

TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

WEDNESDAY, NOVEMBER 10, 2010

9:30 AM

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

The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and selecting "Your Government" and then selecting "Live Meeting Audio." If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting under "Agendas, Minutes, and Audio."

No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

- I. CALL TO ORDER AND ROLL CALL
- II. INVOCATION AND PLEDGE OF ALLEGIANCE
- III. COMMENTS OF MAYOR JACK McDONALD
- IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Post Office Box 2029 * 360 South County Road * Palm Beach, Florida 33480
Telephone (561) 838-5410 * Facsimile (561) 838-5411 * townmanager@townofpalmbeach.com

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE
(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

VI. APPROVAL OF AGENDA

VII. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 26-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, at Section 134-2 to Add Clarifying Language Relative to the Rules of Construction of the Zoning Ordinance; Sections 134-36, 134-145, 134-171, 134-327, 134-330, 134-561, 134-1576 and 134-1577 to Change the Reference from Building Official to Director of the Planning, Zoning and Building Department; Section 134-7 to Include Site Plan Review in Penalties for Violation; Sec. 134-235 to Not Allow Dimensional Waiver Approval If There Is Neighbor Objection; Section 134-326 to Provide Additional Requirements for Administrative Site Plan Review; Sections 134-416, 134-417, 134-418 and 134-419 to Provide Language That Allows Expansion of Nonconforming Multi-family and Commercial Buildings or Structures Provided it Does Not Make the Buildings or Structures More Nonconforming; Sections 134-446 by Modifying the Section Title and Clarifying That Residential Development and Redevelopment Is Required to Meet Density Requirements in the Town's Comprehensive Plan in Certain Situations; Section 134-888 by Expanding Accessory Commercial Uses Allowed for the Town Golf Course and Tennis Court Facilities; Sections 134-942, 134-997 and 134-1052 to Replace the Word "May" with "Shall" in Order to Require Site Plan Review in R-C, R-D(1) and R-D(2) Zoning Districts and Correct a Cross Reference; Sections 134-949, 134-1005, and 134-1061 to Eliminate the Reference to Cubic Content in the R-C, R-D(1) and R-D(2) Zoning Districts as That Term Does Not Apply in Those Zoning Districts; Section 134-1732 to Provide a Cross Reference to the Fee for a Temporary Storage Unit, Increase The Maximum Length of Time for Said Unit, Limit the Number of Times Allowed per Calendar Year and a Suspension Provision from this Regulation During a State of Emergency; Sections 134-2172, 134-2179 and 134-2237 to Change the Required Parking

Page 7

Stall Dimension And/or Drive Aisle Width to Be Consistent with Other Sections of the Code; Sections 134-2296 and 134-2329 by Eliminating the Specific Costs for Parking Permits and Providing a Reference to the Fee Schedule; Section 134-2409 to Correct Typographical Errors in the Residential Political Sign Section of the Code; Section 134-2446 to Create a Section to Include a Political Sign Provisions in the Commercial Zoning Districts; Section 134-1107 and 134-1109 to Permit Office Uses on the First Floor in the Two Hundred Block of Peruvian Avenue and Bradley Place in the C-TS Zoning District; Section 134-797, 134-847, 134-898, 134-953, 134-1009 and 134-1065 to Increase the Maximum Height of the Finished Floor from Grade and Require Building Permits to Fill and Raise the Grade of Property in the R-AA, R-A, R-B, R-C, R-D(1) and R-D(2) Residential Zoning District; Section 134-1733 by Creating Said Section for Regulations for the Screening of Existing and Future Dumpsters; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

[John Page, Director of Planning, Zoning, and Building]

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. Time Extensions & Waivers Request for Waiver of Section 42-199, Hours of Construction Work, at 351/347 Worth Avenue (Everglades Club) (Per Letter Dated October 21, 2010, From Maura A. Ziska).

Page 34

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business – Less than 15 Minutes

None

2. New Business – Less than 15 Minutes

a. **SITE PLAN REVIEW #10-2010 WITH VARIANCES**

The application of the Town of Palm Beach; relative to property commonly known as **1060 North Lake Way**; described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a Site Plan Review to add an addition onto the D-10 Storm Water Pump Station and replace a 500 kw generator with a 750 kw generator. The variances to raise the height of a portion of the building and replace the generator are as follows: to

Page 39

allow a front yard setback of 23.5 feet in lieu of the 25 foot minimum required; to allow a north and south side yard setback of 11 feet (south and 8.1 feet (north) in lieu of the 12.5 feet minimum required; to allow a building height of 20.5 feet in lieu of the 10.67 feet existing and the 14 foot maximum allowed; to allow an overall building height of 21.5 feet in lieu of the 12.67 feet existing and the 17 foot overall maximum building height allowed. [Attorney: John C. Randolph]
[ARCOM Recommendation: Approval of the variances will not cause negative architectural impacts. Carried 5-0.]

- b. **SPECIAL EXCEPTION #19-2010** The application of Bank United; relative to property commonly known as **2875 South Ocean Blvd.**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a Special Exception to permit the operation of a 4,004 square foot full service bank in the C-TS zoning district and to permit the operation of 3 existing drive-thru lanes in support of bank use. [Attorney: Alfred J. Malefatto]
- c. **VARIANCE #19-2010** The application of Jason Evans; relative to property commonly known as **208 Brazilian Avenue**; described as Royal Park Addition, Lot 32, Block G; located in the C-TS Zoning District. The applicant is requesting a variance to allow a real estate brokerage office, consisting of approximately 490 square feet on the first floor which is in contradiction to the Code which does not allow an office on the first floor. The space is currently occupied by Casa Decora, LLC. [Attorney: Jason Evans]
- d. **VARIANCE #21-2010** The application of Palm Beach Newspapers, Inc.; relative to property commonly known as **249/251 Royal Palm Way**; described as Lot 15, (less the Northerly 65 ft of the Easterly 25 ft of said lot) and the South 135 ft of Lot 16, and Lot 58, all of Block A, REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 4, Page 1; located in the C-OPI Zoning District. The applicant is requesting a variance to allow a business identification sign on the side of a building that does not front onto a street front or side wall. [Attorney: Maura A. Ziska]

Page 43

- e. **VARIANCE #22-2010** The application of Stephen F and Camilla T. Brauer; relative to property commonly known as **131 Barton Avenue**; described lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow construction of a 2,926 square foot two story guest house/garage addition with a cubic content ratio (CCR) of 4.84 in lieu of the 3.99 existing and 4.07 maximum allowed in the R-B Zoning District. [Attorney: Maura A. Ziska]
[ARCOM Recommendation: Approval of the variance will not cause negative architectural impacts. Carried 4-1.]

Page 45

3. Old Business – More than 15 Minutes

None

4. New Business – More than 15 Minutes

None

C. Other

1. Consideration of Consultant's Town Serving Report and Planning and Zoning Commission's Recommendations.
[Bill Brisson of LaRue Planning & Management Services]

Page 47

2. Request to Consider Zoning Ordinance No. 26-10 Prior to 5:00 p.m. at Second Reading of Ordinance.
[John Page, Director of Planning, Zoning, and Building]

Page 82

3. Further Consideration of Potential Use of Hold Harmless Agreements to Expedite Occupancy of Certain Commercial Properties. [John C. Randolph, Town Attorney]

Page 84

IX. ANY OTHER MATTERS

X. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** 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 2:** 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 3:** 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 4:** A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting on: November 10, 2010

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 26 -10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, at Section 134-2 to Add Clarifying Language Relative to the Rules of Construction of the Zoning Ordinance; Sections 134-36, 134-145, 134-171, 134-327, 134-330, 134-561, 134-1576 and 134-1577 to Change the Reference from Building Official to Director of the Planning, Zoning and Building Department; Section 134-7 to Include Site Plan Review in Penalties for Violation; Sec. 134-235 to Not Allow Dimensional Waiver Approval If There Is Neighbor Objection; Section 134-326 to Provide Additional Requirements for Administrative Site Plan Review; Sections 134-416, 134-417, 134-418 and 134-419 to Provide Language That Allows Expansion of Nonconforming Multi-family and Commercial Buildings or Structures Provided it Does Not Make the Buildings or Structures More Nonconforming; Sections 134-446 by Modifying the Section Title and Clarifying That Residential Development and Redevelopment Is Required to Meet Density Requirements in the Town's Comprehensive Plan in Certain Situations; Section 134-888 by Expanding Accessory Commercial Uses Allowed for the Town Golf Course and Tennis Court Facilities; Sections 134-942, 134-997 and 134-1052 to Replace the Word "May" with "Shall" in Order to Require Site Plan Review in R-C, R-D(1) and R-D(2) Zoning Districts and Correct a Cross Reference; Sections 134-949, 134-1005, and 134-1061 to Eliminate the Reference to Cubic Content in the R-C, R-D(1) and R-D(2) Zoning Districts as That Term Does Not Apply in Those Zoning Districts; Section 134-1732 to Provide a Cross Reference to the Fee for a Temporary Storage Unit, Increase The Maximum Length of Time for Said Unit, Limit the Number of Times Allowed per Calendar Year and a Suspension Provision from this Regulation During a State of Emergency; Sections 134-2172, 134-2179 and 134-2237 to Change the Required Parking Stall Dimension And/or Drive Aisle Width to Be Consistent with Other Sections of the Code; Sections 134-2296 and 134-2329 by Eliminating the Specific Costs for Parking Permits and Providing a Reference to the Fee Schedule; Section 134-2409 to Correct Typographical Errors in the Residential Political Sign Section of the Code; Section 134-2446 to Create a Section to Include a Political Sign Provisions in the Commercial Zoning Districts; Section 134-1107 and 134-1109 to Permit Office Uses on the First Floor in the Two Hundred Block of Peruvian Avenue and Bradley Place in the C-TS Zoning District; Section 134-797, 134-847, 134-898, 134-953, 134-1009 and 134-1065 to Increase the Maximum Height of the Finished Floor from Grade and Require Building Permits to Fill and Raise the Grade of Property in the R-AA, R-A, R-B, R-C, R-D(1) and R-D(2) Residential Zoning District; Section 134-1733 by Creating Said Section for Regulations for the Screening of Existing and Future Dumpsters; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated October 26, 2010, from John Page
- Ordinance No. 26-10

TOWN OF PALM BEACH

Information for Town Council Meetings on: November 10, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 134, Zoning
Ordinance No. 26-10

Date: October 26, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 26-10 on first reading of the Ordinance.

LOCAL PLANNING AGENCY RECOMMENDATION

The Local Planning Agency (LPA), at its meeting of September 21, 2010, recommended by a series of affirmative votes, approval of all but two sections of the attached proposed Ordinance No. 26-10. The exception is that the LPA recommended that the Council not adopt Sections 33 and 34 of the proposed Ordinance which would allow offices as a permitted use on the first floor in the 200 block of Peruvian Avenue and Bradley Place as recommended by Staff.

GENERAL INFORMATION

The Town Council directed staff to review the entire Code of Ordinances and identify any Code provisions that are deficient, antiquated or in error. As part of that process, the Planning, Zoning and Building Department completed a review of Chapter 134, Zoning, and identified provisions which need change. The Planning and Zoning Commission, acting as the Local Planning Agency (LPA), considered Ordinance No. 26-10 at their August 17, 2010 and September 21, 2010 meetings. The LPA made several modifications. Staff concurs with all but one of the LPA's recommendations.

At the August meeting, the LPA requested that Staff modify the original proposal to narrow the scope of the proposed change which would have allowed office uses on the first floor in the C-TS zoning district. It was requested that Staff look at areas within that District used predominantly by office uses on the first floor. Based on that direction, Staff researched and brought back a proposal to allow office uses on the first floor in the 200 block of Peruvian Avenue and Bradley Place. Both of those areas are predominately occupied by office uses and do not lend themselves to retail window shopping. While Staff believes this proposal has merit, the LPA, after hearing

testimony, decided that the current regulations protect the retail zoning district while providing a mechanism to allow office uses in predominately office areas. The Commission rejected the Staff proposal by a vote of 5-2 (Mr. Goldboro and Mr. Crampton dissenting and Mr. Lawrence and Mr. Cloninger recusing themselves).

Staff has provided a brief summary of the intended result of each section of the draft Ordinance:

1. Section 1 adds language in the Rules of Construction of Chapter 134 that identifies the Zoning Code as only allowing uses, buildings or structures which are specifically provided for in the Code. The proposal also provides that when there is a conflict in the language in the Code, that the more restrictive language applies.
2. Sections 2 through 9 appropriately change the reference from building official to the director of planning, zoning and building (or designee in some cases) throughout the zoning code. The change is necessary because the building official is no longer the director, as was historically true.
3. Section 10 modifies the provisions for violations to include remedies for violations of site plan review approval. The Code is currently silent on the ramifications of violating an approved site plan.
4. Section 11 modifies the provisions of administrative zoning waivers to preclude said approval by the director of planning, zoning and building if there is abutting property owner(s) objection. The current code provision does not have a specific provision to deny a zoning waiver if there is an abutting neighbor objection.
5. Section 12 modifies the administrative site plan review process by adding conditions that must be met in order to obtain administrative approval. Those conditions are that prior ARCOM or Landmark Commission approval be obtained, and that there be no objection from a noticed property owner during the Commission approval process.
6. Sections 13 through 16 modify the nonconforming provisions to allow additions on all nonconforming buildings and structures without a required variance, provided the additions meet the lot, yard and bulk regulations. Except for single-family homes, the code currently prohibits conforming additions on nonconforming buildings or structures.
7. Section 17 modifies the title and changes the language to clarify that residential development and redevelopment is required to meet the density requirements for the underlying future land use designation of property if the property has been assembled for

redevelopment, or has not existed in the same lot configuration for the last thirty years.

