



TOWN OF PALM BEACH

PLANNING, ZONING, & BUILDING DEPARTMENT

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

NOVEMBER 9, 2022

9:30 AM

Welcome

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

I. CALL TO ORDER AND ROLL CALL

Danielle H. Moore, Mayor
Margaret A. Zeidman, President
Bobbie Lindsay, President Pro Tem
Julie Araskog
Ted Cooney
Lew Crampton

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR DANIELLE H. MOORE

IV. COMMENTS OF TOWN COUNCIL MEMBERS

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VI. APPROVAL OF AGENDA

VII. PRESENTATIONS

A. Code Review Update **TIME CERTAIN - 10:00 A.M.**

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1. Discuss Planning and Zoning Commission Recommendations and Actions From the November 7, 2022, Meeting.

VIII. DISCUSSION ITEMS

A. Declaration of Use Agreements

1. **ZON-22-070 (COA-22-026) 241 SEAVIEW AVE. (COMBO)**
- MODIFICATION TO DECLARATION OF USE AGREEMENT

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B. Time Extensions and Waivers

1. Time Extension for 172 Worth Ave – Saks Fifth Avenue

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C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **ZON-22-017 (ARC-22-032) 1237 N LAKE WAY (COMBO) - VARIANCES & SITE PLAN REVIEW** The applicant, Frank H. Pearl and Geryl T. Pearl, has filed an application requesting Town Council review of and approval of Site Plan Review for the construction of a new two-story residence on a lot with less width than required in the RB district, and including variances (1) to allow a two-story accessory structure on a lot less than 20,000SF in lot area, and (2) to exceed the point of measurement. ARCOM will perform design review of the application. [Architectural Review Commission Recommendation: Implementation for the proposed variance for the second story will cause negative architectural impact to the subject property. Carried 4-3. Implementation for the proposed variance, which addressed the point of measurement, will not cause negative architectural impact to the subject property. Carried 7-0.] ***[This item has been withdrawn.]***

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- b. **ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES** The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. ***[The Architectural Commission***

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deferred the project to their November 18, 2022, Architectural Commission meeting.][This item shall be deferred to the December 14, 2022, Town Council meeting pending Architectural Review.]

- c. **ZON-22-088 (ARC-22-126) 240 OLEANDER AVE (COMBO) – VARIANCES** The applicant, PTMJM Florida Investment Properties, LLC (Patricia Lambrecht), has filed an application requesting Town Council review and approval for variances (1) for development on a lot which is deficient in minimum lot area and (2) deficient in lot depth in the RC zoning district and (3) to exceed the maximum allowed lot coverage, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission deferred this project to the November 18, 2022 meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending Architectural Review.]*

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- d. **ZON-22-100 (COA-22-035) 800 S COUNTY RD (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, ANN DESRUISSEUAX, has filed an application requesting Town Council review and approval for site plan review for the installation of a generator over 100 kW with associated building, and variances (1) to reduce the required east front yard setback, (2) to reduce the required north side yard setback, (3) to exceed the maximum lot coverage allowed, (4) to decrease the minimum required landscape open space, (5) to place a cooling tower within a required side yard, and (6) to place an 150 kW generator in the required front and side yard. The Landmarks Preservation Commission will perform design review of the application. *[Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 6-0.] [The Landmarks Preservation Commission approved the project at their July 20, 2022 meeting. Carried 6-0.]*

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- e. **ZON-22-113 (ARC-22-182) 380 S COUNTY RD (COMBO)—SPECIAL EXCEPTION W/ SITE PLAN REVIEW AND VARIANCES.** The applicant, Le bar a vin (Ann DesRuisseaux), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and including variances (1) to reduce required parking (by 2 spaces), (2) to reduce the street side (south) setback for the proposed ground floor terrace addition, (3) to reduce the required sidewalk clearance width, (4) to reduce the required drive aisle width, (5) to reduce required landscape open space, and (6) to exceed the maximum allowable height for

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mechanical equipment on a rooftop of an existing two-story building. The applicant is also seeking a Special Exception Request for a restaurant use from an existing bar/lounge. Additionally, the applicant is seeking approval for Special Exception Request with Site Plan Review for outdoor café seating (22 seats + 8 outdoor seats previously approved) on private property and a Special Exception for a restaurant use in conjunction to an existing bar/lounge. The Architectural Commission will perform design review of the application. *[Architectural Review Commission Recommendation: Implementation of proposed variance will not cause a negative architectural impact to the subject property. Carried 6-0.] [The Architectural Review Commission approved this project with conditions at the September 28, 2022, meeting. Carried 6-0.] [The Town Council approved the site plan review with respect to the drive aisle shift, and the increase of pace on the first floor for the two bathrooms. The Town Council did not approve the outdoor seating and terrace. Variances 1,4 and 6 were approved. Both motions had a condition related to a utility easement. The special exception and variances 2,3 and 5 were deferred to the November 9, 2022, Town Council Meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting at the request of the applicant.]*

- f. **ZON-22-123 (COA-22-042) 218 PHIPPS PLZ (COMBO)—VARIANCE.** The applicant, Bruce Leeds, Trustee of the Bruce Leeds Declaration of Trust, dated May 30, 2007, has filed an application requesting Town Council review and approval for a variance to reduce the required west rear yard setback, in conjunction with the construction of a new two-story accessory structure. The Landmarks Preservation Commission will perform design review of the application. *[The Landmarks Preservation Commission approved the main structure change with conditions related to the architecture. Accessory structure changes to be reviewed by the Landmarks Preservation Commission in December 2022.] [This item shall be deferred to the January 11, 2022, Town Council meeting pending Landmarks Preservation approval.]*

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- g. **ZON-22-131 163-165 SEMINOLE AVE—VARIANCES.** The applicant, 2012 Steven H. Rose Irrevocable Trust (Dale Coudert), has filed an application requesting Town Council review and approval for variances (1) to create a new nonconforming east side-yard setback and (2) to create non-conforming landscaped openspace at 165 Seminole Ave. Variance (3) is to create a non-conforming west side-yard setback, (4) a variance for non-conforming lot coverage, (5) a variance to create non-conforming landscaped open space, and (6) a variance to create nonconforming angle of vision at 163 Seminole Ave. The

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variances are required as part of the subdivision of the existing unified property at 163-165 Seminole Avenue into 2 separate lots while maintaining all existing structures and hardscape.

- h. **ZON-22-132 (ARC-22-200) 165 BRADLEY PL (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE.** The applicant, Biltmore Galleria, LLC., has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to allow a 3,038 SF private/public school in the Commercial-Town Serving District (C-TS) zoning district and a Variance from the off-street parking requirements to eliminate required surface parking spaces and convert it into a playground area. The application will require amendments to the existing Unity of Title and Declaration of Use. The Architectural Commission will perform the design review of the application. *[Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property. Carried 5-0.] [The Architectural Review Commission approved this project at the October 25, 2022, meeting. Carried 5 - 0.]* Pg. 50
- i. **ZON-22-138 (ARC-22-184) 1540 S OCEAN BLVD. (COMBO)—SPECIAL EXCEPTION W/ SITE PLAN REVIEW.** The applicant, 1540 S OCEAN LLC (Steven Kirsch), has filed an application requesting Town Council review and approval for Special Exception and Site Plan Review for the construction of a new two-story guest house connected to a previously approved two-story structure with related landscape and hardscape improvements on a parcel deficient in lot depth. The Architectural Commission will perform the design review of the application. *[The Architectural Review Commission approved this project at the October 25, 2022, meeting. Carried 5 -0.]* Pg. 246

2. New Business

- a. **ZON-22-104 (ARC-22-146) 9 SLOANS CURVE DR (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW.** The applicant, Sean Hannity, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the construction of a 409 square foot second story addition and to install a 20-kw generator for an existing townhouse within an approved Sloan's Curve PUD. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 6-0.]* Pg. 253
- b. **ZON-22-139 (ARC-22-213) 144 CHILEAN AVE (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES.** The applicant, Allen Perl, as Trustee of the 144 Chilean Trust dated April 13, 2022, has filed an application requesting Town Council review and approval special exception Pg. 258

with site plan review for development of a lot nonconforming in lot width in the R-B zoning district in order to construct a new two-story single family residence which requires variances to (1) exceed maximum lot coverage, (2) provide deficient landscaped open space and (3) exceed the maximum cubic content ratio (CCR) allowed. The Architectural Review Commission will perform design review of the application. *[The Architectural Review Commission deferred this project to the November 18, 2022 meeting. Carried 7-0.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending review by the Architectural Review Commission.]*

c. **ZON-22-140 (ARC-22-216) 248 COLONIAL LN (COMBO) —SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE.**

The applicant, 306 Livingston Street Holdings I, LLC (Matthew Mirones), has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for development of a lot which is deficient in lot depth and lot area in the R-B zoning district and for variances (1) to eliminate the two-car garage enclosure requirement, (2) to locate a generator in a setback which is higher than allowed from neighboring grade and (3) to not completely screen a generator with a masonry wall, in conjunction with the construction of a new two-story residence. The Architectural Review Commission will perform design review of the application. *[The Architectural Review Commission deferred this project to the December 16, 2022 meeting. Carried 7-0.] [This item shall be deferred to the January 11, 2023, Town Council meeting pending review by the Architectural Review Commission.]*

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d. **ZON-22-143 (ARC-22-188) 266 ORANGE GROVE RD (COMBO)—VARIANCE.**

The applicant, Olofson Jeanne H Trust, has filed an application requesting Town Council review and approval for an after-the-fact variance to maintain landscape open space less than the minimum requirements in the R-B zoning district. The Architectural Commission will perform the design review of the application. *[Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property.] [The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 7-0.]*

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e. **ZON-22-146 (ARC-22-209) 1020 N LAKE WAY (COMBO)—VARIANCE.**

The applicant, Robert Morse, has filed an application requesting Town Council review and approval for a variance (1) to exceed the maximum allowable lot coverage, in conjunction with the exterior alterations and loggia modifications and enlargement proposed at the property. The Architectural Commission will perform design review of the application. *[Architectural Review Commission Recommendation:*

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Implementation of proposed variance will not cause negative architectural impact to the subject property.][The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 7- 0.]

IX. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Transmit a New Property Rights Comprehensive Plan Element to the State Department of Economic Opportunity (DEO)

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ORDINANCE NO. 015-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, amending the Town of Palm Beach Comprehensive Plan by creating a Property Rights Element in order to meet updated statutory requirements; maintaining internal consistency within the comprehensive plan; providing for incorporation of recitals; providing for severability; providing for the repeal of ordinances or parts thereof in conflict; providing for codification; and providing an effective date.

X. ANY OTHER MATTERS

XI. ADJOURNMENT

PLEASE TAKE NOTE:

Note 1: Please submit written comments/materials to council@townofpalmbeach.com or in person to the Town Clerk's Office, located at Town Hall, 360 South County Road. No written materials received after 3:30 p.m. on the Wednesday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 3:30 p.m. on Wednesday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

Note 2: The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Technology (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Note 3: If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to

be based.

Note 4: Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

Note 5: Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Presentations

Agenda Title

Code Review Update **TIME CERTAIN - 10:00 A.M.**

1. Discuss Planning and Zoning Commission Recommendations and Actions From the November 7, 2022, Meeting.

Time Certain

10:00 AM

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Declaration of Use Agreements

Agenda Title

ZON-22-070 (COA-22-026) 241 SEAVIEW AVE. (COMBO) - MODIFICATION
TO DECLARATION OF USE AGREEMENT

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Time Extensions

Agenda Title

Time Extension for 172 Worth Ave – Saks Fifth Avenue

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **Letter Requesting Time Extension**
- ▣ **Tentative Construction Schedule**
- ▣ **Notification to Neighbor - Louis Vuitton**
- ▣ **Notification to Neighbor - Woody Michleb Salon**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 9, 2022

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building



Re: Waiver of Town Code Section 42-199, For Extended Working Hours at 172 Worth Avenue

Date: November 1, 2022

STAFF RECOMMENDATION

Staff recommends that the Town Council consider a request for an extension of work hours for the renovation of 172 Worth Avenue, the Saks Fifth Avenue Retail Store. If approved, staff recommends that it be conditioned upon the letter (attached) from Peter Chachura, dated October 27, 2022, along with the attached construction schedule.

Staff has notified the applicant that granting of extended working hours is the sole discretion of the Town Council.

GENERAL INFORMATION

The applicant is renovating the second floor at 172 Worth Avenue. This request seeks permission to work beyond the normal October 31 cutoff date. They request work hours until February 8, 2023 to complete the interior work. Their letter does not explain the need for this additional time to complete the renovations. The construction schedule shows that all work on the VIP Room area will be complete by February 8, 2023.

Ordinance 03-2018, passed by the Town Council on second reading on February 13, 2018, modified the construction working hours in the Town as follows:

Sec. 42-199. - Hours for construction work.

- (b) *Limited. Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March, and April of each year, construction work not otherwise prohibited by section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday, and legal holidays, when all construction work is prohibited. In no event shall heavy equipment or other construction-related noise be permitted before 9:00 a.m. At all other times such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is restricted or prohibited. Construction work is permissible on Saturdays from May through the Monday preceding*

Thanksgiving, but subject to the following restrictions: work shall not begin until the hour of 9:00 a.m. and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature during which all of the noise and machinery prohibitions identified in section 42-198 are applicable; material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restriction due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sundays and legal holidays, when all construction work is prohibited.

(c) *Exceptions.*

- (5) *The town council, in its discretion, for the benefit of the health, safety and welfare of the residents of the town may, by resolution, temporarily amend the hours for construction work referenced herein.*

The applicant notified the surrounding property owners of the request and of the date of this meeting, as required.

Attachments – Letter from Peter Chachura, dated October 27, 2022
Saks VIP Room Construction Schedule



Peter Chachura
Vice President Store Planning & Construction
Saks Fifth Avenue
225 Liberty Street – 31st Floor
New York, NY 10281
peter_chachura@s5A.com

October 27, 2022

Mr. Wayne Bergman
Town of Palm Beach
360 S County Road
Palm Beach, FL 33480

Re: Saks Fifth Avenue
172 Worth Avenue
Palm Beach, FL
Permit # B-22-96741

Dear Mr. Bergman,

Saks Fifth Avenue is in receipt of building permit #B-22-96741. We are requesting approval to construct fitting rooms this permit has been issued for post October 31st.

The area of construction is located on Level 2 and is contained within the walls of our store. All deliveries will be made to the Saks loading area on the ground floor and brought into our store. We will not disrupt any adjacent tenants with our construction.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Peter Chachura'.

Peter Chachura
Vice President Store Planning & Construction

ID	Task Mode	Task Name	Duration	Start	Finish	22	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W
1	★	Install Barricade Wall	3 days	Mon 11/21/22	Wed 11/23/22																
2	★	Demo	4 days	Thu 11/24/22	Tue 11/29/22																
3	★	Framing	5 days	Wed 11/30/22	Tue 12/6/22																
4	★	MEP's rough-in	5 days	Wed 12/7/22	Tue 12/13/22																
5	★	Inspections	1 day	Wed 12/14/22	Wed 12/14/22																
6	★	Hang and finish drywall	7 days	Thu 12/15/22	Fri 12/23/22																
7	★	X-Mas/Holiday Break	7 days	Sat 12/24/22	Sun 1/1/23																
8	★	Floor prep	1 day	Mon 1/2/23	Mon 1/2/23																
9	★	Wood floor install	3 days	Tue 1/3/23	Thu 1/5/23																
10	★	Wood trim/Door install	5 days	Fri 1/6/23	Thu 1/12/23																
11	★	Prep/Paint	3 days	Fri 1/13/23	Tue 1/17/23																
12	★	Wall coverings	3 days	Wed 1/18/23	Fri 1/20/23																
13	★	MEP's trim	4 days	Mon 1/23/23	Thu 1/26/23																
14	★	Barricade removal/drywall,paint touch up/ window film removal	1 day	Fri 1/27/23	Fri 1/27/23																
15	★	Install carpet	2 days	Mon 1/30/23	Tue 1/31/23																
16	★	Fixture install	2 days	Wed 2/1/23	Thu 2/2/23																
17	★	Final inspections	2 days	Fri 2/3/23	Mon 2/6/23																
18	★	Walk and punch	2 days	Tue 2/7/23	Wed 2/8/23																

Project: Saks, VIP Room (Palm B)
Date: Wed 10/26/22

Task	Start Date	End Date	Task Type
Task	Nov 13, '22	Nov 14, '22	Task
Split	Nov 15, '22	Nov 16, '22	Split
Milestone	Nov 17, '22	Nov 17, '22	Milestone
Summary	Nov 18, '22	Nov 19, '22	Summary
Project Summary	Nov 20, '22	Nov 21, '22	Project Summary
Inactive Task	Nov 22, '22	Nov 22, '22	Inactive Task
Inactive Milestone	Nov 23, '22	Nov 23, '22	Inactive Milestone



Peter Chachura
Vice President Store Planning & Construction
Saks Fifth Avenue
225 Liberty Street – 31st Floor
New York, NY 10281
peter_chachura@s5A.com

October 27, 2022

Mr. Wayne Bergman
Town of Palm Beach
360 S County Road
Palm Beach, FL 33480

Re: Saks Fifth Avenue
172 Worth Avenue
Palm Beach, FL
Permit # B-22-96741

Dear Mr. Bergman,

Saks Fifth Avenue is in receipt of building permit #B-22-96741. We are requesting approval to construct fitting rooms this permit has been issued for post October 31st.

The area of construction is located on Level 2 and is contained within the walls of our store. All deliveries will be made to the Saks loading area on the ground floor and brought into our store. We will not disrupt any adjacent tenants with our construction.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Peter Chachura'.

Peter Chachura
Vice President Store Planning & Construction

ID	Task Mode	Task Name	Duration	Start	Finish	22	T	W	T	F	S	S	M	T	W	F	S	S	M	T	W
1	★	Install Barricade Wall	3 days	Mon 11/21/22	Wed 11/23/22																
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17	★	Final inspections	2 days	Fri 2/3/23	Mon 2/6/23																
18	★	Walk and punch	2 days	Tue 2/7/23	Wed 2/8/23																

Project: Saks, VIP Room (Palm B) Date: Wed 10/26/22	Task	Inactive Summary	External Tasks
	Split	Manual Task	External Milestone
	Milestone	Duration-only	Deadline
	Summary	Manual Summary Rollup	Progress
	Project Summary	Manual Summary	Manual Progress
	Inactive Task	Start-only	
	Inactive Milestone	Finish-only	



Peter Chachura
Vice President Store Planning & Construction
Saks Fifth Avenue
225 Liberty Street – 31st Floor
New York, NY 10281
peter_chachura@s5a.com

November 1, 2022

David Preston
Louis Vuitton
150 Worth Avenue
Palm Beach, FL 33480

Re: Saks Fifth Avenue
172 Worth Avenue
Palm Beach, FL 33480
Permit # B-22-96741

Dear Mr. Preston,

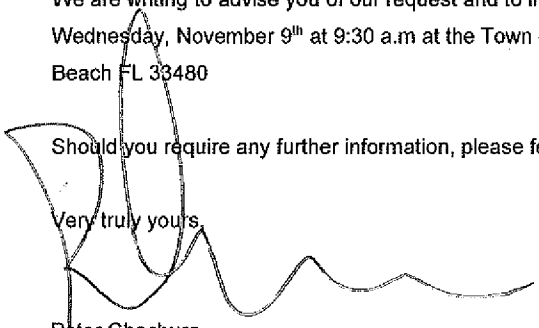
Saks Fifth Avenue is in receipt of building permit #B-22-96741. We are seeking approval from the Town of Palm Beach to construct the fitting rooms this permit has been issued for post October 31st.

The area of construction is located on Level 2 and is contained within our store. All deliveries will be made to the Saks loading area on the ground floor and brought into our store. We do not anticipate any disruption to your business during the construction period.

We are writing to advise you of our request and to invite you to support or oppose our application at the Town Council Meeting on Wednesday, November 9th at 9:30 a.m at the Town of Pam Beach, Town Council Chambers, 360 S County Road, 2nd Floor, Palm Beach FL 33480

Should you require any further information, please feel free to contact me.

Very truly yours,


Peter Chachura
Vice President Store Planning & Construction



Peter Chachura
Vice President Store Planning & Construction
Saks Fifth Avenue
225 Liberty Street – 31st Floor
New York, NY 10281
peter_chachura@s5a.com

November 1, 2022

Amy Michleb
Woody Michleb Salon
150 Worth Avenue
Palm Beach, FL 33480

Re: Saks Fifth Avenue
172 Worth Avenue
Palm Beach, FL 33480
Permit # B-22-96741

Dear Ms. Michleb,

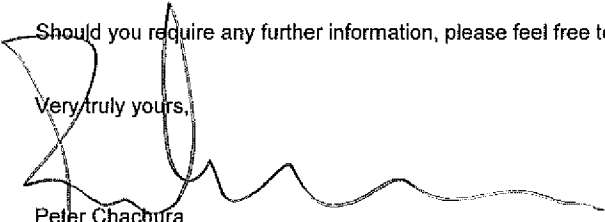
Saks Fifth Avenue is in receipt of building permit #B-22-96741. We are seeking approval from the Town of Palm Beach to construct the fitting rooms this permit has been issued for post October 31st.

The area of construction is located on Level 2 and is contained within our store. All deliveries will be made to the Saks loading area on the ground floor and brought into our store. We do not anticipate any disruption to your business during the construction period.

We are writing to advise you of our request and to invite you to support or oppose our application at the Town Council Meeting on Wednesday, November 9th at 9:30 a.m. Town of Palm Beach, Town Council Chambers, 360 S County Road, 2nd Floor, Palm Beach FL 33480

Should you require any further information, please feel free to contact me:

Very truly yours,



Peter Chachura

Vice President Store Planning & Construction

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

Agenda Title

ZON-22-017 (ARC-22-032) 1237 N LAKE WAY (COMBO) - VARIANCES & SITE PLAN REVIEW The applicant, Frank H. Pearl and Geryl T. Pearl, has filed an application requesting Town Council review of and approval of Site Plan Review for the construction of a new two-story residence on a lot with less width than required in the RB district, and including variances (1) to allow a two-story accessory structure on a lot less than 20,000SF in lot area, and (2) to exceed the point of measurement. ARCOM will perform design review of the application. [Architectural Review Commission Recommendation: Implementation for the proposed variance for the second story will cause negative architectural impact to the subject property. Carried 4-3. Implementation for the proposed variance, which addressed the point of measurement, will not cause negative architectural impact to the subject property. Carried 7-0.] *[This item has been withdrawn.]*

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

Agenda Title

ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES

The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. [*The Architectural Commission deferred the project to their November 18, 2022, Architectural Commission meeting.*] [***This item shall be deferred to the December 14, 2022, Town Council meeting pending Architectural Review.***]

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

Agenda Title

ZON-22-088 (ARC-22-126) 240 OLEANDER AVE (COMBO) – VARIANCES The applicant, PTMJM Florida Investment Properties, LLC (Patricia Lambrecht), has filed an application requesting Town Council review and approval for variances (1) for development on a lot which is deficient in minimum lot area and (2) deficient in lot depth in the RC zoning district and (3) to exceed the maximum allowed lot coverage, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission deferred this project to the November 18, 2022 meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending Architectural Review.]*

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

Agenda Title

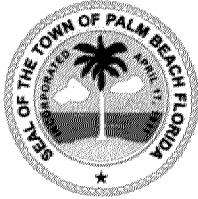
ZON-22-100 (COA-22-035) 800 S COUNTY RD (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES

The applicant, ANN DESRUISSEUAX, has filed an application requesting Town Council review and approval for site plan review for the installation of a generator over 100 kW with associated building, and variances (1) to reduce the required east front yard setback, (2) to reduce the required north side yard setback, (3) to exceed the maximum lot coverage allowed, (4) to decrease the minimum required landscape open space, (5) to place a cooling tower within a required side yard, and (6) to place an 150 kW generator in the required front and side yard. The Landmarks Preservation Commission will perform design review of the application. *[Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 6-0.] [The Landmarks Preservation Commission approved the project at their July 20, 2022 meeting. Carried 6-0.]*

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **Letter of Intent**
- ▣ **Plans**
- ▣ **Letter Dated August 9, 2022 from Harvey E. Oyer, III, Esq.**
- ▣ **Email Dated August 10, 2022 from Maura Ziska, Esq.**



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5430 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-100 (COA-22-035) 800 S COUNTY RD (COMBO)

MEETING: NOVEMBER 09, 2022

ZON-22-100 (COA-22-035) 800 S COUNTY RD (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES. The applicant, ANN DESRUISSEUAX, has filed an application requesting Town Council review and approval for site plan review for the installation of a generator over 100 kW with associated building, and variances (1) to reduce the required east front yard setback, (2) to reduce the required north side yard setback, (3) to exceed the maximum lot coverage allowed, (4) to decrease the minimum required landscape open space, (5) to place a cooling tower within a required side yard, and (6) to place an 150 kW generator in the required front and side yard. The Landmarks Preservation Commission will perform design review of the application.

LPC NOTICE:

COA-22-035 (ZON-22-100) 800 S COUNTY RD (COMBO). The applicant, ANN DESRUISSEUAX, has filed an application requesting a Certificate of Appropriateness for changes to previously approved project including modifications to windows and doors, removal of fence and masonry columns, relocation of fence and entry columns to the east, addition of a site wall to match existing along S County Rd, and the construction of a new generator building with cooling tower enclosure requiring special exception, site plan review and variances related to setback, lot coverage and open space. Town Council will review the special exception with site plan review and variance portion of the application.

Applicant: Ann Desruisseuax
Professional: Brasseur & Drobot Architects, P.A. (Jason Drobot)
Representative: Maura Ziska, Esq.

HISTORY:

The proposed scope of work is an amendment to an existing Historic Preservation Property Tax Exemption application. There have been multiple amendments to the initial approval, with the last amendment request being reviewed and approved by the LPC in May of 2022. The property was designed by renowned Palm Beach architect Addison Misner in 1923.

The applicant came before the Town Council at the August 10, 2022 Development Review Meeting and presented the plans that are before the Town Council again today. At that August meeting, a neighbor expressed concerns regarding a property wall. The Town Council directed the applicant to revise the proposal and reduce the variance requests. At the September 14, 2022 the applicant

was ready to present revised plans for two alternative designs but requested a deferral. The applicant requested another deferral at the October 12, 2022 meeting.

Plans presented today are the same request as the original submittal back in August. This site plan and proposed design changes were approved by the Landmarks Preservation Commission at the July 20, 2022 (6-0) and the LPC also motioned that the variances will not cause negative architectural impact to the subject landmarked property (6-0).

THE PROJECT:

The applicant has submitted plans, entitled “A GENERATOR BUILDING AND SITE WALL ADDITION FOR: ANN DESRUISSEAU”, prepared by **Brasseur & Drobot Architects, PA** dated June 10, 2022.

The following is the scope of work is proposed for the project:

- Removal of an existing fence and masonry column at the northeast corner of the parcel.
- Relocation of the existing entry columns and gates eastward.
- Construction of a new site wall to match existing along S County Road.
- Construction of a new 227 SF generator building with a 60-ton cooling tower enclosure at the northeast corner of the property

The following Special Exception with Site Plan Review and Variances are being requested for the project:

- SPECIAL EXCEPTION W/ SITE PLAN REVIEW: for the installation of a new generator over 100kW.
- VARIANCE 1: Section 134-843(5): A variance for a front yard setback of 31.6 ft. in lieu of the 35 ft. minimum required for the construction of the new generator building.
- VARIANCE 2: Section 134-843(8): A variance for a side yard setback of 10.9 ft. in lieu of the 30 ft. minimum required for lots over 60,000 SF for the construction of the new generator building.
- VARIANCE 3: Section 134-843(11): A variance for lot coverage of 25.36% in lieu of the 24.99% previously approved, and the 25% maximum allowed, for the construction of the new generator building.
- VARIANCE 4: Section 134-843(12): A variance for a landscape open space of 42.8% in lieu of the 43.48% previously approved, and the 50% minimum required, for the construction of the new generator building.
- VARIANCE 5: Section 134-1728(b)(1): A variance to permit a 60-ton cooling tower in a required side yard.
- VARIANCE 6: Section 134-1729: A variance to allow a 150kW generator within the required front yard, where generators are prohibited.

Site Data			
Zoning District	R-A Estate Residential	Lot Size (SF)	62,295 SF
C-O-R	7.40' NAVD	Flood Zone	AE 6' / Zone X
Exist. Floor Elevation	9' NAVD	Prop. Floor Elevation	9' NAVD
Year of Construction	1923	Architect	Addison Mizner

Project			
Landscape Open Space	Permitted: 50% (31,147.5 SF) Existing: 43.48% (27,086 SF) Proposed: 42.8% (26,662 SF) <i>Variance requested</i>	Lot Coverage	Permitted: 25% (15,573.75 SF) Existing: 24.99% (15,570 SF) Proposed: 25.36% (15,798 SF) <i>Variance requested</i>
Surrounding Properties			
North	1991 Two-story single-family estate residence		
South	1940 Two-story single-family estate residence		
East	1928 Three-story single-family estate residence		
West	Lake Worth Lagoon		

STAFF ANALYSIS

The application is presented to the Town Council to consider whether all the criteria in section 134-229, 134-329, and 134-201 have been met. The applicant seeks to construct a new 227 SF utility building to house a new generator over 100kW and new masonry site walls to screen a cooling tower directly north of the proposed vehicle gate location. The generator building's proposed location requires substantial relief from the zoning code, including a front yard setback variance, a side yard setback variance, a lot coverage variance, and a landscape open space variance. Additionally, a variance to permit a 60-ton cooling tower in a required side yard and a variance to locate a 150kW generator within the required front yard is also needed, as generators are prohibited from being placed in front yard setbacks. The installation of a generator over 100kW is required to be housed in a building as a Special Exception and is subject to Site Plan Review and approval by Town Council. The exact code relief sections and calculations are provided below:

- A. SPECIAL EXCEPTION W/ SITE PLAN REVIEW: for the installation of a new generator over 100kW.
- B. VARIANCE 1: Section 134-843(5): A variance for a front yard setback of 31.6 ft. in lieu of the 35 ft. minimum required for the construction of the new generator building.
- C. VARIANCE 2: Section 134-843(8): A variance for a side yard setback of 10.9 ft. in lieu of the 30 ft. minimum required for lots over 60,000 SF for the construction of the new generator building.
- D. VARIANCE 3: Section 134-843(11): A variance for lot coverage of 25.36% in lieu of the 24.99% previously approved, and the 25% maximum allowed, for the construction of the new generator building.
- E. VARIANCE 4: Section 134-843(12): A variance for a landscape open space of 42.8% in lieu of the 43.48% previously approved, and the 50% minimum required, for the construction of the new generator building.
- F. VARIANCE 5: Section 134-1728(b)(1): A variance to permit a 60-ton cooling tower in a required side yard.

- G. VARIANCE 6: Section 134-1729: A variance to allow a 150kW generator within the required front yard, where generators are prohibited.

Staff is understanding of the desire for the generator and cooling towers for this large estate. The applicant affirms that the proposed location of the generator, cooling tower, and associated structure has been discussed with affected neighbors. Several variances are being proposed, however, they do not appear to be detrimental. Generators of this size are required to be within an enclosed building. The addition of a 227 SF generator building with a 60 ton cooling tower enclosure is proposed at the northeast corner of the property requiring six variances. The first two are for setbacks to permit the elements within the front and side yard. The fact that the generator must be in a building triggers the need for the coverage and open space variance which have already been granted. And finally, two variances are needed to place the equipment in the front yard which are otherwise not permitted.

BRASSEUR & DROBOT ARCHITECTS, P.A.

May 30, 2022

Town of Palm Beach
Planning, Zoning and Building Department
360 South County Road
Palm Beach, Florida 33480

Re: ZON-22-100 and COA-22-035, 800 South County Rd, Letter of Intent

To whom it may concern,

This is a letter of intent for the renovation of a previously approved 20,221 sq. ft. two story residence including the renovation of the original 10,819 S.F. two story residence designed by Addison Mizner in 1923.

The project consists of:

1. Removal of an existing fence and masonry column at the northeast corner of the property.
2. The relocation of the existing entry columns and gate to the east.
3. The addition of a site wall to match existing along S County Rd.
4. The addition of a 227 sq. ft. 150 KW generator building with a 60 ton cooling tower enclosure at the northeast corner of the property which will require the following variances:
 - A. Variance 1: Section 134-843 (5): A variance for a front yard setback of 31.6 ft. in lieu of 35 ft. minimum required, for a new generator building.
 - B. Variance 2: Section 134-843 (8): A variance for a side yard setback of 10.9 ft. in lieu of the 30 ft. minimum required for lots over 60,000 sq. ft., for a new generator building.
 - C. Variance 3: Section 134-843 (11): A variance for a lot coverage of 25.36% in lieu of the 24.99% previously approved and 25% maximum allowed, for a new generator building.
 - D. Variance 4: Section 134-843 (12): A variance for a landscape open space of 42.8% in lieu of 43.48% previously approved and 50% minimum required, for a new generator building.
 - E. Variance 5: Section 134-1728(b)(1): A variance to permit a 60-ton cooling tower in a required side yard.
 - F. Variance 6: Section 134-1729: A variance to allow a 150kW generator within the required front yard, where generators are prohibited.

Justification for the above variances per section 134-201:

- 1) The special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands is that the site plan has been carefully studied for a proper location to place a generator building and cooling tower. Combining a the cooler tower location and generator building behind the existing large, highly visible, FPL equipment located at the Northeast corner of the property is the best location. North of

RR 94843 - RR 0017698
RR 26001461
224 DATURA STREET, SUITE 311
WEST PALM BEACH, FLORIDA 33401
561.820.8088 FAX 561.820.8089

BRASSEUR & DROBOT ARCHITECTS, P.A.

the existing North gate entry provides a place which gives us the opportunity to create the appearance and aesthetic of a small guard house balanced by the Tennis Pavilion/Guest house on the South side of the North gate entry. This location retains the appealing historic vista to the intra-coastal waterway which the Town enjoys from the street. The owner has been working closely with their neighbor to the North and it is the neighbor's preference that this structure be as far East as possible. is a three story landmarked house in the R-C Zoning District that is non-conforming to today's code.

- 2) The applicant was not the cause of the special conditions as the house is a landmark and a delicate approach is required when considering design and placement of equipment.
- 3) The granting of these variances will not confer on the applicant a special privilege as having updated air-conditioning equipment and generator is essential to protect a historic home.
- 4) The hardship, which runs with the land, is that the property is a Town of Palm Beach Historic Landmark and equipment location for a house this size requires special consideration. If traditional air-conditioning units were to be used, multiple units would be required which would be a challenge, take up more space and not be aesthetic.
- 5) The variance requests are the minimum necessary to make reasonable use of the land, building or structure. The air conditioning equipment requirements have been studied and designed by our Mechanical engineer. They have determined the best approach for this historic property is a cooling tower with condenser water. A cooling tower will take up the least amount of space compared to other systems which would require multiple pieces of exterior equipment. As this is a significant historic and landmarked property which requires a 30 ft. side yard setback (because the property is 62,295 sq. ft.), as opposed to the neighbors 15 ft. side yard setback, it would be inappropriate and a hardship to place the cooling tower in a location that visually blocks the main part of the historic residence.
- 6) The granting of the variances requested will be in harmony with the general intent and purpose of this chapter and will not be injurious to the area or detrimental to the public welfare. The neighbor to the north who would be most affected is supportive of this request.

The Certificate of Appropriateness application will be submitted on May 30, 2022 for the July 20, 2022 Landmark Preservation Commission meeting.

It is this offices opinion that the request complies with Section 54-122 and Section 54-161 of the Landmark Manual. Materials used will match that which was previously approved by the Landmarks Commission in October of 2020. Stucco, cast stone and finishes will match existing. The proposed door and window openings are similar in proportion to existing openings.

This office reviewed the archived plans received from the Town of Palm Beach's Archive Department. To the best of our knowledge, Zoning related requests on after January 1979 include:

1931: Alterations were made by the original architect, Addison Mizner. These included the addition of the round stair tower, changing Living Room windows to French doors, and miscellaneous interior renovations that required some minor fenestration changes.

1977: a Pool Cabana was added. The Cabana was constructed in conjunction with the installation of a swimming pool and raised deck at the west edge of the property.

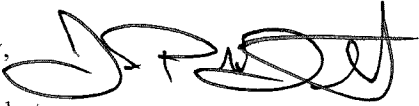
1988: the original French doors and windows were replaced with matching wood units.

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1992: a Covered Loggia with open deck above, designed by Michael Johnson, and was added to the southwest corner of the house.

Please let me know if you have any questions. My office number is (561) 820-8088.

Respectfully, 

Jason P. Drobot
Architect

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HARVEY E. OYER, III
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1100 CityPlace Tower
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DIRECT (561) 650-8517
FAX (561) 822-5522
EMAIL hoyer@shutts.com

August 9, 2022

Via Email: mayor@townofpalmbeach.com / council@townofpalmbeach.com

Danielle H. Moore, Mayor
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

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

**Re: ZON-22-100 (COA-22-035) - 800 S COUNTY RD (COMBO)
("Application") submitted by Ann DesRuisseux ("Applicant").**

Dear Mayor Moore and Town Council:

This firm represents 790 S. County Rd. Land Trust (the "**Client**"), the owner of the home located at 790 South County Road, which directly abuts the property subject to the above-referenced Application ("**800 S. County**"). This correspondence shall serve as a formal objection to the variances requested by the Applicant.

Our Client possesses the requisite legal standing as a materially and adversely affected party because it is an adjacent property owner. Our Client objects to the granting of the six (6) variances requested by the Applicant to construct a 227 square foot (sq. ft.), 150 KW generator building with a 60-ton cooling tower enclosure at the northeast corner of the 800 S. County property. Specifically:

- 1) VARIANCE 1: Section 134-843(5): A variance for a front yard setback of 31.6 ft. in lieu of the 35 ft. minimum required for the construction of the new generator building;
- 2) VARIANCE 2: Section 134-843(8): A variance for a side yard setback of 10.9 ft. in lieu of the 30 ft. minimum required for lots over 60,000 sq. ft. for the construction of the new generator building;
- 3) VARIANCE 3: Section 134-843(11): A variance for lot coverage of 25.36% in lieu of the 24.99% previously approved, and the 25% maximum allowed, for the construction of the new generator building;

- 4) VARIANCE 4: Section 134-843(12): A variance for a landscape open space of 42.8% in lieu of the 43.48% previously approved, and the 50% minimum required, for the construction of the new generator building;
- 5) VARIANCE 5: Section 134-1728(b)(1): A variance to permit a 60-ton cooling tower in a required side yard; and
- 6) VARIANCE 6: Section 134-1729: A variance to allow a 150 KW generator within the required front yard, where generators are prohibited.

Sections 94-131(a)(1) through (7) of the Town Zoning Code outlines the standards that must be complied with in order for the Town Council to approve a variance. The Applicant has failed to demonstrate or provide any legal justification to comply with any of these standards. As such, the Town Council cannot legally grant the requested variances.

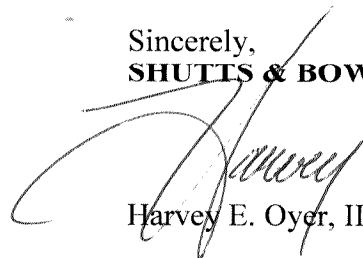
So you are aware, our Client attempted to work in good faith with the Applicant to achieve a reasonable solution for both parties. This is the reason we did not object at the Landmarks Preservation Commission meeting held on July 20, 2022. However, unfortunately, our client's good faith negotiations with the Applicant have reached an impasse.

Based on the foregoing, we respectfully request that the Town Council deny the requested variances. Nothing set forth herein shall be deemed to modify, limit, release, reduce, or waive any of the Client's rights, remedies, and/or privileges at law or in equity, all of which are specifically reserved.

Please ensure that this correspondence is placed in the official "record" of the proceedings for the Application.

Sincerely,

SHUTTS & BOWEN LLP



Harvey E. Oyer, III, Esq.

cc: Skip Randolph, Esq.
Wayne Bergman, Director of Planning, Zoning and Building

From: [Maura Ziska](#)
To: [Danielle Hickox Moore](#); [Town Council](#); [Kelly Churney](#)
Cc: [Tim Hanlon](#); ["hoyer@shutts.com"](mailto:hoyer@shutts.com); [Ann DesRuisseaux](#); [James Murphy](#); [Wayne Bergman](#)
Subject: 800 South County Road
Date: Wednesday, August 10, 2022 7:56:51 AM

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Mayor and Town Council and Staff:

Please excuse the late email regarding our request before you today regarding 800 S. County Road, however, we were blindsided by two letters from Harvey Oyer late in the day now voicing the objection to our request for the mechanical equipment. Mr. Oyer now states he represents the neighbor, Michele Kang, who bought the 790 S. County Road property in February 2021 and have refused to reveal her identity until yesterday after numerous offers to meet with her. This was a surprise as we have been negotiating with Tim Hanlon in good faith for months about the merits of our application and the offer to replace dangerous portions of her wall that are in disrepair and leaning onto the 800 SCR property. The bottom line is the neighbor is now trying to extort a new wall for the full length of her property and will not support the variances unless we agree to this. The proposal before you has been studied by the professionals and will be an improvement and best solution for the mechanical equipment. To reiterate the hardships that relate to this property:

1. Renovating one of palm beach's most historic homes that NO ONE (for years) would touch.
2. The Team has explored all options and considering the mandated FPL easement and equipment that was a condition of prior approvals - the most logical location is the one being proposed. A chiller is much more sensitive than a dozen plus a/c units and by tucking the mechanical building in the front corner, it preserves the view and vista of passerbys who will be able to see through the gate all the way to the water.
3. The proposed location for the mechanical equipment moves it further away from the living space of the neighbor and closer to a noisy busy street and both driveways so it will be less of a nuisance.
4. Landmarks unanimously approved this location and design.

The offer to remove any portions of the neighbor's wall that is leaning and replace it with a new wall is still on the table, but it isn't fair to extort an entire new wall in exchange for consent to the variances, especially when the variances are warranted on their own merits.

Maura A. Ziska, Esq.
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401
561-802-8960 (telephone)

561-802-8995 (fax)

This electronic message transmission contains information from the law firm of Kochman & Ziska PLC which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

Agenda Title

ZON-22-113 (ARC-22-182) 380 S COUNTY RD (COMBO)—SPECIAL EXCEPTION W/ SITE PLAN REVIEW AND VARIANCES.

The applicant, Le bar a vin (Ann DesRuisseaux), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and including variances (1) to reduce required parking (by 2 spaces), (2) to reduce the street side (south) setback for the proposed ground floor terrace addition, (3) to reduce the required sidewalk clearance width, (4) to reduce the required drive aisle width, (5) to reduce required landscape open space, and (6) to exceed the maximum allowable height for mechanical equipment on a rooftop of an existing two-story building. The applicant is also seeking a Special Exception Request for a restaurant use from an existing bar/lounge. Additionally, the applicant is seeking approval for Special Exception Request with Site Plan Review for outdoor café seating (22 seats + 8 outdoor seats previously approved) on private property and a Special Exception for a restaurant use in conjunction to an existing bar/lounge. The Architectural Commission will perform design review of the application.

*[Architectural Review Commission Recommendation: Implementation of proposed variance will not cause a negative architectural impact to the subject property. Carried 6-0.] [The Architectural Review Commission approved this project with conditions at the September 28, 2022, meeting. Carried 6-0.] [The Town Council approved the site plan review with respect to the drive aisle shift, and the increase of pace on the first floor for the two bathrooms. The Town Council did not approve the outdoor seating and terrace. Variances 1,4 and 6 were approved. Both motions had a condition related to a utility easement. The special exception and variances 2,3 and 5 were deferred to the November 9, 2022, Town Council Meeting.] **[This item shall be deferred to the December 14, 2022, Town Council meeting at the request of the applicant.]***

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

Agenda Title

ZON-22-123 (COA-22-042) 218 PHIPPS PLZ (COMBO)—VARIANCE.

The applicant, Bruce Leeds, Trustee of the Bruce Leeds Declaration of Trust, dated May 30, 2007, has filed an application requesting Town Council review and approval for a variance to reduce the required west rear yard setback, in conjunction with the construction of a new two-story accessory structure. The Landmarks Preservation Commission will perform design review of the application. *[The Landmarks Preservation Commission approved the main structure change with conditions related to the architecture. Accessory structure changes to be reviewed by the Landmarks Preservation Commission in December 2022.] [This item shall be deferred to the January 11, 2022, Town Council meeting pending Landmarks Preservation approval.]*

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

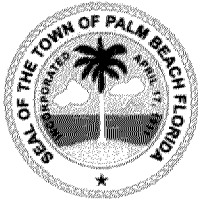
Agenda Title

ZON-22-131 163-165 SEMINOLE AVE—VARIANCES. The applicant, 2012 Steven H. Rose Irrevocable Trust (Dale Coudert), has filed an application requesting Town Council review and approval for variances (1) to create a new nonconforming east side-yard setback and (2) to create non-conforming landscaped openspace at 165 Seminole Ave. Variance (3) is to create a non-conforming west side-yard setback, (4) a variance for non-conforming lot coverage, (5) a variance to create non-conforming landscaped open space, and (6) a variance to create nonconforming angle of vision at 163 Seminole Ave. The variances are required as part of the subdivision of the existing unified property at 163-165 Seminole Avenue into 2 separate lots while maintaining all existing structures and hardscape.

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **Letter of Intent**
- ▣ **Public Comment**
- ▣ **Plans**



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Town of Palm Beach Mayor and Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-131 163-165 SEMINOLE AVE

MEETING: NOVEMBER 09, 2022

ZON-22-131 163-165 SEMINOLE AVE—VARIANCES. The applicant, 2012 Steven H. Rose Irrevocable Trust (Dale Coudert), has filed an application requesting Town Council review and approval for variances (1) to create a new nonconforming west side-yard setback, (2) to create nonconforming lot coverage, (3 -4) to create nonconforming landscaped open space o, and (5) to create nonconforming angle of vision; as part of the subdivision of the existing unified property at 163-165 Seminole Avenue into 2 separate lots while maintaining all existing structures.

Applicant: 2012 Steven. H. Rose Irrevocable Trust (Dale Coudert)
Professional: Asbacher Architecture
Representative: Maura Ziska, Esq.

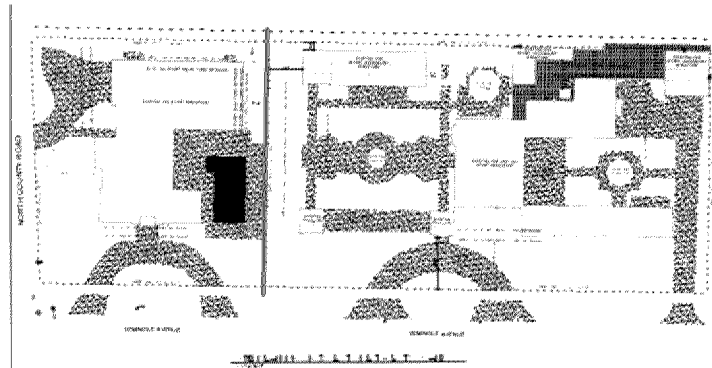
HISTORY:

At the October 12, 2022 Town Council meeting, the application was presented for review. After considerable discussion, the matter was deferred in order for the applicant's representative to discuss landmarking options with the owner of the property.

THE PROJECT:

The applicant has submitted plans, entitled "PROPOSED LOT SPLIT", as prepared by **Asbacher Architecture**, dated August 2, 2022, requesting approval by the Town Council for variances which are required to allow a lot split which will result in zoning nonconformities due to existing structures and hardscape on both sites.

Currently, the unified parcel exists with a one-story residence, a one- and two-story residence, and three (3) one-story accessory structures with related hardscape, landscape and water features. After the lot split, the west lot (165 Seminole Ave) will contain only a 1 story residence with hardscape, landscape, and swimming pool. The east lot (163 Seminole Ave) contains Landmarked features and will contain a 1 and 2 story residence, three (3) one-story accessory structures, with hardscape pool and water fountain features. The newly created east lot will be known as 163 Seminole Ave, and the newly created west lot will be known as 165 Seminole Ave.



Each of the newly created lots will be compliant to zoning in regard to the width, depth and area lot size requirements of the underlying R-B zoning regulations for the parcels, and themselves would not require any Special Exception or Site Plan Review by Town Council if they were to be redeveloped in the future.

The applicant is seeking variances which result from the new lot line dividing the parcel. The new nonconformities requiring variances arise as a result of the existing structures on the site, which will require variances for setbacks, lot coverage, angle of vision, and landscape open space. The applicant DOES NOT need to seek variance relief for the EXISTING nonconformities. There is no site work or any construction proposed as a part of this application.

The variance relief required to create the west parcel (165 Seminole Ave) are as follows:

1. VARIANCE 1: Section 134-893(b)(7)a: A variance for an east side-yard setback of 12.3' in lieu of the 12.5' minimum required for an existing structure on a newly created lot in the R-B zoning district. (West Parcel: 165 Seminole Ave, Lot 19)
2. VARIANCE 2: Section 134-893(b)(12): A variance for a landscaped open space of 41.4% in lieu of the 45% minimum required for a newly created lot in the R-B zoning district with pre-existing structures and hardscape. (West Parcel: 165 Seminole Ave, Lot 19)

The variance relief required for the east lot (163 Seminole Ave) are as follows:

3. VARIANCE 3: Section 134-893(b)(1)a.: A variance for a west side-yard setback of 15-ft in lieu of the 30 ft minimum required for a newly created lot with pre-existing structures in the R-B zoning district, which is over 20,000 SF in area and is greater than 150 ft in width. (East parcel: 163 Seminole Ave, Lot 22).
4. VARIANCE 4: Section 134-893(b)(1)e.: A variance for a lot coverage of 27.2% in lieu of the 25% maximum allowed, for a newly created lot with pre-existing structures in the R-B zoning district, which is over 20,000 SF in area. (East parcel: 163 Seminole Ave, Lot 22).
5. VARIANCE 5: Section 134-893(b)(1)e.: A variance for a landscaped open space of 44% in lieu of the 50% minimum required, for a newly created lot with pre-existing structures and hardscape in the R-B zoning district on lot in excess of 20,000 SF in area (East parcel: 163 Seminole Ave, Lot 22).
6. VARIANCE 6: Section 134-893(b)(1)b. A variance for an angle of vision of 148° in lieu of the 110° maximum allowed for a newly created lot with pre-existing structures in the R-B zoning district which is in excess of 20,000 SF in area. (East parcel: 163 Seminole Ave, Lot 22).

Zoning

Below is a summary of the subject application with regards to Zoning Code compliance and variance request.

Surrounding Properties/Zoning	
North	1972 1-story residence / 1962 2-story residence / 2019 2-story residence / 1922 2-story residence (R-B)
South	2005 2-story residence / vacant parcel / 1925 2-story residence (R-B)
East	1950 2-story residence (R-B)
West	2007 2-story residence (R-C)

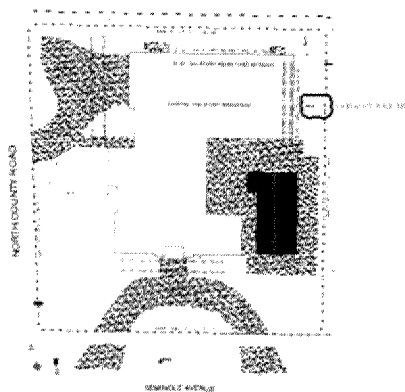
Site Data - 165 Seminole Ave (West Parcel)			
Zoning District	R-B Low Density Residential	Lot Size (SF)	Required: 10,000 SF Proposed: 13,358 SF
Lot Depth	Required: 100 ft Existing: 117 ft 7 in	Lot Width	Required: 100 ft Proposed: 110 ft
Lot Coverage	Max Allowed: 40% Proposed: 29.3%	Angle of Vision	Required: 102° max Proposed: 102°
Front Yard Setback	Required: 25 ft Existing: 29 ft 2 in	Rear Yard Setback	Required: 10 ft Existing: 9 ft 10 in
Side Yard Setback (East)	Required: 12 ft 6 in Proposed: 12 ft 4.75 in (VARIANCE 1)	Side Yard Setback (West Street)	Required: 25 ft Existing: 28 ft 6 in
Landscape Open Space (LOS)	Required: 45% minimum Proposed: 41.4% (VARIANCE 2)	Perimeter LOS	Required: 50% min. Proposed: 54.5%
Front Yard LOS	Required: 45% min. Proposed: 66.9%	FEMA FLOOD ZONE	X

Site Data - 163 Seminole Ave (East Parcel)			
Zoning District	R-B Low Density Residential (Lot over 20,000 SF)	Lot Size (SF)	Required: 10,000 SF Proposed: 25,311 SF
Lot Depth	Required: 100 ft Existing: 117 ft 7 in	Lot Width	Required: 100 ft Proposed: 215 ft
Lot Coverage	Max Allowed: 25% Proposed: 27.2% (VARIANCE 4)	Angle of Vision	Required: 102° max. Proposed: 148° (VARIANCE 6)
Front Yard Setback	Required: 25 ft Existing: 25 ft 5.5in	Rear Yard Setback	Required: 10 ft Existing: 6 in
Side Yard Setback (East)	Required: 30 ft Existing: 10 in	Side Yard Setback (West)	Required: 30 ft Proposed: 15 ft (VARIANCE 3)

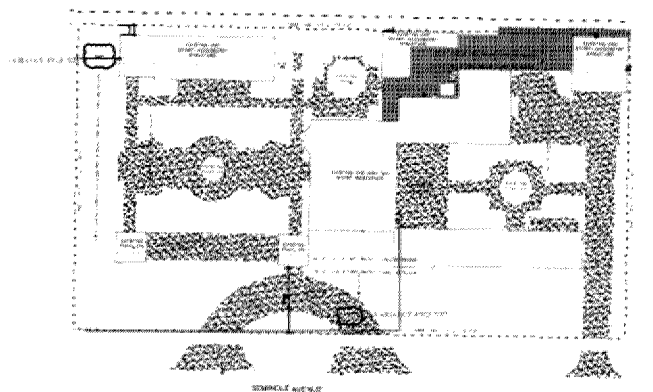
Landscape Open Space (LOS)	Required: 50% minimum Proposed: 44.2% (<i>VARIANCE 5</i>)	Perimeter LOS	Required: N/A (Lot over 20,000 sf)
Front Yard LOS	Required: 45% min. Proposed: 77.5%	FEMA FLOOD ZONE	X

STAFF ANALYSIS:

The existing parcel is 38,000+ SF corner parcel on the northeast intersection of Seminole Ave and N. County Road. It appears that at some point, the existing parcel was created by combining two separate parcels, however, there is no record of a unity of title between the parcels in the Town's records. The proposed lot split would be in keeping with neighborhood development patterns; the existing oversized parcel made up of multiple dwellings and accessory structures is out of sync with the rest of the neighborhood. There is no new development or improvements to hardscape being proposed as a part of this application. The need for variances arise because of the relationship of the newly proposed lot line with the existing structures/conditions of the site. The actual lots being proposed are compliant with the regulations of the R-B zoning district in which they are located. Any future redevelopment would not require special exception or site plan review by town council for lots with nonconforming width, depth or area.



