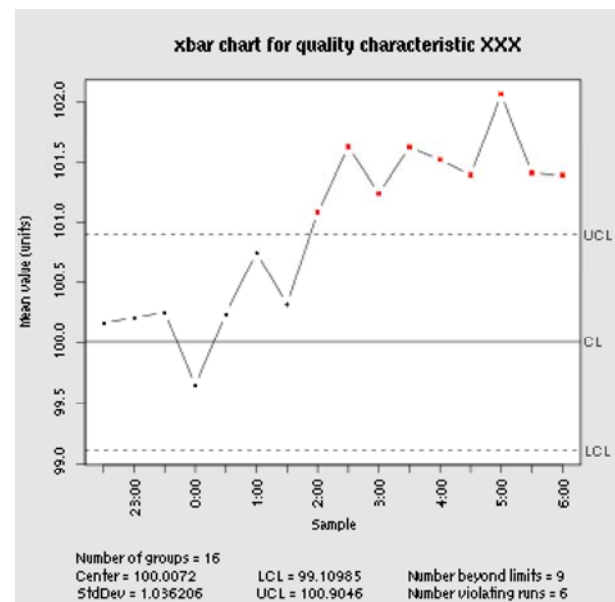
Sigma levels

The table below gives long-term DPMO values corresponding to various short-term sigma levels.^{[21][22]}

These figures assume that the process mean will shift by 1.5 sigma toward the side with the critical specification limit. In other words, they assume that after the initial study determining the short-term sigma level, the long-term C_{pk} value will turn out to be 0.5 less than the short-term C_{pk} value. So, for example, the DPMO figure given for 1 sigma assumes that the long-term process mean will be 0.5 sigma beyond the specification limit ($C_{pk} = -0.17$), rather than 1 sigma within it, as it was in the short-term study ($C_{pk} = 0.33$). Note that the defect percentages indicate only defects exceeding the specification limit to which the process mean is nearest. Defects beyond the far specification limit are not included in the percentages.

The formula used here to calculate the DPMO is thus

$$DPMO = 1,000,000 \cdot (1 - \phi(level - 1.5))$$



A control chart depicting a process that experienced a 1.5 sigma drift in the process mean toward the upper specification limit starting at midnight. Control charts are used to maintain 6 sigma quality by signaling when quality professionals should investigate a process to find and eliminate special-cause variation.

Sigma level	Sigma (with 1.5 σ shift)	DPMO	Percent defective	Percentage yield	Short-term C _{pk}	Long-term C _{pk}
1	−0.5	691,462	69%	31%	0.33	−0.17
2	0.5	308,538	31%	69%	0.67	0.17
3	1.5	66,807	6.7%	93.3%	1.00	0.5
4	2.5	6,210	0.62%	99.38%	1.33	0.83
5	3.5	233	0.023%	99.977%	1.67	1.17
6	4.5	3.4	0.00034%	99.99966%	2.00	1.5
7	5.5	0.019	0.0000019%	99.9999981%	2.33	1.83

Software

Application

Six Sigma mostly finds application in large organizations.^[23] An important factor in the spread of Six Sigma was GE's 1998 announcement of \$350 million in savings thanks to Six Sigma, a figure that later grew to more than \$1 billion.^[23] According to industry consultants like Thomas Pyzdek and John Kullmann, companies with fewer than 500 employees are less suited to Six Sigma implementation or need to adapt the standard approach to make it work for them.^[23] Six Sigma however contains a large number of tools and techniques that work well in small to mid-size organizations. The fact that an organization is not big enough to be able to afford Black Belts does not diminish its abilities to make improvements using this set of tools and techniques. The infrastructure described as necessary to support Six Sigma is a result of the size of the organization rather than a requirement of Six Sigma itself.^[23]

Criticism

Lack of originality

Quality expert Joseph M. Juran described Six Sigma as "a basic version of quality improvement", stating that "there is nothing new there. It includes what we used to call facilitators. They've adopted more flamboyant terms, like belts with different colors. I think that concept has merit to set apart, to create specialists who can be very helpful. Again, that's not a new idea. The American Society for Quality long ago established certificates, such as for reliability engineers."^[24]

Inadequate for complex manufacturing

Quality expert Philip B. Crosby pointed out that the Six Sigma standard doesn't go far enough^[25]—customers deserve defect-free products every time. For example, under the Six Sigma standard, semiconductors which require the flawless etching of millions of tiny circuits onto a single chip are all defective, he claims.^[26]

Role of consultants

The use of "Black Belts" as itinerant change agents has fostered an industry of training and certification. Critics have argued there is overselling of Six Sigma by too great a number of consulting firms, many of which claim expertise in Six Sigma when they have only a rudimentary understanding of the tools and techniques involved or the markets or industries in which they are acting.^[27]

Potential negative effects

A *Fortune* article stated that "of 58 large companies that have announced Six Sigma programs, 91 percent have trailed the S&P 500 since". The statement was attributed to "an analysis by Charles Holland of consulting firm Qualpro (which espouses a competing quality-improvement process)".^[28] The summary of the article is that Six Sigma is effective at what it is intended to do, but that it is "narrowly designed to fix an existing process" and does not help in "coming up with new products or disruptive technologies."^{[29][30]}

Over-reliance on statistical tools

A more direct criticism is the "rigid" nature of Six Sigma with its over-reliance on methods and tools. In most cases, more attention is paid to reducing variation and searching for any significant factors and less attention is paid to developing robustness in the first place (which can altogether eliminate the need for reducing variation).^[31] The extensive reliance on significance testing and use of multiple regression techniques increases the risk of making commonly unknown types of statistical errors or mistakes. A possible consequence of Six Sigma's array of P-value misconceptions is the false belief that the probability of a conclusion being in error can be calculated from the data in a single experiment without reference to external evidence or the plausibility of the underlying mechanism.^[32] One of the most serious but all-too-common misuses of inferential statistics is to take a model that was developed through exploratory model building and subject it to the same sorts of statistical tests that are used to validate a model that was specified in advance.^[33]

Another comment refers to the often mentioned Transfer Function, which seems to be a flawed theory if looked at in detail.^[34] Since significance tests were first popularized many objections have been voiced by prominent and respected statisticians. The volume of criticism and rebuttal has filled books with language seldom used in the scholarly debate of a dry subject.^{[35][36][37][38]} Much of the first criticism was already published more than 40 years ago. Refer to: Statistical hypothesis testing#Criticism for details.

Articles featuring critics have appeared in the November–December 2006 issue of *USA Army Logistician* regarding Six-Sigma: "The dangers of a single paradigmatic orientation (in this case, that of technical rationality) can blind us to values associated with double-loop learning and the learning organization, organization adaptability, workforce creativity and development, humanizing the workplace, cultural awareness, and strategy making."^[39]

Nassim Nicholas Taleb considers risk managers little more than "blind users" of statistical tools and methods.^[40] He states that statistics is fundamentally incomplete as a field as it cannot predict the risk of rare events — something Six Sigma is specially concerned with. Furthermore, errors in prediction are likely to occur as a result of ignorance for or distinction between epistemic and other uncertainties. These errors are the biggest in time variant (reliability) related failures.^[41]

Stifling creativity in research environments

According to an article by John Dodge, editor in chief of *Design News*, use of Six Sigma is inappropriate in a research environment. Dodge states^[42] "excessive metrics, steps, measurements and Six Sigma's intense focus on reducing variability water down the discovery process. Under Six Sigma, the free-wheeling nature of brainstorming and the serendipitous side of discovery is stifled." He concludes "there's general agreement that freedom in basic or pure research is preferable while Six Sigma works best in incremental innovation when there's an expressed commercial goal."

A *BusinessWeek* article says that James McNerney's introduction of Six Sigma at 3M had the effect of stifling creativity and reports its removal from the research function. It cites two Wharton School professors who say that Six Sigma leads to incremental innovation at the expense of blue skies research.^[43] This phenomenon is further explored in the book *Going Lean*, which describes a related approach known as lean dynamics and provides data to show that Ford's "6 Sigma" program did little to change its fortunes.^[44]

Lack of systematic documentation

One criticism voiced by Yasar Jarrar and Andy Neely from the Cranfield School of Management's Centre for Business Performance is that while Six Sigma is a powerful approach, it can also unduly dominate an organization's culture; and they add that much of the Six Sigma literature – in a remarkable way (six-sigma claims to be evidence, scientifically based) – lacks academic rigor:

One final criticism, probably more to the Six Sigma literature than concepts, relates to the evidence for Six Sigma's success. So far, documented case studies using the Six Sigma methods are presented as the strongest evidence for its success. However, looking at these documented cases, and apart from a few that are detailed from the experience of leading organizations like GE and Motorola, most cases are not documented in a systemic or academic manner. In fact, the majority are case studies illustrated on websites, and are, at best, sketchy. They provide no mention of any specific Six Sigma methods that were used to resolve the problems. It has been argued that by relying on the Six Sigma criteria, management is lulled into the idea that something is being done about quality, whereas any resulting improvement is accidental (Latzko 1995). Thus, when looking at the evidence put forward for Six Sigma success, mostly by consultants and people with vested interests, the question that begs to be asked is: are we making a true improvement with Six Sigma methods or just getting skilled at telling stories? Everyone seems to believe that we are making true improvements, but there is some way to go to document these empirically and clarify the causal relations.

__ [31]

1.5 sigma shift

The statistician Donald J. Wheeler has dismissed the 1.5 sigma shift as "goofy" because of its arbitrary nature.^[45] Its universal applicability is seen as doubtful.

The 1.5 sigma shift has also become contentious because it results in stated "sigma levels" that reflect short-term rather than long-term performance: a process that has long-term defect levels corresponding to 4.5 sigma performance is, by Six Sigma convention, described as a "six sigma process."^{[3][46]} The accepted Six Sigma scoring system thus cannot be equated to actual normal distribution probabilities for the stated number of standard deviations, and this has been a key bone of contention over how Six Sigma measures are defined.^[46] The fact that it is rarely explained that a "6 sigma" process will have long-term defect rates corresponding to 4.5 sigma performance rather than actual 6 sigma performance has led several commentators to express the opinion that Six Sigma is a confidence trick.^[3]

See also

- Design for Six Sigma
- DMAIC
- Kaizen – a philosophical focus on continuous improvement of processes
- Lean Six Sigma
- Lean Manufacturing
- Management fad
- Total productive maintenance
- Total quality management
- W. Edwards Deming

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TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Town-wide Underground Project:

Steven N. Stern, Underground Utilities Project Manager

- a. Project Update
- b. Underground Utility Project Dashboard
- c. Update on Peer Review Draft Report
- d. Installation of AT&T Fiber Network for Phase 1 of the Town-wide Undergrounding Project

Presenter

ATTACHMENTS:

- ▣ **UU Project Update Memo and Attachments**

Town of Palm Beach Townwide Overhead Utility Undergrounding

Project Update November 2017



TOWN OF PALM BEACH

Information for Underground Utility Task Force Meeting on: November 7, 2017

TO: Underground Utility Task Force

FROM: Steven Stern, Project Manager

RE: Project Update, Supplemental

DATE: November 7, 2017

Key Project Updates:

1. FPL Network Topology

After the Hurricane Irma update in the October 3rd UUTF meeting, the task force asked questions regarding FPL topology inclusive of hardening of feeders and power distribution serving the Town. Questions were asked of FPL, such as:

- Which FPL power plants support the Town of Palm Beach?
- How many FPL substations support the island and where are they?
- Are the transmission lines hardened from the power plants to the substations? If not, is there a plan and timeframe to harden the facilities?

FPL External Affairs acknowledged receiving our questions and working on a response. We have requested a December reply to our questions.

2. Grant Submission:

This month we submitted our "Fall 2017 Project Prioritized List (PPL)." This is our application for P.B.C. Local Mitigation Strategy (LMS) grant funding.

The P.B.C. Local Mitigation Strategy (LMS) Working Group and sub-committees are coordinated by the P.B.C. Department of Public Safety's Division of Emergency Management.

Mitigation projects carried on the LMS Prioritized Project List (PPL) may be eligible for funding under a variety of programs, such as the Pre Disaster Mitigation (PDM) Program, Public Assistance (PA), Flood Mitigation Assistance (FMA) Program, and Hazard Mitigation Grant Program (HMGP).

3. Cost Savings:

In recent UUTF meetings we discussed exploring cost saving opportunities such as alternatives to lower legal services fees associated with easement acquisition.

- a. Consultant, Outsource Option: Easement acquisition RFP will be issued by Purchasing on 11/12/17 with bidder's conference scheduled 11/21/17.

4. Communications Update

- a. On October 27th, 2017, the town insourced communications management for the Town of Palm Beach undergrounding project. Support by cornerstone was terminated for all aspects of the project including support for Burkhardt Construction and Whiting Turner Construction.
- b. As part of the budgeting process, the Town Council approved Communications Specialist position to enable insourcing of the communications function.
- c. Immediate transition priorities included but were not limited to:
 - i. Transfer of Intellectual Property files from cornerstone.
 - ii. Working with IT for Web hosting platform and domain name service invoicing and registrant migration from Cornerstone's third party provider.
 - iii. Mail list creation for future Undergrounding communications.
 - iv. Familiarization with word press for Web site updates.
 - v. Content support and development for the Town of Palm Beach and CMAR graphics for invitations.
 - vi. Printing for projects such as door hangers.
 - vii. Developing presentation and content for upcoming meetings such as the presentation on 11/16 for the Civic Assn.



NOVEMBER UPDATE

- **Water main deflections:** 7 of 14 completed
- **Main line conduit installation:** half of Phase 1 completed (by the end of November)



UNDERGROUNDING OF UTILITIES PROJECT

PHASE 1 SOUTH



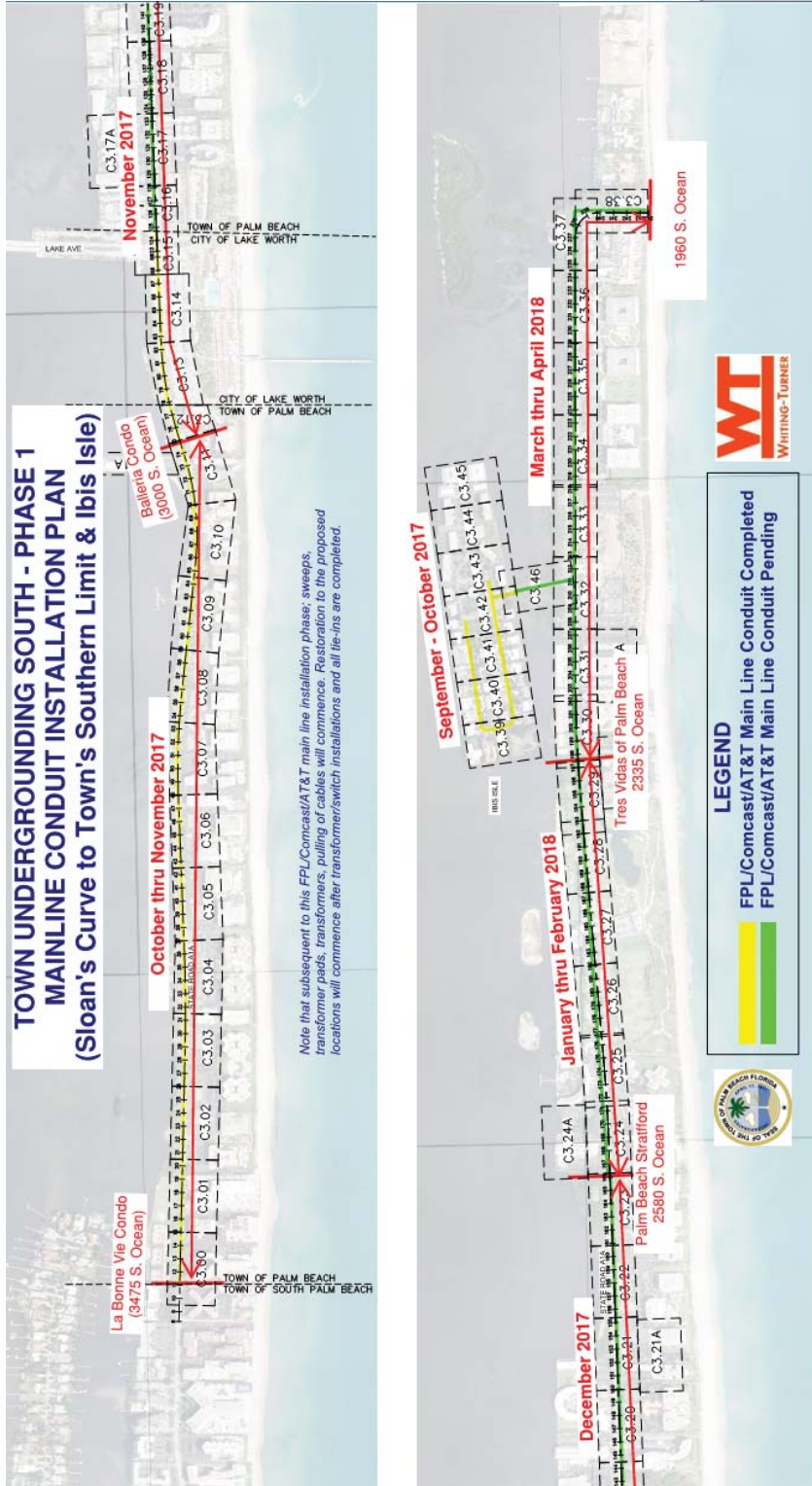


**UNDERGROUNDING
TODAY**

For A Better Tomorrow!

UNDERGROUNDING OF UTILITIES PROJECT

PHASE 1 SOUTH



UNDERGROUNDING OF UTILITIES PROJECT
PHASE 1 NORTH



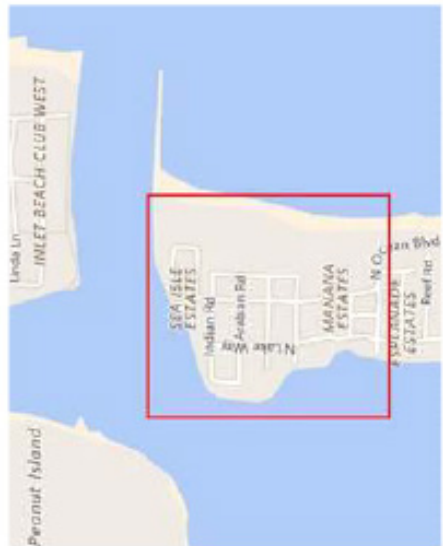
UNDERGROUNDING
TODAY
For A Better Tomorrow!

Town of Palm Beach

Townwide Overhead Utility Undergrounding

Phase I – North

(Onondaga Avenue to East Inlet Drive)



Project Update



BURKHARDT
CONSTRUCTION, INC.

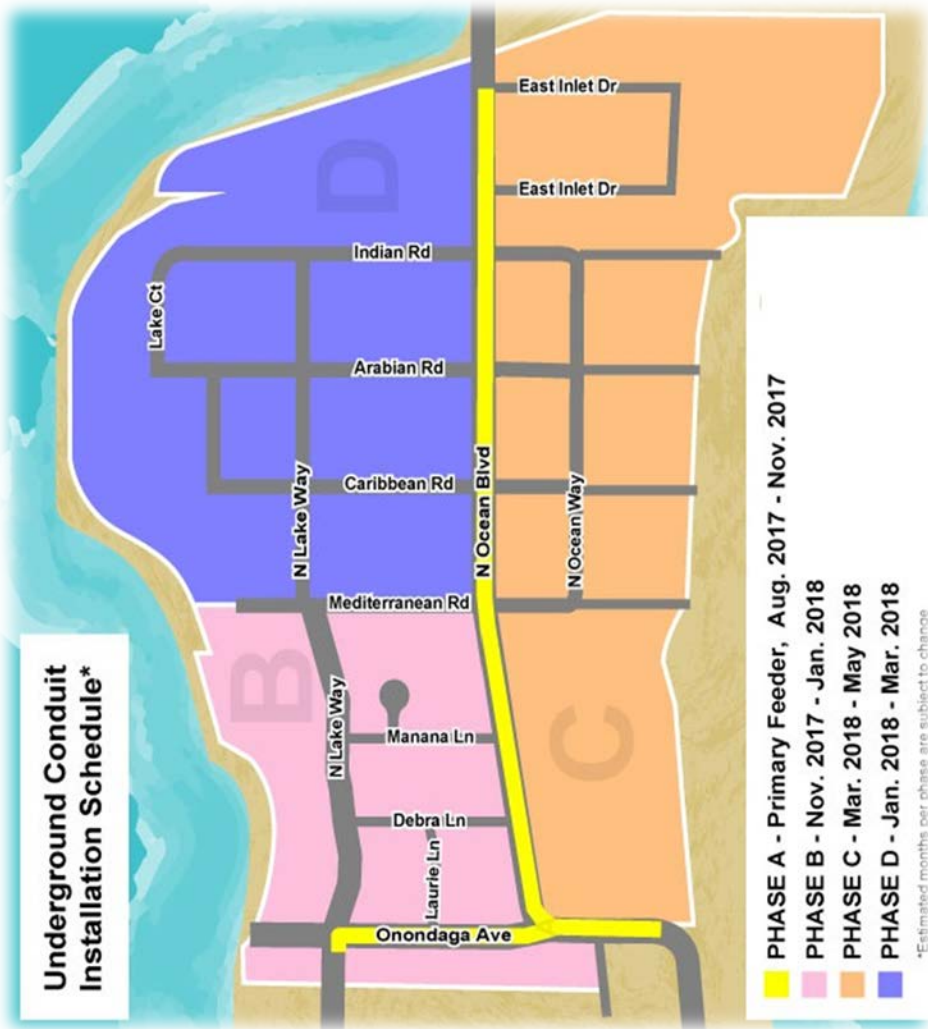


**UNDERGROUNDING
TODAY**

For A Better Tomorrow!

UNDERGROUNDING OF UTILITIES PROJECT PHASE 1 NORTH

Underground Conduit Installation Schedule*



*Estimated months per phase are subject to change



**BURKHARDT
CONSTRUCTION, INC.**

UNDERGROUNDING OF UTILITIES PROJECT
PHASE 1 NORTH



UNDERGROUNDING
TODAY

For A Better Tomorrow!



**Horizontal
Directional
Drilling
operation at N.
Ocean and
Onondaga Ave.**



**BURKHARDT
CONSTRUCTION, INC.**

UNDERGROUNDING OF UTILITIES PROJECT PHASE 1 NORTH



**UNDERGROUNDING
TODAY**

For A Better Tomorrow!



**Water main installation along
North Ocean Blvd. at East Inlet Dr.**



**BURKHARDT
CONSTRUCTION, INC.**

Door Hangers for different phases of the work.

UNDERGROUND
UTILITIES
PROJECT UPDATE





UNDERGROUNDING
TODAY
For A Better Tomorrow!

UNDERGROUND UTILITIES PROJECT UPDATE
PHASE 1 NORTH

The project team is currently working on:

MAIN CONDUIT INSTALLATION

This is the most intensive portion of the project with roadways impacted to allow conduit to be buried underground. Properties with easements will begin to see transformer pads and equipment placed.

PROPERTY/RESIDENCE SERVICE CONDUIT INSTALLATION

Service conduits for power and communications are being installed from the right of way to your home, and they will house the service cables to connect to your home.

CABLE & EQUIPMENT INSTALLATION

Equipment placement within easements is in process. New cables will be pulled through the existing conduits and connected to the equipment. Only after the equipment has been tested with the installation. Once all the cable is pulled through conduits and the equipment has been set, roadway restoration will occur.

UTILITY SERVICE CONVERSION

The service conversion process from overhead to underground for FPL, Comcast and AT&T has begun. For a smooth transition, each utility will contact you or your representative to coordinate a time for the conversion to take place.

OVERHEAD DEMOLITION & RESTORATION

Removal of overhead utility lines and poles from rear easement is underway. General site cleanup and street resurfacing and milling will occur. Landscaping to screen equipment from the street will occur once all poles are removed.

For more details or additional questions, please contact:



David Decker
Phase 1 North Resident Liaison
David@burkhardtconstruction.com
561 718 2805

*This is a general description of the project activities and is subject to change.





TCM Agenda Backup 11-14-17

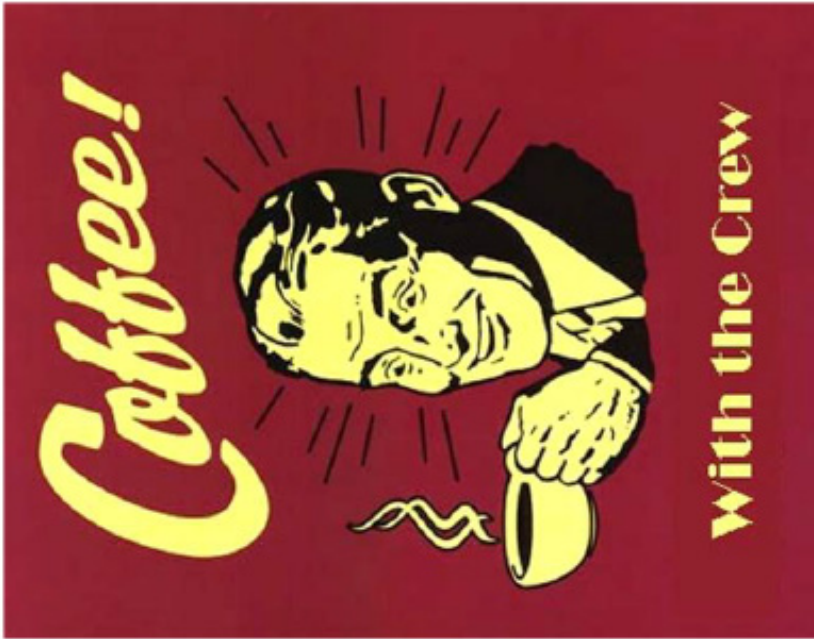
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UNDERGROUNDING OF UTILITIES PROJECT
PHASE 1 NORTH



UNDERGROUNDING
TODAY
For A Better Tomorrow!

JOIN
US



BURKHARDT
CONSTRUCTION, INC.



Town Of Palm Beach Utility Undergrounding Program

Report: October 2017

Updates

Milestone submittal of Phase 2 Utility Base Map to FPL has been completed.

Status Legend

Green (1) - On Task
Yellow (2) - Caution
Red (3) - Not On Task

Design

Phase I Design	Budget	1	98.1%	100%
	Schedule	1	99.0%	100%
Phase II Design	Budget	1	21.1%	100%
	Schedule	1	31.0%	100%

Construction

Phase I North Construction	Budget	1	11.5%	100%
	Schedule	1	16.0%	100%
Phase I South Construction	Budget	1	25.9%	100%
	Schedule	1	18.0%	100%

Easement Acquisition

Phase I Easements	1	100.0%
Phase II Easements	1	0.0%

Communications

Communications	Budget	1	30.1%	100%
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Saves And Raves

Reuse of soft digs already on file in the Phase 2 project area has saved \$8,250.

1	1
100%	100%
4.0%	16.4%
Overall Budget	Overall Design



Underground Utility Task Force Monthly Progress Report October 2017

Table of Contents

Dashboard – Phase 1 Construction and Phase 2 Design

1. Kimley-Horn Progress Report Phase 1
2. Kimley Horn Progress Report Phase 2
3. Master Plan Gantt Chart
4. Phase 1 Design Gantt Chart
5. Phase 2 Design Gantt Chart Draft
6. Phase 1 North Construction Schedule
7. Burkhardt Executive Project Summaries
8. Phase 1 South Construction Schedule
9. Whiting Turner Executive Summary
10. Project Financial Report
11. Interest Rate Forecast as of October 27, 2017

The following reports will be provided when applicable in future reporting:

- Safety and Reliability Reports
- Completion Milestones

Dashboard Notes:

- Overall Budget represents the percentage encumbered to date versus the total project budget of \$98.6 million.

Prepared by the Finance Department & TMO
November 1, 2017

Town-Wide Undergrounding Master Planning and Phase 1 Design Project
KHA Project #044063188
Progress Report
Period: September 25, 2017 to October 25, 2017

I. Scope Update

A. General

- **Schedule:** Project schedule progress is shown below.
 - Master Planning is 99% complete
 - North End Design is 99% complete
 - South End Design is 99% complete
- **Budget:** Project is on budget as of October 15, 2017
 - Master Planning is at 99% of total task budget
 - North End Design is at 99% of total task budget
 - South End Design at 99% of total task budget
- **Easement Status**
 - Phase 1: 100% of easements approved

B. Master Planning Phase

- Continued coordination with AT&T and Comcast regarding overall program cost reduction.

C. Detailed Design Phase

- FDOT Landscape Permit Application submittal and review process coordination with the FDOT.
- ERP Permit coordination with the FDEP
- Coordination with Town Attorney, Brannon & Gillespie, Waypoint Engineering, and FPL related to the easement acquisition process (collection of executed agreements).

II. Upcoming Activities (Oct 26, 2017 – Nov 25, 2017)

A. Master Planning Phase

- None until presentation of master plan at Town Council

B. Detailed Design Phase

- Continued coordination with the FDOT related to the Landscape Permit application. Response to FDOT comments.
- Follow up coordination with residents, businesses, and condominiums to obtain executed easement documents.
- Progress meetings to occur to coordinate various elements of the project.



Town-Wide Undergrounding - Phase 2 Design
KHA Project #044063202
October 2017 Progress Report
Period: September 26, 2017 to October 25, 2017

I. Scope Update

A. General

- **Schedule:** Project schedule progress is shown below.
 - Phase 2 North Design is 31% complete
 - Phase 2 South Design is 31% complete
- **Budget:** Project is on budget as of October 15, 2017
 - Phase 2 North Design is at 22% of total task budget
 - Phase 2 South Design at 20% of total task budget
- **Easement Status**
 - Phase 2: N/A, will provide status when this work begins

B. Detailed Design Phase

- Subconsultant/utility owner coordination related to Phase 2 Design.
- Continued coordination with geotechnical engineer for field investigation and drilling activities. Draft report received.
- Coordination with subsurface utilities locating subconsultant for right of way permitting and soft-dig locations.
- Continued coordination with existing utility owners to collect record drawings and data in the Phase 2 design areas.
- Development of utility base map based on field survey and collected record drawings for Phase 2 North and South.
- Continued drafting of electrical meter locations, coordination of resident contact information, scheduling meetings with residents for meter access and field visits to collect missing meter information.
- Submittal of Phase 2 North and South Utility Base Maps to FPL for their use in design.
- Progress Meeting Attendance.

II. Upcoming Activities (October 26, 2017 – November 25, 2017)

A. Detailed Design Phase

- Subconsultant/utility owner coordination related to Phase 2 Design.
- Geotechnical soils investigation final field drilling and report completion.
- Soft dig utility investigation field work.
- Field work to locate meter and communications service entrances. Scheduling meetings with residents for meter access and site visits to collect missing meter information.
- Follow up with FPL regarding schedule for receipt of equipment locations.