8. Section 18 modifies accessory uses in the R-B zoning district to specifically include a provision which allows businesses customarily associated with the Town's golf course and tennis court facilities.
9. Sections 19 through 21 rectify inconsistent language in the R-C, R-D(1) and R-D(2) multi-family zoning district. The multi-family sections of the Code require site plan review from the Town Council, however, the permitted use sections of each of those zoning districts states that multi-family uses may require site plan review. The proposed language is changed to provide consistency between these provisions so that site plan review shall be required. The language also corrects the cross reference for site plan review in the R-C zoning district.
10. Sections 22 through 24 eliminate incorrect references that prohibit additions that create more cubic content than allowed. There are no cubic content regulations in the R-C, R-D(1) and R-D(2) zoning districts. Those specific sections of the Code, with the elimination of the incorrect reference, still prohibit additions which do not meet the lot, yard and bulk regulations for the respective district.
11. Section 25 references a fee for a temporary roll-off storage unit, portable on-demand storage unit, or temporary storage unit permit, provides for a longer period for the use of the unit and limits the number of times that a storage unit can be on a property per calendar year. The proposed changes also include a provision which exempts property owners from these regulations during a State of Emergency. The reference is the minimum fee which is adopted by resolution (\$75 at this time).
12. Sections 26 through 28 correct inconsistencies in two provisions related to the minimum size of parking spaces and minimum drive aisle widths. The changes identify the correct dimensional requirements.
13. Section 29 and 30 eliminate the specific fees for annual parking permits and visitor/service permits and references those fees which are adopted by resolution.
14. Section 31 makes small changes in the political sign regulations which are grammatical and change the term "defeat" to "opposition" in the residential zoning districts.
15. Section 32 creates political sign regulations for the commercial zoning districts which are consistent with the regulations in the residential zoning districts.

First Reading by the Town Council of Ordinance No. 26-10, Proposed Modifications and Changes to Chapter 134, Zoning.

October 26, 2010

Page 4

16. Sections 33 and 34 modify the C-TS zoning district to allow offices, financial offices, and trust companies as permitted uses on the first floor in the 200 block of Peruvian Avenue and Bradley Place. Executive suite offices which cater to several different office businesses in the same tenant space are intended to remain above the first floor in this modification.
17. Sections 35 through 40 modify lot grading and drainage provisions in all residentially zoned districts to increase the height allowed for the finished floor of a building from six inches to eight inches above the established grade of the property and specifically require a building permit which meets the Town's paving and drainage requirements in order to alter and raise the grade of a lot.
18. Section 41 creates zoning provisions to require commercial, institutional and multi-family uses to provide properly enclosed and screened dumpster and recycle container areas.
19. Section 42 through 44 contain standard language provided in all ordinances.

If you have any questions regarding Ordinance No. 26-10 or staff's suggested changes, please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

Ordinance No. 26-10 was approved by Town Attorney Randolph for legal form and sufficiency.

Attachment

cc: John C. Randolph, Town Attorney
Veronica B. Close, Asst. Director, Planning, Zoning & Building
Joanna Cunningham, Town Clerk
Paul W. Castro, Zoning Administrator
John Lindgren, Planning Administrator
zf

ORDINANCE NO. 26 -10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, AT SECTION 134-2 TO ADD CLARIFYING LANGUAGE RELATIVE TO THE RULES OF CONSTRUCTION OF THE ZONING ORDINANCE; SECTIONS 134-36, 134-145, 134-171, 134-327, 134-330, 134-561, 134-1576 AND 134-1577 TO CHANGE THE REFERENCE FROM BUILDING OFFICIAL TO DIRECTOR OF THE PLANNING, ZONING AND BUILDING DEPARTMENT; SECTION 134-7 TO INCLUDE SITE PLAN REVIEW IN PENALTIES FOR VIOLATION; SEC. 134-235 TO NOT ALLOW DIMENSIONAL WAIVER APPROVAL IF THERE IS NEIGHBOR OBJECTION; SECTION 134-326 TO PROVIDE ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE SITE PLAN REVIEW; SECTIONS 134-416, 134-417, 134-418 AND 134-419 TO PROVIDE LANGUAGE THAT ALLOWS EXPANSION OF NONCONFORMING MULTI-FAMILY AND COMMERCIAL BUILDINGS OR STRUCTURES PROVIDED IT DOES NOT MAKE THE BUILDINGS OR STRUCTURES MORE NONCONFORMING; SECTIONS 134-446 BY MODIFYING THE SECTION TITLE AND CLARIFYING THAT RESIDENTIAL DEVELOPMENT AND REDEVELOPMENT IS REQUIRED TO MEET DENSITY REQUIREMENTS IN THE TOWN'S COMPREHENSIVE PLAN IN CERTAIN SITUATIONS; SECTION 134-888 BY EXPANDING ACCESSORY COMMERCIAL USES ALLOWED FOR THE TOWN GOLF COURSE AND TENNIS COURT FACILITIES; SECTIONS 134-942, 134-997 AND 134-1052 TO REPLACE THE WORD "MAY" WITH "SHALL" IN ORDER TO REQUIRE SITE PLAN REVIEW IN R-C, R-D(1) AND R-D(2) ZONING DISTRICTS AND CORRECT A CROSS REFERENCE; SECTIONS 134-949, 134-1005, AND 134-1061 TO ELIMINATE THE REFERENCE TO CUBIC CONTENT IN THE R-C, R-D(1) AND R-D(2) ZONING DISTRICTS AS THAT TERM DOES NOT APPLY IN THOSE ZONING DISTRICTS; SECTION 134-1732 TO PROVIDE A CROSS REFERENCE TO THE FEE FOR A TEMPORARY STORAGE UNIT, INCREASE THE MAXIMUM LENGTH OF TIME FOR SAID UNIT, LIMIT THE NUMBER OF TIMES ALLOWED PER CALENDAR YEAR AND A SUSPENSION PROVISION FROM THIS REGULATION DURING A STATE OF EMERGENCY; SECTIONS 134-2172, 134-2179 AND 134-2237 TO CHANGE THE REQUIRED PARKING STALL DIMENSION AND/OR DRIVE AISLE WIDTH TO BE CONSISTENT WITH OTHER SECTIONS OF THE CODE; SECTIONS 134-2296 AND 134-2329 BY ELIMINATING THE SPECIFIC COSTS FOR PARKING PERMITS AND PROVIDING A REFERENCE TO THE FEE SCHEDULE; SECTION 134-2409 TO CORRECT TYPOGRAPHICAL ERRORS IN THE RESIDENTIAL POLITICAL SIGN SECTION OF THE CODE; SECTION 134-2446 TO CREATE A SECTION TO INCLUDE A POLITICAL SIGN PROVISIONS IN THE COMMERCIAL ZONING DISTRICTS; SECTION 134-1107 AND 134-1109 TO PERMIT OFFICE USES ON THE FIRST FLOOR IN THE TWO HUNDRED BLOCK OF PERUVIAN

AVENUE AND BRADLEY PLACE IN THE C-TS ZONING DISTRICT; SECTION 134-797, 134-847, 134-898, 134-953, 134-1009 AND 134-1065 TO INCREASE THE MAXIMUM HEIGHT OF THE FINISHED FLOOR FROM GRADE AND REQUIRE BUILDING PERMITS TO FILL AND RAISE THE GRADE OF PROPERTY IN THE R-AA, R-A, R-B, R-C, R-D(1) AND R-D(2) RESIDENTIAL ZONING DISTRICT; SECTION 134-1733 BY CREATING SAID SECTION FOR REGULATIONS FOR THE SCREENING OF EXISTING AND FUTURE DUMPSTERS; 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:

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

Section 1. Amend ARTICLE I, IN GENERAL, Section 134-2, Definitions and rules of construction, to read as follows:

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

(a) *Rules of construction.* For the purpose of this chapter, the regulations are structured so as to be strictly permissive. As such, only those uses and structures which are specifically permitted in the Code of Ordinances are allowed. If there is no specific language in the Code which addresses a use or a structure, then said use or structure is not permitted.

The term “used for” shall include the term “designed for”, the term “structure” shall include the term “building”, the term “lot” shall include the terms “plot” or “tract”, and the term “shall” is mandatory and not ~~directory~~ permissive.

In the interpretation or application of any provision of this chapter, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulations shall be controlling.

(b) *Definitions....*

Section 2. Amend Article II, ADMINISTRATION, Sec. 134-36. Powers of building official; council order for issuance of building permits for variance, to read as follows:

Sec. 134-36. Powers of ~~building official~~ director of planning, zoning and building;

(a) The ~~building official~~ director of planning, zoning and building is given the duty, power and authorization to enforce this chapter. He or she shall oversee the examination of all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with requirements of this chapter. The building official shall record and file all applications for permits with accompanying plans and documents and shall make such reports to the planning and zoning commission and/or town council as may be required.

Section 3. Amend Article II, ADMINISTRATION , Sec. 134-145 Hearing procedure, to read as follows:

Sec. 134-145. Hearing procedure.

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

- (1) The ~~building official~~ director of planning, zoning and building shall forthwith examine such appeal and endorse his recommendation thereon together with all documents, plans, papers or other materials constituting the record upon which the action appealed from was taken.

...

Section 4. Amend Article II, ADMINISTRATION , Sec. 134-171, Application by property owner, costs of extraordinary professional advice, to read as follows:

Sec. 134-171, Application by property owner, costs of extraordinary professional advice.

(a)...

(b) When an application for special exception or variance is filed in which extraordinary

professional advice and/or consultation is required, as determined by the ~~building official~~ director of planning, zoning and building, such as but not limited to architectural, engineering and legal services, the expense of such professional advice shall be borne by the applicant.

Section 5. Amend Article III, SITE PLAN, Sec. 134-327, Application, to read as follows:

Sec. 134-327. Application.

(a)...

(b) Applications for site plan review shall be filed by the fee simple owner. The fee simple title owner may authorize a designee, agent or representative by power of attorney filed with the ~~building official~~ director of planning, zoning and building or designee. The application shall include those of the following items deemed to be applicable by the ~~building official~~ director of planning, zoning and building or designee:

...

Section 6. Amend Article III, SITE PLAN, Sec. 134-330, Action by town council; deviations, time limit for beginning work, to read as follows:

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

(a) After review and preparation of the findings, the town council shall approve, approve with changes, or deny the application for site plan review and direct the ~~building official~~ director of planning zoning and building or designee to approve or withhold approval of the building permit.

Section 7. Amend Article V, PLANNED UNIT DEVELOPMENT PROCEDURES, Sec. 134-561, Application, to read as follows:

Sec. 134-561. Application.

An application for final approval of a planned unit development may be for all the land included in a plan or the extent set forth in the tentative approval for a section thereof. The application shall be made to the ~~building official~~ director of planning, zoning and building or designee. The application shall include such drawings, specifications, covenants, easements, conditions and for of performance bond as were set forth by written resolution of the town council at the time tentative approval. A public hearing on an application for final approval of the plan or part thereof shall not be required, provided the plan, or the part thereof submitted for final approval, is in substantial compliance with the plan theretofore given tentative approval. The town council shall find that any changes to the tentative plan shall not be in contravention to the public's best interests.

Section 8. Amend Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Sec. 134-1576, Corner lots, to read as follows:

Sec. 134-1576. Corner lots.

(a) Where any lot is located on any street intersection or where two or more intersecting street lines outline any lot, or where any lot is located upon any corner, or side of the lot facing a street shall be determined to be the front street line of the lot by the orientation of the building facing a street and the other side of the lot facing a street shall be determined to be the side street of the lot, provided that such choice, in the opinion of the ~~building official~~ director of planning, zoning and building shall not be injurious to the existing or desirable future development of the surrounding property. Except in the R-B district, the required street side yard shall have the same setback as the front street yard of such lot, and shall have the same provisions, requirements and restrictions as a required front street yard. (See following illustrations.)

...

(b)...

Section 9. Amend Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Sec. 134-1577, Through lots, to read as follows:

Sec. 134-1577. Through lots.

(a) Where any lot extends the entire depth or width of a block and has frontage on more than one street at opposite ends of the lot, one side of the lot facing a street shall be determined to be the front street line of the lot by the orientation of the building facing a street and the other side of the lot facing a street shall be determined to be the rear street frontage, providing that such choice, in the opinion of the ~~building official~~ director of planning, zoning and building, shall not be injurious to the existing or desirable future development of surrounding property. The required rear street yard shall have the same setback as the front of such lot and shall have the same provisions, requirement and restrictions as a required front yard.

(b)...

Section 10. Amend Article I, IN GENERAL, Sec. 134-7, Violations and penalties, to read as follows:

Sec. 134-7. Violations and penalties.

(a) Violations of this chapter or failure to comply with any of the requirements of this chapter, including violations of conditions and safeguards established in connection with grants of variances, ~~or~~ special exceptions or site plan reviews, shall constitute a zoning violation, and the violator shall be prosecuted under the provisions of article V of chapter 2 by the town code enforcement board. Each day such violation continues shall be considered

a separate offense.

(b)...

...

Section 11. Amend Article II, ADMINISTRATION*, Sec. 134-235, General conditions applicable to all dimensional waivers, to read as follows:

Sec. 134-235. General conditions applicable to all dimensional waivers.

- (a) Approval of the waiver will not compromise traffic safety.
- (b) Approval of the waiver will not compromise fire safety.
- (c) There shall be no objection of any abutting property owner(s).

Section 12. Amend Article III, SITE PLAN, Sec. 134-326. Purpose of review process; building permit denial pending approval; costs of extraordinary professional advice, to read as follows:

Sec. 134-326. Purpose of review process; building permit denial pending approval; costs of extraordinary professional advice.