West Lot (165 Seminole Ave)



East Lot (163 Seminole Ave)

Staff notes that the proposed east lot (163 Seminole Ave) does have features which are landmarked and any future changes would be subject to review and approval by the Landmarks Preservation Commission. The proposed west lot (165 Seminole Ave) does not have any Landmarked features, therefore any alteration or redevelopment would be subject to review by the Architectural Commission. Staff is of the opinion that the request to split these parcels is not unreasonable and in keeping with development patterns of the immediate neighborhood.

WRB:JGM:BMF



July 28, 2022

Town of Palm Beach
Planning, Zoning and Building Department
360 South County Road
P.O. Box 2029
Palm Beach, FL 33480

RE: 163/165 Seminole Avenue Lot Split

To Whom It May Concern:

Asbacher Architecture has been hired by Dale Coudert owner of 163/165 Seminole Avenue in Palm Beach to assist with the subdivision of the subject property. The Final Application will be submitted on August 1st for the Town Council hearing on October 12, 2022.

The scope of work includes the following:

- Split the existing platted lot at 163 Seminole Avenue into two parcels that meet zoning requirements for width and depth.
- The west lot will require a variances for an existing east side yard setback of 12'-4 3/4" (in lieu of the 12'-6" required) and LOS (41.4% existing vs. 45% required).
- The east lot will require variances for Lot Coverage (27.2% existing vs. 25% required), Angle of Vision of 148 degrees (in lieu of 110 degrees required), Landscape Open Space (44.2% existing vs. 50% required) and Side Yard Setback for the north west enclosed accessory structure (15'-0" existing vs. 30'-0" required). The 215 foot lot width moves the typical RB side yard setback from 12'-6" to 30'-0".
- Refer to page 2 for responses to variance Criteria Section 134-201.

I am available by phone or email (ka@asbacherarchitecture.com) if you have any questions or comments.

I appreciate your consideration of this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Asbacher', followed by a long horizontal line.

Kevin Asbacher, AIA



Responses to Variance Criteria Section 134-201

- 1a. Both resulting parcels will be in excess of the minimum lot requirements for a standard RB lot which requires a minimum of 10,000 square feet.
- 1b. In order to keep the existing house and not have to demolish it, variances are necessary.
2. The applicant is not the cause of the special conditions of the property or residence with regard to the desire to split the lot and save the existing house.
3. The granting of the variances will not confer on the applicant a special privilege. The two resulting parcels will exceed the minimum area of an RB lot and it will be beneficial to save the existing houses.
4. The hardship, which runs with the land, is that the owner wants to save the west house and in order to have two buildable lots the proposed variance requests are necessary.
5. The variances requested are the minimum required to make reasonable use of the land and will enable the applicant to keep the existing home on the east lot.
6. Since there is an abundance of square footage for the entire parcel, splitting the property into two parcels and keeping the existing houses by granting variances is a reasonable request and will not be injurious to the neighborhood.

6 September 2022

Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: 163 – 165 SEMINOLE AVE - VARIANCES - ZON-22-131

Members of Town Council:

Good evening. We hope this letter finds each of you safe and well. As the property owners of 165 Root Trail, our team has reviewed the application requesting Town Council review and approval for variance (1) to create a new nonconforming east side-yard setback and (2) to create non-conforming landscaped open space at 165 Seminole Ave., (3) to create a non-conforming west side-yard setback (4) a variance for non-conforming lot coverage, (5) a variance to create non-conforming landscaped open space, and (6) a variance to create nonconforming angle of vision at 163 Seminole Ave. The variances are required as part of the subdivision of the existing unified property at 163-165 Seminole Avenue into 2 separate lots while maintaining all existing structures and hardscape. Please accept this letter as our formal support of this project. We believe the proposed changes will positively impact the property without negatively impacting adjacent property owners.

Thank you for your time in this matter and for continuing to protect Palm Beach.

Respectfully,

165 ROOT TRAIL LAND
TRUST

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

Agenda Title

ZON-22-132 (ARC-22-200) 165 BRADLEY PL (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE.

The applicant, Biltmore Galleria, LLC., has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to allow a 3,038 SF private/public school in the Commercial-Town Serving District (C-TS) zoning district and a Variance from the off-street parking requirements to eliminate required surface parking spaces and convert it into a playground area. The application will require amendments to the existing Unity of Title and Declaration of Use. The Architectural Commission will perform the design review of the application. *[Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property. Carried 5-0.] [The Architectural Review Commission approved this project at the October 25, 2022, meeting. Carried 5 - 0.]*

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **Town's Traffic Impact Study Dated September 12, 2022**
- ▣ **Letter of Intent**
- ▣ **Plans**
- ▣ **Survey - Original**
- ▣ **Survey - New**
- ▣ **DRAFT Declaration of Use Agreement**
- ▣ **DRAFT Unity of Title**
- ▣ **Letter from Property Owner RE: Consent**
- ▣ **Letter from Property Owner RE: Parking Spaces**
- ▣ **Traffic Impact Study Dated September 1, 2022**
- ▣ **Principal Parking Occupancy Equivalency Statement Dated August 11, 2022**

- ▢ **Memorandum, Dated August 18, 2022, From Chad M. Guber, RE: Site Grading & Drainage**
- ▢ **Public Comment**



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PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-132 (ARC-22-200) 165 BRADLEY PL (COMBO)

MEETING: NOVEMBER 09, 2022

ZON-22-132 (ARC-22-200) 165 BRADLEY PL (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE. The applicant, Biltmore Galleria, LLC., has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to allow a 3,038 SF private/public school in the Commercial-Town Serving District (C-TS) zoning district and a Variance from the off-street parking requirements to eliminate required surface parking spaces and convert it into a playground area. The application will require amendments to the existing Unity of Title and Declaration of Use. The Architectural Commission will perform the design review of the application.

Applicant: Biltmore Galleria, LLC.
Professional: Michael Perry
Representative: Shutts & Bowen LLP.

HISTORY:

The subject property consists of 0.24 acres and is located at the southeast corner of Bradley Place and Park Avenue. The property has a Future Land Use designation of Commercial with a compatible Zoning classification of Commercial Town-Serving (C-TS). The subject building was originally approved in 1978 and constructed in 1980 as a bank building and as a part of a larger phased development referred to as the Biltmore Galleria.

As a part of the original approval, the parcels that comprise the Biltmore Galleria, totaling approximately 1.5 acres, were the subject of a Unity of Title that placed covenants of restriction on the property that can only be modified with an approval by the Town Council.

In 2017, the Town Council approved a Declaration of Use Agreement with the Old Guard Society, Inc. to change the bank building into a private club use. The current application is a request for a change in use to allow a private/public school in the Commercial Town Serving Zoning District (C-TS).



THE PROJECT:

The applicant, Biltmore Galleria, LLC., has submitted plans, entitled “CHABAD SCHOOL, 165 BRADLEY PLACE”, prepared by **MP Design & Architecture** dated September 02, 2022, to allow the conversion of a vacant one (1)-story structure previously operated as a ‘private club’ to a school for early childhood learning. Pursuant to Section 134-1109(a)(8), a public or private school is a Special Exception (SE) use in the C-TS zoning district, subject to the review and approval by the Town Council.

The proposed interior modifications will redesign the building to operate four (4) classrooms that can accommodate 68 students with indoor amenity space allocated for extracurricular activities for the students. An accessory office space for faculty use is also proposed in addition to a small kitchen area. The only exterior structural alteration proposed is to provide an emergency exit door to the south façade of the building to comply with Fire Rescue standards. The proposed door is of the same design and material as the existing exterior doors. An outdoor open play area will replace the surface parking area to the east of the building. The school will be open from 9:00 am to 3:00 pm, Monday through Friday.

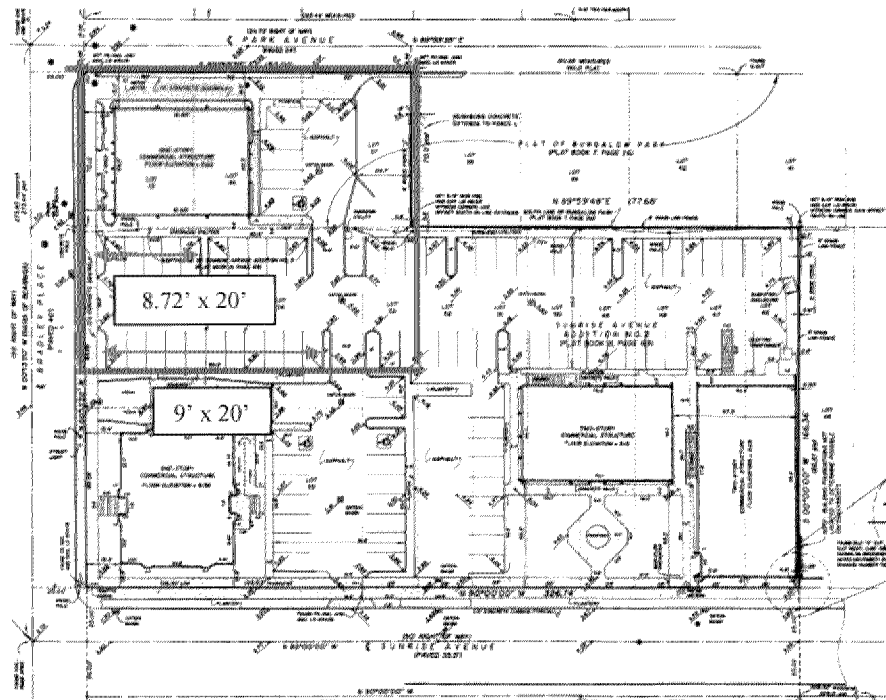
STAFF ANALYSIS:

Zoning

Below is a summary of the subject application with regards to Zoning Code compliance and variance request.

Site Data			
Zoning District	Commercial – Town Serving (C-TS)	Lot Size (SF)	10,513 SF – subject site 64,774 SF – total combined property
C-O-R	5.69’ NAVD	Flood Zone	AE - 6
Exist. Floor Elevation	8.63’ NAVD	Prop. Floor Elevation	8.63’ NAVD
Year of Construction	1980	Architect	Blue Minges Architects
Project			
Landscape Open Space	Required: 15% (1,577 SF) Existing: 21.4% (2,260) Proposed: 22.6% (2,387)	Lot Coverage (SF)	Permitted: 70% (7,359) Existing: 29% (3,038) Proposed: 29% (3,038)
Surrounding Properties/Zoning			
North	1900 single family residence and 1932 repurposed single-family home to office building / Medium Density Residential District (RC) and C-TS, respectively		
South	1940 Two-story single-family estate residence/ C-TS		
East	2008 single-family residence/ R-C		
West	1987 Parc Regent condominium/ High Density Residential District R-D(2)		

- A. Special Exception (SE): Section 134-1109(a)(8), a public or private academic school is a SE use in the C-TS zoning district. As such, the applicant is requesting approval of a SE to allow a 3,038 square foot school on the site to be utilized as classrooms and support space to accommodate 68 students. With the Unity of Title in place, the entire Biltmore Galleria site consists of 1.5 acres or 64,774 square feet. For the purposes of this application, staff examined the site that would be most utilized for the school, which included the structure, playground, the queuing area and drop off parking spaces. That area is shown outlined on the survey below and totals 21,000 square feet (150 square feet x 140 square feet). In either scenario, the school site exceeds the 20,000 square foot site minimum requirement stipulated in Code Section 134-1517 for places of public assembly, including schools.



- B. Site Plan Review: Section 134-1517, places of public assembly, greater than 2,000 square feet require site plan review and approval by the Town Council.
- C. Variance: Section 134-2176(11), number of off-street parking spaces, required and the schedule. The Variance requested is to reduce the overall parking for the entire site from Code required parking of 80 spaces to 76 spaces pursuant to the principle of parking equivalency calculation.

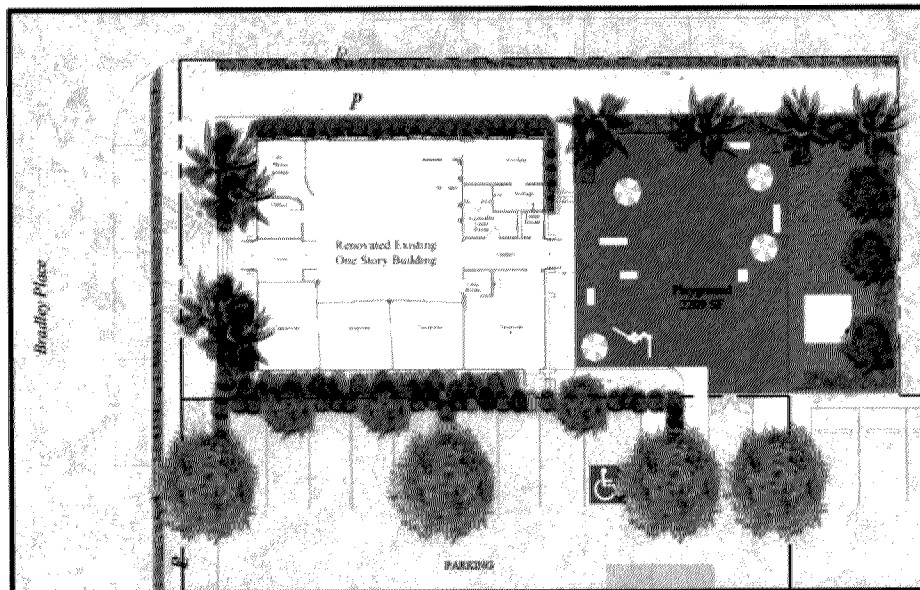
Site Plan Review

The proposed site plan illustrated in the rendering below will amend the current site plan in order to provide an outdoor play area east of the subject building currently designated for parking and site access. This modification will result in a loss of five (5) parking spaces, including one (1) ADA accessible space. To accommodate the loss of one (1) handicapped accessible parking space, a new one is proposed in the south parking area along the building frontage. The number of parking spaces proposed requires a total of four (4) accessible parking spaces and five (5) are being provided. With regard to the existing on-site parking area that was constructed in 1980, the typical parking stall meets the Code required nine (9)-foot by 20-foot dimension. In the as-built survey, five (5) spaces were found to be just under in width than current Code requires (8.72 feet).

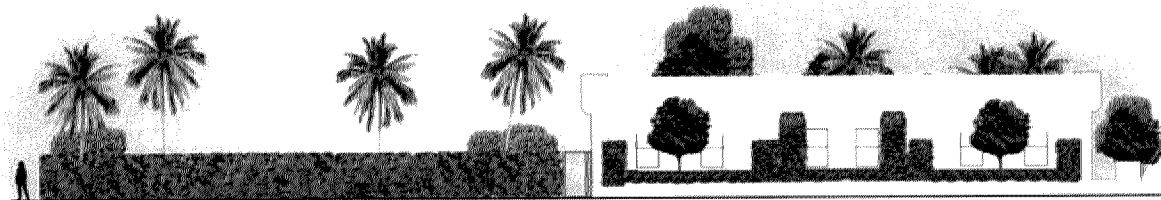
Regarding access, the ingress from Park Avenue and the egress of the parking lot will be closed and fencing and gates will be installed to secure the area. The ingress and egress points from Bradley Place and Sunrise Avenue will remain. The removal of access from Park Avenue will require an amendment to the 1978 Unity of Title. The site plan identifies the nine (9) designated drop off spaces on the south side of the building. With the initial submittal, the applicant was showing playground equipment within the play area. The equipment has been removed from consideration by the Town Council at this time. What remains is an open play area with covered shade elements for the children.

Landscape and Hardscape

As to the proposed landscape and hardscape, with the removal of the access from Park Avenue, a new six (6)-foot high hedge is proposed along Park Avenue. Displayed in the North Side Elevation below, the landscape hedge will provide a buffer to limit visibility and provide security from Park Avenue to the proposed enclosed playground area. The site plan delineates the proposed playground will both natural and synthetic turf and shade elements. The proposed artificial turf will be installed over the existing asphalt parking area.



Proposed Site Plan



Proposed North Side Elevation

Pursuant to Code Section 66-313, in all zoning districts, artificial turf shall be reviewed and may be approved in accordance with the ARCOM Project Designation Manual and may be installed in limited areas of rear and side yards, or as a driveway accent in any yard, example to include strips of artificial turf placed between stone or concrete driveway pads. Artificial turf shall not be installed in any front yard areas, except as a driveway accent, or in any areas visible from the public right-of-way.

Drainage

The existing grading and drainage system for the referenced project in the vicinity of the proposed playground consists of asphalt parking sloping to an existing catch basin that is connected by storm piping serving the overall commercial development. With respect to the installation of synthetic turf over the existing asphalt parking area, no changes are proposed to the existing grading or drainage in this area are proposed. Therefore, stormwater runoff will continue to be directed to the existing catch basin. Padding will be installed between the top of the existing asphalt surface and the bottom of the proposed synthetic turf. The synthetic turf that is placed over top of the existing catch basin will have Armorloc Super Drainage backing or engineer approved equivalent to allow for percolation of rainwater through the synthetic turf and into the existing catch basin. Cleaning, video inspection, rehabilitation, and recertification of the existing drainage system on this outparcel will be completed as part of the proposed project. There is no discernable loss of landscape open space (LOS) with the subject proposal.

Parking

For the purposes of the subject parking analysis, the adjacent land uses were considered in the calculations as the entire Biltmore Galleria is under one ownership and share access. The existing parking lot currently consists of 82 spaces that are shared between the subject property, the 2,793 square foot bank to the south, and the 13,577 square foot building to the southeast. The 13,577 square foot building consists of 7,233 square feet of retail and 6,324 feet of office space.

Per Code Section 134-2176, the total parking required for the preschool and other uses is 80 parking spaces. Due to the combination of land uses for the entire Biltmore Galleria, the parking analysis that supplemented the application, anticipated that each of the uses will have different peak times throughout the day. A shared parking calculation was prepared by the project traffic engineers, Simmons & White, utilizing the ULI Shared Parking, 3rd Edition to quantify the impacts. The results showed a peak overall parking demand of 75 parking spaces between 2:00 and 3:00 PM or eight (8) less than the provided 82 parking spaces inclusive of the six (6) on street parking spaces. It should be noted that the peak impact for the school is anticipated in the morning since the school will have three (3) different pick-up times (early pick up, regular pick up and aftercare). During the morning hours, the other land uses will generally be operating far below peak utilization.

Code Section	Required	Proposed	Variance
<i>Section 134-2176(11) Number of off-street parking spaces, required and the schedule.</i>	<i>80 parking spaces</i>	<i>76 parking spaces</i>	<i>4 parking spaces</i>
<i>Principal of Parking Equivalency Calculation</i>	<i>75 parking spaces</i>	<i>76 parking spaces</i>	<i>N/A</i>

Traffic

According to the Traffic Impact Statement prepared by Simmons & White, the proposed development was estimated to generate two (2) trips less per day than the previously approved use. At the project build-out of 2026, 20 AM peak hour trips, and 15 PM peak hour trips are projected. In addition, a brief review of the directly accessed link within the project's radius of development influence revealed the proposed development will have an insignificant project assignment.

Based upon the PBC Traffic Performance Standards, a traffic study is not required for a project that generates less than or equal to 20 peak hour trips. Additionally, according to Town Code Section 30-74, a concurrency determination is not required for commercial redevelopments when there is no increase in the square footage or intensity of the use from that prior to redevelopment. Due to the reduction in daily trips, no concurrency reservation is required by the Town of Palm Beach. However, a traffic analysis was provided for informational purposes, which was reviewed by Palm Beach County Traffic Division. Palm Beach County Traffic Division staff determined that the proposed development will not have significant peak hour traffic impact on the roadway network and therefore meets the Traffic Performance Standards of Palm Beach County.

WRB:JGM:JHD

date: September 12, 2022
to: Jennifer Hofmeister-Drew, AICP, LCAM, Planner III,
Town of Palm Beach
from: Eric Czerniejewski, P.E., ENV SP
subject: 165 Bradley Place Traffic Review

MEMORANDUM

The Corradino Group, Inc (Corradino) has been requested to provide a traffic review of the 165 Bradley Place Traffic Impact Statement development located at 165 Bradley Place in the Town of Palm Beach, Florida. The following are our traffic review comments based on the 09/02/2022 re-submittal.

1. Please attach a copy of the Palm Beach County Traffic Division Traffic Performance Standard approval letter dated 08/05/22 to the updated traffic impact statement.

Simmons & White's 09/02/22 Response: Change made as noted.

TCG 09/09/22 Response: Addressed.

2. Please update the cover page and title to reflect that this is a traffic impact statement or traffic concurrency memorandum instead of a "Principal Parking Occupancy Equivalency Statement".

Simmons & White's 09/02/22 Response: The Principal Parking Occupancy Equivalency Statement is provided in addition to the Insignificant Traffic Impact Statement.

TCG 09/09/22 Response: Addressed.

3. Please include a copy of the Site Plan prepared by MP Design & Architecture, Inc. for this development in the Appendix of the Traffic Impact Statement.

Simmons & White's 09/02/22 Response: Please include a copy of the latest Site Plan with the submittal.

TCG 09/09/22 Response: This item is still pending. Please place a copy of the Site Plan as part of the Appendix of the traffic statement.

4. Please update the reference to the ITE Trip Generation Manual, 10th Edition in Section 3.0 Traffic Generation to the 11th Edition which is the most current version.

Simmons & White's 09/02/22 Response: Change made as noted.

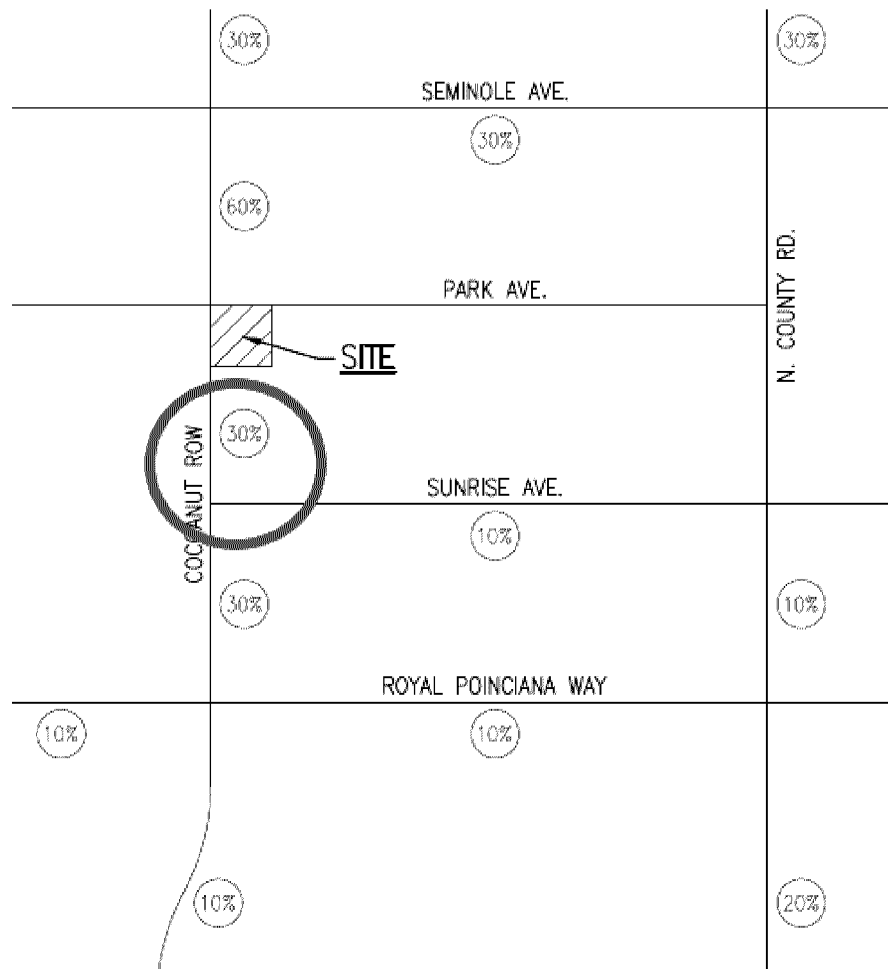
TCG 09/09/22 Response: Addressed.

5. Please provide additional details in the narrative of the traffic impact statement on how the trip assignment percentages were calculated. For example, were the percentages derived using information from the current 2015/2045 Southeast Florida Regional Planning Model (SERPM) version 8.522 or other method.

Simmons & White's 09/02/22 Response: Added the 5.0 Trip Distribution section to provide additional details.

TCG 09/09/22 Response: Addressed.

6. Please update Figure 1 to show 40% assignment on the road segment link of Bradley Place between Sunrise Avenue and the Site.



Simmons & White's 09/02/22 Response: 10% is expected to access the site via the cross access to the Sunrise Avenue full access driveway. This 10% is not expected to access the site via the Bradley Place full access driveway. No changes made.

TCG 09/09/22 Response: Addressed.

7. Please update Figure 1 to label the Bradley Place Road segment between Royal Poinciana Way and the site. It currently is labeled Cocoanut Way. The road segment south of Royal Poinciana Way is Cocoanut Way.

Simmons & White's 09/02/22 Response: Change made as noted.

TCG 09/09/22 Response: Addressed.

8. Please update Tables 5, 6 and 7 by changing the project distribution for Seminole Avenue between Bradley Place and N County Road from 20% to 30% per Figure 1.

Simmons & White's 09/02/22 Response: Change made as noted to Tables 5-8.

TCG 09/09/22 Response: Addressed.

9. Please update Tables 5, 6 and 7 by creating an additional road segment link on Bradley Place. There are different project distribution percentages for Bradley Place between Sanford Avenue and Seminole Avenue (30%) and Seminole Avenue and the Site (60%).

Simmons & White's 09/02/22 Response: Change made as noted to Tables 5-8.

TCG 09/09/22 Response: Addressed.

10. Please add a footnote to Tables 5, 6 and 7 that references the Table numbers from Article 12 for the LOS D and LOS E Link Service Volumes.

Simmons & White's 09/02/22 Response: Note added to Tables 5-8.

TCG 09/09/22 Response: Addressed.

11. Please provide details of the drop off and pick up traffic operational plan for the proposed daycare facility. Please confirm that there is sufficient stacking available on-site to accommodate the proposed peak vehicle stacking.

Simmons & White's 09/02/22 Response: The following was added to the 8.0 Site Related Improvements section: "Queue lines are not expected for parking. For additional information concerning the drop off and pick up traffic operational plan, refer to the Principal Parking Occupancy Equivalency Statement prepared by Simmons & White, Inc. dated August 11, 2022."

The school will not have a standard queue line and instead all parents will park their vehicle and walk their students in similar to many daycares. Drop off will operate from 7:45 AM to 9:15 AM for 90 minutes. Parents will enter either driveway and park their vehicle at one of the nine spaces available just south of the building and escort their children through the front entrance located on the west side of the building. Due to the large drop off time window and low number of students, the peak amount of parking at any given time will be reduced.

Parents picking up half-day students will need to park and go inside to pick up their child. The early pick up will be between 12:15 and 12:45 PM. Regular pick up will operate from 2:45 PM to 3:30 PM for 45 minutes. Parents will need to park and go inside to pick up their child. Aftercare pick-up will be between 4:00 and 6:15 PM with the procedure being similar to the other times of day where the parents will be required to park their vehicle and walk into the school entrance located on the west side of the building.

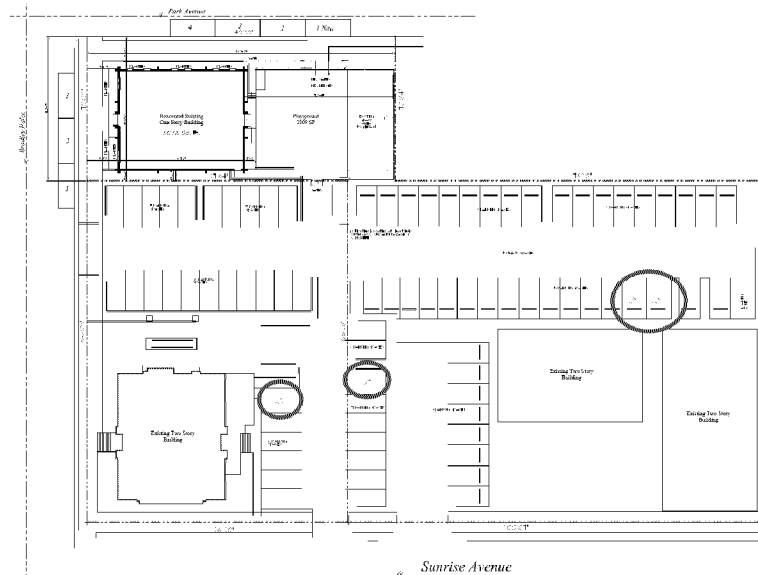
TCG 09/09/22 Response: Addressed.

12. Please provide a section in the traffic impact statement that discusses multimodal transportation options for the redevelopment including pedestrian, bicycle and transit modes.

Simmons & White's 09/02/22 Response: The following was added to the 1.0 Site Data section: "Pedestrians may access the site via the existing sidewalk infrastructure."

TCG 09/09/22 Response: Addressed.

13. Please ensure that the handicap parking spaces are oriented appropriately on all plan sheets per the Palm Beach County and the Town of Palm Beach handicap accessible parking space details and design standards/criteria. This comment applies to all ADA spaces depicted on the site plan.



Simmons & White's 09/02/22 Response: A copy of the latest Site Plan is included with the submittal.

TCG 09/09/22 Response: Addressed.



LETTER OF INTENT FINAL SUBMITTAL

DATE: August 19, 2022
TO: Town of Palm Beach, Planning, Zoning & Building Dept.
RE: ARC-22-200 (ZON-22-132) 165 BRADLEY PL

REQUEST

On behalf of Rabbi Zalman Levitin ("**Applicant**"), Shutts & Bowen LLP ("**Agent**") submits a request for a Special Exception ("**SE**"), a Site Plan Review ("**SPR**"), and a Variance for a private academic school ("**School**") to be located at the southwest corner of S. County Road and Seaview Avenue.



FIGURE 1 – Location map

Property Address:	165 Bradley Place (<i>Figure 1</i>)
Zoning:	C-TS Town Serving Commercial District (<i>Figure 2</i>)
Municipality:	Town of Palm Beach ("Town")

REQUEST

- A SE to allow a School in the C-TS zoning district.
 - Pursuant to Section 134-1109(a)(8) of the Town's Zoning Code ("**Code**"), a School is a SE use in the C-TS zoning district. As such, the Applicant is requesting approval of a SE to allow a 3,038 square foot (sq. ft.) School on the Site. The goal at Alef Preschool is for the children to maximize their potential across the full spectrum of development - social/emotional, intellectual, and spiritual - providing them with a strong foundation upon which to build their lives. The methodology used by the school is shaped by the shared values of Judaism, and constructivist approaches to early childhood including Reggio Emilia, Montessori, and Waldorf.
 - Specifically, the School will be designed and operated as follows:
 - Four classrooms will accommodate 68 students.
 - Indoor amenity space is allocated for extracurricular activities for the students.
 - An outdoor play area to provide a needed outdoor amenity for the children. This space is proposed to be located to the east of the building which is currently in use for parking and access. The ingress from Park Avenue and the egress of the parking lot will be closed and fencing and gates will be utilized to secure the area.
 - Accessory office space for faculty use.
 - A small kitchen area to remain.
 - The School will be open from 9:00 am to 3:00 pm. Parents or guardians will park in one of the nine designated parking on the south side of the building and escort their child through the front entrance (west side of the building) to be signed in. Note that there are several other spaces available immediately adjacent to the drop off area should a parent opt to utilize those spaces in lieu of waiting for one of the nine drop off spaces to become available.
 - Drop-off will operate from 7:45 am- 9:15 am.
 - Regular pickup will operate from 2:45 pm- 3:30 pm. Parents or guardians will park in one of the nine designated parking on the south side of the building and pick up their child through the front entrance (west side of the building). There will be an option for early pick-up from 12:15 -12:45 pm and after-care pickup from 4:00 pm - 6:15 pm. As such, there will be three pickup periods throughout the afternoon. Note that there are several other spaces available immediately adjacent to the drop off area should a parent opt to utilize those spaces in lieu of waiting.
 - An emergency exit door is being added to the south façade of the building as required to comply with Fire Recue standards.
- A SPR to allow a School in the C-TS zoning district.
 - Pursuant to Sections 134-1517, a SPR review and approval by the Town Council ("**TC**") is required since the School is:
 - A SE in the C-TS zoning district,
 - A change in use over 2,000 sq. ft. of building floor area, and;
 - Places of Public Assembly requires review and approval by the TC.
- A Variance to reduce the required parking from 82 spaces to 76 spaces pursuant to the principle of parking equivalency calculation.
 - Variance #1: Section 134-2176(11) Number of Off-street Parking Spaces Required and Schedule. To reduce the overall parking for the site from 82 spaces to 76 spaces pursuant

to the Principal Parking Occupancy Equivalency Statement prepared by Simmons and White dated July 27, 2022.

SUPPLEMENTAL APPLICATION REQUIREMENTS

- As required, attached are the responses to the review standards/guidelines for the SE, SPR and the variance request:
 - **Exhibit A:** Special Exception in accordance with Section 134-229.
 - **Exhibit B:** Special Review by Town Council in accordance with Section 134-329.
 - **Exhibit C:** Architectural Commission review in accordance with Section 18-205.
 - **Exhibit D:** Findings prior to authorization of a Variance in accordance with Section 134-201.
- A Property Info sheet with the Location Map is attached as **Exhibit E**.
- The Legal Description is attached as **Exhibit F**.
- A detailed history in chronological order of all zoning-related requests processed on or after January 1, 1970 specific to the Site attached as **Exhibit G**.

PARKING STATEMENT

See the Principal Parking Occupancy Equivalency Statement prepared by Simmons and White dated July 27, 2022, a copy of which is included with this application submittal.

OPERATIONAL DROP OFF AND PICK UP NARRATIVE

See the Principal Parking Occupancy Equivalency Statement prepared by Simmons and White dated July 27, 2022, a copy of which is included with this application submittal.

EXHIBIT A

Sec. 134-229. Requirements for granting a Special Exception.

The requirements for granting a special exception use under this chapter are as follows:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.

RESPONSE: *The School use is permitted as a SE in the C-TS zoning district.*

- (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.

RESPONSE: *The request is to occupy the space within the existing building. The improvements are primarily internal to the building with the exception of building signage, adding an emergency exit, and the elimination of the parking spaces to provide the outdoor play area. The School use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.*

- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

RESPONSE: *The proposed use will not cause substantial injury to the value of other properties in the neighborhood where it is to be located.*

- (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.

RESPONSE: *The proposed use is and continues to be compatible with the adjoining development and the intended purpose of the district in which it is located. As noted above, the building was approved for commercial and continues to be used for the same. The School use is a commercial use which is consistent with the commercial uses approved for the Site.*

- (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.

RESPONSE: *As noted above, the use is primarily internal to the building. The only change proposed to the exterior of the building is the addition of an emergency exit door in order to comply with the Fire Rescue requirements. The proposed changes to the parking lot to be redesigned as the outdoor play area will not affect the yard, open space or any special requirements set out in Article VI for the particular use involved.*

- (6) The use will comply with all elements of the comprehensive plan.

RESPONSE: *The proposed use complies with all the elements of the comprehensive plan.*

- (7) The use not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.

RESPONSE: *The proposed use has been designed and situated in such a manner to have no impact on adjoining properties and will not result in substantial economic, noise, glare, or odor impacts on adjoining properties or properties generally in the district.*

- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

RESPONSE: *The existing parking lot is designed with an ingress point off Park Avenue which is proposed to be closed with the ingress apron removed to allow for the outdoor play area. The ingress and egress points from Bradley Place and Sunrise Avenue will remain. As such, there is adequate ingress and egress to the Site with particular reference to automotive and pedestrian safety and convenience, traffic flow and*

control, and access in case of fire or catastrophe. Additionally, the only change proposed to the exterior of the building is the addition of an emergency exit door in order to comply with the Fire Rescue requirements.

- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.

RESPONSE: *Any proposed building signage will be compatible and in harmony with the adjacent properties in the district.*

- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.

RESPONSE: *The current request does not affect the location, availability or compatibility of utility services.*

- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

RESPONSE: *The current request is primarily to renovate the interior of the building to accommodate the School which does not affect the refuse and service areas.*

- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

RESPONSE: *The School, as like any other academic school within the jurisdictional limit of a municipality, is primarily intended to serve the municipality; which in this case is the Town.*

- (13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.

RESPONSE: *There are no changes proposed that affect the exterior landscaping on the Site. As noted above, the only change proposed to the exterior of the building is the addition of an emergency exit door in order to comply with the Fire Rescue requirements and as such, there will be a need to trim back some hedges to allow for the sidewalk.*

- (14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

RESPONSE: *The proposed use does not place an additional burden on Town Police or Fire Rescue Services.*

EXHIBIT B

Sec. 134-329. Review by town council for Special Review.

Within 30 days of receipt of the application for site plan review, the town council shall review and consider the application. Before any site plan shall be approved, approved with changes, or denied, the town council shall make a finding that the approval of the site plan will or will not adversely affect the public interest and certify that the specific zoning requirements governing the individual use have or have not been met and that, further, satisfactory provision and an arrangement has or has not been made concerning the following matters, where applicable:

- (1) Sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the town.

RESPONSE: *The property owner is the fee simple owner and in control and possession of the entire parcel which is subject of this application. The property owner is responsible for the care and upkeep of the entire site. No maintenance responsibility will become the obligation of the Town.*

- (2) Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon; provided, however, that nothing in this subsection shall be construed as granting the town council the authority to reduce residential densities below that permitted by the use regulations in article VI of this chapter.

RESPONSE: *There are no new land uses, programming or intensities of use proposed for the Site. The building was designed to accommodate commercial uses which is consistent with the School use. There are no expansions or additions proposed to the building and as such no increase in the intensity of use. In fact, the intensity of the proposed use is a reduction from the prior approval.*

- (3) Ingress and egress to the property and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.

RESPONSE: *The existing parking lot to the east of the building is designed with an ingress point only off Park Avenue. This ingress is proposed to be closed to allow for the outdoor play area. The ingress and egress points from Bradley Place and Sunrise Avenue will remain. As such, there is adequate ingress and egress to the Site with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.*

As far as the School use is related to drop-off and pick-up, a complete Principle Parking Occupancy Equivalency Statement has been included with the application submittal packet. The statement outlines the drop-off and pick-up logistics and the availability of parking spaces to support the use. Additionally, the site plan shows the location of the drop-off and pick-up area which are designated parking spaces on the south side of the building.

- (4) Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the property, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.

RESPONSE: *The existing parking lot to the east of the building is designed with an ingress point only off Park Avenue. This ingress is proposed to be closed to allow for the outdoor play area and will be screened*

from Park Avenue with a 6-foot hedge. The ingress and egress points from Bradley Place and Sunrise Avenue will remain. Additionally, it should be noted that there are six unrestricted spaces that are available for use (three on Bradley Place, and three on Park Avenue). As such, the change is minor when considering the location and relationship of off-street parking and internal traffic patterns within the Site, with particular reference to the automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.

- (5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.

RESPONSE: *The only change to the perimeter screening and buffer is the addition of the new hedge at the location where the ingress from Park Avenue is proposed to be closed, and the trimming of some of the hedges along the south façade of the building to allow for the emergency exit sidewalk.*

- (6) Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the consequences of such drainage on overall town capacities.

RESPONSE: *There are no changes proposed that will affect the manner of drainage on the Site onto adjacent and nearby properties or on the Town's overall drainage capacities. The existing asphalt in the proposed outdoor play area is proposed to be covered with pervious astro turf, which theoretically should not change the drainage patterns since the impervious layer below the astro turf is not being disturbed and the drainage below the astro turf will sheet flow as designed.*

- (7) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.

RESPONSE: *There are no changes proposed that will impact hook-in locations, availability or capacity of utilities.*

- (8) Recreation facilities and open spaces, with attention to the size, location and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the property, and relationship to communitywide open spaces and recreation facilities.

RESPONSE: *There are no changes proposed that impact any existing recreation facilities or open spaces. In fact, the proposed outdoor play area adds a recreation facility to the Site for the School use and is being designed to look like additional open space with the use of astro turf. Since this outdoor play area is solely for use by the School, it has no effect on any communitywide open spaces or recreation facilities.*

- (9) Such other standards as may be imposed by this chapter for the particular use or activity involved.

RESPONSE: *There are no other Town standards that may be imposed by this chapter for the particular use or activity involved. The Applicant will be responsible for obtaining any State of Florida licensures needed for the operation of the School.*

- (10) Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low profile scale of commercial architecture.

RESPONSE: *There are no changes proposed to the building height.*

- (11) Visible size and bulk. The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to maintain visual impact of multistory buildings at the same relative level of intensity as a single-story building at the minimum required setback.

RESPONSE: *There are no changes proposed to the building visible size and bulk.*

EXHIBIT C

Sec. 18-205. Criteria for building permit.

The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:

- (1) The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.

RESPONSE: *There are no changes proposed to the building or structure except for the addition of an emergency exit door along the south façade in order to comply with the Fire Rescue requirements.*

- (2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.

RESPONSE: *There are no changes proposed to the building or structure that will affect the manner in which the structure is reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.*

- (3) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.

RESPONSE: *The only change proposed to the exterior of the building is the addition of an emergency exit door in order to comply with the Fire Rescue requirements. The proposed door is of the same design and material as the existing doors in the building. As such, it is not of inferior quality to cause the nature of the local environment to materially depreciate in appearance and value.*

- (4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.

RESPONSE: *The only change proposed to the exterior of the building is the addition of an emergency exit door in order to comply with the Fire Rescue requirements. The proposed door is of the same design and material as the existing doors in the building. As such, the building will remain in harmony with the developments in the general area, with the Comprehensive Plan of the Town, and with any precise plans adopted pursuant to the Comprehensive Plan.*

- (5) The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:

- a. Apparently visibly identical front or side elevations;
- b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the elevation facing the street, including reverse arrangement; or
- c. Other significant identical features of design such as, but not limited to, material, roof line and height of other design elements.

RESPONSE: *There are no changes proposed to the building design. The only change proposed to the exterior of the building is the addition of an emergency exit door in order to comply with the Fire Rescue requirements. The proposed door is of the same design and material as the existing doors in the building.*

- (6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:
- a. Height of building or height of roof.
 - b. Other significant design features including, but not limited to, materials or quality of architectural design.
 - c. Architectural compatibility.
 - d. Arrangement of the components of the structure.
 - e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.
 - f. Diversity of design that is complimentary with size and massing of adjacent properties.
 - g. Design features that will avoid the appearance of mass through improper proportions.
 - h. Design elements that protect the privacy of neighboring property.

RESPONSE: *There are no changes proposed to the building design. The only change proposed to the exterior of the building is the addition of an emergency exit door in order to comply with the Fire Rescue requirements. The proposed door is of the same design and material as the existing doors in the building.*

- (7) The proposed addition or accessory structure is subservient in style and massing to the principal or main structure.

RESPONSE: *There are no additions or accessory structures which will be subservient in style and massing to the main building.*

- (8) The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).

RESPONSE: *There are no changes proposed to the building design that will change the relation to the established character of other structures in the immediate are or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way.*

- (9) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.

RESPONSE: *There are no changes proposed to the building or structure other than the addition of an emergency exit door in order to comply with the Fire Rescue requirements. As such it will remain in conformity with the applicable standards of the Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.*

- (10) The project's location and design adequately protects unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.

RESPONSE: *There are no changes proposed to the project's location and the design will continue to adequately protect the unique site characteristics such as any related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.*

EXHIBIT D

Sec. 134-201. Findings prior to authorization of a Variance.

The town council may authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the town council must and shall find the following:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

RESPONSE: The special condition related to the Site is that the property is under the same ownership as the two adjacent parcels and was developed as a unified development. All three parcels together provide ample parking for all the tenants and needs of the businesses on site as demonstrated by the Principal Parking Occupancy Equivalency Statement. In addition, although the parking is reduced by five spaces to allow for an outdoor play area, there is ample parking onsite and six spaces adjacent to the Site on the surrounding streets which is not restricted parking (three spaces on Bradley Place and three spaces on Park Avenue).

- (2) The special conditions and circumstances do not result from the actions of the applicant.

RESPONSE: As indicated above, the proposed School will occupy a vacant space within the existing building. The request does not increase the intensity for the Site. The space to be occupied is existing, and was designed to accommodate commercial uses, which is consistent with the School. These are the special conditions and circumstances that do not result from the actions of the Applicant.

- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.

RESPONSE: The granting of the variance does not confer any special privilege to the applicant that is denied to other buildings in the same district. Any property owner can submit a request for a variance which would be subject to the peculiar circumstances as presented by the property owner requesting the variance.

- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.

RESPONSE: The literal interpretation of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work an unnecessary and undue hardship on the applicant. In fact, the building and infrastructure on the Site are existing, the building was built prior to the more stringent parking requirements, and there is no other space available to provide an outdoor play area for the students that can be designed to be secure and in close proximity to the school.

- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

RESPONSE: The requested variance is the minimum variance that will make possible the reasonable use of the building. The School use is a use permitted within the zoning district. As demonstrated by the Principal Parking Occupancy Equivalency Statement, through shared parking there is ample parking provided for the uses on all three parcels. In fact, there are six unrestricted off-site parking spaces available which are directly adjacent to the Site that can be used.

- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:
- a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
 - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 1. Be granted only for the continuation of the same hotel or residential use; and
 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

RESPONSE: N/A. The variance request is not from Sections 134-387, or 134-390 through 134-392, pertaining to the regulation of nonconforming uses.

- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

RESPONSE: The granting of the variance will be in harmony with the general intent and purpose of the Code, and will not be injurious to the area involved or otherwise detrimental to the public welfare.

EXHIBIT E

PROPERTY INFORMATION

The approximately 0.24-acre site ("Site") is located at the southeast corner of Bradley Place and Park Avenue.

Property Address:	165 Bradley Place (<i>Figure 1</i>)
Zoning:	C-TS Town Serving Commercial District (<i>Figure 2</i>)
Municipality:	Town of Palm Beach ("Town")



Figure 1 - LOCATION MAP

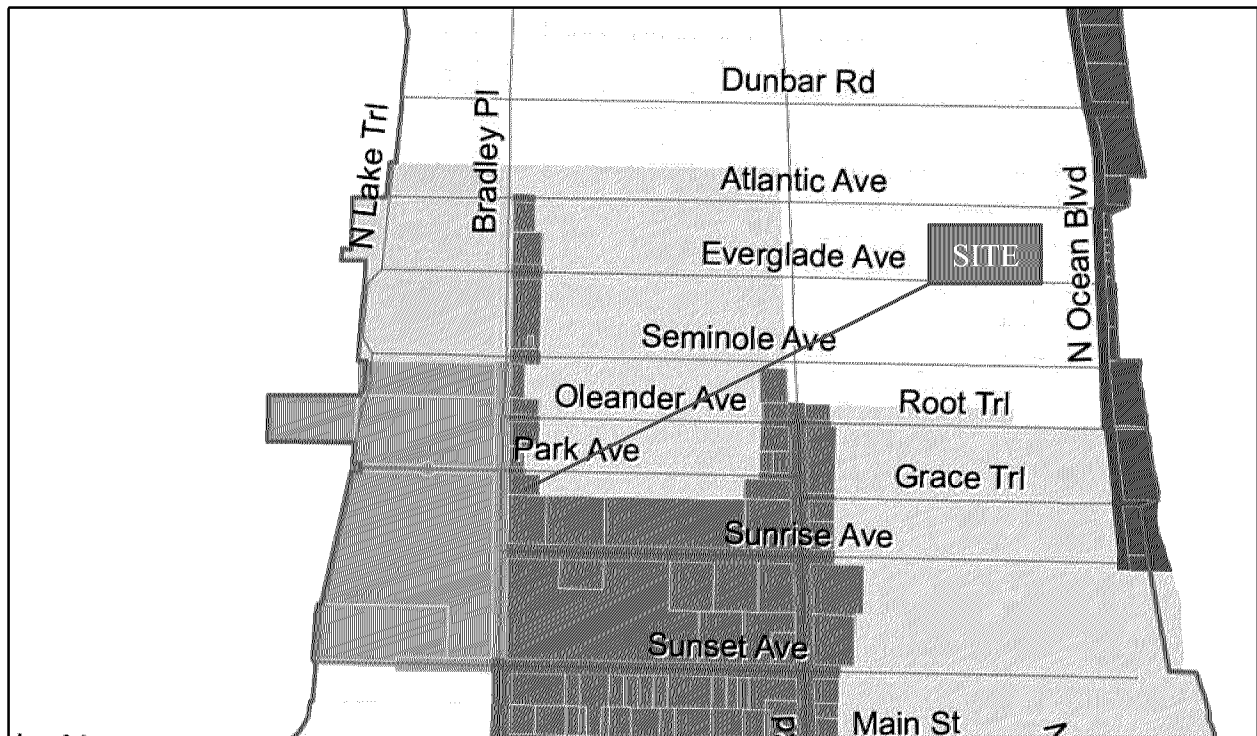


Figure 2 - ZONING MAP

EXHIBIT F

LEGAL DESCRIPTION

LOTS 46 - 55, INCLUSIVE, SUNRISE AVENUE ADDITION NO. 2 TO PALM BEACH, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 8, PAGE 69, SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

AND

LOTS 35, 36 AND 37, BUNGALOW PARK ADDITION TO PALM BEACH, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 7, PAGE 26, SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

(PARCEL, AS SURVEYED, CONTAINS 1.49 ACRES, MORE OR LESS.)

EXHIBIT G

SITE HISTORY

Please provide a detailed history of all zoning-related requests applicable to this property processed on or after January 1, 1970, in chronological order, including but not limited to variances, special exceptions, site plan reviews, and existing agreements.

Date	Nature of Request/Activity	Petition Number and Description	Comment/Notes
10-19-78	Zoning variance for financial institution	Variance #23-78	Approved subject to conditions
10-19-78	Flood Insurance Variance – minimum elevation of all buildings to be 5' above mean sea level	Flood Insurance Variance #2-78	Approved subject to condition
1-17-79	ARCOM consideration for Biltmore Galleria, including First Federal Savings	ARCOM 116-78	Approved
6-16-80	ARCOM consideration of sign modification for First Federal Savings	ARCOM 1-80	Approved
10-10-89	Request to construct two new 1-story buildings, special exception for financial institution use on first floor and occupying of 3,000 s.f.	Special Exception #16-89 with variances and site plan	Partial approval, for zoning variances and site plan review, with conditions
11-14-89	Request to construct 1-story, 3,000 s.f. bank with drive-throughs	Special Exception #18-89	Approval with conditions
11-12-91	1 year time extension request	Special Exception #16-89 with variances and site plan	Approved
7-14-98	Special Exception request to change occupational license from First United Bank to Wachovia Bank	Special Exception #10-98	Withdrawn
10-14-03	Continue bank of 3,040 s.f. of gross building area; change occupational license to Palm Beach County Bank; request two drive-throughs	Special Exception #22-2003	Special Exception approved; site plan modifications for drive-throughs withdrawn
12-13-05	Allow Commerce Bank to occupy 3,040 s.f. previously occupied by Palm Beach County Bank	Special Exception #21-2005	Approved with conditions of approval, including limited hours of operation
10-24-08	Continue Bank of 3,040 sq. ft. of gross building area; request a new business tax license	Special Exception #19-2008	Approved
4-18-17	Allow a Private Club and a variance to reduce the required parking based upon the principle of parking equivalency.	Special Exception #9-2017	Approved with conditions

DECLARATION OF USE AGREEMENT

by

THE TOWN OF PALM BEACH

and

ALEF PRE-SCHOOL

NOVEMBER 2022

Prepared by and return to:
Harvey E. Oyer, III, Esquire
Shutts & Bowen LLP
525 Okeechobee Boulevard, Suite 1100
West Palm Beach, FL 33401
(561) 650-8517

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CONSENT

I hereby give CONSENT to Shutts & Bowen, LLP to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s). Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge of the property I have an ownership interest in is the subject of this application. I further certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand, this application, related material and all attachments become official records of the jurisdictional municipality. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application.