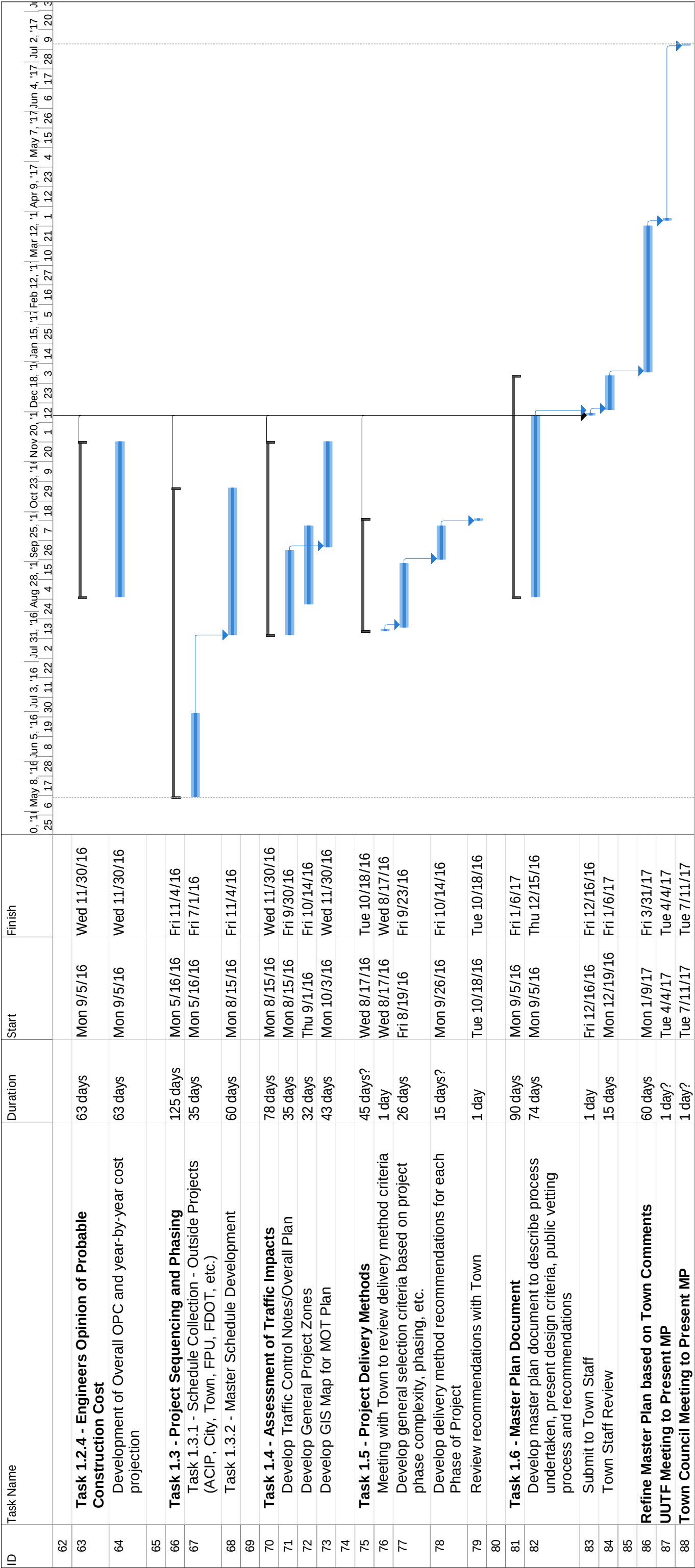
- Progress Meeting Attendance

III. Saves and Raves

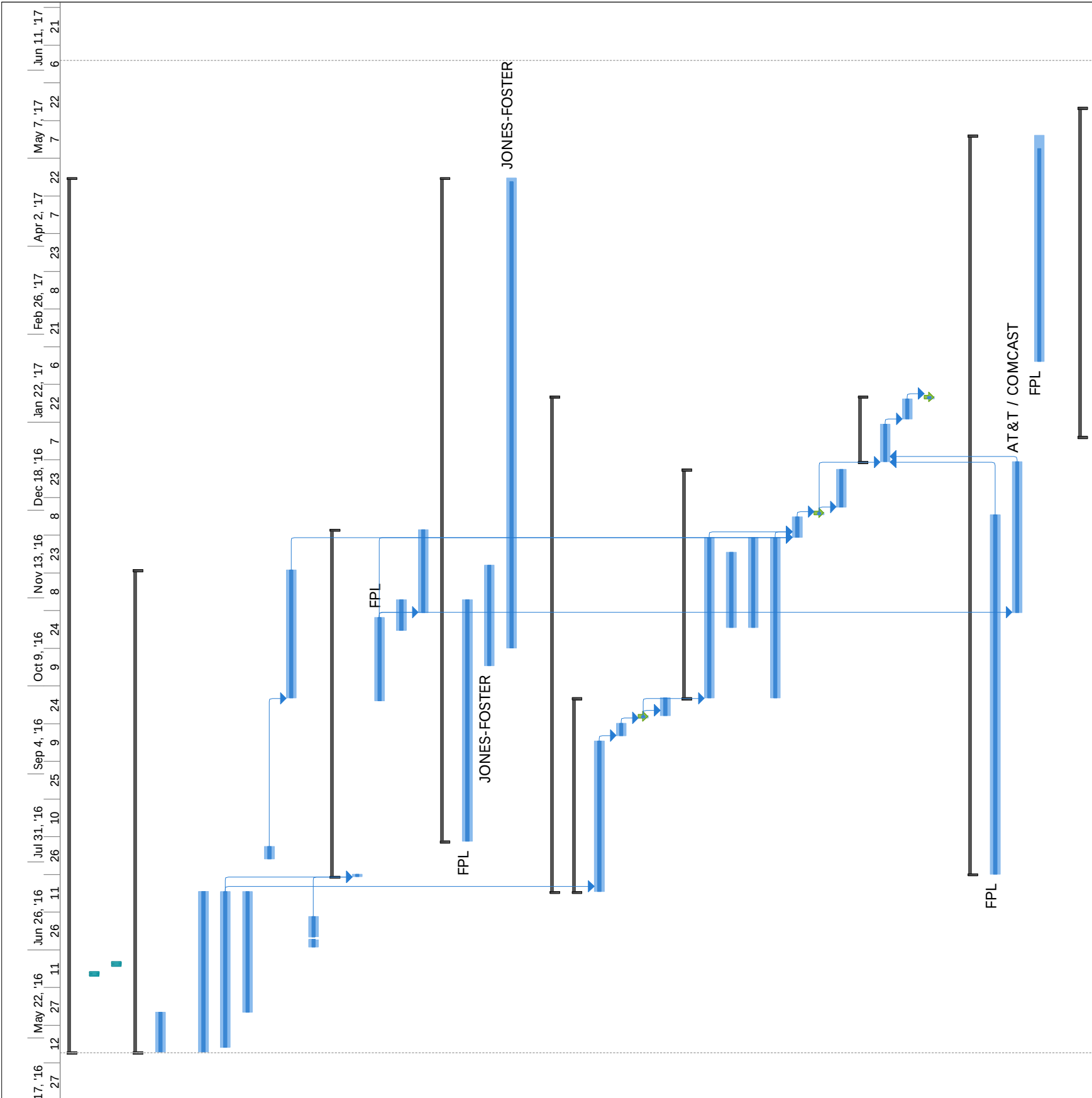
- A. *Saves*: Reuse of soft digs already on file in the Phase 2 project area has saved \$8,250.
- B. *Raves*: Milestone submittal of Phase 2 Utility Base Map to FPL has been completed.

ID	Task Name	Duration	Start	Finish	
1	Master Planning	230 days?	Mon 5/16/16	Fri 3/31/17	
2	External Project Kick off Meeting	1 day	Thu 6/16/16	Thu 6/16/16	
3	Internal Project Kick off Meeting	1 day	Mon 6/20/16	Mon 6/20/16	
4	Task 1.1.1 - Data Collection	65 days?	Mon 5/16/16	Fri 8/12/16	
5	Collect/Analyze Town Project Data- ACIP Program Information (roads, drainage, street lights, other planned ACIP projects)	35 days	Mon 5/16/16	Fri 7/1/16	
6	Collect/Analyze City Data - Watermain program information	30 days	Mon 5/16/16	Fri 6/24/16	
7	Collect/Analyze Lake Worth and South Palm Beach data at project limits	30 days	Mon 5/16/16	Fri 6/24/16	
8	Collect/Analyze FPU - gas main replacement program	30 days	Mon 5/16/16	Fri 6/24/16	
9	Collect/ Analyze - FDOT records and proposed projects in Town limits	30 days	Mon 5/16/16	Fri 6/24/16	
10	Collect/Analyze FPL	23 days?	Wed 7/13/16	Fri 8/12/16	
11	Office Meeting/Record Review with FPL	1 day?	Wed 7/13/16	Wed 7/13/16	
12	Field Verification of Major Utility Elements	22 days	Thu 7/14/16	Fri 8/12/16	
13	Collect/Analyze ATT	22 days?	Thu 7/14/16	Fri 8/12/16	
14	Office Meeting/Record Review with ATT (infrastructure / Smart Poles)	1 day?	Thu 7/14/16	Thu 7/14/16	
15	Field Verification of Major Utility Elements	21 days	Fri 7/15/16	Fri 8/12/16	
16	Collect/Analyze Comcast	21 days	Fri 7/15/16	Fri 8/12/16	
17	Office Meeting/Record Review with Comcast	1 day	Fri 7/15/16	Fri 7/15/16	
18	Field Verification of Major Utility Elements	18 days	Wed 7/20/16	Fri 8/12/16	
19					
20	Task 1.1.2 - Data Collection-Future Communications Systems	104 days	Wed 7/6/16	Mon 11/28/16	
21	Collect/Analyze - TOPB Police and Fire Dept private lines	16 days	Fri 7/15/16	Fri 8/5/16	
22	Meeting with Town Public Works staff, Fire Department Staff, and Police Staff	1 day	Wed 7/6/16	Wed 7/6/16	
23	Analysis of Town-wide Closed communications system expansion (police/fire/public works)	17 days	Fri 7/15/16	Mon 8/8/16	
24	Analysis of Town-wide Closed Circuit communications system	51 days	Wed 7/6/16	Wed 9/14/16	
25	Develop recommendations/conceptual order of magnitude OPC (Town Future Communications only)	21 days	Mon 9/26/16	Mon 10/24/16	
26	Draft and Issue summary memorandum	47 days	Thu 9/15/16	Fri 11/18/16	
27	Review recommendations with Town	6 days	Mon 11/21/16	Mon 11/28/16	
28					
29	Broadband Infrastructure Assessment	180 days?	Mon 7/25/16	Fri 3/31/17	
30	Kickoff meeting	1 day	Mon 7/25/16	Mon 7/25/16	
Project: TOPB UG Master Plann		Task	Summary	Manual Summary	Manual Progress
Date: Tue 10/24/17		Milestone	Manual Task	Finish-only	Progress
Page 1					

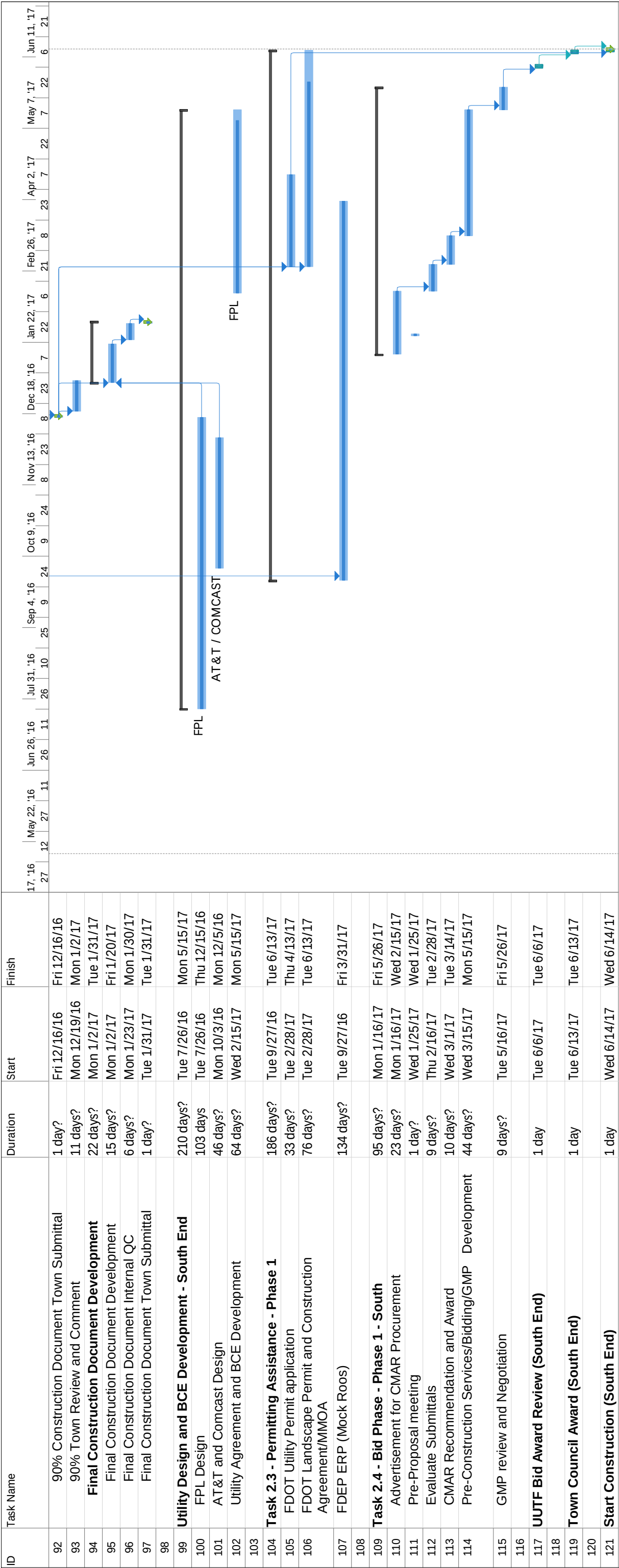
ID	Task Name	Duration	Start	Finish
31	Community Needs & Stakeholder Outreach	65 days	Tue 7/26/16	Mon 10/24/16
32	Broadband Market Analysis	44 days	Tue 7/26/16	Fri 9/23/16
33	Broadband Issue Analysis	21 days	Mon 9/26/16	Mon 10/24/16
34	FTTP Data Collection & Benchmarking	46 days	Mon 8/22/16	Mon 10/24/16
35	FTTP Technical Design Options	46 days	Mon 8/22/16	Mon 10/24/16
36	FTTP Business Case Analysis	46 days	Mon 8/22/16	Mon 10/24/16
37	FTTP Financial Evaluation	46 days	Mon 9/26/16	Mon 11/28/16
38	FTTP Roadmap and Business Plan	25 days	Tue 10/25/16	Mon 11/28/16
39	Final Presentation and Deliverables	25 days	Tue 10/25/16	Mon 11/28/16
40	UUTF Presentation	1 day	Tue 12/6/16	Tue 12/6/16
41	RFI Development	21 days	Fri 1/6/17	Fri 2/3/17
42	RFI Distribution and Advertisement	21 days?	Mon 2/6/17	Mon 3/6/17
43	Review RFI Responses and Provide Recommendations	19 days?	Tue 3/7/17	Fri 3/31/17
44				
45	Task 1.1.3 - GIS Base Map Development - Existing Infrastructure	61 days	Mon 5/16/16	Mon 8/8/16
46	GIS Map Development Town Project Data- ACIP Program Information	45 days	Mon 5/16/16	Fri 7/15/16
47	GIS Map Development - Watermain program information	45 days	Mon 5/16/16	Fri 7/15/16
48	GIS Map Development FPU - gas main replacement program	45 days	Mon 5/16/16	Fri 7/15/16
49	GIS Map Development - TOPB Police and Fire private lines	17 days	Fri 7/15/16	Mon 8/8/16
50	GIS Map Development - FDOT records and proposed projects in Town limits	45 days	Mon 5/16/16	Fri 7/15/16
51				
52	Task 1.2 - Concept Design/Master Plan	99 days	Fri 7/15/16	Wed 11/30/16
53	Master Plan Design Layout/Workshop - FPL Infrastructure -GIS Maps	78 days	Mon 8/15/16	Wed 11/30/16
54	Master Plan Design Layout/Workshop - ATT Infrastructure - GIS Maps	59 days	Mon 8/15/16	Thu 11/3/16
55	Master Plan Design Layout/Workshop - Comcast Infrastructure - GIS Maps	70 days	Mon 8/15/16	Fri 11/18/16
56	Master Plan Design Layout - Street lights - GIS Area Map	55 days	Mon 7/18/16	Fri 9/30/16
57	Master Plan Design Layout - CC fiber link and Competitor Communications - GIS Map	17 days	Fri 7/15/16	Mon 8/8/16
58	Major easement Identification, field verification	47 days	Thu 9/1/16	Fri 11/4/16
59				
60	Task 1.2.3 - Phase Selection and Development	45 days	Mon 8/8/16	Fri 10/7/16
61	Phase Selection and Development / GIS Map Development of Phasing Limits (first half of project)	45 days	Mon 8/8/16	Fri 10/7/16

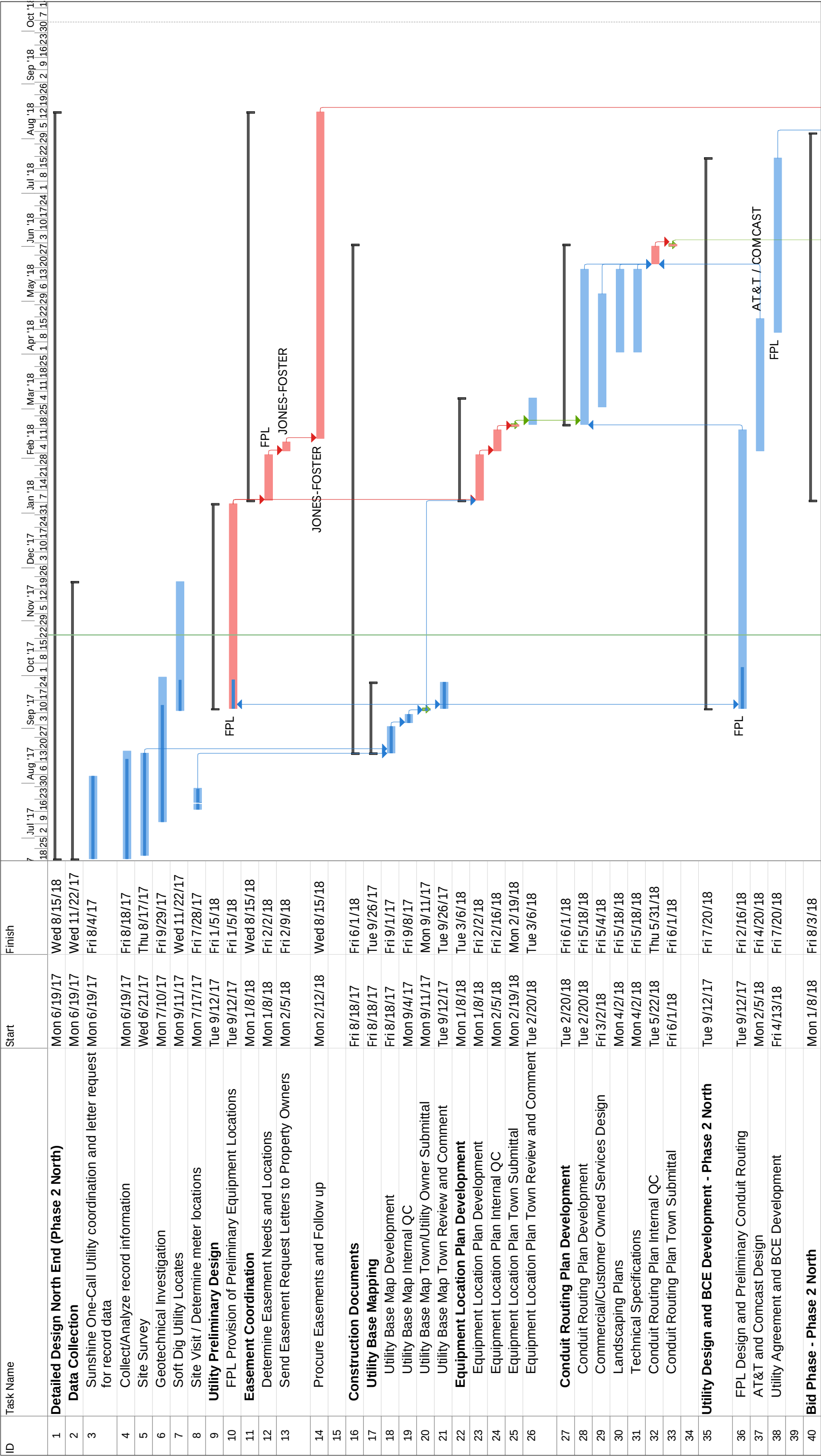


ID	Task Name	Duration	Start	Finish
1	Task 2.1 - Detailed Design North End (Phase 1)	250 days?	Mon 5/16/16	Fri 4/28/17
2	Internal Project Kick off Meeting	1 day	Thu 6/16/16	Thu 6/16/16
3	External Project Kick off Meeting	1 day	Mon 6/20/16	Mon 6/20/16
4	Data Collection	138 days?	Mon 5/16/16	Wed 11/23/16
5	Sunshine One-Call Utility coordination and letter request for record data	12 days	Mon 5/16/16	Tue 5/31/16
6	Collect/Analyze record information	46 days	Mon 5/16/16	Mon 7/18/16
7	Site Survey	44 days	Wed 5/18/16	Mon 7/18/16
8	Geotechnical Investigation	34 days	Wed 6/1/16	Mon 7/18/16
9	GPR Utility Corridor Mapping	5 days?	Mon 8/1/16	Fri 8/5/16
10	Soft Dig Utility Locates	37 days?	Tue 10/4/16	Wed 11/23/16
11	Site Visit to Determine meter locations	9 days	Mon 6/27/16	Fri 7/8/16
12	Utility Coordination	100 days?	Mon 7/25/16	Fri 12/9/16
13	Provide Survey Files to Utility Owners	1 day?	Mon 7/25/16	Mon 7/25/16
14	FPL Provision of Equipment Locations	25 days?	Mon 10/3/16	Fri 11/4/16
15	Field Reviews with FPL	10 days?	Mon 10/31/16	Fri 11/11/16
16	Field Reviews with ATT / Comcast	25 days?	Mon 11/7/16	Fri 12/9/16
17	Easement Coordination	190 days?	Mon 8/8/16	Fri 4/28/17
18	Determine Easement Needs and Locations	70 days?	Mon 8/8/16	Fri 11/11/16
19	Send Letters to Property Owners	30 days?	Mon 10/17/16	Fri 11/25/16
20	Procure Easements and Follow up	135 days?	Mon 10/24/16	Fri 4/28/17
21				
22	Construction Documents	141 days?	Tue 7/19/16	Tue 1/31/17
23	60% Construction Document Development	55 days?	Tue 7/19/16	Mon 10/3/16
24	60% Construction Document Development	44 days	Tue 7/19/16	Fri 9/16/16
25	60% Construction Document Internal QC	5 days?	Mon 9/19/16	Fri 9/23/16
26	60% Construction Document Town Submittal	1 day?	Mon 9/26/16	Mon 9/26/16
27	60% Town Review and Comment	5 days?	Tue 9/27/16	Mon 10/3/16
28	90% Construction Document Development	65 days?	Tue 10/4/16	Mon 1/2/17
29	90% Construction Document Development	46 days	Tue 10/4/16	Tue 12/6/16
30	Conductor Sizing	22 days?	Tue 11/1/16	Wed 11/30/16
31	Landscaping Plans	26 days?	Tue 11/1/16	Tue 12/6/16
32	Technical Specifications	46 days?	Tue 10/4/16	Tue 12/6/16
33	90% Construction Document Internal QC	6 days?	Wed 12/7/16	Wed 12/14/16
34	90% Construction Document Town Submittal	1 day?	Fri 12/16/16	Fri 12/16/16
35	90% Town Review and Comment	11 days?	Mon 12/19/16	Mon 1/2/17
36	Final Construction Document Development	18 days?	Fri 1/6/17	Tue 1/31/17
37	Final Construction Document Development	11 days?	Fri 1/6/17	Fri 1/20/17
38	Final Construction Document Internal QC	6 days?	Mon 1/23/17	Mon 1/30/17
39	Final Construction Document Town Submittal	1 day?	Tue 1/31/17	Tue 1/31/17
40				
41	Utility Design and BCE Development - North End	210 days?	Tue 7/26/16	Mon 5/15/17
42	FPL Design	103 days	Tue 7/26/16	Thu 12/15/16
43	AT&T and Comcast Design	44 days?	Mon 11/7/16	Thu 1/5/17
44	Utility Agreement and BCE Development	64 days?	Wed 2/15/17	Mon 5/15/17
45				
46	Task 2.4 - Bid Phase - Phase 1 - North	95 days?	Mon 1/16/17	Fri 5/26/17



ID	Task Name	Duration	Start	Finish	17, '16 27	May 22, '16 12 27	Jun 26, '16 26 11	Jul 31, '16 26 10	Sep 4, '16 25 9	Oct 9, '16 24 9	Nov 13, '16 8 23	Dec 18, '16 23 8	Jan 22, '17 22 6	Feb 26, '17 21 8	Apr 2, '17 7 23	May 7, '17 7 22	Jun 11, '17 6 21
47	Advertisement for CMAR Procurement	23 days?	Mon 1/16/17	Wed 2/15/17													
48	Pre-Proposal meeting	1 day?	Wed 1/25/17	Wed 1/25/17													
49	Evaluate Submittals	9 days?	Thu 2/16/17	Tue 2/28/17													
50	CMAR Recommendation and Award	10 days?	Wed 3/1/17	Tue 3/14/17													
51	Pre-Construction Services/Bidding/GMP Development	44 days?	Wed 3/15/17	Mon 5/15/17													
52	GMP review and Negotiation	9 days?	Tue 5/16/17	Fri 5/26/17													
53																	
54	UUTF Bid Award Review (North End)	1 day	Tue 6/6/17	Tue 6/6/17													
55																	
56	Town Council Award (North End)	1 day	Tue 6/13/17	Tue 6/13/17													
57																	
58	Start Construction (North End)	1 day	Wed 6/14/17	Wed 6/14/17													
59																	
60	Task 2.2 - Detailed Design South End (Phase 1)	250 days?	Mon 5/16/16	Fri 4/28/17													
61	Internal Project Kick off Meeting	1 day	Thu 6/16/16	Thu 6/16/16													
62	External Project Kick off Meeting	1 day	Mon 6/20/16	Mon 6/20/16													
63	Data Collection	138 days?	Mon 5/16/16	Wed 11/23/16													
64	Sunshine One-Call Utility coordination and letter request for record data	12 days?	Mon 5/16/16	Tue 5/31/16													
65	Collect/Analyze record information	46 days?	Mon 5/16/16	Mon 7/18/16													
66	Site Survey	44 days?	Wed 5/18/16	Mon 7/18/16													
67	Geotechnical Investigation	34 days?	Wed 6/1/16	Mon 7/18/16													
68	GPR Utility Corridor Mapping	5 days?	Mon 8/8/16	Fri 8/12/16													
69	Soft Dig Utility Locates	37 days?	Tue 10/4/16	Wed 11/23/16													
70	Site Visit to Determine meter locations	10 days?	Mon 6/27/16	Fri 7/8/16													
71	Utility Coordination	85 days?	Mon 7/25/16	Fri 11/18/16													
72	Provide Survey Files to Utility Owners	1 day?	Mon 7/25/16	Mon 7/25/16													
73	Provision of FPL Equipment Locations	35 days?	Mon 10/3/16	Fri 11/18/16													
74	Field Reviews with FPL / ATT / Comcast	35 days?	Mon 10/3/16	Fri 11/18/16													
75	Easement Coordination	190 days?	Mon 8/8/16	Fri 4/28/17													
76	Determine Easement Needs and Locations	85 days?	Mon 8/8/16	Fri 12/2/16													
77	Send Letters to Property Owners	35 days?	Mon 10/17/16	Fri 12/2/16													
78	Procure Easements and Follow up	135 days?	Mon 10/24/16	Fri 4/28/17													
79																	
80	Construction Documents	141 days?	Tue 7/19/16	Tue 1/31/17													
81	60% Construction Document Development	55 days?	Tue 7/19/16	Mon 10/3/16													
82	60% Construction Document Development	44 days?	Tue 7/19/16	Fri 9/16/16													
83	60% Construction Document Internal QC	5 days?	Mon 9/19/16	Fri 9/23/16													
84	60% Construction Document Town Submittal	1 day?	Mon 9/26/16	Mon 9/26/16													
85	60% Town Review and Comment	5 days?	Tue 9/27/16	Mon 10/3/16													
86	90% Construction Document Development	65 days?	Tue 10/4/16	Mon 1/2/17													
87	90% Construction Document Development	46 days?	Tue 10/4/16	Tue 12/6/16													
88	Conductor Sizing	29 days?	Tue 11/1/16	Fri 12/9/16													
89	Landscaping Plans	26 days?	Tue 11/1/16	Tue 12/6/16													
90	Technical Specifications	46 days?	Tue 10/4/16	Tue 12/6/16													
91	90% Construction Document Internal QC	6 days?	Wed 12/7/16	Wed 12/14/16													
Project: TOPB UG Ph 1 Design_																	
Date: Tue 10/24/17																	





Project: TOPB UG Ph 2 Design.
Date: Tue 10/24/17

Task

Milestone

Summary

Project Summary

Manual Task

Manual Summary

Deadline

Critical

➡

➡

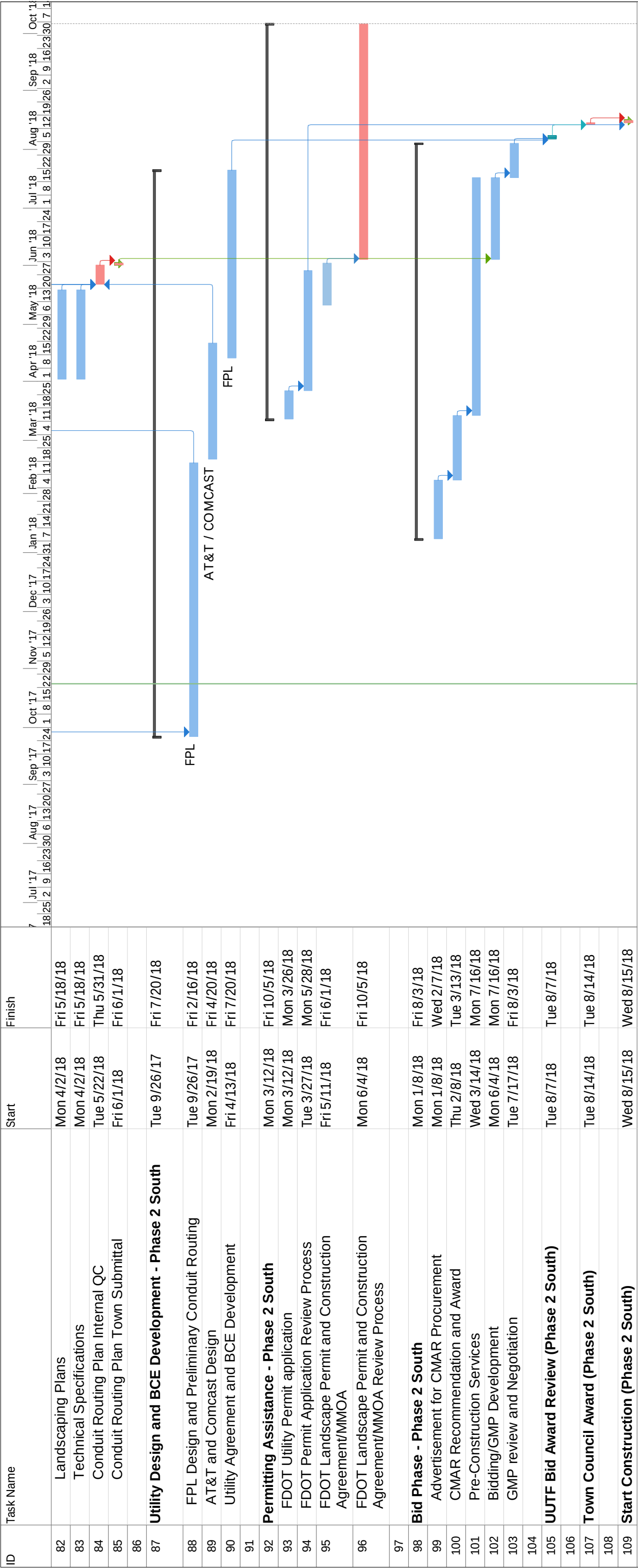
Critical Split

Progress

Manual Progress

Progress

Page 1



Vincent G. Burkhardt
President



Executive Summary
For
September 2017

Project Description

Townwide Overhead Utility Undergrounding
Phase 1 North
P.O. # 171308

Project Status:

The horizontal directional drilling operation continued north of the "S" bend along North Ocean Blvd. Good progress has been made with the installation of the FPL, AT&T, and Comcast conduits. Unfortunately, hurricane Irma stopped that production.