(a) The primary purpose of the site plan review process is to examine for potential adverse impact on the adjacent area, neighborhood or town those uses having characteristics identified as possessing the potential for negative impact and to ensure such uses are located, sited and designed that they result in a positive contribution to the area, neighborhood and town. To achieve these purposes, the town council or director of planning, zoning and building, whichever is relevant, may, after detailed review of the site plan and its potential off-site impact, impose such operational and/or design conditions as will eliminate or minimize such impact. Such conditions shall reflect the review criteria set forth in this article.

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

Notwithstanding the provisions of the immediately preceding sentence, site plan reviews which have obtained prior Architectural Commission or Landmark Preservation Commission approval, and which do not involve a variance or special exception, an increase in the square footage by more than 200 square feet, and/or an increase in density or intensity of use, may be administratively approved or denied by the director of planning, zoning and building department or designee.

In order to administratively approve a site plan review, a determination must be made

that the proposed site plan review meets concurrency; ~~and~~ does not create negative impacts on an abutting property owner or right-of-way; ~~and, if required to go to either the Architectural Commission or Landmark Preservation Commission, does not receive an objection from a noticed property owner as part of the Commission review process, in order for the director to grant an administrative site plan review approval.~~ Said approval shall not require property owner notice or legal advertisement as provided for site plan review by town council. The administrative site plan review application must be acted upon within 30 days of being deemed complete by the planning, zoning and building department. For the purpose of this subsection, the term intensity of use refers to creating a larger parking demand based on the use and/or square footage.

(c) When an application for site plan review is filed in which extraordinary professional advice and/or consultation is required, as determined by the director of the planning, zoning and building department, such as but not limited to architectural, engineering and legal services, the expense shall be borne by the applicant.

Section 13. Amend Article IV, NONCONFORMITIES, Sec. 134-416. Continuation; definition; intent, to read as follows:

Sec. 134-416. Continuation; definition; intent.

...

(d) It is further the intent of this chapter that nonconforming buildings and structures ~~shall not be~~ are allowed to be enlarged ~~upon~~, expanded or extended, provided that said enlargement, expansion or extension meets all of the lot yard and bulk regulations for the zoning district in which the building or structure is located and provided that said enlargement, expansion or extension is not or used as grounds for adding other buildings or structures prohibited elsewhere, in the same district.

Section 14. Amend Article IV, NONCONFORMITIES, Sec. 134-417, Extension or expansion, to read as follows:

Sec. 134-417. Extension or expansion.

~~No nonconforming building or structure shall be enlarged, increased or extended to occupy a greater area of land than it occupied at the effective date of adoption or amendment of this chapter. No such nonconforming building or structure shall be relocated in whole or in part to any portion of a lot or parcel other than the location which is occupied by such use at the effective date of adoption or amendment of this chapter.~~

A building or structure which is nonconforming with any of the lot, yard and bulk regulations may be enlarged, expanded or extended to occupy a greater area of land provided that the enlargement, expansion or extension complies with all lot, yard and bulk regulations for the zoning district in which the building or structure is located. This

section shall not apply to a building or structure which is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed enlargement, expansion, or extension of a building or structure.

Section 15. Amend Article IV, NONCONFORMITIES, Sec. 134-418, Conversion to conforming building or structure, to read as follows:

Sec. 134-418. Conversion to conforming building or structure.

For any building or structure or part thereof, in which a nonconformity of the building or structure or part thereof is altered, changed or replaced by a conforming building or structure, ~~or part thereof, the nonconforming building or structure or part thereof shall thereafter conform to the regulations of the district in which such building or structure is located, and the terminated nonconformity shall not thereafter be resumed nor shall any additional nonconformity be permitted.~~

Section 16. Amend Article IV, NONCONFORMITIES, Sec. 134-419, Enlargement, extension, reconstruction or alteration., to read as follows:

Sec. 134-419, Enlargement, extension, reconstruction or alteration.

No nonconforming building or structure shall be enlarged, extended, reconstructed or structurally altered except ~~by conversion to a building or structure which in conformity with the regulations of the zoning district in which it is situated;~~ as provided for in Sec. 134-416, 134-417 and 134-418, or when required to do so by law as follows:....

Section 17. Amend Article IV, NONCONFORMITIES, Sec. 134-446, Application for special exception or variance, to read as follows:

Sec. 134-446. ~~Application for special exception or variance:~~ Development and redevelopment of nonconforming residential lots.

(a) Vacant land located in any zoning district which does not conform to the minimum requirements of lot dimension or lot area as required by the schedule of lot, yard and bulk regulations for the district as given in article VI of this chapter ~~for the implementing of any permitted or special exception use for the zoning district in which the land is located shall be subject to an application to the town council for special exception or variance before any use of the land is implemented, subject, however, to subsections 134-793(b), 134-843(b) and 134-893(b); may be developed or redeveloped as allowed in (b) and (c) provided that multi-family residential use and single-family residential use does not exceed the maximum density allowed for the site, as identified in the Future Land Use Element in the Town's Comprehensive Plan. Development of a single-family residential~~

dwelling unit on a vacant residentially zoned lot which has existed in the same configuration for a minimum of thirty years is allowed subject to (b) or (c), whichever is relevant.

(b) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B and PUD zoning districts shall be subject to an application to the town council for a variance.

(c) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-AA, R-A and R-B zoning districts shall be subject to an application to the town council for special exception and/or site plan review as provided for in Sections 134-793(b), 134-843(b) and 134-893(b).

Section 18. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-888, Accessory uses., to read as follows:

Sec. 134-888. Accessory uses.

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

(1)...

...

- (5) Other accessory uses, customarily incident to permitted or special exception uses, not involving the conduct of business except such uses as may be associated with the town's operation of its municipal docks, golf course and tennis court facilities.

Section 19. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-942, Permitted uses, to read as follows:

Sec. 134-942. Permitted uses.

The permitted uses in the R-C medium density residential district are as follows:

...

- (5) Multifamily dwellings (Site plan review ~~may~~ shall be required. See ~~section 134-327~~ Article III of this chapter.)

Section 20. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-997, Permitted uses, to read as follows:

Sec. 134-997. Permitted uses.

The permitted uses in the R-D(1) moderate density residential district are as follows:

- ...
- (5) Multifamily dwellings (Site plan review ~~may~~ shall be required. See Article III of this chapter.)

Section 21. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1052, Permitted uses, to read as follows:

Sec. 134-1052. Permitted uses.

The permitted uses in the R-D(2) high density residential district are as follows:

- ...
- (5) Multifamily dwellings (Site plan review ~~may~~ shall be required. See Article III of this chapter.)

Section 22. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-949, Same-Existing single-family dwelling development, to read as follows:

Sec. 134-949. Same-Existing single-family dwelling development.

(a) A single-family dwelling located in the R-C medium density residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district; may be enlarged with a first story and/or second story addition, provided: ~~(1) The addition complies with the current schedule of lot, yard and bulk regulations for this district; and~~

~~(2) The addition does not cause the dwelling to have more cubic content than allowed a new such dwelling under the current schedule of lot, yard and bulk regulations for this district.~~

(b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.

(c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

Section 23. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1005, Same-Existing single-family dwelling development, to read as follows:

Sec. 134-1005. Same-Existing single-family dwelling development.

(a) A single-family dwelling located in the R-D(1) moderate density residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district; may be enlarged with a first story and/or second story addition, provided: ~~(1) The addition complies with the current schedule of lot, yard and bulk regulations for this district; and~~

~~(2) The addition does not cause the dwelling to have more cubic content than allowed a new such dwelling under the current schedule of lot, yard and bulk regulations for this district.~~

(b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.

(c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

Section 24. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1061, Same-Existing single-family dwelling development, to read as follows:

Sec. 134-1061. Same-Existing single-family dwelling development.

(a) A single-family dwelling located in the R-D(2) high density residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district; may be enlarged with a first story and/or second story addition, provided: ~~(1) The addition complies with the current schedule of lot, yard and bulk regulations for this district; and~~

~~(2) The addition does not cause the dwelling to have more cubic content than allowed a new such dwelling under the current schedule of lot, yard and bulk regulations for this district.~~

(b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.

(c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

Section 25. Amend Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Sec.134-1732, Temporary storage units, to read as follows:

Sec. 134-1732. Temporary storage units.

A ~~T~~emporary roll-off storage units, such as a portable on demand storage units, ~~or~~ temporary storage units ~~are~~ is permitted on a property for a maximum period of ~~72 hours, five business days, three time per calendar year,~~ provided the property owner obtains a permit from the town prior to said roll-off or portable on demand storage unit being placed on the property. The permit fee shall be established by resolution of the town council and may be amended from time to time by resolution of the Town Council. The time limit and permit provisions for temporary roll-off storage unit or vehicle used for storage shall be suspended for such time that a State of Emergency is declared by the State or town council.

Section 26. Amend Article IX, OFF-STREET PARKING AND LOADING*, Sec. 134-2172, Size of spaces and access, to read as follows:

Sec. 134-2172. Size of spaces and access.

An off-street automobile parking space shall consist of a parking space having minimum dimensions of nine feet in width and 18 feet in length for the parking of each automobile, exclusive of access drives or aisles thereto. Minimum width of an access drive shall be 10 feet for one-way traffic. Minimum width of an aisle designed and intended for the maneuvering into a 90 degree parking space shall be 25 feet; 20 feet into a 60 degree parking space; and 15 feet into a 45 degree parking space. Minimum width of an aisle designed and intended for the maneuvering of an automobile into a parking space shall be in conformance with the illustration set forth in section 134-2171. The parking plan must be so arranged that each automobile may be placed and removed from the parking space assigned thereto and taken to and from the property without the necessity of moving any other automobile to complete the maneuver.

Section 27. Amend Article IX, OFF-STREET PARKING AND LOADING*, Sec. 134-2179, Alternate guidelines for operation as principal use of land, to read as follows:

Sec. 134-2179. Utilization of yards.

...

(f) Other permitted and special exception uses. In all districts for all other permitted or approved special exception uses, required front, street side, and street rear yards may not be use for off-street parking, but all other yards may be used for such purposes. In addition, no required or supplemental off-street parking shall be located closer than 15 feet from a front, street side, or street rear property line. Required or supplemental off-street parking shall be effectively screened with hedges or walls or a combination thereof placed at the appropriate building line between the off-street parking and any street. Such screening shall not be less than six feet high and shall ~~laterally~~ extend across the entire building line which separates the parking areas from the street except for the access way. Such screening shall also be required along the interior lot lines and shall not be less than four feet in height and shall not encroach upon the rear easement line. The height of said required screening shall be measured as set forth in section 134-1666 et seq. Each parking space shall have an adequate and substantial wheel stop or curb, not less than six inches in height, located at least four feet from the abutting side or rear property line and not less than two feet from required landscaping. Such two-foot setback may be part of the ~~ten-foot by 20-foot~~ nine-foot by 18 foot parking space. Further, all required interior landscaping not already protected by wheel stops shall be protected by a curb, a minimum of six inches in height, around the perimeter of such landscaped area to prevent damage by vehicles maneuvering within the parking area. Such curbing must be so designed as not to prevent the drainage of water from the paved area into the landscaped area. In

addition to the screening requirements in this subsection, the interior of the parking area must have suitable landscaping, including the provision of shade trees, such landscaped area to be not less than ten percent of the parking and drive aisle area. The total devoted to landscaping, comprising both the screening and the interior landscaping, must be at least 15 percent of the parking and drive aisle area. A site plan showing the landscaping and the irrigation facilities for the landscaping must be submitted.

Section 28. Amend Article IX, OFF-STREET PARKING AND LOADING*, Sec. 134-2237, Alternate guidelines for operation as principal use of land, to read as follows:

Sec. 134-2237. Alternate guidelines for operation as principal use of land.

For a public or private parking lot which is to be operated as the principal and sole use on the parcel of land, the following may be utilized as alternate guidelines in reviewing the site plan:

- (1) *Size and access.* An off-street parking space shall ~~consist of a parking space~~ having have minimum dimensions of nine feet in width and ~~20~~ 18 feet in length for the parking of each automobile, exclusive of access drives or aisles thereto. Minimum width of an access drive shall be ten feet for one way traffic. Minimum width of an aisle designed and intended for the maneuvering into a 90 degree parking space shall be ~~20~~ 25 feet; 20 feet into 60 degree parking space; and 15 feet into a 45 degree parking space (See illustration in Sec. 134-2171). Individual ingress and egress drives extending across the public sidewalks and curbs and connecting the parking lot to the public street areas shall not exceed a maximum of 30 feet. The design, number and placement of such drives are to be subject to the approval of the ~~superintendent~~ director of public works before being installed.

Section 29. Amend Article XI, SIGNS, Sec. 134-2296, Issuance of special parking permits upon application, to read as follows:

Sec. 134-2296, Issuance of special parking permits upon application.

...

- (b) The application for a permit shall contain the name of such owner or operator of the motor vehicle; residential address; and the motor vehicle's make, model and registration number. The motor vehicles's registration may, at the discretion of the finance department, be required to be presented at the time of making the application in order to verify the contents thereof. If the vehicle is registered at an address other than the local residence, the applicant shall provide other sufficient proof, acceptable to the finance department, showing residency within the controlled residential parking area. The permit shall be valid for a fiscal year, as defined in section 134-2292, and shall be renewed for each successive fiscal year. A fee ~~of \$20.00, as determined by resolution of the town council payable at the finance division,~~ as determined by resolution of the town council shall be charged for the annual permit and shall be

payable at the finance department. After the initial permit has been issued, any renewal shall be affixed to the vehicle no later than October 15 of the applicable current year.

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

The application for a visitor/service permit or permits shall be filed by such owner. The permit or permits shall be valid for a fiscal year as defined in section 134-2292 and may be renewed each successive fiscal year. A fee of \$20.00, as determined by resolution of the town council payable at the finance division, shall be charged for each visitor/service permit and shall be payable at the finance department. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's or service vehicle observable through the front windshield of the vehicle. The permits shall be valid only for the period of time during which the service vehicle is conducting work at the premises or for the period of time a visitor is at the premises.