OWNER/CONTRACT PURCHASER: I am the ☒ Owner ☐ Contract Purchaser

Mahnaz Whelton
(Name - type, stamp or print clearly)

PO Box 3266
(Address)

Mahnaz Whelton
(Signature)

Palm Beach, FL 33480
(City, State, Zip)

AGENT: / APPLICANT

Rabbi Zalman Levitin
(Name - type, stamp or print clearly)

361 S. County Road
(Address)

(Name of firm)

Palm Beach, FL 33480
(City, State, Zip)

NOTARY PUBLIC INFORMATION:

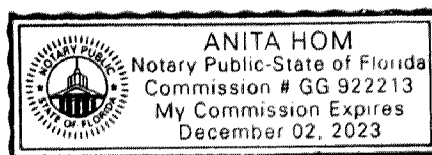
STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 26 day of October, 2022 by Mahnaz Whelton (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

ANITA HOM
(Name - type, stamp or print clearly)

Anita Hom
(Signature)

My Commission Expires on: 12/2/2023



***BILTMORE GALLERIA, LLC
c/o APA MANAGEMENT, INC
PO BOX 3266
PALM BEACH, FL 33480
561-346-5487***

October 26, 2022

Re: 165 Bradley Place – 5 Parking Spaces

To Whom It May Concern:

As the owner/landlord of the Biltmore Galleria, LLC, I agree that the use of the five parking spaces dedicated to 165 Bradley Place can be made into an outdoor play area for Alef Preschool of Palm Beach.

Sincerely,

A handwritten signature in cursive script that reads "Mahnaz Whelton".

Mahnaz Whelton
Owner/Landlord
Biltmore Galleria, LLC

INSIGNIFICANT TRAFFIC IMPACT STATEMENT

**165 BRADLEY PLACE
TOWN OF PALM BEACH, FLORIDA**

Prepared for:

The Chabad House of Palm Beach
361 South County Road
Palm Beach, Florida 33480

Job No. 22-135

Date: July 11, 2022
Revised: July 27, 2022
Revised: September 1, 2022

Digitally signed by Anna Lai
Date: 2022.09.01 16:19:30
-04'00'

Anna Lai, P.E., PTOE
FL Reg. No. 78138

**Anna Lai, P.E., State of Florida, Professional
Engineer, License No. 56934**

**This item has been electronically signed
and sealed by Anna Lai, P.E., on 09/01/2022**

**Printed copies of this document are not considered signed
and sealed and the signature must be verified on
any electronic copies.**

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1.0 SITE DATA

The subject parcel is located at 165 Bradley Place in the Town of Palm Beach, Florida and contains approximately 0.24 acres. The Property Control Number (PCN) for the subject parcel is 50-43-43-15-08-000-0350.

The site has been vested with a private club/lodge with 3 employees. The club has been analyzed in the Town of Palm Beach approved 165 Bradley Place Traffic Impact Evaluation by Kimley Horn dated January 6, 2017.

Proposed site modifications consist of a 68-student daycare with a build-out year of 2026. Site access is existing via a full access driveway connection to Bradley Place and cross access to a full access driveway connection with Sunrise Avenue. Pedestrians may access the site via the existing sidewalk infrastructure. For additional information concerning site location and layout, refer to the Site Plan prepared by MP Design & Architecture, Inc.

2.0 PURPOSE OF STUDY

This study will analyze the proposed development's impact on the surrounding major thoroughfares within the project's radius of development influence in accordance with the Palm Beach County Unified Land Development Code Article 12 – Traffic Performance Standards. The Traffic Performance Standards state that a Site Specific Development Order for a proposed project shall meet the standards and guidelines outlined in two separate "Tests" with regard to traffic performance.

Test 1, or the Build-Out Test, relates to the build-out period of the project and requires that a project not add traffic within the radius of development influence which would have total traffic exceeding the adopted LOS at the end of the build-out period. This Test 1 analysis consists of two parts and no project shall be approved for a Site Specific Development Order unless it can be shown to satisfy the requirements of Parts One and Two of Test 1. Part One – Intersections, requires the analysis of major intersections, within or beyond a project's radius of development influence, where a project's traffic is significant on a link within the radius of development influence. The intersections analyzed shall operate within the applicable threshold associated with the level of analysis addressed. Part Two – Links, compares the total traffic in the peak hour, peak direction on each link within a project's radius of development influence with the applicable LOS "D" link service volumes. The links analyzed shall operate within the applicable thresholds associated with the level of analysis addressed.

Test 2, or the Five Year Analysis, relates to the evaluation of project traffic five years in the future and requires that a project not add traffic within the radius of development influence which would result in total traffic exceeding the adopted LOS at the end of the Five Year Analysis period.

This test requires analysis of links and major intersections as necessary within or beyond the radius of development influence, where a project's traffic is significant on a link within the radius of development influence.

This analysis shall address the total traffic anticipated to be in place at the end of the build out year. This study will verify that the proposed development's traffic impact will meet the above Traffic Performance Standards.

3.0 TRAFFIC GENERATION

Table 4 shows the daily traffic generation associated with the existing/vested development in trips per day (TPD), and the AM and PM peak hour traffic generation, respectively, in peak hour trips (pht). The traffic to be generated by the private club/lodge with 3 employees may be summarized as follows:

Existing/Vested Development

Daily Traffic Generation	=	141 tpd
AM Peak Hour Traffic Generation (In/Out)	=	6 pht (3 In/3 Out)
PM Peak Hour Traffic Generation (In/Out)	=	12 pht (6 In/6 Out)

The traffic to be generated by the proposed development has been calculated in accordance with the traffic generation rates listed in the ITE Trip Generation Manual, 11th Edition and rates published by the Palm Beach County Engineering Traffic Division. Table 1 shows the daily traffic generation anticipated at project build-out in trips per day (tpd). Tables 2 and 3 show the AM and PM peak hour traffic generation, respectively, as peak hour trips (pht). The traffic to be generated by the proposed 68-student daycare may be summarized as follows:

Proposed Development

Daily Traffic Generation	=	139 tpd
AM Peak Hour Traffic Generation (IN/OUT)	=	26 pht (14 In/12 Out)
PM Peak Hour Traffic Generation (IN/OUT)	=	27 pht (13 In/14 Out)

The change in traffic generation as a result of the proposed site modifications is shown in Table 4 and may be summarized as follows:

Increase in Traffic Generation

Daily Traffic Generation	=	-2 tpd
AM Peak Hour Traffic Generation (In/Out)	=	20 pht (11 In/9 Out)
PM Peak Hour Traffic Generation (In/Out)	=	15 pht (7 In/8 Out)

Based on Chapter D Section 1.C. of the PBC Traffic Performance Standards, a traffic study is not required for a project that generates less than or equal to 20 peak hour trips. Additionally, a concurrency determination for redevelopment is not required for commercial redevelopments when there is no increase in the square footage or intensity of the use of the property from that prior to redevelopment according to Town Code Section 30-74. Due to the reduction in daily trips, no concurrency reservation is required by the Town of Palm Beach. However, a traffic analysis has been provided for informational purposes.

4.0 RADIUS OF DEVELOPMENT INFLUENCE

Based on Table 12.B.2.D-7 3A of the Palm Beach County Unified Land Development Code Article 12 – Traffic Performance Standards, for a net trip generation of 20 peak hour trips, the development of influence shall be the directly accessed link(s).

For Test 1, a project must address those links within the radius of development influence on which its net trips are greater than 1% of the LOS “D” of the link affected on a peak hour, peak direction basis AND those links outside of the radius of development influence on which its net trips are greater than five percent of the LOS “D” of the link affected on a peak hour, peak direction basis up to the limits set forth in Table 12.B.2.C-1 1A: LOS “D” Link Service Volumes.

For Test 2, a project must address those links within the radius of development influence on which its net trips are greater than 3% of the LOS “E” of the link affected on a peak hour, peak direction basis AND those links outside of the radius of development influence on which its net trips are greater than five percent of the LOS “E” of the link affected on a peak hour, peak direction basis up to the limits set forth in Table 12.B.2.C-4 2A: LOS “E” Link Service Volumes.

5.0 TRIP DISTRIBUTION

The project trips were distributed based on the existing and proposed geometry of the roadway network, on existing and anticipated traffic patterns, and on the Town of Palm Beach approved 165 Bradley Place Traffic Impact Evaluation by Kimley Horn dated January 6, 2017. The distributed traffic for the project at full build-out of the development was assigned to the links within the project's radius of development influence. Figure 1 presents the trip distribution percentages.

6.0 TEST 1 BUILD-OUT ANALYSIS

Test 1, or the Build-Out Analysis, relates to the build-out period of the project and requires that a project not add traffic within the radius of development influence which would have total traffic exceeding the adopted LOS at the end of the build-out period. The trip distribution percentages are shown in Tables 5 and 6. Tables 5 and 6 indicate the project's assignment is less than 1% of the applicable LOS “D” threshold and is insignificant for all links within the project's radius of development influence. This project therefore meets the requirements of Test 1.

7.0 TEST 2 BUILD-OUT ANALYSIS

Test 2, or the Five Year Analysis, relates to the evaluation of project traffic five years in the future and requires that a project not add traffic within the radius of development influence which would result in total traffic exceeding the adopted LOS at the end of the Five Year Analysis Period. Tables 7 and 8 show the project's net trip generation is less than 3% of the applicable LOS “E” threshold for all links within the project's radius of development influence. This project therefore meets the requirements of Test 2.

8.0 SITE RELATED IMPROVEMENTS

The AM and PM peak hour volumes at the project entrances for the overall development with no reduction for pass by credits are shown in Tables 2 and 3 and may be summarized as follows:

DIRECTIONAL DISTRIBUTION (TRIPS IN/OUT)

AM = 28 / 25
PM = 25 / 29

As previously mentioned, site access is existing via a full access driveway connection to Bradley Place and cross access to a full access driveway connection with Sunrise Avenue. Based on the Palm Beach County Engineering Guidelines used in determining the need for turn lanes of 75 right turns or 30 left turns in the peak hour, additional turn lanes are not warranted or recommended.

Queue lines are not expected for parking. For additional information concerning the drop off and pick up traffic operational plan, refer to the Principal Parking Occupancy Equivalency Statement prepared by Simmons & White, Inc. dated August 11, 2022.

9.0 CONCLUSION

The proposed development has been estimated to generate a reduction of 2 trips per day, 20 AM peak hour trips, and 15 PM peak hour trips at project build-out in 2026. A brief review of the directly accessed link within the project's radius of development influence reveals the proposed development will have an insignificant project assignment and will therefore meet the requirements of the Palm Beach County Traffic Performance Standards.

Based on Chapter D Section 1.C. of the PBC Traffic Performance Standards, a traffic study is not required for a project that generates less than or equal to 20 peak hour trips. Additionally, a concurrency determination for redevelopment is not required for commercial redevelopments when there is no increase in the square footage or intensity of the use of the property from that prior to redevelopment according to Town Code Section 30-74. Due to the reduction in daily trips, no concurrency reservation is required by the Town of Palm Beach.



**Department of Engineering
and Public Works**

P.O. Box 21229
West Palm Beach, FL 33416-1229
(561) 684-4000
FAX: (561) 684-4050
www.pbcgov.com

**Palm Beach County
Board of County
Commissioners**

Robert S. Weinroth, Mayor

Gregg K. Weiss, Vice Mayor

Maria G. Marino

Dave Kerner

Maria Sachs

Melissa McKinlay

Mack Bernard

County Administrator

Verdenia C. Baker

"An Equal Opportunity
Affirmative Action Employer"

August 5, 2022

Anna Lai, P.E., PTOE
Simmons & White, Inc.
2581 Metrocentre Blvd, Suite 3
West Palm Beach, FL 33407

**RE: 165 Bradley Place
Project #: 220712
Traffic Performance Standards (TPS) Review**

Dear Ms. Lai:

The Palm Beach County Traffic Division has reviewed the above referenced project Traffic Impact Statement, dated July 11, 2022, pursuant to the Traffic Performance Standards in Article 12 of the Palm Beach County (PBC) Unified Land Development Code (ULDC). The project is summarized as follows:

Municipality:	Palm Beach
Location:	SEC of Bradley Pl and Park Ave
PCN:	50-43-43-15-08-000-0350
Access:	Access driveway connection onto Bradley Pl and cross access to the property south of the site connecting to Sunrise Ave <u>(As used in the study and is NOT necessarily an approval by the County through this TPS letter)</u>
Existing Uses:	Private Club/Lodge
Proposed Uses:	Repurpose the existing site as: Daycare = 70 Students
Project Daily Trips:	143
Project Peak Hour Trips:	27 (15/12) AM; 27 (13/14) PM
New Daily Trips:	2
New Peak Hour Trips:	21 (12/9) AM; 15 (7/8) PM
Build-out:	December 31, 2026

Based on our review, the Traffic Division has determined the proposed development does not have significant peak hour traffic impact (as defined in PBC TPS) on the roadway network and, therefore, meets the TPS of Palm Beach County.

Please note the receipt of a TPS approval letter does not constitute the review and issuance of a Palm Beach County Right-of-Way (R/W) Construction Permit nor does it eliminate any requirements that may be deemed as site related. For work within Palm Beach County R/W, a detailed review of the project will be provided upon submittal for a R/W permit application. The project is required to comply with all Palm Beach County standards and may include R/W dedication.

No building permits are to be issued by the Town after the build-out date specified above. The County traffic concurrency approval is subject to the Project Aggregation Rules set forth in the Traffic Performance Standards Ordinance.



Anna Lai, P.E., PTOE
August 5, 2022
Page 2

The approval letter shall be valid no longer than one year from date of issuance, unless an application for a Site Specific Development Order has been approved, an application for a Site Specific Development Order has been submitted, or the approval letter has been superseded by another approval letter for the same property.

If you have any questions regarding this determination, please contact me at 561-684-4030 or email HAkif@pbcgov.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Hanane Akif".

Hanane Akif, P.E.
Professional Engineer
Traffic Division

QB:HA:cp

ec:

Paul Castro, Zoning Administrator, Town of Palm Beach
Quazi Bari, P.E., PTOE, Manager – Growth Management, Traffic Division
Alberto Lopez, Technical Assistant III, Traffic Division

File: General - TPS - Mun - Traffic Study Review
F:\TRAFFIC\HA\MUNICIPALITIES\APPROVALS\2022\220712 - 165 BRADLEY PLACE.DOCX;

165 BRADLEY PLACE

07/08/22
Revised: 07/27/22
Revised: 08/30/22

PROPOSED DEVELOPMENT

TABLE 1 - Daily Traffic Generation

Landuse	ITE Code	Intensity	Rate/Equation	Dir Split In Out	Gross Trips In Out Total	Internalization % Total	External Trips In Out Total	Pass-by % Trips	Net Trips In Out Total
Day Care	565	68	4.09		278	0	278	50%	139
		Grand Totals:			278	0.0%	278	50%	139

TABLE 2 - AM Peak Hour Traffic Generation

Landuse	ITE Code	Intensity	Rate/Equation	Dir Split In Out	Gross Trips In Out Total	Internalization % Total	External Trips In Out Total	Pass-by % Trips	Net Trips In Out Total
Day Care	565	68	0.78	0.53 0.47	28 25 53	0.0% 0	28 25 53	50% 27	14 12 26
		Grand Totals:			28 25 53	0.0% 0	28 25 53	51% 27	14 12 26

TABLE 3 - PM Peak Hour Traffic Generation

Landuse	ITE Code	Intensity	Rate/Equation	Dir Split In Out	Gross Trips In Out Total	Internalization % Total	External Trips In Out Total	Pass-by % Trips	Net Trips In Out Total
Day Care	565	68	0.79	0.47 0.53	25 29 54	0.0% 0	25 29 54	50% 27	13 14 27
		Grand Totals:			25 29 54	0.0% 0	25 29 54	50% 27	13 14 27

165 BRADLEY PLACE

07/08/22
Revised: 07/27/22
Revised: 08/30/22

TABLE 4
TRAFFIC GENERATION INCREASE

	DAILY	AM PEAK HOUR			PM PEAK HOUR		
		TOTAL	IN	OUT	TOTAL	IN	OUT
EXISTING/VESTED DEVELOPMENT*	141	6	3	3	12	6	6
PROPOSED DEVELOPMENT	139	26	14	12	27	13	14
INCREASE	-2	20	11	9	15	7	8

* Existing/vested net trips from the Town of Palm Beach approved 165 Bradley Place Traffic Impact Evaluation by Kimley Horn dated January 6, 2017.

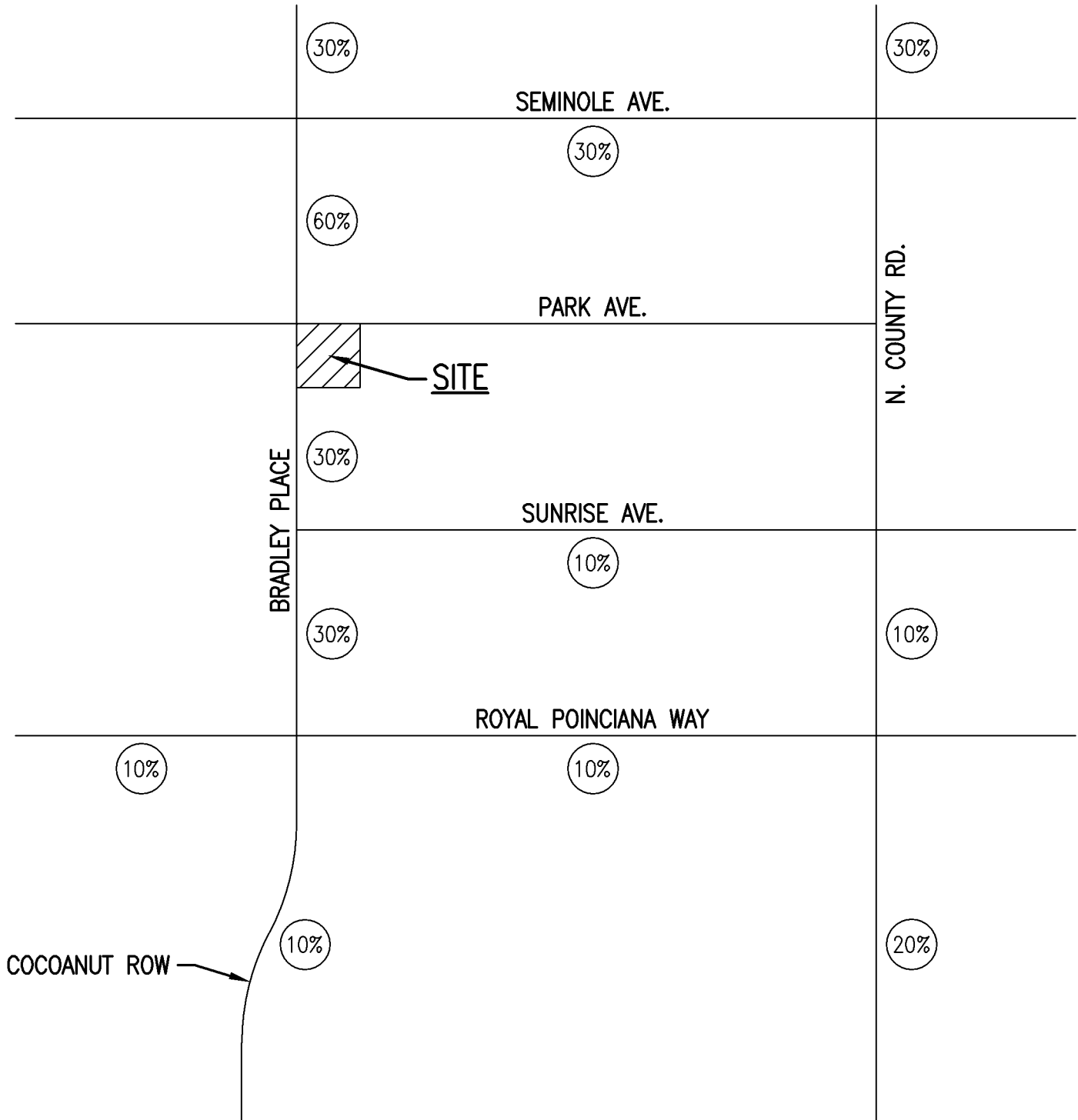


FIGURE 1
PROJECT DISTRIBUTION

LEGEND

(15%) PROJECT DISTRIBUTION

TC Development Review Meeting Backup 11-09-2022

165 BRADLEY PLACE

22-135 AL 07-11-22

REVISED 08-30-22
 104 of 294

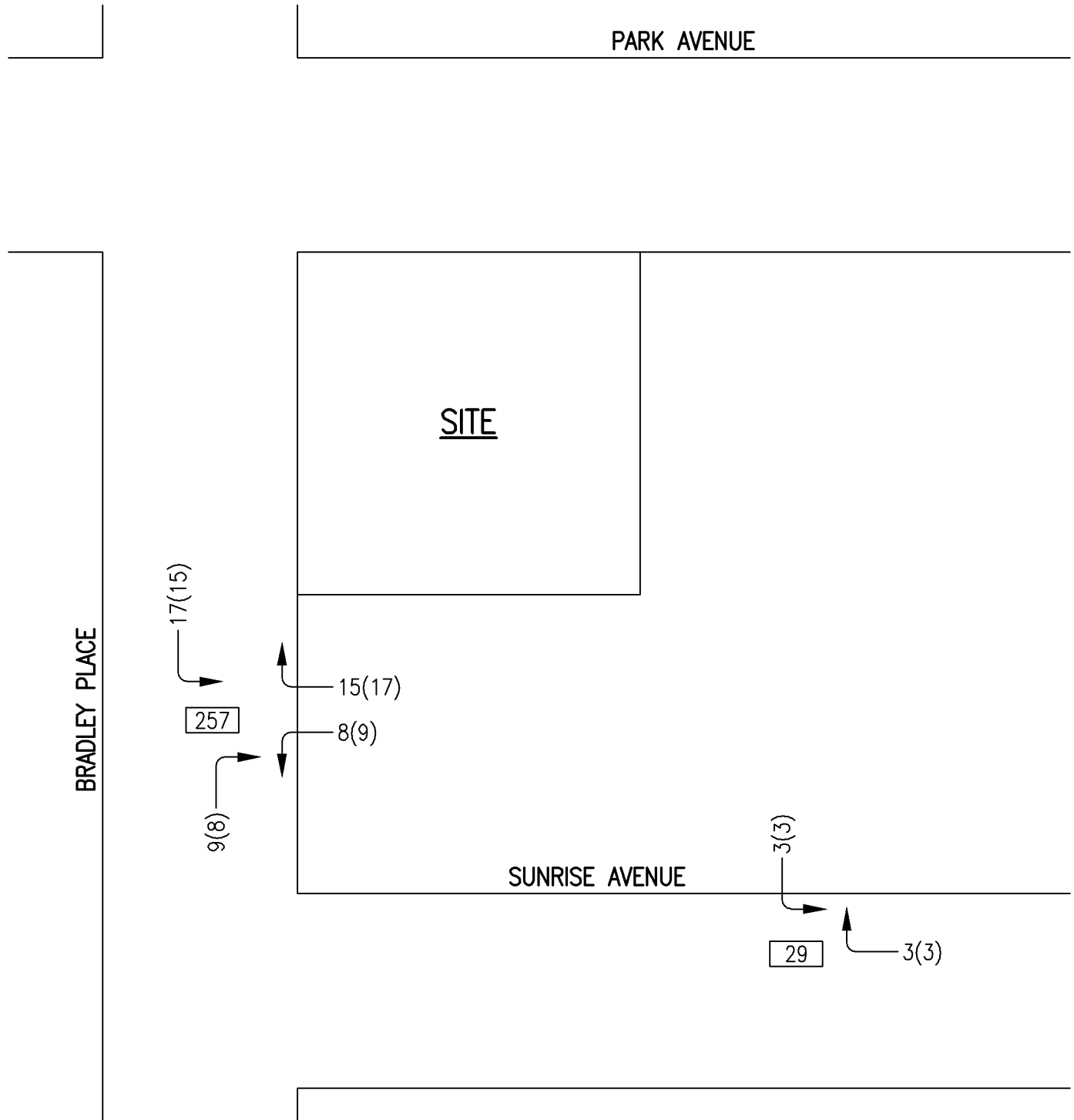


FIGURE 2
PROJECT TURNING MOVEMENTS

LEGEND

- 14 A.M. PEAK HOUR TURNING MOVEMENT
- (18) P.M. PEAK HOUR TURNING MOVEMENT
- 413 A.A.D.T.

TABLE 5
TEST 1 - PROJECT SIGNIFICANCE CALCULATION
AM PEAK HOUR

2026 BUILD OUT
DIRECTLY ACCESSED LINK(S)
TOTAL AM PEAK HOUR PROJECT TRIPS (ENTERING) = 11
TOTAL AM PEAK HOUR PROJECT TRIPS (EXITING) = 9

STATION	ROADWAY	FROM	TO	PROJECT DISTRIBUTION	AM PEAK HOUR DIRECTIONAL PROJECT TRIPS	EXISTING LANES	CLASS	LOS D STANDARD	TOTAL PROJECT IMPACT	PROJECT SIGNIFICANT
N/A	SEMINOLE AVENUE	BRADLEY PLACE	N COUNTY ROAD	30%	3	2	II	810	0.37%	NO
N/A	SEMINOLE AVENUE	N COUNTY ROAD	N OCEAN BOULEVARD	0%	0	2	II	810	0.00%	NO
N/A	SUNRISE AVENUE	BRADLEY PLACE	N COUNTY ROAD	10%	1	2	II	810	0.12%	NO
N/A	SUNRISE AVENUE	N COUNTY ROAD	N OCEAN BOULEVARD	0%	0	2	II	810	0.00%	NO
N/A	ROYAL POINCIANA WAY	FLAGLER DRIVE	BRADLEY PLACE	10%	1	4D	II	1770	0.06%	NO
N/A	ROYAL POINCIANA WAY	BRADLEY PLACE	N COUNTY ROAD	10%	1	4D	II	1770	0.06%	NO
N/A	BRADLEY PLACE	SANFORD AVENUE	SEMINOLE AVENUE	30%	3	2	II	810	0.37%	NO
N/A	BRADLEY PLACE	SEMINOLE AVENUE	SITE	60%	7	2	II	810	0.86%	NO
N/A	BRADLEY PLACE	SITE	SUNRISE AVENUE	40%	4	2	II	810	0.49%	NO
N/A	BRADLEY PLACE	SUNRISE AVENUE	ROYAL POINCIANA WAY	30%	3	2	II	810	0.37%	NO
N/A	COCOANUT ROW	ROYAL POINCIANA WAY	ROYAL PALM WAY	10%	1	2	II	810	0.12%	NO
N/A	N COUNTY ROAD	WELLS ROAD	SEMINOLE AVENUE	30%	3	4	II	1680	0.18%	NO
N/A	N COUNTY ROAD	SEMINOLE AVENUE	SUNRISE AVENUE	0%	0	4	II	1680	0.00%	NO
N/A	N COUNTY ROAD	SUNRISE AVENUE	ROYAL POINCIANA WAY	10%	1	4	II	1680	0.06%	NO
N/A	N COUNTY ROAD	ROYAL POINCIANA WAY	PINE WALK	20%	2	4	II	1680	0.12%	NO

* LOS D link service volumes based on Table 12.B.2.C-1 1A of the Palm Beach County Unified Land Development Code Article 12 – Traffic Performance Standards.

TABLE 6
TEST 1 - PROJECT SIGNIFICANCE CALCULATION
PM PEAK HOUR

2026 BUILD OUT
DIRECTLY ACCESSED LINK(S)
TOTAL PM PEAK HOUR PROJECT TRIPS (ENTERING) = 7
TOTAL PM PEAK HOUR PROJECT TRIPS (EXITING) = 8

STATION	ROADWAY	FROM	TO	PROJECT DISTRIBUTION	PM PEAK HOUR DIRECTIONAL PROJECT TRIPS	EXISTING LANES	CLASS	LOS D STANDARD	TOTAL PROJECT IMPACT	PROJECT SIGNIFICANT
N/A	SEMINOLE AVENUE	BRADLEY PLACE	N COUNTY ROAD	30%	2	2	II	810	0.25%	NO
N/A	SEMINOLE AVENUE	N COUNTY ROAD	N OCEAN BOULEVARD	0%	0	2	II	810	0.00%	NO
N/A	SUNRISE AVENUE	BRADLEY PLACE	N COUNTY ROAD	10%	1	2	II	810	0.12%	NO
N/A	SUNRISE AVENUE	N COUNTY ROAD	N OCEAN BOULEVARD	0%	0	2	II	810	0.00%	NO
N/A	ROYAL POINCIANA WAY	FLAGLER DRIVE	BRADLEY PLACE	10%	1	4D	II	1770	0.06%	NO
N/A	ROYAL POINCIANA WAY	BRADLEY PLACE	N COUNTY ROAD	10%	1	4D	II	1770	0.06%	NO
N/A	BRADLEY PLACE	SANFORD AVENUE	SEMINOLE AVENUE	30%	2	2	II	810	0.25%	NO
N/A	BRADLEY PLACE	SEMINOLE AVENUE	SITE	60%	5	2	II	810	0.62%	NO
N/A	BRADLEY PLACE	SITE	SUNRISE AVENUE	40%	3	2	II	810	0.37%	NO
N/A	BRADLEY PLACE	SUNRISE AVENUE	ROYAL POINCIANA WAY	30%	2	2	II	810	0.25%	NO
N/A	COCOANUT ROW	ROYAL POINCIANA WAY	ROYAL PALM WAY	10%	1	2	II	810	0.12%	NO
N/A	N COUNTY ROAD	WELLS ROAD	SEMINOLE AVENUE	30%	2	4	II	1680	0.12%	NO
N/A	N COUNTY ROAD	SEMINOLE AVENUE	SUNRISE AVENUE	0%	0	4	II	1680	0.00%	NO
N/A	N COUNTY ROAD	SUNRISE AVENUE	ROYAL POINCIANA WAY	10%	1	4	II	1680	0.06%	NO
N/A	N COUNTY ROAD	ROYAL POINCIANA WAY	PINE WALK	20%	2	4	II	1680	0.12%	NO

* LOS D link service volumes based on Table 12.B.2.C-1 1A of the Palm Beach County Unified Land Development Code Article 12 – Traffic Performance Standards.

TABLE 7
TEST 2 - PROJECT SIGNIFICANCE CALCULATION
AM PEAK HOUR

TEST 2 - FIVE YEAR ANALYSIS

DIRECTLY ACCESSED LINK(S)

TOTAL AM PEAK HOUR PROJECT TRIPS (ENTERING) = 11

TOTAL AM PEAK HOUR PROJECT TRIPS (EXITING) = 9

STATION	ROADWAY	AM PEAK HOUR										TOTAL PROJECT IMPACT	PROJECT SIGNIFICANT
		FROM		TO		PROJECT DISTRIBUTION	PROJECT TRIPS	EXISTING LANES	CLASS	LOS E STANDARD*			
N/A	SEMINOLE AVENUE	BRADLEY PLACE	N COUNTY ROAD	30%	3	2	II	860	0.35%	NO			
N/A	SEMINOLE AVENUE	N COUNTY ROAD	N OCEAN BOULEVARD	0%	0	2	II	860	0.00%	NO			
N/A	SUNRISE AVENUE	BRADLEY PLACE	N COUNTY ROAD	10%	1	2	II	860	0.12%	NO			
N/A	SUNRISE AVENUE	N COUNTY ROAD	N OCEAN BOULEVARD	0%	0	2	II	860	0.00%	NO			
N/A	ROYAL POINCIANA WAY	FLAGLER DRIVE	BRADLEY PLACE	10%	1	4D	II	1870	0.05%	NO			
N/A	ROYAL POINCIANA WAY	BRADLEY PLACE	N COUNTY ROAD	10%	1	4D	II	1870	0.05%	NO			
N/A	BRADLEY PLACE	SANFORD AVENUE	SEMINOLE AVENUE	30%	3	2	II	860	0.35%	NO			
N/A	BRADLEY PLACE	SEMINOLE AVENUE	SITE	60%	7	2	II	860	0.81%	NO			
N/A	BRADLEY PLACE	SITE	SUNRISE AVENUE	40%	4	2	II	860	0.47%	NO			
N/A	BRADLEY PLACE	SUNRISE AVENUE	ROYAL POINCIANA WAY	30%	3	2	II	860	0.35%	NO			
N/A	COCOANUT ROW	ROYAL POINCIANA WAY	ROYAL PALM WAY	10%	1	2	II	860	0.12%	NO			
N/A	N COUNTY ROAD	WELLS ROAD	SEMINOLE AVENUE	30%	3	4	II	1780	0.17%	NO			
N/A	N COUNTY ROAD	SEMINOLE AVENUE	SUNRISE AVENUE	0%	0	4	II	1780	0.00%	NO			
N/A	N COUNTY ROAD	SUNRISE AVENUE	ROYAL POINCIANA WAY	10%	1	4	II	1780	0.06%	NO			
N/A	N COUNTY ROAD	ROYAL POINCIANA WAY	PINE WALK	20%	2	4	II	1780	0.11%	NO			

* LOS E link service volumes based on Table 12.B.2.C-4.2A of the Palm Beach County Unified Land Development Code Article 12 – Traffic Performance Standards.

TABLE 8
TEST 2 - PROJECT SIGNIFICANCE CALCULATION
PM PEAK HOUR

TEST 2 - FIVE YEAR ANALYSIS

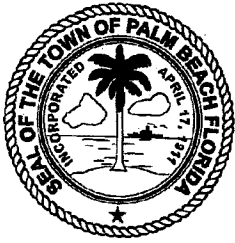
DIRECTLY ACCESSED LINK(S)

TOTAL PM PEAK HOUR PROJECT TRIPS (ENTERING) = 7

TOTAL PM PEAK HOUR PROJECT TRIPS (EXITING) = 8

STATION	ROADWAY	FROM	TO	PROJECT DISTRIBUTION	PM PEAK HOUR DIRECTIONAL PROJECT TRIPS	EXISTING LANES	CLASS	LOS E STANDARD*	TOTAL PROJECT IMPACT	PROJECT SIGNIFICANT
N/A	SEMINOLE AVENUE	BRADLEY PLACE	N COUNTY ROAD	30%	2	2	II	860	0.23%	NO
N/A	SEMINOLE AVENUE	N COUNTY ROAD	N OCEAN BOULEVARD	0%	0	2	II	860	0.00%	NO
N/A	SUNRISE AVENUE	BRADLEY PLACE	N COUNTY ROAD	10%	1	2	II	860	0.12%	NO
N/A	SUNRISE AVENUE	N COUNTY ROAD	N OCEAN BOULEVARD	0%	0	2	II	860	0.00%	NO
N/A	ROYAL POINCIANA WAY	FLAGLER DRIVE	BRADLEY PLACE	10%	1	4D	II	1870	0.05%	NO
N/A	ROYAL POINCIANA WAY	BRADLEY PLACE	N COUNTY ROAD	10%	1	4D	II	1870	0.05%	NO
N/A	BRADLEY PLACE	SANFORD AVENUE	SEMINOLE AVENUE	30%	2	2	II	860	0.23%	NO
N/A	BRADLEY PLACE	SEMINOLE AVENUE	SITE	60%	5	2	II	860	0.58%	NO
N/A	BRADLEY PLACE	SITE	SUNRISE AVENUE	40%	3	2	II	860	0.35%	NO
N/A	BRADLEY PLACE	SUNRISE AVENUE	ROYAL POINCIANA WAY	30%	2	2	II	860	0.23%	NO
N/A	COCOANUT ROW	ROYAL POINCIANA WAY	ROYAL PALM WAY	10%	1	2	II	860	0.12%	NO
N/A	N COUNTY ROAD	WELLS ROAD	SEMINOLE AVENUE	30%	2	4	II	1780	0.11%	NO
N/A	N COUNTY ROAD	SEMINOLE AVENUE	SUNRISE AVENUE	0%	0	4	II	1780	0.00%	NO
N/A	N COUNTY ROAD	SUNRISE AVENUE	ROYAL POINCIANA WAY	10%	1	4	II	1780	0.06%	NO
N/A	N COUNTY ROAD	ROYAL POINCIANA WAY	PINE WALK	20%	2	4	II	1780	0.11%	NO

* LOS E link service volumes based on Table 12.B.2.C-4.2A of the Palm Beach County Unified Land Development Code Article 12 – Traffic Performance Standards.



TOWN OF PALM BEACH

Planning, Zoning & Building Department

April 18, 2017

Ms. Maura Ziska, Esq.
222 Lakeview Avenue
Suite 1500
West Palm Beach, FL 33401

Subject: Special Exception #9-2017 with Site Plan Review and Variance, 165 Bradley Place, The Old Guard

Dear Ms. Ziska:

The Town Council, at its April 12, 2017 meeting, conditionally approved your client's special exception with site plan review application to allow a private club "Old Guard Society of Palm Beach" to operate at 165 Bradley Place in the C-TS Zoning District. A variance was also conditionally approved an off-street parking variance to eliminate the requirement for 10 additional parking spaces based upon the principle of equivalency calculation. The applicant is required to enter into an acceptable Declaration of Use Agreement with the Town which outlines the following conditions of approval:

1. The hours shall be limited from noon to 2:30 p.m. and 5:00 p.m. to 11:00 p.m. Monday through Saturday.
2. The maximum membership to the Club shall be 100 people.
3. The maximum number of members and guests during lunch (noon to 2:30 p.m.) shall not exceed twenty people.
4. The number of evening events shall be limited to one time per month from November 1st to May 1st with the exception of December in which the Club can have a maximum of 2 events that month.
5. Valet parking is required for all night events. A valet parking permit from the Police Department shall be required and the valet stand shall be located on subject property and not on any surrounding streets.
6. No music shall be allowed.
7. The applicant shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject property



8. The Town Council shall reconsider the subject approval six months from the date operation of the Club begins to ensure that the applicant is meeting the above conditions and that there are no unintended consequences. Any unintended consequences can be addressed by the Town Council during reconsideration of the approval.

Please provide a draft Declaration of Use Agreement by April 24, 2017. This will provide staff time to review the proposed Agreement and prepared the required backup information for Town Council consideration. This Agreement will be considered at the May 10, 2017 Council meeting.

The Town Council approval of this application for special exception with site plan review and variance constitutes only zoning approval and does not relieve the owner and/or applicant from obtaining additional Town approvals as may be required, such as Architectural Commission approval and required construction permits. The conditional approval is identified on sheet drawings A000 and A100 prepared by MP Design and Architecture, stamp dated February 23, 2017, and made part of the approval of this application. The work authorized under the approval of this zoning application must be commenced within one year from the date of approval or said approval will expire.

Sincerely,



Paul Castro, AICP
Zoning Administrator

cc: John S. Page, Director, Planning, Zoning & Building
Bill Bucklew, Building Official
John Lindgren, Planning Administrator
Benjamin Alma, Code Enforcement
zf & pf





American Consulting Professionals, LLC
American Consulting Engineers of Florida, LLC
2818 Cypress Ridge Blvd, Suite 200
Wesley Chapel, Florida 33544
Tel 813.435.2600 • Fax 813.435.2601
american@acp-fl.com • www.acp-americas.com

April 11, 2017

Mr. Paul Castro, AICP
Planning and Zoning Administrator
Town Hall, South Entrance
360 South County Road
Post Office Box 2029
Palm Beach, FL 33480

Re: 165 Bradley Place Traffic Impact Statement Review
Project: 165 Bradley Place, Town of Palm Beach – Replacement of the existing 3,038 SF walk-in bank with a private club/lodge without modifying the square footage
Location: Town of Palm Beach, SE corner of Park Avenue and Bradley Place
ACE Project No.: 5089725.025

Dear Mr. Castro:

American has conducted a review of the Traffic Impact Analysis Statement dated January 6, 2016 for the above subject project for the proposed redevelopment of replacing the existing 3,038 square feet walk-in bank with a private club/lodge without modifying the square footage, received on March 8, 2017 prepared by Kimley-Horn and Associates, Inc. and has provided comments on April 10, 2017. The responses to the comments along with the final revised traffic statement were received on April 10, 2017 from Kimley-Horn and Associates, Inc. Based on the response to the comments and the revisions made, the analysis has been approved in accordance with the Town of Palm Beach Traffic Standards.

If you should have any questions, please feel free to contact me at 813-435-2618 or David Bredahl at 813-435-2701.

Sincerely,
American Consulting Professionals, LLC

A handwritten signature in cursive script, appearing to read 'Arpita Guha'.

Arpita Guha, P.E., PTOE

Cc: David Bredahl, AICP (American)
Adam Kerr, PE (Kimley-Horn and Associates, Inc.)



January 6, 2017

Mr. Michael Perry
MP Design & Architecture, Inc.
217 Peruvian Avenue, Suite 4
Palm Beach, Florida 33480

RE: 165 Bradley Place
Traffic Impact Evaluation
Palm Beach, Florida

Dear Mr. Perry:

Kimley-Horn and Associates, Inc. was retained to provide a traffic impact evaluation for the above-mentioned site. The site is located at 165 Bradley Place in the Town of Palm Beach, Florida. The PCN for the site is 50-43-43-15-08-000-0350. *Figure 1* shows the site location.

The site currently contains 3,038 square feet of walk-in bank. The proposed redevelopment plan is to replace the existing bank with a private club/lodge without modifying the square footage. The private club/lodge is expected to serve 3 employees and 96 members.

This analysis has been prepared in accordance with the criteria defined in the *Palm Beach County Transportation Performance Standards Ordinance (TPSO)*. A buildout year of 2021 is proposed.

TRIP GENERATION

The daily and peak hour trip generation potential for the proposed development plan was calculated based on trip generation rates published by Palm Beach County and the Institute of Traffic Engineers (ITE) in the *Trip Generation Manual, 9th Edition*. ITE does not provide a daily or AM peak hour trip generation rate for a walk-in bank (Land Use 911); therefore, a ratio between the PM peak hour trip generation rates for a walk-in bank and drive-through bank (Land Use 912) was calculated. The ratio was then applied to the daily and AM peak hour trip generation rates for the drive-through bank to result in generated trips for a walk-in bank. The ratio calculation is provided at the bottom of *Table 1*. For the proposed redevelopment, the trip generation rates for a lodge/fraternal organization (Land Use 591) were used. As shown in the attached pages from the *Trip Generation Manual, 9th Edition*, Land Use 591 can be analyzed using employees or members as the independent variable. *Table 1* illustrates that the rate with employees as the independent variable is higher; therefore, the proposed redevelopment was analyzed using employees as the independent variable to provide a more conservative analysis.

TABLE 1 INDEPENDENT VARIABLE COMPARISON 165 BRADLEY PLACE								
Land Use	Intensity	Daily Trips	AM Peak Hour			PM Peak Hour		
			Total	In	Out	Total	In	Out
Proposed Development								
Private Club/Lodge	3 employees	141	6	3	3	12	6	6
	96 members	28	1	1	0	3	2	1
Trip generation was calculated using the following data: Daily Trip Generation Private Club/Lodge (per employee [ITE 591]) = 46.9 / employee Private Club/Lodge (per member [ITE 591]) = 0.29 / member AM Peak Hour Trip Generation Private Club/Lodge (per employee [ITE 591]) = T = 2.10 / employee (50% in, 50% out) Private Club/Lodge (per member [ITE 591]) = T = 0.01 / member (50% in, 50% out) PM Peak Hour Trip Generation Private Club/Lodge (per employee [ITE 591]) = T = 4.05 / employee (50% in, 50% out) Private Club/Lodge (per member [ITE 591]) = T = 0.03 / member (50% in, 50% out)								

As indicated in *Table 2*, the proposed redevelopment plan is expected to generate 22 net new external daily trips, 4 fewer net new external AM peak hour trips (-2 in, -2 out), and 8 fewer net new external PM peak hour trips (-2 in, -6 out). As defined in *Article 12* of Palm Beach County's *Unified Land Development Code (ULDC)*, there are fewer than 20 gross peak hour trips generated by the project; therefore, no further significance analysis is required.

TRIP DISTRIBUTION AND ASSIGNMENT

The distribution and assignment of project traffic was determined based upon the characteristics of the surrounding land uses. The anticipated distribution and assignment of project traffic is summarized in *Figure 2*.

TEST 1 SIGNIFICANCE ANALYSIS

Per *Article 12 – Traffic Performance Standards* of the *Unified Land Development Code (ULDC)*, the links on which project traffic is greater than 1% of the level of service (LOS) D generalized service volume are considered to be significantly impacted. As shown in *Tables 3a* and *3b*, none of the links within the radius of development influence are significantly impacted. Therefore, no further analysis is required for Test 1.

SITE CIRCULATION AND TURN LANE REQUIREMENTS

The existing driveways on Park Avenue and Bradley Place are expected to adequately serve patrons of the proposed redevelopment. *Figure 3* illustrates the project driveways. Park Avenue is a one-way street and would serve inbound right-turning vehicles only. The driveway on Bradley Place does not provide direct inbound access to the site since the existing internal site driveway is designated as outbound-only; therefore, the driveway was analyzed as an outbound-only driveway for project trips. According to the Palm Beach County "Guide to Parking Lot and Street Access Design Criteria and Standards," it is necessary to classify project entrances that provide access to the local roadway network as minor, intermediate, or major according to the following criteria:

Kimley»Horn

- Minor – Provides services for a maximum average daily traffic of 500 vehicles.
- Intermediate – Provides services for a maximum average daily traffic from 501 to 2,000 vehicles.
- Major – Provides service for a maximum average daily traffic greater than 2,000 vehicles.

Based on these criteria, the driveways are classified as follows:

- Driveway on Bradley Place: Minor
- Driveway on Park Avenue: Minor

The project driveway volumes were compared to the thresholds identified by the Palm Beach County Land Development Division to determine the turn lane requirements of the site's driveways. Section 300 of the *Design Standards Manual* identifies the threshold for installation of a right-turn lane as an inbound peak hour right-turning traffic of 75 vehicles or more and the threshold for a left-turn lane as an inbound peak left-turning traffic of 30 vehicles or more.

Based upon a comparison of the site driveway volumes to these thresholds, no additional turn lanes or modifications are required at the site's driveways.

CONCLUSION

The analysis was prepared to address the requirements of the Palm Beach County Traffic Performance Standards and the Town of Palm Beach Standards. The foregoing analysis demonstrates that the proposed redevelopment does not significantly impact the surrounding roadway network.

Please contact me at (561) 840-0874 or adam.kerr@kimley-horn.com should you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Adam B. Kerr, P.E.

Transportation Engineer

Florida Registration

Number 64773

Certificate of Authorization

Number 696

Attachments

K:\WPB_TPTO\Kraemer\165 Bradley TIA.docx


DOROTHY JACKS

 CFA, AAS
 Palm Beach County Property Appraiser

Homestead Exemption E-file



Location Address 165 BRADLEY PL

Municipality PALM BEACH

Parcel Control Number 50-43-43-15-08-000-0350

Subdivision BUNGALOW PARK ADD IN

Official Records Book 15470

Page 1350

Sale Date JUL-2003

Legal Description BUNGALOW PARK ADD LOTS 35, 36 & 37

Owners

BILTMORE GALLERIA LLC

Mailing address

PO BOX 3266

PALM BEACH FL 33480 1466

Sales Date	Price	OR Book/Page	Sale Type	Owner
JUL-2003	\$10	15470 / 01350	WARRANTY DEED	BILTMORE GALLERIA LLC
DEC-1996	\$325,000	09598 / 00174	QUIT CLAIM	WHELTON JOHN C
DEC-1996	\$325,000	09598 / 00172	WARRANTY DEED	
AUG-1988	\$100	05760 / 00597	WARRANTY DEED	
AUG-1987	\$1,859,000	05378 / 00052	WARRANTY DEED	

No Exemption Information Available.