Once allowed back on the island, the crew re-mobilized to the site and continued installing main feeder conduits along North Ocean Blvd. from the "S" bend north to approximately Manana Lane. It is important to note that we were fortunate to keep our FPL approved subcontractor and continue with the installation. We did not lose them to FPL to perform storm damage repairs.

Also, a service line crew began installing the service line conduits along Onondaga Avenue and continued heading north on the east / west streets between North Ocean Boulevard and North Lake Way.

Although time was lost due to the hurricane we are confident that it will be made up as the project continues. The project continues to remain within budget.

Vincent G. Burkhardt
President



Executive Summary
For
September 2017

Project Description

Townwide Utility Undergrounding
Onondaga Avenue & Laurie Lane Improvements
Phase 1 North
P.O. # 171308

Project Status:

The storm drainage work continued this month along Onondaga Avenue. The storm drainage installation was interrupted prior to completion by hurricane Irma. The crews stopped production work and began preparing the site for the storm and evacuated the island.

The crews returned to work after the hurricane and installed the last storm drainage structure.

No other work was completed this month. This project is running behind schedule due to the hurricane but is not on the critical path. This project continues to stay within budget.

TOWN-WIDE OVERHEAD UTILITY UNDERGROUNDING
PHASE 1 NORTH
SCHEDULE
RFQ No. 2017-14

ID	Task Name	% Complete	Duration	Start	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	2018	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	2019	Jan	Feb
1	Phase I - NORTH	16%	420 days	Mon 6/12/17																								
2	Fully Executed Non-GAF Agreement	100%	23 days	Mon 6/12/17																								
3	Copy Of Executed Easements	90%	23 days	Mon 6/12/17																								
4	Fully Executed Applicant Installed Agreement With FPL	100%	23 days	Mon 6/12/17																								
5	Fully Executed R/O/W Agreement With FPL	100%	23 days	Mon 6/12/17																								
6	Fully Executed Agreement With COMCAST / AT & T	0%	23 days	Mon 6/12/17																								
7	Town Council Approval	100%	1 day	Tue 6/13/17																								
8	Award Prime Contract	100%	13 days	Wed 6/14/17																								
9	Permitting	100%	15 days	Mon 6/26/17																								
10	Customer Owned Service Connection Permitting	0%	15 days	Mon 6/26/17																								
11	Sub Contract Agreements	100%	23 days	Wed 6/14/17																								
12	Material Procurement	100%	11 days	Fri 6/30/17																								
13	Underground Conduit Installation, Primary/Secondary (FPL, ATT,	5%	225 days	Mon 7/17/17																								
14	Feeder Splice Box Installation	2%	15 days	Thu 10/12/17																								
15	Set Transformers / Switch Cabinets (FF	0%	75 days	Wed 11/8/17																								
16	Secondary Services / Wire	0%	138 days	Tue 2/20/18																								
17	As-Built Submission / Review (FPL)	0%	47 days	Tue 2/20/18																								
18	Pull Wire / Terminations Primary (FPL)	0%	81 days	Tue 2/20/18																								
19	*ATT Rod Conduit, Pull Wire, Set Pedestals	0%	133 days	Tue 2/27/18																								
20	*Comcast Pull Wire, Set Pedestals	0%	133 days	Tue 2/27/18																								
21	Cut over / Overhead Removal (ATT/Comcast)	0%	45 days	Mon 9/3/18																								
22	Energize Underground (FPL)	0%	30 days	Fri 4/27/18																								
23	Secondary Service Switch Over (FPL)	0%	113 days	Mon 6/11/18																								
24	** Demo Overhead / Remove Poles (FPL) / Final Restoration	0%	90 days	Mon 9/17/18																								
25	*This Work Will Be Performed By ATT/COMCAST Crews, All Other Work Is Anticipated To Be Performed By A Subcontractor Under The Direction Of Burkhardt Construction, Inc.	0%																										
26	**This Work Must Be Performed By FPL Crews, All Other Work Is Anticipated To Be Performed By A Subcontractor Under The Direction Of Burkhardt Construction, Inc.	0%																										
27	Storm Drainage	90%	45 days	Mon 7/17/17																								
28	Water Main	50%	35 days	Mon 9/4/17																								

DATED 9/29/17
CURRENT PERCENT COMPLETED 16%



SAFETY

Monthly safety inspections are conducted by WT Regional Safety Director. Daily safety inspections conducted by onsite staff.

- ◆ 0 lost time incidents to date
- ◆ 0 recordable incidents to date

CONSTRUCTION

- ◆ Water main deflections #2, 3, 6, 11, & 12 have been completed. 5 out of 14 total water main deflections are complete at this point.
- ◆ S. Ocean Blvd. Undergrounding Crew is continuing to conduct exploratory work, to minimize the potential impact of any unforeseen conditions. Currently installing FPL feeder & primary at 3460 S. Ocean Boulevard (Sta 13+82 to Sta 18+20). Approximately 90% of feeder & primary conduit is completed between Lake Ave and the Town (South) Limit.
- ◆ Ibis Isle Undergrounding Crew has completed FPL primary, Comcast, and AT&T conduit installation along Ibis Isle Road East and West. Currently installing transformer pads and splice boxes along Ibis Isle Road East and West. Conduit installation along Ibis Way currently on hold pending FDEP permit issuance.

DOCUMENTATION:

RFIs:

- 11 RFIs issued to date
- 1 Outstanding RFIs

SUBMITTALS:

- 42+ Individual Submittals Processed
- 0 Submittal Package Currently Under Review
- 0 Submittal Packages Pending Submission to A/E

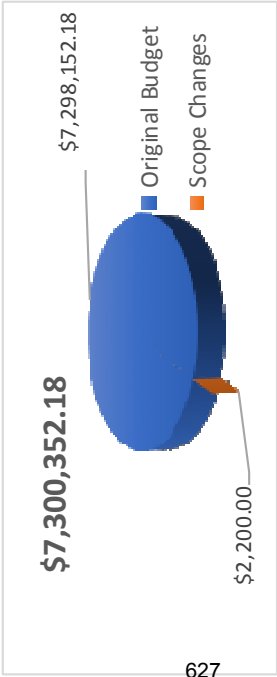
DRAWINGS:

- Post GMP Drawing Revision #1 received July 26th from KHA
- Post GMP Drawing Revision #2 received October 5th from KHA

RELEVANT POTENTIAL CHANGES:

- Hurricane Irma Impact
- FPL Line Drawing Changes to Ibis Isle Scope of Work
- Reduction in S. Ocean Boulevard Street Lighting Scope of Work

FINANCIALS—BUDGET VS. COSTS



Current GMP Amount	—	\$7,300,352.18
Approved Owner Initiated Scope Changes	—	\$2,200.00
Gross Billings to Date	—	\$574,733.54
Gross Billing % (Overall Project)	—	8%
Schedule % Completed	—	18%



SCHEDULE SUMMARY

Construction

General

1200	Setup Advanced Warning (VMS Boards etc)	2	0	02AUG17 A	04AUG17 A
1205	Locates	10	0	09AUG17 A	04SEP17 A
IMP 1207	Hurricane Irma Schedule Impacts	6	0	07SEP17 A	18SEP17 A
1210	Soft Dig/Exploration	20	2	14AUG17 A	26OCT17
1215	Landscape Relocation/Demo	30	28	06SEP17 A	01DEC17

S. Ocean Undergrounding -Sta 11+10 to Sta 243+66

IMP 1517	CAD files from Engineer	5	0	16AUG17 A	30AUG17 A
IMP 1516	Existing Conflicts - RFI 04 & 06	4	0	26AUG17 A	06SEP17 A
1500	ATT Conduit Installation	10	7	29AUG17 A	02NOV17
1505	Comcast Conduit Installation	10	7	29AUG17 A	02NOV17
1507	ATT Vault (Installed by WT's Sub)	15	15	03NOV17	23NOV17
1512	FPL Feeder Splice Box Installation	20	20	27OCT17	30NOV17
1509	WT's Sub provide As-Built for ATT/Comcast	5	5	24NOV17	30NOV17
1518	Line Stop Installations	50	30	04SEP17 A	07DEC17
1521	WM Deflections	60	40	29AUG17 A	21DEC17
1514	ATT/Comcast review as-built/inspect/procure wire	20	20	01DEC17	28DEC17
1543	FPL Feeder & Primary Conduits Installation	75	60	04SEP17 A	22JAN18

Ibis Isle

3052	Easements Recorded	0	0		11OCT17 A
3005	Fire Hydrant Assembly	5	5	25OCT17	31OCT17
3010	Backfill and Temp Restore	30	25	11SEP17 A	05DEC17
3008	FPL Primary/ATT & Comcast Conduits (Open Cut)	30	29	04SEP17 A	11DEC17
3000	Service Sweep Condu /Set Equip Pads/Splice Boxes	45	30	19SEP17 A	12DEC17
3020	WT's Sub provides as-builts for ATT & Comcast	5	5	12DEC17	18DEC17
3055	WT's Sub provides as-builts for FPL/TPB/KH	5	5	13DEC17	18DEC17

SCHEDULE NOTES / IMPACTS:

PROJECT DELAYED DUE TO HURRICANE IRMA.

- Project currently delayed by 14 calendar days due to Hurricane Irma.

OTHERS

- Town directed the Engineer to proceed based on FPL LT1 Tariff for FPL Street Lighting. Proposal for work pending response from subcontractor.

Underground Utility Project Budget
Project Financial Summary
October 31, 2017

	Budget	Actual	% Expended
Phase 1			
Phase 1 Design	\$ 1,310,829	\$ 1,285,692	98.1%
Phase 1 Utility Costs	\$ 48,608	\$ 48,608	100.0%
Phase 1 Construction	\$ 8,536,041	\$ 842,958	9.9%
Phase 1 Construction Utility Costs	\$ 1,850,970	\$ 1,236,770	66.8%
Phase 1 Construction Engineering	\$ 568,532	\$ 77,335	13.6%
Phase 1 Easements	\$ -	\$ 282,915	n/a
Total Phase 1	\$ 12,314,980	\$ 3,774,277	30.6%
Phase 2			
Phase 2 Design	\$ 979,659	\$ 206,370	21.1%
Other			
Other Project Costs	\$ 880,414	\$ 966,619	109.8%
Total To Date	\$ 14,175,053	\$ 3,980,647	28.1%
Total Project Budget	\$ 98,600,000		
% Budgeted/Encumbered To Date	14.38%		
% Spent to Date	4.04%		

Underground Utility Project Budget
Phase 1 Project Costs
October 31, 2017

	Budget	Actual	% Expended
Project Engineering			
Task 2.1 - Detailed Design North End	472,063	472,063	100.0%
Task 2.2 - Detailed Design South End	619,411	619,411	100.0%
Task 2.3 - Permitting Assistance	17,790	15,122	85.0%
Task 2.4 - Bid Phase Assistance	42,166	42,166	100.0%
Task 2.5 - Meetings - Design Phase	125,399	114,545	91.3%
Legal Sketch and Description - Easements	34,000	22,385	65.8%
Subtotal Design Phase	\$ 1,310,829	\$ 1,285,692	98.1%
Utility Costs (FPL)			
FPL Engineering for Binding Cost Estimate	\$ 38,608		
North End Design		10,595	
South End Design		28,013	
Total FPL Engineering Costs for Design	\$ 38,608	\$ 38,608	100.0%
Utility Costs (AT&T and Comcast)			
AT&T North End Design		5,000	
AT&T South End Design		5,000	
Total Utility Costs (AT&T and Comcast)	\$ 10,000	\$ 10,000	100.0%
Construction Costs			
Phase 1 North Construction			
Preconstruction	\$ 19,720	19,720	100.0%
Burkhardt Construction	\$ 3,798,144	365,678	9.6%
Utility Costs (FPL, Comcast, AT&T)	\$ 476,776	96,884	20.3%
Construction Engineering (KH)	\$ 253,532	32,640	12.9%
	\$ 4,548,172	\$ 514,922	11.3%
Phase 1 South Construction			
Preconstruction	\$ 22,200	22,200	100.0%
Whiting Turner Construction	\$ 4,695,977	435,360	9.3%
Utility Costs (FPL, Comcast, AT&T)	\$ 1,374,193	1,139,886	82.9%
Construction Engineering (KH)	\$ 315,000	44,694	14.2%
	\$ 6,407,370	\$ 1,642,140	25.6%
Legal Costs/Easement Acquisition - Jones Foster	\$ -	\$ 282,915	0.0%
Total Phase 1 Costs	\$ 12,314,980	\$ 3,774,277	30.6%

Underground Utility Project Budget
Phase 2 Project Costs
October 31, 2017

	Budget	Actual	% Expended
Phase 2 Design			
Kimley Horn			
Task 1.1 Phase 2 North Design	\$ 281,304	\$ 98,456	35.0%
Task 1.2 Phase 2 South Design	\$ 335,353	\$ 100,606	30.0%
Task 1.3 Permitting Assistance North	\$ 5,779	\$ -	0.0%
Task 1.3 Permitting Assistance South	\$ 6,895	\$ -	0.0%
Task 1.4 Bid Phase Assistance North	\$ 18,498	\$ -	0.0%
Task 1.4 Bid Phase Assistance South	\$ 22,067	\$ -	0.0%
Task 1.5 Easement Assistance North	\$ 64,936	\$ 3,098	4.8%
Task 1.5 Easement Assistance South	\$ 77,466	\$ -	0.0%
Task 1.6 Meetings North	\$ 62,297	\$ 3,130	5.0%
Task 1.6 Meetings South	\$ 74,320	\$ -	0.0%
Task 1.7 Legal Sketch North	\$ 14,020	\$ 1,080	7.7%
Task 1.7 Legal Sketch South	\$ 16,725	\$ -	0.0%
Total Phase 2 Design	\$ 979,659	\$ 206,370	21.1%

Underground Utility Project Budget
Other Project Costs
October 31, 2017

Master Plan	Budget	Actual	% Expended
Task 1.1 - Data Collection & GIS Base Mapping	\$ 88,021	\$ 88,021	100.0%
Tash 1.1a Data Collection for Future Communications	\$ 23,511	\$ 23,511	100.0%
Task 1.2 - Conceptual Design and Master Plan	\$ 161,756	\$ 161,756	100.0%
Task 1.3 - Project Sequencing and Phasing	\$ 31,244	\$ 31,244	100.0%
Task 1.4 - Assessment of Traffic Impacts	\$ 77,660	\$ 77,660	100.0%
Task 1.5 - Project Delivery Methods	\$ 17,448	\$ 17,448	100.0%
Task 1.6 - Master Plan Document	\$ 45,053	\$ 42,800	95.0%
Task 1.7 - Meetings Master Planning Phase	\$ 113,135	\$ 113,123	100.0%
Task 1.8 - Master Plan Second Half	\$ 40,067	\$ 38,064	95.0%
Subtotal Master Planning	\$ 597,895	\$ 593,627	99.3%
Community Outreach	\$ 282,519	\$ 171,422	60.7%
FPL Future Phases	Future Phase Budget	\$ 75,215	
FPL Nightingale/LaPuerta - Townwide Portion	Future Phase Budget	\$ 74,900	
Comcast Preplanning	Future Phase Budget	\$ 12,015	
Comcast Nightingale/LaPuerta - Townwide Portion	Future Phase Budget	\$ 8,885	
AT&T Nightingale/LaPuerta Townwide Portion	Future Phase Budget	\$ 30,555	
Total Other Project Costs	\$ 880,414	\$ 966,619	109.8%

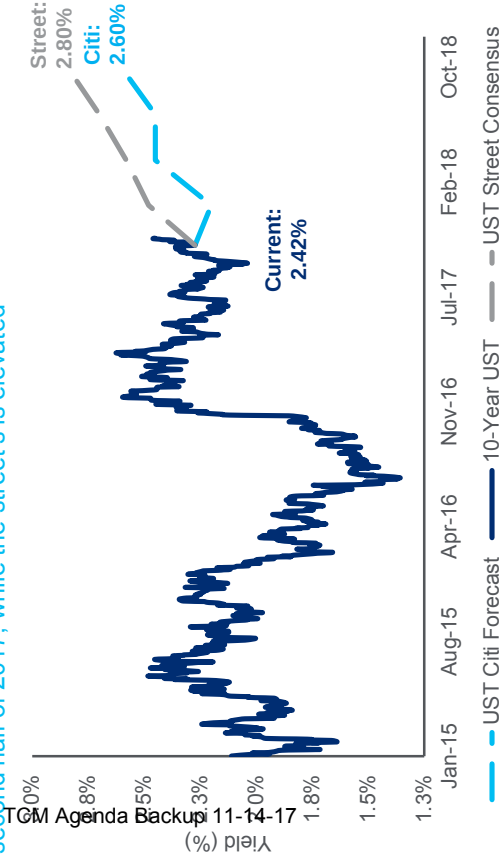
Related Costs Outside of the Underground Project Budget

Underground City of Lake Worth Section	Budget	Actual	% Expended
Project Design	\$ 25,231	\$ 24,430	96.8%
Project Construction	\$ 351,081	\$ 20,853	5.9%
Project Construction Engineering	\$ 11,607	\$ 1,741	15.0%
Utility Cost (FPL, Comcast, AT&T)	\$ 134,333	\$ 127,531	94.9%
Project Meeting Attendance	\$ 3,334	\$ 720	21.6%
Total Lake Worth Section	\$ 525,586	\$ 175,274	33.3%
Goldmacher v TPB Legal and Other Costs		\$ 129,584	
Kosberg v TPB Legal and Other Costs		\$ 84,419	
Ibis Way PGD Improvements	\$ 14,583	\$ 14,583	100.0%
Project Manager -Pay and benefits	\$ 130,000	\$ 39,545	30.4%
Peer Review Study - Patterson & Dewar	\$ 100,000	\$ -	0.0%
Telecommunications Consultant	\$ 89,000	\$ 83,210	93.5%
Peter Brandt (Contract Negotiations)	\$ 35,000	\$ 22,633	64.7%
Total Related Costs Outside of the Budget	\$ 894,169	\$ 549,248	61.4%

U.S. Rate Forecasts

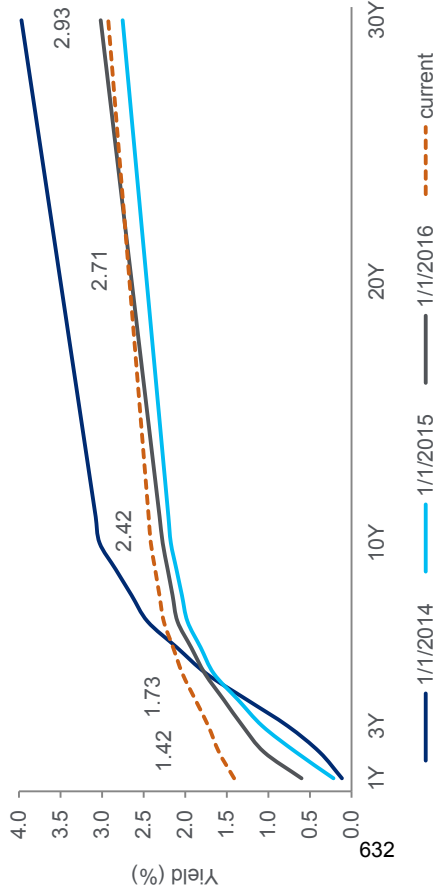
10-Year Treasury Yield Forecast

Citi forecasts a muted interest rate environment as we progress through the second half of 2017, while the street's is elevated



US Treasury Yield Curve

Yields rose across the curve over the past week as the US economy grew at a faster-than-forecast pace of 3% in Q3, handily beating 2.5% forecasts



Rate Forecasts

5-Year Treasury	Current	4Q17	1Q18	2Q18	3Q18	4Q18	1Q19
Citi's Forecast	2.03%	1.80%	2.00%	2.05%	2.25%	2.40%	2.45%

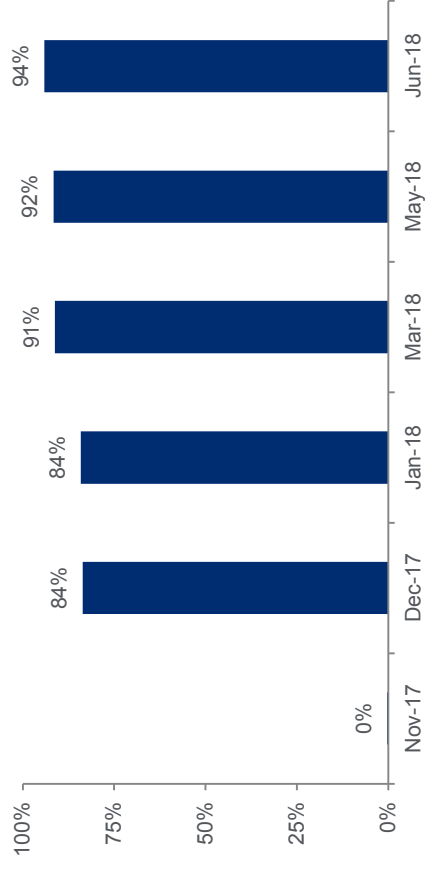
10-Year Treasury	Current	4Q17	1Q18	2Q18	3Q18	4Q18	1Q19
Citi's Forecast	2.42%	2.20%	2.45%	2.45%	2.60%	2.75%	2.80%
Economists' Consensus		2.44%	2.57%	2.68%	2.80%	2.95%	3.03%

30-Year Treasury	Current	4Q17	1Q18	2Q18	3Q18	4Q18	1Q19
Citi's Forecast	2.93%	2.85%	3.00%	3.00%	3.20%	3.40%	3.45%
Economists' Consensus		3.03%	3.15%	3.27%	3.31%	3.40%	3.50%

Fed Funds	Current	4Q17	1Q18	2Q18	3Q18	4Q18	1Q19
Citi's Forecast	1.25%	1.50%	1.75%	2.00%	2.25%	2.25%	2.25%
Economists' Consensus		1.50%	1.50%	1.75%	2.00%	2.00%	2.25%

Expectations of Next Fed Increase in Rates

The market is currently pricing in a 84% probability of one more rate hikes by the end of 2017; an upward move from last week's expectation of 73%



TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Peer Review Update

DATE: October 20, 2017

STAFF RECOMMENDATION

Town staff provided the attached presentation to the Utility Undergrounding Task Force (UTF) at the November 7, 2017 meeting.

GENERAL INFORMATION

Town Council approved the award of a Purchase Order to Patterson and Dewar for the Peer Review of the Town of Palm Beach Town-Wide Underground Overhead Utilities Master Plan at the July 12, 2017 Town Council Meeting. The original schedule was for the final document to be presented at the November Town Council meeting. Due to Hurricane Irma, Patterson and Dewar was not able to meet with the UTF as scheduled in the scope of work. Therefore, the draft document was delivered to the Town Council, UTF members, and staff on October 24. The following is the remaining milestones and schedule to complete the Peer Review document:

- November 6: Comments/questions from M&TC and UTF due to Steve Stern
- November 6: Staff meets with Patterson & Dewar to review comments and questions from staff and Kimley Horn, as well as those provided by the M&TC and UTF
- November 7: Status update on Draft Peer Review Report provided at UTF meeting
- November 14: Status update on Draft Peer Review Report provided at Town Council meeting
- December 12: Final Peer Review Report presented at Town Council meeting

Patterson and Dewar was provided the comments/questions received from M&TC and UTF members on November 6. Staff has also met with Patterson & Dewar on November 6 to review comments and discuss the process to follow. Patterson and Dewar has requested to present the final document to Town Council at a time certain of 2:30 at the December 12 meeting.

FUNDING/FISCAL IMPACT

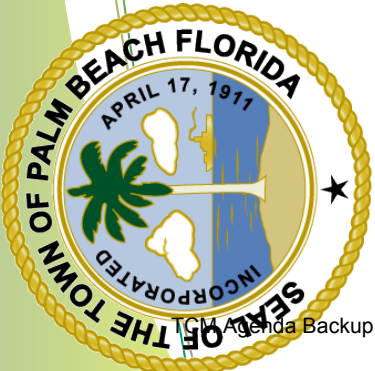
The item has no funding impacts

PURCHASING REVIEW

Purchasing is presently reviewing the Peer Review Document

Attachments

cc: Jane Struder, Director of Finance
Steven Stern, Undergrounding Project Manager
Dean Mealy, Purchasing Manager



Town – Wide Undergrounding of Utilities Master Plan Peer Review Update

*Undergrounding Utility Task Force
November 7, 2017*



Remaining Schedule

- November 6: Comments/questions from M&TC and UUTF due to Steve Stern
- November 6: Staff meets with Patterson & Dewar to review comments and questions from staff and Kimley Horn, as well as those provided by the M&TC and UUTF
- November 7: Status update on Draft Peer Review Report provided at UUTF meeting
- November 14: Status update on Draft Peer Review Report provided at Town Council meeting
- December 12: Final Peer Review Report presented at Town Council meeting



Peer Review Summary Table

Description	Patterson and Dewar Comments	TOPB Response
Focus Area I – Program Management and Delivery Method		
1.1 Maintain CMAR delivery method, but execute as continuing contract	Similar to Finding 3.2	
1.2 Retain CMAR earlier in the process	Allows for better collaboration	
1.3 Develop a Project Management Plan	Helps identify responsibilities and track tasks	
1.4 Carefully monitor the amount of work self-performed by CMAR	Ensures proper use of CMAR while ensuring quality and minimizing overhead	
1.5 Monitor competitiveness of the CMAR-conducted subcontractor bidding process	Ensures participation from maximum number of bidders for subcontractor work	
1.6 Use project management software for program coordination and execution	Useful tool for enhancing and encouraging project reporting	
1.7 Maximize benefits from CMAR delivery method	Critical to realize full benefits	
Focus Area II – Costing and Applicability of Opinion of Probable Cost		
2.1 Prepare deterministic cost estimate for future phases	Improves confidence and accuracy of estimate	
2.2 Maximize savings from tax-exempt status through Town's Direct Purchase Program	AT&T and Comcast conduits	
2.3 Minimize the number of exceptions to ensure integrity of GMP	Enhances integrity and reliability of overall program cost	
2.4 Improve effectiveness of the Task Force	Ensures proper use of time and project resources	



Peer Review Summary Table (cont.)