Section 30. Amend Article IX, OFF-STREET PARKING AND LOADING*, Sec. 134-2329, Fees, to read as follows:

Sec. 134-2329. Fees.

(a) Annual parking permit fees. ~~A An annual~~ _____ fee ~~of \$20.00 is hereby authorized for issuance of said permit~~ _____, payable at the town finance department, ~~shall be~~ _____ charged _____ for each annual permit issued under this division. The amount of the annual fee shall be _____ established by resolution of the town council and _____ may be amended from time to time by resolution of the _____ Town Council.

(b) Visitor/service permits. ~~A An annual~~ _____ fee ~~of \$20.00 is hereby authorized for issuance of said permit~~ _____, payable to the finance department ~~shall be charged for~~ _____ each visitor/service permit. The amount of the annual fee _____ shall be established by resolution of the town _____ council and may be amended from time to time by _____ resolution of the town council.

Section 31. Amend Article XI, SIGNS, Sec. 134-2409, Temporary political signs pertaining to specific election, to read as follows:

Sec. 134-2409. Temporary political signs pertaining to specific election.

Political signs urging the election or ~~defeat~~ opposition of any candidate seeking any political office or urging the passage or defeat of any ballot measure are permitted subject to the following restrictions:

- (1) *Maximum size:* No sign shall exceed a maximum of four square feet in area.
- (2) *Maximum number:* Not more than one sign shall be placed upon any property unless such property fronts upon more than one street, in which event two signs may be erected, one on each frontage. Nothing in this section shall be construed as prohibiting the same wording from being on both the front and back of the sign.
- (3) *Location:* Only on lots where the property owner has given permission. The placing of temporary political signs anywhere on public property is prohibited. Temporary political signs located on public property shall be deemed to be public property and shall be summarily removed by the town.
- (4) *Minimum setbacks:* From lot line of another: Ten feet. From the front property line or from a street: Five feet.
- (5) *Maximum height:* Four feet, including supports for the sign.
- (6) *Time limit:* Signs permitted pursuant to this section shall not be placed prior to 30 days of the election to which they are related and shall be removed within 48 hours after the day of the election to which they apply.
- (7) *Illegally placed.* Temporary political signs shall be removed by or at the expense of the owner or individual responsible for the illegal placement.

Section 32. Amend Article XI, SIGNS, Sec. 134-2446, Temporary political signs pertaining to specific election, to create the section to read as follows:

Sec. 134-2446. Temporary political signs pertaining to specific election.

Political signs urging the election or opposition of any candidate seeking any political office or urging the passage or defeat of any ballot measure are permitted subject to the following restrictions:

- (1) *Maximum size:* No sign shall exceed a maximum of four square feet in area.
- (2) *Maximum number:* Not more than one sign shall be placed upon any property unless such property fronts upon more than one street, in which event two signs may be erected, one on each frontage. Nothing in this section shall be construed as prohibiting the same wording from being on both the front and back of the sign.
- (3) *Location:* Only on lots where the property owner has given permission. The placing of temporary political signs anywhere on public property is prohibited.

Temporary political signs located on public property shall be deemed to be public property and shall be summarily removed by the town.

- (4) Minimum setbacks: From lot line of another: Ten feet. From the front property line or from a street: Five feet.
- (5) Maximum height: Four feet, including supports for the sign.
- (6) Time limit: Signs permitted pursuant to this section shall not be placed prior to 30 days of the election to which they are related and shall be removed within 48 hours after the day of the election to which they apply.
- (7) Illegally placed. Temporary political signs shall be removed by or at the expense of the owner or individual responsible for the illegal placement.

Section 33. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1107, Permitted Uses, to read as follows:

Sec. 134-1107. Permitted uses.

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

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

Section 34. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1109, Special exception uses, to read as follows:

Sec. 134-1109, Special exception uses.

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

- (1)...
- ...

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

Section 35. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-797, Lot grade, topography and drainage to read as follows:

Sec. 134-797. Lot grade, topography and drainage.

In the R-AA, large estate residential district, ~~for single-family development,~~ the natural grade and topography of a lot may be altered to raise and grade the lot to meet base flood elevation requirements as part of a building permit for a building or structure which meets the paving and drainage requirements of the Town. The grade may not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town. As part of that approved paving and drainage plan, ~~the~~ grade shall not be raised more than 18 inches above the crown of the abutting street unless ~~as part of a plan approved pursuant to established guidelines of the town which provides for the approved plan meets the natural town's containment and percolation requirements for~~ of rainwater and its percolation on the lot. The top of the finished floor (habitable) shall not exceed ~~six~~ eight inches above the permitted grade.

Section 36. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-847, Lot grade, topography and drainage to read as follows:

Sec. 134-847. Lot grade, topography and drainage.

In the R-A, estate residential district, ~~for single-family development,~~ the natural grade and topography of a lot may be altered to raise and grade the lot to meet base flood elevation requirements as part of a building permit for a building or structure which meets the paving and drainage requirements of the Town. The grade may not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town. As part of that approved paving and drainage plan, ~~the~~ grade shall not be raised more than 18 inches above the crown of the abutting street unless ~~as part of a plan approved pursuant to established guidelines of the town which provides for the approved plan meets the natural town's containment and percolation requirements for~~ of rainwater and its percolation on the lot. The top of the finished floor (habitable) shall not exceed ~~six~~ eight inches above the permitted grade.

Section 37. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-898, Lot grade, topography and drainage to read as follows:

Sec. 134-898. Lot grade topography and drainage.

In the R-B, low density residential district, ~~for single-family development~~, the natural grade and topography of a lot may be altered to raise and grade the lot to meet base flood elevation requirements as part of a building permit for a building or structure which meets the paving and drainage requirements of the Town. The grade may not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town. As part of that approved paving and drainage plan. ~~The grade shall not be raised more than 18 inches above the crown of the abutting street unless as part of a plan approved pursuant to established guidelines of the town which provides for the approved plan meets the natural town's containment and percolation requirements for of rainwater and its percolation on the lot.~~ The top of the finished floor (habitable) shall not exceed ~~six~~ eight inches above the permitted grade.

Section 38. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-953, Lot grade, topography and drainage to read as follows:

Sec. 134-953. Lot grade, topography and drainage.

In the R-C, medium density residential district, ~~for single-family development~~, the natural grade and topography of a lot may be altered to raise and grade the lot to meet base flood elevation requirements as part of a building permit for a building or structure which meets the paving and drainage requirements of the Town. The grade may not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town. As part of that approved paving and drainage plan. ~~The grade shall not be raised more than 18 inches above the crown of the abutting street unless as part of a plan approved pursuant to established guidelines of the town which provides for the approved plan meets the natural town's containment and percolation requirements for of rainwater and its percolation on the lot.~~ The top of the finished floor (habitable) shall not exceed ~~six~~ eight inches above the permitted grade.

Section 39. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1009, Lot grade, topography and drainage to read as follows:

Sec. 134-1009. Lot grade topography and drainage.

In the R-D(1), moderate density residential district, ~~for single-family development~~, the natural grade and topography of a lot may be altered to raise and grade the lot to meet base flood elevation requirements as part of a building permit for a building or structure which

meets the paving and drainage requirements of the Town. The grade may not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town. As part of that approved paving and drainage plan, the grade shall not be raised more than 18 inches above the crown of the abutting street unless as part of a plan approved pursuant to established guidelines of the town which provides for the approved plan meets the natural town's containment and percolation requirements for of rainwater and its percolation on the lot. The top of the finished floor (habitable) shall not exceed ~~six~~ eight inches above the permitted grade.

Section 40. Amend Article VI, DISTRICT REGULATIONS, Sec. 134-1065, Lot grade, topography and drainage to read as follows:

Sec. 134-1065. Lot grade topography and drainage.

In the R-D(2), high density residential district, ~~for single-family development~~, the natural grade and topography of a lot may be altered to raise and grade the lot to meet base flood elevation requirements as part of a building permit for a building or structure which meets the paving and drainage requirements of the Town. The grade may not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town. As part of that approved paving and drainage plan, the grade shall not be raised more than 18 inches above the crown of the abutting street unless as part of a plan approved pursuant to established guidelines of the town which provides for the approved plan meets the natural town's containment and percolation requirements for of rainwater and its percolation on the lot. The top of the finished floor (habitable) shall not exceed ~~six~~ eight inches above the permitted grade.

Section 41. Amend Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS to create Sec. 134-1733, Dumpsters, to read as follows

Sec. 134-1733. Commercial, institutional and multi-family dumpsters and recycle containers.

(a) *Applicability.* The requirements pertaining to the location and screening of dumpsters established in this section shall apply to all zoning districts within the Town having or using dumpsters for sanitation service or recycling service. Temporary dumpsters, such as those which are placed on job sites during construction activity, are not subject to this section.

(b) *Minimum requirements.* The location and use of dumpsters and recycle containers shall comply with the standards established below.

(1) *Location.* All dumpsters recycle containers shall be located so as to be reasonably accessible for trash collection by the sanitation vehicles. Dumpsters and recycle containers shall not be located within a required front street side or street

rear yard setback or right-of-way of a public street or alley.

(2) Screening.

a. All dumpsters and recycle containers shall be screened from public view, from public rights-of-way and from abutting properties.

b. Dumpsters and recycle containers shall be screened on all four sides. Gates shall be closed when the dumpster or recycle containers are not being filled or dumped, and shall be maintained in good repair.

c. Dumpsters and recycle containers shall be screened with a minimum six foot high masonry wall and six foot high solid gates of the same architectural style, color, and materials as the principal use. Dumpster and recycle container screening enclosures shall be maintained in good repair. Landscaping is required to screen dumpster enclosures as much as feasibly possible from a public right-of-way.

d. All dumpsters and recycle containers must be placed on a hard surface, of adequate size to accommodate the dumpster and garbage trucks.

e. Commercial Dumpsters and recycle containers shall be located a minimum of 15 feet from a residential zoning district or residential use.

Section 42. 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 43. 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 44. Codification.

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

Section 45. Effective Date.

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

PASSED AND ADOPTED in regular, adjourned session assembled on first reading this 10th day of November, 2010, and second and final reading on this ____ day of _____, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: November 10, 2010

Section of Agenda

Time Extensions

Agenda Title

Time Extensions & Waivers Request for Waiver of Section 42-199, Hours of Construction Work, at 351/347 Worth Avenue (Everglades Club) (Per Letter Dated October 21, 2010, From Maura A. Ziska).

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated October 27, 2010, from John Page
- Letter dated October 21, 2010, from Maura A. Ziska
- Construction Schedule

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 10, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Extension of Work Hours – 351/347 Worth Avenue

Date: October 27, 2010

STAFF RECOMMENDATION

Staff recommends approval of an extension of the hours for construction work from December 1, 2010 until May 1, 2011 for 351/347 Worth Avenue, within the C-WA Zoning District.

Construction work on Worth Avenue is restricted from November through April. Approval should be conditioned as follows:

- Work hours are from 8:00 AM to 5:00 PM with quiet work only until 9:00 AM.
- No work allowed on Saturdays, Sundays or Town of Palm Beach legal holidays.
- Approval of the Worth Avenue Merchants Association.
- All windows shall be screened per Town Ordinance 22-58.
- All deliveries will be made between the hours of 8:00 AM and 10:00 AM.
- No construction related parking will be allowed on Worth Avenue.
- No workers shall congregate or loiter on Worth Avenue.
- No exterior work on Worth Avenue.
- Any verified complaints from neighbors may revoke this extension of hours.
- Subject to an affidavit that all property owners, businesses and residents (Condominium Association if a condominium) within a 200 foot radius of the subject property have been notified of this request prior to 10 days of the scheduled hearing date.
- Contractor will provide a copy of the affidavit and a copy of the notice to the Building Official no later than 5 days prior to the scheduled hearing date.

GENERAL INFORMATION

The building in question is the dormitory building owned by the Everglades Club. The work proposed for this season includes only the interior demolition with the interior renovation work scheduled for after the season's end. Structural repairs on this building were completed earlier this year. The applicant is asking for this waiver to extend until May 1, 2012. Staff feels that extending this waiver for two seasons is not necessary at this time. Approving the waiver for the interior demolition to proceed under the proposed conditions will allow work to continue in a timely manner. The construction schedule furnished indicates that permit application for the interior renovation will not be made until April 15, 2011 and work is not scheduled to begin until

after the Worth Avenue restrictions have expired on May 1, 2011. Staff feels that a more accurate construction schedule can be made once final drawings have been rendered and a true scope of work defined. Applicant may apply for another waiver for the 2011/2012 season if deemed necessary. No exterior work is reflected on the construction schedule furnished.

Attachments

JP/jlt

cc: Jeff Taylor, Building Official
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Raychel Houston, Code Enforcement Unit

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

*Also admitted in New York

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

October 21, 2010

Jeff Taylor, Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Waiver of Section 42-199/Everglades Club 351/347 Worth Ave., Palm Beach

Dear Mr. Taylor:

I represent the Everglades Club and on their behalf would like to appear before the November 10, 2010 Town Council meeting to request a waiver from Section 42-199 of the Town of Palm Beach Code to extend construction work on Worth Avenue from December 1, 2010 to May 1, 2012. The work during season will not include weekends or holidays and all workers and deliveries will access the site via Peruvian or Cocoanut Row. The workers will park at the Everglades Club.

Please call me if you have any questions with the foregoing. Thank you.