Number of Units 0

*Total Square Feet 3038

Acres 0.2408

Use Code 2300 - FINANCIAL

Zoning CTS - (50-PALM BEACH)

Tax Year	2016	2015	2014
Improvement Value	\$563,450	\$519,306	\$449,779
Land Value	\$1,033,481	\$984,288	\$984,272
Total Market Value	\$1,596,931	\$1,503,594	\$1,375,000

All values are as of January 1st each year

Tax Year	2016	2015	2014
Assessed Value	\$1,596,931	\$1,503,594	\$1,375,000
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$1,596,931	\$1,503,594	\$1,375,000

Tax Year	2016	2015	2014
Ad Valorem	\$27,467	\$26,937	\$24,951
Non Ad Valorem	\$1,285	\$1,230	\$1,273
Total tax	\$28,752	\$28,167	\$26,224



FIGURE 1
SITE LOCATION
165 BRADLEY PLACE
Kimley»Horn

LEGEND

-  Project Site

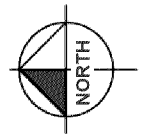
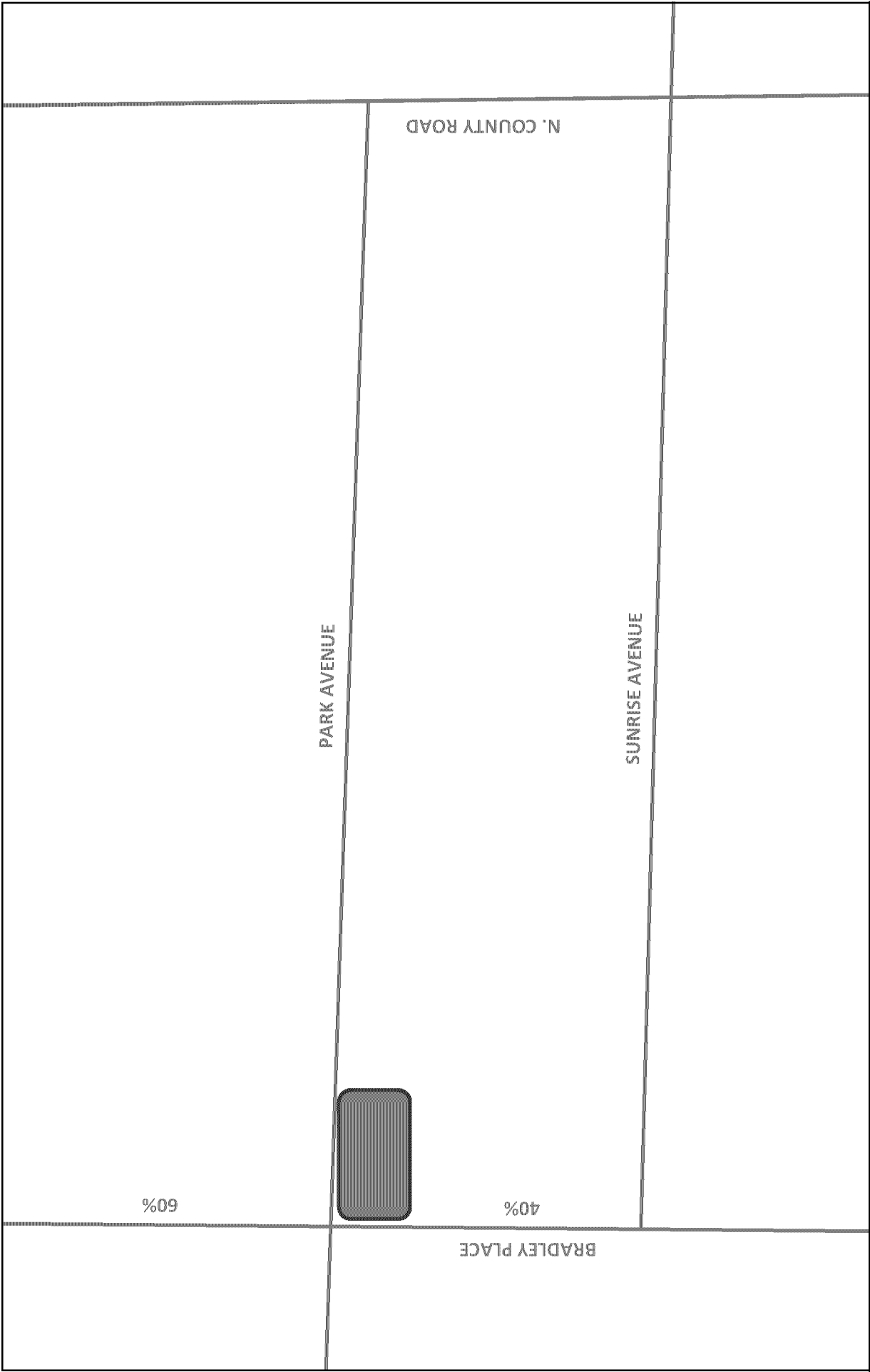


TABLE 2 TRIP GENERATION 165 BRADLEY PLACE								
Land Use	Intensity	Daily Trips*	AM Peak Hour*			PM Peak Hour		
			Total	In	Out	Total	In	Out
Existing Development								
Walk-In Bank	3,038 SF	225	18	10	8	37	16	21
Pass-By								
Walk-In Bank	47%	106	8	5	3	17	8	9
<i>Driveway Volumes</i>		225	18	10	8	37	16	21
Existing Net New External Trips		119	10	5	5	20	8	12
Proposed Development								
Private Club/Lodge	3 employees	141	6	3	3	12	6	6
Pass-By								
Private Club/Lodge	0%	0	0	0	0	0	0	0
<i>Driveway Volumes</i>		141	6	3	3	12	6	6
Proposed Net New External Trips		141	6	3	3	12	6	6
Net New External Trips		22	-4	-2	-2	-8	-2	-6
Trip generation was calculated using the following data:								
Daily Trip Generation								
Walk-In Bank	0.5*[ITE 912]	=	0.5*(148.15* X / 1,000 SF)					
Private Club/Lodge	[ITE 591]	=	46.9 / employee					
AM Peak Hour Trip Generation								
Walk-In Bank	0.5*[ITE 912]	=	T = 0.5*(12.08*X / 1,000 SF) (57% in, 43% out)					
Private Club/Lodge	[ITE 591]	=	T = 2.10 / employee (50% in, 50% out)					
PM Peak Hour Trip Generation								
Walk-In Bank	[ITE 911]	=	T = 12.13*X / 1,000 SF (44% in, 56% out)					
Private Club/Lodge	[ITE 591]	=	T = 4.05 / employee (50% in, 50% out)					
*Ratio of Walk-in Bank trips to Drive-in Bank trips:								
	[ITE 912]	=	12.13 PM peak hour trips per 1,000 SF				= 0.5	
	[ITE 911]		24.30 PM peak hour trips per 1,000 SF					

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1/5/2017 11:03



LEGEND

-  Project Site
-  Project Traffic Distribution

FIGURE 2
PROJECT TRAFFIC DISTRIBUTION
165 BRADLEY PLACE
Kimley»Horn

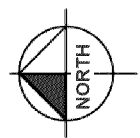
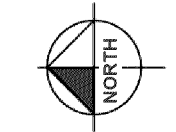
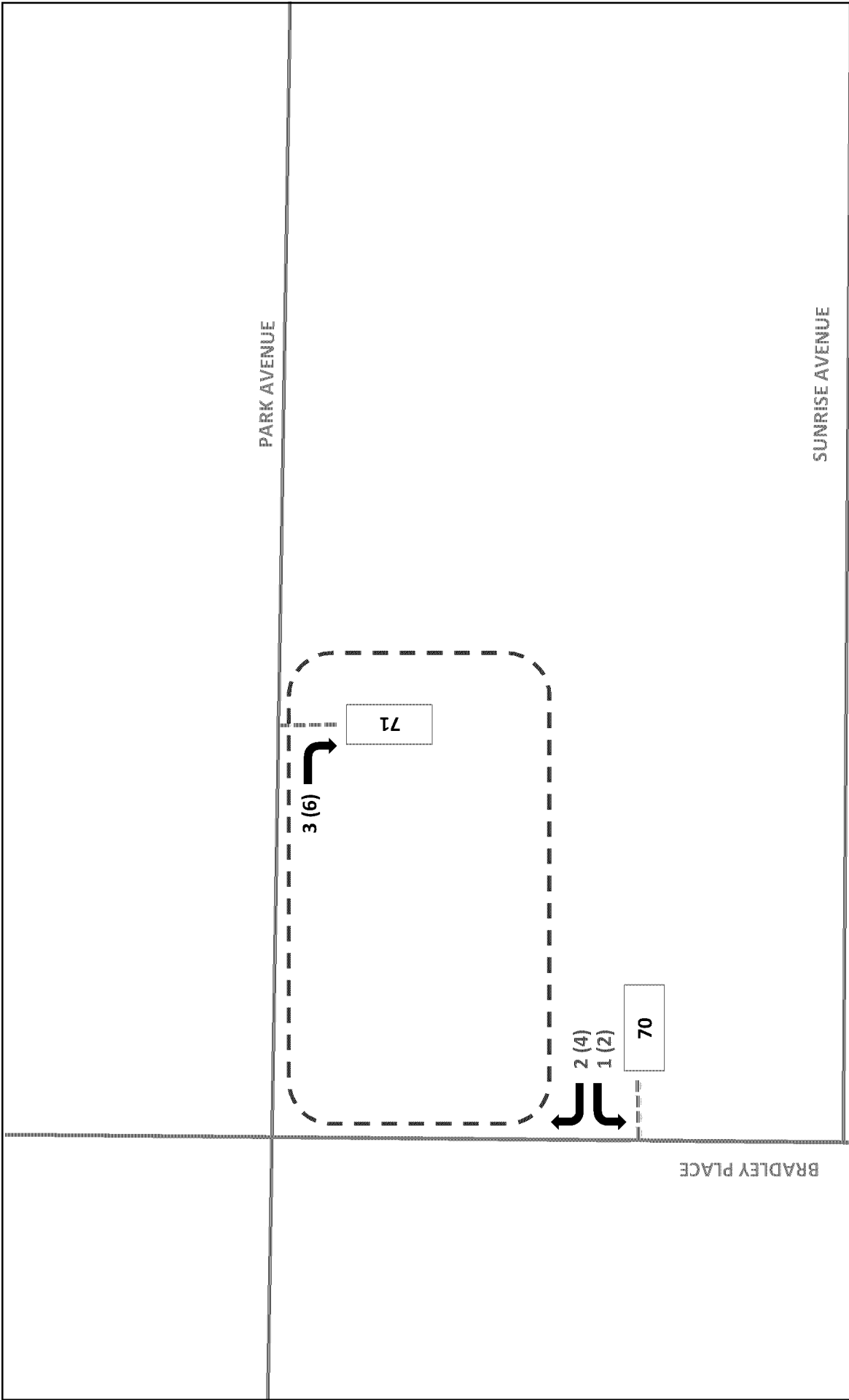


TABLE 3A 165 BRADLEY PLACE TEST 1 AM PEAK HOUR SIGNIFICANCE ANALYSIS												
ROADWAY	FROM	TO	COMMITTED NUMBER OF LANES	LOS D GEN. SVC. VOLUME	COMMERCIAL % ASSIGNMENT	NB/EB IN/OUT?	AM PEAK HOUR					
							TRIPS		% IMPACT			
							NB/EB	SB/WB	NB/EB	SB/WB	Sig?	Sig?
Bradley Place	Royal Poinciana Way	Project Location	2L	810	40%	i	-1	-1	-0.12%	No	-0.12%	No
Bradley Place	Project Location	N. Lake Way	2L	810	60%	o	-1	-1	-0.12%	No	-0.12%	No

K:\WPB_TPTO\Kraemer\165 Bradley Place\165 Bradley Trippen 2.xlsx\Test 1 Sig-PM

TABLE 3B 165 BRADLEY PLACE TEST 1 PM PEAK HOUR SIGNIFICANCE ANALYSIS												
ROADWAY	FROM	TO	COMMITTED NUMBER OF LANES	LOS D GEN. SVC. VOLUME	COMMERCIAL % ASSIGNMENT	NB/EB IN/OUT?	PM PEAK HOUR					
							TRIPS		% IMPACT			
							NB/EB	SB/WB	NB/EB	SB/WB	Sig?	Sig?
Bradley Place	Royal Poindiana Way	Project Location	2L	810	40%	i	-1	-2	-0.12%	No	-0.25%	No
Bradley Place	Project Location	N. Lake Way	2L	810	60%	o	-4	-1	-0.49%	No	-0.12%	No

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LEGEND

	Project Site	XX	Inbound AM Volume
		(XX)	Inbound PM Volume
	Daily Volume	XX	Outbound AM Volume
		(XX)	Outbound PM Volume

FIGURE 3
DRIVEWAY VOLUMES
165 BRADLEY PLACE
Kimley»Horn

Walk-in Bank (911)

Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.

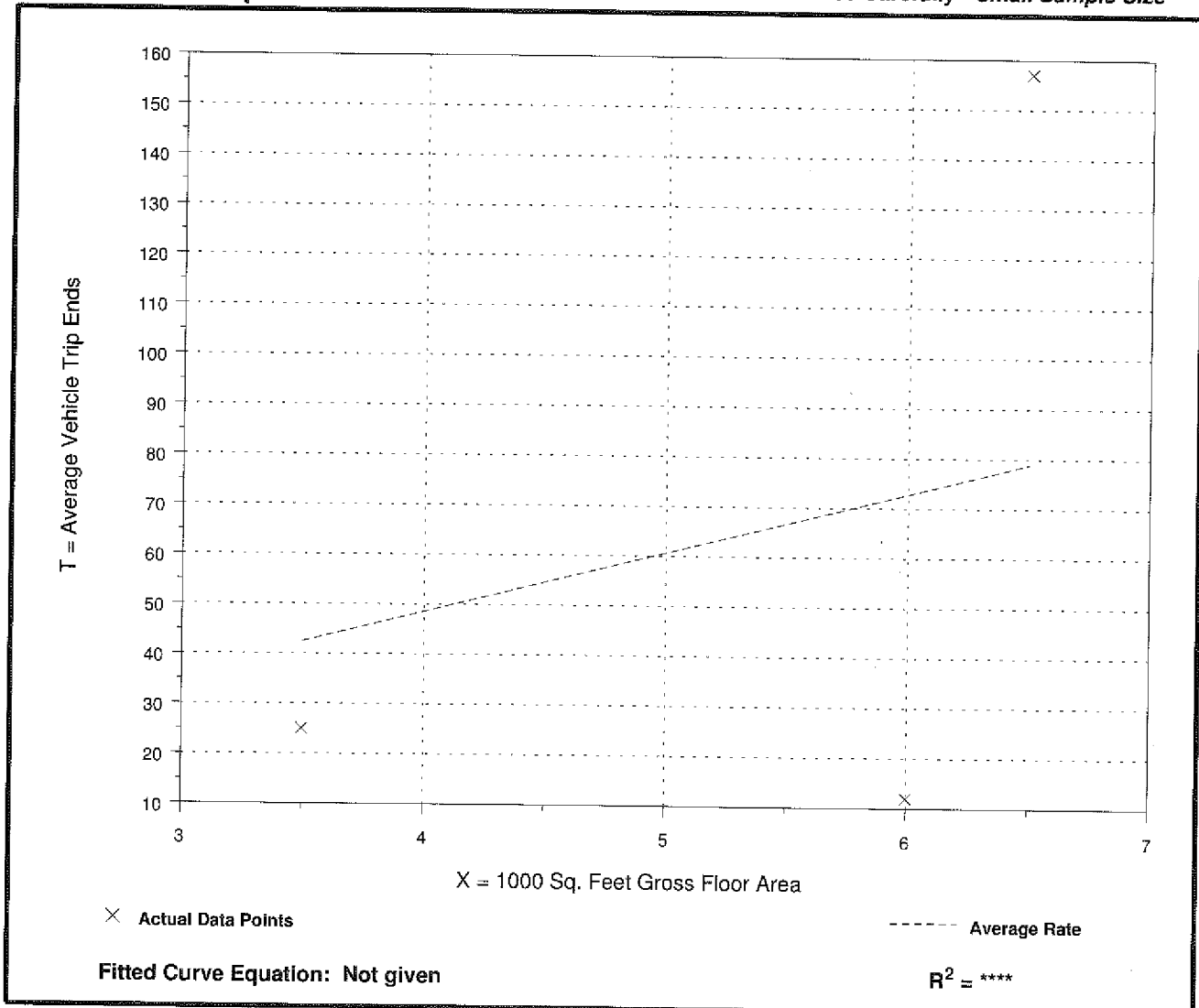
Number of Studies: 3
Average 1000 Sq. Feet GFA: 5
Directional Distribution: 44% entering, 56% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
12.13	2.00 - 24.15	10.96

Data Plot and Equation

Caution - Use Carefully - Small Sample Size



Drive-in Bank (912)

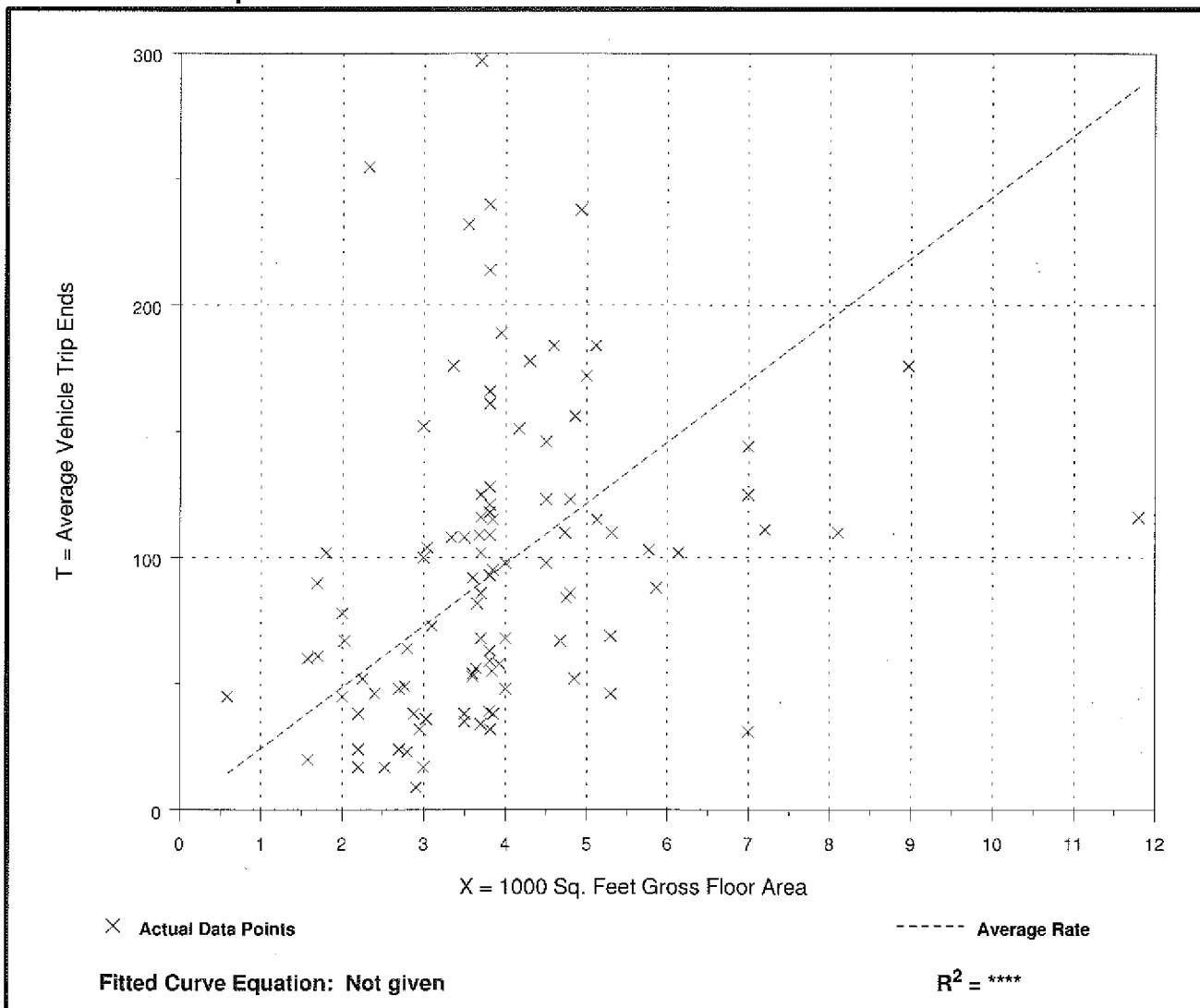
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.

Number of Studies: 102
Average 1000 Sq. Feet GFA: 4
Directional Distribution: 50% entering, 50% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
24.30	3.09 - 109.68	16.24

Data Plot and Equation



Drive-in Bank (912)

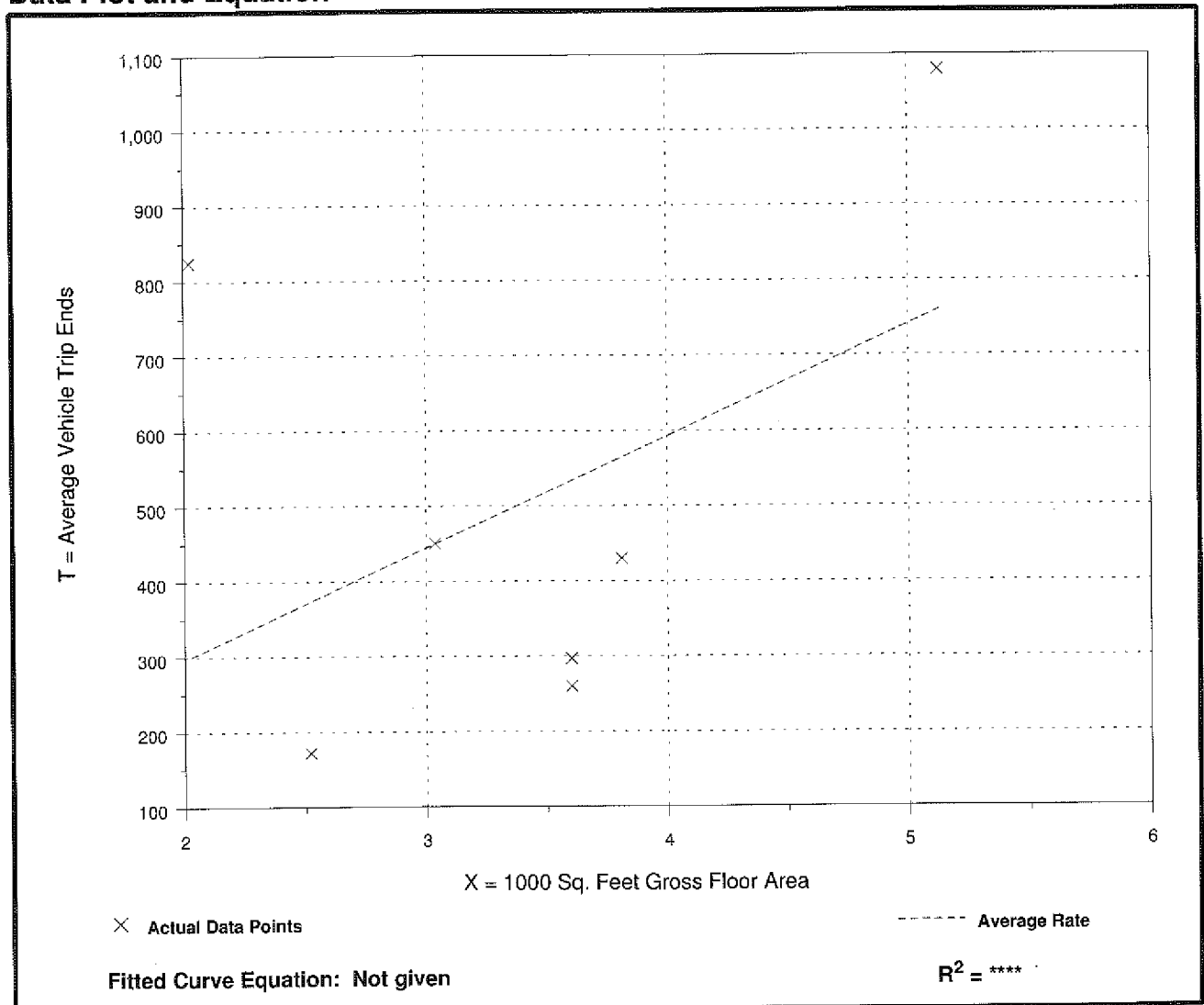
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday

Number of Studies: 7
Average 1000 Sq. Feet GFA: 3
Directional Distribution: 50% entering, 50% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
148.15	68.23 - 407.21	97.36

Data Plot and Equation



Drive-in Bank (912)

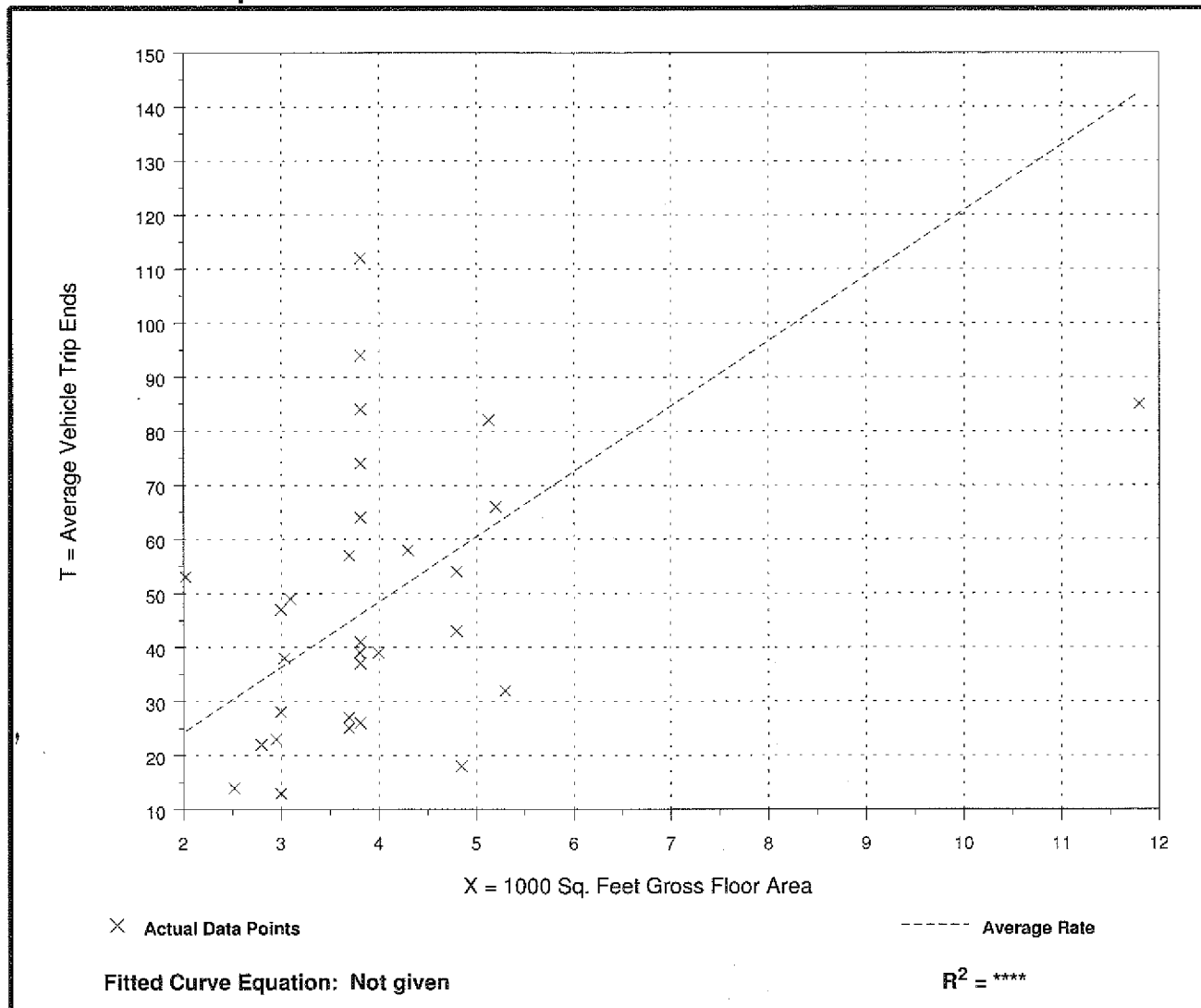
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 7 and 9 a.m.

Number of Studies: 31
Average 1000 Sq. Feet GFA: 4
Directional Distribution: 57% entering, 43% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
12.08	3.71 - 29.40	6.88

Data Plot and Equation



Land Use: 591

Lodge/Fraternal Organization

Independent Variables with One Observation

The following trip generation data are for independent variables with only one observation. This information is shown in this table only; there are no related plots for these data.

Users are cautioned to use data with care because of the small sample size.

<u>Independent Variable</u>	<u>Trip Generation Rate</u>	<u>Size of Independent Variable</u>	<u>Number of Studies</u>	<u>Directional Distribution</u>
Employees				
Weekday	46.90	20	1	50% entering, 50% exiting
Weekday A.M. Peak Hour of Adjacent Street Traffic	2.10	20	1	Not available
Weekday P.M. Peak Hour of Adjacent Street Traffic	4.05	20	1	Not available
Weekday A.M. Peak Hour of Generator	4.30	20	1	Not available
Weekday P.M. Peak Hour of Generator	4.05	20	1	Not available
Saturday	29.55	20	1	50% entering, 50% exiting
Saturday Peak Hour of Generator	3.10	20	1	Not available
Sunday	29.10	20	1	50% entering, 50% exiting
Sunday Peak Hour of Generator	3.75	20	1	Not available

Members				
Weekday	0.29	3,200	1	50% entering, 50% exiting
Weekday A.M. Peak Hour of Adjacent Street Traffic	0.01	3,200	1	Not available
Weekday P.M. Peak Hour of Adjacent Street Traffic	0.03	3,200	1	Not available
Weekday A.M. Peak Hour of Generator	0.03	3,200	1	Not available
Weekday P.M. Peak Hour of Generator	0.03	3,200	1	Not available

PRINCIPAL PARKING OCCUPANCY EQUIVALENCY STATEMENT

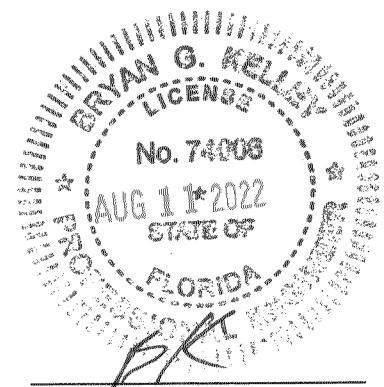
**165 BRADLEY PLACE
TOWN OF PALM BEACH, FLORIDA**

Prepared for:

The Chabad House of Palm Beach
361 South County Road
Palm Beach, Florida 33480

Job No. 22-135

Date: July 11, 2022
Revised: July 27, 2022
Revised: August 11, 2022



Bryan G. Kelley, P.E.
FL Reg. No. 74006

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1.0 SITE DATA

The subject parcel is located at 165 Bradley Place in the Town of Palm Beach, Florida and contains approximately 0.24 acres. The site was previously approved for a 3,038 S.F. private club/lodge. Proposed site modifications include changing the use to a 68-student daycare/preschool. As part of the site modifications, the existing five parking spaces east of the building will be converted to a playground and the driveway connection to Park Avenue will be removed. On-site parking will be available via the 9 spaces to the south of the building and throughout the adjacent shared parking lot. For additional information concerning site location and layout, refer to the Site Plan prepared by MP Design & Architecture, Inc.

2.0 PARKING SPACE REQUIREMENTS

For the purposes of this parking analysis, the adjacent land uses were also considered in the calculations. The existing parking lot of 82 spaces (76 spaces after proposed modification) is shared between the proposed 68 student preschool, the 2,793 S.F. bank to the south, and 13,577 S.F. building to the southeast. The 13,577 S.F. building consists of 7,233 S.F. of retail and 6,324 S.F. of office per the Palm Beach County Property Appraiser. The applicant is proposing to eliminate the five spaces immediately east of the building for a school play area and convert two spaces on the south side of the building into a single handicap space. Note on-street parking on Bradley Place and Park Avenue adjacent to the site allows for an additional six parking spaces for a total of 82 parking spaces. The Town of Palm Beach Code of Ordinance Section 134-2176 for off-street parking requirements is further documented below:

Proposed Development (School, Grades 1-6)**

68 student school x $\frac{1 \text{ parking space}}{14 \text{ students}}$ = 5 parking spaces required

Existing Bank Development

2,793 SF bank space x $\frac{1 \text{ parking space}}{200 \text{ SF GLA}}$ = 14 parking spaces required

Existing Office Development

6,324 SF office space x $\frac{1 \text{ parking space}}{250 \text{ SF GLA}}$ = 25 parking spaces required

Existing Retail Development

7,233 SF retail space x $\frac{1 \text{ parking space}}{200 \text{ SF GLA}}$ = 36 parking spaces required

**Note the proposed development is for a daycare/preschool and not for School Grades 1-6. However, the Town Code does not provide a parking requirement for daycares/preschools. Therefore, a 1st through 6th grade school was the most applicable and closest land use available within the Town code.

As shown above, the total parking required for the preschool and other uses based on Town Code will be 80 parking spaces. However, based on the combination of land uses, it is anticipated that each of the uses will have different peak times throughout the day. A shared parking calculation was prepared utilizing the ULI Shared Parking, 3rd Edition to quantify the impacts. The results showed a peak overall parking demand of 75 parking spaces between 2:00 and 3:00 PM or eight less than the provided 82 parking spaces inclusive of the six on street parking spaces. It should be noted that the peak impact for the preschool is anticipated in the morning since the school will have three different pick-up times (early pick up, regular pick up and aftercare). During the morning hours, the other land uses will generally be operating far below peak utilization. Additionally, the Town Code parking requirements are generally in excess of the ITE Parking Generation, 5th Edition parking rates and therefore the analysis can be considered conservative. The shared parking calculations are attached to this report.

Previous Use Parking Calculations

The existing 3,038 S.F. private club/lodge was previously approved for 3 employees and 96 members per the Traffic Study prepared by Kimley Horn dated January 6, 2017. The Town Code requirement for social clubs is 1 space per 4 members. Therefore, the previous use had a parking requirement of 24 parking spaces whereas the current proposed preschool has a Town code parking requirement of 5 spaces.

3.0 ONSITE OPERATIONS

Site access is existing via a full access driveway to Bradley Place and Sunrise Avenue. Note the existing driveway connection to Park Avenue is proposed to be closed to accommodate a playground area as part of this application. The 9 parking spaces immediately to the south of the building are anticipated to accommodate the proposed preschool. The general hours of operation will be from 8:00 AM to 6:00 PM with the 68 student ages ranging from one year to 8 years of age. A total of six staff members are anticipated.

Drop off will operate from 7:45 AM to 9:15 AM for 90 minutes. Parents will enter either driveway and park their vehicle at one of the nine spaces available just south of the building and escort their children through the front entrance located on the west side of the building. Due to the large drop off time window and low number of students, the peak amount of parking at any given time will be reduced.

Parents picking up half-day students will need to park and go inside to pick up their child. The early pick up will be between 12:15 and 12:45 PM.

Regular pick up will operate from 2:45 PM to 3:30 PM for 45 minutes. Parents will need to park and go inside to pick up their child. Aftercare pick-up will be between 4:00 and 6:15 PM with the procedure being similar to the other times of day where the parents will be required to park their vehicle and walk into the school entrance located on the west side of the building.

4.0 CONCLUSION

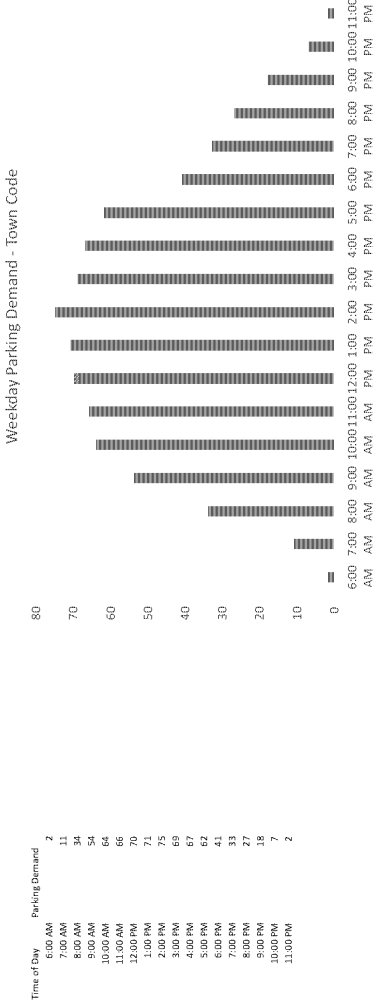
The parking space calculations indicate fewer spaces are required than the previous use. The nine parking spaces on the south side of the building are anticipated to meet the demand of the proposed 68-student preschool. The onsite operations are proposed to flow smoothly with a 90 minute drop off period in the morning and three pick up periods throughout the afternoon. The overall shared parking calculations also demonstrate that based on time-of-day calculations, there will be sufficient parking for the overall site. Further, the parking calculations can be considered conservative since the Town code requirements are generally higher than the ITE Parking Generation, 5th edition parking rates.

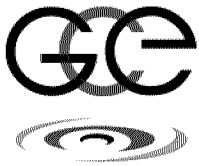
SHARED PARKING ANALYSIS
BASED ON TOWN CODE

Raw Parking Demand				Shared Parking Demand - WEEKDAY																							
Use	Intensity (SF or Units)	Town Code Parking Rate (per 1000 SF or Students)	Town Required Parking	Peak Season Adjustment	Mode Adjustment	6:00 AM	7:00 AM	8:00 AM	9:00 AM	10:00 AM	11:00 AM	12:00 PM	1:00 PM	2:00 PM													
						%	Adjusted Parking	%	Adjusted Parking	%	Adjusted Parking	%	Adjusted Parking	%	Adjusted Parking												
Retail	7.233	5	36	100%	100%	1%	0	5%	1	15%	4	35%	10	60%	17	75%	22	100%	29	100%	29	95%	28	100%			
	6.324	4	25	100%	100%	10%	1	15%	1	25%	2	45%	3	75%	5	95%	7	100%	7	100%	7	100%	7	100%			
	2.793	5	14	100%	100%	0%	0	3%	0	20%	0	60%	1	100%	2	45%	1	45%	0	45%	1	100%	2	100%			
	68	14	5	100%	100%	0%	0	0%	0	17%	0	50%	2	100%	3	50%	3	50%	2	50%	2	100%	2	100%			
					100%	100%	0%	0	0%	0	50%	4	90%	7	100%	8	100%	4	50%	4	50%	4	70%	6	100%		
Office	2.5	41.7%	6	100%	100%	0%	0	0%	0	60%	4	100%	6	100%	6	100%	6	100%	6	100%	6	100%	6	100%			
	1.5	42.9%	2	100%	100%	0%	0	2%	0	25%	1	75%	2	20%	0	20%	0	20%	0	20%	0	20%	0	20%			
Daycare	Employee	2	57.1%	3	100%	0%	0	50%	2	75%	3	90%	3	90%	3	90%	3	90%	3	90%	3	90%	3	90%			
			80			2	11	34	54	64	66	70	71	75													
Land Use	Type	Rate	Percentage	Parking Demand	Non-Captive	Peak Season Adjustment	Mode Adjustment	3:00 PM	4:00 PM	5:00 PM	6:00 PM	7:00 PM	8:00 PM	9:00 PM	10:00 PM	11:00 PM											
Retail	7.233	5	36	100%	100%	100%	100%	83%	25	85%	25	80%	23	65%	19	45%	13	15%	4	5%	1	100%					
	6.324	4	25	100%	100%	100%	100%	100%	7	100%	7	100%	7	90%	6	60%	4	40%	3	20%	1	100%					
Office	2.793	5	14	100%	100%	100%	100%	45%	23	15%	0	10%	0	5%	0	1%	0	0%	0	0%	0	100%					
	68	14	5	100%	100%	100%	100%	100%	23	90%	21	50%	12	25%	6	10%	2	7%	2	3%	1	1%	0	0%			
Bank	2.5	41.7%	6	100%	100%	100%	100%	100%	6	100%	6	100%	6	100%	6	100%	6	100%	6	100%	6	100%	6	100%			
	1.5	42.9%	2	100%	100%	100%	100%	100%	6	100%	6	100%	6	100%	6	100%	6	100%	6	100%	6	100%	6	100%			
Daycare	Employee	2	57.1%	3	100%	100%	100%	100%	3	100%	3	60%	2	40%	1	10%	0	0%	0	0%	0	0%	0	0%			
			80			69	67	62	41	33	27	18	2	2	2	2	2	2	2	2	2	2	2	2			

WEEKDAY MAX

75





GRUBER CONSULTING ENGINEERS

MEMO

To: Town of Palm Beach

From: Chad M. Gruber, P.E.

Re: Proposed Chabad House School
165 Bradley Pl.
Palm Beach, FL

Date: August 18, 2022

To Whom It May Concern:

This office has been contacted regarding the referenced project with respect to the installation of synthetic turf over the existing asphalt parking area as it relates to site grading and drainage.

The existing grading and drainage system for the referenced project in the vicinity of the proposed playground consists of asphalt parking sloping to an existing catch basin that is connected by storm piping serving the overall commercial development. No changes to the existing grading or drainage in this area are proposed so stormwater runoff will continue to be directed to the existing catch basin. Padding will be installed between the top of the existing asphalt surface and the bottom of the proposed synthetic turf. The synthetic turf that is placed over top of the existing catch basin will have Armorloc Super Drainage backing or engineer approved equivalent to allow for percolation of rainwater through the synthetic turf and into the existing catch basin.

Cleaning, video inspection, re-habilitation and re-certification of the existing drainage system on this outparcel will be completed as part of the proposed project.

Please feel free to contact me if you have any questions or need anything further.

Sincerely,

Chad M. Gruber, P.E.

SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Sender's Email: jeubanks@sniffenlaw.com

September 26, 2022

Via E-mail

Architectural Commission
c/o Jeffrey W. Smith, Chair
Town Council of the Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

**Re: Objection to Application ARC 22-200 (Zon-22-132) ("Application")
165 Bradley Place – Special Exception, Site Plan Review and
Variance for Proposed New Daycare/Preschool**

Dear Mr. Smith and ARCOM Commissioners:

Our office represents Palm Beach Biltmore Condominium Association, Inc. and its 126 Units ("Biltmore"). In that capacity we have reviewed the above Application by Biltmore Galleria LLC ("Applicant"). In doing so we have found a litany of shortcomings. As a result, the Biltmore Objects to the Applicant's proposal to create a new private daycare/preschool ("Daycare"), which will accommodate 68 students and 6 employees, to be located at 165 Bradley Place ("Property").

I. Application is in Violation of Town Agreements and Code

There are a number of requests by the Applicant which simply cannot be granted as they would be in direct violation of prior existing agreements with the Town and/or the Town Code. Neither ARCOM nor the Town Council should allow the Application to be considered unless and until such conflicts are resolved or variances requested. These issues include, without limitation:

- **Failure to Meet the Standards for Places of Assembly.** Section 134-1517 of the Town Code requires that Places of Assembly (including schools) **must have a minimum site of 20,000 square feet and a minimum lot width of 100 feet.** The Property does not meet either requirement as it is **only 10,513 square feet with a width of 70 feet.** (see, Sheet A001.1) As such, the Application must be amended to seek a variance for the failure to meet such minimum standards.
- **Playground Equipment not Permitted in Commercial Zoning.** The Applicant is seeking permission to place playground equipment in the present parking area. Such equipment is not permitted under the Town Code. Section 134-1734 which specifically states that **"playground equipment shall only be allowed in residential zoning districts."** Again, any deviation from the Code would require the Application be amended to include a request for an additional variance.

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401

PHONE: 561.721.4000
TC Development Review Meeting Backup 11-09-2022
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301

PHONE: 850.205.1996
FAX: 850.205.3004

- **Artificial Turf Restrictions.** The Application is also in violation of the Town Code's Artificial Turf restrictions. Section 66-313 of the Code provides that artificial turf "may be installed in **limited areas of rear and side yards**". The Applicant is seeking to install a massive **2,209 square feet of artificial turf** to create a playground on a 10,513 square foot lot. This is far **in excess of a "limited area" of the rear yard**. Once again, a variance would be required to do so.
- **Inclusion of Artificial Turf in Landscape Open Space.** The Applicant has also **included the proposed artificial turf area in its calculation of Landscape open space of 2,362 square feet**. Without the inclusion of the playground area the only other landscape open space on the Property consists of a small strip of grass and shrubs on the east end of the Property. The inclusion of the turf area is in violation of Section 66-314(b) of the Code which provides that "**Artificial turf is calculated as impervious surface and shall not count towards landscape open space.**"
- **Failure to Submit C-TS Town Serving Report.** Section 134-229(12) of the Code **requires that the Applicant submit evidence that not less than 50 percent of the customers of the proposed use will be town persons**. Evidence of the same must include credible data and information. While the **Applicant** has made a statement that over 50 percent of its students will be town persons, it **has not submitted any credible data or information to support its conclusion**.
- **Closing the Entrance from Park Avenue.** Closing the access from Park Avenue on the Property is crucial to the Application. However, such request is in direct violation of that Unity of Title between the Applicant and the Town (*see*, Exhibit "A") recorded on December 1, 1978, in ORB 296, PG 112 of the Public Records. Under the Unity of Title, the Developer (defined as the Applicant) agreed that it "**shall maintain a one-way driveway gate permitting the traffic to flow only from Park Avenue onto the property...**" Absent the removal of such restriction, the Application directly violates the Applicant's obligations. Any changes to the Unity of Title should be made prior to examination of the Application to ensure the Unity of Title can be altered without creating a new zoning nightmare with the remaining unified property and buildings.
- **Removal of existing Kitchen.** The Applicant has requested the kitchen to remain on the Property. Under Article IV, Section 7 of that Declaration of Use Agreement with the Town, recorded in ORB 29276, PG 1572 of the Public Records (*see*, Exhibit "B") the prior occupant, Old Guard Society, Inc., "**shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject Property.**" Any failure to do so would violate the Declaration of Use negotiated by the Town and undermine the consideration for the same.

Each of the above conflicts with existing obligations to the Town and violations of the Town Code should be resolved prior to the Application being permitted to move forward. Failure to do so would leave the Application incomplete, and its consideration premature.

II. Additional Deficiencies

Even if the Application could proceed in its present form (which it cannot) there remains a series of additional red flags within the Application ranging from issues of traffic, drop off/pick up circulation, shared parking, and safety concerns, including, but not limited to:

A. Shared Parking and Access Agreements

- **Lack of Shared Parking Approval.** Section 134-2177 of the Town Code requires that “**parking spaces for all uses or structures ... shall be located on the same lot ...**” The **9 designated parking spaces** relied upon by the Application **are not within the boundaries of either the 165 Bradley Place lot or the other commercial lots within the Unity of Title.** *See*, Survey Sheet A001.1; Sheet A002; and Property Appraiser aerials attached as Exhibit “C”. While **shared parking is permitted under Section 134-2182** of the Town Code in the C-TS zoning **it cannot be used to expand or intensify the use of a property.** Here, **the intensification of use is readily apparent from the need to get 68 children and 6 employees into and out of the Daycare at the busiest times of every work day.** The Applicant’s Traffic study further demonstrates clearly that **peak a.m. trips will increase from 6 trips to 26 trips, and peak p.m. trips will increase from 12 trips to 27 trips** the time when traffic along when Bradley Place is often already at a standstill, especially when the Flagler bridge is open. *See*, Traffic Analysis, p.3. As such, use of the proposed 9 spaces on a separate lot **requires the Applicant obtain a special exception approval for shared parking.**
- **Lack of Access Agreement.** Similarly, the parking access aisle into and out of the Daycare is not located on the Property but on the lot to the south. The Applicant should **obtain an access easement** to assure the continued use of the aisle.
- **Insufficient Size of Sunrise Avenue Access.** The Applicant may claim that Sunrise Avenue may also be used as an access point It cannot. Prior Applicant submittals demonstrate it is 16 feet 6 inches wide (*see*, Exhibit “D”) which does not meet the 25 foot wide aisle required for two way traffic under Section 134- 2172 of the Code.

B. Parking Space Issues

- **Non-compliant Parking Spaces.** While the Applicant relies exclusively on the use of the **9 parking spaces (8 spaces and 1 handicap space)¹** abutting the south of the Property, **such spaces do not meet the Town Code.** Under Sections 134-2171 and 134-2172 of the Town Code, parking spaces **must be a minimum of 9 feet wide and 18 feet long.** The Applicant’s Site Plan (Sheet A002) demonstrates that, outside of the handicap parking space, the remaining **proposed parking spaces are**

¹ The Applicants continued reference to 9 spaces is somewhat disingenuous given that 1 space is a handicapped van accessible space, which cannot be used except by a handicapped parent, or it will result in a \$250.00 fine. As a practical matter all 68 children must be dropped off and picked up using 8 spaces and an occasional use of the one van space.

8 feet 4 inches wide. As such, they are non-compliant and should be restriped to meet the Town Code at the same time the handicapped parking space is being created. The result will be at least one less parking space and the need to increase the parking variance requested.

- **Inadequate Number of Parking Spaces.** The Applicant claims that with the use of the 9 designated parking spaces it is only short 6 spaces, the exact number of spaces it removes under the Application, for which it seeks a variance. However, it **fudges the number of spaces needed by admittedly using the parking space requirements for students in 1st to 6th grade under the Town Code.** There is a vast difference between Daycare and elementary school parking needs. Elementary students can get in and out of a car and enter the building without assistance, requiring fewer spaces. Parents of daycare children must park and walk their children into the Daycare. Given the missing standard in the Town Code for the number of parking spaces required for a daycare, the **Town should look to and adopt the Minimum Parking and Loading Requirements for Palm Beach County, Article 6 (Exhibit "E").** The County standards for a daycare dictate the need for **1 space per 5 persons (not students), plus 1 drop off stall per 20 persons.** With 68 students and 6 employees the Daycare will need 15 spaces (i.e. $74 \text{ persons} / 5 = 14.8$ -rounded to 15) plus 4 drop off spaces (i.e. $74 / 20 = 3.7$ -rounded to 4) for a total of 19 spaces to ensure the safety of parents and children. **The result is the need for 14 more parking spaces than accounted for by the Applicant creating an 18 space variance.**² Again, in addition to a variance, such spaces will require a special exception for shared parking as they will not be on the same lot and will increase the intensification of the use of the Property.
- **Failure to Provide Parking Spaces for Employees.** Again, by not using standards for a preschool/daycare, the Application makes no provision for either parking spaces or traffic trips for its 6 employees. Clearly, employees will account for an additional 6 trips in and out of the Daycare each day at primarily peak hours as well as require parking outside of the 9 assigned spaces, yet again further triggering the need for shared parking.

C. Parking Circulation Deficiencies

- **Insufficient queuing.** The Application provides no queuing for the Daycare drop off and pick up. This is an impossibility in the real world. According to the Application **"Parents or guardians will park in one of the nine designated parking spaces on the south side of the building and escort their child through the front entrance (west side of the building) to be signed in."** The distance from Bradley Place to the eastern edge of the 9 parking spaces is 100-110 feet. According to the NADA the average car is 14.7 feet long.³ As a result, it will only

² Adding the additional 14 spaces to the required 80 spaces yields the need for 94 spaces total with a proposal of only 76 spaces (after proposed modification), for a variance of 18 parking spaces using the County daycare numbers.

³ <https://www.nadaguides.com/Cars/Shopping-Guides/how-long-is-the-average-car>

take **6.8 to 7.4 cars to fill the entire drop off/pick up area**. The Applicant also fails to take into consideration that cars entering from Bradly Place **will necessarily have to wait for parents to pull into and out of the 9 parking spaces** creating backups in the parking aisle and onto Bradley Place. Likewise, the Applicant has neglected the real potential for parents who have managed to navigate into one of the proposed 9 spaces being **blocked from getting out by cars waiting for parking spaces or trying to exit onto Bradley Place**.

- **Dueling Parking.** Unable to get into or out of the identified 9 spaces, the natural result will be that **parents will begin parking in the spaces across the parking aisle on the righthand side as they enter from Bradly Park** at the former bank building. This will further impede access, and create a situation of cars jockeying to pull into and out of the spaces on both sides of the parking aisle at the same time. Again, at 14.7 feet average per car **there will be little room for the maneuvering of 2 cars backing up at the same in the 25foot parking aisle**.
- **Lack of Safe Path to Entrance for Parents and Children.** Added to the chaos of the parking areas, is the fact that **there is no safe path to the entrance of the Daycare**. There is **no sidewalk or pathway** in front of the 9 parking spaces to the entrance. As a result, **parents and children will be forced to run the gauntlet behind the flow of cars entering, exiting, and parking during pick up and drop off**. This is a recipe for disaster.
- **Increased circulation through Park Avenue.** The ability to both enter and exit from Bradley Place during drop off and pickup, **will necessarily result in more traffic in the Park Avenue neighborhood**. **During peak hours parents exiting the Daycare will not be able to turn left to go south out of the access aisle onto Bradley Place** without drivers on both sides of the road giving way. **The result will be a steady stream of cars turning right onto Bradly Place and right again on Park Avenue** to proceed to N. County Road and head south.
- **Failure to Provide for Safety and Enforcement.** Added to the above is **the complete absence of any provisions for a teacher, employee or safety officer assigned to monitor, facilitate, and enforce the drop off and pick up process** using the 9 spaces, as well as preventing the improper discharge of children on the apron, parking access aisle, the sidewalk, or on the Bradly Place sidewalk.

III. Failure to Meet Standards for Site Plan, Special Exception, or Variance

While ultimately the purview of the Town Council, ARCOM should be aware that, based upon the above shortcomings, the Applicant does not meet the legal standards for granting a site plan, special exception or variance.

- A. Failure to Meet Site Plan Standards.** Section 134-329 of the Town requires the Applicant to demonstrate, and the Town Council to make a finding, that a **proposed**

Site Plan will not adversely impact the public interest. As detailed above, the Applicant has **failed to meet the standards** of Sections 134-329(2) (3), (4) and 8 of the Town Code and its **Site Plan cannot be approved.**

B. Failure to Meet Special Exception Standards. The Applicant has further failed to meet the standards for the various special exceptions required for a school in the C-TS zoning district and the required shared parking given that:

- **The special exceptions are not in harmony with the purpose and intent of the CT-S zoning district** under Section 134-226(a) of the Town Code.
- **The special Exceptions will adversely affect the public interests** in violation of Section 134-226(b) or the Town Code.
- **The use of the Property as a Daycare is not designed, located, or proposed to be operated in a manner that the public health, safety, welfare, and morals will be protected** in violation of Section 134-229(2) of the Town Code.
- **The use of the Property as a Daycare will not be compatible with the existing adjoining commercial development** and intended purposes of the C-TS zoning district under Section 134-229(4) of the Town Code.
- **The Daycare will not comply with the yard, and other open space and other special requirements** for the use as a Daycare under Section 134-229(5) of the Town Code, as detailed above.
- **There will not be adequate ingress and egress to the Property, adequate off street parking on the 165 Bradley Place lot, or a design and circulation which will promote automotive and pedestrian safety,** convenience and proper traffic flow and control in violation of Section 134-229(8).

C. Failure to Meet Standards for a Variance. The Applicant has also failed to meet virtually all of the criteria required for a variance under Section 134-201(a) of the Code, including without limitation:

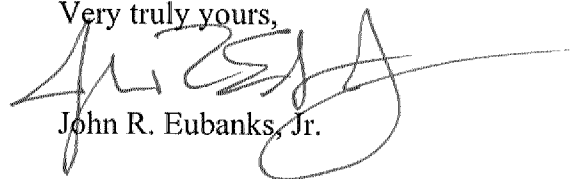
- **The failure to demonstrate the requisite undue hardship** under Section 134-201(a). There can be no hardship given that the Property can be used for a myriad of commercial purposes under the C-TS zoning. **Furthermore, any hardship would be self-created.**
- **The failure to establish that special conditions and circumstances exist which are peculiar to the land, structure of building which are not applicable to other land, structures of in the C-TS zoning district** under Section 134-201(a)(1). **There are not special conditions or circumstances as the Property is a regular sized lot within the C-TS Zoning** which was used for Town Serving purposes for many

years while subject to the same circumstances as presently exist at other properties in the C-TS zoning district.

- **The failure to demonstrate any special conditions and circumstances do not result from the actions of the applicant under Section 134-201(a)(2). Any special circumstances which may exist are the direct the result of the Applicant.**
- **Granting the variance requested will confer on the Applicant special privileges that are denied to other lands, buildings, or structures in the same zoning district in violation under Section 134-201(a)(3).**
- **The failure to demonstrate that a literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the CT-S zoning district or work an unnecessary and under hardship on the Applicant under Section 134-201(a)(4). The Property enjoys the same rights enjoyed by other neighboring properties, there is no unnecessary hardship, and any hardship claimed would be self-created.**
- **The failure to show that the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure under Section 134-201(a)(5). Under the Application the minimum variance would be no variance as the Applicant has created a self-imposed hardship by removing parking spaces. The Property can and has been reasonably used for years.**
- **The failure to demonstrate that the grant of the variance will be in harmony with the general intent and purpose of the C-TS zoning district under Section 134-201(a)(7). Granting of the variance would not be in harmony but create a direct conflict with commercial purpose of the C-TS zoning district.**

Considering the Application as a whole in light of the above facts and circumstances, the Biltmore requests the Application be denied.

Very truly yours,



John R. Eubanks, Jr.