Focus Area III – Scheduling and Sequencing		
3.1 Modify structure and organization of phases	Not recommended	
3.2 Improve schedule by minimizing number of contracts and utilizing unit pricing	Max. 3 CMAR contracts for life of project	
3.3 Consider engaging FP&L for electrical installation	Not recommended	
Focus Area IV – Planning and Engineering Design		
4.1 Validate design with appropriate electrical codes and standards	Standard design practices	
4.2 Vet FP&L design and negotiate improvement	Consider using more Vista equipment and less PME-4 switchgear	
4.3 Monitor constraints to design completion and implementation	Customer service entrance issue; Difficulty of easement acquisition	
4.4 Optimize the number of geotechnical tests	Provides more data for design phase, estimates	
4.5 Optimize the number of subsurface utility locates	Consider hiring a private locating service.	
4.6 Expand other infrastructure improvements	Consider accelerating the water, sewer, drainage improvement projects	
4.7 Request express circuits to mainland substation	Affects overall reliability of service to island	
Focus Area V – Traffic Impacts		
5.1 Execute phases simultaneously	Not recommended	
5.2 Incentivize less disruptive construction methods	Reduces travel delay for motorists and has significantly less impact on roadway rehabilitation.	
5.3 Use FDOT Green Book Standards	Provides less restrictive, yet fully acceptable, standards for design of roadway reconstruction	



Finding: 1.2 – Retain CMAR earlier in the process	
Summary:	Based on the timing of when the CMARs for Phase 1 were retained, some of the advantages of the CMAR delivery method have not, in the Project Team’s opinion, been fully realized. Specifically, the CMARs for Phase I had limited opportunity to offer input on design of these phases, or provide opinions on technical feasibility during construction reviews. One of the distinct advantages of the CMAR method of program delivery is that the CMAR is typically retained early in the project to provide their input and guidance on design, cost estimation, as well as provide their review and opinion on the technical aspects of constructing the project. As noted by the Town of Palm Beach’s Construction In-Progress & Construction Project Bidding Internal Audit conducted by Crowe Horwath (Crowe Horwath Audit) from October 1, 2010 through June 30, 2011, in practice, if a CMAR arrangement is used, the Construction Manager is normally engaged early in the process to manage the design process. Specifically, the Town’s amended Purchasing Manual language contained within the audit states: “The greatest benefit is achieved when the contractor is brought into the design process at the outset. The benefit of this construction method is the contractor’s input into the design resulting in a better scope of work and the expectation that fewer change orders and claims will occur due to design errors.” Specific to the first phase of this project, it is the Project Team’s understanding that the CMARs for the project were not engaged until design was relatively complete. Some of the CMAR advantages are lost due to the fact that the final project design is determined by FP&L, and very little can ultimately be changed without its direct approval. As such, even if the CMAR had time to provide suggestions for improvement, they may ultimately not be acceptable to FP&L. However, while the impact of constructability reviews may be minimal, we believe it important that if the CMAR method is to continue to be employed, the selected CMAR contractor should be engaged earlier in the process to have input on design and overall constructability of each phase.
Recommendations for Resolution:	Consider retaining the CMAR earlier in the design process to take full advantages of their expertise. Additionally, as noted in Finding 1.1, placing the CMAR on a continuing contract would also accomplish this objective.
Potential Impact:	While engaging the CMAR earlier will likely lead to increased levels of cost due to retaining these professional services for a longer period, it is anticipated that having more input on the design and constructability of each phase may result in ideas for cost reduction or cost avoidance. However, we also recognize that the level of cost reduction or cost avoidance may be limited in this case due to the requirements of FP&L. The early engagement of the CMAR allows for additional professional input on the design, which can also help to mitigate risks that the design may not be fully constructible due to unique field conditions. The Project Team believes this risk mitigation, and the avoidance of schedule delays or cost overruns, helps to offset the potential increase in cost from retaining professional services for a greater period of time.
Significance – High / Low:	
Comments:	



Questions

TOWN OF PALM BEACH

Information for Town Council on: November 14, 2017

TO: Mayor & Town Council

FROM: Steven Stern, Project Manager

RE: AT&T & Comcast Fiber Optic Conversion

DATE: November 14, 2017

STAFF RECOMMENDATION

Town staff presented to the Underground Utility Task Force a recommendation to enable Comcast and AT&T network fiber deployments throughout the Town-wide Undergrounding project. UUTF recommended that Town Council direct staff to engage professional services to negotiate a favorable, executable AT&T contract providing fiber services in lieu of copper service for the Town-Wide Undergrounding Project.

GENERAL INFORMATION

The Town of Palm Beach is in the process of converting existing overhead utilities to an underground location. Kimley-Horn and Associates (KHA) previously prepared a master plan along with an opinion of probable cost of \$98.6M for the program implementation. This opinion was largely based on a “like for like” conversion of the utilities and included the use of direct bury service cable to the residence. The Town was interested in exploring design options with AT&T and Comcast to determine if an alternate design could be deployed that both increased the level of service provided to the community and lowered the cost of the program.

Multiple meetings were held with both AT&T and Comcast to discuss potential design options that could reduce program costs. Comcast presented multiple options that consisted of either Hybrid Fiber/Coax (HFC) systems or complete Fiber Optic (FTTP) systems. Costs for these options were also provided but they will not be discussed in specific detail in this memorandum due to the Confidentiality Agreement between the Town, Comcast, and KHA.

Attached is a memorandum from KHA which provides a background of the analysis that has been performed in coming to the recommendation to finalize negotiations with AT&T for fiber services. Staff’s recommendation is Option 1 described in the attached memorandum. This recommendation does increase the overall project cost by approximately \$1.7 million due to service conduits and other required materials however, it significantly improves communications services for AT&T customers.

Attachment

cc: Tom Bradford, Town Manager
Patricia Strayer, PE, Town Engineer



Memorandum

To: Mr. Steven Stern

From: Kevin Schanen, P.E.

Date: August 17, 2017
August 25, 2017 (revised)
October 30, 2017 (revised)

Subject: Town of Palm Beach – AT&T and Comcast Fiber Optic Conversion Cost Analysis

Based on meetings between the Town, AT&T, Comcast, and Kimley-Horn regarding potential design changes in an effort to reduce overall program costs, Kimley-Horn has analyzed the various cost options presented by AT&T and Comcast.

The Background, Analysis, and Opinions of Cost follow below.

Background

The Town of Palm Beach is in the process of converting existing overhead utilities to an underground location. Kimley-Horn previously prepared a master plan along with an opinion of probable cost of \$98.6M for the program implementation. This opinion was largely based on a “like for like” conversion of the utilities and included the use of direct bury service cable to the residence. The Town was interested in exploring design options with AT&T and Comcast to determine if an alternate design could be deployed that both increased the level of service provided to the community and lowered the cost of the program.

Analysis

Multiple meetings were held with both AT&T and Comcast to discuss potential design options that could reduce program costs. Comcast presented multiple options that consisted of either Hybrid Fiber/Coax (HFC) systems or complete Fiber Optic (FTTP) systems. Costs for these options were also provided but they will not be discussed in specific detail in this memorandum due to the Confidentiality Agreement between the Town, Comcast, and Kimley-Horn.

AT&T also provided costs for a complete fiber optic system deployment in lieu of the “like for like” copper based system. Similar to Comcast, the specific unit costs related to the fiber and copper systems will not be discussed in specific detail in this memorandum to protect the confidentiality of this information. Additionally, AT&T offered a service conduit subsidy for service conduit installed to single family residential properties to assist the Town in offsetting the related material and installation costs.

In order to estimate the impact to the previously presented overall program conceptual opinion of probable cost of \$98.6M, Kimley-Horn used the new cost data provided by Comcast and AT&T to revise the overall cost model for the program. This included updating the cost model to incorporate 1-inch service conduits for AT&T and 1-inch to 1.5-inch service conduits for Comcast between their service

pedestal taps and the home as they have insisted that these be installed by the Town in lieu of the use of direct bury cable. In this analysis, the following Options were considered:

Option 1: AT&T Fiber Optic System and Comcast HFC System Installation

This Option considers installation of a fiber optic system for AT&T and a Hybrid Fiber/Coax (HFC) system installation for Comcast. This option differs from the original master plan in that AT&T would be providing a fiber optic system rather than a replacement “like for like” copper system.

Option 2: AT&T Fiber Optic System and Comcast Fiber Optic System Installation

This Option considers installation of a fiber optic system for AT&T and a fiber optic system installation for Comcast. This option differs from the original master plan in that AT&T and Comcast both would be providing a fiber optic system rather than replacement “like for like” copper and fiber/coax systems, respectively.

Option 3: AT&T Copper System and Comcast HFC System Installation

This Option considers installation of a traditional copper system for AT&T and a Hybrid Fiber/Coax (HFC) system installation for Comcast. This option includes the systems contemplated by the original master plan with the exception that both AT&T and Comcast systems now include costs for service conduit installed to each residence. This was not included in the master plan opinion of program cost as AT&T and Comcast had previously indicated that direct bury cable could be utilized. Both AT&T and Comcast have both recently retracted this position.

For both Options 1 and 2, AT&T has stated they are only able to provide fiber optic systems in the single family residential areas of Town. This is due to specific needs and circumstances that require a copper network to remain in the commercial and multi-family areas. For this reason, copper system installation costs have been used in those phase areas that are predominantly commercial and/or multi-family in land use. One exception to this is Phase 2 South. In this Phase area, much of the AT&T network is already in an underground location and there were no plans to replace this infrastructure. If a fiber system was to be deployed in Phase 2 South, work would be required across a much greater area and therefore conduit installation costs and community impacts would significantly increase. For this reason, costs for a “like for like” replacement of the impacted copper system in Phase 2 South were used in Options 1 through 3 described above. A breakdown of which phase areas have AT&T fiber installation costs versus copper installation costs applied follows below:

<u>Fiber Costs Applied</u>	<u>Copper Costs Applied</u>
Phase 1N	Phase 1S
Phase 2N	Phase 2S
Phase 3N	Phase 4S
Phase 3S	Phase 5S
Phase 4N	Phase 6S
Phase 5N	Phase 8
Phase 6N	
Phase 7N	
Phase 7S	

If a fiber optic system were to be deployed by AT&T, they offered assistance to the Town in the form of a service conduit installation subsidy for single family residential properties. This subsidy would offset the costs incurred by the Town to install conduit between AT&T pedestal taps and the service entrance of a single-family home. This subsidy was applied within the cost model on a per single family parcel basis. Parcels under governmental or commercial ownership in predominantly single family land use phase areas were excluded. Subsidies were not applied in phase areas where copper costs were applied.

AT&T acknowledged that they have never provided a service conduit subsidy before in any conversion project. The revenue assumptions that allow them to offer this subsidy rely on customers in the service area to sign up for AT&T service after the fiber optic system is deployed. AT&T explained that if in the future, they find that they are not gathering new customers as they had anticipated, they may stop offering the Town the subsidy. It should be noted that our analysis does not consider AT&T ceasing to offer the subsidy to the Town.

The conduit and pullbox infrastructure required to support an AT&T fiber optic network is different than what is required to support a copper network according to information provided by AT&T. Conduit is largely the same with some minor modifications. Main pullboxes are larger to accommodate the splices and storage required and handholes are used to contain the taps instead of using pedestals. The large pullboxes and additional handholes add cost to the program as these materials are supplied and installed by the Town. The additional costs related to the pullboxes and handholes has been accounted for in this analysis.

The copper system costs used in this analysis were adjusted from the original master plan conceptual opinion of probable construction costs to account for updated cost information received by Kimley-Horn from AT&T after the development of the master plan. AT&T provided a written estimate for Phase 1 North and South on June 2, 2017. These costs were incorporated into this analysis to reflect this more current information.

Beyond the cost impacts to the program that the implementation of a fiber optic system may create, there are also potential schedule impacts that need to be considered. AT&T has advised the Town that they have third-party contracts with customers, such as security system monitoring services, that rely on analog signals for their equipment to run. Analog signals can only be carried over the traditional copper phone lines. These third-party contracts are not easily broken and could result in litigation if AT&T attempts to terminate them. What this means to the Town is that if a fiber system is deployed in a particular area, all customers must agree to convert over to fiber optic based technologies. Equipment modifications within the home to convert to fiber service will be required for those customers who have equipment or services that rely on the use of analog signals. Any customers who rely on the use of analog signals and do not convert their technology will require that the aerial copper lines remain in place until such time that the technology is converted. This ultimately will result in an open-ended schedule regarding pole removal as a timeline for the elimination of all analog signal needs cannot be reasonably predicted. Consequently, the overhead lines could remain in place long after the electric and communications systems have been converted to an underground location. This being the case,

it is likely that FPL will remove their facilities and cut off the top of the pole, leaving only AT&T facilities on the remaining section of pole. AT&T would then be responsible for the ultimate pole removal at such time that all their legacy copper customers convert to fiber. AT&T further noted that if they need to ultimately remove the poles, there will be an additional cost of approximately \$300 per home.

AT&T offered a potential solution to this problem by deploying a smaller scale copper network in addition to the fiber optic system to support any legacy customers that require the use of an analog system. However, they indicated that it would be impossible for them to estimate the costs of deploying such a network until after the underground conversion was complete and they could assess how many analog customers had not yet converted. They suggested this could be reviewed on an annual basis and if analog customers remain one-year after the underground system was energized, they could present the Town with a cost to deploy the overlay copper network that would allow for the removal of the poles. While this may reduce the risk of the open-ended schedule for pole removal, the removal timeline is still extended. Additionally, this introduces a budget risk as the copper overlay network costs cannot be estimated until the new fiber optic system is implemented.

Conceptual Opinion of Probable Costs

Based on our analysis and subsequent direction from the Town, Kimley-Horn has developed conceptual opinions of probable construction costs for the three options pertaining to proposed AT&T and Comcast fiber optic systems within the Town.

It is understood that FPL is pursuing Public Service Commission approval for the ability to provide the Town with additional credits related to the project over and above the tariff based GAF Waiver. It is estimated that these credits could range between \$3M and \$6M. This range of credits has been applied to each option below to create a high and low range of anticipated program costs.

Our conceptual opinions of probable construction cost for each Option are provided below.

Option 1: AT&T Fiber Optic System and Comcast HFC System Installation

Low Range \$97,300,000
High Range \$100,300,000

It should be noted that Comcast has expressed concern that this Option may provide AT&T with a competitive advantage over Comcast. They noted that Florida Statutes prohibit this and that if AT&T is allowed the ability to install a fiber optic network, Comcast should be allowed to do the same.

A breakdown of the cost differences between Option 1 and the original \$98.6M opinion of cost follows below:

- Service Conduit for AT&T and Comcast – \$5,100,000 cost increase
- AT&T Fiber Optic Pullbox and Handholes – \$1,000,000 cost increase
- AT&T Ultimate Pole Removal – \$600,000 cost increase
- AT&T Network Cost adjustment (includes subsidy) – \$2,000,000 cost decrease
- Florida Power & Light additional credit – \$3,000,000 to \$6,000,000 cost decrease

Option 2: AT&T Fiber Optic System and Comcast Fiber Optic System Installation

Low Range	\$98,800,000
High Range	\$101,800,000

This option considers the cost impacts if both AT&T and Comcast provide fiber optic networks.

A breakdown of the cost differences between Option 2 and the original \$98.6M opinion of cost follows below:

- Service Conduit for AT&T and Comcast – \$5,100,000 cost increase
- Comcast Fiber Optic Network – \$1,500,000 cost increase
- AT&T Fiber Optic Pullbox and Handholes – \$1,000,000 cost increase
- AT&T Ultimate Pole Removal – \$600,000 cost increase
- AT&T Network Cost adjustment (includes subsidy) – \$2,000,000 cost decrease
- Florida Power & Light additional credit – \$3,000,000 to \$6,000,000 cost decrease

Option 3: AT&T Copper System and Comcast HFC System Installation

Low Range	\$98,400,000
High Range	\$101,400,000

This option considers “like-for-like” networks for both AT&T and Comcast with the exception that it includes the cost impacts of both AT&T and Comcast requiring service conduit to the premises in lieu of direct bury service cable.

A breakdown of the cost differences between Option 2 and the original \$98.6M opinion of cost follows below:

- Service Conduit for AT&T and Comcast – \$5,100,000 cost increase
- AT&T Network Cost adjustment – \$700,000 cost increase
- Florida Power & Light additional credit – \$3,000,000 to \$6,000,000 cost decrease

Should you have any questions please do not hesitate to contact me directly at 561-840-0820.

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Comprehensive Review of Town Operations (CRTO) Outline/Timeline

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- **Memorandum Dated October 16, 2017, from Thomas G. Bradford, Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Comprehensive Review of Town Operations (CRTO); Outline/Timeline

Date: October 16, 2017

STAFF RECOMMENDATION

Staff recommends the Town Council consider staff's draft outline and timeline for completion of the CRTO work and timeline, ask any questions and make any requests for changes.

GENERAL INFORMATION

CRTO Outline

1) Introduction and Overview

A. The goal -

- i. How can we achieve all that we currently achieve, but spend less doing so either on people or other resources?
- ii. Confirm through the CRTO process if the services, or the level of service, provided today is still desired by the citizens of Palm Beach.

B. The plan of action -

- i. Identification of options for reducing costs and staffing levels in ways that require no reduction in existing levels of service provided, if possible.
- ii. Identification of options for reducing costs and staffing levels in ways that will require reductions in existing levels of service.
- iii. Property tax saving alternatives by virtue of increasing fees for services consumed and penalties that relate directly to violations of codes.
- iv. Provision of a written report identifying alternative actions that would cut expenditures and/or increase non— tax revenues.

2) Format of the CRTO report -

- A. There will be a section for each department, by the program(s) therein.
- B. Each departmental section will include:
 - i. Department overview
 - ii. Financial and staffing summaries
 - iii. Options for potential revenue enhancements
 - iv. Benchmarks
 - v. Program-by-program specifics for each budget program in that department
- C. Each program will include:
 - i. Description of program function(s)
 - ii. Historical information
 - iii. Financial and staffing summaries
 - iv. Past efficiencies and cost savings
 - v. Known planned future efficiencies and cost savings
 - vi. Options for cost savings
- D. Matters that do not fit neatly within one particular functional area will be addressed, including, but not necessarily limited to:
 - i. Health insurance,
 - ii. Pensions,
 - iii. Fleet maintenance and inventory,
 - iv. Energy efficiency, and
 - v. Alternative revenue sources.

3) Special considerations for the CRTO process

A. Staffing reductions by attrition only

It is respectfully suggested that if you want staff to give 100% effort in this comprehensive undertaking that the Mayor and Town Council affirmatively commit for the record to staffing reductions only being done by attrition. In other words, no layoffs will be employed to accomplish alternative service delivery scenarios that appear to have merit for implementation. If an alternative service delivery scenario is deemed to have merit and is to ultimately be implemented, any resulting reduction in manpower will be accomplished in some manner not involving layoffs. If you agree, please state so for the record to give Palm Beach employees comfort in knowing their efforts will not result in them not having a job. For your information, the same “no layoffs” action was requested and approved by the Town Council in conjunction with the CRTO effort in 2007.

B. Town to remain competitive in the market

Virtually anyone can come up with ideas that save money, but many ideas are simply not practical in this job market or this community. Unless you say to do something to the contrary it is staff's intent to only pursue those things which may save money, but not negatively affect the Town's in a competitive position in our market. Pay and benefits will be reviewed, but to the extent that they may exist our goal is to only pursue options that have financial benefits, but keep us in our competitive position. We want to ensure that we do not experience any diminution of our current position in the market place in order to attract and retain top notch, qualified workers devoted in service to the citizens of Palm Beach.

The timetable

The timeline appearing in the table below is tentative and subject to change based upon your schedules and other factors that may arise. In addition, I may change the order of the subject matter listed or modify subject matter to be reviewed at the tentative meeting dates depending on circumstances as we get closer to the dates in question and the CRTO work product comes closer to fruition.

January 29, 2018	February 12, 2018
Overview	Public Works
Town Manager's Office/Town Clerk	Human Resources
Finance	Health Insurance
Planning, Zoning and Building	Pensions
Fire-Rescue	Alternative Revenue Sources
Police	Energy Efficiency
Recreation	Fleet Maintenance and Inventory

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Update on Potential Lease of Town-Owned Property at 5976 Okeechobee Boulevard

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Memorandum Dated November 5, 2017, from Jay Boodheshwar, Deputy Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Update on RFP for the Long-term Lease of 5976 Okeechobee Blvd.

Date: November 5, 2017

STAFF RECOMMENDATION

Staff recommends that Town Council review the update provided below, relative to the Request for Proposals (RFP) for the potential long-term lease of 5976 Okeechobee Blvd., and provide direction as necessary.

GENERAL INFORMATION

As previously directed by the Town Council, staff issued RFP No. 2017-39 on July 30, 2017. Proposals were due September 29, 2017, but although there appeared to be interest based on several phone calls received no proposals were received. Staff re-advertised the RFP (2018-05) to keep it on the market a while longer and added it to the Public Surplus website, in addition to advertisements in the Palm Beach Post, DemandStar and LoopNet. Staff also reached out to the Economic Development Board of Palm Beach County to ensure they were aware of the opportunity.

Although proposals are not due until November 22, staff is seeking Council direction, relative to next steps, in the event no proposals are submitted. Council previously discussed engaging a brokerage firm to list and market the property if the standard RFP approach was unsuccessful. If Council wishes, staff can issue the required solicitation to secure a broker after the November 22 due date or issue it immediately.

As outlined in the open RFP, the Town is seeking to lease the property located at 5976 Okeechobee Blvd. The objective is to lease the property to a party who plans to develop it for long-term use and to create a project that fulfills the highest and best potential of the site. The subject property is located on the south side of Okeechobee Boulevard, west of Haverhill Road and east of the turnpike, in unincorporated Palm Beach County. The 4.08 acres fronting Okeechobee Boulevard are designated "Commercial High" and the remaining 24.3 acres "Transportation and Utilities Facilities" under the County's Comprehensive Plan. Property control numbers and legal description of the parcels that make up the property are as follows:

- Northern Parcel (PCN 00-42-43-26-05-004-0000): 18.68 acres, WESTMOOR PINES PL 1 ALL BLKS 4, 5, 15, 16, 23 & RDS LYG BET & ADJ THERETO
- Southern Parcel (PCN 00-42-43-26-00-000-1300): 9.6174 acres, 26-43-42, NW 1/4 OF SW 1/4 OF NE 1/4 (LESS S 60 FT OF W 60 FT K/A TELE MEDIA LEASE PAR)
- Southwest Parcel (PCN 00-42-43-26-00-000-1340): 0.0826 acres, 26-43-42, S 60 FT OF W 60 FT OF NW 1/4 OF SW 1/4 OF NE 1/4 K/A TELE MEDIA LEASE PAR

A selection committee comprised of staff will review any proposals received in response to the potential lease and make a recommendation to Town Council at a future meeting.

cc: Department Directors
Dean Mealy, Purchasing Manager
John C. Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Discussion Regarding Scope and Schedule for Business Workshop

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Memorandum Dated November 6, 2017, from Jay Boodheshwar, Deputy Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Update on Planning for Business Workshop

Date: November 6, 2017

STAFF RECOMMENDATION

Staff recommends that Town Council review the tentative details provided below, relative to the planning for a Business Workshop hosted by the Town, and provide direction as necessary.

GENERAL INFORMATION

After conferring with Laurel Baker, Palm Beach Chamber of Commerce Executive Director, the outline below describes the tentative scope and format of the Business Workshop requested by Ms. Baker on behalf of the business community.

Purpose: To provide a venue for the local business community to learn about the business-related services provided by various Town departments, as well as requirements to conduct business within the Town of Palm Beach. Said venue will also provide an opportunity for the business community to ask questions and suggest ideas for improving Town/business relations and efficiency in working with the Town.

Format: Panel style workshop to include representatives from the Police, Fire-Rescue, Public Works, Finance, and Planning, Zoning & Building departments. Each department will provide a short Power Point presentation outlining the services they provide to the business community, followed by Q&A prior to the next department's presentation. Some of the topics to be reviewed by the departments will include, but not be limited to, the following:

- Parking Services
- Commercial Solid Waste
- Code Enforcement
- Fire-Rescue Programs
- Business and Community Relations Police Unit
- Business Tax Receipts
- Construction Regulations
- Vehicles for Hire
- Special Events

Moderators: The workshop will be co-moderated by Jay Boodheshwar, Deputy Town Manager and Laurel Baker, Chamber of Commerce Executive Director.

Presenters: The following is a list of tentative presenters, which will be finalized once a date for the workshop is set.

- John Page, Director of Planning, Zoning & Building
- Ann-Marie Taylor, Deputy Police Chief
- Darrel Donatto, Fire-Rescue Division Chief
- Eric Brown, Assistant Public Works Director
- Amy Wood, Accounting Supervisor
- Ben Alma, Code & Parking Enforcement Manager

Date: TBD (but expected to take place in January 2018)

Time: TBD

Location: Town Hall Council Chambers
360 South County Road

Post-Workshop Actions: A full report will be presented to the Mayor and Town Council, relative to how the workshop went and include a list of suggestions provided by the business community. Some of the suggestions, if feasible, may be implemented if staff agrees and within its authority to approve. If Council action is required to implement suggested changes staff is in agreement with, those items would be presented at a future Town Council meeting for consideration.

cc: Department Directors
Laurel Baker, Chamber of Commerce Executive Director

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

Review of Probationary Employment Period

Presenter

Danielle Olson, Director of Human Resources

ATTACHMENTS:

- ▣ **Memorandum Dated November 10, 2017, from Danielle Olson, Director of Human Resources**
- ▣ **TC Presentation of 08/2017 FT Meeting**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Danielle Olson, Director of Human Resources

Re: Review of Probationary Employment Period

Date: November 10, 2017

STAFF RECOMMENDATION

The information contained herein is provided to Town Council for review as requested at the October 10, 2017 meeting.

GENERAL INFORMATION

On August 8, 2017, information regarding the Town's probationary employment period was presented to the Finance and Taxation Committee (Exhibit A). Prior to the presentation to the committee, the existing probationary period policy was reviewed with senior management. Based on that discussion, the existing policy did not pose a business issue nor could significant cost savings be realized by changing the probationary period. However, extending the existing three-month extension period for general employees to six months would increase management flexibility in evaluating performance of newly hired general employees and expand the at-will status to a total of twelve months if deemed necessary. It was determined that the change would be adopted, pending any changes recommended at the Finance and Taxation Committee meeting, during the subsequent annual policy update. Note that town-wide, 60% of budget-approved positions reside within the general employee group (Table A), with 42% of those residing within Public Works.

Table A.	Fire	General	Lifeguard	Police
TOWN-WIDE PERCENTAGE OF POSITIONS PER GROUP	19%	60%	2%	19%
GROUP DISTRIBUTION BY DEPARTMENT:				
FINANCE		7%		
FIRE RESCUE	100%	2%	100%	
HUMAN RESOURCES		4%		
PLANNING, ZONING & BUILDING		10%		
POLICE		18%		100%
PUBLIC WORKS		42%		
RECREATION		9%		
TOWN MANAGER'S OFFICE		8%		

Attachments

DO

cc: All Department Directors

Supplemental Information: Town Council Meeting November 14, 2017

PROBATIONARY PERIOD INFORMATION ORIGINALLY PROVIDED TO THE
FINANCE & TAXATION COMMITTEE ON AUGUST 8, 2017

Trial (Probationary) Period

- ▶ Period of time after an employee first begins employment providing them with a period which to learn the job and determine job fit.
- ▶ Employment during this period is at-will.
- ▶ Eligibility for benefits begins at hire.
- ▶ The Town may end employment at any time during this period with or without cause (so long as release is not discriminatory).
- ▶ The employee has no right to appeal the release.
- ▶ Trial period may be extended up to three (3) months.

General Employees	Police Officers	Other Public Safety*	Department Directors
6 Months	15 Months (3 months FTO + 12 months independent patrol work)	12 Months	Serve at the will of the Town Manager

*includes Telecommunications, Firefighters, and Ocean Rescue personnel

Trial (Probationary) Period

General Employee Probationary Period – Market Data

County	12 Month	6 Month	3 Month	None
Palm Beach	5 • Boca Raton • Delray • Lantana • Palm Beach County • Royal Palm Beach	10 • Greenacres • Jupiter • Lake Park • Lake Worth • Loxahatchee River District • Ocean Ridge • Palm Beach Gardens • Wellington • West Palm Beach	0	0
Broward	3	0	1	0
Miami-Dade	1	1	0	1
Other	8	16	3	2
TOTAL RESPONDENTS	17	27	4	3

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

Hurricane Irma After Action Report

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Memorandum Dated November 5, 2017, from Jay Boodheshwar, Deputy Town Manager**
- ▣ **Hurricane Irma After Action Report**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Hurricane Irma After Action Report

Date: November 5, 2017

STAFF RECOMMENDATION

Staff recommends that Mayor and Town Council review the attached After Action Report (AAR) for Hurricane Irma and provide feedback and direction as necessary.

GENERAL INFORMATION

As with all responses to minor and major emergency situations affecting the Town, identifying and acknowledging “lessons learned” is important to ensure we improve our response to the next emergency. Staff members who were directly (and indirectly) involved in the preparation, response and recovery from Hurricane Irma participated in the development of the attached AAR so lessons learned are documented and a plan of action for further improvement is developed before the next emergency situation.

In preparing the report, input was solicited from staff and the broader community to ensure everyone who wanted to provide feedback had an opportunity to do so. The attached report includes information about the lifespan, path, intensity and damage caused by Hurricane Irma, as well as summaries on the Town’s preparedness, response and recovery from said storm. Recommendations for future improvement in how we prepare and respond are included and a plan of action will be implemented in the upcoming months through our Emergency Planning Team to ensure recommendations are thoroughly vetted before inclusion in our Storm Emergency Response Plan prior to the 2018 Hurricane Season.

cc: Department Directors
Emergency Planning Team
John C. Randolph, Town Attorney

TOWN OF PALM BEACH



Hurricane Irma After Action Report

November 8

2017

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EXECUTIVE SUMMARY

The Hurricane Irma After Action Report (AAR) was prepared primarily with feedback from Town staff through the senior management team. Input was also received from the elected officials, residents and members of the business community. The AAR is a high-level report, which covers major items of importance and memorializes for the record the nature of the emergency incident, how the Town prepared for it, how the Town responded and recovered, and what lessons were learned to ensure we continue improving our emergency management practices.

Relatively speaking, the Town's response to the impacts of Hurricane Irma was fast, efficient and mission-oriented, and a great deal was accomplished within days after the storm passed. The Town was one of the first municipalities back to full staffing on September 12 (1 day after the storm passed) and resumed normal operations while recovery efforts continued.

Approximately 250 members of the Town's staff worked over 14,000 hours with some form of recovery responsibilities. Many of these employees worked more than 16 hours per day to assist in our goal of a fast and safe recovery. The collaborative effort of all Town departments in preparing for the impact of this storm was impressive. All of our employees who were involved in the smallest to largest way executed their response and recovery duties with precision and determination.

INTRODUCTION



The National Hurricane Center (NHC) began monitoring a tropical wave over western Africa on August 26, 2017, which eventually formed into Hurricane Irma on August 30, 2017, near the Cape Verde Islands. Under favorable conditions, Irma rapidly intensified shortly after formation, becoming a Category 2 hurricane within 24 hours. Irma became a Category 3 hurricane (and therefore a major hurricane) shortly afterward; however, the

intensity fluctuated between Categories 2 and 3 for the next several days due to a series of eyewall replacement cycles.

On September 4, Irma resumed intensifying, becoming a Category 5 hurricane by early the next day. On September 6, Irma reached its peak intensity with 185 mph winds (200 mph gusts), making it the strongest worldwide in 2017 in terms of wind speed. Another eyewall replacement cycle caused Irma to weaken back to a Category 4 hurricane, but the storm attained Category 5 status for a second time before making landfall in Cuba. After dropping to Category 3 intensity due to land interaction, the storm re-intensified to Category 4 status as it crossed warm waters between Cuba and Florida, before making landfall on Cudjoe Key with maximum sustained winds at 130 mph. Irma dropped back to Category 3 by the time it made a second Florida landfall on Marco Island. Irma weakened to a Category 2 hurricane later that day, the first time it weakened below major hurricane status in over a week, and eventually dissipated off the coast of New England on September 16.

Hurricane Irma was an extremely powerful and catastrophic hurricane, the strongest observed in the Atlantic since Wilma in 2005, in terms of maximum sustained winds. It was the first Category 5 hurricane to strike the Leeward Islands on record, followed by Hurricane Maria only two weeks later. It was also the most intense Atlantic hurricane to strike the United States since Katrina in 2005, and the first major hurricane to make landfall in Florida since Wilma in 2005. The ninth named storm, fourth hurricane, second major hurricane, and first Category 5 hurricane of the 2017 Atlantic hurricane season, Irma caused widespread and catastrophic damage throughout its long lifetime, particularly in parts of the northeastern Caribbean and the Florida Keys. Over \$63 billion in damages is attributed to this storm and at least 82 people died in storm-related incidents in Florida alone.