Sincerely yours,



Maura A. Ziska

/maz

cc: Scott Lese

**THE EVERGLADES CLUB
351 WORTH AVE APARTMENT PROJECT PRELIMINARY SCHEDULE***

*BASED ON TENANT/OWNER EXECUTED CONTRACT NO LATER THAN 12/1/10. WORK SCHEDULE AS FOLLOWS: MONDAY THRU FRIDAY, 8:00 AM - 3:00 PM. PROJECT ACCESS THRU BACK ALLEYWAY TO COCONUT ROW. DEMOLITION MATERIAL TO BE LOADED IN A SMALL TRUCK IN BACK ALLEYWAY AND TRANSPORTED TO DUMPSTER LOCATED IN MAIN CLUB PARKING LOT OF THE EVERGLADES CLUB. ALL CONSTRUCTION VEHICLES WILL PARK IN THE MAIN PARKING LOT OF THE EVERGLADES CLUB. ALL OFFICIAL TOWN HOLIDAYS SHALL BE OBSERVED. LIMITED WORK HOURS ABOVE ARE TO BE FOLLOWED FROM NOVEMBER 1ST THRU MAY 1ST. ALL INSPECTIONS ARE INCLUDED IN THIS SCHEDULE.

START DATE	STOP DATE	ACTIVITY
12-1-10	1-3-11	Demolition permit application, submission and issuance.
1-3-11	2-28-11	Complete interior demolition.
2-28-11	4-15-11	Final architectural and Structural modification interior plan design process.
4-15-11	5-16-11	Project permit application, submission and issuance.
5-16-11		Structural modification - including but not limited to foundation, exterior walls, interior load bearing walls, columns and floor joist, exterior windows, roof and
	9-15-11	MEP modifications.
8-22-11	9-23-11	Main entry construction. Via Parigi rear alley area.
9-15-11	10-14-11	Exterior waterproofing, stucco, painting and awning installation (if applicable).
9-15-11	10-28-11	MEP main distribution modification. DWV/water system/Main electrical/fire sprink.
10-3-11	1-27-12	Interior framing
11-7-11	1-13-12	MEP rough-in.
1-3-12	1-27-12	Draft/fire stopping.
1-30-12	2-7-12	Insulation/Sound-proofing/vapor bar. Installation.
2-8-12	2-8-12	Drywall delivery A.M. ROW permit required. Load thru balc. windows on Worth Ave.
2-9-12	3-2-12	Drywall/Tile backer installation.
3-5-12	4-6-12	Drywall tape/finish.
4-9-12	4-9-12	Interior construction clean.
4-10-12	5-9-12	Interior trim/doors. Paint grade only.
5-10-12	5-12-12	Interior construction clean.
5-14-12	6-9-12	Interior Prime/first coat finish paint.
6-11-12	8-24-12	Interior finishes. Tile/Marble - wood flooring - Stain grade trim/doors.
7-5-12	8-29-12	Interior finishes. Kitchen/bath cabinets and millwork.
8-30-12	8-31-12	Interior construction clean.
8-31-12	9-29-12	Interior finishes. Second finish coat paint/faux finish/wallpaper
9-15-12	9-21-12	Interior finishes. Set counter tops - fixtures - hardware
9-15-12	9-29-12	Interior finishes. MEP trim out
10-1-12	10-2-12	HVAC start up.
10-3-12	10-4-12	Interior construction clean.
10-5-12	10-16-12	Install Carpet.
10-17-12	10-26-12	Install window treatments/blinds.
10-29-12	10-31-12	Final Clean.

TOWN OF PALM BEACH

Town Council Meeting on: November 10, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

SITE PLAN REVIEW #10-2010 WITH VARIANCES The application of the Town of Palm Beach; relative to property commonly known as **1060 North Lake Way**; described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a Site Plan Review to add an addition onto the D-10 Storm Water Pump Station and replace a 500 kw generator with a 750 kw generator. The variances to raise the height of a portion of the building and replace the generator are as follows: to allow a front yard setback of 23.5 feet in lieu of the 25 foot minimum required; to allow a north and south side yard setback of 11 feet (south and 8.1 feet (north) in lieu of the 12.5 feet minimum required; to allow a building height of 20.5 feet in lieu of the 10.67 feet existing and the 14 foot maximum allowed; to allow an overall building height of 21.5 feet in lieu of the 12.67 feet existing and the 17 foot overall maximum building height allowed. [Attorney: John C. Randolph] [ARCOM Recommendation: Approval of the variances will not cause negative architectural impacts. Carried 5-0.]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated October 26, 2010, from Sidney Kohl
- Letter dated November 1, 2010, from Jeffrey Sanon

October 26, 2010

Town of Palm Beach
Public Works Department
P.O. Box 2029
Palm Beach FL, 33480

Dear Jeffrey:

First of all I would like to thank you for all the time, attention and concern you have given me and my neighbors regarding the proposed work at the town's pump adjoining my property. You have forwarded to me the latest plan for expansion and the town's proposed landscaping design to mitigate the effect of the expansion on adjoining properties.

On the view from the North to the South, the town's proposal to plant 20-24 inch palms appears to be okay and it is my understanding this will shield the North to South view from the increased height of the pump station. You have informed me due to the shade in the area the trees are proposed to be planted, the trees may not last more than a projected four to five year period.

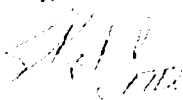
We will make our best efforts to grow the hedge along the North end of the property approximately from presently fifteen, to twenty feet. I have been informed it may take a period of three to five years to grow the hedge to this height. As the screen hedge grows tall enough to provide a view shield, the town will make its best efforts to maintain and replace (if necessary) the trees.

In regard to the Lake Trail access path on the South side of your property, as we discussed, the town has not done a good job maintaining the existing hedge. The town agrees to plant the highest hedges they can (not less than six feet) and higher if possible as shown along the southern border as the plans show. The town will maintain the landscaping along the southern end of their property in first class condition.

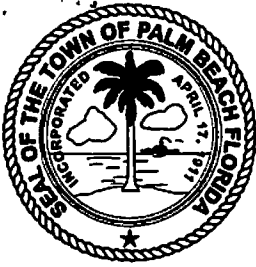
On the east side of the pumping station the town has agreed to plant eight to ten foot high ficus hedge and will make all efforts to completely grow the hedge to the twenty foot height so that it completely covers the view of the pumping station.

As I have indicated, the non-conforming shed will be removed. This is a general outline of things we need to cover. May I please have your comments and hopefully we can reach an amicable solution within the next several days.

Sincerely,



Sidney Kohl



TOWN OF PALM BEACH

Public Works Department

November 1, 2010

Mr. Sidney Kohl
1070 North Lake Way
Palm Beach, FL 33480

SUBJECT: D-10 Pump Station Improvements (Revised)

Dear Mr. Kohl:

The Town appreciates the time and consideration that you and your neighbors have contributed towards working with the Town to improve our drainage pump station at the subject location. As you are aware, ARCOM has conditionally approved this project, and the items of concern will be addressed as follows:

- The Town will install (5) areca palm trees to be planted at a 20- 24-ft. height between the northern portion of the station and the existing ficus hedge, per the landscape plan.
- The 15-ft. high ficus hedge will be allowed to grow until it reaches 20-ft. in height in order to screen the "extended" portion of the building if the areca palms do not mature successfully. If any of the (5) areca palms die before the ficus hedge reaches the 20-ft. screening height, then that tree will be replaced by the Town.
- The south side of the station will have 5-6-ft. ficus hedges placed in between the existing hedge to "fill in" the exposed areas. The given height is the tallest that can be accommodated in that location without encroaching into the bike trail access path or damaging the existing hedge root system.
- The landscaping on the southern portion of the property will be properly maintained by the Town.
- The east side of the building will have 8-ft. to 10-ft. ficus hedges planted to cover a generous portion of the building, and the canopy from the existing black olive tree will provide the screening necessary to obstruct the view of the extended portion of the east side of the station.

Mr. Sidney Kohl
October 27, 2010
Page 2 of 2

- ARCOM approved the color "Cloud" for the building, and "Desert Sand" for the doors and trim.
- The pump station will be designed to reduce the level of equipment noise, and the pump enclosure east of the pump station will be removed.

Once again, thank you for your cooperation. Please contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Sanon', with a long horizontal flourish extending to the right.

Jeffrey Sanon, P.E.
Project Engineer

cc: H. Paul Brazil, P.E., Director of Public Works
Public Works File

TOWN OF PALM BEACH

Town Council Meeting on: November 10, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

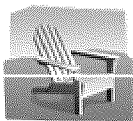
VARIANCE #21-2010 The application of Palm Beach Newspapers, Inc.; relative to property commonly known as **249/251 Royal Palm Way**; described as Lot 15, (less the Northerly 65 ft of the Easterly 25 ft of said lot) and the South 135 ft of Lot 16, and Lot 58, all of Block A, REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 4, Page 1; located in the C-OPI Zoning District. The applicant is requesting a variance to allow a business identification sign on the side of a building that does not front onto a street front or side wall. [Attorney: Maura A. Ziska]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Email dated October 7, 2010, from Pamela J. Henderson



Fw: 249/251 Royal Palm Way #21-2010

Cheryl Kleen to: council

Cc: Peter B Elwell, John Page, Anne Boyles

10/07/2010 04:29 PM

----- Forwarded by Cheryl Kleen/PalmBeach on 10/07/2010 04:29 PM -----

From: "Pam Henderson" <phenderson@rcca.org>
To: <council@townofpalmbeach.com>
Cc: <mziska@floridawills.com>
Date: 10/07/2010 09:00 AM
Subject: FW: 249/251 Royal Palm Way #21-2010

We reviewed the Zoning Application regarding 249/251 Royal Palm Way and wish to provide our support for the building identification and business signs.

Pam

Pamela J. Henderson, Executive Director
Rehabilitation Center for Children and Adults
300 Royal Palm Way, Palm Beach FL 33480
(561) 655-7266 x 11 Fax: (561) 655-3269
phenderson@rcca.org www.rcca.org

The information contained in this transmission is privileged and confidential and only for the use of the intended recipient. Any unauthorized review, use, disclosure, dissemination or copying is prohibited. If you receive this transmission in error, please notify us immediately by telephone (561) 655-7266 and destroy the original message. Thank you.

TOWN OF PALM BEACH

Town Council Meeting on: November 10, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

VARIANCE #22-2010 The application of Stephen F and Camilla T. Brauer; relative to property commonly known as **131 Barton Avenue**; described lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow construction of a 2,926 square foot two story guest house/garage addition with a cubic content ratio (CCR) of 4.84 in lieu of the 3.99 existing and 4.07 maximum allowed in the R-B Zoning District. [Attorney: Maura A. Ziska] [ARCOM Recommendation: Approval of the variance will not cause negative architectural impacts. Carried 4-1.]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated October 26, 2010, from William L. Walde

William L. Walde & Mary Frances Walde
141 Barton Avenue
Palm Beach, FL 33480
561-655-2233

Town of Palm Beach Florida
Planning, Zoning, and Building Department
360 South County Road
East Entrance
Palm Beach, FL 33480
Tel 835 4621
Re: Variance #22-2010 – 131 Barton Avenue

October 26, 2010

RECEIVED
OCT 29 2010
TOWN OF PALM BEACH
PBZ DEPT.

Dear Staff:

We have reviewed the zoning application and plans for the replacement/addition to 131 Barton Avenue. This letter shall serve as our support and recommendation for approval for the variance request. We feel that the plans and architectural design are in accordance with the style of the neighborhood and hope that Steve and Camilla Brauer will enjoy their new addition.

Sincerely,

William L. Walde

TOWN OF PALM BEACH

Town Council Meeting on: November 10, 2010

Section of Agenda

Development Review - Other

Agenda Title

Consideration of Consultant's Town-Serving Report and Planning and Zoning Commission's Recommendations.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated October 26, 2010
- Study of the "Town-Serving" Provisions Prepared by LaRue Planning & Management Services, Inc., dated September 30, 2010
- Undated letter from Sherry Frankel
- Letter dated October 29, 2010, from Denise Bober and Laurel Baker

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 10, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Town-Serving Study by LaRue Planning & Management Services, Inc. and
Recommendations by the Planning and Zoning Commission

Date: October 26, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council direct staff to draft zoning and comprehensive plan amendment ordinances incorporating the recommendations of the Planning and Zoning Commission.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission at its October 19, 2010 meeting, considered the Study of “Town-Serving” Provisions prepared by LaRue Planning & Management Services, Inc. (copy attached). The Commission made the following recommendations:

1. Retain the Town-serving provisions in the C-WA zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
2. Retain the Town-serving provisions in the C-TS zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
3. Eliminate the Town-serving provisions in the C-OPI zoning district. Retain the Town-serving provisions in the C-B zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
4. Retain the existing Town-serving provisions in the C-PC zoning district.
5. Eliminate the Town-serving provisions for short-term occupancy uses such as hotels, motels and timesharing in the multi-family residential zoning districts (PUD-A, R-C, R-D(1) and R-D(2)).
6. Retain existing “Town-serving” special exception criteria for all special exception uses, not just to commercial uses as is recommended in the Study.
7. Eliminate the necessity to certify each year that a business is “Town-serving”, but retain the right to request substantiating documentation if the Town has reason to believe that the business is not continuing to meet the “Town-serving” criteria.

8. Process the necessary comprehensive plan amendments required to complete the changes to the land development regulations identified above.

GENERAL INFORMATION

On May 12, 2010, the Town Council authorized staff to contract with LaRue Planning & Management Services, Inc., to conduct a study to re-evaluate the Town-serving regulations. In addition to the original scope, the consultant's revised proposal include the following four issues which would be addressed.

- Is the concept of Town-Serving still relevant after thirty years and is there a need for a "Town-Serving" provision?
- What would be the ramifications of eliminating the T-S provision?
- If the T-S concept/regulation is relevant and needed, is a limit on the square footage of the building or use still necessary, or useful? Is there a better alternative criteria or standard?
- If the square footage limitation is needed or useful, what would be the most appropriate square footage limitation? Also, is it necessary for the business to prove it qualifies as "Town-Serving", either initially or periodically thereafter? In what zoning districts should it be applied?