Attachments

cc: ARCOM Committee Members
Wayne Bergman, Director of Planning, Zoning & Building
James Murphy, Assistant Director of Planning, Zoning & Building
Kelly Churney, Deputy Town Clerk
Town Clerk, Town of Palm Beach

AGREEMENT FOR UNITY OF TITLE AND OTHER RESTRICTIONS

THIS AGREEMENT, dated this 30th day of Nov., 1978, by
and between BILTMORE GALLERIA, LIMITED, and TOWN OF PALM BEACH,

W I T N E S S E T H:

In consideration of the granting of the Zoning Variance and Site Plan Request Number 23-78 as modified, (the "Request"), to Stanley J. Marta on October 10, 1978 approving the use of the westernly twenty-five feet of Lot 37 of the BUNGALOW PARK ADDITION property for a driveway and maneuvering aisleway, and for other good and valuable consideration received from the TOWN OF PALM BEACH, the Developer, which as used herein shall mean the BILTMORE GALLERIA LIMITED, a limited partnership, its successors and/or assigns, (the "Developer"), agrees to restrict the use of the real property described in Exhibit "A" attached by the conditions which follow which shall be covenants running with the land unless and until such time as the same shall be released or modified in writing by the TOWN OF PALM BEACH, Florida:

1. Said property shall be considered as one plot and parcel of land and no portion of said plot or parcel of land shall be sold, transferred, assigned or mortgaged separately but rather only in its entirety as one plot and parcel of land.
2. The Developer shall maintain a one-way driveway gate permitting the traffic to flow only from Park Avenue onto the property, which gate shall be maintained at the place set forth in the Site Plan approved by the Town Council in accordance with the Request.
3. The Developer shall maintain the landscaping as is more particularly shown on the plans submitted with respect to the Request.
4. The Developer shall record this Agreement at its own expense in the Records of Palm Beach County and shall thereafter file this Agreement in the Office of the Town Clerk in and for the TOWN OF PALM BEACH.

IN WITNESS WHEREOF, the parties hereto have subscribed their names the day and year first aforesaid.

PALM OFF
BEACH REC 2968 PAGE 112

Exhibit G

EXHIBIT

A

Witnesses:

BILTMORE GALLERIA, LIMITED
A Florida Limited Partnership

James A. Gordon
Carole J. Wood

By Stanley J. Hart
Its General Partner

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.

The foregoing instrument was acknowledged before me this
27th day of November, 1978, by Stanley J. Hart
General Partner of BILTMORE GALLERIA, LIMITED, a Florida limited
partnership on behalf of said partnership.



Alice E. Fernandez
Notary Public

My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires Sept. 12, 1980
Qualified by Appointment From A County Commission

Witnesses:

Joan Sanchez

TOWN OF PALM BEACH

C. E. Frost, Town Manager

ATTEST: Joan Sanchez

APPROVED:

11/22/78
Joan Sanchez
TOWN ATTORNEY

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.

The foregoing instrument was acknowledged before me this
20th day of November, 1978, by Joan Sanchez
of THE TOWN OF PALM BEACH, Florida,
a Florida municipality, on behalf of the town of Palm Beach.

(NOTARY SEAL)



Joan Sanchez
Notary Public

My Commission Expires:

NOTARY PUBLIC
MY COMMISSION EXPIRES JAN. 2, 1980
BONDED THRU GENERAL INS. UNDERWRITERS

PALM BEACH REC 2968 PAGE 113

That property located on Lots 46 through 53 inclusive, **SUNRISE AVENUE ADDITION**, Number 2, an addition to the Town of Palm Beach, Palm Beach County, Florida, according to the Plat thereof on file, in Plat Book 8, Page 69, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida, and that property located at the southeast corner of the intersection of Bradley Place and Park Avenue, and Lots 35, 36 and 37, **BUNGALOW PARK ADDITION**, an addition to the Town of Palm Beach, Palm Beach County, Florida, according to the Plat thereof on file in Plat Book 7, Page 26, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida.

EXHIBIT "A"

PALM BEACH COUNTY - STATE OF FLORIDA
PLAT BOOK 8, PAGE 69

PALM BEACH COUNTY - STATE OF FLORIDA
I hereby certify that the

herein is a true copy
of the record in my office

Witness my hand and seal this
18th day of December 1988

JOHN B. DUNKLE

Clerk Circuit Court

Michael J. Chisholm

Recorded
Palm Beach County, Fla
John B. Dunkle
Clerk Circuit Court



CFN 20170284831

OR BK 29274 PG 1572

RECORDED 08/08/2017 14:23:06

Palm Beach County, Florida

Sharon R. Bock, CLERK & COMPTROLLER

Pgs 1572 - 1581 (10pgs)

This is not a certified copy

DECLARATION OF USE AGREEMENT

by

THE TOWN OF PALM BEACH

and

OLD GUARD SOCIETY, INC.

August 2017

**Prepared by and return to:
Maura A. Ziska, Esquire
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401
(561) 802-8960**

00035342

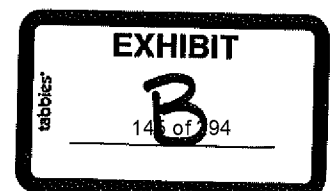


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DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ^{3rd} day of August, 2017 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called "the Town") and OLD GUARD SOCIETY, INC., 165 Bradley Place, Palm Beach, Florida 33480 (hereinafter called "the Club"), which terms "the Town" and "the Club" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH :

WHEREAS, the land described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Land") is located within the municipal limits of the Town; and

WHEREAS, The Club is a Special Exception use in the C-TS Zoning District; and

WHEREAS, the Town Council conditionally approved Special Exception Number 9-2016 with Site Plan Review and Variance on April 12, 2017 which approved the Special Exception with Site Plan Review to open the Club at the above referenced location and a the Variance to eliminate the requirement for ten (10) additional off-street parking spaces based on the principle of equivalency calculation; and

WHEREAS, all of the representations made herein are true and accurate and the approval of the Special Exception with Site Plan Review and Variance are conditioned upon the representations made herein and all of the conditions herein imposed; and

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed as follows:

ARTICLE I

RECITALS

The recitals set forth above are true and correct and are incorporated herein and made a part hereof.

ARTICLE II

REPRESENTATION OF LEASE

The Club has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated

herein will violate any restriction, court order or agreement to which the Club or the Land are subject.

ARTICLE III

PRIVATE CLUB USE

The use (the Club) that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number 9-2017 with Site Plan Review and Variance and approved by Town Council on April 12, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval"). The set of plans which are part of Special Exception Number 9-2017 with Site Plan Review and Variance conditional approval, and as identified on sheet drawings A000 and A100 prepared by MP Design & Architecture, Inc., stamp dated February 24, 2017, may not be deviated from unless prior Special Exception approval is granted by the Town Council.

ARTICLE IV

CONDITIONS

The approval to allow the Club to operate is based upon the following conditions:

- 1) Hours shall be limited from 10:00 a.m. to 7:00 p.m. Monday through Saturday.
- 2) The maximum membership shall be 100 people.
- 3) The maximum number of members and guests from 10:00 a.m. to 7:00 p.m. shall not exceed 20 people.
- 4) Evening events shall be allowed from 5:00 p.m. to 11:00 p.m. The number of evening events shall be limited to one time per calendar month from November 1st to May 1st with the exception of December during which the Club can have a maximum of two (2) events that month.
- 5) Valet parking is required for all night events. A valet parking permit from the Police Department shall be required and the valet stand shall be located on the subject property and not on any surrounding streets.
- 6) No music shall be allowed.
- 7) The Club shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject property.

ARTICLE VVOLUNTARY AGREEMENT AND HOLD HARMLESS

The Club agrees to be bound by the terms and conditions in this Agreement, and Tenant waives any legal objection it might otherwise have to said terms and conditions or parts thereof.

ARTICLE VIREMEDIES FOR VIOLATION

1. Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this Agreement or any other provision in the Town Code of Ordinances, and upon notice in writing from the Town to the Club and the Club's representative of said violation(s) and the date upon which said violations(s) shall be corrected, owner or owner's successor or assigns shall pay to the TOWN a liquidated amount of \$2,000 per violation. Said liquidated amount shall accrue on a per day basis for each day a violation of this agreement exists. In addition, in the event a violation remains uncorrected beyond the date noticed for correction by the Director of the Planning, Zoning and Building Department, this Agreement may be reconsidered by the Town Council at a future meeting upon thirty days notification to the owner. The Town Council may, upon a finding of violation, alter this Agreement or rescind the approval of the use.

In the event owner disputes the determination of the Director of Planning, Zoning and Building Department of the violation of the conditions of this Agreement, or in the event the owner disputes any code violation, owner may appeal the determination of the Director of the Planning, Zoning and Building Department to the Town Council, said appeal to be filed no later than fifteen (15) days following the written notice of violation.

2. The Town shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered in the Town's Code of Ordinances; and (c) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County for the State of Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non-performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

ARTICLE VIIPROVISIONS TO RUN WITH THE CLUB

This Agreement shall NOT run with the Land and shall be binding upon the Club only and shall terminate upon the termination of the Club's lease and/or business tax receipt, or rescission of approval by the Town Council. This Agreement shall be recorded by the Club in

the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Agreement shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VIII

ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties as to its subject matter and it may not be amended except by written agreement executed by both parties.

ARTICLE IX

EFFECTIVE DATE

The Effective Date of this Agreement shall be the day upon which this Agreement is executed by the last party to sign the Agreement.

ARTICLE X

MISCELLANEOUS

Wherever the word "laws" appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities.

This Agreement may not be amended except by written instrument signed by all parties hereto.

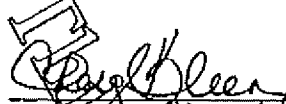
Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this reference made a part hereof.

In the event of the invalidity of any provision of this Agreement, same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof.

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

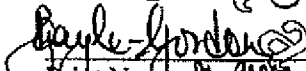
IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above.

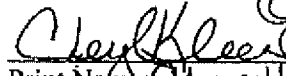
Signed, sealed and delivered
In the presence of:

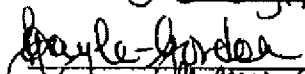

Print Name: Cheryl Klean

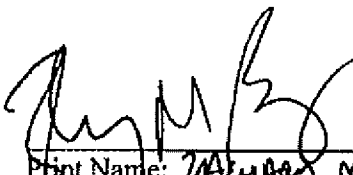

Print Name: PATRICIA GAYLE GORDON


Print Name: Cheryl Klean


Print Name: PATRICIA GAYLE GORDON

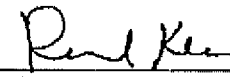

Print Name: Cheryl Klean

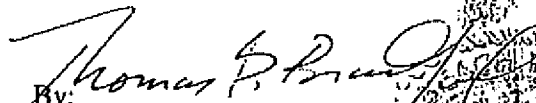

Print Name: PATRICIA GAYLE GORDON


Print Name: KRISTEN DANKNER

THE TOWN OF PALM BEACH

By: 
Gail Coniglio, Mayor

By: 
Richard Kleid, President

By: 
Thomas Bradford, Town Manager



THE CLUB

OLD GUARD SOCIETY, INC.

By: 
Its: President

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3rd day of August 2017, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.



GWENDOLYNN B. PEIRCE
MY COMMISSION # FF 992935
EXPIRES: May 16, 2020
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce
Signature of Notary Public
Gwendolynn B. Peirce
Printed Name of Notary Public
Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3rd day of August 2017, by Richard Kleid, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.



GWENDOLYNN B. PEIRCE
MY COMMISSION # FF 992935
EXPIRES: May 16, 2020
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce
Signature of Notary Public
Gwendolynn B. Peirce
Printed Name of Notary Public
Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3rd day of August 2017, by Thomas Bradford, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.



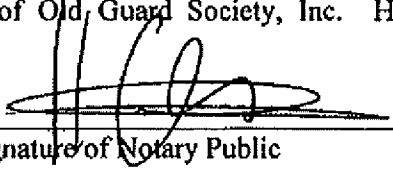
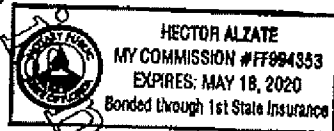
GWENDOLYNN B. PEIRCE
MY COMMISSION # FF 992935
EXPIRES: May 16, 2020
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce
Signature of Notary Public
Gwendolynn B. Peirce
Printed Name of Notary Public
Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

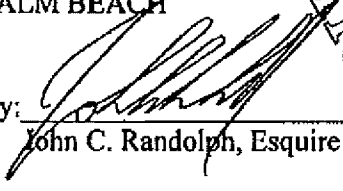
The foregoing instrument was acknowledged before me this 11TH day of July 2017, by Brian Smith, on behalf of Old Guard Society, Inc. He/She is personally known to me and he did not take an oath.


Signature of Notary Public**HECTOR H. ALZATE**

Printed Name of Notary Public

Commission Expires: 05/18/2020

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE TOWN OF
PALM BEACH

By: 

John C. Randolph, Esquire

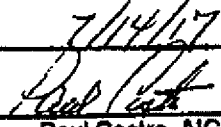
RECOMMEND APPROVAL:
Paul Castro, AICP
Zoning Administrator

EXHIBIT "A"

LEGAL DESCRIPTION

Lots 35, 36 and 37, BUNGALOW PARK ADDITION, 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 7, Page 26.

This is not a certified copy

Search by Owner, Address or Parcel

View Property Record

Owners

BILTMORE GALLERIA LLC

Property Detail

Location 165 BRADLEY PL
Municipality PALM BEACH
Parcel No. 50434315080000350
Subdivision BUNGALOW PARK ADD IN
Book 15470 Page 1350
Sale Date JUL-2003

Mailing Address PO BOX 3266
PALM BEACH FL 33480 1466

Use Type 7700 - CL&LDC/UN HALL
Total Square Feet 3038

Sales Information

Sales Date	10	Price
JUL-2003	10	
DEC-1996	325000	
DEC-1996	325000	
AUG-1988	100	
AUG-1987	1859000	

Appraisals

Tax Year	2022 P
Improvement Value	\$292,658
Land Value	\$2,005,377
Total Market Value	\$2,298,035

P Preliminary All values are as of January 1st each year

Assessed/Taxable values

Tax Year	2022 P
Assessed Value	\$1,929,877
Exemption Amount	50



EXHIBIT

C

155 of 294



Search by Owner, Address or Parcel



View Property Record

Owners

BILTMORE GALLERIA LLC

Property Detail

Location 285 SUNRISE AVE
Municipality PALM BEACH
Parcel No. 50434315100000540
Subdivision SUNRISE AVE ADD 2 IN
Book 13470 Page 1350
Sale Date JUL-2003
Mailing Address PO BOX 3266
PALM BEACH FL 33480 1466
Use Type 2300 - FINANCIAL
Total Square Feet 2793

Sales Information

Sales Date	Price
JUL-2003	10
DEC-1996	325000
DEC-1996	325000
MAY-1988	1100000
MAY-1988	100
12	

Appraisals

Tax Year	2022 P	\$0
Improvement Value		
Land Value		\$3,071,814
Total Market Value		\$3,071,814

All values are as of January 1st each year

Assessed/Taxable values

Tax Year	2022 P	\$3,071,813
Assessed Value		
Exemption Amount		\$0





DOROTHYJACKS
CRA, AAS
Palm Beach County Property Appraiser
We Value What You Value

PAPA Home 3

Search by Owner, Address or Parcel

View Property Record

Owners

BILTMORE GALLERIA LLC

Property Detail

Location 255 SUNRISE AVE
Municipality PALM BEACH
Parcel No. 50434315100000460
Subdivision SUNRISE AVE ADD 2 IN
Book 15470 Page 1350
Sale Date JUL-2003
Mailing Address PO BOX 3266
PALM BEACH FL 33480 1465
Use Type 1100 - STORES
Total Square Feet 13557

Sales Information

Sales Date	Price
JUL-2003	10
DEC-1996	325000
DEC-1996	325000
AUC-1988	100
AUC-1987	1859000
12	

Appraisals

Tax Year 2022 P

Improvement Value \$1,747,363

Land Value \$3,814,603

Total Market Value \$5,561,966

P Preliminary
All values are as of January 1st each year

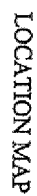
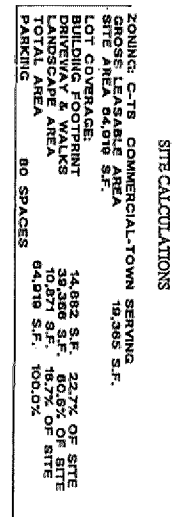
Assessed/Taxable values

Tax Year 2022 P

Assessed Value \$5,002,185

Exemption Amount 50

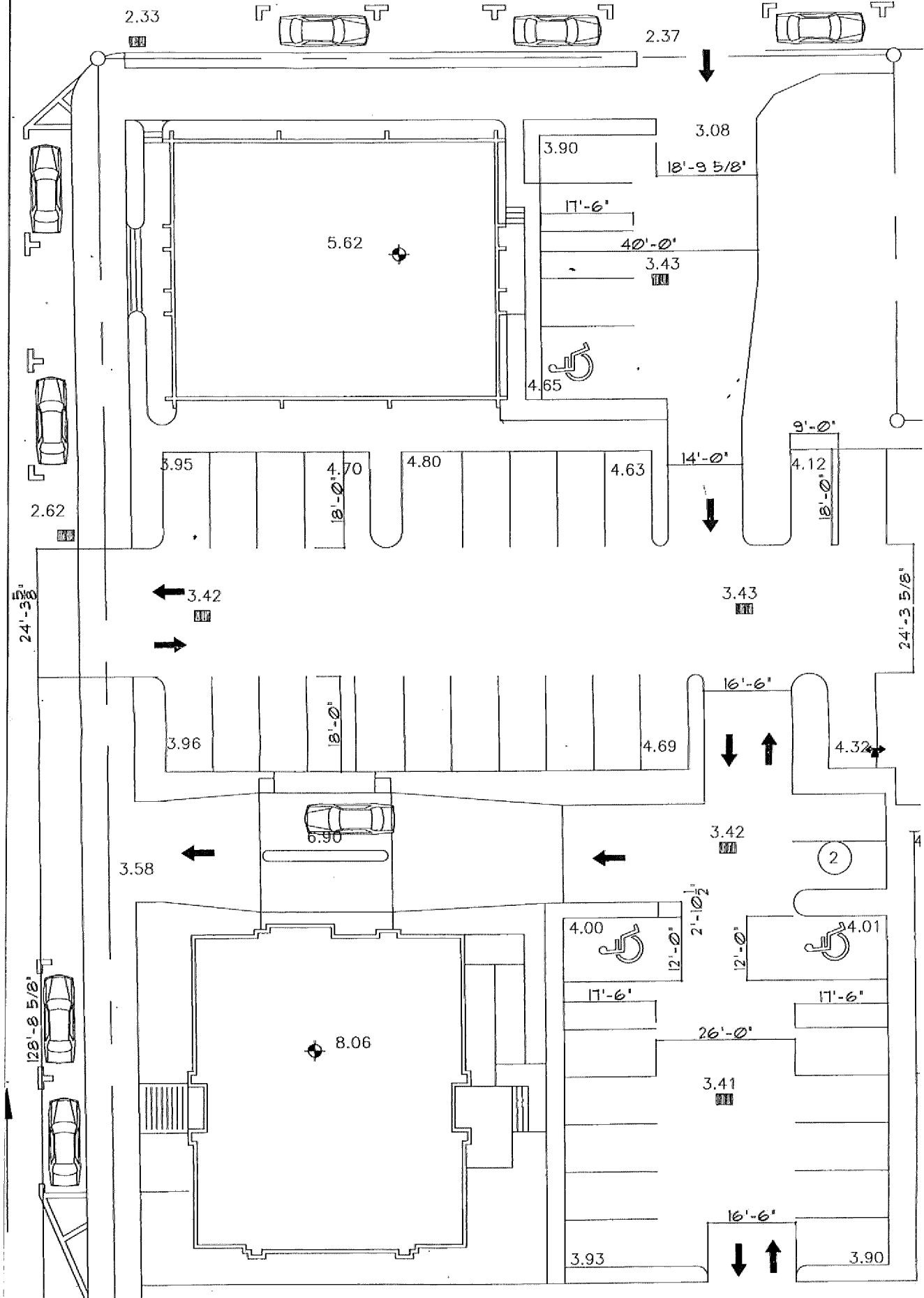


**EXHIBIT**

tables*


SCALE
 1"=1/8"
PROJECT:
 BILMORE GALLERY
 SINGER AVENUE
 PALM BEACH, FLORIDA
 A1-1.dwg 7.15.04 10:35:26 pm EST

—▶ **PARK AVENUE** ▶—





PALM BEACH COUNTY

*Discover the Palm Beaches...
the Best of Everything*

Disclaimer: By accessing information, data and materials or related graphics in Palm Beach County's web pages containing the Unified Land Development Code (ULDC), you hereby agree to accept the following terms and conditions in the Disclaimer: Please click to read the entire disclaimer (disclaimer.htm)» (disclaimer.htm).

Q Search Entire Article Tip - Hold CTRL + F

ARTICLE 6

PARKING, LOADING, AND CIRCULATION

CHAPTER A GENERAL

Section 1 General

A. Purpose and Intent

The purpose and intent of this Article is to ensure the design and function, provisions of parking, loading, queuing, vehicular and pedestrian circulation, driveways, and access are in proportion to the demand created by each use and are efficient and safe. [Ord. 2020-001]

B. Applicability

The standards of this Article shall apply to all development in unincorporated PBC, or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on previously approved plans. All parking areas established by this Section shall be continuously maintained in accordance with this Article. Parking and loading spaces shall be provided in accordance with Table 6.B.1.B. Minimum Parking and Loading Requirements (http://www.pbcgov.com/uldc/Article6.htm#TAB1BMIPALORE), unless stated otherwise below. [Ord. 2020-001]

1. Prohibitions

Parking and loading spaces are prohibited in the following: [Ord. 2020-001]

- a. Landscape buffers; and [Ord. 2020-001]
- b. Drainage District R-O-W or Easements, except additional parking in excess of the minimum required may be located in these areas with an agreement with the applicable district and subject to approval by the Zoning Director. [Ord. 2011-011] [Ord. 2020-001]

2. Exemptions

The following exemptions shall apply, unless the parcel is vacant. [Ord. 2007-013] [Ord. 2020-001]

a. Commercial Vehicle

One commercial vehicle of not over one ton rated capacity may be parked per dwelling unit, providing all of the following conditions are met:

- 1) vehicle is registered or licensed;
- 2) used by a resident of the premises;
- 3) gross vehicle weight rating (GVWR) does not exceed 12,500 pounds;
- 4) height does not exceed nine feet, including any load, bed, or box; and,
- 5) total vehicle length does not exceed 26 feet. [Ord. 2005-041]

b. Construction Vehicles



Temporary parking of construction vehicles or equipment engaged in work on private land where construction is underway, for which a current and valid Building Permit has been issued by the Building Director and the Building Permit is displayed on the premises. [Ord. 2007-013]

c. Delivery and Service Vehicles

The routine deliveries by tradesmen, or the use of trucks in making service calls. [Ord. 2007-013]

d. Emergency Repairs

A situation where a motor vehicle becomes disabled and, as a result of such emergency, is required to be parked in a residential district longer than two hours. Any prohibited motor vehicle shall be removed from the residential district within 24 hours, regardless of the nature of the emergency.

3. Deviations for the PO Zoning District

Deviation(s) from the provisions of this Article may be permitted for development supporting Government Facilities within the PO Zoning District, subject to Art. 2 Application Processes and Procedures (<http://www.pbcgov.com/uldc/Article2.htm#APPRPR>), and PPM #ZO-O-063 (<http://discover.pbcgov.org/pzb/zoning/ULDCPPMS/2017-ZO-O-063.pdf>), as applicable and as amended. [Ord. 2007-013] [Ord. 2019-005]

C. Prior Approvals and Non-Conformities

See Art. 1.E, Prior Approvals (<http://www.pbcgov.com/uldc/Article1.htm#EPRAP>) and Art. 1.F, Non-Conformities (<http://www.pbcgov.com/uldc/Article1.htm#FNO>). [Ord. 2020-001]

D. Definitions

See Art. 1.H, Definitions and Acronyms (<http://www.pbcgov.com/uldc/Article1.htm#HDEAC>).

CHAPTER B PARKING AND LOADING

Section 1 Calculation

A. Computing Parking Standards

1. Multiple Uses

On lots containing more than one use, the total number of required parking spaces shall be equal to the sum of the required parking for each use as if provided separately, unless shared parking is approved pursuant to Art. 6.C.1.B, Shared Parking (<http://www.pbcgov.com/uldc/Article6.htm#C1BSHPA>), or is allowed pursuant to Art. 3.B, Overlays (<http://www.pbcgov.com/uldc/Article3.htm#BOV>). [Ord. 2020-001]

2. Fractions

When calculation of the number of required parking spaces results in a fractional number, a fraction of less than one-half shall be disregarded and a fraction of one-half or more shall be rounded to the next highest whole number. [Ord. 2020-001]

3. Floor Area

Parking requirements that are based on square footage shall be computed using gross floor area (GFA), unless another measurement is specifically called for in this Section. [Ord. 2020-001]

4. Occupants

When the calculation of required parking spaces is based on the number of occupants, the calculation shall be based on the maximum number of persons legally residing on the premises at any one time.

5. Bench Seating

When the calculation of required parking spaces is based on the number of seats, each 22 linear inches of bench, pew, or similar bench seating facility shall be considered one seat.

6. Gross Lot Area

When the calculation of required parking spaces is based on gross lot area (GLA), the amount of lot area dedicated to parking shall not be included in the calculation. [Ord. 2020-001]

7. Unlisted Land Uses

In the event that parking requirements for a particular use are not listed in this Section, the requirements for the most similar use shall be applied. In making the determination, any evidence of actual parking demand for similar uses shall be considered as well as other reliable traffic engineering and planning information that is available. [Ord. 2020-001]

8. Government Services and Government Facilities

May be allowed alternative calculations based on evidence of actual parking demand for similar uses or reliable traffic engineering and planning information. [Ord. 2019-005] [Ord. 2020-001]

9. Landscaping

The landscape requirements for parking and interior vehicular use areas shall be calculated in accordance with Art. 7, Landscaping (<http://www.pbcgov.com/uldc/Article7.htm#LA>). [Ord. 2020-001]

10. Reduction

Refer to Art. 6.C.1, Requirements to Reduce or Increase Parking (<http://www.pbcgov.com/uldc/Article6.htm#C1REREINPA>). [Ord. 2020-001]

B. Minimum Parking Requirements

Table 6.B.1.B – Minimum Parking and Loading Requirements

Use Classification: Residential		Loading Standard
Congregate Living Facility	0.6 spaces per unit or 0.25 per resident/bed whichever is greater; plus 1 space per 250 sq. ft. of office space	A (12)
Multifamily, Recovery Community, and Cottage Home (Multiple Units on a Single Lot)	1 space per efficiency unit; 1.75 spaces per unit (1 bedroom or more); plus 1 guest parking space per 4 units with common parking areas	N/A
Single Family, Cottage Home (Single Unit on a Single Lot), Zero Lot Line Home, Townhouse, Farm Residence, Community Residence, or Mobile Home Dwelling	2 spaces per unit	N/A
Accessory Quarters, Caretaker Quarters, Groom's Quarters, Guest Cottage	1 space per unit	N/A
Farm Worker Quarters	1 space per 4 units	N/A

Use Classification: Commercial		Loading Standard
Adult Entertainment	1 space per 200 sq. ft.	N/A
Auction, Indoor	1 space per 200 sq. ft.	A
Auction, Outdoor	1 space per 250 ft. of enclosed or indoor space	N/A
Bed and Breakfast	1 additional space for each guest room	N/A
Car Wash, Automatic Self-Service (13)	1 space per 200 sq. ft. of office, retail, or indoor seating area	N/A
Catering Service	1 space per 200 sq. ft.	A
Cocktail Lounge	1 space per 3 seats	A
Convenience Store	1 space per 200 sq. ft.	A
Dispatching Service	1 space per 250 sq. ft.	N/A
Dog Daycare	3-12' by 20' transient spaces for 50 dogs; 1 space per 500 sq. ft. of cage and retail area	A
Financial Institution	1 space per 250 sq. ft.	A
Financial Institution with Drive-Through Facilities (13)		
Financial Institution – Freestanding ATM (9)	2 spaces	N/A
Flea Market, Indoor	2 spaces per 200 sq. ft.	A
Flea Market, Outdoor	1 space per 250 sq. ft. of affected land area	N/A
Gas and Fuel Sales, Retail and Electric Vehicle Charging Station (EVCS)	Number of parking spaces to be based on associated principal use structure (i.e., Convenience Store, etc.)	N/A
Green Market, Permanent	1 space per 250 sq. ft.	A
Hotel or Motel	1.25 spaces per room; (convention areas, restaurants, etc. over 2,000 sq. ft. to be calculated separately)	A
Kennel, Type 2 (Commercial) or Kennel, Type 3 (Commercial, Enclosed)	1 space per 500 sq. ft. of cage and retail area	A (8)
Landscape Service	1 space per 250 sq. ft. of office; plus 1 space per 1,000 sq. ft. of outdoor storage area for employee parking	B
Laundry Service (13)	1 space per 200 sq. ft.	A
Marina	1 space per 250 sq. ft.; plus 1 space per wet slip; plus 1 space per 3 dry slips	A
Medical or Dental Office	1 space per 200 sq. ft.	A
Microbrewery	Taproom: 1 space per 3 seats Manufacturing and Processing: 2 spaces per 1,000 sq. ft.	A
Office, Business or Professional	1 space per 250 sq. ft.	A
Pawnshop	1 space per 200 sq. ft.	A
Personal Services	1 space per 200 sq. ft.	N/A
Repair and Maintenance, Heavy	1 space per 250 sq. ft.	B
Repair and Maintenance, Light	1 space per 250 sq. ft.	A
Repair Services, Limited	1 space per 250 sq. ft.	N/A
Restaurant, Type 1 (13)	1 space per 3 seats including outdoor seating area	A
Restaurant, Type 2 (13)		A
Retail Sales (13)	1 space per 200 sq. ft.	A
Rooming and Boarding House	1 space for each guest room	N/A
Self-Service Storage, Limited Access	1 space per 200 storage bays; minimum of 5 customer spaces; security quarters calculated separately	A (6)
Self-Service Storage, Multi-Access	1 space per 200 storage bays; minimum of 5 customer spaces; security quarters calculated separately	N/A
Single Room Occupancy (SRO)	1.25 spaces per room	A
Theater or Performance Venue	1 space per 3 seats; plus 1 space per employee	A
Unmanned Retail Structure (11)	2 spaces	N/A
Vehicle Equipment Sales and Rental, Heavy	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental, and display area	B
Vehicle Sales and Rental, Light	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental, and display area	B
Veterinary Clinic	1 space per 250 sq. ft., excluding animal exercise areas	N/A
Vocational School	1 space per classroom; plus 1 space per 4 students; plus 1 space per 250 sq. ft. of administration, and assembly areas	N/A
[Ord. 2006-004] [Ord. 2006-036] [Ord. 2008-037] [Ord. 2009-040] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2013-021] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2019-005] [Ord. 2019-039] [Ord. 2020-001]		

Use Classification: Recreation		Loading Standard
Arena or Stadium or Amphitheater	1 space per 3 seats	A
Campground	1 space per campsite	N/A
Recreation Pod or Neighborhood Recreation Facility (7)	1 space per 300 sq. ft. of air-conditioned area (includes all interior uses) and Outdoor Recreation Amenities, such as: 1 space per 300 sq. ft. of pool area; 1.5 spaces per court (basketball, tennis, etc.); or, 1 space per 2 acres up to 10 acres plus 1 space for each 5 acres over 10 (fields, tracks, tot lots, etc.)	N/A
Entertainment, Indoor (except Bowling Alley) Bowling Alley	1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater 3 spaces per lane for Bowling Alley	N/A
Entertainment, Outdoor	1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater	N/A
Fitness Center	1 space per 200 sq. ft.	N/A
Golf Course (7)	4 spaces per hole; plus 1 space per 250 sq. ft. of clubhouse	N/A
Park, Passive and Park, Public (14)	2 spaces for the first acre; plus 1 space for each additional 2 acres; additional parking shall be provided for each additional facility or land use constructed in the park as herein provided	N/A
Shooting Range, Indoor and Shooting Range, Outdoor	1 space per target area	N/A
Zoo	1 space per 2,000 sq. ft. of land area	N/A
[Ord. 2005-002] [Ord. 2007-001] [Ord. 2013-001] [Ord. 2013-021] [Ord. 2014-025] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2019-005] [Ord. 2020-001]		

Use Classification: Institutional, Public, and Civic		Loading Standard
Animal Shelter	1 space per 500 sq. ft. of cage and retail area	A
Assembly Institutional Nonprofit or Assembly Membership Nonprofit (5)	1 space per 3 seats or 200 sq. ft. for the principal place of assembly, whichever is greater	A
	1 space per 200 sq. ft. for permitted accessory uses not otherwise classified as collocated uses	
	Collocated uses classified with the definition of a use listed in <u>Art. 4.B, Use Classification</u> (http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL), calculated separately	
Cemetery	1 space per 250 sq. ft. of office space; plus 1 space per 500 sq. ft. of maintenance area; plus a minimum of 5 public spaces	N/A
College or University	1 space per 2 students; plus 1 space per 4 seats in gymnasiums and auditoriums; plus 1 space per 250 sq. ft. of administrative and educational office space	A
Day Care, General	< 100 licensed capacity 1 space per 5 persons; plus 1 drop-off stall per 20 persons	A
	> 100 licensed capacity: 1 space per 10 persons; plus 1 drop-off stall per 20 persons	
Day Care, Limited	1 space per 250 sq. ft.; plus drop-off stall	A
Funeral Home	1 space per 4 seats	A
Government Services (2)	1 space per 500 sq. ft.; or 1 space per 3 seats, whichever is greater	N/A
Homeless Resource Center	1 space per 200 sq. ft. of accessory service delivery areas	A
Hospital	1 space per 2 beds; plus 1 space per 200 sq. ft. of outpatient treatment area	A
Place of Worship	1 space per 3 seats or 200 sq. ft. for the principal Place of Worship, whichever is greater	A
	1 space per 200 sq. ft. for permitted accessory uses not otherwise classified as collocated uses	
	Collocated uses classified with the definition of a use listed in <u>Art. 4.B, Use Classification</u> (http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL), calculated separately	
Prison, Jail, or Correctional Facility	1 space per 500 sq. ft.	N/A
School, Private	1 space per employee, 1 visitor space for every 50 students, 1 space for every 5.5 students in 11th and 12th grade; Auditorium or stadium – 1 space per 3 seats	A
School, Public and Charter	1 space per faculty and staff, high school 1 space for every 10 students in 11th and 12th grade, and 1 visitor space for every 50 students	A
Skilled Nursing or Residential Treatment Facility	1 space per 3 beds; plus 1 space per 250 sq. ft. of office space	A (12)

Randall K. Roger & Associates, P.A.

Attorneys at Law

Randall K. Roger
Andrew P. Speranzini
Katherine C. Nuckolls
Andrew G. Elliott
Thomas L. Abrams, of Counsel

Boca Raton: (561) 988-5598
Broward: (954) 236-8818
Toll-Free: (866) 988-5598
Facsimile: (561) 988-1318

Please Reply to Main Office
One Park Place
621 NW 53rd Street
Suite 300
Boca Raton, Florida 33487

Satellite Office
633 South Andrews Avenue
Suite 500
Fort Lauderdale, Florida 33301

September 23, 2022

CONFIDENTIAL/ATTORNEY-CLIENT PRIVILEGED

VIA E-MAIL: kechurney@townofpalmbeach.com

AND REGULAR U.S. MAIL

Ms. Kelly Churney
Deputy Town Clerk
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

**Re: Biltmore Galleria, LLC Application for Public/Private School – ARC-22-200 (ZON-22-132) –
165 Bradley Place (Combo)**

Dear Ms. Churney:

I represent Parc Regent Condominium Association, Inc. ("Parc Regent"), located at 184 Bradley Place, which is across the street and just to the North of the property located at 165 Bradley Place, currently operating as a private club (the Old Guard Society). Parc Regent is comprised of 18 condominium units. Parc Regent asked me to write to the Town of Palm Beach to voice its owners' objections and concerns about Biltmore Galleria, LLC's ("Applicant") application to convert the use of the property to a public/private preschool, consisting of 68 students, and to respectfully request that the Town Council and the Architectural Commission deny Biltmore Galleria, LLC's application, for the reasons stated below.

1. The proposed site plan, if approved, would result in multiple violations of the Town of Palm Beach Code (the "Code"), as follows:
 - a. Section 134-1517 -- Requires places of assembly, including schools, to have a minimum site area of 20,000 square feet and a minimum lot width of 100'. The property on which the school will be located will only be 10,513 square feet and will have a lot width of only 70', thereby resulting in a violation of Section 134-1517 of the Code.

- b. Section 134-1734 – Playground equipment is only allowed in residential zoning districts. Therefore, the placement and installation of the playground equipment at the school, in the C-TS zoning district, will result in a violation of Section 134-1734 of the Code.
 - c. Section 134-2172 – Parking spaces must have a minimum width of 9'. The proposed site plan shows the typical parking space as only being 8'-4" wide, resulting in a violation of Section 134-2172 of the Code.
 - d. Section 134-2176 – The combined uses of the properties making use of the combined site would require 82 off street parking spaces. The proposed site plan indicates that 6 parking spaces will be eliminated, resulting in only 76 parking spaces, which would violate Section 134-2176 of the Code. Interestingly, this is the only variance the applicant is seeking, notwithstanding all the other violations.
 - e. Section 134-2177 – Requires off street parking to be located on the same lot as the building. The proposed site plan will result in no off-street parking spaces being located on the lot, requiring the use of shared parking with the other businesses on the shared site. But the site plan does not meet the criteria in Section 134-2182 for shared parking, as all of the buildings/businesses will be using the parking at the same time, during the day, when the school and other business are open, resulting in overlapping use, and there are not enough parking spaces to satisfy the needs and Code requirements for all users/owners.
2. The presence of a school will result in a much more intense use of the land, and will create a myriad of traffic concerns. As there will be 68 students attending the school, there will be up to 68 parents in 68 vehicles all congregating at the school at or near the same time, twice per day, during drop off and pick up of the students. As the students will be of preschool age, the students will need to be escorted into the school. The plan is to have cars pull into the shared parking lot, off of Bradley Place, with only 9 parking spaces available for use. Even though the plans submitted by applicant indicate that no queuing of vehicles will be permitted, it is inevitable that vehicles will back up out of the parking lot and onto Bradley Place, as parents are not going to simply allow their preschool children to jump out of the vehicle and proceed unescorted into the school. Other parents will inevitably seek to pull up to the curb on Bradley Place and/or on Park Avenue, to allow for the drop off and pick up of their children. This will create a traffic nightmare twice per day, which will impede the residents of the surrounding residential properties, the customers of the other business utilizing the shared parking lot (which includes a bank, a salon, a drug store, and a retail establishment), and any and all other users of Bradley Place (and Park Avenue), including any emergency vehicles, which can only access the Parc Regent Condominium by turning off of Bradley Place, West onto Park Avenue. Additionally, the employees of the school will need to be able to park. The school will have four classrooms, an art area, administrative office and a kitchen. How many employees will the school have? It seems there will likely be five (5) teachers (for the 4 classrooms plus

the art teacher). What about teacher aids or assistants? There will also be administrative staff and perhaps kitchen staff or other staff to monitor the drop off and pick up and the playground area. All of these employees will need to be able to park and will generate additional traffic and congestion.

3. The preschool students will be in potential danger during the chaotic drop off and pick up periods, as there is no clear path into the school building, other than to walk behind the parked cars (on both sides of the driving aisle in the parking lot), through the parking lot (which allows for two way traffic), to Bradley Place, to enter the building through the West entrance, or, if permitted by Applicant, to walk behind the parked cars (again, on both sides of the driving aisle in the parking lot), through the parking lot (which, again, allows for two way traffic), to the gates on the Southwest portion of the lot, to enter the school through the doors on the East side of the building. The plan is untenable, as it places the preschool children in harms' way.
4. Applicant has not satisfied the criteria to establish Applicant's entitlement to a variance to eliminate the off-street parking, for the following reasons:
 - a. Section 134-201(a) – Town Council can only grant a variance when it will not be contrary to public interest and when, owing to special conditions, a literal enforcement of the Code will result in unnecessary and undue hardship to the Applicant. But Applicant has not shown or established any undue hardship. Additionally, allowing the operation of a school on the subject parcel would be contrary to the public interest due to increased congestion and traffic issues, and lack of safety for the preschool students being dropped off and picked up at the site, as explained in #2 and #3 above.
 - b. Section 134-201(a)(1) – Applicant has not established that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. There is nothing special or unusual about the subject parcel.
 - c. Section 134-201(a)(4) – Applicant has not demonstrated that a literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district or would work unnecessary and undue hardship on Applicant. Again, Applicant has failed to show any unnecessary or undue hardship. Additionally, application of the zoning requirements for the parcel would not deprive Applicant of any rights enjoyed by other properties, and Applicant has failed to make any such showing. Applicant could always use the parcel or have it developed as retail, office or commercial space, all permitted uses under the C-TS zoning district.
 - d. Section 134-201(a)(5) – Applicant has failed to show that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. In fact, Applicant could use the parcel or have it developed to allow for retail, office or commercial use, all permitted uses in the

C-TS zoning district. Applicant is not entitled to its desired use of the parcel, only a use that is reasonable.

- e. Section 134-201(a)(7) – The grant of the variance will NOT be in harmony with the general intent and purpose of the C-TS zoning district. The purpose of the C-TS zoning district, as stated in Section 134-1106 of the Code, is to create, preserve and enhance areas of attractive, small-scale, retail, personal and profession/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of townpersons. A school is not consistent with such purpose or intent. Additionally, the use of the subject parcel, as a school, for the reasons stated above in #2 and #3, will be injurious to the surrounding area and owners and will be detrimental to the public welfare. Finally, Applicant has not provided the report required by the Code to evidence that the school will serve townpersons.
5. Applicant has not satisfied the criteria to establish Applicant's entitlement to a special exception use. Pursuant to Section 134-1109(8) of the Code, a school is a special exception use in the C-TS zoning district. The special exception use should be denied for the following reasons:
- a. Section 134-226(a) – the Town must deny a special exception when not in harmony with the purpose and intent of the C-TS zoning district. See #4.e. above.
 - b. Section 134-226(b) – In granting a special exception the Town Council must find that the granting of such special exception will not adversely affect the public interest. For all of the above stated reasons, including in #2 and #3 above, the Town Council cannot make this finding.
 - c. Section 134-229(2) – The use of the parcel as a school is not designed, located or proposed to be operated in a manner that the public health, safety, welfare and morals will be protected. See #2 and #3 above.
 - d. Section 134-229(4) – The use of the property as a school will NOT be compatible with adjoining development and the intended purpose of the district in which it is to be located (i.e., the C-TS zoning district). The surrounding properties include a bank, drug store, retail, office and residential. A school is not compatible with such other uses. Additionally, a school is not compatible with the intent and purpose of the C-TS zoning district (see #4.e. above).
 - e. Section 134-229(5) – The use will not comply with the yard, other open space and other special requirements set out in the Code for the particular use involved. As noted above, a place of assembly, including a school, pursuant to Section 134-1517 of the Code, must have a minimum site area of 20,000 square feet and a minimum lot width of 100'. The subject parcel is only 10,513 square feet and has a lot width of only 70'. Additionally, Section 134-1734 of the Code only allows playground equipment in residential zoning districts; Section 134-2176 of the Code requires 82 off street parking spaces (and the proposed site plan only has 76 parking spaces), and further requires all off street

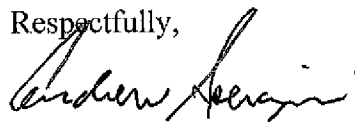
Ms. Kelly Churney
Deputy Town Clerk
Town of Palm Beach
September 23, 2022
Page 5

parking needed to satisfy the Code to be located on the same lot (there is no parking on the subject lot); Section 134-2172 of the Code requires a minimum width of 9' for parking spaces, and the typical parking space on the site plan is only 8'-4", and the shared parking does not satisfy the requirements of Section 134-2182 of the Code, as all of the users of the parking lot will need the parking spaces at the same time, resulting in overlapping use, and there is not enough parking spaces to satisfy the needs of all users/owners.

- f. Section 134-229(8) – There will NOT be adequate ingress and egress to the property and the proposed structures thereon, and there will be no off-street parking on the subject lot, and inadequate off-street parking even on the shared lot. Additionally, the configuration and design of the ingress/egress does not promote automotive and pedestrian safety and convenience, or proper traffic flow and control, or access by emergency vehicles.
 - g. Section 134-229(14) – The new use as a school places a much greater burden on municipal police and fire services than would be caused by a permitted use.
6. Applicant has not satisfied the criteria for site plan approval. Pursuant to Section 134-329 of the Code, before any site plan may be approved, the Town Council must make a finding that the approval of the site plan will not adversely affect the public interest and must certify that the specific zoning requirements governing the use have been met. For all of the reasons stated above, the Town Council cannot make such finding. Applicant, for the reasons stated above, cannot satisfy the specific requirements in Section 134-329(2), (3), (4) and (8).

For all of the above stated reasons, the Association respectfully requests that ARCOM and the Town Council deny Applicant's application for site plan approval, a special exception use and a variance. The Association and its owners thank the Town Council and ARCOM for its consideration of their objections to Biltmore Galleria, LLC's application for a school, and looks forward to the denial of such application.

Respectfully,



Andrew Speranzini, Esq., on behalf of
Parc Regent Condominium Association, Inc.

RECEIVED

By Emily Lyn at 12:10 pm, Sep 28, 2022

JOHN A. GAROFALO, M.D., P.C.

100 Hickory Hill Road
West Chester, PA 19382-6749
Telephone: 561-531-2402 and 610-793-055

Oncology
Immunology
Nutrition

September 28, 2022

Town Council and Members of the Architectural Commission
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Attn: Kchurney@townofpalmbeach.com

RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council and ARCOM Members:

I fully support the Alef Preschool of Palm Beach located at 165 Bradley Place. I live near the proposed school and believe it to be an added value to the Town and it surely will be Town Serving.

A town needs to have proper education opportunities for all ages, even the young among us. It always puzzled me that we don't have a preschool option on the island. The Alef Preschool is a long-awaited answer to this need.

We as residents of the town are looking forward to this new development which will be a great benefit to the many families who have moved to Palm Beach and are presently driving their young children off island each day.

Thank you for serving the town and thank you for being the voice of our little ones who need proper education. Alef Preschool will teach morals and values.

Sincerely,

John A. Garofalo, M.D., P..

Cc: Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council – council@townofpalmbeach.com
rabbi@palmbeachjewish.com
www.PalmBeachJewish.com

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW:
Date: Monday, September 26, 2022 8:26:57 AM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: Michael Belisle <mikebelisle88@gmail.com>
Sent: Sunday, September 25, 2022 3:17 PM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject:

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480
kchurney@townofpalmbeach.com

Alef Preschool of Palm Beach – 165 Bradley Place

Dear Town Council Members,

This letter is to express my support for the Alef Preschool of Palm Beach located at 165 Bradley Place.

I am a 40 year resident of Palm Beach and the transformation of the last couple years in regards to young families moving in is unprecedented. I constantly hear of the issue of lack of any preschool on the island. The proposed preschool is situated in a beautiful location, with ample parking, allowing for convenient drop-off and pick-up.

Thank you for your consideration of my opinion.

Sincerely
Michael A. Belisle

cc:Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council - council@townofpalmbeach.com

From: [James Murphy](#)
To: [Antonette Fabrizi](#); [Kelly Churney](#)
Cc: [Emily Lyn](#); [Bradley Falco](#)
Subject: FW: 165 Bradley Place Pre-School
Date: Wednesday, September 28, 2022 8:23:24 AM

James G. Murphy
Assistant Director of Planning, Zoning & Building

Town of Palm Beach
Planning, Zoning & Building
360 S. County Road
Palm Beach, FL 33480
www.townofpalmbeach.com

From: Martin Klein <martin@miklein.com>
Sent: Wednesday, September 28, 2022 8:22 AM
To: James Murphy <jmurphy@TownOfPalmBeach.com>
Subject: 165 Bradley Place Pre-School

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear James,

I hope you and your loved ones are safe and well. Nothing else matters. I see that today's Arcom hearing is still scheduled. I'd appreciate it if you could bring this letter to the Commission's attention.

Dear Commission,

I write in support of the request of the Chabad House in their lease for a pre-school at 165 Bradley Place. As the former head of one of New York's largest religious institutions as well as the former chair of our Planning and Zoning Commission, I've always been concerned with achieving that proper balance. I've been a long time champion of education, including religious education, and having a pre-school is a noble effort. Of course we want to achieve a balance in our community and I think the applicant has done that. I note that this is a proposed lease which will be temporary and I urge the Commission to support it with such modifications as you, in your wisdom, will suggest.

Respectfully,
Martin I. Klein

Martin I. Klein, PLLC.
1060 North Ocean Blvd..

Palm Beach, Florida 33480
Telephone: (561) 881-8000
Facsimile: (561) 881-8080
martin@miklein.com

-

-

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)
Date: Thursday, September 29, 2022 8:34:52 AM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: G <glandgl@hotmail.com>
Sent: Thursday, September 29, 2022 7:37 AM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: Fwd: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Sent from my iPhone

Begin forwarded message:

From: G <glandgl@hotmail.com>
Date: September 28, 2022 at 11:08:22 AM EDT
To: kchurney@townofpalmbeach.com

And
Mayor@townofpalmbeach.com

Subject: RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Town Council Members and Members of ARCOM
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

kchurney@townofpalmbeach.com

RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council Members and Members of ARCOM,

I am a longtime Palm Beach resident living in The Biltmore just across the street from the proposed preschool.

This letter is to express my support for the new Alef Preschool of Palm Beach located at 165 Bradley Place. I find it hard to believe that anyone would oppose the only preschool option in our beautiful community, especially while choosing to live in a home or condo across the street from busy bars and restaurants, operating through the night, and a preschool operates during daytime hours only.

How far have we fallen if we oppose the opening of the only preschool on the island? Making a fuss about a modest preschool opening in our town in a commercial building is very distressing. I am in support of the preschool and hope that our Town Council and members of ARCOM are too.

Thank you members of Town Council and members of ARCOM for doing what's right as you stand for education, the advantages being both local so residents with young children do not have to drive on and off the island every day, and a preschool also of the highest academic and interpersonal level, this is Alef Preschool.

Sincerely,

George Guido Lombardi

Owner/ resident

150 Bradley Place apt 904
Palm Beach

Florida 33480

cc: Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council - council@townofpalmbeach.com

Sent from my iPhone

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: Fw: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)
Date: Wednesday, September 28, 2022 11:21:27 AM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
Planning, Zoning & Building
360 S. County Rd.
Palm Beach, FL 33480
561-227-6408
561-835-4621 (fax)
www.townofpalmbeach.com

From: G <glandgl@hotmail.com>
Sent: Wednesday, September 28, 2022 11:08 AM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Town Council Members and Members of ARCOM
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

kchurney@townofpalmbeach.com
RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council Members and Members of ARCOM,

I am a longtime Palm Beach resident living in The Biltmore just across the street from the proposed preschool.

This letter is to express my support for the new Alef Preschool of Palm Beach located at 165 Bradley Place. I find it hard to believe that anyone would oppose the only preschool option in our beautiful community, especially while choosing to live in a home or condo across the street from busy bars and restaurants, operating through the night, and a preschool operates during daytime hours only.

How far have we fallen if we oppose the opening of the only preschool on the island? Making a fuss about a modest preschool opening in our town in a commercial building is very distressing. I am in support of the preschool and hope that our Town Council and members of ARCOM are too.

Thank you members of Town Council and members of ARCOM for doing what's right as you stand for education, the advantages being both local so residents with young children do not have to drive on and off the island every day, and a preschool also of the highest academic and interpersonal level, this is Alef Preschool.

Sincerely,

George Guido Lombardi

Owner/ resident

150 Bradley Place apt 904
Palm Beach

Florida 33480

cc: Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council - council@townofpalmbeach.com

Sent from my iPhone

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)
Date: Wednesday, September 28, 2022 8:46:26 AM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: Tara <tara.k.moore@gmail.com>
Sent: Wednesday, September 28, 2022 6:11 AM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Cc: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Town Council
<TCouncil@TownofPalmBeach.com>
Subject: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Town Council Members and Members of ARCOM,

This letter is to express my support for the Alef Preschool of Palm Beach at 165 Bradley Place. I live near the proposed school and it is of great value to the Town and it will be Town Serving. It will also be a great benefit to our family and the many young families that live on Palm Beach. We are presently driving our son off the island each day because the Town does not have any preschool accommodations. We plan on sending our son to Alef Preschool as soon as they open.

We look forward to the opening of Alef Preschool at [165 Bradley Place](#), and thank you for allowing our child to have this wonderful opportunity.

Sincerely,
Tara K. Moore

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW: Alef Preschool of Palm Beach — 165 Bradley Place (ARC-22-022)
Date: Wednesday, September 28, 2022 1:55:53 PM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

-----Original Message-----

From: Daniel R. Benson <DBenson@kasowitz.com>
Sent: Wednesday, September 28, 2022 1:45 PM
To: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Kelly Churney <KChurney@TownofPalmBeach.com>; Town Council <TCouncil@TownofPalmBeach.com>
Subject: Alef Preschool of Palm Beach — 165 Bradley Place (ARC-22-022)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Mayor Moore, Town Council Members and ARCOM Members:

I am writing in support of the Alef Preschool. My wife and I are delighted at the prospect of the preschool opening in Palm Beach close to where we live. We now drive our two-year-old son over a half hour each way to a Jewish school in Boynton Beach, so Alef Preschool will be a great benefit to us, as well as to other families in Palm Beach with young children. We have been very impressed by the people opening the school and the plans for its development. It is very difficult for us to understand how anyone could have any reasonable grounds for objecting to it. We thank you in advance for enabling the opening of this preschool which will represent a very significant benefit to Palm Beach.