Town staff began monitoring Hurricane Irma, as it was forming into a simple tropical depression during the last week of August. The first alert to the community, warning of a potential impact to Palm Beach, was sent eleven (11) days prior to impact, giving much time to begin preparations. Hurricane Irma's peak winds (71 mph) in Palm Beach occurred between 5:30-6:30 PM on September 10, and we were effectively out of harm's way by the early morning hours of Sept. 11.

This storm was primarily a wind event. Storm surge was not a factor, neither was significant rainfall. The impacts of the storm was mostly vegetative debris and power outage related.

EMERGENCY PLANNING TEAM

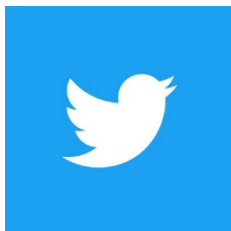
The Town's Emergency Planning Team (EPT) is comprised of representatives from all Town departments. This team meets throughout the year to ensure emergency management plans are up to date and staff is properly trained to respond to emergencies, regardless of type or size. This group monitors issues of local, regional and national concern, including threats such as Zika Virus and other natural/man-made pandemics or disasters.

TRAINING

To ensure that the Town has the most well prepared staff to deal with emergencies of a town-wide nature, all employees are required to obtain a minimal level of certification through FEMA's National Incident Management System (NIMS). Depending on the role of an employee prior to and after an emergency situation higher levels of certification are required. All employees with responsibilities in the Emergency Operations Center are required to obtain four (4) levels of certification and all members of the Town's senior management team are required to have all six (6) levels of certification through NIMS. Collectively, the Town's staff hold over 800 certifications in the various levels of the NIMS program. Comparatively speaking the Town's staff is trained at a much higher level than most municipalities in Palm Beach County.

PUBLIC EDUCATION/COMMUNICATIONS

Each year the Town provides a variety of public education opportunities to ensure residents and members of the business community are properly preparing for the annual Hurricane Season. Representatives from the Town Manager's Office, as well as the Police and Fire-Rescue departments are invited to speak at various community events to communicate preparedness actions and identify planning resources that can be obtained to help residents and businesses prepare. The Town also coordinates with the Shiny Sheet to provide content for their annual Hurricane Guide, which is a very helpful resource both on-line and in hard copy.



The Town maintains an email and cell phone database of over 3,500 individuals who have signed up to receive hurricane alerts and information about other emergencies. Email blasts, along with social media (Facebook and Twitter), hurricane hotlines, and the Town's website provides for a variety of options for the general public to obtain information from the Town. These resources are updated and tested each year prior to the start of Hurricane Season.

Comprehensive Emergency Management Plan (CEMP)



Annex VI Storm Emergency Response Plan (SERP)

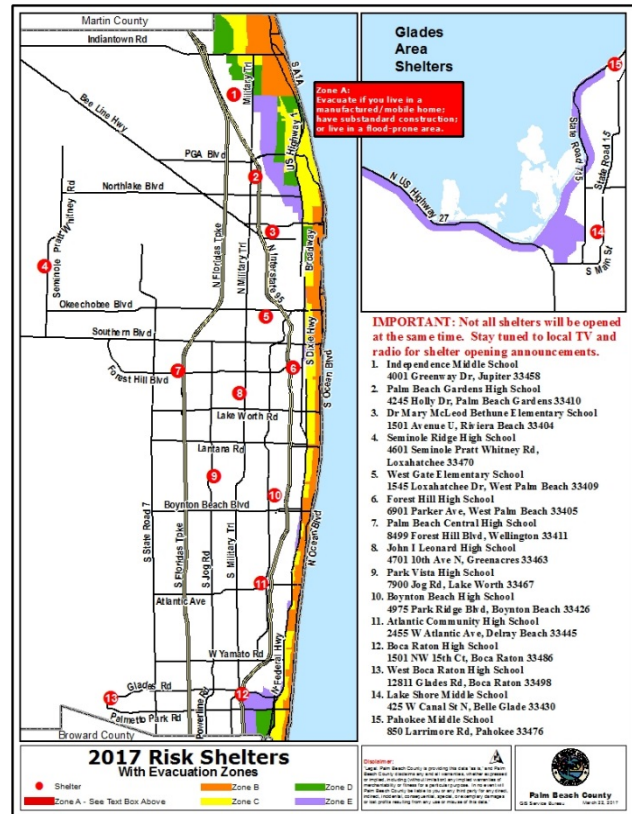
RESPONSE AND RECOVERY

EMERGENCY DECLARATIONS/EVACUATION ORDERS

On September 4, 2017, Florida Governor Rick Scott declared a State of Emergency for Florida and President Donald J. Trump approved a Major Disaster Declaration for Florida that same day in advance of a Florida landfall.

A voluntary evacuation order was issued on September 6, followed by a mandatory evacuation order on September 7. Residents and visitors were ordered to evacuate the Town by 5:00pm on September 8. Information about shelters were provided to residents without other off-island accommodations.

On September 9, 2017 the Director of Public Safety declared a Local State of Emergency as Irma approached the Florida peninsula and enacted a curfew beginning at 3:00pm, at which time mandatory check points were initiated at all entry points into the Town, including the following locations: 3475 South Ocean Boulevard; the Lake Worth Bridge; the eastern most parking area on the Southern Boulevard Causeway; on Royal Palm Way, just east of the Royal Park Bridge; and on Royal Poinciana Way, just east of the Flagler Memorial Bridge.



efforts such as road clearing began in the early morning hours prior to daylight).

The Executive Policy Group (EPG), which is comprised of the Town Manager, Deputy Town Manager, and Department Directors convened for their first full meeting on September 5 and held multiple meetings every day until the storm made landfall. The Emergency Operations Center (EOC) was partially activated on September 8 and fully activated on September 10. Members of the EOC staff arrived for the post-storm debriefing at 9:00am on September 11 and recovery efforts fully commenced later that morning. (Some recovery

The EPG continued to meet multiple times each day with other members of the EOC staff from September 11 through September 15 to receive direction relative to recovery efforts and solve problems as a team.

The ICS command structure used in an EOC activation allows for a scalable organizational structure, so the EOC staffing levels were maintained at a minimal level since the damage caused by Irma was mostly a debris and power outage event. The EOC was deactivated at 10:00am on September 15 but recovery efforts continued, including border security.

COMMUNICATIONS

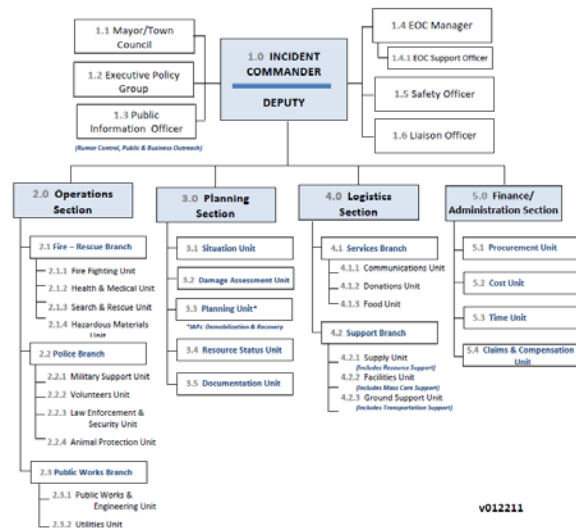


the Hurricane Alert subscription list. These alerts were also automatically posted to the Town's Facebook page and Twitter feed.

Beginning August 31, the Town issued over 22 alerts pertaining specifically to the storm's path and important information on preparations, including how to obtain a Town ID card, evacuation orders and the post-storm re-entry plan. These alerts were issued on a daily basis, generally corresponding to the major updates from NOAA. As the storm's projections brought the storm's path closer to Palm Beach, it became necessary to distribute information more frequently, therefore between 2 - 4 alerts were issued throughout the day in the few days leading up to the storm.

After Hurricane Irma passed through Palm Beach on September 10, the alerts changed to explain the Town's re-entry plan and to provide updates on the progress that was being made on debris removal and by FPL on power outages on the Island. The last alert was issued on September 27 to provide a final update on the Town's debris and sand removal efforts, to provide a link to the Hurricane Summary Report and to request feedback from residents and businesses on the Town's preparations and response.

Emergency Operations Center (EOC) Incident Command System (ICS) Organizational Structure



In addition to the alerts, easy to access pages were created on the Town's website to provide answers to Frequently Asked Questions (see Attachment A), and constant updates on the preparation and recovery from the storm. The Storm and Town employee telephone hotlines were updated as often as possible, especially following the storm, to provide information about Town Hall re-opening and the re-entry process.

DAMAGE ASSESSMENT

The "windshield" damage assessment was completed by staff from the Fire-Rescue Department to ascertain the general scope of damage and impacts to public roads. The Public Works employees, along with the Risk Manager and representatives from the Town's insurance company, accomplished the initial assessment of storm damage for public properties. Planning, Zoning and Building Department staff completed the initial assessment for private properties, as observed from the public right-of-way.

Per the assessment completed by the Planning, Zoning and Building team, for private properties on the Island, estimated damages were approximately \$34 million. The estimated value of damage to town facilities was \$350,000, much of which will be covered by insurance.

Approximately 524,000 customers in Palm Beach County were without power immediately after the storm passed. The power outages total in the Town was approximately 9,600 immediately after storm. Most outages were restored within days of the storm and all power was restored within one week. Public safety officials responded to 22 calls for wires down, many of which were live wires. They also responded to 18 calls for blown transformers.



PUBLIC SAFETY

The Operations Section Chief for Public Safety is responsible for all tactical command support and coordination of incident response assets during the Storm Event. The following actions were taken by the Chief to ensure success from this section:

- Ensured that the Fire-Rescue Department and the Police Department had the appropriate personnel, equipment, and supplies in place prior to the storm.
- Established staffing requirement for the Fire-Rescue Department and the Police Department throughout the entire storm period.
- Coordinated operational requests and task assignments.
- Continually communicated with Fire-Rescue and Police command staff to ensure they were aware of operational priorities.
- Continually communicated with the EOC Command Staff and Town Leadership to ensure they were aware of Police and Fire Rescue activities and to obtain input on Town wide Incident Priorities.

LAW ENFORCEMENT

The mission of the law enforcement units was to provide protection for life and property, initiate traffic evacuation plans, implement border security plans and establish appropriate security check points. Early planning, adequate staffing and lessons learned from prior storms allowed this event to flow smoothly. Customer service was a priority for all employees and was executed well, specifically at security checkpoints. Relationship with Florida Power and Light was invaluable with expeditious power restoration. Some of the actions taken during and after the storm included:

- Initiated Rumor Control Hotline activation on September 7 at noon.
- Sworn staff were divided into two Squads working modified 12 hour shifts for anticipated operational needs beginning Saturday, September 9 at noon.
- Declared State of Emergency on Saturday, September 9 and enacted a curfew beginning at 3:00pm. Pre-Storm mandatory checkpoints were initiated at bridges and held until Sunday, September 10 at approximately 2:00 pm, when winds became too dangerous.
- Police officers responded to approximately 270 calls for service between 2:00 pm on Saturday, September 9 and 4:30 pm on Monday, September 11.
- Post-storm officers assisted in clearing roadways of debris and cutting downed trees and removal.
- Implemented Border Security Plan and post-storm mandatory checkpoints on Monday, September 11 at approximately 6:30 am. Checkpoints were demobilized on Sunday, September 17 at 10:00 am.
- Power outage surveys were conducted daily and communicated to Florida Power and Light. These surveys guided decisions on security checkpoint duration.
- During the span of this event there were 20 incidents requiring law enforcement intervention, 8 arrests, and 37 welfare checks.

FIRE-RESCUE

The mission of the Fire-Rescue Department is to provide fire detection, suppression, evacuations, and prevention services. Fire-Rescue also provides emergency medical services including the triage, treatment, and transport of the sick and injured. Early planning, organization, and tasks assignment provided for sufficient resources immediately after the storm passed to begin clearing roads, which was accomplished faster than in prior storms. Some of the actions taken during and after the storm included:



- Added additional staff for anticipated operational needs
 - o 09/09/2017: 12 additional personnel / 6 additional units
 - o 09/10/2017: 12 additional personnel / 6 additional units
 - o 09/11/2017: 7 additional personnel / 2 additional units

- Fire-Rescue units responded to 54 incidents (3 medical calls and 51 fire related) between 2:00 pm on Saturday, September 9 and 4:30 pm Monday, September 11. Sixteen (16) incidents were in Central Fire Station's area, twenty-one (21) were in North Fire Station's area and seventeen (17) were in South Fire Station's area.
- Fire-Rescue units continually surveyed the Town roadways in the pre-storm period, looking for any hazards and clearing the roadways of debris including downed trees, limbs, and objects.
- Fire-Rescue stopped responding to calls when the sustained wind speeds exceeded 45 mph, which was at approximately 2:00 pm on Sunday, September 10.
- Fire-Rescue resumed responses at approximately 2:00 am on Monday, September 11. Units immediately began to investigate numerous fire alarms that occurred during the no-response period. In addition, units drove every street on the island to ensure the roadways were passable.
- Fire-Rescue units cut up and moved downed trees, shut off broken water lines, cleared the roadway of debris, cleared the entrance of resident driveways of debris and trees, reported downed lines and storm damage to communications. This process lasted from 2:00 am until 6:00 am on September 11.

BORDER PROTECTION

Police checkpoints were established once the curfew went into effect on September 9 and were maintained throughout the phased re-entry process (with the exception of several hours when it was too windy and dangerous to have officers outside). The re-entry process is very important to protect life and property immediately after a storm and community feedback and staff observation indicated that the checkpoints for Irma were efficient as ever and the re-entry phases moved very quickly.



- **Phase I** was implemented as soon as the winds diminished to a safe speed early on September 11. Only emergency personnel were allowed access to the Island; which included police and fire rescue personnel, public works employees, as well as utility personnel.
- **Phase II** went into effect by late afternoon on September 11. Access was expanded to include residents and business owners who had a valid, government-issued photo ID card showing a Town of Palm Beach street address. Condominium building managers with appropriate identification were also permitted to go to their place of employment to turn on power to elevators. Curfew hours were modified at this time to 8:00 pm until 7:00am.
- **Phase III** went into effect at 1:00 pm on September 12. Access to the Town was expanded to include verified employees. Curfew hours were modified at this time to 10:00 pm until 7:00 am.

- **Phase IV** went into effect at 6:00 pm on September 15. Access to the Town was expanded to include verified business patrons and curfew hours were modified at this time to Midnight until dawn.
- **Phase V** went into effect early morning on September 17, meaning all restrictions to the Town were lifted, including the curfew.

PUBLIC WORKS

The Operations Section Chief for Public Works was responsible for organizing numerous resources to effectively coordinate a variety of recovery missions. The major tasks/functions of this team are listed below.

ROADWAY CLEARING (FIRST PASS/PUSH)



The first pass/push to clear roadways was completed by contractor crews (Bergeron Emergency Services) and also in-house with TOPB crews from Public Works. (Public Safety personnel completed some road clearing overnight to get a head start before dawn arrived). All roadways were opened and passable for emergency crews after downed trees and large debris were cut up and/or moved from the travel lanes. This work was completed immediately after the storm passed at daybreak, and was completed by the end of that day on September 11.

DEBRIS REMOVAL (PUBLIC ROW'S AND TOWN PROPERTY)

The removal of debris began immediately after the storm passed, to follow/supplement the roadway clearing. Palm fronds and tree branches were picked up or placed aside for later removal by debris crews. The temporary debris sites set up by Solid Waste Authority (SWA) were active by September 14, when the Town began hauling debris to the Wallis Road location which was the nearest. Debris monitors were used to document loads collected and to certify truck capacities and percentage of loads at the dump site. Contractor crews were also utilized for larger debris piles adjacent to country clubs, golf courses, parks and other major debris generators. The contractor crews participated for less than one week but hauled a significant amount during that time, accounting for approximately 72 loads and more than 4,600 cubic yards (CY) of debris. Town crews worked six days per week for several weeks and four completed passes through Town were accomplished before conditions returned to seasonal norms. Town crews collected 1,391 truck loads of debris, totaling over 37,500 CY of material. All vegetative debris removal was completed by October 10, within 30 days of the storm.



SAND (DEBRIS) REMOVAL



The storm moved a significant amount of sand from the beach/dune onto the adjacent properties and roads. The sand was removed first from the areas that potentially could cause traffic problems and that was partially accomplished through a contractor performing private property cleanup. The Town also provided in-house crews and equipment to perform the sand cleanup in a variety of locations. The sand that was clean and not contaminated could be placed back on the beach, and sand that was not beach compatible was placed at Phipps Ocean Park for

use in the park and back side of the dune there. About 50 truck loads and 100 CY were removed by Town crews. Although the disaster debris removal contractors under contract could have assisted, they did not and those resources were not available to perform this work. Including the work of in-house Town crews, FDOT contractors and the sand placed directly back on the beach, it is estimated that as much as 3,000 CY of sand was removed from the roads in Reaches 2, 3, 4, 6 and 7.

TRAFFIC SIGNALS

The preparations prior to the storm included removal of the traffic visors, five-section heads and wrapping of the signal cabinets. Post-storm work included re-installation of visors and removal of the shrink wrap material from the cabinets. Also required was inspection, and repair of damaged components and re-adjusting/aiming of the video detection systems. Traffic signal operation was restored fairly quickly and once FPL power was fully restored, the signals were all functioning.

STREET LIGHTS

There were numerous street lights that suffered damage or were out as a result of the storm. For street lights that were out because of power outages, those were operational again when electricity was restored. For many of the other lights, there was damage to the fixture (globe and/or lamp) as well as some with damage to the pole. Of the Town-owned street lights, about 70% were damaged in some way. Repairs have been completed on virtually all of the damaged lights, being repaired by Town in-house crews or by the electrical contractor (Universal Electric). We are still awaiting parts for the remaining street lights. Those street lights owned and maintained by FPL (103 total) were also reported to them, and many are operational again but we are confirming with FPL regarding their repair status.

TOWN PARKS/MEDIANS/ROW TREE TRIMMING

There was a significant amount of tree damage including downed trees, broken limbs/branches, and this occurred Town-wide in parks, adjacent to roads and medians, and in the ROW next to private property. This required in-house crews and contractor crews to trim away the storm damaged material and in some cases to remove or re-stand the trees. This effort is ongoing and will require more time to resolve, and the Town arborist has provided advice and guidance on which trees might be saved and those that may not survive long-term. Staff will continue to seek a cost effective

strategy to either remove, replace or re-stand trees that were affected on Town property and ROW's.

PUMP STATION REPAIRS, FORCE MAINS & TELEMETRY SYSTEMS

The storm damaged some of the telemetry systems (antennas, radios, etc.) that communicate the status of those pump stations. Without reliable real-time information it is difficult to know which infrastructure is operating and which is not. Loss of electrical power compounds that problem, especially with regard to sanitary sewer pump stations. In some cases the lack of power caused the pump stations to stop working, and sewage overflow did occur at one location. Portable generators were used wherever possible to provide temporary power, and repairs were made to the telemetry systems so communications/reporting was restored.



PORTABLE GENERATORS & TEMPORARY POWER

There were numerous locations where power was out and the standby generators had to operate for long periods. In some cases the standby generators failed (South Fire station, D-8 pump station, Public Works facility, etc.) and portable generators had to be brought in and connected to provide power until FPL restored electricity. In other cases, some locations did not have standby generators (Par 3 facilities, traffic intersections, sewage pump stations, etc.) and required portable generators to be provided. Operating and maintaining all those various generators was accomplished as well as fueling that was required due to long run-times.

SHORELINE CONDITIONS / COASTAL MANAGEMENT PROGRAM



The entire shoreline, and specifically the Town's engineered beaches at both Mid-Town and Phipps, were evaluated immediately post-storm. Initial sand loss estimates from the dry beach were provided to Palm Beach County, Florida Department of Environmental Protection, and the U.S. Army Corps of Engineers (USACE). A purchase order for post-storm assessment was in place before the storm and the contractor mobilized immediately once conditions allowed. Staff met with all regulatory and FEMA officials on the beach to visualize the estimated losses. All necessary efforts

have been taken to prepare a Project Worksheet if any eligible FEMA funding becomes available.

SUPPORT FOR RESPONSE & RECOVERY EMPLOYEES

SUPPLIES AND MEALS FOR OVERNIGHT RECOVERY PERSONNEL

Hungry Man meals and microwavable breakfast sandwiches/burritos were purchased for Public Works, Police, Fire Rescue and command staff riding out the storm. Obtaining frozen meals pre-storm was easy but storage became an issue once received by the departments. Further, some of the employees did not like the frozen dinners or were limited in breakfast choices due to non-pork diets (eg. many of the breakfast items included bacon and/or sausage that non-pork eaters could not have). The need for this type of meal needs to be discussed in EPT with each department that typically rides out the storm so we can better plan for these needs.



Purchasing and HR staff purchased new air mattresses prior to the storm. Employees were requested to bring their own blankets/sheets but there was a small supply of blankets available for those without. This change from prior events worked well.

DAILY MEALS FOR RECOVERY PERSONNEL

In lieu of staff procured and prepared meals, the Town used an alternative arrangement for meal service via a concession company during Hurricane Irma. Feedback regarding the quality and service was very positive, and allowed us to maximize the use of employees for recovery efforts. The company was well supplied and ready to begin service within 24 hours of landfall as required per the contract.

While nearly accurate counts for breakfast and lunch were provided by supervisors, meal counts for dinner were not well supplied. This caused overages on most days and longer than necessary food



service periods. To-go food service for employees who could not leave their posts worked well. It was realized after two meal days that non-hot food would work better, as hot meals were cold once they reached their destinations. Adjustments were made going forward and overall was positively received. Ample supply of water was provided. Recovery employees sought something different to drink like Gatorade and would like to consider having it on hand in the future if possible.

CHILDCARE CHALLENGES

With schools closed for over a week, childcare became a problem for some employees, which created absences from the recovery efforts. Some members of the staff inquired about options to be considered and/or in place in the future to provide childcare at a public facility for those without other options.

COMMUNICATION/COORDINATION WITH PARTNERS

The EPG group participated in daily conference calls with the Palm Beach County Emergency Management Division, along with other municipalities, special districts and the National Weather Service. These calls ensured that all cities and other organizations were kept well informed and provided a forum for cities to address concerns. The Town also had a representative (Fire Marshal, Marty DeLoach) in the County EOC, which provided a direct link to county operations.



Deputy Town Manager, Jay Boodheshwar, participated in daily conference calls hosted by Governor Rick Scott to keep cities and counties throughout the state informed about efforts of the state government. Although emergency management coordination/request for support must flow from cities to counties and then to the state, these calls proved to be very beneficial as cities were provided valuable information that allowed for a greater understanding of the state-wide preparedness and response efforts.

While storm recovery efforts were still underway Town staff began coordinating with representatives from the Federal Emergency Management Agency (FEMA) to make sure we were taking the proper steps to maximize reimbursements from both FEMA, as well as the State. The Federal disaster declaration authorized the following:



- 100% federal reimbursement for thirty (30) days in all counties for emergency protective measures, such as Emergency Operation Center costs, evacuation costs, sheltering costs, and other costs associated with emergency response. After the thirty days, the federal government will reimburse 75 percent of these costs and the State and local municipalities will share the remaining 25%.
- 75% federal reimbursement for all counties for debris removal.

Finance Department staff are actively compiling documents and completing the proper forms to ensure that the Town receive reimbursement for all eligible categories of expenses.

OPPORTUNITIES FOR IMPROVEMENT/RECOMMENDATIONS

As with any large-scale emergency involving complex coordination and the deployment of human and equipment resources to respond and recovery, there will be missteps and learning opportunities. Identifying and acknowledging “lessons learned” is the most effective way to improve our response to the next emergency. Staff members directly (and indirectly) involved in the preparation, response and recovery from Hurricane Irma provided a long list of recommendations for improving future responses to storms. These recommendations for improvement will be addressed by the EPT and Town departments before the next major emergency. Included below are the highlights.

ADMINISTRATION/EMERGENCY PLANNING TEAM

- Power restoration to an AT&T box located in the 400 block of Worth Ave, which contains a Town T-1 line that caused a telephone failure in Town buildings, was delayed as FPL was not initially aware of the outage source. The Town’s phone system became disabled, so the storm hotlines and rumor control lines were not able to be accessed by employees or the public for several days. Research back-up plans for telephone connectivity in future storms.
- The updated telephone contact list should also include private email addresses. Employees communicating with one another pre and post-storm should use personal emails, text messages, or telephones, as use of the Town email system is not an effective means of reaching employees when Town operations are closed for those who do not have their Town email accounts accessible on their smart phones.
- Post-storm public communications should include a note regarding probable contractor re-entry dates with as much specificity as possible.
- Review staffing and assignments to ensure that personnel are provided adequate rest without excessively long work days or extended on-call after-hours response.
- The “co-worker helping co-worker” communication should be sent out again as soon as offices re-open to ensure all employees are aware of the personal support that could be provided by their fellow employees, including childcare.
- Coordination with Florida Power & Light (FPL) could have been more organized and the Town could have been a better resource for quicker restoration. Further relationship development with Florida Power and Light to understand the restoration process and maximize the partnership will be critical in the future.
- Coordination with Kravis Center could be improved to more clearly define what is available or expected during overnight accommodations. Coordination of parking in the garage, sleeping, cooking accommodations, and shower/bathroom amenities are some examples.

- It is recommended that the air mattresses remain stored in an A/C facility to prevent damage. Additionally, all air mattresses should be tested, discarding those that do not work, and procuring replacements so that the same supply remains on hand prior to the start of the next Hurricane Season.
- Review internal communications protocols and determine best methods for distributing information (texts, etc.). Radio communications worked well when cell service was limited.
- Ensure purchasing and insurance requirements are defined in advance to avoid delays in obtaining vital rental equipment that may be needed.
- Review support requirements associated with overnight crew and immediate needs for department personnel – consider a 2-3 person support team to help with logistics associated with feeding/housing/assisting those working in the field.
- Amend the SERP to require providing advance notice to contractors about the need to remove, empty, or secure all dumpsters at construction sites. It was determined that no amendment to the Building Code is required (sufficient language already exists).
- Conduct ICS 700, 100 and 402 trainings for elected officials, to ensure clarity between the roles of staff and elected officials during emergency incidents.
- Develop a written policy, relative to the dissemination of public information to ensure official communications from the Town are clear, concise, and delivered in a timely manner. Said policy should include guidelines for pre-storm coordination with community partners such as the Civic and Citizens' associations and elected officials who have large email lists to ensure supplemental communications are not mistaken as official Town communications.
- Having an elected official involved with EPG and EOC meetings provided an opportunity to seek advice when needed, as emergency personnel made decisions. President Kleid attended most of our meetings and was a good resource. Mayor Coniglio, served as the Town's official elected liaison with the major utility companies and participated in conference calls with FPL as needed. It is recommended that either the Mayor or Council President (or a designation Council member) participate in the EOC meetings when available, but participation should be limited to one elected official at a time.

PUBLIC SAFETY

- Fire-Rescue Station 3 lost generator power during the storm, which was a concern since this is considered critical infrastructure. Ensure sufficient back-up is available.
- Allow pre-designated "owners' representatives" to return to island in the absence of owners who are out of town, to provide for a more timely evaluation of private property conditions and needs during Phase 2 re-entry.

- Although the re-entry process went much smoother than in years past, there was confusion about who could get past check points during the various phases of re-entry. Consider identifying which phase of re-entry voluntary ID card holders may come back to town by including phase number on the back of the card.
- Consider including companies deployed to make emergency repairs to back-up generators in during Phase 2 re-entry.
- Review the process and time needed for issuing voluntary ID cards and make appropriate changes if feasible to create better efficiency.
- When possible, push or haul trees blocking roads to the side instead of cutting them up, to allow for replanting.

PUBLIC WORKS

- Consider supplementing existing generator equipment with additional purchases or rentals to provide full capability. There will be some additional cost to be considered compared to the consequence of the loss of power.
- If power/telemetry are out, then there is a requirement that staff be available to make rounds to inspect and monitor all pump stations. Consider having a back-up server for the telemetry (SCADA) system, so that monitoring of alarms and problems is not interrupted. Need to have capability to re-set the system remotely or automatically.
- Staff will continue to review tree trimming procedures in advance of storms and attempt to mitigate damage and missile hazards from fronds/cocoanuts, etc. Ongoing maintenance trimming was very helpful in thinning canopy of large trees (e.g., ficus in Lakeside Park, kapoks, etc), which helped to improve the resilience and survivability of those trees. Staff will consider hiring additional temporary laborers to help with post-storm work. We will also consider modifying coconut tree trimming schedules to ensure all town-owned trees in the rights-of-ways, in parks and at the golf course are trimmed in May or June of each year.
- Procuring additional and/or larger generators may prove beneficial, if electrical power is disrupted for several days or longer after a storm. Staff is investigating the use of larger fuel tanks to supply the generators with longer time between re-fueling.
- Activation of contractor crews before the storm may help improve the response, although the need is often difficult to identify until after the storm event. Consider obtaining larger equipment for use by TOPB crews to expedite removal. Also a specific local contract for sand removal may be desirable.
- Activation of primary debris removal contractor was done before the storm, but since their immediate response was not needed right after the storm, they were. The commitment

from debris removal contractors needs to be more definite, and a local contract to supplement these larger disaster debris contractors would be prudent. Keeping landscapers and contractors off the island was helpful in initial efforts to clear roads and debris. It was also difficult to predict the volume of debris that would eventually be set out for collection/disposal.

- Activation of contractor crews before the storm and pre-staging of heavy equipment at Public Works facility resulted in extremely rapid response. Consider obtaining larger equipment for use by TOPB crews to expedite removal of trees/limbs (using grapple or clam shell buckets), and possibly larger chain saws (up to 36" bar length) as well.
- The use of the 'beach buggy' for the initial post-storm assessment following Hurricane Irma allowed better accessibility to more timely observe shoreline conditions (when compared to the Hurricane Matthew response in 2016).
- Ensure vendor contracts are clear that rates for services are locked even in the event of an emergency and research the requirement of performance bonds for major contractors such as debris haulers, in the event they do not respond and/or perform satisfactorily.