Mr. Bill Brisson from LaRue Planning and Management Services, Inc., conducted the study with the assistance of Staff. His analysis, findings and recommendations are in the attached Study. After careful consideration of Mr. Brisson's presentation and comments from the public, the Planning and Zoning Commission recommended, and staff concurs, that the Town Council authorize the preparation of ordinances based on the Commission's recommendations identified above.

The Commission believes that the Town-serving regulations still have merit in all but one of the commercial zoning districts. Based on the data in the Consultant's Study, the Commission recommends that the square footage threshold be raised in most districts. The Commission also believes that the Town-serving regulations are not relevant to the C-OPI zoning district for the reasons as stated in the Study. In addition, due to the concern with the 1979 Agreement for Royal Poinciana Plaza, the Commission's recommendation is to make no changes to the C-PC zoning district, which district only encompasses the Plaza. Also for the reason stated in the Study, the Commission also recommends eliminating the Town-serving requirements for short term occupancy uses; applying the regulations to only commercial uses; and eliminating the requirement for annual Town-serving reporting.

Town-serving Study by LaRue Planning & Management Services, Inc. and Recommendations by
the Planning and Zoning Commission
October 26, 2010
Page 3

If you have any questions about the Study or the Commission's recommendations, please contact
Paul Castro, Zoning Administrator, at 227-6406.

Attachment

JSP/pc

cc: Chairman, Planning and Zoning Commission
Members, Planning and Zoning Commission
Veronica B. Close, Asst. Director, Planning, Zoning and Building
Paul Castro, Zoning Administrator
Bill Brisson, LaRue Planning & Management Services, Inc.
Zf



Town of Palm Beach

Study of “Town – Serving” Provisions

September 30, 2010

Prepared by:



LaRue Planning
& Management Services, Inc.
1375 Jackson Street, Suite 206
Fort Myers, FL 33901
239-334-3366

Serving Florida Local Governments Since 1988

TABLE OF CONTENTS

I. BACKGROUND TO THE "TOWN-SERVING" CONCEPT	1
II. BASIC FINDINGS: 1979-80 COMMERCIAL DISTRICT STUDY	2
III. CURRENT MIX OF USES BY ZONING DISTRICT TYPE OF USE, AND SQUARE FOOTAGE	5
C-TS, TOWN-SERVING DISTRICT	9
C-WA, WORTH AVENUE DISTRICT	10
CB, OFFICE DISTRICT	11
C-OPI, OFFICES, PROFESSIONAL AND INSTITUTIONAL DISTRICT	12
C-PC, PLANNED CENTER DISTRICT	13
IV. COMPARISON OF 1979 and 2009 PATTERNS	14
TOWN CENTER COMMERCIAL AREA	14
ROYAL POINCIANA COMMERCIAL AREA	18
V. APPROVALS OF SPECIAL EXCEPTIONS BETWEEN 1990 & 2009 FOR BUSINESSES OVER 2,000 SF	20
VI. OTHER RELEVANT FACTORS AND CHANGES SINCE 1980	23
VII. CONCLUSIONS AND RECOMMENDATIONS	24
CONCLUSIONS	24
1. Relevancy of the "Town-Serving" concept and continued need for a "Town Serving" provision	24
2. Ramifications of eliminating the "Town-Serving" provision.	25
3. Are there better alternatives to the "Town-Serving" provision?	26
RECOMMENDATIONS	26
Table 1 Commercial Retail and Service Anchor Establishments Major Commercial Areas 1979-80	3
Map, Commercial Zoning, 1979	4
Table 2 Square Footage of Commercial Retail Service Establishments 1979-80	5
Map, Commercial Zoning, 2009	6
Table 3 Business Square Footage by Zoning District 2009	7
Table 4 Distribution of Business by Zoning District 2009	8
Table 5 Gross Leasable Area of Businesses C-TS District 2009	9
Table 6 Gross Leasable Area of Businesses C-WA District 2009	10
Table 7 Gross Leasable Area of Businesses C-B District 2009	11
Table 8 Gross Leasable Area of Businesses C-OPI District 2009	12
Table 9 Gross Leasable Area of Businesses C-PC District 2009	13
Table 10 Number and Size of Businesses by Zoning District Southern Commercial Area 1979 and 2009	15
Table 11 C-WA District Business by Type and Square Footage 1979 and 2009	16
Table 12 C-TS District (Southern Area) Businesses by Type and Square Footage 1979 and 2009	17
Table 13 Number and Size of Businesses by Zoning District Royal Poinciana Commercial Area 1979 and 2009	18
Table 14 Royal Poinciana Commercial Area Businesses of 4,000 and More Square Feet by Type and Square Footage 1979 and 2009	19
Table 15 Approvals Businesses in Excess of 2,000 Square Feet Town of Palm Beach, Florida 1990-2009	20
Table 16 Special Exception Approvals Businesses in Excess of 2,000 Square Feet by Type of Use Town of Palm Beach, Florida 1990 - 2000	21
Table 17 Special Exception Approvals Businesses in Excess of 2,000 Square Feet by Zoning District Town of Palm Beach, Florida 1990-2009	22



I. BACKGROUND TO THE "TOWN-SERVING" CONCEPT

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

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

- "9. Review the existing composition of commercial development in the C-A and C-B Zoning Districts with the intent of encouraging and providing a necessary balance of 'personal service' commercial uses for residents of the Town and discouraging high-volume retail and other commercial uses whose principal purposes are to serve other than residents of the Town."
- "3. Via memoranda dated March 28 and April 3rd on topics of the 1980 Zoning Hearings, Mr. Adley has been requested to study and recommend on the creation of a new commercial zoning district(s) and other relevant techniques and approaches which would differentiate between various types of commercial uses and which would give different treatment to commercial uses providing services to the immediate residential neighborhood..."

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

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

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



II. BASIC FINDINGS: 1979-80 COMMERCIAL DISTRICT STUDY

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

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

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

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

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

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

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

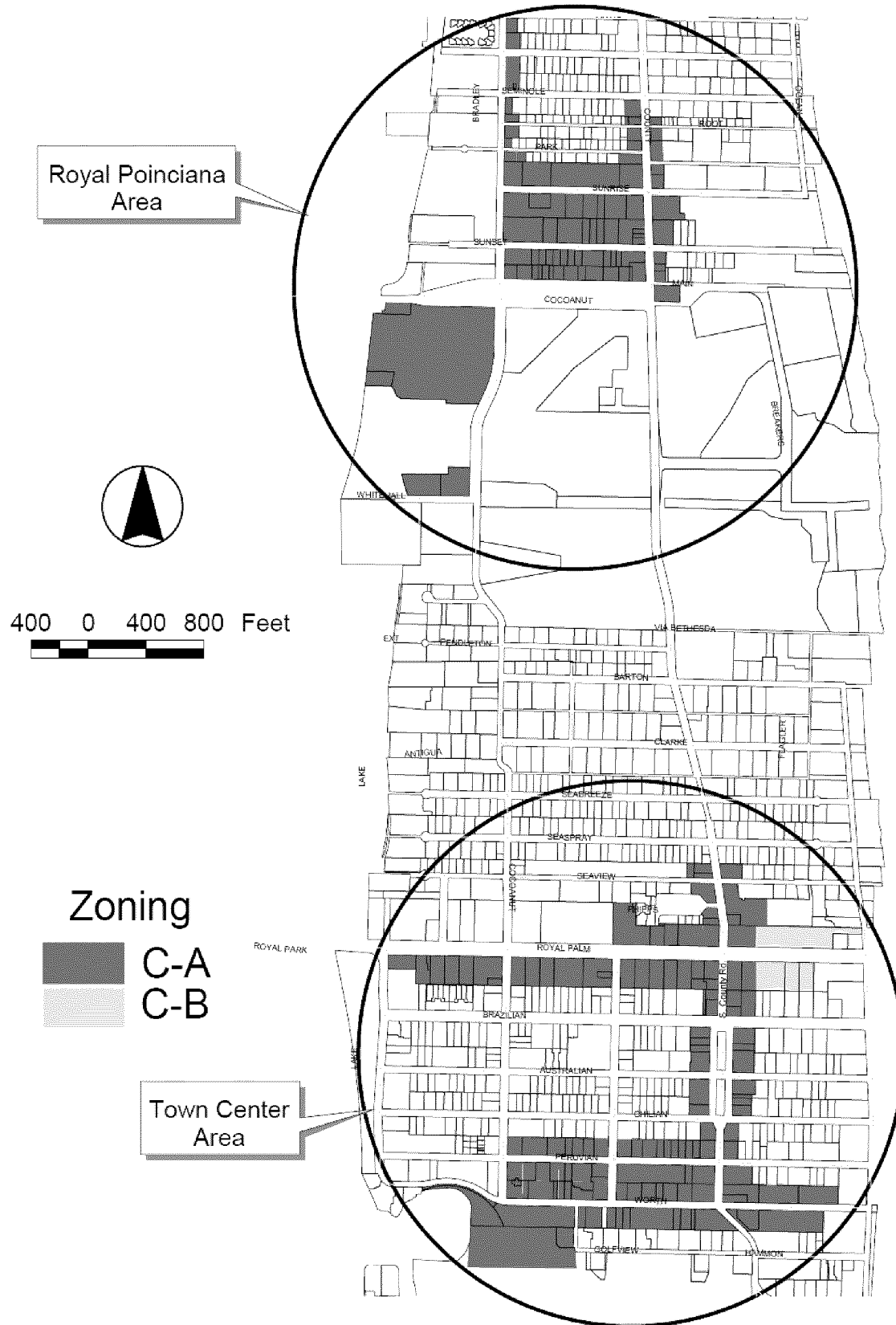
The number, type and scale of the larger retail and service establishments in each of these two areas are illustrative of each district's character. The Town Center area was the larger of the two with about 450,000 square feet of retail and service space compared to about 180,000 square feet in the Royal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

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

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



COMMERCIAL ZONING, 1979



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

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

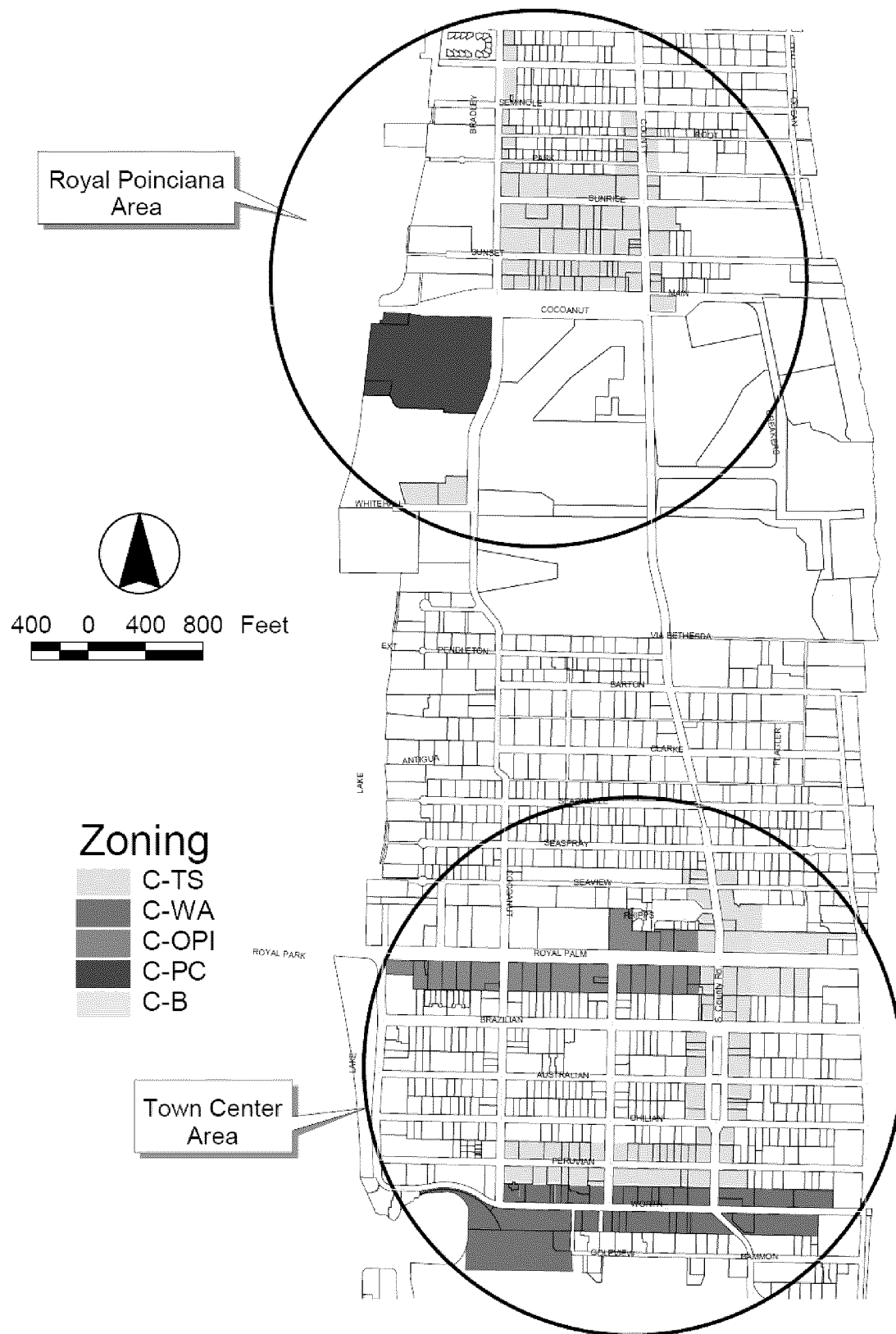
	"WORTH AVENUE"		"ROYAL POINCIANA"		TOTAL	
	AREA		AREA			
Square Feet	Number	Percent	Number	Percent	Number	Percent
Up to 2,000	177	78.7	57	69.5	234	76.2
2,001 to 4,000	32	14.2	15	18.3	47	15.3
Over 4,000	16	7.1	10	12.2	26	8.5
Total	225	100.0	82	100.0	307	100.0
Average	1,598		2,243		1,770	
Median	1,080		1,332		1,152	
Source: 1979-90 Commercial District Study, Adley Associates, Inc. LaRue Planning & Management Services, Inc.						