Respectfully,

Daniel R. Benson
Kasowitz Benson Torres LLP
1633 Broadway
New York, New York 10019
(212) 506-1720 (office)
(917) 880-8690 (mobile)
(212) 506-1849 (fax)
DBenson@kasowitz.com

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Jennifer Hofmeister-Drew

From: Patrick McGowan <pmcgowansr@aol.com>
Sent: Monday, September 26, 2022 4:17 PM
To: Antonette Fabrizi
Cc: smorris@pbbiltmore.com
Subject: ARC-22-200 (ZON-22-132) 165 BRADLEY PL (COMBO) Objection

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Antonette and ARCOM Commissioners,

I am writing on behalf of all the concerned residents of Park Ave, Palm Beach who are in opposition to the project/variances proposed for 165 Bradley Place.

The school is requesting a variance to replace the rear parking lot/thoroughfare with a playground. Ourselves along with several of our neighbors oppose this variance/project for a variety of reasons.

-Increased traffic causing added congestion on a one way residential block with limited parking for residents.

-Reduced parking for the building due to addition of a playground.

-Calls for removal of the rear thoroughfare which controls commercial traffic for the building and surrounding businesses.

Traffic and short term parking for drop off/pickup is bound to be redirected down our one way residential street.

-Immediate area already has high concentration of busy commercial enterprises, Publix, Palm Beach Hotel and stores, Galleria, Banks, condominiums etc.

Due to these reasons and a variety of others, we oppose this project and its required variances at 165 Bradley Place.

Please see below one of the many letters expressing concerns and disapproval of the project and its variances.

Please add us to the opposition of this project.

We have the house directly behind the Old Guard and it is tough enough that people park directly in front of the house which does not allow us to do so.

Also we are not in favor of a playground directly behind our house as this would add a noise level that we would prefer not to have.

Our street is congested enough and we don't need people using our street as a drop off or pick up area. This would prohibit us from getting to our home. Park Ave. is a residential street and not equipped to deal with a great deal of commercial traffic.

Thank you,

Patty Dean & Park Miller
262 Park Ave.

Please forward our opposition to each of the ARCOM Commissioners and confirm receipt. Appreciate your time and efforts.

Thank you,

Patrick & Lisa McGowan, 251 Park Ave.

Catherine Stewart, 253 Park Ave.

Ken Moreland, 265 Park Ave.

Ann Heep, 234 Park Ave.

James & CeAnn Carney, 263 Park Ave.

From: [Kelly Churney](#)
To: [smorris.pbbiltmore.com](#); [John Eubanks Jr](#)
Cc: [Antonette Fabrizi](#)
Subject: RE: 165 Bradley Pl
Date: Monday, September 26, 2022 10:18:20 AM

Good morning,

Please have them send the letters to Antonette Fabrizi at afabrizi@townofpalmbeach.com.

Thank you,

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: smorris.pbbiltmore.com <smorris@pbbiltmore.com>
Sent: Monday, September 26, 2022 9:18 AM
To: John Eubanks Jr <jeubanks@sniffenlaw.com>
Cc: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: RE: 165 Bradley Pl

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Thank you
Sincerely,
Sally Morris GM
Palm Beach Biltmore
150 Bradley Place
Palm Beach, Florida
33480
561-832-0600

From: John Eubanks Jr <jeubanks@sniffenlaw.com>
Sent: Monday, September 26, 2022 9:13 AM
To: smorris.pbbiltmore.com <smorris@pbbiltmore.com>
Cc: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: RE: 165 Bradley Pl

They can e-mail objections to Kelly Churney at KChurney@TownofPalmBeach.com at the Town and ask that a copy be sent to each of the ARCOM Commissioners. I will send you a draft of the Biltmore letter shortly.

John R Eubanks, Jr.
SNIFFEN & SPELLMAN, P.A.
TALLAHASSEE | WEST PALM BEACH | PENSACOLA

605 North Olive Avenue, 2nd Floor
West Palm Beach, Florida 33401
T (561) 721-4000 / F (561) 721-4001 / D (561) 721-4002
E-mail: jeubanks@sniffenlaw.com
Website: www.sniffenlaw.com / Twitter: @Sniffenlaw

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From: smorris pbbiltmore.com <smorris@pbbiltmore.com>
Sent: Monday, September 26, 2022 9:10 AM
To: John Eubanks Jr <jeubanks@sniffenlaw.com>
Subject: FW: 165 Bradley Pl

I asked them to send something in writing

Sincerely,
Sally Morris GM

Palm Beach Biltmore
150 Bradley Place
Palm Beach, Florida
33480
561-832-0600

From: Patrick McGowan <pmcgowansr@aol.com>
Sent: Saturday, September 24, 2022 3:23 PM
To: smorris pbbiltmore.com <smorris@pbbiltmore.com>
Subject: Re: 165 Bradley Pl

Hi Sally,
Please add these Park Ave residents to the opposition so far:
-Patrick and Lisa McGowan
-Catherine Stewart
-Ken Moreland

I will let you know of any others and let me know if our input is needed. It appears you have a fair amount of strong oppositions already logged.
All the best,
Pat McGowan

-----Original Message-----
From: smorris pbbiltmore.com <smorris@pbbiltmore.com>
To: Patrick McGowan <pmcgowansr@aol.com>
Sent: Thu, Sep 22, 2022 10:35 am
Subject: RE: 165 Bradley Pl

Thank you for reaching out to me regarding this matter.
We have joined with the Park Regent and also have the support of El Lugano in opposing this variance.
Perhaps you can provide a list of your neighbors who also oppose the matter.
Let me know and thank you
Sally

Sincerely,
Sally Morris GM
Palm Beach Biltmore
150 Bradley Place
Palm Beach, Florida
33480
561-832-0600

From: Patrick McGowan <pmcgowansr@aol.com>
Sent: Thursday, September 22, 2022 10:11 AM
To: smorris pbbiltmore.com <smorris@pbbiltmore.com>
Subject: 165 Bradley Pl

Hello Sally,
Hope all is well and I am writing you as a concerned neighbor on Park Ave in regards to the proposed development and use at 165 Bradley Pl. I am told yourself and the Biltmore community are engaged with

this process and mostly oppose its current plans. Please feel free to include ourselves and neighbors in your opposition as we feel no need for a religious school to be located in an already high traffic and residential area. We are also clients of Maura Ziska in our residential dealings. Hope to hear from you and will be attending next weeks ARCOM meeting also.

All the best,

Patrick & Lisa McGowan

Park Ave

Palm Beach, FL 33480

914-482-4401

pmcgowansr@aol.com

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

Jennifer Hofmeister-Drew

From: Patrick McGowan <pmcgowansr@aol.com>
Sent: Monday, September 26, 2022 4:17 PM
To: Antonette Fabrizi
Cc: smorris@pbbiltmore.com
Subject: ARC-22-200 (ZON-22-132) 165 BRADLEY PL (COMBO) Objection

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Antonette and ARCOM Commissioners,

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The school is requesting a variance to replace the rear parking lot/thoroughfare with a playground. Ourselves along with several of our neighbors oppose this variance/project for a variety of reasons.

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-Reduced parking for the building due to addition of a playground.

-Calls for removal of the rear thoroughfare which controls commercial traffic for the building and surrounding businesses.

Traffic and short term parking for drop off/pickup is bound to be redirected down our one way residential street.

-Immediate area already has high concentration of busy commercial enterprises, Publix, Palm Beach Hotel and stores, Galleria, Banks, condominiums etc.

Due to these reasons and a variety of others, we oppose this project and its required variances at 165 Bradley Place.

Please see below one of the many letters expressing concerns and disapproval of the project and its variances.

Please add us to the opposition of this project.

We have the house directly behind the Old Guard and it is tough enough that people park directly in front of the house which does not allow us to do so.

Also we are not in favor of a playground directly behind our house as this would add a noise level that we would prefer not to have.

Our street is congested enough and we don't need people using our street as a drop off or pick up area. This would prohibit us from getting to our home. Park Ave. is a residential street and not equipped to deal with a great deal of commercial traffic.

Thank you,

Patty Dean & Park Miller

262 Park Ave.

Please forward our opposition to each of the ARCOM Commissioners and confirm receipt. Appreciate your time and efforts.

Thank you,

Patrick & Lisa McGowan, 251 Park Ave.

Catherine Stewart, 253 Park Ave.

Ken Moreland, 265 Park Ave.

Ann Heep, 234 Park Ave.

James & CeAnn Carney, 263 Park Ave.

SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Sender's Email: jeubanks@sniffenlaw.com

September 26, 2022

Via E-mail

Architectural Commission
c/o Jeffrey W. Smith, Chair
Town Council of the Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

**Re: Objection to Application ARC 22-200 (Zon-22-132) ("Application")
165 Bradley Place – Special Exception, Site Plan Review and
Variance for Proposed New Daycare/Preschool**

Dear Mr. Smith and ARCOM Commissioners:

Our office represents Palm Beach Biltmore Condominium Association, Inc. and its 126 Units ("Biltmore"). In that capacity we have reviewed the above Application by Biltmore Galleria LLC ("Applicant"). In doing so we have found a litany of shortcomings. As a result, the Biltmore Objects to the Applicant's proposal to create a new private daycare/preschool ("Daycare"), which will accommodate 68 students and 6 employees, to be located at 165 Bradley Place ("Property").

I. Application is in Violation of Town Agreements and Code

There are a number of requests by the Applicant which simply cannot be granted as they would be in direct violation of prior existing agreements with the Town and/or the Town Code. Neither ARCOM nor the Town Council should allow the Application to be considered unless and until such conflicts are resolved or variances requested. These issues include, without limitation:

- **Failure to Meet the Standards for Places of Assembly.** Section 134-1517 of the Town Code requires that Places of Assembly (including schools) **must have a minimum site of 20,000 square feet and a minimum lot width of 100 feet.** The Property does not meet either requirement as it is **only 10,513 square feet with a width of 70 feet.** (see, Sheet A001.1) As such, the Application must be amended to seek a variance for the failure to meet such minimum standards.
- **Playground Equipment not Permitted in Commercial Zoning.** The Applicant is seeking permission to place playground equipment in the present parking area. Such equipment is not permitted under the Town Code. Section 134-1734 which specifically states that **"playground equipment shall only be allowed in residential zoning districts."** Again, any deviation from the Code would require the Application be amended to include a request for an additional variance.

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401

PHONE: 561.721.4000
TC Development Review Meeting Backup 11-09-2022
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301

PHONE: 850.205.1996
FAX: 850.205.3004

- **Artificial Turf Restrictions.** The Application is also in violation of the Town Code's Artificial Turf restrictions. Section 66-313 of the Code provides that artificial turf "may be installed in **limited areas of rear and side yards**". The Applicant is seeking to install a massive **2,209 square feet of artificial turf** to create a playground on a 10,513 square foot lot. This is far **in excess of a "limited area" of the rear yard**. Once again, a variance would be required to do so.
- **Inclusion of Artificial Turf in Landscape Open Space.** The Applicant has also **included the proposed artificial turf area in its calculation of Landscape open space of 2,362 square feet**. Without the inclusion of the playground area the only other landscape open space on the Property consists of a small strip of grass and shrubs on the east end of the Property. The inclusion of the turf area is in violation of Section 66-314(b) of the Code which provides that "**Artificial turf is calculated as impervious surface and shall not count towards landscape open space.**"
- **Failure to Submit C-TS Town Serving Report.** Section 134-229(12) of the Code **requires that the Applicant submit evidence that not less than 50 percent of the customers of the proposed use will be town persons**. Evidence of the same must include credible data and information. While the **Applicant** has made a statement that over 50 percent of its students will be town persons, it **has not submitted any credible data or information to support its conclusion**.
- **Closing the Entrance from Park Avenue.** Closing the access from Park Avenue on the Property is crucial to the Application. However, such request is in direct violation of that Unity of Title between the Applicant and the Town (*see*, Exhibit "A") recorded on December 1, 1978, in ORB 296, PG 112 of the Public Records. Under the Unity of Title, the Developer (defined as the Applicant) agreed that it "**shall maintain a one-way driveway gate permitting the traffic to flow only from Park Avenue onto the property...**" Absent the removal of such restriction, the Application directly violates the Applicant's obligations. Any changes to the Unity of Title should be made prior to examination of the Application to ensure the Unity of Title can be altered without creating a new zoning nightmare with the remaining unified property and buildings.
- **Removal of existing Kitchen.** The Applicant has requested the kitchen to remain on the Property. Under Article IV, Section 7 of that Declaration of Use Agreement with the Town, recorded in ORB 29276, PG 1572 of the Public Records (*see*, Exhibit "B") the prior occupant, Old Guard Society, Inc., "**shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject Property.**" Any failure to do so would violate the Declaration of Use negotiated by the Town and undermine the consideration for the same.

Each of the above conflicts with existing obligations to the Town and violations of the Town Code should be resolved prior to the Application being permitted to move forward. Failure to do so would leave the Application incomplete, and its consideration premature.

II. Additional Deficiencies

Even if the Application could proceed in its present form (which it cannot) there remains a series of additional red flags within the Application ranging from issues of traffic, drop off/pick up circulation, shared parking, and safety concerns, including, but not limited to:

A. Shared Parking and Access Agreements

- **Lack of Shared Parking Approval.** Section 134-2177 of the Town Code requires that “**parking spaces for all uses or structures ... shall be located on the same lot ...**” The **9 designated parking spaces** relied upon by the Application **are not within the boundaries of either the 165 Bradley Place lot or the other commercial lots within the Unity of Title.** *See*, Survey Sheet A001.1; Sheet A002; and Property Appraiser aerials attached as Exhibit “C”. While **shared parking is permitted under Section 134-2182** of the Town Code in the C-TS zoning **it cannot be used to expand or intensify the use of a property.** Here, **the intensification of use is readily apparent from the need to get 68 children and 6 employees into and out of the Daycare at the busiest times of every work day.** The Applicant’s Traffic study further demonstrates clearly that **peak a.m. trips will increase from 6 trips to 26 trips, and peak p.m. trips will increase from 12 trips to 27 trips** the time when traffic along when Bradly Place is often already at a standstill, especially when the Flagler bridge is open. *See*, Traffic Analysis, p.3. As such, use of the proposed 9 spaces on a separate lot **requires the Applicant obtain a special exception approval for shared parking.**
- **Lack of Access Agreement.** Similarly, the parking access aisle into and out of the Daycare is not located on the Property but on the lot to the south. The Applicant should **obtain an access easement** to assure the continued use of the aisle.
- **Insufficient Size of Sunrise Avenue Access.** The Applicant may claim that Sunrise Avenue may also be used as an access point It cannot. Prior Applicant submittals demonstrate it is 16 feet 6 inches wide (*see*, Exhibit “D”) which does not meet the 25 foot wide aisle required for two way traffic under Section 134- 2172 of the Code.

B. Parking Space Issues

- **Non-compliant Parking Spaces.** While the Applicant relies exclusively on the use of the **9 parking spaces (8 spaces and 1 handicap space)¹** abutting the south of the Property, **such spaces do not meet the Town Code.** Under Sections 134-2171 and 134-2172 of the Town Code, parking spaces **must be a minimum of 9 feet wide and 18 feet long.** The Applicant’s Site Plan (Sheet A002) demonstrates that, outside of the handicap parking space, the remaining **proposed parking spaces are**

¹ The Applicants continued reference to 9 spaces is somewhat disingenuous given that 1 space is a handicapped van accessible space, which cannot be used except by a handicapped parent, or it will result in a \$250.00 fine. As a practical matter all 68 children must be dropped off and picked up using 8 spaces and an occasional use of the one van space.

8 feet 4 inches wide. As such, they are non-compliant and should be restriped to meet the Town Code at the same time the handicapped parking space is being created. The result will be at least one less parking space and the need to increase the parking variance requested.

- **Inadequate Number of Parking Spaces.** The Applicant claims that with the use of the 9 designated parking spaces it is only short 6 spaces, the exact number of spaces it removes under the Application, for which it seeks a variance. However, it **fudges the number of spaces needed by admittedly using the parking space requirements for students in 1st to 6th grade under the Town Code.** There is a vast difference between Daycare and elementary school parking needs. Elementary students can get in and out of a car and enter the building without assistance, requiring fewer spaces. Parents of daycare children must park and walk their children into the Daycare. Given the missing standard in the Town Code for the number of parking spaces required for a daycare, the **Town should look to and adopt the Minimum Parking and Loading Requirements for Palm Beach County, Article 6 (Exhibit "E").** The County standards for a daycare dictate the need for **1 space per 5 persons (not students), plus 1 drop off stall per 20 persons.** With 68 students and 6 employees the Daycare will need 15 spaces (i.e. $74 \text{ persons} / 5 = 14.8$ -rounded to 15) plus 4 drop off spaces (i.e. $74 / 20 = 3.7$ -rounded to 4) for a total of 19 spaces to ensure the safety of parents and children. **The result is the need for 14 more parking spaces than accounted for by the Applicant creating an 18 space variance.**² Again, in addition to a variance, such spaces will require a special exception for shared parking as they will not be on the same lot and will increase the intensification of the use of the Property.
- **Failure to Provide Parking Spaces for Employees.** Again, by not using standards for a preschool/daycare, the Application makes no provision for either parking spaces or traffic trips for its 6 employees. Clearly, employees will account for an additional 6 trips in and out of the Daycare each day at primarily peak hours as well as require parking outside of the 9 assigned spaces, yet again further triggering the need for shared parking.

C. Parking Circulation Deficiencies

- **Insufficient queuing.** The Application provides no queuing for the Daycare drop off and pick up. This is an impossibility in the real world. According to the Application **"Parents or guardians will park in one of the nine designated parking spaces on the south side of the building and escort their child through the front entrance (west side of the building) to be signed in."** The distance from Bradley Place to the eastern edge of the 9 parking spaces is 100-110 feet. According to the NADA the average car is 14.7 feet long.³ As a result, it will only

² Adding the additional 14 spaces to the required 80 spaces yields the need for 94 spaces total with a proposal of only 76 spaces (after proposed modification), for a variance of 18 parking spaces using the County daycare numbers.

³ <https://www.nadaguides.com/Cars/Shopping-Guides/how-long-is-the-average-car>

take **6.8 to 7.4 cars to fill the entire drop off/pick up area**. The Applicant also fails to take into consideration that cars entering from Bradly Place **will necessarily have to wait for parents to pull into and out of the 9 parking spaces** creating backups in the parking aisle and onto Bradley Place. Likewise, the Applicant has neglected the real potential for parents who have managed to navigate into one of the proposed 9 spaces being **blocked from getting out by cars waiting for parking spaces or trying to exit onto Bradley Place**.

- **Dueling Parking.** Unable to get into or out of the identified 9 spaces, the natural result will be that **parents will begin parking in the spaces across the parking aisle on the righthand side as they enter from Bradly Park** at the former bank building. This will further impede access, and create a situation of cars jockeying to pull into and out of the spaces on both sides of the parking aisle at the same time. Again, at 14.7 feet average per car **there will be little room for the maneuvering of 2 cars backing up at the same in the 25foot parking aisle**.
- **Lack of Safe Path to Entrance for Parents and Children.** Added to the chaos of the parking areas, is the fact that **there is no safe path to the entrance of the Daycare**. There is **no sidewalk or pathway** in front of the 9 parking spaces to the entrance. As a result, **parents and children will be forced to run the gauntlet behind the flow of cars entering, exiting, and parking during pick up and drop off**. This is a recipe for disaster.
- **Increased circulation through Park Avenue.** The ability to both enter and exit from Bradley Place during drop off and pickup, **will necessarily result in more traffic in the Park Avenue neighborhood**. **During peak hours parents exiting the Daycare will not be able to turn left to go south out of the access aisle onto Bradley Place** without drivers on both sides of the road giving way. **The result will be a steady stream of cars turning right onto Bradly Place and right again on Park Avenue** to proceed to N. County Road and head south.
- **Failure to Provide for Safety and Enforcement.** Added to the above is **the complete absence of any provisions for a teacher, employee or safety officer assigned to monitor, facilitate, and enforce the drop off and pick up process** using the 9 spaces, as well as preventing the improper discharge of children on the apron, parking access aisle, the sidewalk, or on the Bradly Place sidewalk.

III. Failure to Meet Standards for Site Plan, Special Exception, or Variance

While ultimately the purview of the Town Council, ARCOM should be aware that, based upon the above shortcomings, the Applicant does not meet the legal standards for granting a site plan, special exception or variance.

- A. Failure to Meet Site Plan Standards.** Section 134-329 of the Town requires the Applicant to demonstrate, and the Town Council to make a finding, that a **proposed**

Site Plan will not adversely impact the public interest. As detailed above, the Applicant has **failed to meet the standards** of Sections 134-329(2) (3), (4) and 8 of the Town Code and its **Site Plan cannot be approved.**

B. Failure to Meet Special Exception Standards. The Applicant has further failed to meet the standards for the various special exceptions required for a school in the C-TS zoning district and the required shared parking given that:

- **The special exceptions are not in harmony with the purpose and intent of the CT-S zoning district** under Section 134-226(a) of the Town Code.
- **The special Exceptions will adversely affect the public interests** in violation of Section 134-226(b) or the Town Code.
- **The use of the Property as a Daycare is not designed, located, or proposed to be operated in a manner that the public health, safety, welfare, and morals will be protected** in violation of Section 134-229(2) of the Town Code.
- **The use of the Property as a Daycare will not be compatible with the existing adjoining commercial development** and intended purposes of the C-TS zoning district under Section 134-229(4) of the Town Code.
- **The Daycare will not comply with the yard, and other open space and other special requirements** for the use as a Daycare under Section 134-229(5) of the Town Code, as detailed above.
- **There will not be adequate ingress and egress to the Property, adequate off street parking on the 165 Bradley Place lot, or a design and circulation which will promote automotive and pedestrian safety,** convenience and proper traffic flow and control in violation of Section 134-229(8).

C. Failure to Meet Standards for a Variance. The Applicant has also failed to meet virtually all of the criteria required for a variance under Section 134-201(a) of the Code, including without limitation:

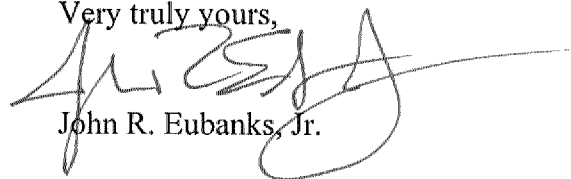
- **The failure to demonstrate the requisite undue hardship** under Section 134-201(a). There can be no hardship given that the Property can be used for a myriad of commercial purposes under the C-TS zoning. **Furthermore, any hardship would be self-created.**
- **The failure to establish that special conditions and circumstances exist which are peculiar to the land, structure of building which are not applicable to other land, structures of in the C-TS zoning district** under Section 134-201(a)(1). **There are not special conditions or circumstances as the Property is a regular sized lot within the C-TS Zoning** which was used for Town Serving purposes for many

years while **subject to the same circumstances as presently exist at other properties in the C-TS zoning district.**

- **The failure to demonstrate any special conditions and circumstances do not result from the actions of the applicant under Section 134-201(a)(2). Any special circumstances which may exist are the direct the result of the Applicant.**
- **Granting the variance requested will confer on the Applicant special privileges that are denied to other lands, buildings, or structures in the same zoning district in violation under Section 134-201(a)(3).**
- **The failure to demonstrate that a literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the CT-S zoning district or work an unnecessary and under hardship on the Applicant under Section 134-201(a)(4). The Property enjoys the same rights enjoyed by other neighboring properties, there is no unnecessary hardship, and any hardship claimed would be self-created.**
- **The failure to show that the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure under Section 134-201(a)(5). Under the Application the minimum variance would be no variance as the Applicant has created a self-imposed hardship by removing parking spaces. The Property can and has been reasonably used for years.**
- **The failure to demonstrate that the grant of the variance will be in harmony with the general intent and purpose of the C-TS zoning district under Section 134-201(a)(7). Granting of the variance would not be in harmony but create a direct conflict with commercial purpose of the C-TS zoning district.**

Considering the Application as a whole in light of the above facts and circumstances, the Biltmore requests the Application be denied.

Very truly yours,



John R. Eubanks, Jr.

Attachments

cc: ARCOM Committee Members
Wayne Bergman, Director of Planning, Zoning & Building
James Murphy, Assistant Director of Planning, Zoning & Building
Kelly Churney, Deputy Town Clerk
Town Clerk, Town of Palm Beach

AGREEMENT FOR UNITY OF TITLE AND OTHER RESTRICTIONS

THIS AGREEMENT, dated this 30th day of Nov., 1978, by
and between BILTMORE GALLERIA, LIMITED, and TOWN OF PALM BEACH,

W I T N E S S E T H:

In consideration of the granting of the Zoning Variance and Site Plan Request Number 23-78 as modified, (the "Request"), to Stanley J. Marta on October 10, 1978 approving the use of the westernly twenty-five feet of Lot 37 of the BUNGALOW PARK ADDITION property for a driveway and maneuvering aisleway, and for other good and valuable consideration received from the TOWN OF PALM BEACH, the Developer, which as used herein shall mean the BILTMORE GALLERIA LIMITED, a limited partnership, its successors and/or assigns, (the "Developer"), agrees to restrict the use of the real property described in Exhibit "A" attached by the conditions which follow which shall be covenants running with the land unless and until such time as the same shall be released or modified in writing by the TOWN OF PALM BEACH, Florida:

1. Said property shall be considered as one plot and parcel of land and no portion of said plot or parcel of land shall be sold, transferred, assigned or mortgaged separately but rather only in its entirety as one plot and parcel of land.
2. The Developer shall maintain a one-way driveway gate permitting the traffic to flow only from Park Avenue onto the property, which gate shall be maintained at the place set forth in the Site Plan approved by the Town Council in accordance with the Request.
3. The Developer shall maintain the landscaping as is more particularly shown on the plans submitted with respect to the Request.
4. The Developer shall record this Agreement at its own expense in the Records of Palm Beach County and shall thereafter file this Agreement in the Office of the Town Clerk in and for the TOWN OF PALM BEACH.

IN WITNESS WHEREOF, the parties hereto have subscribed their names the day and year first aforesaid.

PALM OFF
BEACH REC 2968 PAGE 112

Exhibit G

EXHIBIT

A

Witnesses:

BILTMORE GALLERIA, LIMITED
A Florida Limited Partnership

James A. Anderson
Carole J. Wood

By Stanley J. Hart
Its General Partner

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.

The foregoing instrument was acknowledged before me this
27th day of November, 1978, by Stanley J. Hart
General Partner of BILTMORE GALLERIA, LIMITED, a Florida limited
partnership on behalf of said partnership.



Alice E. Fernandez
Notary Public

My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires Sept. 12, 1980
Qualified by Appointment from a County Commission

Witnesses:

Joan Sanchez

TOWN OF PALM BEACH

C. E. Frost, Town Manager

ATTEST: [Signature]

APPROVED:

[Signature]
TOWN ATTORNEY

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.

The foregoing instrument was acknowledged before me this
20th day of November, 1978, by [Signature]
The Florida Department of Transportation of THE TOWN OF PALM BEACH, Florida,
a Florida municipality, on behalf of the town of Palm Beach.

(NOTARY SEAL)



Joan Sanchez
Notary Public

My Commission Expires:

Notary Public
MY COMMISSION EXPIRES JAN. 2, 1980
BONDED THRU GENERAL INS. UNDERWRITERS

PALM BEACH REC 2968 PAGE 113

That property located on Lots 46 through 53 inclusive, **SUNRISE AVENUE ADDITION**, Number 2, an addition to the Town of Palm Beach, Palm Beach County, Florida, according to the Plat thereof on file, in Plat Book 8, Page 69, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida, and that property located at the southeast corner of the intersection of Bradley Place and Park Avenue, and Lots 35, 36 and 37, **BUNGALOW PARK ADDITION**, an addition to the Town of Palm Beach, Palm Beach County, Florida, according to the Plat thereof on file in Plat Book 7, Page 26, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida.

EXHIBIT "A"

PALM BEACH COUNTY - STATE OF FLORIDA
PLAT BOOK 8, PAGE 69

PALM BEACH COUNTY - STATE OF FLORIDA

I hereby certify that the foregoing is a true copy of the record in my office.

Witness my hand and seal this 18th day of December 1988.
JOHN B. DUNKLE
Clerk Circuit Court
John B. Dunkle

Recorded
Palm Beach County, Fla.
John B. Dunkle
Clerk Circuit Court



CFN 20170284831

OR BK 29274 PG 1572

RECORDED 08/08/2017 14:23:06

Palm Beach County, Florida

Sharon R. Bock, CLERK & COMPTROLLER

Pgs 1572 - 1581 (10pgs)

This is not a certified copy

DECLARATION OF USE AGREEMENT

by

THE TOWN OF PALM BEACH

and

OLD GUARD SOCIETY, INC.

August 2017

**Prepared by and return to:
Maura A. Ziska, Esquire
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401
(561) 802-8960**

00035342

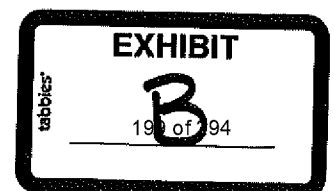


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DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ^{3rd} day of August, 2017 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called "the Town") and OLD GUARD SOCIETY, INC., 165 Bradley Place, Palm Beach, Florida 33480 (hereinafter called "the Club"), which terms "the Town" and "the Club" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH :

WHEREAS, the land described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Land") is located within the municipal limits of the Town; and

WHEREAS, The Club is a Special Exception use in the C-TS Zoning District; and

WHEREAS, the Town Council conditionally approved Special Exception Number 9-2016 with Site Plan Review and Variance on April 12, 2017 which approved the Special Exception with Site Plan Review to open the Club at the above referenced location and a the Variance to eliminate the requirement for ten (10) additional off-street parking spaces based on the principle of equivalency calculation; and

WHEREAS, all of the representations made herein are true and accurate and the approval of the Special Exception with Site Plan Review and Variance are conditioned upon the representations made herein and all of the conditions herein imposed; and

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed as follows:

ARTICLE I

RECITALS

The recitals set forth above are true and correct and are incorporated herein and made a part hereof.

ARTICLE II

REPRESENTATION OF LEASE

The Club has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated

herein will violate any restriction, court order or agreement to which the Club or the Land are subject.

ARTICLE III

PRIVATE CLUB USE

The use (the Club) that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number 9-2017 with Site Plan Review and Variance and approved by Town Council on April 12, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval"). The set of plans which are part of Special Exception Number 9-2017 with Site Plan Review and Variance conditional approval, and as identified on sheet drawings A000 and A100 prepared by MP Design & Architecture, Inc., stamp dated February 24, 2017, may not be deviated from unless prior Special Exception approval is granted by the Town Council.

ARTICLE IV

CONDITIONS

The approval to allow the Club to operate is based upon the following conditions:

- 1) Hours shall be limited from 10:00 a.m. to 7:00 p.m. Monday through Saturday.
- 2) The maximum membership shall be 100 people.
- 3) The maximum number of members and guests from 10:00 a.m. to 7:00 p.m. shall not exceed 20 people.
- 4) Evening events shall be allowed from 5:00 p.m. to 11:00 p.m. The number of evening events shall be limited to one time per calendar month from November 1st to May 1st with the exception of December during which the Club can have a maximum of two (2) events that month.
- 5) Valet parking is required for all night events. A valet parking permit from the Police Department shall be required and the valet stand shall be located on the subject property and not on any surrounding streets.
- 6) No music shall be allowed.
- 7) The Club shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject property.

ARTICLE VVOLUNTARY AGREEMENT AND HOLD HARMLESS

The Club agrees to be bound by the terms and conditions in this Agreement, and Tenant waives any legal objection it might otherwise have to said terms and conditions or parts thereof.

ARTICLE VIREMEDIES FOR VIOLATION

1. Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this Agreement or any other provision in the Town Code of Ordinances, and upon notice in writing from the Town to the Club and the Club's representative of said violation(s) and the date upon which said violations(s) shall be corrected, owner or owner's successor or assigns shall pay to the TOWN a liquidated amount of \$2,000 per violation. Said liquidated amount shall accrue on a per day basis for each day a violation of this agreement exists. In addition, in the event a violation remains uncorrected beyond the date noticed for correction by the Director of the Planning, Zoning and Building Department, this Agreement may be reconsidered by the Town Council at a future meeting upon thirty days notification to the owner. The Town Council may, upon a finding of violation, alter this Agreement or rescind the approval of the use.

In the event owner disputes the determination of the Director of Planning, Zoning and Building Department of the violation of the conditions of this Agreement, or in the event the owner disputes any code violation, owner may appeal the determination of the Director of the Planning, Zoning and Building Department to the Town Council, said appeal to be filed no later than fifteen (15) days following the written notice of violation.

2. The Town shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered in the Town's Code of Ordinances; and (c) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County for the State of Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non-performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

ARTICLE VIIPROVISIONS TO RUN WITH THE CLUB

This Agreement shall NOT run with the Land and shall be binding upon the Club only and shall terminate upon the termination of the Club's lease and/or business tax receipt, or rescission of approval by the Town Council. This Agreement shall be recorded by the Club in

the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Agreement shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VIII

ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties as to its subject matter and it may not be amended except by written agreement executed by both parties.

ARTICLE IX

EFFECTIVE DATE

The Effective Date of this Agreement shall be the day upon which this Agreement is executed by the last party to sign the Agreement.

ARTICLE X

MISCELLANEOUS

Wherever the word "laws" appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities.

This Agreement may not be amended except by written instrument signed by all parties hereto.

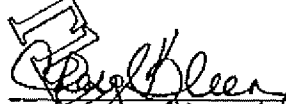
Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this reference made a part hereof.

In the event of the invalidity of any provision of this Agreement, same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof.

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above.

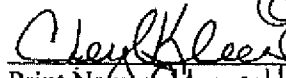
Signed, sealed and delivered
In the presence of:

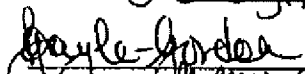

Print Name: Cheryl Klean

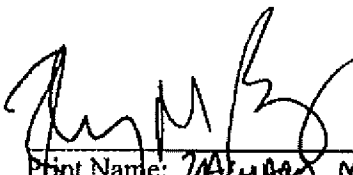

Print Name: PATRICIA GAYLE GORDON


Print Name: Cheryl Klean


Print Name: PATRICIA GAYLE GORDON

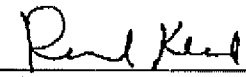

Print Name: Cheryl Klean

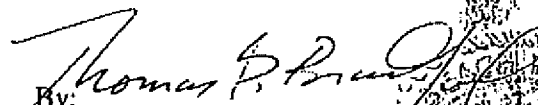

Print Name: PATRICIA GAYLE GORDON


Print Name: KRISTEN DANKNER

THE TOWN OF PALM BEACH

By: 
Gail Coniglio, Mayor

By: 
Richard Kleid, President

By: 
Thomas Bradford, Town Manager



THE CLUB

OLD GUARD SOCIETY, INC.

By: 
Its: President

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3rd day of August 2017, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.



GWENDOLYN B. PEIRCE
MY COMMISSION # FF 982935
EXPIRES: May 16, 2020
Bonded Thru Budget Notary Services

Gwendolyn B. Peirce
Signature of Notary Public
Gwendolyn B. Peirce
Printed Name of Notary Public
Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3rd day of August 2017, by Richard Kleid, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.



GWENDOLYN B. PEIRCE
MY COMMISSION # FF 982935
EXPIRES: May 16, 2020
Bonded Thru Budget Notary Services

Gwendolyn B. Peirce
Signature of Notary Public
Gwendolyn B. Peirce
Printed Name of Notary Public
Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3rd day of August 2017, by Thomas Bradford, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.



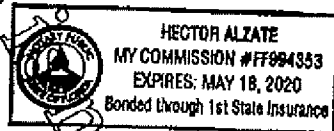
GWENDOLYN B. PEIRCE
MY COMMISSION # FF 982935
EXPIRES: May 16, 2020
Bonded Thru Budget Notary Services

Gwendolyn B. Peirce
Signature of Notary Public
Gwendolyn B. Peirce
Printed Name of Notary Public
Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 11TH day of July 2017, by Brian Smith, on behalf of Old Guard Society, Inc. He/She is personally known to me and he did not take an oath.



Signature of Notary Public

HECTOR H. ALZATE

Printed Name of Notary Public

Commission Expires: 05/18/2020

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE TOWN OF
PALM BEACH

By: _____

John C. Randolph, Esquire

RECOMMEND APPROVAL:

7/14/17
Paul Castro
Paul Castro, AICP
Zoning Administrator

EXHIBIT "A"

LEGAL DESCRIPTION

Lots 35, 36 and 37, BUNGALOW PARK ADDITION, 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 7, Page 26.

This is not a certified copy



CFR, AAS

We Value What You Value

BILTMORE GALLERIA LLC

165 BRADLEY PL

Location 165 BRADLEY PL
Municipality PALM BEACH
Parcel No. 50434315080000350
Subdivision BUNCALOW PARK ADD IN
Book 15470 Page 1350
Sale Date JUL-2003

PO BOX 3266
MAILING ADDRESS
PALM BEACH FL 33480 1466

Use Type 7700 • CLUB/LDC/UN HALL

Total Square Feet 3038

Sales Date	Price
------------	-------

JUL-2003	10
DEC-1996	325000
DEC-1996	325000
AUG-1988	100
AUG-1987	1859000
12	

Tax Year 2022 P

Improvement Value	\$292,658
Land Value	\$2,005,377
Total Market Value	\$2,298,035

P = Preliminary
All values are as of January 1st each year

Tax Year 2022

Assessed Value	\$1,929,877
Exemption Amount	\$0



209 of 294



Search by Owner, Address or Parcel



View Property Record

Owners

BILTMORE GALLERIA LLC

Property Detail

Location 285 SUNRISE AVE
Municipality PALM BEACH
Parcel No. 50434315100000540
Subdivision SUNRISE AVE ADD 2 IN
Book 13470 Page 1350
Sale Date JUL-2003
Mailing Address PO BOX 3266
PALM BEACH FL 33480 1466
Use Type 2300 - FINANCIAL
Total Square Feet 2793

Sales Information

Sales Date	Price
JUL-2003	10
DEC-1996	325000
DEC-1996	325000
MAY-1988	1100000
MAY-1988	100

Appraisals

Tax Year	2022 P	\$0
Improvement Value		
Land Value		\$3,071,814
Total Market Value		\$3,071,814

All values are as of January 1st each year

Assessed/Taxable values

Tax Year	2022 P	\$3,071,813
Assessed Value		
Exemption Amount		\$0





DOROTHYJACKS

CA, AAS

Palm Beach County Property Appraiser

We Value What You Value

PAPA Home

3

Search by Owner, Address or Parcel



View Property Record

Owners

BILTMORE GALLERIA LLC

Property Detail

Location 255 SUNRISE AVE

Municipality PALM BEACH

Parcel No. 50434315100000460

Subdivision SUNRISE AVE ADD 2 IN

Book 15470

Page 1350

Sale Date JUL-2003

PO BOX 3266

Mailing Address PALM BEACH FL 33480 1465

Use Type 1100 - STORES

Total Square Feet 13557

Sales Information

Sales Date	Price
JUL-2003	10
DEC-1996	325000
DEC-1996	325000
AUC-1988	100
AUC-1987	1859000
12	

Appraisals

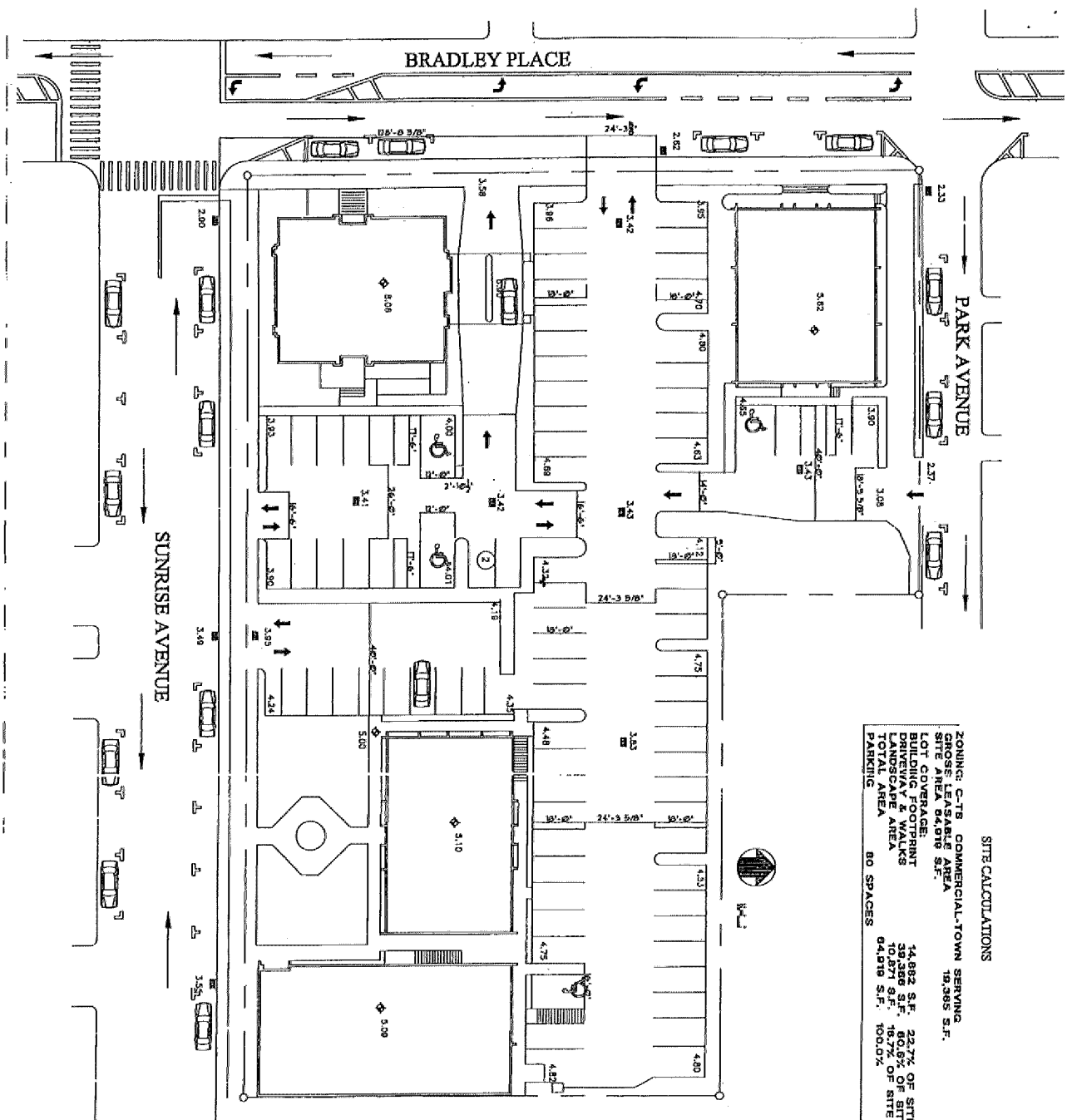
Tax Year	2022 P
Improvement Value	\$1,747,363
Land Value	\$3,814,603
Total Market Value	\$5,561,966

All values are as of January 1st each year

Assessed/Taxable values

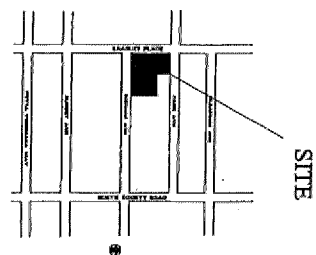
Tax Year	2022 P
Assessed Value	\$5,002,185
Exemption Amount	\$0





SITE CALCULATIONS

ZONING: C-1TB COMMERCIAL-TOWN SERVING	19,385 S.F.
GROSS LEASABLE AREA	19,385 S.F.
LOT AREA 84,818 S.F.	
LOT COVERAGE	22.7% OF SITE
BUILDING FOOTPRINT	39,386 S.F. 80.6% OF SITE
DRIVEWAY & WALKS	10,871 S.F. 18.7% OF SITE
LANDSCAPE AREA	84,818 S.F. 100.0%
TOTAL AREA	
PARKING	80 SPACES



LOCATION MAP

RECEIVED
NOV - 4 2005
TOWN OF PALM BEACH
PZB DEPT.

I HEREBY CERTIFY THAT THE DRAWING
AND SPECIFICATIONS ARE THE WORK
OF THE ARCHITECT OR ENGINEER
OR OTHER LICENSED PROFESSIONAL
PERSON WHOSE NAME IS SET FORTH
HEREON. I HAVE PROVIDED SEPARATE
CERTIFICATION OF THE WORK OF
THE ARCHITECT OR ENGINEER
TO: JOHN C. WILSON
JANUARY 1, 2006

PROJECT:
STARK GALLERY
SUNRISE AVENUE
PALM BEACH, FLORIDA

SCALE:
1" = 10'-0"

DATE:
11-1-05

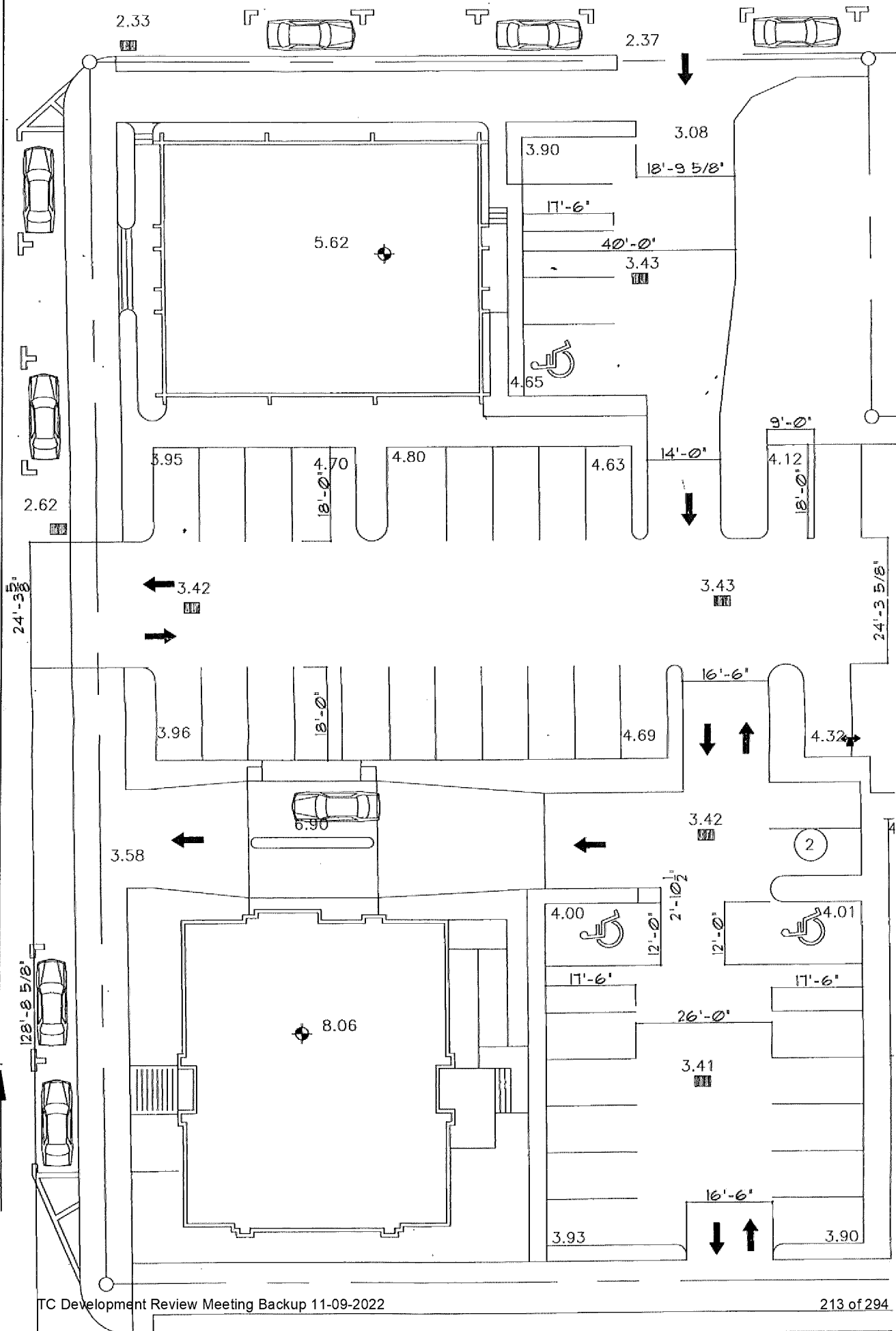
BY:
JANUARY 1, 2006

EXHIBIT

D

tabbles

PARK AVENUE





PALM BEACH COUNTY

*Discover the Palm Beaches...
the Best of Everything*

Disclaimer: By accessing information, data and materials or related graphics in Palm Beach County's web pages containing the Unified Land Development Code (ULDC), you hereby agree to accept the following terms and conditions in the Disclaimer: Please click to read the entire disclaimer (disclaimer.htm)» (disclaimer.htm).

Q Search Entire Article Tip - Hold CTRL + F

ARTICLE 6

PARKING, LOADING, AND CIRCULATION

CHAPTER A GENERAL

Section 1 General

A. Purpose and Intent

The purpose and intent of this Article is to ensure the design and function, provisions of parking, loading, queuing, vehicular and pedestrian circulation, driveways, and access are in proportion to the demand created by each use and are efficient and safe. [Ord. 2020-001]

B. Applicability

The standards of this Article shall apply to all development in unincorporated PBC, or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on previously approved plans. All parking areas established by this Section shall be continuously maintained in accordance with this Article. Parking and loading spaces shall be provided in accordance with Table 6.B.1.B. Minimum Parking and Loading Requirements (http://www.pbcgov.com/uldc/Article6.htm#TAB1BMIPALORE), unless stated otherwise below. [Ord. 2020-001]

1. Prohibitions

Parking and loading spaces are prohibited in the following: [Ord. 2020-001]

- a. Landscape buffers; and [Ord. 2020-001]
- b. Drainage District R-O-W or Easements, except additional parking in excess of the minimum required may be located in these areas with an agreement with the applicable district and subject to approval by the Zoning Director. [Ord. 2011-011] [Ord. 2020-001]

2. Exemptions

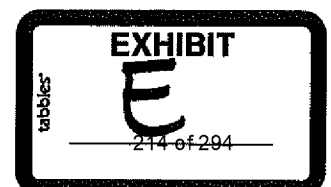
The following exemptions shall apply, unless the parcel is vacant. [Ord. 2007-013] [Ord. 2020-001]

a. Commercial Vehicle

One commercial vehicle of not over one ton rated capacity may be parked per dwelling unit, providing all of the following conditions are met:

- 1) vehicle is registered or licensed;
- 2) used by a resident of the premises;
- 3) gross vehicle weight rating (GVWR) does not exceed 12,500 pounds;
- 4) height does not exceed nine feet, including any load, bed, or box; and,
- 5) total vehicle length does not exceed 26 feet. [Ord. 2005-041]

b. Construction Vehicles



Temporary parking of construction vehicles or equipment engaged in work on private land where construction is underway, for which a current and valid Building Permit has been issued by the Building Director and the Building Permit is displayed on the premises. [Ord. 2007-013]

c. Delivery and Service Vehicles

The routine deliveries by tradesmen, or the use of trucks in making service calls. [Ord. 2007-013]

d. Emergency Repairs

A situation where a motor vehicle becomes disabled and, as a result of such emergency, is required to be parked in a residential district longer than two hours. Any prohibited motor vehicle shall be removed from the residential district within 24 hours, regardless of the nature of the emergency.

3. Deviations for the PO Zoning District

Deviation(s) from the provisions of this Article may be permitted for development supporting Government Facilities within the PO Zoning District, subject to Art. 2 Application Processes and Procedures (<http://www.pbcgov.com/uldc/Article2.htm#APPRPR>), and PPM #ZO-O-063 (<http://discover.pbcgov.org/pzb/zoning/ULDCPPMS/2017-ZO-O-063.pdf>), as applicable and as amended. [Ord. 2007-013] [Ord. 2019-005]

C. Prior Approvals and Non-Conformities

See Art. 1.E, Prior Approvals (<http://www.pbcgov.com/uldc/Article1.htm#EPRAP>) and Art. 1.F, Non-Conformities (<http://www.pbcgov.com/uldc/Article1.htm#FNO>). [Ord. 2020-001]

D. Definitions

See Art. 1.H, Definitions and Acronyms (<http://www.pbcgov.com/uldc/Article1.htm#HDEAC>).

CHAPTER B PARKING AND LOADING

Section 1 Calculation

A. Computing Parking Standards

1. Multiple Uses

On lots containing more than one use, the total number of required parking spaces shall be equal to the sum of the required parking for each use as if provided separately, unless shared parking is approved pursuant to Art. 6.C.1.B, Shared Parking (<http://www.pbcgov.com/uldc/Article6.htm#C1BSHPA>), or is allowed pursuant to Art. 3.B, Overlays (<http://www.pbcgov.com/uldc/Article3.htm#BOV>). [Ord. 2020-001]

2. Fractions

When calculation of the number of required parking spaces results in a fractional number, a fraction of less than one-half shall be disregarded and a fraction of one-half or more shall be rounded to the next highest whole number. [Ord. 2020-001]

3. Floor Area

Parking requirements that are based on square footage shall be computed using gross floor area (GFA), unless another measurement is specifically called for in this Section. [Ord. 2020-001]

4. Occupants

When the calculation of required parking spaces is based on the number of occupants, the calculation shall be based on the maximum number of persons legally residing on the premises at any one time.