PLANNING, ZONING & BUILDING

- Obtain timelier and more accurate estimates of storm damage and the extent of debris, using aerial observations via drones.
- Several construction dumpsters were left unsecured at construction sites. It was subsequently learned that the responsible contractors had made arrangements for pick-up or emptying, but that the related dumping company lacked sufficient personnel to do so.
- A Planning, Zoning & Building departmental pool-car was left unprotected and parked in the 100-block of Chilean Avenue, where a palm tree toppled during the storm, landing on its roof resulting in significant damage. It is important that all vehicles be properly evacuated, including pool vehicles that have no specific person assigned to them.
- Review staffing and assignments to ensure that adequate personnel complete the damage assessment reports and provide "hand-off" to those who will be accomplishing the follow-on repairs. Project management responsibilities need to be more clearly defined and role of Risk Management in the overall process.

CONCLUSION

Although Hurricane Matthew (2016) provided a scare to the Town of Palm Beach, Hurricane Irma was the biggest test of the Town's readiness and response efforts to a major storm since Hurricane Wilma (2005). Overall, the Town's staff performed exceptionally well and were able to get the community back to normal operations much faster than in years past. This success was mostly attributable to rigorous training, meaningful preparedness efforts and learning from past mistakes.

Despite the lessons learned and areas identified for improvement, the post-storm feedback received from the community was overwhelmingly positive. Staff looks forward taking the necessary actions in the off-season months ahead to ensure our plans are updated and procedures are modified to continue improving upon our emergency response plans before the next incident.



FREQUENTLY ASKED QUESTIONS

1. Will the Town be evacuated and if so when?
Dependent on the storm's path and strength. Mandatory evacuation for Category 2 and higher if direct impact.
2. If the Town orders an evacuation, am I required to evacuate?
It is in the best interest of everyone to do so. The Town emergency vehicles will not respond in high wind or dangerous weather conditions that would put Town emergency staff in danger. If you have an emergency during a storm, you may experience a very long wait for emergency response.
3. Does the Town provide evacuation assistance for residents that are not physically able to evacuate on their own?
The Town does not provide such assistance; however, Palm Beach County has a Special Needs Shelter Registry. Residents can register online at snr.floridadisaster.org or call PBC Department of Public Safety Division of Emergency Managements, Special Needs Coordinator at 561-712-6400.
4. When will access to the island be allowed after the storm has passed?
Access to the island will typically be allowed once it is safe for the public to return. This usually is based on essential utilities being restored (electric, gas, water, sewer, etc.) and if roads are clear and safe for travel. This decision is made by the Town Manager in consultation with the Public Works Director and the Public Safety Director, and will be announced through Town Alerts and various media.
5. When will power be restored to my home?
The electric power (or any utility) being restored relies upon the distribution system, to the island as well as the infrastructure on the island. This is subject to inspection and repairs by FP&L who owns and operates the electrical power system. Priority is given to the main feeders and then to the secondary lines serving individual streets or homes. The goal is to restore power to all affected homes as quickly and safely as possible.
6. Is there flooding on the island?
If there is any standing water or flooding that occurs, the Town will investigate and resolve that as soon as possible (weather permitting). The Town will inform residents via Town Alerts and available media of any significant water hazards, if possible. Due to the dynamic nature of this, the situation may change rapidly and without notice. It is always prudent to not walk or drive through standing water and to stay off the roads until it is deemed safe to do so.

7. Is there someone to help put up residents' shutters?
This is a responsibility of each private property owner, and should be arranged (in advance when possible) with a contractor or vendor of the owner's choosing.
8. There is a tree blocking my driveway/fallen on my car. Can someone come and remove it?
Trees or obstructions blocking a private driveway are not the Town's responsibility and should be cleared by a contractor or vendor of the owner's choosing. As long as first responders (fire-rescue or police) can reach the residence or building, they can assist anyone in need of emergency services. Damage to vehicles is typically addressed through the owner's insurance company.
9. There is a tree blocking the road. Can someone come and remove it?
Trees blocking roads or public rights-of-way will be cleared or removed as soon as Practical. Main arterial streets are the first priority, with side streets being secondary. The Town will typically coordinate the debris removal using its own crews as well as disaster debris contractors hired by the Town to perform those services.
10. One of my hurricane shutters blew off. Can someone help me put it back up?
This is a responsibility of each private property owner, and should be arranged (in advance when possible) with a contractor or vendor of the owner's choosing. Note that during a storm event it may not be safe for anyone to be outside trying to re-secure shutters.
11. After the storm, when will trash be picked up?
Household garbage will be picked up when it is safe for Town crews to resume doing so. Yard waste and debris will also begin to be picked up when it is safe to do so. Trees or debris blocking roads or public rights-of-way will be cleared or removed as soon as practical, and based on priorities for main arterial streets first and secondary for side streets. The Town will typically coordinate the debris removal using its own crews as well as disaster debris contractors hired by the Town to perform those services
12. A representative of a business in Town wants to gain access to the Town after a storm. How can they gain access?
The Town gives access to homeowners with valid identification showing a Town address and those with a Town issued identification card only. A resident calling or sending a fax with names for permission to be on the Island will not be given access.
13. I am out of state and need to know if my home was damaged.
When Town officials have determined that those holding a valid Town ID are allowed back on the Island, you may have your residence checking on by a property manager or another resident. The Police Department and Fire Department may not have the resources available to check on specific properties for any damage.

14. Is the water safe to drink?

The City of West Palm Beach is the utility provider for water, and the Town will pass along any advisories or warnings about water that may be applicable (boil water orders, etc.). Residents are advised to keep a supply of bottled water or other emergency supply on hand to allow for several days should the normal water supply be disrupted.

15. Will there be a curfew?

Curfews are determined if evacuation orders have been issued in order to allow for the safety of residents and property.

16. I am a contractor and need to check my job sites.

It is each individual contractor's responsibility to secure job sites before leaving the Island before a storm is expected to impact Palm Beach. Doing so minimizes hazard risk. Contractors are not given priority access to the Island following a storm. Contractors, like homeowners and employees, will be allowed to return when public safety officials so determine.

17. What safety steps apply to the "securing" of construction sites as storms approach and at what time in advance of a storm should construction sites be secure?

Sec. 18-1014. - Removal and securing of construction materials during tropical storm and hurricane warning or watch required.

(a) When the National Weather Service, National Hurricane Center or appropriate weather agency shall declare a tropical storm watch or warning or a hurricane watch or warning for any portion of Palm Beach County, Florida, all construction materials, including roof tiles, and debris on all building and construction sites within the town shall be secured, stored or removed so as not to create a safety hazard because of hurricane or tropical storm force winds.

(b) Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of a tropical storm watch or warning or a hurricane watch or warning shall be deemed sufficient notice to the owner of real property upon which construction is occurring or any contractor responsible for said construction to secure store or remove loose construction debris and loose construction materials against the effects of high winds.

(c) Materials stockpiled on top of any structure under construction shall be permanently installed by the property owner or contractor upon issuance of a tropical storm watch or warning or a hurricane watch or warning; provided, however, in the event such installation cannot be timely completed, then the property owner or contractor shall:

(1) Band together the construction materials and mechanically fasten them to the top of the structure in such a manner so as not to present a threat of their becoming airborne during a tropical storm or hurricane; or (2) Remove the construction materials from the top of the structure and mechanically tie down to the ground; or (3) Remove the construction materials from the job site; or (4) Store the construction materials inside a protected structure.

(d) Construction materials or debris shall remain secured, stored or removed from the property until the National Weather Service, National Hurricane Center or other appropriate weather agency has removed all portions of Palm Beach County from those areas included in a tropical storm watch or warning or a hurricane watch or warning.

(e) From June 1 to November 30 of each calendar year (the National Weather Service designated hurricane season), construction or roofing materials shall be loaded on a roof no earlier than ten working days prior to the permanent installation of the materials.

(f) It shall be the joint responsibility of the owner and general contractor to remove, secure or to see to the removal or securing of all construction materials and debris as set forth in this section.

(g) In the event of a violation of this section, in addition to all other remedies provided in the Code of Ordinances and otherwise by law, the town may take whatever emergency action it deems necessary to secure, store or remove all loose construction materials and debris including, but not limited to, roof tiles and roofing materials. In such circumstances, the town shall bill the property owner or his agent for all charges and expenses incurred whether incurred by the utilization of town personnel and materials or other outside contractors retained by the town for these purposes. The securing of an outside contractor to perform these services shall be deemed to be the securing of emergency services and shall not require the town to utilize a competitive bid process to select a contractor or contractors. Should the bill for such services remain unpaid for a period of 30 days or more, the town may record a claim of lien encumbering the property and thereafter proceed according to law to enforce said lien.

18. What role does the Planning, Zoning, and Building department play in determining the extent of storms?

The Planning, Zoning and Building Department's role post storm is to perform a preliminary damage assessment within 72 hours of the "all clear" being issued. The purpose of this assessment is to determine where the damage is located, the extent of the damage and any emergency issues that may need to be dealt with. Until this initial damage assessment is completed throughout the Town, all other normal functions of the PZB department are suspended.

19. How will the Town provide timely review and processing of building permit applications if the scope of structural damage affects the bulk of residents?

Once the initial damage assessment is completed, a more extensive assessment of the damage will be conducted and those residents whose homes are the most seriously damaged and may be subject to further damage by wind and rain will receive priority when issuing repair permits. SAFETY and PROTECTION OF PROPERTY will be the overall governing factor in determining this priority.

20. What home security precautions should residents take if an evacuation order is issued?

Residents should secure their properties and shutter if possible. Remove vehicles and outside items.

21. Where can I get food, water, and/or ice?

Gas stations and grocery stores have generators. Depending on damage severity and supply, food/water/ice/gasoline can be obtained at those locations. The Town of Palm Beach does not provide those services.

22. How can I obtain a Voluntary ID Card?

Town of Palm Beach Voluntary ID Cards are issued in the Police Department between the hours of 10:00 a.m. and 5:00 p.m. through the Crime Scene/Evidence Unit. If a storm is projected as a direct hit to SE Florida, the Crime Scene Unit will cease issuing ID cards two days before expected landfall. Those applying for ID cards are encouraged to download the application and get your form notarized prior to visiting the Police Department in order to expedite the process. [Voluntary ID Card Application](#)

23. Are gas lines to the Town cut off in the event of a hurricane?

This decision is dependent on if gas lines are compromised and up to the utility. Town staff will participate in any decision making.

24. When should businesses close?

Businesses need to know how much time is required to physically prepare their properties for a landfall prior to making this decision. Once a warning is issued, businesses should take immediate action so they can evacuate ASAP if ordered.

25. When will the airport stop inbound and outbound flights?

This decision is made by airport and County officials in conjunction with the FAA.

Prepared by:
Jay Boodheshwar, Deputy Town Manager
November 8, 2017

Town of Palm Beach
Emergency Management
360 South County Road
Palm Beach, FL 33411



TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

Planning and Zoning Commission Record and Report:

Proposed Zoning Text Amendments by RPP Palm Beach Property, LP Outdoor Greenspace Activities and Commercial Signage

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated November 1, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Exhibit A**
- ▣ **Staff Report Memo and RPP Outdoor Activity Application**
- ▣ **Staff Report Memo and RPP Sign Application**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Planning and Zoning Commission Record and Report:
Proposed Zoning Text Amendments by RPP Palm Beach Property, LP
Outdoor Greenspace Activities and Commercial Signage

Date: November 1, 2017

STAFF RECOMMENDATION

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

PLANNING AND ZONING COMMISSION RECOMMENDATION

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

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 two zoning text amendments. The first is to allow “outdoor greenspace activities” within said zoning district as a permitted use. The second is a proposal to allow commercial property identification signs in the C-PC Zoning District. The Staff memos to the Planning and Zoning Commission and applicant’s zoning text amendments are attached for your information.

BACKGROUND

Existing zoning regulations do not allow outdoor promotional events in any of the Town’s Commercial zoning districts. While the Town does allow for special events on public property, there are no provisions in the Code to allow “outdoor green space activities” to promote business in the Town’s Commercial Zoning Districts. The applicant proposes to allow an unlimited

number of outdoor promotional events as a permitted use in the C-PC Zoning District.

Existing regulations in the Zoning Code do not allow for yard or monument property identification signage in any of the Town's Commercial zoning districts. The applicant's second application requests modifications to the Zoning Code allowing property identification signs in the C-PC Zoning District.

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

The applicant's proposals and Staff memos to the Commission regarding these two amendments are provided for your information.

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

EXHIBIT A: PLANNING AND ZONING COMMISSION RECORD AND REPORT

Proposed Zoning Text Amendment by RPP Palm Beach Property, LP, to Allow Outdoor Greenspace Activities in the Planned Center Zoning District (C-PC)

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, by a 7-0 vote, recommended approval of outdoor promotional events within the C-PC Zoning District, however, did not recommend the same within the Town's other Commercial Districts. Preferring to act cautiously, the Commission opted not to allow this use in other commercial zoning districts until the impacts this use have been experienced.

The Commission also stated that other retail shopping zoning areas (C-TS and C-WA district) are primarily comprised of smaller properties with no outdoor spaces. Those districts have buildings that are much closer to abutting residential uses. The C-PC District is a unique area that lends itself to this type of use. It is a large property that is isolated from other residential uses. If regulated properly with Special Exception approval and a Declaration of Use Agreement, outdoor events held within the courtyard area of the shopping center should not negatively impact the adjacent properties. The Commission's recommended changes to the Code are as follows:

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

...

Outdoor promotional event means an event by a property owner on private property in the C-PC Zoning District for the purpose of promoting business on said private property. Such event shall not include amplified music or entertainment which would exceed the noise decimal limitations in the Code of Ordinances and shall be limited in scope and size by Special Exception approval by the Town Council and approval of a Declaration of Use Agreement as provided for in Sec. 134-226(b) of the Code of Ordinances.

C-PC Zoning District

Sec. 134-1259. - Special exception uses.

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

- (1) Public or private parking or storage garages.
- (2) Private, social, swimming, tennis and yacht clubs.
- (3) Public structures/uses.

- (4) Supplemental parking.
- (5) Restaurants, excluding formula restaurants as defined in section 134-2, theaters, nightclubs, lounges/bars.
- (6) Museums.
- (7) Veterinarian/animal clinic.
- (8) Auto rental.
- (9) Banks and financial institutions.
- (10) All retail and personal service activities exceeding 3,000 square feet gross leasable area not specifically cited under the permitted uses in subsection 134-1257(a)(2).
- (11) Timesharing uses at a maximum of nine units per acre and hotels at a maximum of 26 units per acre.
- (12) Roof-deck automobile parking.
- (13) Nonprofit cultural centers.
- (14) Veterinarian offices.
- (15) Outdoor seating in conjunction to permitted restaurants. See section 134-1260 for additional conditions.
- (16) Outdoor promotional events.

STAFF RECOMMENDATION:

Staff recommends approval of the Commission's recommendation with the exception that this use should also be allowed by Special Exception approval in the C-TS and C-WA Zoning Districts. There are other areas in the Town (The Esplanade, the vias on Worth Avenue and the new "Testas" project) that might take advantage of this type of promotional activity.

Proposed Zoning Text Amendment by RPP Palm Beach Property, LP, to Allow Property Identification Signs in the Planned Center Zoning District (C-PC)

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, by a 7-0 vote, recommended approval to allow property yard identification signs in the C-PC Zoning District. The Commission's recommendation closely aligned with Staff's recommendation with minor exceptions. The Commission approved two such signs at each entrance/exit as opposed to Staff's preference of one such sign.

The Commission believed that the generous size of the single-owner, multi-building property with a large off-street parking area was appropriate for this type of signage. The Commission did not believe the physical layout of commercial properties in other zoning districts needed such property identification signage. Commissioners also believed, contrary to Staff's recommendation, that signs should be allowed on monuments or columns on each flanking side of an entrance/exit area for symmetry and aesthetic appearance. Commission recommended changes to the Code are as follows:

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

...

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

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

(1) *Building identification*: One building identification sign (which must have the word "building" in it) may be placed on the front of each wall of a building which fronts onto a street, provided the building identification sign is installed flat against such wall and does not exceed 20 square feet in area.

(2) *Individual business identification*: Individual business identification signs are allowed for each ground floor business fronting on a street or via. Each such sign shall not exceed 20 square feet in area and shall be installed flat against the street or via front, street or via side wall, or street or via rear wall of a building or in a ground floor window or door. In addition, if a ground floor licensed business's parking and main entrance is on the back or side of a building not fronting a street, said business shall be allowed one business identification sign installed flat against the face of the building's wall where the business is located. No business identification sign shall exceed 15 feet in height and shall not be situated above the first floor ceiling of the building, whichever is lower.

(3) *Business directory sign for building with a via or arcade*: Business directory signs shall be allowed for buildings which contain or abut a via. One business directory sign facing each direction of an entrance to a via is permitted. Said business directory sign shall not exceed a maximum of six square feet in area. In addition, each business within a business directory sign shall be allowed only one identification line on the directory sign with no logo. The lettering on the business directory sign shall not exceed a height of one and one-quarter inches for the business and shall be in the same font as the other business identification signs on the directory. Except, however, lettering on the business directory sign identifying the via and its address shall not exceed a height of three inches and may be of a different font than the businesses lettering on said sign. Such sign shall be flat wall mounted.

In addition, ~~o~~One business directory sign identifying the upper floor businesses is permitted on a multi-story building on the interior of a via where the stairs to the upper floor(s) in the building open onto the via. A business directory sign for upper floor businesses on said building shall not exceed four square feet in area and shall meet the same lettering requirements as the business directory sign requirements for the entrances to a via. The business directory sign shall only identify the names of the businesses in the via. The business directory sign may also include the name of the via and the via address. The business directory sign shall be flat wall mounted.

(4) *Individual business identification signs within a via*: A licensed business on the first floor within a via shall be allowed one hanging business identification sign within the via and perpendicular to the building. The hanging sign within a via shall be mounted on the wall of the

building fronting the via. A hanging business identification sign shall not be above the first floor of the building it is attached to, shall have a minimum of eight feet of clearance, and shall be calculated as part of the maximum business identification sign area allowed. In addition said hanging business identification signs shall have only the name of the business.

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

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

STAFF RECOMMENDATION:

Staff recommends property identification signage be allowed in all commercial zoning districts for only those properties that have multiple buildings with an entrance into off-street parking. Staff also recommends that only one such sign be allowed at each entrance at the size, height and location as provided in the Commission's recommendation.

cc: Planning & Zoning Commissioners
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney

EXHIBIT A: PLANNING AND ZONING COMMISSION RECORD AND REPORT

Proposed Zoning Text Amendment by RPP Palm Beach Property, LP, to Allow Outdoor Greenspace Activities in the Planned Center Zoning District (C-PC)

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, by a 7-0 vote, recommended approval of outdoor promotional events within the C-PC Zoning District, however, did not recommend the same within the Town's other Commercial Districts. Preferring to act cautiously, the Commission opted not to allow this use in other commercial zoning districts until the impacts this use have been experienced.

The Commission also stated that other retail shopping zoning areas (C-TS and C-WA district) are primarily comprised of smaller properties with no outdoor spaces. Those districts have buildings that are much closer to abutting residential uses. The C-PC District is a unique area that lends itself to this type of use. It is a large property that is isolated from other residential uses. If regulated properly with Special Exception approval and a Declaration of Use Agreement, outdoor events held within the courtyard area of the shopping center should not negatively impact the adjacent properties. The Commission's recommended changes to the Code are as follows:

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

...

Outdoor promotional event means an event by a property owner on private property in the C-PC Zoning District for the purpose of promoting business on said private property. Such event shall not include amplified music or entertainment which would exceed the noise decimal limitations in the Code of Ordinances and shall be limited in scope and size by Special Exception approval by the Town Council and approval of a Declaration of Use Agreement as provided for in Sec. 134-226(b) of the Code of Ordinances.

C-PC Zoning District

Sec. 134-1259. - Special exception uses.

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

- (1) Public or private parking or storage garages.
- (2) Private, social, swimming, tennis and yacht clubs.
- (3) Public structures/uses.
- (4) Supplemental parking.

- (5) Restaurants, excluding formula restaurants as defined in section 134-2, theaters, nightclubs, lounges/bars.
- (6) Museums.
- (7) Veterinarian/animal clinic.
- (8) Auto rental.
- (9) Banks and financial institutions.
- (10) All retail and personal service activities exceeding 3,000 square feet gross leasable area not specifically cited under the permitted uses in subsection 134-1257(a)(2).
- (11) Timesharing uses at a maximum of nine units per acre and hotels at a maximum of 26 units per acre.
- (12) Roof-deck automobile parking.
- (13) Nonprofit cultural centers.
- (14) Veterinarian offices.
- (15) Outdoor seating in conjunction to permitted restaurants. See section 134-1260 for additional conditions.
- (16) Outdoor promotional events.

STAFF RECOMMENDATION:

Staff recommends approval of the Commission's recommendation with the exception that this use should also be allowed by Special Exception approval in the C-TS and C-WA Zoning Districts. There are other areas in the Town (The Esplanade, the vias on Worth Avenue and the new "Testas" project) that might take advantage of this type of promotional activity.

Proposed Zoning Text Amendment by RPP Palm Beach Property, LP, to Allow Property Identification Signs in the Planned Center Zoning District (C-PC)

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, by a 7-0 vote, recommended approval to allow property yard identification signs in the C-PC Zoning District. The Commission's recommendation closely aligned with Staff's recommendation with minor exceptions. The Commission approved two such signs at each entrance/exit as opposed to Staff's preference of one such sign.

The Commission believed that the generous size of the single-owner, multi-building property with a large off-street parking area was appropriate for this type of signage. The Commission did not believe the physical layout of commercial properties in other zoning districts needed such property identification signage. Commissioners also believed, contrary to Staff's recommendation, that signs should be allowed on monuments or columns on each flanking side of an entrance/exit area for symmetry and aesthetic appearance. Commission recommended changes to the Code are as follows:

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

...

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

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

(1) *Building identification*: One building identification sign (which must have the word "building" in it) may be placed on the front of each wall of a building which fronts onto a street, provided the building identification sign is installed flat against such wall and does not exceed 20 square feet in area.

(2) *Individual business identification*: Individual business identification signs are allowed for each ground floor business fronting on a street or via. Each such sign shall not exceed 20 square feet in area and shall be installed flat against the street or via front, street or via side wall, or street or via rear wall of a building or in a ground floor window or door. In addition, if a ground floor licensed business's parking and main entrance is on the back or side of a building not fronting a street, said business shall be allowed one business identification sign installed flat against the face of the building's wall where the business is located. No business identification sign shall exceed 15 feet in height and shall not be situated above the first floor ceiling of the building, whichever is lower.

(3) *Business directory sign for building with a via or arcade*: Business directory signs shall be allowed for buildings which contain or abut a via. One business directory sign facing each direction of an entrance to a via is permitted. Said business directory sign shall not exceed a maximum of six square feet in area. In addition, each business within a business directory sign shall be allowed only one identification line on the directory sign with no logo. The lettering on the business directory sign shall not exceed a height of one and one-quarter inches for the business and shall be in the same font as the other business identification signs on the directory. Except, however, lettering on the business directory sign identifying the via and its address shall not exceed a height of three inches and may be of a different font than the businesses lettering on said sign. Such sign shall be flat wall mounted.

In addition, ~~o~~One business directory sign identifying the upper floor businesses is permitted on a multi-story building on the interior of a via where the stairs to the upper floor(s) in the building open onto the via. A business directory sign for upper floor businesses on said building shall not exceed four square feet in area and shall meet the same lettering requirements as the business directory sign requirements for the entrances to a via. The business directory sign shall only identify the names of the businesses in the via. The business directory sign may also include the name of the via and the via address. The business directory sign shall be flat wall mounted.

(4) *Individual business identification signs within a via*: A licensed business on the first floor within a via shall be allowed one hanging business identification sign within the via and perpendicular to the building. The hanging sign within a via shall be mounted on the wall of the building fronting the via. A hanging business identification sign shall not be above the first floor

of the building it is attached to, shall have a minimum of eight feet of clearance, and shall be calculated as part of the maximum business identification sign area allowed. In addition said hanging business identification signs shall have only the name of the business.

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

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

STAFF RECOMMENDATION:

Staff recommends property identification signage be allowed in all commercial zoning districts for only those properties that have multiple buildings with an entrance into off-street parking. Staff also recommends that only one such sign be allowed at each entrance at the size, height and location as provided in the Commission's recommendation.

TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on: October 17, 2017

To: Planning and Zoning Commission

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

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

Date: October 12, 2017

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission consider the applicant's proposed zoning text amendment, as modified by Staff, which would allow outdoor promotional activities as a Special Exception use 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 "outdoor greenspace activities" within said zoning district as a permitted use. The applicant's zoning text amendment is attached for your information.

BACKGROUND

Existing zoning regulations do not allow outdoor promotional events in any of the Commercial zoning districts. While the Town does allow for special events on public property, there are no provisions in the Code to allow "outdoor green space activities" that promote businesses in the Town's Commercial Zoning Districts. The applicant is proposing to allow an unlimited number of outdoor promotional events, as a permitted use in the C-PC zoning district.

While Staff believes that there is some merit to allowing such activities in the Royal Poinciana Plaza (C-PC zoning district), there should be limitations and conditions to ensure there are no negative impacts to the Town or neighboring residential property. In addition, if the Town is to allow outdoor promotional activities, such uses should not be limited to the C-PC zoning district, but should be for the benefit for all retail commercial areas within the Town.

Staff provided John Randolph, Town Attorney, this proposed Amendment and requested his legal opinion related to the 1979 Agreement. He has advised that the proposed amendment

would not jeopardize the Agreement provided the owners of the property within the C-PC Zoning District 1) acknowledge in writing that they agree to be bound to the terms of the 1979 Agreement despite the language in paragraph 3 of said Agreement; and 2) will not contest in any legal proceeding, or otherwise, that the amendment provides for further development possibilities in contravention of the terms of paragraph 3 of that Agreement.

Staff recommends that if outdoor activities are allowed they should be limited to the owner of the property (not individual business owners within the Zoning Districts). This would preclude different business owners from creating multiple outdoor events on a property at the same time. It would also ensure that there is one unified, organized event by property management. Authorization should only be approved by special exception approval of the Town Council. Possible impacts need to be addressed with the public and with residential neighbors in a public meeting before approval of such outdoor events are secured. Doing so provides the opportunity for the Council to hear any concerns and to place relevant conditions and remedies for violation of authorized activities. As part of the special exception approval there should also be a Declaration of Use Agreement to memorialize any conditions of approval. Such conditions should include the following limitations:

- The hours of outdoor events;
- Location of outdoor events;
- Outdoor lighting;
- Amplified sound or music, and live or recorded entertainment;
- Noise

The following change is recommended by Staff in add/delete format. (Note: this will require renumbering existing sections of Chapter 134):

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

...

Outdoor promotional event means an event by a property owner on private property in the C-TS, C-WA or C-PC Zoning District for the purpose of promoting business on said private property. Such event shall not include amplified music or entertainment which would exceed the noise decimal limitations in the Code of Ordinances and shall be limited in scope and size by special exception approval by the Town Council and approval of a Declaration of Use Agreement as provided for in Sec. 134-226(b) of the Code of Ordinances.

C-TS Zoning District

Sec. 134-1109. - Special exception uses.

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

- (1) Public or private parking lots or storage garages.
- (2) Auto rental lots.
- (3) Residential tenancy above the first floor.
- (4) Private social, swimming, golf, tennis and yacht clubs.
- (5) Service stations.
- (6) Public structures.
- (7) Supplemental parking.
- (8) Public or private academic schools.
- (9) Drive-in business service facilities.
- (10) Churches, synagogues or other houses of worship.
- (11) Any commercial establishment with greater than 3,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.
- (12) Banks and financial institutions, excluding securities or financial brokerage and trust companies.
- (13) Roof-deck automobile parking.
- (14) Outdoor seating in conjunction with permitted restaurants where administrative approval is not being requested. See section 134-1111 for additional conditions.
- (15) Veterinarian offices above the first floor.
- (16) Museums occupying building of unique value as designated historical landmarks, as determined by the landmarks preservation commission and the town council.
- (17) Nightclubs.
- (18) Except as provided for in subsection 134-1107(3), offices (excluding executive office suites), professional services, business services and securities or financial brokerage and trust companies on the first floor provided that there are at least 50 percent existing office uses on all floors of the building in which the office use is proposed and more than 50 percent existing office uses on the first floor within 300 feet of the proposed office use within the same zoning district.
- (19) Private parks.
- (20) 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 sections 134-2113 through 134-2114 of this chapter.
- (21) Outdoor promotional events.

C-WA Zoning District

Sec. 134-1159. - Special exception uses.

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

- (1) Pay parking.
- (2) Public or private parking or storage garages.
- (3) Private social, swimming, tennis or yacht clubs.

- (4) Public structures/uses.
- (5) Supplemental parking.
- (6) Restaurants, nightclubs, lounges/bars, excluding formula restaurants as defined in section 134-2.
- (7) Museums and nonprofit cultural centers.
- (8) Retail and service activities, cited under permitted uses in section 134-1157, which contain greater than 4,000 square feet GLA.
- (9) Uses not specifically enumerated under permitted uses in section 134-1157 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein.
- (10) Reserved Outdoor promotional events.
- (11) Any commercial establishment with greater than 4,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.
- (12) Roof-deck automobile parking.
- (13) Outdoor seating in conjunction with permitted restaurants where administrative approval is not being requested. See section 134-1161 for additional conditions.
- (14) Public structures.

C-PC Zoning District

Sec. 134-1259. - Special exception uses.

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

- (1) Public or private parking or storage garages.
- (2) Private, social, swimming, tennis and yacht clubs.
- (3) Public structures/uses.
- (4) Supplemental parking.
- (5) Restaurants, excluding formula restaurants as defined in section 134-2, theaters, nightclubs, lounges/bars.
- (6) Museums.
- (7) Veterinarian/animal clinic.
- (8) Auto rental.
- (9) Banks and financial institutions.
- (10) All retail and personal service activities exceeding 3,000 square feet gross leasable area not specifically cited under the permitted uses in subsection 134-1257(a)(2).
- (11) Timesharing uses at a maximum of nine units per acre and hotels at a maximum of 26 units per acre.
- (12) Roof-deck automobile parking.
- (13) Nonprofit cultural centers.
- (14) Veterinarian offices.
- (15) Outdoor seating in conjunction to permitted restaurants. See section 134-1260 for additional conditions.
- (16) Outdoor promotional events.