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

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

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

COMMERCIAL ZONING, 2009



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

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

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

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

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

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

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

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

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



C-TS, TOWN-SERVING DISTRICT

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

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

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Club Collette	6,734	2,000 & Under	152	84.4%
Café L'Europe	6,774	2,001 — 2,999	9	5.0%
Palm Beach Historic Inn	7,000	3,000 — 3,999	4	2.2%
Bank of America	7,700	4,000 — 4,999	6	3.3%
The Palm Ballroom	14,000	5,000 — 5,999	2	1.1%
		6000 — 6,999	4	2.2%
		7000 — 7,999	2	1.1%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	0	0.0%
		13,000 or more	1	0.6%
TOTAL			180	(1)
TOTAL SF		256,096		
AVERAGE SF		1,423		
(1) Parts to not add to 100.0 due to internal rounding				
Source: Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.				



C-WA, WORTH AVENUE DISTRICT

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

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

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

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

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



CB, OFFICE DISTRICT

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

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

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Palm Beach Board of Realtors Inc	2,970	2,000 & Under	9	81.8%
U S Trust	13,300	2,001 — 2,999	1	9.1%
		3,000 — 3,999	0	0.0%
		4,000 — 4,999	0	0.0%
		5,000 — 5,999	0	0.0%
		6000 — 6,999	0	0.0%
		7000 — 7,999	0	0.0%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	0	0.0%
		13,000 or more	1	9.1%
TOTAL			11	100.0%
TOTAL SF		25,748		
AVERAGE SF		2,341		
Source: Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.				



C-OPI, OFFICES, PROFESSIONAL AND INSTITUTIONAL DISTRICT

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

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

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
UBS Financial Services Inc	11,000	2,000 & Under	39	62.9%
Merrill Lynch Pierce Fenner & Smith	14,164	2,001 — 2,999	5	8.1%
Morgan Stanley and Co Inc	14,318	3,000 — 3,999	9	14.5%
JP Morgan Securities	22,185	4,000 — 4,999	0	0.0%
Rehabilitation Center for Children and Adults	30,000	5,000 — 5,999	2	3.2%
		6000 — 6,999	1	1.6%
		7000 — 7,999	1	1.6%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	1	1.6%
		13,000 or more	4	6.5%
TOTAL			62	100.0%
TOTAL SF		193,640		
AVERAGE SF		3,123		
Source: Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.				



C-PC, PLANNED CENTER DISTRICT

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

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

C-PC DISTRICT				
LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Palm Beach Grill	6,515	2,000 & Under	23	59.0%
Island Hospitality Mgt Inc	10,000	2,001 — 2,999	5	12.8%
Alley Maass Rogers & Lindsay PA	12,256	3,000 — 3,999	1	2.6%
		4,000 — 4,999	3	7.7%
		5,000 — 5,999	4	10.3%
		6000 — 6,999	1	2.6%
		7000 — 7,999	0	0.0%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	2	5.1%
		13,000 or more	0	0.0%
TOTAL			39	(1)
TOTAL SF		105,718		
AVERAGE SF		2,711		
(1) Parts do not add to 100.0 due to internal rounding.				
Source: Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.				



IV. COMPARISON OF 1979 and 2009 PATTERNS

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

TOWN CENTER COMMERCIAL AREA

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

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

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

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

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

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

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

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

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

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

ROYAL POINCIANA COMMERCIAL AREA

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VI. OTHER RELEVANT FACTORS AND CHANGES SINCE 1980

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

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

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

<u>The Gardens Mall</u>	<u>Town Center at Boca Raton</u>
Gucci	Neiman Marcus
Hamilton Jewelers	Cartier
Tourneau	Tiffany & Company
Nordstrom	Louis Vuitton
Louis Vuitton	Michael Kors
Lilly Pulitzer	Lilly Pulitzer
Brooks Brothers	Ralph Lauren

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



VII. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

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

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

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

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

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

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

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



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

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

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

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

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



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

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

RECOMMENDATIONS

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



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



Worth Avenue Association

PO Box 2126, Palm Beach, FL 33480
Phone (561) 659-6909 * Fax (561) 681-1316
WWW.WORTH-AVENUE.COM

Quality - Integrity - Service

New fax: 655-7191

Email: robinmiller@worth-avenue.com

Town Council Members
Town of Palm Beach
350 South County Road
Palm Beach, FL 33480

RE: LaRue Planning Study of "Town Serving" Provisions

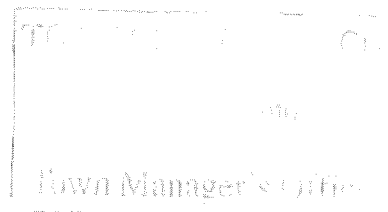
Dear Council Members:

On behalf of the Board of Directors of the Worth Avenue Association, we would like for you to be aware that the Association fully supports the recommendations concluded by LaRue Planning in the September 30, 2010 study. We respectfully request that the Town Council adopt the recommendations made in their entirety and make the appropriate text amendment changes to the Comprehensive Plan to meet the recommendations.

Should you require any additional comments from us, please advise.

Yours truly,

Sherry Frankel
President



PALM BEACH CHAMBER OF COMMERCE, INC.

100 Royal Palm Way • Suite 106 • Palm Beach, FL 33480

www.palmbeachchamber.com

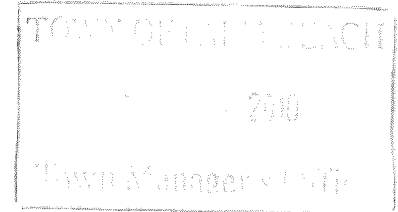
☎ 561.655.3282

☎ 561.655.7191

October 29, 2010

Denise Bober
The Breakers Palm Beach
President
Kevin Lamb
Gunster
Vice-President
Michael R. McCarty
Michael R. McCarty's
Vice-President
Richard Rampell
Rampell & Rampell
Treasurer

Mayor & Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480



RE: LaRue Planning & Management Services, Inc.
Study of "Town-Serving" Provisions
September 30, 2010

Dear Mayor & Town Council:

At yesterday's board of directors meeting, the board unanimously voted to support the recommendations set forth in the LaRue Town-serving Provisions Report dated September 30, 2010.

Given the company's familiarity with the issues since 1979, this should be considered a final and definitive study of the matter. The recommendations preserve certain safeguards with respect to ensuring the integrity of new businesses, while freeing established enterprises from the onerous task of reporting.

The Planning & Zoning commissioners were in strong agreement with the eight proposals set forth by Mr. Brisson. The chamber would urge you to take bold and decisive steps to accept the report as presented and move to incorporate the recommendations immediately. Today's economy cannot survive with incremental steps. You can be confident in moving forward based upon the professional expertise assisting you.

On behalf of the board and the community at large, we applaud your forward-thinking leadership and vision.

Sincerely

Denise
Denise Bober
President

Laurel
Laurel Baker
Executive Director

cc: Palm Beach Daily News

M. V. Beau Breckenridge
US Trust Private Bank
Ervin S. Duggan
Society of the Four Arts
Roger Everingham
The Colony Hotel
Linda Goings
Palm Beach Daily News
Pam Henderson
Rehabilitation Center
Brian Johnson
Fidelity Investments
John Maus
Maus & Hoffman
Adam Munder
The Sterling Group
Kristy Pressly
The Breakers Palm Beach
Joe Scheerer
Testa's Restaurant
Clay Surovek
Surovek Galleries
Directors

James A. Ponce
Historian

Laurel Baker
Executive Director
Secretary

Penny Spano
Membership Services

TOWN OF PALM BEACH

Town Council Meeting on: November 10, 2010

Section of Agenda

Development Review - Other

Agenda Title

Request to Consider Zoning Ordinance No. 26-10 Prior to 5:00 pm at Second Reading of the Ordinance.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated October 25, 2010

TOWN OF PALM BEACH

Information for Town Council Meetings on: November 10, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Request to Consider Zoning Ordinance No. 26-10 prior to 5:00 p.m. at Second Reading of the Ordinance.

Date: October 25, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council conduct the second reading and public hearing on Ordinance No. 26-10 prior to 5:00 p.m.

GENERAL INFORMATION

Staff is requesting that the Town Council elect to conduct the second and final reading of Ordinance No. 26-10, which will be considered at a later Council meeting, during the course of normal Council business (which often occurs before 5:00 p.m.). Florida Statutes require the Town Council to hold at least one of two public hearings to adopt a zoning ordinance after 5:00 p.m. However, the Statute provides that the time can be changed if a majority plus one of the local governing body elect to have the hearing at another time.

PBE:jsp:pc

cc: Thomas G. Bradford, Assistant Town Manager
John C. Randolph, Town Attorney
Joanna Cunningham, Town Clerk
Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building Department
Paul W. Castro, AICP, Zoning Administrator
John Lindgren, AICP, Planning Administrator
zf

TOWN OF PALM BEACH

Town Council Meeting on: November 10, 2010

Section of Agenda

Development Review - Other

Agenda Title

Further Consideration of Potential Use of Hold Harmless Agreements to Expedite Occupancy of Certain Commercial Properties.

Presenter

John C. Randolph, Town Attorney

Supporting Documents

- Memorandum dated November 1, 2010, from John C. Randolph
- Memorandum dated October 4, 2010, from John Page, Director of Planning, Zoning, and Building
- Letter dated October 12, 2010, from John R. Eubanks, Jr.

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 10, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Use of Hold Harmless Agreements

Date: November 1, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council give further consideration to the use of hold harmless agreements as a means of expediting building improvements to existing structures prior to Town Council approval.

GENERAL INFORMATION

In preparation for the Town Council meeting scheduled for October 12, 2010, John Page had prepared a memorandum in which it was recommended that the Town Council give consideration to the use of hold harmless agreements as a means of expediting building improvements to existing structures prior to certain Town Council approvals. The recommendation was initiated so as to provide a more user friendly method for the issuance of building permits in this tight economy in which businesses are in need of support. The recommendation would allow the Planning, Zoning and Building Department to issue demolition and/or building permits and allow the commencement of work prior to Town Council consideration and approval in very limited circumstances. It was suggested that this process could save an applicant 50 plus days in the approval process. As indicated in the memo, the hold harmless agreement would not apply to construction of new buildings, additions onto existing buildings, administrative appeals when building alterations are at issue, to parking lots and other related hardscape improvements, or to any building project requiring variance approvals from the Town Council. In consulting with John Page, it is my understanding that this process would only apply to interior renovations relating to requests for special exception approvals for existing commercial structures which from their exterior would remain in their present configuration. A copy of John Page's memo is attached.

On October 12, 2010, the day this matter was to be considered, the Town received a letter from John Eubanks objecting to the staff recommendation referenced above. A copy of that letter is attached. Because neither the staff nor the Town Council had had an opportunity to adequately review the letter from Mr. Eubanks, further consideration of this matter was deferred to the next meeting of the Town Council on November 9, 2010, to allow time for further consideration.

Having now had an opportunity to review the letter of October 12, 2010 and to further consider the memorandum of Mr. Page, dated October 4, 2010, I have the following comments.

Mr. Eubanks suggests that staff's proposal relating to the use of hold harmless agreements as a means of expediting building improvements to existing commercial structures prior to certain Town Council approvals would be in violation of existing Town codes. It is indeed correct that in order to effectuate the suggestions made by Mr. Page in his memorandum there would need to be amendments made to the Town's zoning code. Mr. Eubanks cites Section 134-36(B) of the Town Code which provides that building permits for variances and special exceptions shall be issued only upon written order of the Town Council. Absent such an order, a building permit cannot be issued. Therefore, in order to effectuate the provisions suggested by Mr. Page, the Town's zoning code would have to be reviewed and amended to state specifically the methodology by which a person or an entity may make improvements and be granted a building permit prior to a written order of the Town Council. Although staff has not yet identified all of the sections of the code which would require modification, in the event the Town Council desires to proceed with the methodology suggested by Mr. Page staff would review the code and suggest those modifications. Because these are amendments to the zoning code, they would be reviewed and placed for consideration before the Planning and Zoning Commission.

The proposed ordinance modifications would specifically provide for the limited use of the hold harmless methodology described above, notice to property owners, etc. Such language could be drafted in a way to address all the concerns stated by Mr. Eubanks from the standpoint of the current code not providing for this hold harmless provision, from the standpoint of the due process rights of the neighbors, i.e., the ability of neighbors to be notified in regard to the proposed changes, and from the standpoint of the liability of the staff and the Town. No such liability would exist if the code allowed for such a procedure.

It is clear, based upon the above, that if the Council feels it is advantageous to undertake the policy proposed by Mr. Page, it may do so by way of amendments to the Town's zoning code.

The Council may wish to give further consideration, however, to whether such amendments are justified in light of the limited amount of time which will be saved by any applicant desiring to take advantage of this process.

According to Mr. Page's memorandum, the time which may be saved by an applicant desiring to engage in this process is approximately 50 days. To address the due process concerns involved in notification, this time period would probably be reduced to 30 or 40 days, allowing time for adequate notification and response from property owners. The question arises as to whether the saving of this amount of time warrants the proposed modifications to the zoning code. There may be additional factors the council may wish to discuss prior to making a decision to refer this matter to the Planning and Zoning Commission for consideration.