5. Bench Seating

When the calculation of required parking spaces is based on the number of seats, each 22 linear inches of bench, pew, or similar bench seating facility shall be considered one seat.

6. Gross Lot Area

When the calculation of required parking spaces is based on gross lot area (GLA), the amount of lot area dedicated to parking shall not be included in the calculation. [Ord. 2020-001]

7. Unlisted Land Uses

In the event that parking requirements for a particular use are not listed in this Section, the requirements for the most similar use shall be applied. In making the determination, any evidence of actual parking demand for similar uses shall be considered as well as other reliable traffic engineering and planning information that is available. [Ord. 2020-001]

8. Government Services and Government Facilities

May be allowed alternative calculations based on evidence of actual parking demand for similar uses or reliable traffic engineering and planning information. [Ord. 2019-005] [Ord. 2020-001]

9. Landscaping

The landscape requirements for parking and interior vehicular use areas shall be calculated in accordance with Art. 7, Landscaping (<http://www.pbcgov.com/uldc/Article7.htm#LA>). [Ord. 2020-001]

10. Reduction

Refer to Art. 6.C.1, Requirements to Reduce or Increase Parking (<http://www.pbcgov.com/uldc/Article6.htm#C1REREINPA>). [Ord. 2020-001]

B. Minimum Parking Requirements

Table 6.B.1.B – Minimum Parking and Loading Requirements

Use Classification: Residential		Loading Standard
Congregate Living Facility	0.6 spaces per unit or 0.25 per resident/bed whichever is greater; plus 1 space per 250 sq. ft. of office space	A (12)
Multifamily, Recovery Community, and Cottage Home (Multiple Units on a Single Lot)	1 space per efficiency unit; 1.75 spaces per unit (1 bedroom or more); plus 1 guest parking space per 4 units with common parking areas	N/A
Single Family, Cottage Home (Single Unit on a Single Lot), Zero Lot Line Home, Townhouse, Farm Residence, Community Residence, or Mobile Home Dwelling	2 spaces per unit	N/A
Accessory Quarters, Caretaker Quarters, Groom's Quarters, Guest Cottage	1 space per unit	N/A
Farm Worker Quarters	1 space per 4 units	N/A

Use Classification: Commercial		Loading Standard
Adult Entertainment	1 space per 200 sq. ft.	N/A
Auction, Indoor	1 space per 200 sq. ft.	A
Auction, Outdoor	1 space per 250 ft. of enclosed or indoor space	N/A
Bed and Breakfast	1 additional space for each guest room	N/A
Car Wash, Automatic Self-Service (13)	1 space per 200 sq. ft. of office, retail, or indoor seating area	N/A
Catering Service	1 space per 200 sq. ft.	A
Cocktail Lounge	1 space per 3 seats	A
Convenience Store	1 space per 200 sq. ft.	A
Dispatching Service	1 space per 250 sq. ft.	N/A
Dog Daycare	3-12' by 20' transient spaces for 50 dogs; 1 space per 500 sq. ft. of cage and retail area	A
Financial Institution	1 space per 250 sq. ft.	A
Financial Institution with Drive-Through Facilities (13)		
Financial Institution – Freestanding ATM (9)	2 spaces	N/A
Flea Market, Indoor	2 spaces per 200 sq. ft.	A
Flea Market, Outdoor	1 space per 250 sq. ft. of affected land area	N/A
Gas and Fuel Sales, Retail and Electric Vehicle Charging Station (EVCS)	Number of parking spaces to be based on associated principal use structure (i.e., Convenience Store, etc.)	N/A
Green Market, Permanent	1 space per 250 sq. ft.	A
Hotel or Motel	1.25 spaces per room; (convention areas, restaurants, etc. over 2,000 sq. ft. to be calculated separately)	A
Kennel, Type 2 (Commercial) or Kennel, Type 3 (Commercial, Enclosed)	1 space per 500 sq. ft. of cage and retail area	A (8)
Landscape Service	1 space per 250 sq. ft. of office; plus 1 space per 1,000 sq. ft. of outdoor storage area for employee parking	B
Laundry Service (13)	1 space per 200 sq. ft.	A
Marina	1 space per 250 sq. ft.; plus 1 space per wet slip; plus 1 space per 3 dry slips	A
Medical or Dental Office	1 space per 200 sq. ft.	A
Microbrewery	Taproom: 1 space per 3 seats Manufacturing and Processing: 2 spaces per 1,000 sq. ft.	A
Office, Business or Professional	1 space per 250 sq. ft.	A
Pawnshop	1 space per 200 sq. ft.	A
Personal Services	1 space per 200 sq. ft.	N/A
Repair and Maintenance, Heavy	1 space per 250 sq. ft.	B
Repair and Maintenance, Light	1 space per 250 sq. ft.	A
Repair Services, Limited	1 space per 250 sq. ft.	N/A
Restaurant, Type 1 (13)	1 space per 3 seats including outdoor seating area	A
Restaurant, Type 2 (13)		A
Retail Sales (13)	1 space per 200 sq. ft.	A
Rooming and Boarding House	1 space for each guest room	N/A
Self-Service Storage, Limited Access	1 space per 200 storage bays; minimum of 5 customer spaces; security quarters calculated separately	A (6)
Self-Service Storage, Multi-Access	1 space per 200 storage bays; minimum of 5 customer spaces; security quarters calculated separately	N/A
Single Room Occupancy (SRO)	1.25 spaces per room	A
Theater or Performance Venue	1 space per 3 seats; plus 1 space per employee	A
Unmanned Retail Structure (11)	2 spaces	N/A
Vehicle Equipment Sales and Rental, Heavy	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental, and display area	B
Vehicle Sales and Rental, Light	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental, and display area	B
Veterinary Clinic	1 space per 250 sq. ft., excluding animal exercise areas	N/A
Vocational School	1 space per classroom; plus 1 space per 4 students; plus 1 space per 250 sq. ft. of administration, and assembly areas	N/A
[Ord. 2006-004] [Ord. 2006-036] [Ord. 2008-037] [Ord. 2009-040] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2013-021] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2019-005] [Ord. 2019-039] [Ord. 2020-001]		

Use Classification: Recreation		Loading Standard
Arena or Stadium or Amphitheater	1 space per 3 seats	A
Campground	1 space per campsite	N/A
Recreation Pod or Neighborhood Recreation Facility (7)	1 space per 300 sq. ft. of air-conditioned area (includes all interior uses) and Outdoor Recreation Amenities, such as: 1 space per 300 sq. ft. of pool area; 1.5 spaces per court (basketball, tennis, etc.); or, 1 space per 2 acres up to 10 acres plus 1 space for each 5 acres over 10 (fields, tracks, tot lots, etc.)	N/A
Entertainment, Indoor (except Bowling Alley) Bowling Alley	1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater 3 spaces per lane for Bowling Alley	N/A
Entertainment, Outdoor	1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater	N/A
Fitness Center	1 space per 200 sq. ft.	N/A
Golf Course (7)	4 spaces per hole; plus 1 space per 250 sq. ft. of clubhouse	N/A
Park, Passive and Park, Public (14)	2 spaces for the first acre; plus 1 space for each additional 2 acres; additional parking shall be provided for each additional facility or land use constructed in the park as herein provided	N/A
Shooting Range, Indoor and Shooting Range, Outdoor	1 space per target area	N/A
Zoo	1 space per 2,000 sq. ft. of land area	N/A
[Ord. 2005-002] [Ord. 2007-001] [Ord. 2013-001] [Ord. 2013-021] [Ord. 2014-025] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2019-005] [Ord. 2020-001]		

Use Classification: Institutional, Public, and Civic		Loading Standard
Animal Shelter	1 space per 500 sq. ft. of cage and retail area	A
Assembly Institutional Nonprofit or Assembly Membership Nonprofit (5)	1 space per 3 seats or 200 sq. ft. for the principal place of assembly, whichever is greater	A
	1 space per 200 sq. ft. for permitted accessory uses not otherwise classified as collocated uses	
	Collocated uses classified with the definition of a use listed in <u>Art. 4.B, Use Classification</u> (http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL), calculated separately	
Cemetery	1 space per 250 sq. ft. of office space; plus 1 space per 500 sq. ft. of maintenance area; plus a minimum of 5 public spaces	N/A
College or University	1 space per 2 students; plus 1 space per 4 seats in gymnasiums and auditoriums; plus 1 space per 250 sq. ft. of administrative and educational office space	A
Day Care, General	< 100 licensed capacity 1 space per 5 persons; plus 1 drop-off stall per 20 persons	A
	> 100 licensed capacity: 1 space per 10 persons; plus 1 drop-off stall per 20 persons	
Day Care, Limited	1 space per 250 sq. ft.; plus drop-off stall	A
Funeral Home	1 space per 4 seats	A
Government Services (2)	1 space per 500 sq. ft.; or 1 space per 3 seats, whichever is greater	N/A
Homeless Resource Center	1 space per 200 sq. ft. of accessory service delivery areas	A
Hospital	1 space per 2 beds; plus 1 space per 200 sq. ft. of outpatient treatment area	A
Place of Worship	1 space per 3 seats or 200 sq. ft. for the principal Place of Worship, whichever is greater	A
	1 space per 200 sq. ft. for permitted accessory uses not otherwise classified as collocated uses	
	Collocated uses classified with the definition of a use listed in <u>Art. 4.B, Use Classification</u> (http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL), calculated separately	
Prison, Jail, or Correctional Facility	1 space per 500 sq. ft.	N/A
School, Private	1 space per employee, 1 visitor space for every 50 students, 1 space for every 5.5 students in 11th and 12th grade; Auditorium or stadium – 1 space per 3 seats	A
School, Public and Charter	1 space per faculty and staff, high school 1 space for every 10 students in 11th and 12th grade, and 1 visitor space for every 50 students	A
Skilled Nursing or Residential Treatment Facility	1 space per 3 beds; plus 1 space per 250 sq. ft. of office space	A (12)

Randall K. Roger & Associates, P.A.

Attorneys at Law

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Satellite Office
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Fort Lauderdale, Florida 33301

September 23, 2022

CONFIDENTIAL/ATTORNEY-CLIENT PRIVILEGED

VIA E-MAIL: kechurney@townofpalmbeach.com

AND REGULAR U.S. MAIL

Ms. Kelly Churney
Deputy Town Clerk
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

**Re: Biltmore Galleria, LLC Application for Public/Private School – ARC-22-200 (ZON-22-132) –
165 Bradley Place (Combo)**

Dear Ms. Churney:

I represent Parc Regent Condominium Association, Inc. ("Parc Regent"), located at 184 Bradley Place, which is across the street and just to the North of the property located at 165 Bradley Place, currently operating as a private club (the Old Guard Society). Parc Regent is comprised of 18 condominium units. Parc Regent asked me to write to the Town of Palm Beach to voice its owners' objections and concerns about Biltmore Galleria, LLC's ("Applicant") application to convert the use of the property to a public/private preschool, consisting of 68 students, and to respectfully request that the Town Council and the Architectural Commission deny Biltmore Galleria, LLC's application, for the reasons stated below.

1. The proposed site plan, if approved, would result in multiple violations of the Town of Palm Beach Code (the "Code"), as follows:
 - a. Section 134-1517 -- Requires places of assembly, including schools, to have a minimum site area of 20,000 square feet and a minimum lot width of 100'. The property on which the school will be located will only be 10,513 square feet and will have a lot width of only 70', thereby resulting in a violation of Section 134-1517 of the Code.

- b. Section 134-1734 – Playground equipment is only allowed in residential zoning districts. Therefore, the placement and installation of the playground equipment at the school, in the C-TS zoning district, will result in a violation of Section 134-1734 of the Code.
 - c. Section 134-2172 – Parking spaces must have a minimum width of 9'. The proposed site plan shows the typical parking space as only being 8'-4" wide, resulting in a violation of Section 134-2172 of the Code.
 - d. Section 134-2176 – The combined uses of the properties making use of the combined site would require 82 off street parking spaces. The proposed site plan indicates that 6 parking spaces will be eliminated, resulting in only 76 parking spaces, which would violate Section 134-2176 of the Code. Interestingly, this is the only variance the applicant is seeking, notwithstanding all the other violations.
 - e. Section 134-2177 – Requires off street parking to be located on the same lot as the building. The proposed site plan will result in no off-street parking spaces being located on the lot, requiring the use of shared parking with the other businesses on the shared site. But the site plan does not meet the criteria in Section 134-2182 for shared parking, as all of the buildings/businesses will be using the parking at the same time, during the day, when the school and other business are open, resulting in overlapping use, and there are not enough parking spaces to satisfy the needs and Code requirements for all users/owners.
2. The presence of a school will result in a much more intense use of the land, and will create a myriad of traffic concerns. As there will be 68 students attending the school, there will be up to 68 parents in 68 vehicles all congregating at the school at or near the same time, twice per day, during drop off and pick up of the students. As the students will be of preschool age, the students will need to be escorted into the school. The plan is to have cars pull into the shared parking lot, off of Bradley Place, with only 9 parking spaces available for use. Even though the plans submitted by applicant indicate that no queuing of vehicles will be permitted, it is inevitable that vehicles will back up out of the parking lot and onto Bradley Place, as parents are not going to simply allow their preschool children to jump out of the vehicle and proceed unescorted into the school. Other parents will inevitably seek to pull up to the curb on Bradley Place and/or on Park Avenue, to allow for the drop off and pick up of their children. This will create a traffic nightmare twice per day, which will impede the residents of the surrounding residential properties, the customers of the other business utilizing the shared parking lot (which includes a bank, a salon, a drug store, and a retail establishment), and any and all other users of Bradley Place (and Park Avenue), including any emergency vehicles, which can only access the Parc Regent Condominium by turning off of Bradley Place, West onto Park Avenue. Additionally, the employees of the school will need to be able to park. The school will have four classrooms, an art area, administrative office and a kitchen. How many employees will the school have? It seems there will likely be five (5) teachers (for the 4 classrooms plus

the art teacher). What about teacher aids or assistants? There will also be administrative staff and perhaps kitchen staff or other staff to monitor the drop off and pick up and the playground area. All of these employees will need to be able to park and will generate additional traffic and congestion.

3. The preschool students will be in potential danger during the chaotic drop off and pick up periods, as there is no clear path into the school building, other than to walk behind the parked cars (on both sides of the driving aisle in the parking lot), through the parking lot (which allows for two way traffic), to Bradley Place, to enter the building through the West entrance, or, if permitted by Applicant, to walk behind the parked cars (again, on both sides of the driving aisle in the parking lot), through the parking lot (which, again, allows for two way traffic), to the gates on the Southwest portion of the lot, to enter the school through the doors on the East side of the building. The plan is untenable, as it places the preschool children in harms' way.
4. Applicant has not satisfied the criteria to establish Applicant's entitlement to a variance to eliminate the off-street parking, for the following reasons:
 - a. Section 134-201(a) – Town Council can only grant a variance when it will not be contrary to public interest and when, owing to special conditions, a literal enforcement of the Code will result in unnecessary and undue hardship to the Applicant. But Applicant has not shown or established any undue hardship. Additionally, allowing the operation of a school on the subject parcel would be contrary to the public interest due to increased congestion and traffic issues, and lack of safety for the preschool students being dropped off and picked up at the site, as explained in #2 and #3 above.
 - b. Section 134-201(a)(1) – Applicant has not established that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. There is nothing special or unusual about the subject parcel.
 - c. Section 134-201(a)(4) – Applicant has not demonstrated that a literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district or would work unnecessary and undue hardship on Applicant. Again, Applicant has failed to show any unnecessary or undue hardship. Additionally, application of the zoning requirements for the parcel would not deprive Applicant of any rights enjoyed by other properties, and Applicant has failed to make any such showing. Applicant could always use the parcel or have it developed as retail, office or commercial space, all permitted uses under the C-TS zoning district.
 - d. Section 134-201(a)(5) – Applicant has failed to show that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. In fact, Applicant could use the parcel or have it developed to allow for retail, office or commercial use, all permitted uses in the

C-TS zoning district. Applicant is not entitled to its desired use of the parcel, only a use that is reasonable.

- e. Section 134-201(a)(7) – The grant of the variance will NOT be in harmony with the general intent and purpose of the C-TS zoning district. The purpose of the C-TS zoning district, as stated in Section 134-1106 of the Code, is to create, preserve and enhance areas of attractive, small-scale, retail, personal and profession/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of townpersons. A school is not consistent with such purpose or intent. Additionally, the use of the subject parcel, as a school, for the reasons stated above in #2 and #3, will be injurious to the surrounding area and owners and will be detrimental to the public welfare. Finally, Applicant has not provided the report required by the Code to evidence that the school will serve townpersons.
5. Applicant has not satisfied the criteria to establish Applicant's entitlement to a special exception use. Pursuant to Section 134-1109(8) of the Code, a school is a special exception use in the C-TS zoning district. The special exception use should be denied for the following reasons:
- a. Section 134-226(a) – the Town must deny a special exception when not in harmony with the purpose and intent of the C-TS zoning district. See #4.e. above.
 - b. Section 134-226(b) – In granting a special exception the Town Council must find that the granting of such special exception will not adversely affect the public interest. For all of the above stated reasons, including in #2 and #3 above, the Town Council cannot make this finding.
 - c. Section 134-229(2) – The use of the parcel as a school is not designed, located or proposed to be operated in a manner that the public health, safety, welfare and morals will be protected. See #2 and #3 above.
 - d. Section 134-229(4) – The use of the property as a school will NOT be compatible with adjoining development and the intended purpose of the district in which it is to be located (i.e., the C-TS zoning district). The surrounding properties include a bank, drug store, retail, office and residential. A school is not compatible with such other uses. Additionally, a school is not compatible with the intent and purpose of the C-TS zoning district (see #4.e. above).
 - e. Section 134-229(5) – The use will not comply with the yard, other open space and other special requirements set out in the Code for the particular use involved. As noted above, a place of assembly, including a school, pursuant to Section 134-1517 of the Code, must have a minimum site area of 20,000 square feet and a minimum lot width of 100'. The subject parcel is only 10,513 square feet and has a lot width of only 70'. Additionally, Section 134-1734 of the Code only allows playground equipment in residential zoning districts; Section 134-2176 of the Code requires 82 off street parking spaces (and the proposed site plan only has 76 parking spaces), and further requires all off street

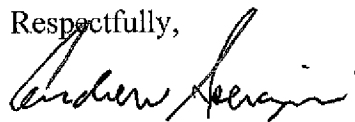
Ms. Kelly Churney
Deputy Town Clerk
Town of Palm Beach
September 23, 2022
Page 5

parking needed to satisfy the Code to be located on the same lot (there is no parking on the subject lot); Section 134-2172 of the Code requires a minimum width of 9' for parking spaces, and the typical parking space on the site plan is only 8'-4", and the shared parking does not satisfy the requirements of Section 134-2182 of the Code, as all of the users of the parking lot will need the parking spaces at the same time, resulting in overlapping use, and there is not enough parking spaces to satisfy the needs of all users/owners.

- f. Section 134-229(8) – There will NOT be adequate ingress and egress to the property and the proposed structures thereon, and there will be no off-street parking on the subject lot, and inadequate off-street parking even on the shared lot. Additionally, the configuration and design of the ingress/egress does not promote automotive and pedestrian safety and convenience, or proper traffic flow and control, or access by emergency vehicles.
 - g. Section 134-229(14) – The new use as a school places a much greater burden on municipal police and fire services than would be caused by a permitted use.
6. Applicant has not satisfied the criteria for site plan approval. Pursuant to Section 134-329 of the Code, before any site plan may be approved, the Town Council must make a finding that the approval of the site plan will not adversely affect the public interest and must certify that the specific zoning requirements governing the use have been met. For all of the reasons stated above, the Town Council cannot make such finding. Applicant, for the reasons stated above, cannot satisfy the specific requirements in Section 134-329(2), (3), (4) and (8).

For all of the above stated reasons, the Association respectfully requests that ARCOM and the Town Council deny Applicant's application for site plan approval, a special exception use and a variance. The Association and its owners thank the Town Council and ARCOM for its consideration of their objections to Biltmore Galleria, LLC's application for a school, and looks forward to the denial of such application.

Respectfully,



Andrew Speranzini, Esq., on behalf of
Parc Regent Condominium Association, Inc.

From: [James Murphy](#)
To: [Antonette Fabrizi](#); [Yazmin Figueroa](#)
Cc: [Emily Lyn](#)
Subject: FW: 165 Bradley Place - Applicant was the Property Owner not the Lessee.
Date: Wednesday, October 26, 2022 7:06:20 AM

FYI

James G. Murphy
Assistant Director of Planning, Zoning & Building

Town of Palm Beach
Planning, Zoning & Building
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www.townofpalmbeach.com

From: Jennifer Hofmeister-Drew <jhofmeister@TownOfPalmBeach.com>
Sent: Tuesday, October 25, 2022 6:01 PM
To: Harvey E. Oyer, III <HOyer@shutts.com>
Cc: Wayne Bergman <wbergman@TownOfPalmBeach.com>; James Murphy <jmurphy@TownOfPalmBeach.com>; Roger Ramdeen <RRamdeen@shutts.com>
Subject: Fwd: 165 Bradley Place - Applicant was the Property Owner not the Lessee.

Please review the application docs. I will also in the morning.

Thank you.

Jenn

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From: Wayne Bergman <wbergman@TownOfPalmBeach.com>
Sent: Tuesday, October 25, 2022 4:55:35 PM
To: Jennifer Hofmeister-Drew <jhofmeister@TownOfPalmBeach.com>; James Murphy <jmurphy@TownOfPalmBeach.com>
Subject: Fw: 165 Bradley Place - Applicant was the Property Owner not the Lessee.

FYI

Wayne Bergman, MCP, LEED® AP

Director

Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, FL 33480
Office: 561-227-6426

From: John Eubanks Jr <jeubanks@sniffenlaw.com>
Sent: Tuesday, October 25, 2022 4:00 PM
To: Wayne Bergman <wbergman@TownOfPalmBeach.com>
Subject: 165 Bradley Place - Applicant was the Property Owner not the Lessee.

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Just to clarify for the Record the Applicant was identified as Biltmore Galleria throughout the Letter of Intent and Application. As such, any representation that the Applicant was the Lessee was inaccurate.

John R Eubanks, Jr.
SNIFFEN & SPELLMAN, P.A.
TALLAHASSEE | WEST PALM BEACH | PENSACOLA

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MATTHEW AND ADRIENNE RAPTIS

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

kchurney@townofpalmbeach.com

Alef Preschool of Palm Beach – 165 Bradley Place

Dear Arcom and Town Council Members,

This letter is to express our support for the Alef Preschool of Palm Beach located at 165 Bradley Place.

My wife and I are residents of Palm Beach. We are proud parents of young children and believe that education is what keeps our society healthy, both spiritually and physically. The idea that the Alef Preschool would bring the only early-childhood option to the island is so welcomed and appreciated by many young families!

We are aware of many Palm Beach parents who are awaiting the opportunity to avail themselves of this top-tier early-childhood education option.

The proposed preschool is in a most suitable commercial location, with ample parking, allowing for convenient drop-off and pick-up.

Thank you for standing for education!

Sincerely

Matthew & Adrienne Raptis

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480
kchurney@townofpalmbeach.com

Alef Preschool of Palm Beach – 165 Bradley Place

Dear Town Council Members,

This letter is to express my support for the Alef Preschool of Palm Beach located at 165 Bradley Place. I am a neighbor of the proposed preschool and believe it to be an added value to the Town and it will be Town Serving.

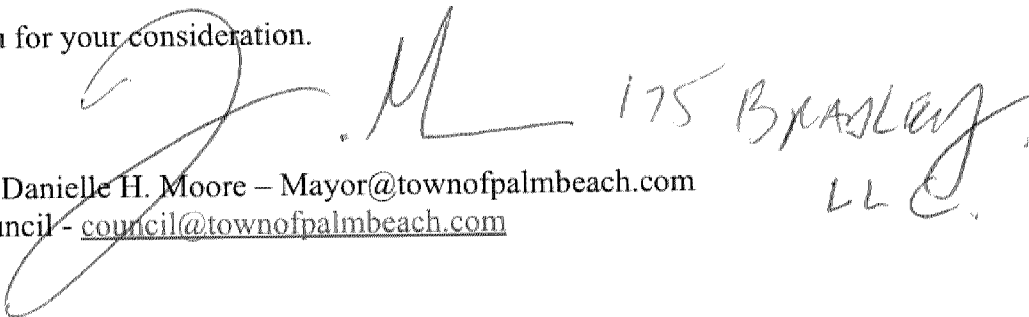
As a major home developer on the island of Palm Beach I get to interact with many fine Palm Beach families. They bring to my attention the need of adequate education for the youngest of our beautiful town.

The proposed use is actually a de-intensification of the site which should be welcomed by all.

Thank you for your consideration.

Sincerely

cc: Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council - council@townofpalmbeach.com

A large, stylized handwritten signature in black ink, appearing to be 'J. M.' followed by '175 BRADLEY, LLC'.

Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Dear ARCOM Members,

I am writing in support of the Alef Preschool at 165 Bradley Place, which will be located very close to where I live at 303 Everglade Avenue. We lived in Palm Beach when my now grown daughters were much younger and I always thought it was unfortunate that with all the great education alternatives for older children in Palm Beach, there was nothing for pre-school children. A good pre-school will be a very important asset in attracting more families to the Island. In addition, the parking and multiple drop off points should mitigate any traffic concerns, given the school's modest size. Sol would urge Arcom and Town Council members to approve the project.

Sincerely,

Jeff Sagansky

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW: Alef Preschool of Palm Beach — 165 Bradley Place (ARC-22-022)
Date: Wednesday, September 28, 2022 1:55:53 PM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

-----Original Message-----

From: Daniel R. Benson <DBenson@kasowitz.com>
Sent: Wednesday, September 28, 2022 1:45 PM
To: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Kelly Churney <KChurney@TownofPalmBeach.com>; Town Council <TCouncil@TownofPalmBeach.com>
Subject: Alef Preschool of Palm Beach — 165 Bradley Place (ARC-22-022)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Mayor Moore, Town Council Members and ARCOM Members:

I am writing in support of the Alef Preschool. My wife and I are delighted at the prospect of the preschool opening in Palm Beach close to where we live. We now drive our two-year-old son over a half hour each way to a Jewish school in Boynton Beach, so Alef Preschool will be a great benefit to us, as well as to other families in Palm Beach with young children. We have been very impressed by the people opening the school and the plans for its development. It is very difficult for us to understand how anyone could have any reasonable grounds for objecting to it. We thank you in advance for enabling the opening of this preschool which will represent a very significant benefit to Palm Beach.

Respectfully,

Daniel R. Benson
Kasowitz Benson Torres LLP
1633 Broadway
New York, New York 10019
(212) 506-1720 (office)
(917) 880-8690 (mobile)
(212) 506-1849 (fax)
DBenson@kasowitz.com

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RECEIVED

By Emily Lyn at 12:10 pm, Sep 28, 2022

JOHN A. GAROFALO, M.D., P.C.

100 Hickory Hill Road
West Chester, PA 19382-6749
Telephone: 561-531-2402 and 610-793-055

Oncology
Immunology
Nutrition

September 28, 2022

Town Council and Members of the Architectural Commission
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Attn: Kchurney@townofpalmbeach.com

RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council and ARCOM Members:

I fully support the Alef Preschool of Palm Beach located at 165 Bradley Place. I live near the proposed school and believe it to be an added value to the Town and it surely will be Town Serving.

A town needs to have proper education opportunities for all ages, even the young among us. It always puzzled me that we don't have a preschool option on the island. The Alef Preschool is a long-awaited answer to this need.

We as residents of the town are looking forward to this new development which will be a great benefit to the many families who have moved to Palm Beach and are presently driving their young children off island each day.

Thank you for serving the town and thank you for being the voice of our little ones who need proper education. Alef Preschool will teach morals and values.

Sincerely,

John A. Garofalo, M.D., P..

Cc: Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council – council@townofpalmbeach.com
rabbi@palmbeachjewish.com
www.PalmBeachJewish.com

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW:
Date: Monday, September 26, 2022 8:26:57 AM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: Michael Belisle <mikebelisle88@gmail.com>
Sent: Sunday, September 25, 2022 3:17 PM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject:

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480
kchurney@townofpalmbeach.com

Alef Preschool of Palm Beach – 165 Bradley Place

Dear Town Council Members,

This letter is to express my support for the Alef Preschool of Palm Beach located at 165 Bradley Place.

I am a 40 year resident of Palm Beach and the transformation of the last couple years in regards to young families moving in is unprecedented. I constantly hear of the issue of lack of any preschool on the island. The proposed preschool is situated in a beautiful location, with ample parking, allowing for convenient drop-off and pick-up.

Thank you for your consideration of my opinion.

Sincerely
Michael A. Belisle

cc:Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council - council@townofpalmbeach.com

From: [James Murphy](#)
To: [Antonette Fabrizi](#); [Kelly Churney](#)
Cc: [Emily Lyn](#); [Bradley Falco](#)
Subject: FW: 165 Bradley Place Pre-School
Date: Wednesday, September 28, 2022 8:23:24 AM

James G. Murphy
Assistant Director of Planning, Zoning & Building

Town of Palm Beach
Planning, Zoning & Building
360 S. County Road
Palm Beach, FL 33480
www.townofpalmbeach.com

From: Martin Klein <martin@miklein.com>
Sent: Wednesday, September 28, 2022 8:22 AM
To: James Murphy <jmurphy@TownOfPalmBeach.com>
Subject: 165 Bradley Place Pre-School

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear James,

I hope you and your loved ones are safe and well. Nothing else matters. I see that today's Arcom hearing is still scheduled. I'd appreciate it if you could bring this letter to the Commission's attention.

Dear Commission,

I write in support of the request of the Chabad House in their lease for a pre-school at 165 Bradley Place. As the former head of one of New York's largest religious institutions as well as the former chair of our Planning and Zoning Commission, I've always been concerned with achieving that proper balance. I've been a long time champion of education, including religious education, and having a pre-school is a noble effort. Of course we want to achieve a balance in our community and I think the applicant has done that. I note that this is a proposed lease which will be temporary and I urge the Commission to support it with such modifications as you, in your wisdom, will suggest.

Respectfully,
Martin I. Klein

Martin I. Klein, PLLC.
1060 North Ocean Blvd..

Palm Beach, Florida 33480
Telephone: (561) 881-8000
Facsimile: (561) 881-8080
martin@miklein.com

-

-

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)
Date: Thursday, September 29, 2022 8:34:52 AM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: G <glandgl@hotmail.com>
Sent: Thursday, September 29, 2022 7:37 AM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: Fwd: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Sent from my iPhone

Begin forwarded message:

From: G <glandgl@hotmail.com>
Date: September 28, 2022 at 11:08:22 AM EDT
To: kchurney@townofpalmbeach.com

And
Mayor@townofpalmbeach.com

Subject: RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Town Council Members and Members of ARCOM
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

kchurney@townofpalmbeach.com

RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council Members and Members of ARCOM,

I am a longtime Palm Beach resident living in The Biltmore just across the street from the proposed preschool.

This letter is to express my support for the new Alef Preschool of Palm Beach located at 165 Bradley Place. I find it hard to believe that anyone would oppose the only preschool option in our beautiful community, especially while choosing to live in a home or condo across the street from busy bars and restaurants, operating through the night, and a preschool operates during daytime hours only.

How far have we fallen if we oppose the opening of the only preschool on the island? Making a fuss about a modest preschool opening in our town in a commercial building is very distressing. I am in support of the preschool and hope that our Town Council and members of ARCOM are too.

Thank you members of Town Council and members of ARCOM for doing what's right as you stand for education, the advantages being both local so residents with young children do not have to drive on and off the island every day, and a preschool also of the highest academic and interpersonal level, this is Alef Preschool.

Sincerely,

George Guido Lombardi

Owner/ resident

150 Bradley Place apt 904
Palm Beach

Florida 33480

cc: Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council - council@townofpalmbeach.com

Sent from my iPhone

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: Fw: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)
Date: Wednesday, September 28, 2022 11:21:27 AM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
Planning, Zoning & Building
360 S. County Rd.
Palm Beach, FL 33480
561-227-6408
561-835-4621 (fax)
www.townofpalmbeach.com

From: G <glandgl@hotmail.com>
Sent: Wednesday, September 28, 2022 11:08 AM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Town Council Members and Members of ARCOM
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

kchurney@townofpalmbeach.com
RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council Members and Members of ARCOM,

I am a longtime Palm Beach resident living in The Biltmore just across the street from the proposed preschool.

This letter is to express my support for the new Alef Preschool of Palm Beach located at 165 Bradley Place. I find it hard to believe that anyone would oppose the only preschool option in our beautiful community, especially while choosing to live in a home or condo across the street from busy bars and restaurants, operating through the night, and a preschool operates during daytime hours only.

How far have we fallen if we oppose the opening of the only preschool on the island? Making a fuss about a modest preschool opening in our town in a commercial building is very distressing. I am in support of the preschool and hope that our Town Council and members of ARCOM are too.

Thank you members of Town Council and members of ARCOM for doing what's right as you stand for education, the advantages being both local so residents with young children do not have to drive on and off the island every day, and a preschool also of the highest academic and interpersonal level, this is Alef Preschool.

Sincerely,

George Guido Lombardi

Owner/ resident

150 Bradley Place apt 904
Palm Beach

Florida 33480

cc: Mayor Danielle H. Moore – Mayor@townofpalmbeach.com
Town Council - council@townofpalmbeach.com

Sent from my iPhone

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)
Date: Wednesday, September 28, 2022 8:46:26 AM

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: Tara <tara.k.moore@gmail.com>
Sent: Wednesday, September 28, 2022 6:11 AM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Cc: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Town Council
<TCouncil@TownofPalmBeach.com>
Subject: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Town Council Members and Members of ARCOM,

This letter is to express my support for the Alef Preschool of Palm Beach at 165 Bradley Place. I live near the proposed school and it is of great value to the Town and it will be Town Serving. It will also be a great benefit to our family and the many young families that live on Palm Beach. We are presently driving our son off the island each day because the Town does not have any preschool accommodations. We plan on sending our son to Alef Preschool as soon as they open.

We look forward to the opening of Alef Preschool at [165 Bradley Place](#), and thank you for allowing our child to have this wonderful opportunity.

Sincerely,
Tara K. Moore

From: [Kelly Churney](#)
To: [smorris.pbbiltmore.com](#); [John Eubanks Jr](#)
Cc: [Antonette Fabrizi](#)
Subject: RE: 165 Bradley Pl
Date: Monday, September 26, 2022 10:18:20 AM

Good morning,

Please have them send the letters to Antonette Fabrizi at afabrizi@townofpalmbeach.com.

Thank you,

Kelly Churney
Deputy Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: smorris.pbbiltmore.com <smorris@pbbiltmore.com>
Sent: Monday, September 26, 2022 9:18 AM
To: John Eubanks Jr <jeubanks@sniffenlaw.com>
Cc: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: RE: 165 Bradley Pl

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Thank you
Sincerely,
Sally Morris GM
Palm Beach Biltmore
150 Bradley Place
Palm Beach, Florida
33480
561-832-0600

From: John Eubanks Jr <jeubanks@sniffenlaw.com>
Sent: Monday, September 26, 2022 9:13 AM
To: smorris.pbbiltmore.com <smorris@pbbiltmore.com>
Cc: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: RE: 165 Bradley Pl

They can e-mail objections to Kelly Churney at KChurney@TownofPalmBeach.com at the Town and ask that a copy be sent to each of the ARCOM Commissioners. I will send you a draft of the Biltmore letter shortly.

John R Eubanks, Jr.
SNIFFEN & SPELLMAN, P.A.
TALLAHASSEE | WEST PALM BEACH | PENSACOLA

605 North Olive Avenue, 2nd Floor
West Palm Beach, Florida 33401
T (561) 721-4000 / F (561) 721-4001 / D (561) 721-4002
E-mail: jeubanks@sniffenlaw.com
Website: www.sniffenlaw.com / Twitter: @Sniffenlaw

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From: smorris pbbiltmore.com <smorris@pbbiltmore.com>
Sent: Monday, September 26, 2022 9:10 AM
To: John Eubanks Jr <jeubanks@sniffenlaw.com>
Subject: FW: 165 Bradley Pl

I asked them to send something in writing

Sincerely,
Sally Morris GM

Palm Beach Biltmore
150 Bradley Place
Palm Beach, Florida
33480
561-832-0600

From: Patrick McGowan <pmcgowansr@aol.com>
Sent: Saturday, September 24, 2022 3:23 PM
To: smorris pbbiltmore.com <smorris@pbbiltmore.com>
Subject: Re: 165 Bradley Pl

Hi Sally,
Please add these Park Ave residents to the opposition so far:
-Patrick and Lisa McGowan
-Catherine Stewart
-Ken Moreland

I will let you know of any others and let me know if our input is needed. It appears you have a fair amount of strong oppositions already logged.
All the best,
Pat McGowan

-----Original Message-----
From: smorris pbbiltmore.com <smorris@pbbiltmore.com>
To: Patrick McGowan <pmcgowansr@aol.com>
Sent: Thu, Sep 22, 2022 10:35 am
Subject: RE: 165 Bradley Pl

Thank you for reaching out to me regarding this matter.
We have joined with the Park Regent and also have the support of El Lugano in opposing this variance.
Perhaps you can provide a list of your neighbors who also oppose the matter.
Let me know and thank you
Sally

Sincerely,
Sally Morris GM
Palm Beach Biltmore
150 Bradley Place
Palm Beach, Florida
33480
561-832-0600

From: Patrick McGowan <pmcgowansr@aol.com>
Sent: Thursday, September 22, 2022 10:11 AM
To: smorris pbbiltmore.com <smorris@pbbiltmore.com>
Subject: 165 Bradley Pl

Hello Sally,
Hope all is well and I am writing you as a concerned neighbor on Park Ave in regards to the proposed development and use at 165 Bradley Pl. I am told yourself and the Biltmore community are engaged with

this process and mostly oppose its current plans. Please feel free to include ourselves and neighbors in your opposition as we feel no need for a religious school to be located in an already high traffic and residential area. We are also clients of Maura Ziska in our residential dealings. Hope to hear from you and will be attending next weeks ARCOM meeting also.

All the best,

Patrick & Lisa McGowan

Park Ave

Palm Beach, FL 33480

914-482-4401

pmcgowansr@aol.com

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TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - Old Business

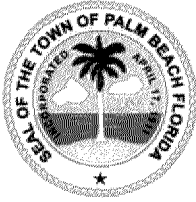
Agenda Title

ZON-22-138 (ARC-22-184) 1540 S OCEAN BLVD. (COMBO) —SPECIAL EXCEPTION W/ SITE PLAN REVIEW. The applicant, 1540 S OCEAN LLC (Steven Kirsch), has filed an application requesting Town Council review and approval for Special Exception and Site Plan Review for the construction of a new two-story guest house connected to a previously approved two-story structure with related landscape and hardscape improvements on a parcel deficient in lot depth. The Architectural Commission will perform the design review of the application. *[The Architectural Review Commission approved this project at the October 25, 2022, meeting. Carried 5 - 0.]*

Presenter

ATTACHMENTS:

- ▢ **PZB Staff Memorandum**
- ▢ **Letter of Intent**
- ▢ **Plans**
- ▢ **Plans 1**
- ▢ **Plans 2**
- ▢ **Plans 3**
- ▢ **Plans 4**
- ▢ **Plans 5**



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-138 (ARC-22-184) 1540 S OCEAN BLVD

MEETING: NOVEMBER 09, 2022

ZON-22-138 (ARC-22-184) 1540 S OCEAN BLVD. (COMBO) —SPECIAL EXCEPTION W/ SITE PLAN REVIEW. The applicant, 1540 S OCEAN LLC (Steven Kirsch), has filed an application requesting Town Council review and approval for Special Exception and Site Plan Review for the construction of a new two-story guest house connected to a previously approved two-story structure with related landscape and hardscape improvements on a parcel deficient in lot depth. The Architectural Commission will perform the design review of the application.

Applicant: 1540 S Ocean LLC (Steven Kirsch)
Professional: Dailey Janssen Architects, P.A.
Representative: Roger P. Janssen

THE PROJECT:

The applicant has submitted plans, entitled "Proposed Guest House At: 1540 S. Ocean Boulevard", as prepared by **Dailey Janssen Architects, P.A.** dated August 1, 2022.

The subject property consists of 0.32 acres and is located at the 114 Ocean View Road, abutting 1540 South Ocean Boulevard. Plans call for the combination of these two (2) parcels through a Unity of Title to construct a primary residence and associated guest house for a total acreage of 0.69 acres when adjoined. The address assumed at completion will be 1540 South Ocean Boulevard. The properties have a Future Land Use designation of Single Family with a compatible Zoning classification of Estate Residential (R-A).



114 Ocean View Road
1540 S. Ocean Blvd
(Under construction)
Beach cabana

STAFF ANALYSIS:

History of the Application

In accordance with ARCOM # B-046-2021, a two (2) story 7,354 square foot residence received final approval by Town Council on June 23, 2021, at 1540 South Ocean Boulevard and construction has begun. On February 23, 2022, pursuant to ARC-22-028/ZON-22-124, the Town Council approved the renovation of the existing beach cabana and construction of a tunnel leading to 1540 South Ocean Boulevard. The applicant then received approval in July 2022 to demolish the existing 4,029 square foot two (2) story home at 114 Ocean View Road with the plan to unify the two (2) properties and the beach cabana.

The current scope of work, which does not involve any modifications to the beach cabana parcel, include the following:

- Site Plan with a Special Exception to construct a new 5,245 square foot (above grade) guest house with a basement.
- Changes to the main residence that will result in an increase in the total square footage from previously approved 7,354 square feet to 8,086 square feet (above grade).

Zoning

Below is a summary of the subject application with regards to Zoning Code compliance and Special Exception request.

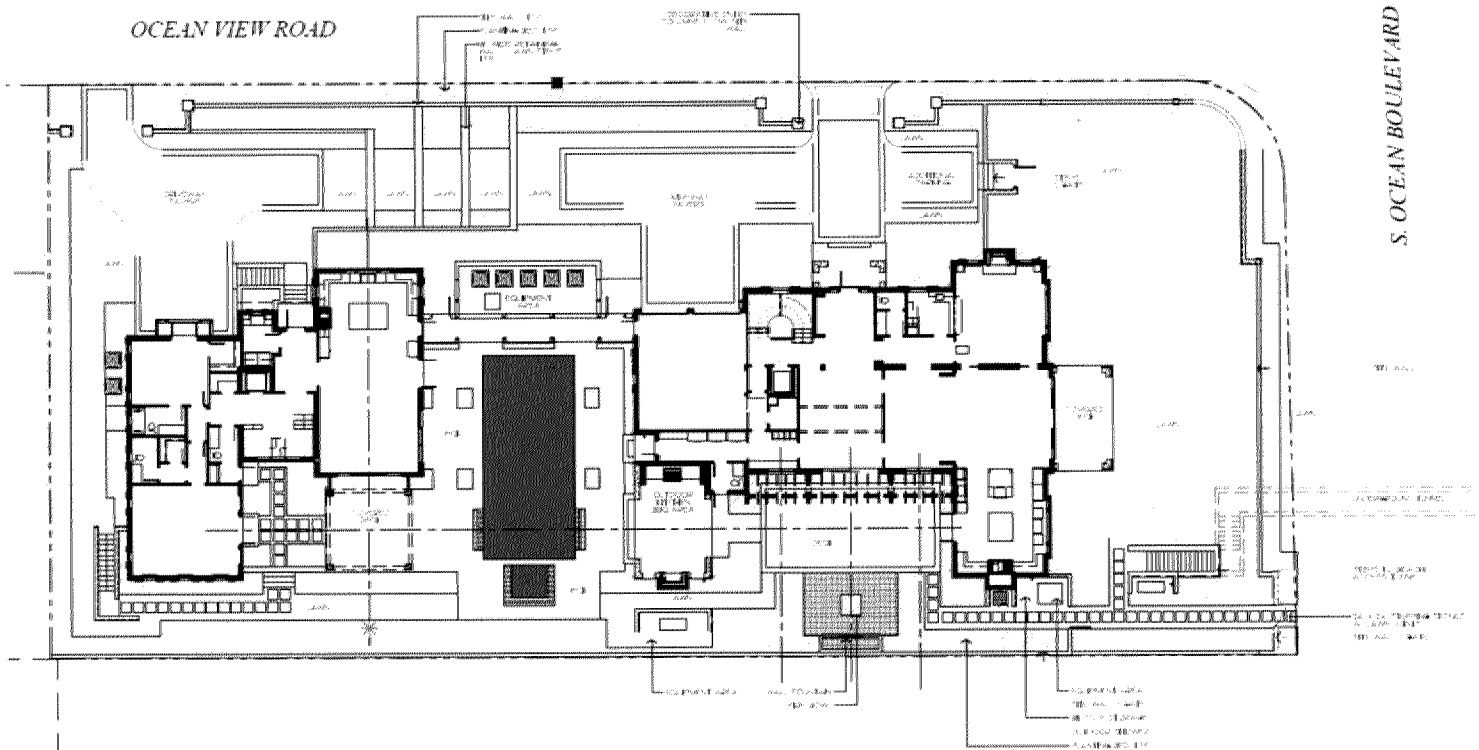
Site Data			
Zoning District	Estate Residential District (R-A)	Lot Size	Required: 20,000 SF Existing: 1540 S. Ocean (1540): 16,151 SF Proposed: 27,401 SF
Future Land Use	Single-Family	Max Fill	Maximum Permitted: .95 FT Existing: .69 FT Proposed: .95 FT
Total Building Size (SF)	Existing: 9,070 SF (w/ basement) Proposed: 14,845 SF (w/ basement)	Lot Coverage	Required: 6,850 SF (25%) Existing (1540): 4,033 SF (24.9%) Proposed: 6,847 (25%)
Crown of Road (COR)	Existing: 16.88' to 18.87' Proposed: 16.88' to 18.87'	FEMA Zone	X/VE 10
Landscape Open Space	Required: 13,700 SF (50%) Existing at 1540: 8,317 SF (51.5%) Proposed: 13,723 SF (50%)	Finished Floor Elevation	Existing (1540) 20.25 FT Proposed: 18.75 FT
Surrounding Properties / Zoning			
North	Single-family home/R-A		
South	Single-family home/R-A		
East	Single-family home/R-A		
West	Single-family home/R-A		

SPECIAL EXCEPTION WITH SITE PLAN REVIEW: Code Sec. 134-843. Lot, yard, and area requirements-Generally. The Special Exception (SE) is being requested to the lot depth where the minimum of 150 feet is required and 112.5 feet exists.

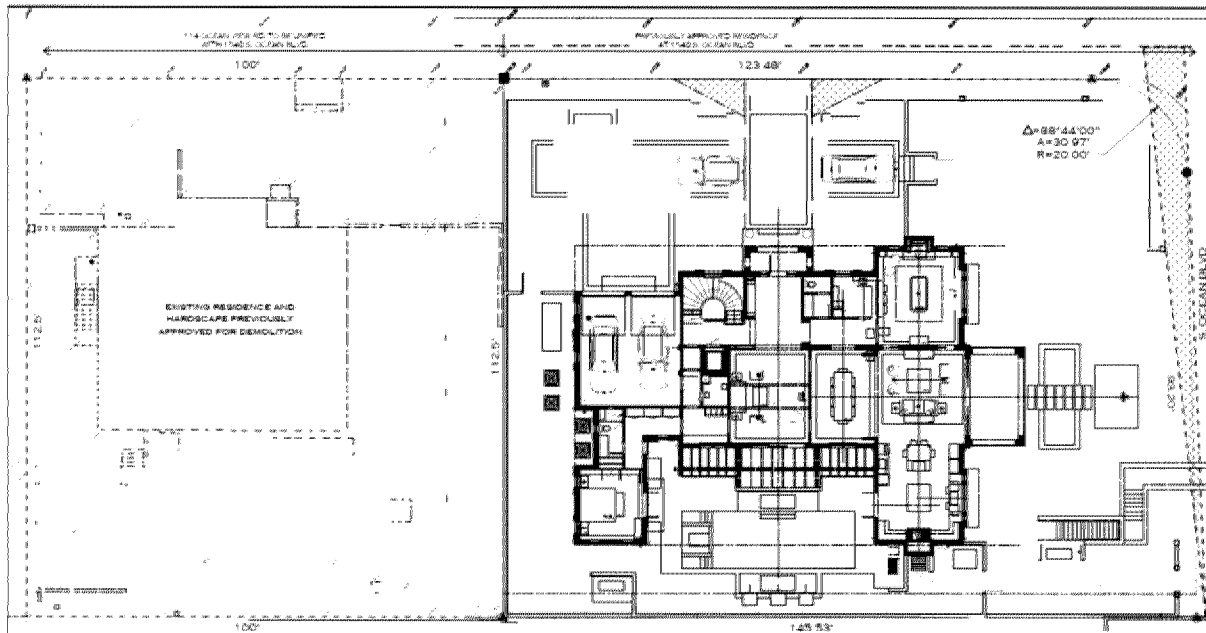
Site Plan

As stated, the proposed site plan, displayed below, will involve the combination of the properties at 114 Ocean Way with 1540 Ocean Boulevard. As it pertains to the new guest house, the residence meets all setback requirements and can be described with the following elements:

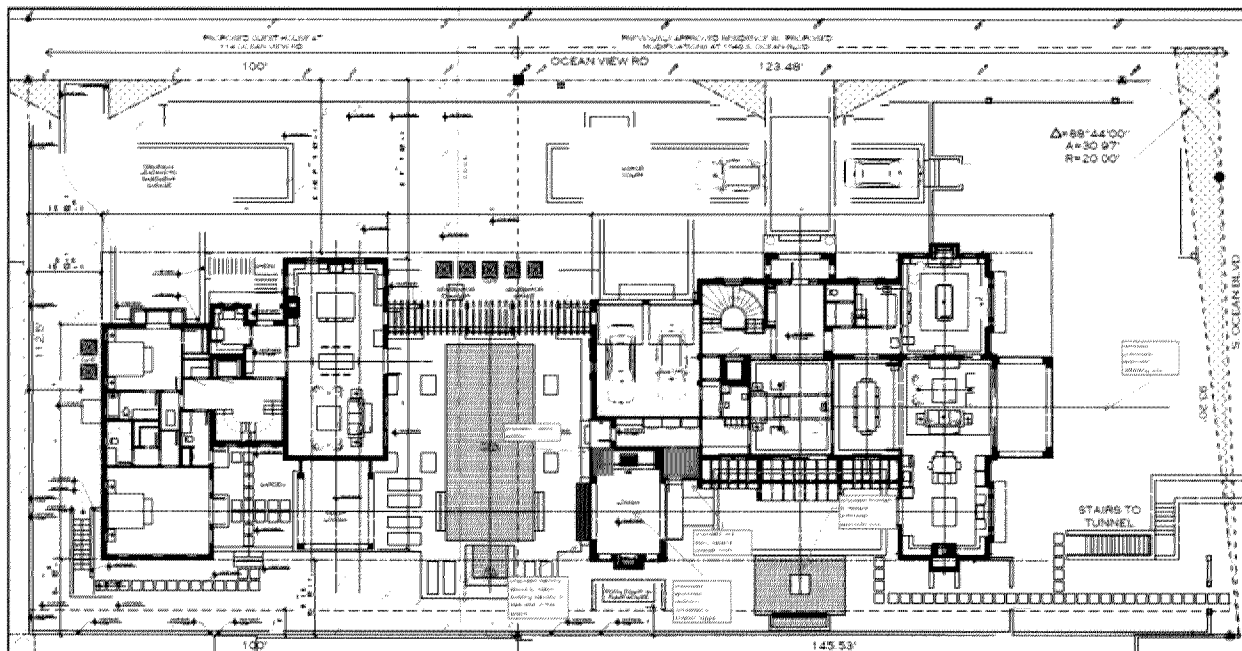
- Proposed two (2) story, three (3) bedroom, three (3) bathroom guest house
- Proposed Garden and Guest Loggia
- Driveway leading to the proposed basement garage
- Pool shared with main residence
- Designed to match the architectural style and colors of the main residence



Shown below is a comparison of the approved site plan for 1540 South Ocean with the proposed new site plan combined with 114 South View Way. A summary of the modifications to the two (2) story main residence are as follows:



Approved Site Plan 1540 S. Ocean Blvd



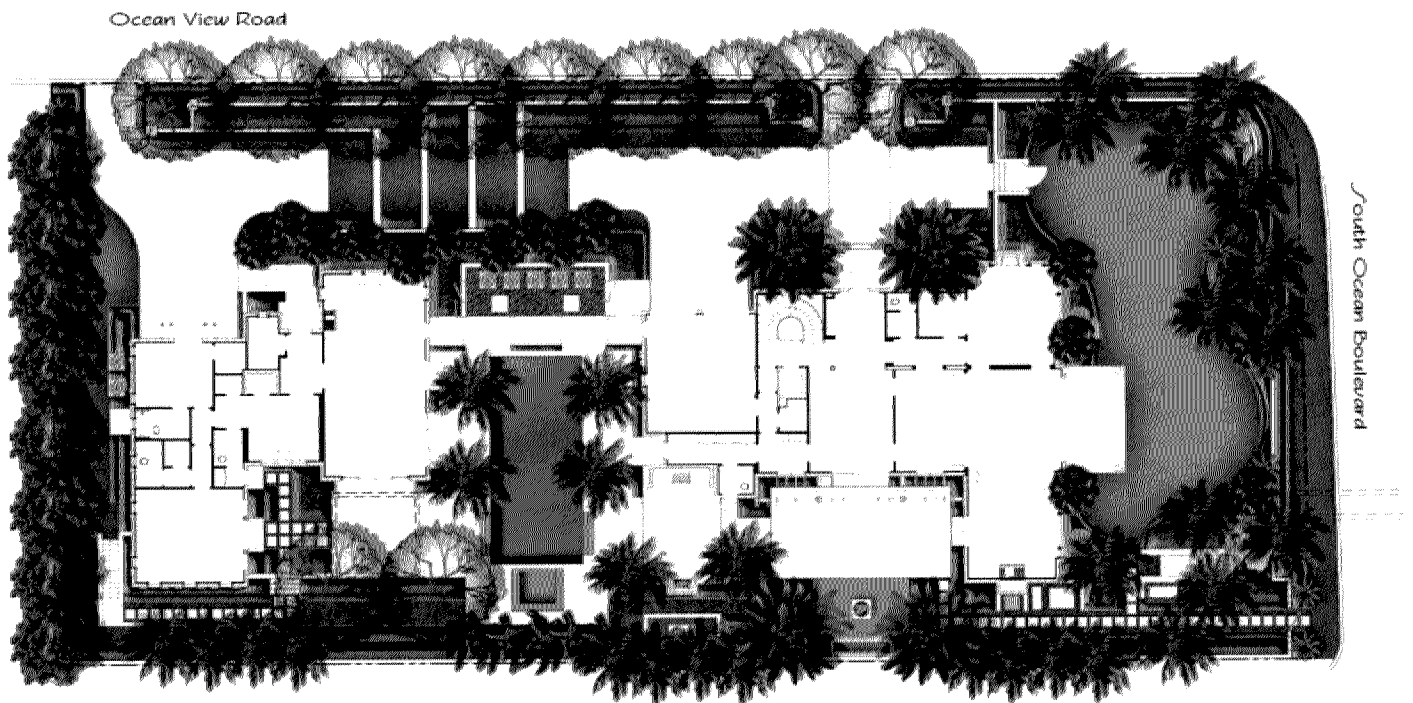
Proposed New Site Plan- Both Properties

- Removal of reflecting pool in east front yard
- Replace previously approved pool in south yard with a new fountain
- Convert southwest bedroom to exterior loggia space
- Add one (1)-story cabana powder room to east of new loggia space
- Add two (2)-story area of new space on northwest corner of new loggia space
- Add cantilever balcony above west opening of new loggia space

Landscape Plan

Pursuant to Code Section 66-285(1), at least 35 percent of all new required landscaping, in the categories of trees, palms, shrubs, and a combined category of vines and ground cover plants, shall consist of native vegetation. Additionally, Code Section Sec. 66-311(d) addresses the plant species, ficus benjamina and ficus nitida. As codified, due to extreme susceptibility of the invasive white fly pest and the consequent enforcement issues to require owners to treat or remove infested ficus benjamina and ficus nitida, no new planting of ficus benjamina or ficus nitida shall be allowed, with the exception of replacement plantings associated with a utility easement. The planting of appropriate native vegetation in a hedge or hedgerow is encouraged.