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
Benjamin Alma, Code Enforcement
Samantha David, RPP Palm Beach Property, LP
zf



REQUEST FOR ZONING ORDINANCE MODIFICATION

RECEIVED
SEP 22 2017
Town of Palm Beach
PZB Dept

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

1. Date: September 22, 2017

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):

4. Telephone Number (s) and mailing address where applicant can be contacted if questions should arise:
(617) 646-3200, 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

WPB_ACTIVE 8115847.1

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

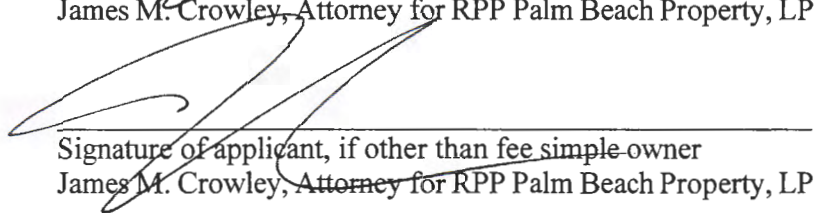
12. Town Ordinance, Section, paragraph, etc. numbers of proposed change:
Palm Beach Code of Ordinances, Division 11, Section 134-1257(a)
13. State language which is proposed for change, strike over proposed deletions and underline proposed additions to text:
See Exhibit "1"

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:
The rebirth of The Royal Poinciana Plaza consists of three discreet categories: first, updating the infrastructure of a very old and neglected building; second, the architectural restoration; and third, leasing to best in class tenants. It is with great pride that Up Markets welcomes twenty-nine new tenants to The Royal. We searched the world to find quintessential Town Serving tenants to service the Palm Beach community and we're thrilled that we found the best operators in their respective categories. What makes a destination special isn't just great food, great products, and beautiful weather, but instead incorporating each of these elements to create an activated place. The current Code of Ordinances does not allow our Town Serving tenants to use the outdoor green space in any way to serve their businesses and Palm Beach. We envision programming the outdoor green space throughout the year with a range of events, all centered around the cultural cornerstone component that the community has asked The Royal to be. We respectfully request that the Code be amended to allow businesses in the C-PC district to activate the green space with Town Serving programs. Ask any thriving retailer around the country today and they will tell you that their business are dependent on the ability to creatively attract customers to their store fronts, and not just offer products within four walls. That is the old way of retail which is no longer successful. It is therefore of utmost importance that the Town of Palm Beach create a welcoming environment where small businesses can thrive, and we feel this amendment will go a long way towards creating this environment.



Signature of fee simple owner of the property
James M. Crowley, Attorney for RPP Palm Beach Property, LP



Signature of applicant, if other than fee simple owner
James M. Crowley, Attorney for RPP Palm Beach Property, LP

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. 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.

EXHIBIT "1"

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. Appliance services.
- b. Bookstore/newsstand.
- c. Business and professional offices/services and executive office suites, excluding veterinarian offices.
- d. Churches, synagogues and other houses of worship.
- e. Dance instruction / studio.
- f. Dining Rooms and drinking places when not more than 15 percent of the gross floor area of the structure; no exterior or external advertising to be permitted.
- g. Drugstore/pharmacy.
- h. Florist.
- i. Retail specialty foods, including incidental sale of prepared foods for takeout.
- j. Formal wear rental.
- k. Furniture.
- l. Hardware/home improvements.
- m. Hobby Shop.
- n. Laundry/dry cleaning.
- o. Locksmith.
- p. Medical Services.
- q. Optician/optometrist.
- r. Picture framing.
- s. Photocopying.
- t. Photographic studio.

- u. Print shop.
- v. Secretarial services.
- w. Shoe repair.
- x. Tobacconist.
- y. Tailor/dressmaker.
- z. Temporary help.
- aa. Travel agent.
- bb. Yard goods.
- cc. Essential services.

(2) *Maximum 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.

(3) *Outdoor Green Space Activities.* Outdoor green space activities which are Town Serving and which provide entertainment or other activities to engage Town Persons and support businesses in the C-PC planned center district.

TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on: October 17, 2017

To: Planning and Zoning Commission

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

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

Date: October 12, 2017

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission consider the Applicant's proposed zoning text amendment, as modified by Staff, to allow property identification signage 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 commercial property identification signs in the C-PC Zoning District (Royal Poinciana Plaza). The zoning text amendment application is attached.

BACKGROUND

Existing regulations in the Zoning Code do not allow for yard or monument property identification signs in any of the Town's Commercial zoning district. The applicant, RPP Palm Beach Property, LP, is requesting to modify the Zoning Code to allow property identification signs in the C-PC zoning district. The applicant's proposed amendment would allow said signs to be 20 square feet in area with no limitation on the number, location or height of such signs.

Staff believes the application has merit, but believes that said amendment to the Code should not be limited to the C-PC Zoning District only. If approved as proposed by Staff, all commercial properties with multiple buildings or entrances to parking areas should be allowed such signage. Property identification signage should be limited in size and height similar to existing Code language for multi-family identification signs (a maximum of 6 square feet in area and 6 feet in height). In addition, said signage should be limited to not more than one sign per entrance to the off-street parking area. Therefore, the following changes to the Applicant's proposal are recommended by Staff in add/delete format. (Note: this will require renumbering existing sub-sections of Chapter 134):

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

...

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

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

(1) *Building identification*: One building identification sign (which must have the word "building" in it) may be placed on the front of each wall of a building which fronts onto a street, provided the building identification sign is installed flat against such wall and does not exceed 20 square feet in area.

(2) *Individual business identification*: Individual business identification signs are allowed for each ground floor business fronting on a street or via. Each such sign shall not exceed 20 square feet in area and shall be installed flat against the street or via front, street or via side wall, or street or via rear wall of a building or in a ground floor window or door. In addition, if a ground floor licensed business's parking and main entrance is on the back or side of a building not fronting a street, said business shall be allowed one business identification sign installed flat against the face of the building's wall where the business is located. No business identification sign shall exceed 15 feet in height and shall not be situated above the first floor ceiling of the building, whichever is lower.

(3) *Business directory sign for building with a via or arcade*: Business directory signs shall be allowed for buildings which contain or abut a via. One business directory sign facing each direction of an entrance to a via is permitted. Said business directory sign shall not exceed a maximum of six square feet in area. In addition, each business within a business directory sign shall be allowed only one identification line on the directory sign with no logo. The lettering on the business directory sign shall not exceed a height of one and one-quarter inches for the business and shall be in the same font as the other business identification signs on the directory. Except, however, lettering on the business directory sign identifying the via and its address shall not exceed a height of three inches and may be of a different font than the businesses lettering on said sign. Such sign shall be flat wall mounted.

~~In addition,~~ One business directory sign identifying the upper floor businesses is permitted on a multi-story building on the interior of a via where the stairs to the upper floor(s) in the building open onto the via. A business directory sign for upper floor businesses on said building shall not exceed four square feet in area and shall meet the same lettering requirements as the business directory sign requirements for the entrances to a via. The business directory sign shall only identify the names of the businesses in the via. The business directory sign may also include the name of the via and the via address. The business directory sign shall be flat wall mounted.

(4) *Individual business identification signs within a via:* A licensed business on the first floor within a via shall be allowed one hanging business identification sign within the via and perpendicular to the building. The hanging sign within a via shall be mounted on the wall of the building fronting the via. A hanging business identification sign shall not be above the first floor of the building it is attached to, shall have a minimum of eight feet of clearance, and shall be calculated as part of the maximum business identification sign area allowed. In addition said hanging business identification signs shall have only the name of the business.

(5) Property identification yard signs are permitted for a property comprised of multiple buildings fronting a street provided that not more than one yard sign is permitted for each vehicular entrance to a property with street frontage. A property identification yard sign shall not exceed six square feet in area, 6 feet in height above lot grade and shall be located no further than 10 feet from a vehicular entrance onto a property.

(6) ~~Business, identification signs and building identification signs~~ and property identification signs shall require ~~A~~architectural review ~~C~~ommission and ~~L~~andmarks ~~P~~reservation ~~C~~ommission approval (~~if~~ whichever is applicable).

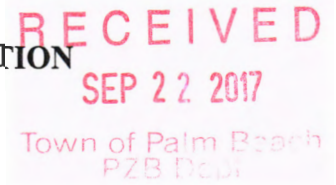
If you have any questions, please contact Paul Castro, Zoning Administrator at 227-6406.

Attachment

cc: Mayor and Town Council
Thomas Bradford, Town Manager
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Paul W. Castro, AICP, Zoning Administrator
Benjamin Alma, Code Enforcement
Samantha David, RPP Palm Beach Property, LP
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 22, 2017

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):

4. Telephone Number (s) and mailing address where applicant can be contacted if questions should arise:
(617) 646-3200, 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

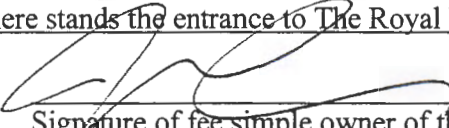
WPB_ACTIVE 8115829.1

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 134-2437
13. State language which is proposed for change, strike over proposed deletions and underline proposed additions to text:
See Exhibit "1"

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 worked diligently on a restoration and beautification of the property. John Volk originally designed entry columns for the entrance and exit of The Royal Poinciana Plaza, a detail Up Markets incorporated into the restoration. The current Code of Ordinances does not allow for any property identification signage and it is our desire to place signage on the newly installed entry columns at the entrances and exits of the property. This is one of the final physical pieces of the restoration that we hope to execute in our efforts to restore John Volk's vision for the property and in order to show, with pride, "here stands the entrance to The Royal Poinciana Plaza."



Signature of fee simple owner of the property
James M. Crowley, Attorney for RPP Palm Beach Property, LP



Signature of applicant, if other than fee simple owner
James M. Crowley, Attorney for RPP Palm Beach Property, LP

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. 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.

Rev.: 7/09/04-lsc
Rec: 07/01/2008-dm
Rev: 9/21/17

forms\ZoningOrdModForm.wpd)

EXHIBIT "1"

Sec. 134-2437. – Building Identification, ~~and~~, Business Identification, and Property Identification Signs.

(1) *Building identification:* One building identification sign (which must have the word "building" in it) may be placed on the front of each wall of a building which fronts onto a street, provided the building identification sign is installed flat against such wall and does not exceed 20 square feet in area.

(2) *Individual business identification:* Individual business identification signs are allowed for each ground floor business fronting on a street or via. Each such sign shall not exceed 20 square feet in area and shall be installed flat against the street or via front, street or via side wall, or street or via rear wall of a building or in a ground floor window or door. In addition, if a ground floor licensed business's parking and main entrance is on the back or side of a building not fronting a street, said business shall be allowed one business identification sign installed flat against the face of the building's wall where the business is located. No business identification sign shall exceed 15 feet in height and shall not be situated above the first floor ceiling of the building, whichever is lower.

(3) *Business directory sign for building with a via or arcade:* Business directory signs shall be allowed for buildings which contain or abut a via. One business directory sign facing each direction of an entrance to a via is permitted. Said business directory sign shall not exceed a maximum of six square feet in area. In addition, each business within a business directory sign shall be allowed only one identification line on the directory sign with no logo. The lettering on the business directory sign shall not exceed a height of one and one-quarter inches for the business and shall be in the same font as the other business identification signs on the directory. Except, however, lettering on the business directory sign identifying the via and its address shall not exceed a height of three inches and may be of a different font than the businesses lettering on said sign. Such sign shall be flat wall mounted.

In addition, one business directory sign identifying the upper floor businesses is permitted on a multi-story building on the interior of a via where the stairs to the upper floor(s) in the building open onto the via. A business directory sign for upper floor businesses on said building shall not exceed four square feet in area and shall meet the same lettering requirements as the business directory sign requirements for the entrances to a via. The business directory sign shall only identify the names of the businesses in the via. The business directory sign may also include the name of the via and the via address. The business directory sign shall be flat wall mounted.

(4) *Individual business identification signs within a via:* A licensed business on the first floor within a via shall be allowed one hanging business identification sign within the via and perpendicular to the building. The hanging sign within a via shall be mounted on the wall of the building fronting the via. A hanging business identification sign shall not be above the first floor of the building it is attached to, shall have a minimum of eight feet of clearance, and shall be calculated as part of the maximum business identification sign area allowed. In addition said hanging business identification signs shall have only the name of the business.

(5) *Property Identification Signs in the C-PC district:* In the C-PC district, property identification signs are permitted for properties comprised of multiple buildings fronting on a street or via.

provided that each sign shall be located on private property. shall be located at a vehicular entrance or exit to such property, and shall be oriented to face external streets or vias. Property identification signs shall not exceed 20 square feet in area.

(5) (6) Business identification signs, ~~and~~ building identification signs, and property identification signs shall require architectural review commission and landmarks preservation commission approval (if applicable).

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

RESOLUTION NO. 209-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Econolite Systems, in the Amount of \$274,211 for the Upgrade of the Traffic Signal Control and CCTV Installation at Four Intersections, and Establishing an Overall Project Budget of \$300,000.

Presenter

H. Paul Brazil P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated October 31, 2017, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **Resolution No. 209-2017**
- ▣ **Econolite Intelligent Traffic Management System Memo**
- ▣ **Econolite Systems Proposal**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Discussion of Remote Traffic Control Operations and Approve a Purchase Order to Econolite Systems
Resolution 209-2017

DATE: October 31, 2017

STAFF RECOMMENDATION

Town staff recommends that the Town Council review the information regarding this proposed change to the Town's traffic signal system, and if desired to approve Resolution No. 209-2017 for remote traffic signal control upgrade and CCTV installation from Econolite Systems, in the amount of \$274,211 and establish an overall project budget of \$300,000.

GENERAL INFORMATION

During visits by the President of the United States (POTUS) in the last year, traffic patterns have been altered due to security requirements adjacent to the Mar-a-Lago Club location. When the Secret Service has closed the roadway (South Ocean Boulevard) in that location, normal traffic flows are disrupted. Traffic that would normally transit north or south on South Ocean Boulevard is prohibited during POTUS visits. This can cause significant traffic delays and is more stressful for motorists attempting to enter or depart from Palm Beach. Another contributing factor was the ongoing construction work on the Flagler Memorial Bridge, which has now been completed. Traffic on all the bridges moving in both directions (especially during rush-hour) was negatively impacted. The most significant impacts occurred on the major roadways approaching the Flagler Bridge (Royal Poinciana Way) and the Royal Park Bridge (Royal Palm Way). Staff was tasked with identifying possible solutions to alleviate those negative traffic impacts.

The short-term solutions were to revise the timing of the intersections on those two major roads, to increase the travel time in the major (east-west) direction during the peak rush-hour time period, emphasizing the east-bound priority in the morning and the west-bound in the afternoon. Police officers were also stationed at several intersections to assess the traffic demands and to manually cycle the traffic signals to attempt to ease the congestion. Although these solutions had some limited success, they did not eliminate the traffic problem or offer a more permanent long-term solution. The use of numerous police officers is not cost-effective or efficient since it is not sustainable and detracts from their primary duties (personnel costs increase and/or the level of service decreases). Staff sought to find a technology-based solution that could enhance the capability of the existing traffic signal system, at the four major intersections on Royal Poinciana Way and Royal Palm Way (where they meet Coconut Row and South County Road).

Staff hired a traffic consultant (Kimley Horn & Associates) to help define what the enhanced traffic signal control system would be and what was recommended. The Town's existing Aries traffic signal system uses Econolite equipment and software, and the current system can monitor some problems but does not allow for remote viewing and operation. That vendor (Econolite) was contacted to determine if the traffic flow could be controlled remotely (from the Police Department) and with minimal additional staffing. The vendor's suggestion was to install closed-circuit television cameras to aid with visual observation of those intersections and upgrade the existing control system to one that allows remote operation. This involves new upgraded Centrac software, new servers and workstations, new monitors, broadband wireless radios, network switching and the integration/installation of all the new hardware and software. In order to see such a system that was already installed and operating, staff asked the consultant and vendor to provide a local municipal customer reference that was nearby for a site visit. Town staff (with representatives from Public Works and Police Department) visited the traffic operations center in Martin County, along with representatives from the vendor and the consultant. The consensus was that the system being used would be beneficial to the Town.

Some of the advantages of upgrading the existing traffic signal system at these four major intersections would include:

- The proposed traffic operations system (Centrac) has many features that would assist in the daily control of traffic throughout the Town. The ability to see the traffic situations in real time and toggle the signals to address traffic situations would be a great asset to the Town. PBPD expressed a view that residents may prefer to see "boots on the ground" when traffic is backed up, but this system would seem to alleviate that need to some extent.
- The real time images and traffic data could be shared with Palm Beach County to enhance the movement of traffic on the WPB side of the bridges and allow our traffic to move to WPB.
- The preset programming options would assist during special circumstances such as bridge closures.
- The system performs separate traffic volume counts through each intersection. This would be helpful in developing ways to evenly route traffic to avoid congestion.
- This operation system is the next logical step in traffic monitoring for the Town. We currently use a dial up modem, copper wiring and an antiquated monitoring system. We have trouble locating replacement parts and components due to the age of the system. We are beginning the process of coordinating a copper/fiber replacement program for the existing traffic monitoring system and would need to budget for a new operating system of this type.

There are some operational or cost issues that are related to this traffic signal upgrade, and although they are not “disadvantages”, they do need to be considered in this decision:

- The installation cost for the proposed upgrade is \$274,211 for the four intersections. The project could be funded a variety of ways (contingency funds, bank loan, etc.) and that topic is addressed in the fiscal impact section below.
- The useful life of this system is assumed to be five years, based on the life expectancy of the equipment or the functional obsolescence of the system.
- There is a recurring cost to operate/maintain the new system, including a software maintenance agreement and any repair or replacement of components that may fail during the life of the system. The recommended software maintenance agreement is \$8,478 per year for the Centrac software to be used. On-site support or troubleshooting of components is not included in that figure and would be additional. That additional support might be required for any repairs or issues that could not be resolved by in-house Town staff. Some components of the new system would be installed at the Police Department. Other components would be installed at Town Hall or Public Works and would be accommodated within existing spaces or systems.
- The new traffic signal system would not necessarily solve every traffic congestion issue, since there are many variables that affect the level of service (amount of traffic, time of day, weather, bridge openings, etc.). Similarly, if the traffic flow through the West Palm Beach corridors is slow, then the corresponding delays entering or leaving the island would still exist. Whenever the volume of traffic exceeds the capacity of the roadway, the level of service will diminish.

Also attached for reference is a memorandum from the Police Department regarding the traffic concerns and issues from their perspective.

The vendor also included an option to convert other intersections beyond the four major intersections noted. Although there is some economic advantage to accomplishing this upgrade at all intersections (due to \$15,000 vendor discount on the additional work), staff does not recommend that at this time. If the Town Council provides guidance to pursue the remote operations proposal, it is staff's suggestion that the effort be limited to the four intersections until the new system is installed and operated for some amount of time to determine if the benefits warrant a future consideration to expand to all intersections.

FUNDING/FISCAL IMPACT

Funding could come from the Town's General Fund contingency fund, however, the contingency fund was reduced in the FY18 budget and funding for this project would use almost one-half of the balance. Staff is recommending financing this equipment with the Florida League of Cities Equipment Financing Program. They offer a low cost financing mechanism for local municipalities. Due to the short life span of this equipment, we are recommending a \$300,000, 5-year loan at a current interest rate of 2.14% with annual payments of \$63,320. If the Town Council approves this recommendation, we will bring forth the loan documents to the Town Council in December for approval.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This Resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachments

cc: Jane Struder, Director of Finance
Eric Brown, P.E., Assistant Director of Public Works
Ann-Marie Taylor, Deputy Chief Police Department
Brett Madison, Facilities Maintenance Division Manager

RESOLUTION NO. 209-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PURCHASE ORDER TO ECONOLITE SYSTEMS, IN THE AMOUNT OF \$274,211 FOR THE UPGRADE OF THE TRAFFIC SIGNAL CONTROL AND CCTV INSTALLATION AT FOUR INTERSECTIONS, AND ESTABLISHING AN OVERALL PROJECT BUDGET OF \$300,000.

* * * * *

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

Section 1. The Town Council of the Town of Palm Beach hereby approves a purchase order to Econolite Systems in the amount of \$274,211, for the upgrade of the traffic signal control and CCTV installation at four intersections, and establishing an overall project budget of \$300,000.

Section 2. The Town Manager is hereby authorized to execute a purchase order on behalf of the Town of Palm Beach for these improvements, and is authorized to approve additional tasks, as necessary, within budget.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the completion of this project, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on this 14th day of November, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member



TOWN OF PALM BEACH

POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



MEMORANDUM

TO: Thomas G. Bradford, Town Manager

FROM: Kirk W. Blouin, Director of Public Safety 

SUBJECT: November 1, 2017

DATE: Econolite Intelligent Traffic Management System

Historically the Town of Palm Beach experiences a significant increase in the volume of traffic during the seasonal period of November through April. The most recent season brought additional circumstances that had a negative impact on traffic patterns, such as construction on the Flagler Memorial Bridge limiting the traffic to one lane each way, and visits from the President of the United States (POTUS).

When traffic volume peaked with ingress and egress points limited by construction and roadblocks, the police department developed and delivered a traffic mitigation plan to increase the flow of traffic. This traffic plan included: alerting motorists to unexpected traffic delays; monitoring and physically controlling traffic with officers in each affected intersection, including contracting with an outside vendor for employees to assist with traffic direction; providing preference to east/west traffic; the use of interactive real time traffic maps; flexing Town of Palm Beach employee schedules; suggested work hours for service, maintenance and construction personnel; and a reduction in the amount of scheduled bridge openings. While this plan was effective in the movement of motorists, it is not a practical, long-term solution as it is costly and places a drain on resources.

Anticipating an equally active traffic season this year, in April 2017, a request was made to Public Works to seek a technology based solution that could enhance the capability of the existing traffic signalization system at the four major intersections in Town. Public Works hired a consultant to investigate that suggested an upgrade to the existing Econolite system. The upgrade includes a Signal Control Upgrade and Closed Circuit Television (CCTV), the Econolite Intelligent Traffic Management System (ITMS).

ITMS is an efficient and expandable solution dedicated to counteract impending traffic congestion by managing traffic volume, traffic data, and traffic signalization. ITMS allows for remote and real time monitoring of traffic intersections through interactive GIS based mapping and video technology. This platform is completely scalable and capable of calculating traffic data to adjust signal timing in anticipation of special events or congested traffic conditions. ITMS is specifically designed to optimize traffic conditions and allow a higher volume of traffic to move more efficiently on the roadway. This results in speed harmonization, reduction of

congestion, and a decrease in reported accidents. From a public safety perspective, the application will allow law enforcement to remotely monitor intersections and, if necessary, manually control traffic signalization without expensive construction measures. This will free resources who would otherwise be physically needed in the intersections and allow officers to handle more pressing calls for service. In addition, implementing this program would allow Palm Beach County Traffic Management Center the ability to monitor our flow of traffic and further enhance the movement of traffic.

Although there are many variables that affect the flow of traffic within the Town, this new traffic signalization system would be a favorable tool in traffic mitigation, allowing for an ease in traffic flow while reducing the impact on resources. The system will allow Palm Beach Police Officers the ability to monitor traffic in real time from a remote location and act quickly and accordingly, resulting in a more effective and efficient flow of traffic. I am requesting the Town consider purchasing this system in an effort to assist in traffic management for the future.



October 23, 2017

Mr. Brett Madison
Facilities Maintenance Division Manager
Town of Palm Beach – Public Works
951 Old Okeechobee Rd.
West Palm Beach, FL 33401

**Subject: Centrac's Signal Control Upgrade and CCTV Installation
Best and Final Offer**

Dear Mr. Madison:

In response to your recent request to provide the Town of Palm Beach with our Best and Final Offer (BAFO) for the subject project, Econolite Systems, Inc. is pleased to offer the following:

1. Econolite Systems will reduce the price of each line item by 3%.
2. If the Town elects to proceed with the full turn-key scope presented within the proposal, Econolite Systems will offer an additional price reduction of \$15,000. In order to take advantage of this discount, the scope shall include all items listed in Tables 1 and 2, plus a minimum 1-year Software Maintenance Agreement following the initial 1-year warranty.

Further details of this BAFO are presented in the attached proposal, which is valid for 90 days. We appreciate your consideration and look forward to the opportunity to serve the Town of Palm Beach. We are confident that this updated full turn-key proposal will meet the needs of the Town. If you should have questions regarding this proposal, please do not hesitate to contact me at (703)789-5125 or sdefazio@econolite.com at your convenience.

Sincerely,
Econolite Systems, Inc.

A handwritten signature in black ink that reads "Stephanie K. DeFazio".

Stephanie K. DeFazio, P.E.
Associated Vice President



Town of Palm Beach
Scope and Price Proposal – Best and Final Offer
Centracs Signal Control Upgrade and CCTV Installation Proposal
October 23, 2017

Econolite Systems will upgrade the existing Aries signal control system to the Econolite Centracs system for the Town of Palm Beach. The Centracs system will allow you to monitor and control each intersection independently or as a group. In addition to Centracs, we recommend installing two IP Dome CCTV cameras at each intersection to cover all approaches. Our proposal includes migrating four intersections from your current Aries system to the new Centracs server. The initial four intersections are as follows:

- Royal Poinciana Way and North County Rd
- Royal Poinciana Way and Cocoanut Row
- Royal Palm Way and South County Rd
- Royal Palm Way and Cocoanut Row

Additionally, we understand the Town has an additional nine intersections and plans to also integrate these signals onto the same platform at a future date.

As requested, we've developed pricing to deliver a complete turn-key solution. We recognize that the Town may choose, for instance, to host Centracs within your existing server farm, outsource installation to a local contractor, or even self-perform elements of work. As such, we have bifurcated the pricing to allow you to pick and choose (buffet style) the scope elements that best meet your needs. Econolite Systems will, of course, be accountable to deliver only the project elements that the Town chooses to contract through us. Scope and pricing is presented below.

Centracs

LI No. 1: Centracs Software and License Modules – Econolite Systems will provide the Town a 25-intersection Centracs license to monitor and control traffic signals. In addition to the core Centracs functionality, the license includes the local edition, synchro interface, and Advanced CCTV modules.

Price: \$57,614 Lump Sum

LI No. 2: Servers – Econolite Systems will provide the Town a physical server and all necessary commercial-off-the-shelf software to run Centracs. We have configured the computing environment to run on one large server. The server has been sized to accommodate not only the initial four intersections, but eventually, all 13 intersections.

Price: \$19,083

LI No. 3: Workstations – Econolite Systems will provide and configure one or more (Dell Precision Tower 7910) work stations to function with Centracs.

Price: \$5,276 Each

LI No. 4: Workstation Monitors – Econolite Systems will provide and configure 27" monitor(s) (LG 27UD58-B) for the workstations. It is recommended that two monitors be provided with each workstation.

Price: \$346 Each



LI No. 5: Large Screen 65" Monitors – Econolite Systems will provide and configure a 65" Ultra high-definition monitor(s) (Samsung 65" 4K UHD Smart LED TV) to view Centrac and/or CCTV images.

Price: \$2,049 Each

LI No. 6a: Integration Services – Econolite Systems will provide integration services to include Centrac database configuration, controller database conversion if required, all hardware selected above, field deployment, testing and training. The outcome of this task will be all intersections online and operational and Town staff fully trained.

Price: \$61,892 Lump Sum

LI No. 6b: Installation Services – Econolite Systems will provide installation services to include servers, workstations and monitors. The outcome of this task will be all devices neatly configured and operational.

Price: \$6,611 Lump Sum

Should the Town opt to install devices or outsource to a local contractor, but still request services or support from Econolite Systems, we will invoice labor and travel costs on a time and materials basis, based on actual costs plus a fixed fee. Time charges will be based on actual labor costs (with overhead and fringe) plus our standard markup, but not to exceed \$225.00 per hour. Fixed fee shall not exceed 15%. Typical costs to be in the range of \$6,000/1-week on site for labor and \$2,100 for travel costs. Invoice to be paid to Econolite Systems according to standard payment terms.

Communications

LI No. 7: Broadband Wireless – Econolite Systems will provide and configure Town owned Broadband wireless radios operating at up to 300MB/s. Note, eight broadband wireless radios are assumed.

Price: \$2,311 Each

LI No. 8: Cellular Charges (annual) – Line eliminated.

LI No. 9: VPN Appliance – Line eliminated.

LI No. 10: Field Ethernet Switch – A Layer 2 network switch is proposed with the broadband wireless solution (see line item no. 7). A Moxa EDS-508A or current model with power supply is proposed. Econolite Systems staff will work with the Town to develop a network design within the confines of the subnet assigned for the traffic signal system.

Price: \$1,416 Each

LI No. 11: Installation Services – Econolite Systems will install and integrate all communications equipment.

Price: \$32,433 Lump Sum

Should the Town opt to install the communication devices or outsource to a local contractor, but still request services or support from Econolite Systems, we will invoice labor and travel costs on a time and materials basis, based on actual costs plus a fixed fee. Time charges will be based on actual labor costs (with overhead and fringe) plus our standard markup, but not to exceed \$225.00 per hour. Fixed fee shall not exceed 15%. Typical costs to be in the range of \$6,000/1-week on site for labor and \$2,100 for travel costs. Invoice to be paid to Econolite Systems according to standard payment terms.



Video

LI No. 12: IP Dome Camera – Econolite Systems will provide and configure IP Dome Cameras at the intersections.

Price: \$4,215 Each

LI No. 13: Installation Services – Econolite Systems will install and integrate the IP Dome Cameras at the intersections.

Price: \$2,834 Each

Should the Town opt to install the video devices or outsource to a local contractor, but still request services or support from Econolite Systems, we will invoice labor and travel costs on a time and materials basis, based on actual costs plus a fixed fee. Time charges will be based on actual labor costs (with overhead and fringe) plus our standard markup, but not to exceed \$225.00 per hour. Fixed fee shall not exceed 15%. Typical costs to be in the range of \$6,000/1-week on site for labor and \$2,100 for travel costs. Invoice to be paid to Econolite Systems according to standard payment terms.

The price for the initial implementation of the first four intersections including CCTV cameras and communications is provided in Table 1.

Table 1. Implementation Pricing for First Four Intersections

Line Item	Description	Qty	Unit	Unit Price	Extended Price
Centracs					
1	Centracs Software Licenses and Modules	1	LS	\$57,614	\$57,614
2	Servers	1	EA	\$19,083	\$19,083
3	Work Stations	2	EA	\$5,276	\$10,552
4	Workstation Monitors	4	EA	\$346	\$1,348
5	Large Screen 65" Monitors	2	EA	\$2,049	\$4,098
6a	Integration Services	1	LS	\$61,892	\$61,892
6b	Installation Services	1	LS	\$6,611	\$6,611
Communications					
7	Broadband Wireless	8	EA	\$2,311	\$18,488
8	Cellular Charges (annual)		Line eliminated		
9	VPN Appliance		Line eliminated		
10	Field Ethernet Switch	4	EA	\$1,416	\$5,664
11	Installation Services	1	LS	\$32,433	\$32,433
Video					
12	IP Dome Camera ¹	8	EA	\$4,215	\$33,720
13	Installation Services	1	EA	\$2,834	\$22,672
Subtotal: First Four Intersections					\$274,211

¹ Two cameras are assumed at each of the initial four intersections

Additional Nine Intersections

Table 2 presents the additional price to add the remaining nine intersections to the Centrac implementation. Assumptions for this pricing include one IP Dome Camera per intersection and a total of sixteen (16) Broadband Wireless radios. For the broadband wireless solution, we have visually assessed the location of each intersection and potential wireless paths based on best practices as to the wireless network topology and the number of new radios required. The quantity and type of Broadband Wireless radios and associated price are subject to change based on initial path survey assessments.