ATTACHMENTS

Memorandum from John Page dated October 4, 2010
Letter from John Eubanks dated October 12, 2010

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TOWN OF PALM BEACH

Information for Town Council Meeting on: October 12, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Planning, Zoning & Building Director

Re: Policy Decision: Use of Hold Harmless Agreements

Date: October 4, 2010

STAFF RECOMMENDATION

It is recommended that the Town Council give consideration to the use of Hold Harmless Agreements, as a means of expediting building improvements to existing structures prior to certain Town Council approvals.

GENERAL INFORMATION

Building projects, particularly existing structures that are wholly or partially remodeled, continue to abound in Palm Beach. For the fiscal year that just ended in September, it is estimated that over 100 "commercial alteration" permits were issued authorizing such work. Existing Zoning Ordinance regulations require that certain projects must receive Town Council approval. Examples include: banks; nightclubs; hotels; timeshares; group homes; houses of worship; and all new businesses over 2,000 sq. ft. in size.

In many cases, especially when "like" businesses are being converted to "like" businesses (retail to retail, office to office, restaurant to restaurant, etc.), Town Council approval, although necessary, is viewed by the applicant as a time impediment. Existing procedures require some applicants (those that require special exception and/or site plan review) to delay the start of remodeling until such time that the Town Council meets in regular monthly session and approves the use. Depending upon time of application, the "wait" for Town Council action can exceed 50+ days.

The relatively poor state of the business economy in the State has prompted many communities to seek new ways to be user-friendly. The Planning, Zoning & Building Department agrees with such philosophy, but must be careful to implement new policies in a manner found acceptable to the Council. The ongoing effort to open a new restaurant at 350 South County Road serves as an excellent case-in-point. The existing structure has been used as a variety of restaurants over the years. The new proprietors are eager to complete renovations and open their doors to the public as soon as possible. They submitted building plans to the Town in the month of September, yet Town Council approval of their Special Exception request could not be scheduled until

October 13. Delays of this sort can be quite aggravating to applicants, sometimes prompting questions about what can be done to shortcut the approval process. In the case of 350 South County Road, staff agreed that a demolition permit could be issued if the applicant accepted all risk with no guarantee that the Town Council would rule favorably upon their Special Exception. A Hold Harmless Agreement was executed allowing the proprietors to commence demolition work at their own risk. A related Hold Harmless Agreement that would allow building improvements to commence is now in process.

When used properly, a Hold Harmless Agreement can be an excellent tool for both private business and the Town. Such Agreements, if properly executed, would allow the Planning, Zoning & Building Department to issue demolition and/or building permits and applicants would be allowed to commence work before Town Council consideration. Further, such an Agreement would exempt the Town from any and all liability if for any reason a project is denied by the Town Council. An option of this sort, completely voluntary on the applicant's behalf, will allow many new commercial ventures to proceed forward at relative speed at no risk to the Town.

It is important that the Town be consistent when applying such a tool. As such, it is suggested that a standard Hold Harmless Agreement be prepared by the Town Attorney for use in such instances. If the applicant is not the building owner, then both the owner as well as the new tenant should be a party to the Agreement. The Agreement would protect the Town from all liability if the applicant proceeds forward and Town Council denies the request. Should the Town Council agree with this philosophy, it should be stressed that this option be limited to the alteration of existing commercial structures in their present configuration only. This tool should not apply to construction of new buildings, to additions onto existing buildings, to administrative appeals when building alterations are at issue, to parking lots or other related hardscape improvements, or to any building project requiring variance approvals from the Town Council.

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

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

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

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

October 12, 2010

Via E-mail and U. S. Mail

Honorable Jack McDonald, Mayor and
Town Council of Town of Palm Beach
360 South County Road
Palm Beach, Florida 33408

Re: Bad Policy Decision: Use of Hold Harmless Agreements

Dear Mayor and Town Council:

I read with shock the Staff Recommendation by John Page via Peter Elwell that "the Town Council give consideration to the use of "Hold Harmless Agreements" as a means of expediting building improvements to existing commercial structures prior to certain Town Council approval." The cited justification given by Staff for the adoption of such a "Policy" is that: a) approvals "while necessary [are] viewed *by the applicant* as a time impediment" (emphasis added); b) the terms of the Town Code may potentially cause "some *applicants* (those that require special exception or site plan review) to delay the start of remodeling," causing c) *applicants* to question "what can be done to *shortcut the approval process*." (emphasis added). As a result, Staff proposes the use of "Hold Harmless Agreements" which it believes "will allow many new commercial ventures to proceed forward at relative speed *at no risk to the Town*." (emphasis added).

While focusing almost entirely on the desires of "applicants" for an expedited system, Staff totally ignores the terms of the Town Code, as well as the rights of surrounding neighbors. Staff further neglects several major pitfalls which would in fact expose the Town (and even Staff) to substantial liability. Instead, a closer review of Staff's proposal reveals that the potential use of a "Hold Harmless Agreement" especially in any situation in which an applicant is required to obtain a variance or special exception¹ would: a) be in direct violation of the Town Code; b) violate the due process rights of neighboring property owners, and c) expose the Town (as well as individual staff members) to significant liability. Clearly, such a Policy should not be adopted.

I. Use of Hold Harmless Agreement Would Be In Direct Violation of Town Code

As a preliminary matter, any use of a "Hold Harmless Agreement" involving circumstances

¹ It is clear that the subject of Staff's memo of October 4, 2010 is in fact directed at just such applicants. See, e.g., "Existing procedures require some applicants (those that require special exception and/or site plan review) to delay the start of remodeling..."

requiring a variance or special exception would be in direct violation of the express terms of the Town Code.

Section 134-86 of the Code provides that:

To ensure compliance with this chapter, no person shall erect, alter or convert any structure of building or part thereof or alter the use of any land until a building permit has been issued by the building official.

Therefore, no action or alteration of a property can commence without a building permit.

The building official, however, cannot issue a building permit for any use which requires a variance or special exception without an express written order from the Town Council.

Section 134-36 (b) of the Code provides that:

Building permits for a variance from the requirements of this chapter and for such special exception uses as may be enumerated in this chapter *shall be issued only upon written order of the town council.* (emphasis added).

As such, the building official does not have the power, right, or authority to issue any building permit for a project which would require a variance or special exception prior to the issuance of a written order of the Town Council granting such variance or special exception. Consequently, any building permit issued prior to a written order of the Town Council, even if based upon a "Hold Harmless Agreement" would be on its face improper, void and a legal nullity.²

Such a conclusion is inescapable given that special exception and variances may *only* be permitted by express authorization by the Town Council.³ As a result, as with any policy in direct conflict with the protections of the Town Code, the Hold Harmless Policy urged by Staff should not be adopted.

² Not only would any building permit be void, but in fact, the issuance of a building permit without written approval of the Town Council could subject the building official to personal liability, as set forth further below.

³ For example, Section 134-227 provides that:

Special exception uses ... shall be permitted *only* upon authorization by the town council, provided that such uses shall be found by the town council to comply with the requirements in this subdivision and other applicable requirements set forth in this chapter. (emphasis added).

II. Use of Hold Harmless Policy Would Violate Due Process Rights of Neighbors

Adoption of the proposed Policy by Staff would further be in direct violation of the due process rights of neighboring property owners, as set forth in the Town Code. By allowing an applicant whose project requires a special exception or variance to move forward with demolition or construction under a "Hold Harmless Agreement," any neighboring property owner would be denied the due process rights notice and an opportunity to be heard (and appealed if necessary)⁴ prior to any work being performed on a neighboring property.

Section 134-172 sets forth a detailed process which binds any applicant for a variance or special exception. This process includes exacting standards of: a) what an applicant must file; b) a review by staff of whether the application is complete; c) the mailing of a copy of the application to all property owners within 300 feet; d) notice of any date of hearing to surrounding property owners; e) notice to the public at large through the publication of notice in a newspaper of general circulation; and finally, an examination of f) whether the application meets all of the elements of Section 134-201 (as to variances) or Section 134-229 (as to special exceptions). If even one of these steps is skipped or a required element is missing, the application cannot be granted, but must be denied or deferred.

As such, Section 134-172 outlines the minimum due process rights of notice and an opportunity to be heard of surrounding property owners.⁵ Furthermore, adjacent neighbors are entitled to such minimum due process before the issuance of any building or demolition permit for a project requiring a variance or special exception. The case law is full of examples reversing the quasi-judicial decisions of municipalities who have violated such basic minimum due process of neighboring property owners. Consequently, clearly the Town should not adopt a Policy which would be in direct violation of neighboring property owners' due process rights.

III. "Hold Harmless" Policy Could Result In Liability Of Both the Town and Staff

While Staff (focusing only on the point of view of an applicant) argues that its Policy would be "at no risk to the Town," purportedly because the applicant will have voluntarily agreed to the process, they overlook both the liability of the Town to third parties, as well as the potential liability of individual Staff members. As noted above, under the express terms of the Code, any building

⁴ In fact an appeal to the Town Council would stay any work on the premises under Section 134-144 of the Town Code.

⁵ Staff's proposed Policy further gives rise to serious due process concerns of a shift in power from the Town Council elected by the voters to Staff. Under Staff's proposal, only they would hold the ability to "bless" some projects to proceed in advance under a "Hold Harmless Agreement" while delaying other projects. Unlike the Town Council the citizens of the Town cannot vote out Staff if they dislike their policies or practices.

permit for a project requiring a variance or special exception cannot be issued prior to a written order by the Town Council granting the required variance or special exception. As a result, any Policy (such as that proposed by Staff) which would allow the issuance of permits prior to the Town Council's consideration or granting of a special exception or variance could result in the personal liability of the Town Staff for acting outside the scope of their employment.

For example, even outside of the applicable case law, while Section 134-37 of the Code relieves any officer or employee from personal liability for any acts taken in the discharge of his duties, any release of liability is limited to actions in support of (not contrary to) the Code. As a result, "[a]ny suit brought against any officer or employee because of such act performed by him *in the enforcement of any section of this chapter* shall be defended by the town until the final termination of the proceedings." By definition, the enforcement of the Policy urged by Staff would be *in violation of* and not in the enforcement of any section of the Code. Consequently, Staff would not be protected from claims of individual liability from third parties, such as neighboring property owners. As a result, the Town should not adopt a Policy which could potentially expose its own Staff to such liability.

Likewise, the adoption of any "Hold Harmless" Policy could leave the Town exposed to liability and lawsuits from third parties, such as neighboring property owners, or even commercial lenders. Once again, by attempting to "shortcut the approval process," which would be in direct violation of the Town Code, Staff is exposing the Town to lawsuits from any litigious neighboring property owner(s) who may disagree with the decision to permit preliminary work to move forward without the proper notice and opportunity to be heard and the necessary Town Council approval. As a result, Staff's proposed Policy should not be adopted.

Furthermore, although Staff will no doubt claim that its proposed Policy would only permit such "Hold Harmless Agreements" in the event that they are signed by either the owner of a property, as well as any occupant/lessee (ostensibly to avoid a potential claim should the variance or special exception at issue not be granted) such a Policy would not protect the Town from claims by lenders or lienors of the property. The Testa property is a prime example of the possibility of such claims.

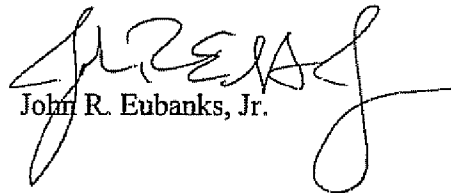
Had the Town entered into a "Hold Harmless Agreement" with Testa's to permit any work to be done prior to the issuance of an applicable variance or special exception, and Testa's thereafter ran out of money prior to the completion of their application and approval process, any first, second or third mortgagor (or any other lienor for that matter) could very well argue that the Town must now grant the variance or special exception or the Town will have participated in the deterioration of its collateral to its detriment. Again, even the possibility of such liability dictates against the adoption of the Policy proposed by Staff.

Mayor and Town Council
October 12, 2010
Page 5

IV. Conclusion

In the end, while proposed as a potential solution to "shortcut the approval process" for the benefit of applicants requiring Town Council approval, the Policy urged by Staff would be: a) in direct violation of the Town Code; b) violate the due process rights of neighboring property owners; and c) expose the Town (as well as individual staff members) to significant liability. Common sense dictates that the Town not adopt such a Policy.

Very truly yours,



John R. Eubanks, Jr.

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

SPR 10-2010

Sidney Kohl Company

November 8, 2010

Town of Palm Beach
Public Works Department
P.O. Box 2029
Palm Beach FL, 33480

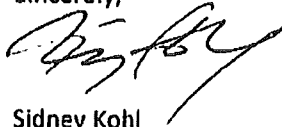
Dear Jeff:

Thank you for your letter of November 1st. I am pleased and I know the surrounding neighborhood is also pleased with your plan to shield the twenty foot high addition to the pumping station. Your letter does address all of our concerns.

We would like to make sure on the south side of the property along the path to the lake that the five to six foot new ficus hedges will be maintained and allowed to grow to its maximum height to shield the twenty foot high pumping station. Also, on the east side the eight to ten foot ficus hedge will be allowed to grow to cover the twenty foot station.

Again, thank you for your attention to our concerns.

Sincerely,



Sidney Kohl

SK: mb

340 Royal Poinciana Way, Suite 305
Palm Beach, Florida 33480
Telephone (561) 833-5050
FAX (561) 833-3694
E-mail: esko@eskoph.com

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

*Also admitted in New York

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA FACSIMILE: 561-835-4621

November 5, 2010

Mayor and Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Variance #21-2010/249/251 Royal Palm Way, Palm Beach

Dear Mayor and Town Council:

Please **withdraw** the above referenced matter from the November 10, 2010 Town Council agenda. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely yours,



Maura A. Ziska

MAZ/mr

cc: Paul Castro

Christopher Caneles

Anthony Librizzi

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