Table 2. Implementation Pricing of Additional Nine Intersections

Line Item	Description	Qty	Unit	Unit Price	Extended Price
Centrac					
1	Centrac Software Licenses and Modules			No additional charge	
2	Servers			No additional charge	
3	Work Stations			No additional charge	
4	Workstation Monitors			No additional charge	
5	Large Screen 65" Monitors			No additional charge	
6a	Integration Services	1	LS	\$17,796	\$17,796
6b	Installation Services			No additional charge	
Communications					
7	Broadband Wireless	16	EA	\$2,243	\$35,888
8	Cellular Charges (annual)			Line eliminated	
9	VPN Appliance			Line eliminated	
10	Field Ethernet Switch	9	EA	\$1,104	\$9,936
11	Installation Services	1	LS	\$41,362	\$41,362
Video					
12	IP Dome Camera ²	9	EA	\$4,206	\$37,854
13	Installation Services	1	LS	\$24,903	\$24,903
Subtotal: Additional Nine Intersections					\$167,739

Reductions in pricing in this table versus the prior table are due to economies of scale and elimination of redundant work.

² One camera is assumed at each of the remaining nine intersections

Annual Software Maintenance Agreement (SMA)

LI No. 14: Software Maintenance Annual – Following a one-year Warranty, Econolite Systems will provide software maintenance on an annual term. Software maintenance is provided at three different levels as described below:

- **Bronze** – Provides for one annual upgrade for the supported software. Upgrades will be performed via a remote connection provided by the Agency. Technical support and services are provided via remote methods.
- **Silver** – Provides one annual upgrade for the supported software. Upgrades will be performed during a one-day (1-day) on-site visit by an Econolite engineer. Technical support and services are provided via remote methods.
- **Gold** – Provides one annual upgrade for the supported software. Upgrades will be performed during a three-day (3-day) on-site visit by an Econolite engineer. Informal refresher training is provided during the on-site visit along with the upgrade as needed. Technical support and services are provided via remote methods.

This is an optional item but is highly recommended as it provides unlimited support and free software upgrades following the warranty period. Table 3 summarizes the software maintenance pricing for each of the three levels.

Table 3. Software Maintenance Agreement Pricing

Description	Initial 4 intersections	Remaining 9 intersections	Total
Bronze	\$8,059	\$419	\$8,478
Silver	\$12,921	\$419	\$13,340
Gold	\$17,080	\$419	\$17,499

The software maintenance agreement covers system maintenance support of the base *Centracs* system software licensed to the Town and does not cover third party commercial off the shelf (COTS) software (even if that software is required for correct system operation), system hardware, communications equipment, or field equipment and software unless that software falls under the base *Centracs* system software license agreement.

However, for purposes of this project and resulting contract, Econolite Systems staff will provide remote telephone support and troubleshooting assistance for all products provided including:

- Centracs Software and purchased modules
- Genetec Video Management System
- Network Switches
- Broadband Radios

Should Econolite Systems staff be required on-site for advanced or in-depth support or troubleshooting, we may invoice the Town for any time, travel and lodging costs required for support or upgrades on a time and materials basis. It is noted that one on-site, annual visit is included for the silver and gold support agreements; additional visits may be invoiced accordingly.

Econolite Systems will invoice labor and travel costs on a time and materials basis, based on actual costs plus a fixed fee. Time charges will be based on actual labor costs (with overhead and fringe) plus our standard markup, but not to exceed \$225.00 per hour. Fixed fee shall not exceed 15%. Typical costs to be



in the range of \$6,000/1-week on site for labor and \$2,100 for travel costs. Invoice to be paid to Econolite Systems according to standard payment terms.

Discount for Full Turn Key Implementation

If the Town of Palm Beach elects to proceed with the full implementation of the items listed in Tables 1 and 2, along with a minimum of a 1 year SMA following a one-year Warranty, Econolite Systems will offer a \$15,000 discount. Table 4 presents the associated pricing with a 1-year Bronze SMA, but the discount will apply with a Silver or Gold SMA as well.

Table 4. Full Turn Key Pricing with Discount

Description	Total
Initial Implementation with Four Intersections	\$274,211
Additional Nine Intersections	\$167,739
One Year SMA (Bronze)	\$8,478
DISCOUNT	-\$15,000
TOTAL	\$435,428

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 29-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 18, Buildings And Building Regulations: At Section 18-201(B), By Changing The Required Plan Revision Submittal Timeframe From 15 Days To Noon, 9 Days Prior To The Architectural Commission Meeting At Which It Will Be Considered; 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 October 27, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 29-2017**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: ARCOM Ordinance Amendment
Section 18-201(b)
Plan Revisions Submittal Deadline
Ordinance No. 29-2017

Date: October 27, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council adopt attached Ordinance No. 29-2017 upon first reading, codifying the September decision to amend the ARCOM submittal deadline (from 15 days to 9 days) for project plan revisions.

GENERAL INFORMATION

At its regular monthly meeting in July, ARCOM recommended that the Town Code amend Chapter 18 of the Code of Ordinances, reverting to the former 7-day plan revisions deadline (as opposed to the 15-day plan revision deadline implemented last November). That recommendation was considered by the Council on September 19, during which a lengthy discussion occurred. It was the decision of the Town Council to amend the plan revision deadline, however the submittal deadline selected was at Noon, 9-days prior to a monthly ARCOM meeting.

Staff has prepared an Ordinance reflecting the Council's intention, and it is attached for first reading approval.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed the attached Ordinance and approved same for legal form and sufficiency.

cc: John C. Randolph, Town Attorney
Architectural Commissioners

ORDINANCE NO. 29- 2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS: AT SECTION 18-201(B), BY CHANGING THE REQUIRED PLAN REVISION SUBMITTAL TIMEFRAME FROM 15 DAYS TO NOON, 9 DAYS PRIOR TO THE ARCHITECTURAL COMMISSION MEETING AT WHICH IT WILL BE CONSIDERED; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, after receiving and considering a recommendation from the Architectural Commission that a revision be made to Chapter 18 of the Palm Beach Code of Ordinances specifying a required plan submittal deadline; and

WHEREAS, the Town Council gave due consideration to said recommendation during a regular public meeting on September 19, 2017 during which public comment was expressed regarding the proposed plan revision submittal deadline; and

WHEREAS, the Town Council directed Staff to prepare an Ordinance amending the plan revision deadline from 15-days to Noon, 9-days prior to a monthly Architectural Commission meeting;

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

Section 1. Division 3. PROCEDURE AND REQUIREMENTS is hereby amended to read as follows:

Sec. 18-201. - Preliminary sketch; site plan; final plan.

- (b) The applicant for a building permit, when subject to the requirements of this article, shall submit an application to, and on a standard form prescribed by, the planning, zoning and building department director or his/her designee, at least 35 days prior to the next regular meeting date for those projects classified as major projects or minor projects with notice as designated within the ARCOM Project Designation Manual. Required submittal materials also include a site plan as defined by [section 18-207](#) and exterior elevations and such other data as will assist the architectural commission and the planning, zoning and building department director or his/her designee in evaluating the proposed building or structure or major alteration. Final plans and elevations shall be drawn to scale and submitted in a format as specified by the planning, zoning and building department and shall be of sufficient clarity to indicate

the nature and extent of the work proposed and show in detail that it will confirm to the provisions of this Code. The first sheet of each set of plans shall give the street address of the work and the name and address of the owner and the person who prepared them. The final plot plan shall conform to [section 18-207](#). Plan revisions, if made, shall be submitted to the town ~~at least 15 days~~ **no later than Noon, 9 days** prior to the architectural commission meeting at which they will be considered. Only minor changes from those submitted may be presented and considered at that meeting. Work not thus presented may be rejected by the planning, zoning and building department director or his/her designee.

Section 2. Severability.

If any provision of the 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 7. 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 10th day of October, 2017, and for second and final reading on this 14th day of November, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 31-2017 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County Florida, Amending Chapter 14, Aviation, at Article II. Aircraft, so as to Rescind in its Entirety Section 14-35 Thereof, Relating to Drones; Model Aircraft in its Entirety; Providing for a New Section 14-35 Relating to Drones; Model Aircraft, so as to Provide a Definition of "Drones/Model Aircraft" and so as to Provide that Drones/Model Aircraft Operated in the Town Shall Comply with all Rules and Regulations of the Federal Aviation Administration (FAA) Relating to the Operation and Registration of Same, as well as all Rules and Regulations of the State of Florida Relating to said Operation.

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Memorandum Dated November 5, 2017, from Jay Boodheshwar, Deputy Town Manager**
- ▣ **Ordinance No. 31-2017**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Amendment to Town Code, Relative to Drone/Model Aircrafts
Ordinance No. 31-2017

Date: November 5, 2017

STAFF RECOMMENDATION

Staff recommends approval of Ordinance No. 31-2017, which will rescind a section of the Town Code in conflict with Federal Aviation Administration (FAA) regulations and Florida State Statutes, relative to the operations of drones and model aircrafts and add a new section that ensures compliance with current FAA regulations and State Statutes, as well as future changes.

GENERAL INFORMATION

After many months of research and discussion at multiple ORS Committee meetings in 2015 and 2016, Town Council adopted Ordinance 08-2016 in June 2016, regulating the operations of drones and model aircrafts within the Town of Palm Beach. Subsequent to the adoption of said ordinance staff discovered that the ordinance was in conflict with certain FAA regulations and recently approved modifications to Florida State Statutes.

Earlier this year, Town Attorney, Skip Randolph reached out to the FAA's Office of the Chief Counsel, Enforcement Division, Southern Team, to request a review of our ordinance to determine what conflicts may exist. Below are the sections of the Town's current Code that conflict with FAA regulations, as identified by FAA attorney, Brandon Goldberg.

- "Section 14-35(c), Prohibition, states that no person may "take *off*, *fly*, or land" an Unmanned Aircraft System ("UAS") within the Town unless specifically exempted or permitted in accordance with the ordinance. (Emphasis added). However, as noted in the Fact Sheet, state and local restrictions affecting UAS operations should be consistent with the extensive Federal statutory and regulatory framework pertaining to control of the airspace, flight management and efficiency, air traffic control, and aviation safety. While, as noted, state and local governments have the power to regulate generally where aircraft may takeoff and land, they do not have the authority to regulate aircraft operations. Since the 1950s, Federal courts have upheld the Federal Government's preemption of aircraft flight, including flight altitude.

- Section 14-35(d), subsection (c), raises similar concerns. Here, the Town would exempt UAS operations within the boundaries of the operator's real property and where the use is "personal." To the extent that this provision regulates where UAS may fly, it would not be consistent with the Federal statutory and regulatory framework as described in the Fact Sheet. It would also subject non-hobby (including commercial) UAS operations regulated by 14 C.F.R. part 107 to the prohibition on UAS operations that are not expressly exempted or permitted by the Town.
- Section 14-35(e), which describes the conditions under which the Town would permit educational, environmental, or commercial UAS operations, is not consistent with the Federal statutory and regulatory framework discussed in the Fact Sheet, including 14 C.F.R. part 107. This section, in combination with section (f), appears to regulate UAS operations, including altitude, airspeed, minimum visibility for flight, and when the UAS may be operated.
- Section 14-35(f) states that for UAS that qualify under section (e) for a permit, the UAS operators must apply for a permit "at least thirty (30) days prior to the date upon which the drone or model aircraft is to be operated." Such a pre-approval framework, which includes payment of a permit fee, is not consistent with the Federal statutory and regulatory framework as described in the Fact Sheet."

In addition to the FAA conflicts outlined above, Governor Rick Scott signed into law on June 23, 2017, an Act that took effect on July 1, 2017, which provides for regulatory preemption by the State over ordinances enacted at the local level to regulate drones and other unmanned aircrafts. See attached the highlighted sections of Chapter 2017-150.

After reviewing this matter at the September 7, 2017, ORS Committee meeting it was unanimously agreed that an ordinance should be prepared to rescind the conflicting section of the Town Code and add new language that is more general in nature, and relies on the FAA and State to regulate the operations of drones and model aircrafts. See attached Ordinance, which has been prepared for first reading.

TOWN ATTORNEY REVIEW

The Town Attorney prepared Ordinance 31-2017, and has approved it for legal form and sufficiency.

Attachment

cc: Thomas G. Bradford, Town Manager
 John C. Randolph, Town Attorney
 Kirk Blouin, Director of Public Safety
 Ann-Marie Taylor, Deputy Police Chief
 Darrel Donatto, Deputy Fire-Rescue Chief

ORDINANCE NO. 31-2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 14, AVIATION, AT ARTICLE II. AIRCRAFT, SO AS TO RESCIND IN ITS ENTIRETY SECTION 14-35 THEREOF, RELATING TO DRONES; MODEL AIRCRAFT IN ITS ENTIRETY; PROVIDING FOR A NEW SECTION 14-35 RELATING TO DRONES; MODEL AIRCRAFT, SO AS TO PROVIDE A DEFINITION OF "DRONES/MODEL AIRCRAFT" AND SO AS TO PROVIDE THAT DRONES/MODEL AIRCRAFT OPERATED IN THE TOWN SHALL COMPLY WITH ALL RULES AND REGULATIONS OF THE FEDERAL AVIATION ADMINISTRATION (FAA) RELATING TO THE OPERATION AND REGISTRATION OF SAME, AS WELL AS ALL RULES AND REGULATIONS OF THE STATE OF FLORIDA RELATING TO SAID OPERATION.

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

Section 1. Chapter 14, Aviation, of the Town Code of Ordinances is hereby amended at Article II, Aircraft, so as to rescind in its entirety Section 14-35 thereof, and so as to provide a new Section 14-35 as set forth herein.

"Sec. 14-35 Drones; Model Aircraft.

(a) Definition.

Drone/Model Aircraft is defined as a powered, aerial vehicle that:

- a) Is any contrivance used or designed to navigate or fly in the air;
- b) Does not carry a human;
- c) Uses aerodynamic forces to provide vehicle lift;
- d) Can fly autonomously or be piloted remotely;
- e) Can be expendable or recoverable;
- f) Model aircraft of less than three pounds and which do not carry a camera are not included within this definition.

(b) Operation of drone/model aircraft within the Town.

Drones and model aircraft operated within the Town shall be operated and registered in accordance with all rules and regulations of the Federal Aviation Administration (FAA) and the state of Florida relating to said operation and registration.”

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 upon its passage and approval, 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 ____ day October 2017, and for second and final reading on this ____ day of _____, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie K. Araskog, Town Council Member

Bobbie Lindsay, Town Council Member

ATTEST:

Susan A. Eichhorn, Town Clerk

P:\DOCS\13156\00008\DOC\1TA8077.DOC

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 32-2017 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 46, Fire Prevention and Protection, Amending Article III, “Fire Prevention”, in Accordance with Florida State Statute 633.202 and 633.208 the “Florida Fire Prevention Code” Adopted by the State of Florida Fire Marshal in Chapter 69a-60 of the Florida Administrative Code with Local Amendments, National Fire Protection Association Fire Code - N.F.P.A. 1, Florida 2015 Edition, and National Fire Protection Association Life Safety Code - N.F.P.A. 101, Florida 2015 Edition; Providing for Severability; Repealing All Ordinances or Parts of Ordinances in Conflict Herewith; Providing for Codification; and Providing for an Effective Date.

Presenter

Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- ▣ **Memorandum Dated November 2, 2017, from Kirk W Blouin, Director of Public Safety**
- ▣ **Ordinance No. 32-2017**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk W. Blouin, Public Safety Director

Re: Amendment to Chapter 46 of the Town Code of Ordinances Relating to Fire Prevention and Protection, Amending Article III, Fire Prevention Code, Section 46-66, Codes Adopted, Copies on File
Ordinance No. 32-2017

Date: November 2, 2017

STAFF RECOMMENDATION

Fire Rescue staff recommends that the Town Council approve Ordinance No.32-2017 on first reading in accordance with Florida Administrative Code, Chapter 69A-60, the Florida Fire Prevention Code, including:

- NFPA 1, the Fire Code, Florida 2015 Edition
- NFPA 101, the Life Safety Code, Florida 2015 Edition

GENERAL INFORMATION

It is necessary that the above Codes be adopted to maintain the three-year cycle mandated by the State of Florida in Chapter 633.202 and 633.208, Florida Statutes, requiring local governments to enforce statewide Florida Administrative Code Chapter 69A-60, the Florida Fire Prevention Code, as adopted by the State of Florida Fire Marshal, with Local Amendments, as the minimum Fire Safety Code, including NFPA 1, the Fire Code, Florida 2015 Edition and NFPA 101, the Life Safety Code, Florida 2015 Edition. The amendment of Chapter 46 of the Town Code of Ordinances relating to Fire Prevention and Protection at Article III, Fire Prevention Code, Section 46-66, will give the Fire Rescue Department the necessary tools to enforce fire, life and safety issues within the Town of Palm Beach limits. The last time the Town Council approved the codes used by Fire Rescue for enforcement was January 10, 2014.

FUNDING/FISCAL IMPACT

The funding relating to the adoption of this code amendment is negligible and has already been budgeted.

TOWN ATTORNEY REVIEW

The proposed Ordinance has been reviewed by the Town Attorney and approved for legal form and sufficiency.

MD

Attachments: Ordinance No. 32-2017

ORDINANCE NO. 32-2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 46, FIRE PREVENTION AND PROTECTION, AMENDING ARTICLE III, "FIRE PREVENTION", IN ACCORDANCE WITH FLORIDA STATE STATUTE 633.202 AND 633.208 THE "FLORIDA FIRE PREVENTION CODE" ADOPTED BY THE STATE OF FLORIDA FIRE MARSHAL IN CHAPTER 69A-60 OF THE FLORIDA ADMINISTRATIVE CODE WITH LOCAL AMENDMENTS, NATIONAL FIRE PROTECTION ASSOCIATION FIRE CODE - N.F.P.A. 1, FLORIDA 2015 EDITION, AND NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE - N.F.P.A. 101, FLORIDA 2015 EDITION; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. Chapter 46 of the Town Code of Ordinances, relating to Fire Prevention and Protection, is hereby amended at Article III, Fire Prevention, and Section 46-66, to read as follows:

"Section 46-66. Codes adopted; copies on file.

(a) There are hereby adopted by the Town, for the purpose of prescribing regulations governing conditions hazardous to the health, safety, welfare, life and property from fire or explosion, certain codes in accordance with Florida State Statute 633.202 and 633.208 the "Florida Fire Prevention Code" adopted by the State Fire Marshal Chapter 69A-60 of the Florida Administrative Code, as may be amended, including N.F.P.A. 1 Fire Code, Florida 2015 Edition, and the N.F.P.A. 101 Life Safety Code, Florida 2015 Edition, both as modified by Chapter 69A-60 of the Florida Administrative Code, all of which are deemed adopted by reference, as fully as if set out at length herein, as the minimum fire safety code. If conflicts exist between the codes, the more stringent shall be applied at the discretion of the Director of Public Safety or his or her representatives.

(b) A copy of each of the above codes is on file and open to inspection by the public in the office of the Town Clerk."

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 that 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 upon its passage and approval, 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 November, 2017, and for second and final reading on this 12th day of December, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: November 14, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

EMERGENCY ORDINANCE NO. 33-2017 An Emergency Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances Relating To Personnel, at Article II, Employee Benefits, Division 2, Retirement System; Amending Subdivision I, In General, By Creating a New Section 82-76, Preservation of Benefits Plan; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Time Certain

12:00 PM

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- ❑ **Memorandum dated November 8, 2017 from Jim Linn**
- ❑ **Exhibit to Memorandum**
- ❑ **Emergency Ordinance No. 33-2017**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: James W. Linn, Pension Counsel

Re: Emergency Ordinance Amending the Town of Palm Beach Retirement System to Create
a Preservation of Benefits Plan
Ordinance No. 33-2017

Date: November 8, 2017

RECOMMENDATION

It is recommended the Town Council approve Emergency Ordinance No. 33-2017, establishing a “Preservation of Benefits Plan” for certain current and former Town employees. The Preservation of Benefits Plan is expressly authorized by section 415(m) of the U.S. Internal Revenue Code.

GENERAL INFORMATION

Section 415 of the Internal Revenue Code establishes a maximum limit on the annual benefits that can be paid from a qualified retirement plan. The Town of Palm Beach Retirement System is a qualified retirement plan. The Town recently became aware that the retirement benefits of one current and one former employee has or will exceed the Section 415 benefit limit. Section 415(m) of the Internal Revenue Code authorizes governmental entities to establish a qualified governmental excess benefit arrangement (also known as a preservation of benefits plan) to provide for payment of retirement income that exceeds the Section 415 limit. Payments from the preservation of benefits plan are made by the Town, not the Retirement System. However, the preservation of benefits payments will be offset by reductions in the Town’s contributions to the Retirement System, such that the present value of the preservation of benefits payments will equal the reductions in the Town’s retirement contributions. In addition, the Town has reached a proposed settlement with GRS, the Retirement System actuary. Under the proposed settlement agreement, GRS will pay \$68,000 to resolve all claims concerning the excess benefits at issue, including repaying the former employee for the full amount of excess benefits received, which the former employee will have to repay to the Retirement System.

FISCAL IMPACT

The fiscal impact to the Town for the preservation of benefits plan is shown in Exhibit A. This exhibit shows the projected excess benefit payments to the two individuals over the next 50 years, and the offsetting reductions to the Town's required contributions to the Retirement System. The present value numbers at the bottom of the page show that the present value of the projected excess benefit payments is equal to the present value of the reduction in the Town's retirement contributions.

TOWN ATTORNEY REVIEW

Ordinance No. 33-2016 was prepared by Jim Linn, a shareholder with Lewis, Longman and Walker, the Town's pension counsel

Attachments

cc: William Hanes, Pension Administrator
Jane Struder, Director of Finance
Danielle Olson, Director of Human Resources
John Randolph, Town Attorney

Town of Palm Beach Retirement System

	Projected Payment by the Town for Benefits in Excess of the 415 limit				Estimated Impact on ADEC for the Retirement System Under 25 Year Amortization ¹			Total Excess Plan Payments Over Reduction in Ret System ADEC
Fiscal Year Ending	Overpymts for Elwell (A)				(B)			= (A) + (B)
	Elwell	Blouin	(2015 - 2017)	Total	Elwell	Blouin	Total	
2018	12,961	-	41,337	54,298	(16,912)	-	(16,912)	37,386
2019	12,559	-	-	12,559	(17,377)	-	(17,377)	(4,818)
2020	12,412	-	-	12,412	(17,855)	-	(17,855)	(5,443)
2021	12,313	25,390	-	37,703	(18,346)	(14,477)	(32,823)	4,880
2022	14,837	28,846	-	43,683	(18,850)	(14,875)	(33,725)	9,958
2023	14,811	27,480	-	42,291	(19,368)	(15,285)	(34,653)	7,638
2024	14,828	26,197	-	41,025	(19,901)	(15,705)	(35,606)	5,419
2025	14,889	24,994	-	39,883	(20,448)	(16,137)	(36,585)	3,298
2026	14,992	23,873	-	38,865	(21,011)	(16,581)	(37,591)	1,274
2027	15,137	22,833	-	37,970	(21,588)	(17,036)	(38,625)	(655)
2028	18,854	21,873	-	40,727	(22,182)	(17,505)	(39,687)	1,040
2029	22,094	20,995	-	43,089	(22,792)	(17,986)	(40,778)	2,311
2030	19,898	15,652	-	35,550	(23,419)	(18,481)	(41,900)	(6,350)
2031	20,138	14,985	-	35,123	(24,063)	(18,989)	(43,052)	(7,929)
2032	20,401	14,401	-	34,802	(24,725)	(19,511)	(44,236)	(9,434)
2033	20,683	13,899	-	34,582	(25,405)	(20,048)	(45,453)	(10,871)
2034	20,979	13,478	-	34,457	(26,103)	(20,599)	(46,703)	(12,246)
2035	21,284	13,137	-	34,421	(26,821)	(21,166)	(47,987)	(13,566)
2036	21,588	12,869	-	34,457	(27,559)	(21,748)	(49,306)	(14,849)
2037	19,778	8,529	-	28,307	(28,316)	(22,346)	(50,662)	(22,355)
2038	20,111	8,471	-	28,582	(29,095)	(22,960)	(52,056)	(23,474)
2039	20,425	8,483	-	28,908	(29,895)	(23,592)	(53,487)	(24,579)
2040	18,764	4,645	-	23,409	(30,717)	(24,241)	(54,958)	(31,549)
2041	19,074	4,866	-	23,940	(31,562)	(24,907)	(56,469)	(32,529)
2042	19,341	5,147	-	24,488	(32,430)	(25,592)	(58,022)	(33,534)
2043	17,801	1,843	-	19,644	-	(26,296)	(26,296)	(6,652)
2044	18,017	2,324	-	20,341	-	(27,019)	(27,019)	(6,678)
2045	16,560	-	-	16,560	-	(27,762)	(27,762)	(11,202)
2046	16,703	98	-	16,801	-	-	-	16,801
2047	15,318	-	-	15,318	-	-	-	15,318
2048	15,364	-	-	15,364	-	-	-	15,364
2049	13,990	-	-	13,990	-	-	-	13,990
2050	13,806	-	-	13,806	-	-	-	13,806
2051	12,375	-	-	12,375	-	-	-	12,375
2052	10,967	-	-	10,967	-	-	-	10,967
2053	10,447	-	-	10,447	-	-	-	10,447
2054	9,025	-	-	9,025	-	-	-	9,025
2055	7,669	-	-	7,669	-	-	-	7,669
2056	6,397	-	-	6,397	-	-	-	6,397
2057	5,650	-	-	5,650	-	-	-	5,650
2058	4,474	-	-	4,474	-	-	-	4,474
2059	3,444	-	-	3,444	-	-	-	3,444
2060	2,620	-	-	2,620	-	-	-	2,620
2061	1,927	-	-	1,927	-	-	-	1,927
2062	1,400	-	-	1,400	-	-	-	1,400
2063	977	-	-	977	-	-	-	977
2064	673	-	-	673	-	-	-	673
2065	413	-	-	413	-	-	-	413
2066	269	-	-	269	-	-	-	269
2067	168	-	-	168	-	-	-	168
Present Value	214,827	177,118	38,633	430,578	(253,460)	(177,118)	(430,578)	0

¹ Includes impact of \$41,337 reimbursement payment to the Retirement System due to overpayments for Elwell from 2015 - 2017.

EMERGENCY ORDINANCE NO. 33-2017

AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 82 OF THE TOWN CODE OF ORDINANCES RELATING TO PERSONNEL, AT ARTICLE II, EMPLOYEE BENEFITS, DIVISION 2, RETIREMENT SYSTEM; AMENDING SUBDIVISION I, IN GENERAL, BY CREATING A NEW SECTION 82-76, PRESERVATION OF BENEFITS PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 415 of the Internal Revenue Code establishes a maximum limit on the annual benefits that can be paid from a qualified retirement plan; and

WHEREAS, the Town of Palm Beach recently became aware that the retirement benefits of one current and one former Town employee have or will exceed the Section 415 limit; and

WHEREAS, Section 415(m) of the Internal Revenue Code authorizes a qualified governmental excess benefit arrangement to provide for payment of retirement income that would have been available to members of a qualified retirement plan if the benefit provisions of the retirement plan were to apply without the limitation in Section 415; and

WHEREAS, it is in the interest of the Town and its employees to establish a qualified governmental excess benefit arrangement; and

WHEREAS, to implement a qualified governmental excess benefit arrangement in a timely manner such that there is no loss of benefits to any current or former Town employee, it is necessary to adopt an emergency ordinance creating such plan, denominated herein as a "Preservation of Benefits Plan;"

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

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision I, In General; by creating a new Section 82-76 to read as follows:

Section 82-76. Preservation of Benefits Plan.

(1) Effective November 1, 2017, a preservation of benefits plan is established for members of the Town of Palm Beach Retirement System. This preservation of benefits

plan is established as a qualified governmental excess benefits arrangement as described in Section 415(m) of the U.S. Internal Revenue Code, to provide payment of retirement income that would have been available to retired Town employees and their beneficiaries if the benefit provisions of the retirement plan were to apply without the limitation in Section 415(b) of the Internal Revenue Code.

(2) Eligibility to participate in preservation of benefits plan: A payee of the Town of Palm Beach Retirement System who retires or enters the DROP on or after July 1, 2014 and before November 1, 2017, and the beneficiaries of such payee, shall participate in the preservation of benefits plan whenever his or her benefit under the Retirement System is reduced by application of Section 415(b) of the Internal Revenue Code. Participation in the preservation of benefits plan shall continue for as long as the payee's benefit under the Town Retirement System is reduced by application of Section 415(b) of the Internal Revenue Code.

(3) Benefits payable under the preservation of benefits plan:

(a) The Town shall pay to each eligible payee of the Town of Palm Beach Retirement System a supplemental retirement benefit equal to the difference, determined on an annual basis, between the amount of the payee's monthly retirement benefit which would have been payable under the Town Retirement System if not for a reduction due to the application of Section 415(b) of the Internal Revenue Code, and the reduced monthly retirement benefit paid by the Retirement System to the payee. The preservation of benefits plan benefit shall be computed and payable under the same terms and conditions and to the same person as would have applied under the Town of Palm Beach Retirement System without application of Section 415(b) of the Internal Revenue Code. Benefits under the preservation of benefits plan shall be paid only if the payee has separated from Town employment and is receiving benefits from the Town of Palm Beach Retirement System. Benefits under the preservation of benefits plan shall not be payable during any period of DROP participation. The form of the benefit paid under the preservation of benefits plan shall be the same as otherwise selected by the payee and payable under the Town of Palm Beach Retirement System.

(b) The benefits payable under the preservation of benefits plan may not be assigned or alienated by a payee, except as otherwise permitted for benefits payable under the Town of Palm Beach Retirement System.

(4) Contributions: The preservation of benefits plan shall be unfunded and unsecured within the meaning of the federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise shall be made or allowed under the preservation of benefits plan.

(5) Administration: The preservation of benefits plan shall be administered by the Town. Benefits due under the preservation of benefits plan as determined by the Town

Finance Director shall be paid timely by the Town. The Finance Director may make modifications to the benefits payable under the preservation of benefits plan as may be necessary to maintain compliance with Section 415(m) and other relevant sections of the Internal Revenue Code.

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 upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular session of the Town Council of the Town of Palm Beach on first and final reading this _____ day of _____, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, President Pro Tem

ATTEST:

Julie Araskog, Town Council Member

Kathleen Dominguez, Town Clerk

Bobbie Lindsay, Town Council Member

Margaret Zeidman, Town Council Member