The subject landscape plan, shown below, complies with the landscape requirements, which is also displayed in the table below. Please note, the plant species, officus benjamina and ficus nitida, are not present nor proposed on the proposed landscape plan.



Pursuant to Code Section 66-261: Sec. 66-285. General.		
At least 35 percent of all new required landscaping, in the categories of trees, palms, shrubs, and a combined category of vines and ground cover plants, shall consist of native vegetation.		
	Provided	Total
Trees	21	
Native	21	100%
Palms	52	
Native	19	36.5%
Shrubs, Vines	3,811	
Native	1,672	43.8%

WRB:JGM:JHD

RECEIVED

By Antonette Fabrizi at 2:27 pm, Aug 17, 2022



DAILEY JANSSEN ARCHITECTS, P.A.

ROGER PATTON JANSSEN, A.I.A.

August 12, 2022

Town of Palm Beach Planning, Zoning and Building Department

1540 S. Ocean Blvd. Letter of Intent – ARC-22-184 (ZON-22-198)

We are pleased to submit the accompanying drawings and information for Final Submittal of the proposed two story guest house at 1540 S. Ocean Blvd, Palm Beach.

A. LANDMARK PRESERVATION COMMISSION

Not applicable, this property is not landmarked.

B. ARCOM

We are proposing a new 5,245 square foot two-story guest house with pool, hardscape and landscape. The style of the proposed residence is island colonial with a smooth white stucco finish, light blue shutters, white roof tile and white trim. The proposed guest house matches the style of the previously approved 2-story residence at 1540 S. Ocean Blvd. which is currently under construction. 114 Ocean View Rd. and 1540 S. Ocean Blvd. will be unified.

Demolition of the existing residence was previously submitted and a Notice to Proceed was issued on 07-05-2022.

C. SPECIAL EXCEPTION (with site plan review – see below)

D. SITE PLAN REVIEW

Seeking site plan review for a non-conforming lot. 112.5 ft lot depth in lieu of the 150 ft minimum required lot depth.

E. VARIANCES

Please let us know if you need additional information.

Respectfully Submitted,

Roger P. Janssen, AIA
Dailey Janssen Architects, P.A.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - New Business

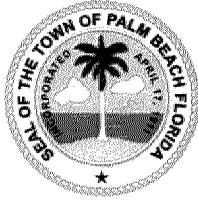
Agenda Title

ZON-22-104 (ARC-22-146) 9 SLOANS CURVE DR (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW. The applicant, Sean Hannity, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the construction of a 409 square foot second story addition and to install a 20-kw generator for an existing townhouse within an approved Sloan's Curve PUD. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 6-0.]*

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **Letter of Intent**
- ▣ **Plans**



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-104 (ARC-22-146) 9 SLOANS CURVE DR (COMBO)

MEETING: NOVEMBER 09, 2022

ZON-22-104 (ARC-22-146) 9 SLOANS CURVE DR (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW. The applicant, Sean Hannity, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the construction of a 409 square foot second story addition and to install a 20-kw generator for an existing townhouse within an approved Sloan's Curve PUD. The Architectural Commission will perform design review of the application.

ARCOM NOTICE:

ARC-22-146 (ZON-22-104) 9 SLOANS CURVE DR (COMBO) - The applicant, Sean Hannity, has filed an application requesting Architectural Commission review and approval for the construction of a 409 SF second story addition and the installation of a 20-kw generator for an existing townhouse within an approved Sloan's Curve PUD, requiring a Special Exception with Site Plan Review. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Applicant: Sean Hannity
Professional: Smith & Moore Architects, Inc.
Representative: Maura Ziska, Esq.

THE PROJECT:

The applicant has submitted plans, entitled "9 SLOANS CURVE DRIVE", as prepared by **Smith & Moore Architects, Inc.**, dated October 7, 2022.

The following is the scope of work:

- Second floor bedroom addition
- Alterations to hardscape and landscape.
- Generator Addition

The following Special Exception with Site Plan Review and Variances are required to complete the project:

- **SPECIAL EXCEPTION WITH SITE PLAN REVIEW: Section 134-651:** Special exception with site plan review for modification to an existing townhome in the Sloans

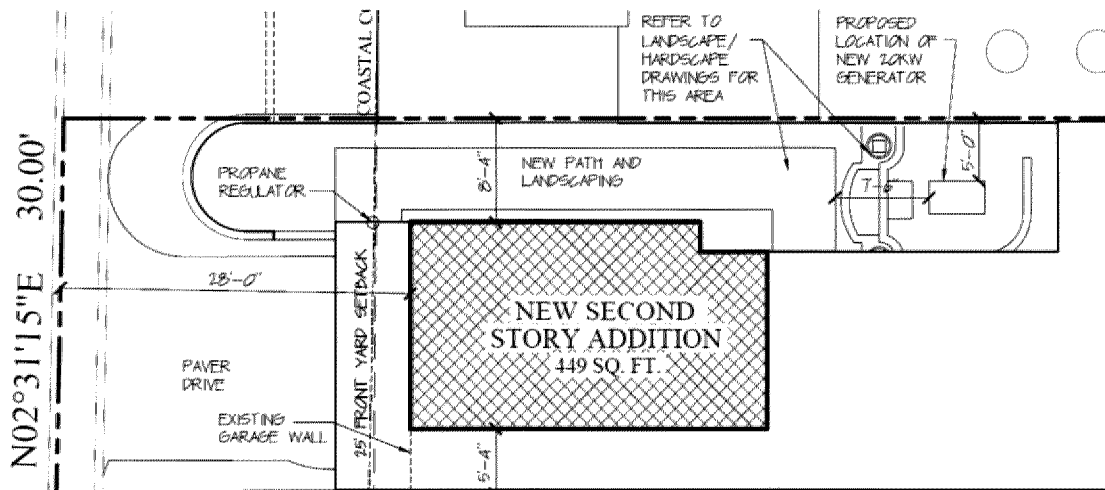
Curve PUD.

Site Data			
Zoning District	PUD-3	Lot Size (SF)	8,233 SF
Lot Coverage	Maximum: 35% Existing: 37% Proposed: 37% (No Change)	Landscaped Open Space	Required: 35% Existing: 40% Proposed: 40.8%
Total A/C Area	Existing: 3,945 SF Proposed: 4,394 SF (449 sq ft addition)	Front Yard Setback	Required: 25 ft Existing: 25 ft Proposed 2 nd story: 28 ft

Surrounding Properties / Zoning	
North	1981 2-story townhouse residence (Sloans Curve PUD)
South	1981 2-story townhouse residence (Sloans Curve PUD)
East	Atlantic Ocean
West	1984 2-story single-family residence (Sloans Curve PUD)

STAFF ANALYSIS

The applicant is proposing an approximately 450 SF addition to the 2nd story street-facing elevation of an existing townhome located in the Sloans Curve PUD. The townhouses in this community vary slightly from one another, each having unique arrangement of fenestration, and differing façade projections and roof lines. The applicant is also proposing a new 20 kW generator within the front courtyard. The generator meets setback and screening requirements. The generator will be screened from the front by a new water feature. All new hardscape and landscape is proposed as well, further screening the generator and courtyard. The resulting hardscape and landscape change result in a slightly higher landscape open space calculation.



Although built as a uniform townhouse development in 1982, multiple units have undergone personal architectural changes. The Sloans Curve Community Association has provided a letter of their support and approval for the scope of work.

WRB:JGM:BMF

MP Design & Architecture, Inc.

217 Peruvian Avenue, Suite 4
Palm Beach, Florida 33480

AA#26001667

T: 561833.7575

INFO@MPDAINC.COM

F: 561833.0575

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

August 8, 2022

Re: 1020 N Lake Way Palm Beach, FL 33480
ARC-22-209
ZON-22-146

We are submitting the attached drawings and application for the review of our project at 1020 N Lake Way Palm Beach, FL 33480. The scope of work consists of minor cosmetic modification to existing front elevation, fenestration modifications on west (rear) and north (side) elevations and enlarge existing loggia.

Please note the following:

A. LANDMARK PRESERVATION COMMISSION – Sections 54-122 & 54-161
Not applicable.

B. ARCHITECTURAL REVIEW – Section 18-205
Removal of existing window awning on front elevation.
Fenestration modifications on west (rear) and north (side) elevations.
Removal of existing metal spiral stair on south (side) elevation.
Enlarge existing loggia and 2nd floor terrace at rear of residence.
Remove existing hard cover at north and south pergolas

C. ARCHITECTURAL REVIEW – Section 18-206
There will be no demolition on site.

D. SPECIAL EXCEPTION – Section 134-22
Not applicable

E. SITE PLAN REVIEW – Section 134-329
Not applicable

MP Design & Architecture, Inc.

217 Peruvian Avenue, Suite 4
Palm Beach, Florida 33480

AA#26001667

T: 561833.7575

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F. VARIANCE – Section 134-201

VARIANCE (1): Section 134-893(b)(11): A variance for lot coverage of 31.7% in lieu of the 30% maximum allowed in order to extend the loggia by 275 SF.

- 1) The property is located in the R-B Zoning District. Due to the previously constructed and covered 3 pergolas on the lake side of the property the existing lot coverage is non-conforming to today's code. This is a special circumstance that necessitates requesting a variance to modify the structures in the back yard including opening the pergolas and extending the loggia.
- 2) The applicant was not the cause of the special conditions of the property or existing non-conformities of the residence as the applicant just recently purchased the property.
- 3) The granting of the variance will not confer on the applicant a special privilege that is denied to the neighboring properties.
- 4) The hardship, which runs with the land, is that the house is already over on lot coverage and the modifications to the property bring it more conforming to code. .
- 5) The variance requested are the minimum necessary to make reasonable use of the land considering the reduction in the existing lot coverage.
- 6) The granting of the variance will not be injurious to the neighborhood. The request is diminimus.

G. OTHER

Not applicable.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michael Perry', with a stylized, flowing script.

Michael Perry

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - New Business

Agenda Title

ZON-22-139 (ARC-22-213) 144 CHILEAN AVE (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES. The applicant, Allen Perl, as Trustee of the 144 Chilean Trust dated April 13, 2022, has filed an application requesting Town Council review and approval special exception with site plan review for development of a lot nonconforming in lot width in the R-B zoning district in order to construct a new two-story single family residence which requires variances to (1) exceed maximum lot coverage, (2) provide deficient landscaped open space and (3) exceed the maximum cubic content ratio (CCR) allowed. The Architectural Review Commission will perform design review of the application. *[The Architectural Review Commission deferred this project to the November 18, 2022 meeting. Carried 7-0.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending review by the Architectural Review Commission.]*

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - New Business

Agenda Title

ZON-22-140 (ARC-22-216) 248 COLONIAL LN (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE. The applicant, 306 Livingston Street Holdings I, LLC (Matthew Mirones), has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for development of a lot which is deficient in lot depth and lot area in the R-B zoning district and for variances (1) to eliminate the two-car garage enclosure requirement, (2) to locate a generator in a setback which is higher than allowed from neighboring grade and (3) to not completely screen a generator with a masonry wall, in conjunction with the construction of a new two-story residence. The Architectural Review Commission will perform design review of the application. *[The Architectural Review Commission deferred this project to the December 16, 2022 meeting. Carried 7-0.] [This item shall be deferred to the January 11, 2023, Town Council meeting pending review by the Architectural Review Commission.]*

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - New Business

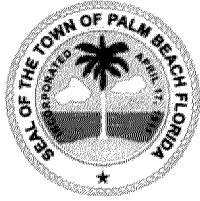
Agenda Title

ZON-22-143 (ARC-22-188) 266 ORANGE GROVE RD (COMBO)—VARIANCE. The applicant, Olofson Jeanne H Trust, has filed an application requesting Town Council review and approval for an after-the-fact variance to maintain landscape open space less than the minimum requirements in the R-B zoning district. The Architectural Commission will perform the design review of the application. *[Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property.] [The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 7-0.]*

Presenter

ATTACHMENTS:

- ▢ **PZB Staff Memorandum**
- ▢ **Letter of Intent**
- ▢ **Plans**



TOWN OF PALM BEACH
Planning, Zoning & Building Department
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PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-143 (ARC-22-188) 266 ORANGE GROVE RD (COMBO)

MEETING: NOVEMBER 09, 2022

ZON-22-143 (ARC-22-188) 266 ORANGE GROVE RD (COMBO)—VARIANCE. The applicant, Olofson Jeanne H Trust, has filed an application requesting Town Council review and approval for an after-the-fact variance to maintain landscape open space less than the minimum requirements in the R-B zoning district. The Architectural Commission will perform the design review of the application.

ARCOM NOTICE:

ARC-22-188 (ZON-22-143) 266 ORANGE GROVE RD (COMBO). The applicant, Olofson Jeanne H Trust, has filed an application requesting Architectural Commission review and approval for modifications to an existing landscape plan including the removal of all non-permitted artificial turf resulting in an after-fact variance from the landscape open space requirements of the R-B zoning district. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Applicant: Olofson Jeanne H Trust
Professional: Environment Design Group (Dustin Mizell)

THE PROJECT:

The applicant has submitted plans, entitled "Private Residence at 266 Orange Grove Rd ", as prepared by **Environment Design Group**, dated July 19, 2022.

The following is the scope of work:

- Removal of non-permitted artificial turf sitewide, including variance from the open space requirements.

Site Data			
Zoning District	R-B	Lot Size (SF)	8,160 SF
Future Land Use	SINGLE FAMILY	Native Planting	Required: 35% Existing: NA Proposed: 45.68%

Lot Coverage	Permitted: 45% (3,672 SF) Existing: 38.75% (3,162 SF) Proposed: NC	Perimeter Open Space	Required: 50% (1,836 SF) Existing: 40.22% (1,477 SF) Proposed: 62.42% (2,292 SF)
Landscape Open Space (LOS)	Required: 45% (3,672 SF) Existing: 25% (2,070 SF) Proposed: 38.75% (3,160 SF) <i>Variance Requested</i>	Front Yard Open Space	Required: 40% (755 SF) Existing: 52.22% (986 SF) Proposed: 53.38% (1,008 SF)
Surrounding Properties / Zoning			
North	1949 One-story residence/ R-B		
South	1945 One-story residence/ R-B		
East	1941 One-story residence/ R-B		
West	1940 Two-story residence/ R-B		

STAFF ANALYSIS

This application is presented to the Commission to consider whether all of the criteria in Sec. 18-205 have been met. A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the Town zoning code:

- *Variance #1 Sec. 134-893(b)(12): Open Space. An after the fact variance for landscape open space of 38.75% in lieu of the 45% minimum required*

The original design for a new one-story residence was approved on January 24, 2018, pursuant to B-102-2017 (SKA Architects). Those plans maintained compliance with the 45% open space requirement. Then, a minor application was approved in June of 2019, pursuant to A-019-2019, for a change in the driveway material. Those plans maintained compliance with the 45% open space requirement. And finally, a revision to the project was approved on August 25, 2021 with a variance from parking requirements resulting from a garage conversion and other site improvements, pursuant to ARC-21-019/Z-21-00389 (Spina ORourke). Those plans maintained compliance with the 45% open space requirement.

As the recently approved architectural improvements neared completion, the client has decided to revisit the landscape design that was previously approved. During pre-application review by the Planning, Zoning and Building Department, the nonpermitted nonconformances as it pertains to the landscape and open space requirements were identified. Sometime after the Certificate of Occupancy was issued the owner installed extensive artificial turf and extended the hardscape within the building envelope. As a consequence, the proposal is removing all artificial turf, installed without a permit and without ARCOM approval, which will bring the site up to 38.75% open space (3,160 sf)— yet still 512 SF deficient. Resulting in an after-the-fact variance request needed to be heard by Town Council for review and approval.

Variance Request

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

- *Variance #1 Sec. 134-893 Lot, yard and area requirements—Generally.*
(b) Schedule of regulations. In the R-B low density residential district, the schedule of lot, yard and area requirements is as given in this section:(12) a. The minimum landscaped open space is 45 percent, of which 50 percent of that percentage is

required to be perimeter landscaping within ten feet of the property line. The perimeter landscaped open space requirement shall not apply to lots 20,000 square feet or more in area.

Sec. 134-893(b)(12)(a)	45% (3,672 SF)	38.75% (3,160 SF)	6.25% (512 SF)
-------------------------------	-----------------------	--------------------------	-----------------------

The following zoning legend is from B-102-2017 266 Orange Grove Rd ARCOM dwgs.

SITE CALCULATIONS- RB Zoning District			
REQUIREMENTS	REQUIRED	EXISTING	PROPOSED
LOT AREA	10,000 S.F.	8,156.00 S.F.	8,156.00 S.F.
LOT WIDTH	100 FT	75.00' NORTH, 75.00' SOUTH	75.00' NORTH, 75.00' SOUTH
LOT DEPTH	100 FT	108.79' WEST, 108.79' EAST	108.79' WEST, 108.79' EAST
FRONT YARD SETBACK	25.0' (1), 30.0' (2)	30.0'	25.0'
SIDE YARD SETBACK	12.5' (1), 15.0' (2)	9.5' W, 11.0' E	12.5', 12.5'
REAR YARD SETBACK	10.0' (1), 15.0' (2)	44.5'	10.0'
BUILDING HEIGHT	14.0' (1), 22.0' (2)	10.0'	10.0'
ANGLE OF VISION	100.00 DEG. MAX.	90.00 DEG.	90.00 DEG.
LOT COVERAGE	40% MAX. (1), 30% MAX. (2)	36.10% (2,944.47 S.F.)	35.97% (2,934.75 S.F.)
LANDSCAPED OPEN SPACE	45% MIN. (OF 8,156.00 = 3,671.66 S.F.)	% (.00 S.F.)	45.71% (3,729.58 S.F.)
FRONT YARD LANDSCAPE	40% (1,875.00 S.F.)	% (.00 S.F.)	53.93% (1,011.12 S.F.)
PERIMETER LANDSCAPE	50% of Total Required Open Space (1,835.83 S.F.)	% (.00 S.F.)	79.33% (2,912.61 S.F.)

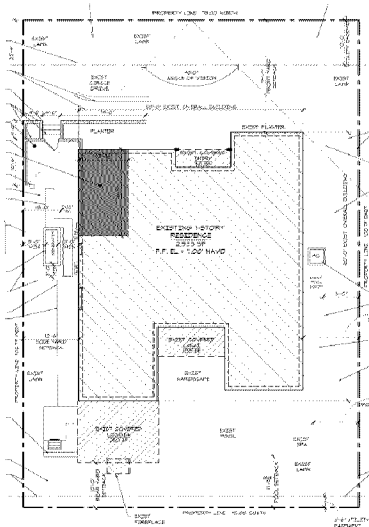
The follow zoning legend is from A-019-2019 266 Orange Grove Rd ARCOM dwgs.

SITE CALCULATIONS- RB Zoning District			
REQUIREMENTS	REQUIRED	EXISTING	PROPOSED
LOT AREA	10,000 S.F.	8,156.00 S.F.	8,156.00 S.F.
LOT WIDTH	100 FT	75.00' NORTH, 75.00' SOUTH	75.00' NORTH, 75.00' SOUTH
LOT DEPTH	100 FT	108.79' WEST, 108.79' EAST	108.79' WEST, 108.79' EAST
FRONT YARD SETBACK	25.0' (1), 30.0' (2)	30.0'	25.0'
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BUILDING HEIGHT	14.0' (1), 22.0' (2)	10.0'	10.0'
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FRONT YARD LANDSCAPE	40% (1,875.00 S.F.)	% (.00 S.F.)	53.93% (1,011.12 S.F.)
PERIMETER LANDSCAPE	50% of Total Required Open Space (1,835.83 S.F.)	% (.00 S.F.)	79.33% (2,912.61 S.F.)

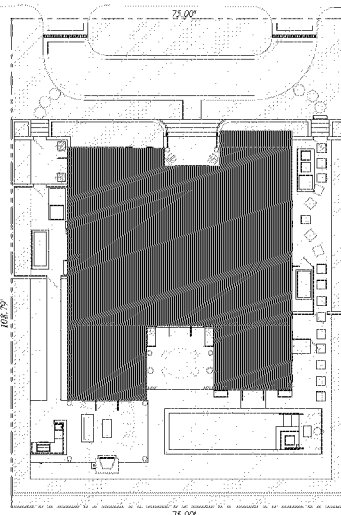
The follow zoning legend is from ARC-21-019/Z-21-00389 266 Orange Grove Rd ARCOM dwgs.

TOTAL LOT COVERAGE			
2,934.75 SF COVERAGE / 8,156 SF TOTAL PARCEL	40% MAX. ALLOWED (3,262.4 SF)	35.97% EXISTING (2,934.75 SF)	NO CHANGE
LANDSCAPED OPEN SPACE			
4,483 SF OPEN / 8,156 SF TOTAL PARCEL	45% MIN. REQUIRED (3,671.66 SF)	45.71% EXISTING (3,729.58 SF)	45% PROPOSED (3,673.58 SF)
FRONT YARD LANDSCAPED OPEN SPACE			
937.025 SF LAND. OPEN SPACE 1,874.5 TOTAL FRONT YARD	40% REQUIRED (749.8 SF)	53.96% EXISTING (1,011.12 SF)	55.7% PROPOSED (1,044.37 SF)

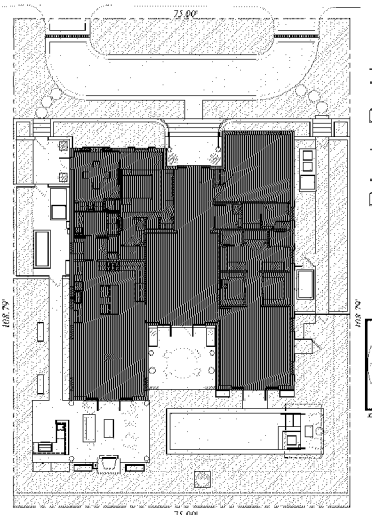
There are considerable improvements proposed with the site work, including an increased native planting schedule and increase over the minimum amount of perimeter and front yard open space (green space)—arguably the most important as it relates to the potential impact of neighboring abutting properties and visual impact from the right-of-way. But the fact remains that the within the timeline of approvals, the overall open space was either disingenuously represented or somehow otherwise erroneously accounted for.



Original Approval B-102-2017



Revised ARC-21-019/Z-21-00389



Proposed

Staff maintains that the applicant should continue to explore ways for further reducing the hardscape in an effort to maximize the amount of overall landscape open space.

WRB/JGM

Land Planning
Landscape Architecture
Landscape Management

Private Residence
266 Orange Grove
Palm Beach, Florida 33480

ARCOM # ARC-22-188
Town Council # ZON-22-143

LETTER OF INTENT

Current zoning for the project is R -B - Low Density Residential.

Our current proposal, for improvements to the site, does not include any architectural changes.

The proposed changes include:

- Removal of artificial turf
- Revision to Site Calculations
- Proposed understory plantings

Landscape plans and architectural changes were approved in a prior application submitted in 2021 (ARC-21-019/ Z-21-00389). As the recently approved architectural improvements near completion, the client has decided to revisit the landscape design that was previously approved and contacted our office for assistance.

After reviewing the existing site calculations we found that the site has 25.36% (2,070 sf) of existing Open Space, mainly due to all of the artificial turf. As a result we are removing all artificial turf which will bring the site up to 38.75% open space (3,160 sf). The RB district requires 45% open space, and the existing hardscape will not meet code once the turf is removed. So we need a variance for the existing hardscape to remain.

If there are any questions regarding this project, please feel free to reach out to our office.

Adam Mills, *Associate*

Environment Design Group
139 N. County Road
Suite 20
Palm Beach, Florida 33480
561.832.4600

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Development Review - New Business

Agenda Title

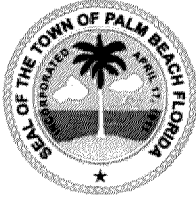
ZON-22-146 (ARC-22-209) 1020 N LAKE WAY (COMBO)—VARIANCE.

The applicant, Robert Morse, has filed an application requesting Town Council review and approval for a variance (1) to exceed the maximum allowable lot coverage, in conjunction with the exterior alterations and loggia modifications and enlargement proposed at the property. The Architectural Commission will perform design review of the application. *[Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property.] [The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 7- 0.]*

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **Letter of Intent**
- ▣ **Plans**



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-146 (ARC-22-209) 1020 N LAKE WAY (COMBO)

MEETING: NOVEMBER 09, 2022

ZON-22-146 (ARC-22-209) 1020 N LAKE WAY (COMBO)—VARIANCE. The applicant, Robert Morse, has filed an application requesting Town Council review and approval for a variance (1) to exceed the maximum allowable lot coverage, in conjunction with the exterior alterations and loggia modifications and enlargement proposed at the property. The Architectural Commission will perform design review of the application.

ARCOM NOTICE:

ARC-22-209 (ZON-22-146) 1020 N LAKE WAY (COMBO). The applicant, Robert Morse, has filed an application requesting Architectural Commission review and approval for exterior alterations to an existing single-family residence, including the modifications to and enlargement of an existing rear loggia, including a variance to exceed allowable lot coverage. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Applicant: Robert Morse
Professional: MP | Design & Architecture (Michael Perry)
Representative: Maura Ziska, Esq.

THE PROJECT:

The applicant has submitted plans, entitled "Existing 2 Story Residence At 1020 N Lake Way", as prepared by **MP | Design & Architecture**, dated August 29, 2022.

The following is the scope of work:

- Construction of a rear loggia addition of approximately 275 SF, including a variance.
- Additional exterior changes including minor modification to the existing front elevation, fenestration modifications on west (rear) and north (side) elevations.

Site Data			
Zoning District	R-B	Lot Size (SF)	18,458 SF

Future Land Use	SINGLE FAMILY	Lot Coverage	Permitted: 30% (5,537 SF) Existing: 30.15% (5,565 SF) Proposed: 31.7% (5,846 SF) Variance Requested
Surrounding Properties / Zoning			
North	1998 Two-story residence/ R-B		
South	1977 One-story residence/ R-B		
East	1940 Two-story residence/ R-B		
West	Lake Worth Lagoon		

STAFF ANALYSIS

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the Town zoning code:

- *VARIANCE 1: Sec. 134-893(b)(11): A variance for lot coverage of 31.7% in lieu of the 30% maximum allowed.*

The proposal includes modification to three existing loggias in the rear of the existing two-story structure. The plans reflect an enlargement to the existing loggia and 2nd floor terrace and altering the both of the two that flank this central area, specifically removing the hardened roof coverings at north and south pergolas and replacing those with a slatted trellis style roof. Resulting in a lot coverage variance request needed to be heard by Town Council for review and approval.

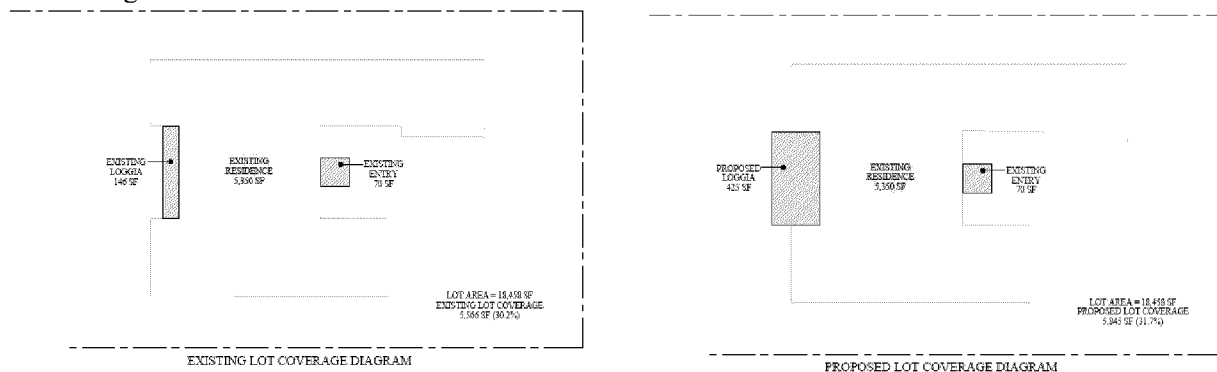
Variance Request

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

- *Variance #1 Sec. 134-893(b)(11) Lot, yard and area requirements—Generally.
(11)Lot coverage. b. The maximum lot coverage for two-story buildings is 30 percent.*

Code section	Allowed	Proposed	Variance
<i>Sec. 134-893(b)(11)</i>	30% (5,537 SF)	31.7% (5,846 SF)	1.7% (309 SF)

The following zoning graphic best illustrates the lot coverage consequence resulting from the loggia enlargement.



WRB/JGM

MP Design & Architecture, Inc.

217 Peruvian Avenue, Suite 4
Palm Beach, Florida 33480

AA#26001667

T: 561833.7575

INFO@MPDAINC.COM

F: 561833.0575

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

August 8, 2022

Re: 1020 N Lake Way Palm Beach, FL 33480
ARC-22-209
ZON-22-146

We are submitting the attached drawings and application for the review of our project at 1020 N Lake Way Palm Beach, FL 33480. The scope of work consists of minor cosmetic modification to existing front elevation, fenestration modifications on west (rear) and north (side) elevations and enlarge existing loggia.

Please note the following:

A. LANDMARK PRESERVATION COMMISSION – Sections 54-122 & 54-161
Not applicable.

B. ARCHITECTURAL REVIEW – Section 18-205
Removal of existing window awning on front elevation.
Fenestration modifications on west (rear) and north (side) elevations.
Removal of existing metal spiral stair on south (side) elevation.
Enlarge existing loggia and 2nd floor terrace at rear of residence.
Remove existing hard cover at north and south pergolas

C. ARCHITECTURAL REVIEW – Section 18-206
There will be no demolition on site.

D. SPECIAL EXCEPTION – Section 134-22
Not applicable

E. SITE PLAN REVIEW – Section 134-329
Not applicable

MP Design & Architecture, Inc.

217 Peruvian Avenue, Suite 4
Palm Beach, Florida 33480

AA#26001667

T: 561833.7575

INFO@MPDAINC.COM

F: 561833.0575

F. VARIANCE – Section 134-201

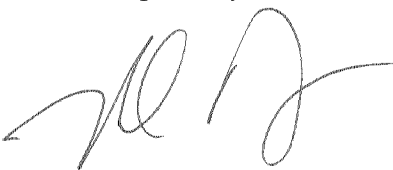
VARIANCE (1): Section 134-893(b)(11): A variance for lot coverage of 31.7% in lieu of the 30% maximum allowed in order to extend the loggia by 275 SF.

- 1) The property is located in the R-B Zoning District. Due to the previously constructed and covered 3 pergolas on the lake side of the property the existing lot coverage is non-conforming to today's code. This is a special circumstance that necessitates requesting a variance to modify the structures in the back yard including opening the pergolas and extending the loggia.
- 2) The applicant was not the cause of the special conditions of the property or existing non-conformities of the residence as the applicant just recently purchased the property.
- 3) The granting of the variance will not confer on the applicant a special privilege that is denied to the neighboring properties.
- 4) The hardship, which runs with the land, is that the house is already over on lot coverage and the modifications to the property bring it more conforming to code. .
- 5) The variance requested are the minimum necessary to make reasonable use of the land considering the reduction in the existing lot coverage.
- 6) The granting of the variance will not be injurious to the neighborhood. The request is diminimus.

G. OTHER

Not applicable.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michael Perry', with a stylized, flowing script.

Michael Perry

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2022

Section of Agenda

Ordinances - Second Reading

Agenda Title

Proposed Ordinance to Transmit a New Property Rights Comprehensive Plan Element to the State Department of Economic Opportunity (DEO)

ORDINANCE NO. 015-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, amending the Town of Palm Beach Comprehensive Plan by creating a Property Rights Element in order to meet updated statutory requirements; maintaining internal consistency within the comprehensive plan; providing for incorporation of recitals; providing for severability; providing for the repeal of ordinances or parts thereof in conflict; providing for codification; and providing an effective date.

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **Ordinance No. 015-2022 w/Exhibit**
- ▣ **Response Letters**
- ▣ **Legal Notice -Second Reading**



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
561-838-5431 | www.townofpalmbeach.com

TO: Mayor and Town Council

THRU: Wayne Bergman, Director of Planning, Zoning & Building
James Murphy, Assistant Planning Director

FROM: Jennifer Hofmeister-Drew, AICP, LCAM, Planner III

RE: **Second and Final Hearing on Town of Palm Beach Comprehensive Plan Amendment - 22-01ESR**
New Property Rights Element

DATE: October 30, 2022

STAFF RECOMMENDATION

Staff recommends adoption of the amendment to the Town of Palm Beach Comprehensive Plan to create a new Property Rights Element.

GENERAL INFORMATION

On June 28, 2021, the Governor signed into law House Bill 59, amending the required and optional elements of comprehensive plans provided for in ss. 163.3177(6)(i.)2, Florida Statutes, (F.S.). Effective July 1, 2021, all local governments must adopt and include as a distinct element in their comprehensive plans a new Property Rights Element by the earlier of the date of its adoption of its next proposed plan amendment or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, F.S. Future amendments to a comprehensive plan, including the Future Land Use Map, cannot occur until such time of the adoption of a Property Rights Element.

At a public meeting held on August 16, 2022, the Town of Palm Beach Planning and Zoning Commission considered all evidence and testimony and recommended to the Town Council to transmit the proposed comprehensive plan amendment. The Palm Beach Town Council, acting as the Local Planning Agency, held a public hearing on September 14, 2022, and voted unanimously recommending approval to the Town Council to transmit an expedited review to Florida Department of Economic Opportunity (DEO). On September 14, 2022, the Town Council approved the transmittal of the comprehensive plan amendment document, along with its associated Ordinance No. 015-2022 to the DEO. The Town of Palm Beach has received response letters from the DEO, Treasure Coast Regional Planning Council, the Florida Department of Transportation, and the Florida Department of Environmental Protection. These correspondences are attached to this report. On November 9, 2022, the Town Council is scheduled to vote to adopt on second reading the new Property Rights Element.

The purpose of the Property Rights Element is to identify property rights for consideration in the local decision-making process. As listed in ss. 163.3177(6)(i), F.S., a local government may adopt its own property rights element or incorporate the following statement of rights into the local adopting ordinance:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

Out of the 39 local governments in Palm Beach County, 17 or approximately 45% have adopted or are in the processing of adopting the required Property Rights Element into their comprehensive plans. Below is summary of those jurisdictions.

LIST OF LOCAL GOVERNMENTS IN PALM BEACH COUNTY WHO HAVE PROPERTY RIGHTS ELEMENTS	
1	Unincorporated Palm Beach County
2	The City of Atlantis
3	The City of Boca Raton
4	The City of Delray Beach
5	The City of Palm Beach Gardens
6	The City of Riviera Beach
7	The City of Wellington
8	The City of West Lake
9	The Town of Haverhill
10	The Town of Highland Beach
11	The Town of Juno Beach
12	The Town of Jupiter
13	The Town of Lake Clark Shores
14	The Town of Mangonia Park
15	The Village of Palm Springs
16	The Village of Royal Palm Beach
17	The Village of Tequesta

ORDINANCE NO. 015-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN OF PALM BEACH COMPREHENSIVE PLAN BY CREATING A PROPERTY RIGHTS ELEMENT IN ORDER TO MEET UPDATED STATUTORY REQUIREMENTS; MAINTAINING INTERNAL CONSISTENCY WITHIN THE COMPREHENSIVE PLAN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town proposes to amend its Comprehensive Plan in accordance with the requirements of the 1993 Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, the Town created the Town of Palm Beach Comprehensive Plan with the adoption of Ordinance No. 11-89, and last amended the Comprehensive Plan on August 9, 2017 with the adoption of Ordinance No. 9-2017 based upon the Town's Evaluation and Appraisal of the Comprehensive Plan; and

WHEREAS, the Town of Palm Beach respects judicially acknowledged and constitutionally protected private property rights;

WHEREAS, the Town of Palm Beach respects the rights of all people to participate in land use planning processes;

WHEREAS, the Town is amending the Data and Analysis as well as the Goals, Objectives and Policies (GOPs) within the Comprehensive Plan to incorporate the new Property Rights Element; and

WHEREAS, after a public hearing pursuant to notice required by law, the Planning and Zoning Commission at its August 16, 2022, considered all testimony and recommended modifications to the Town's Comprehensive Plan; and

WHEREAS, after public hearing pursuant to notice required by law, the Town Council, acting as the Local Planning Agency (LPA) at its September 14, 2022 meeting, considered the Planning and Zoning Commission's Record and Report and all evidence and testimony and recommended that the Town Council approve on first reading the subject Ordinance amending the Town's Comprehensive Plan and transmit said ordinance to the Florida Department of Economic Opportunity (DEO); and

WHEREAS, after public hearings on September 14, 2022 and November 9, 2022, pursuant to notice as required by law, the Town Council did find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach requires that the aforesaid Comprehensive Plan, be amended as hereinafter set forth, and transmitted on first reading to the Florida Department of Economic Opportunity (DEO).

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. Incorporation of Recitals. The above recitals are incorporated as fully set forth herein.

Section 2. Findings. The proposed Comprehensive Plan amendments, as more particularly described in Exhibit A, have been determined by the Town Council to promote the public health, safety and welfare, and are consistent with the requirements in Florida Statutes, and all elements of the adopted Comprehensive Plan.

Section 3. Amendment of the Comprehensive Plan. The Comprehensive Plan of the Town of Palm Beach is hereby amended by adding a new Element XI, the Property Rights Element, attached as “EXHIBIT A” and made a part of this ordinance as set forth in full.

Section 4. 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 5. 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 6. Codification. This Ordinance shall be codified and made a part of the official Comprehensive Plan of the Town of Palm Beach, Florida.

Section 7. Effective Date. The effective date of this plan amendment if the amendment is not timely challenged shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2022, and for second and final reading on this ____ day of _____, 2022.

Danielle H. Moore, Mayor

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Bobbie Lindsay, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Margaret A. Zeidman, Town Council Member

EXHIBIT A

PROPERTY RIGHTS ELEMENT

INTRODUCTION

The purpose of the Property Rights Element is to consider property rights in local government decision making and respect the rights of citizens to participate in decisions that affect their lives and property in accordance with the requirements of the Florida Statutes.

Local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights. However, a local government's process for regulating land greatly impacts real estate markets and property rights. Transparency, predictability, and reliability are three (3) strategies for implementing land use policies in a way that benefits the public and respects property rights. The Private Property Rights Element provides a policy framework in support of these strategies.

EXECUTIVE SUMMARY

Effective June 29, 2021, the State of Florida amended the requirements for comprehensive plan elements in ss. 163.3177(6), Florida Statutes, (F.S.), to require a Property Rights Element. The statutory requirement stipulated that the Property Rights Element must be adopted by the earlier of the adoption of the next proposed plan amendment initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of the Comprehensive Plan pursuant to s. 163.3191, F.S. In accordance with the legislative intent expressed in ss. 163.3161(10), F.S. and 187.101(3), F.S., governmental entities must respect judicially acknowledged and constitutionally protected private property rights. As such, the Property Rights Element is intended to ensure that private property rights are considered in local decision-making.

Citizens rely on local government plans: In general, residents choose to live in a community based upon factors that local governments provide, such as the quality of housing, the condition of streets and parks, the proximity to daily needs, and community safety. Businesses locate in a community for its resources, for such assets as consumers and the labor force but also public infrastructure and the environment. Businesses rely on local government plans to ensure these resources will be available. Lastly, real estate investors study local government regulations to make financial plans and accurately evaluate investment opportunities. For investments in real estate to have low risk, local governments need to protect and improve the quality of a community over time.

Land values reflect how desirable a community is in many ways. Regulating land use and protecting property rights are not conflicting goals. Rather, local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights. A local government's process for regulating land greatly impacts real estate markets and property rights.

Transparency, predictability, and reliability are three (3) strategies for implementing land use regulations in a way that benefits the public and respects property rights.

1. *Transparency* means people can see and participate in processes for developing rules.
2. *Predictability* means a local government follows rules that are clear and unambiguous. Real estate investors should be able to read rules and know whether local government will permit a development proposal. Residents should be able to read rules and then know what kind of development will occur in their community.
3. *Reliability* means a local government follows through on its commitments. Cities and counties should make realistic plans and should follow them. And local governments should only change their plans after thorough consideration leads to strong support. When a government is reliable, people can make long-term investments in the community—one key to a successful local economy.

GOALS, OBJECTIVES, AND POLICIES

GOAL 1

**THE TOWN OF PALM BEACH SHALL RESPECT JUDICIALLY
ACKNOWLEDGED AND CONSTITUTIONALLY PROTECTED PRIVATE
PROPERTY RIGHTS IN ITS LOCAL DECISION-MAKING PROCESSES.**

OBJECTIVE 1

The Town shall ensure that private property rights are considered in local decision-making to the extent that they are protected through the legal system and the law and order of the government.

POLICY 1.1

The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

POLICY 1.2

The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

POLICY 1.3

The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

POLICY 1.4

The right of a property owner to dispose of his or her property through sale or gift.

October 14, 2022

The Honorable Danielle H. Moore
Mayor, Town of Palm Beach
360 South County Road
Post Office Box 2029
Palm Beach, Florida 33480

Dear Mayor Moore:

The Department of Economic Opportunity ("Department") has reviewed the Town of Palm Beach proposed comprehensive plan amendment (Amendment No. 22-01ESR), received on September 15, 2022, pursuant to the expedited state review process in Section 163.3184(2)(3), Florida Statutes (F.S.). We have identified no comment related to adverse impacts to important state resources and facilities within the Department's authorized scope of review.

We are, however, providing a technical assistance comment consistent with Section 163.3168(3), F.S. The technical assistance comment will not form the basis of a challenge. It is offered either as a suggestion which can strengthen the Town's comprehensive plan in order to foster a vibrant, healthy community or is technical in nature and designed to ensure consistency with the Community Planning Act in Chapter 163, Part II, F.S. The technical assistance comment is:

The local government has proposed its property rights element with language that mirrors the statement of rights provided by Section 163.3177(6)(i)1., F.S. However, the proposed policies do not constitute complete sentences. Prior to adoption, the Town is encouraged to revise the policies to reflect that "the Town shall consider in its local decision-making the right of..."

Please be advised the property rights element adopted by the local government may not conflict with the statement of rights provided under Section 163.3177(6)(i)1., F.S. To ensure adopted language does not conflict, the Department recommends that the local government consult with its legal department.

The Town should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the Town is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the Town. **If the Town receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**

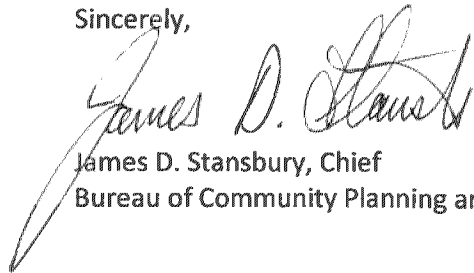
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
(850) 245.7105 | www.FloridaJobs.org | [www.Twitter.com/FLDEO](https://twitter.com/FLDEO) | www.Facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the Town that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

If you have any questions concerning this review, please contact Yazmin Valdez, Planning Analyst, by telephone at (850) 717-8524 or by email at Yazmin.Valdez@DEO.MyFlorida.com.

Sincerely,



James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/yv

Enclosure(s): Procedures for Adoption

cc: Wayne Bergman, Director of Planning, Zoning, and Building, Town of Palm Beach
Thomas Lanahan, Executive Director, Treasure Coast Regional Planning Council

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS
FOR EXPEDITED STATE REVIEW

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit electronically using the Department's electronic amendment submittal portal "**Comprehensive Plan and Amendment Upload**" (<https://fldeo.my.salesforce-sites.com/cp/>) or submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.

TREASURE COAST REGIONAL PLANNING COUNCIL

M E M O R A N D U M

To: Town of Palm Beach

From: Staff

Date: October 12, 2022

Subject: Local Government Comprehensive Plan Review
Draft Amendment to the Town of Palm Beach Comprehensive Plan
Amendment No. 21-01ESR

Introduction

The Community Planning Act, Chapter 163, *Florida Statutes*, authorizes the regional planning council to review local government comprehensive plan amendments prior to their adoption. The regional planning council review and comments are limited to adverse effects on regional resources or facilities identified in the Strategic Regional Policy Plan (SRPP) and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region. Council must provide any comments to the local government within 30 days of the receipt of the proposed amendments and must also send a copy of any comments to the state land planning agency.

The amendment package from the Town of Palm Beach was received on September 15, 2022 and contains an amendment to the comprehensive plan to add a new Property Rights Element. This report includes a summary of the proposed amendment and Council comments.

Summary of Proposed Amendment

Effective July 1, 2021, under Chapter 163, Florida Statutes, each local government is required to adopt and include a Property Rights Element in its comprehensive plan. Inclusion of the property rights element is intended to protect private property rights and to ensure they are considered in local decision-making. This new element must be adopted by the earlier of the date of the local government's adoption of its next proposed plan amendment, or the date of the next scheduled evaluation and appraisal report. Local governments can adopt their own Property Rights Element, or use the following statement of rights:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

The proposed amendment adopts the new Property Rights Element which is included as Exhibit 2.

Regional Impacts

No adverse effects on regional resources or facilities have been identified.

Extrajurisdictional Impacts

The proposed amendments were circulated by the Palm Beach County Intergovernmental Plan Amendment Review Committee Clearinghouse Coordinator on August 9, 2022. No extrajurisdictional impacts have been identified.

Conclusion

No adverse effects on regional resources or facilities and no extrajurisdictional impacts have been identified.

Council Action – October 12, 2022

The next scheduled Council meeting is December 9, 2022. In order to avoid unnecessary delay and meet the 30-day agency review deadline, Council's Executive Director, Thomas J. Lanahan, approves this report and authorizes its transmittal to the Town of Palm Beach and the Florida Department of Economic Opportunity.

Attachments

List of Exhibits

Exhibit

- 1 General Location Map
- 2 Proposed New Property Rights Element

Exhibit 1
General Location Map

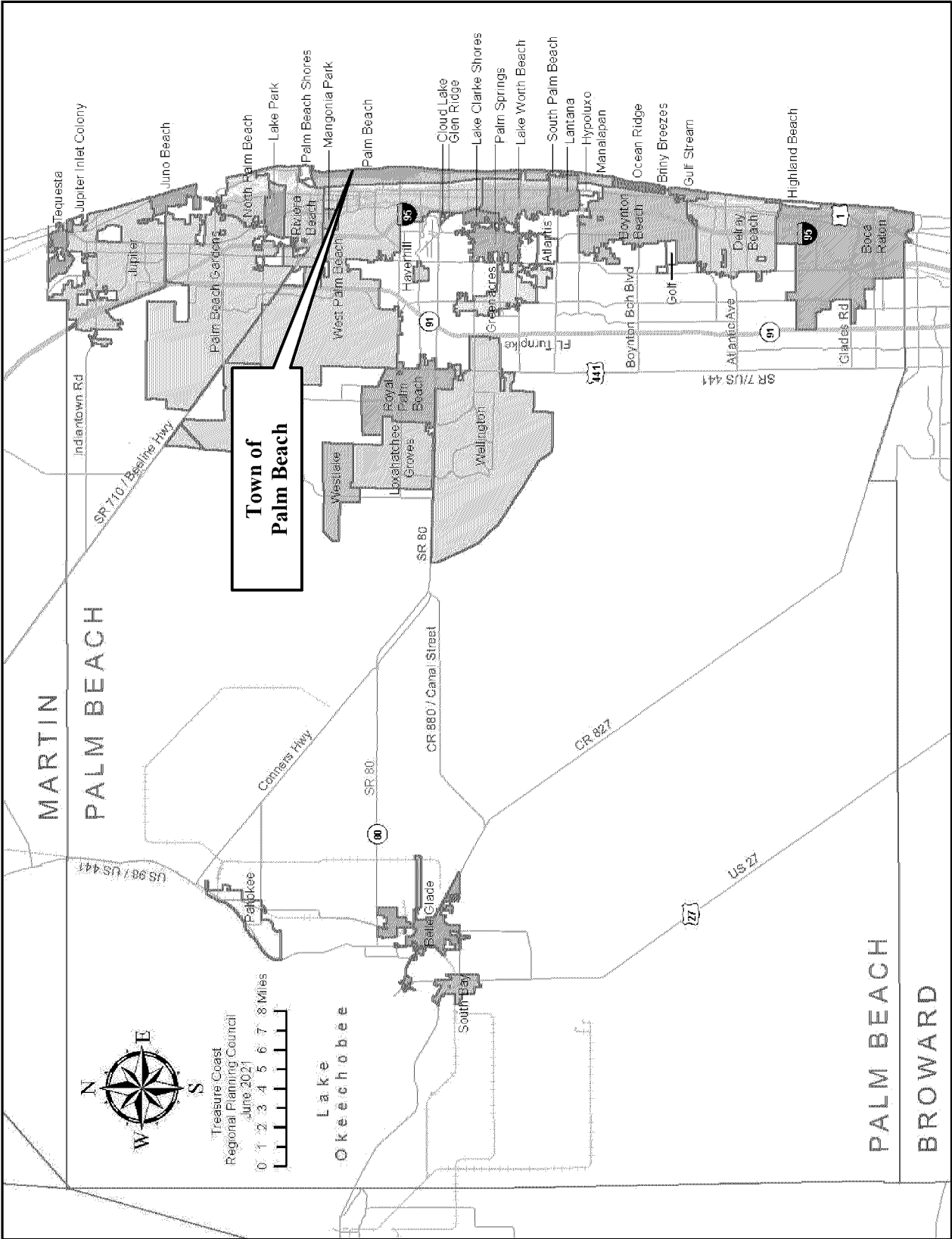


Exhibit 2

Proposed New Property Rights Element

PROPERTY RIGHTS ELEMENT

INTRODUCTION

The purpose of the Property Rights Element is to consider property rights in local government decision making and respect the rights of citizens to participate in decisions that affect their lives and property in accordance with the requirements of the Florida Statutes.

Local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights. However, a local government's process for regulating land greatly impacts real estate markets and property rights. Transparency, predictability, and reliability are three (3) strategies for implementing land use policies in a way that benefits the public and respects property rights. The Private Property Rights Element provides a policy framework in support of these strategies.

EXECUTIVE SUMMARY

Effective June 29, 2021, the State of Florida amended the requirements for comprehensive plan elements in ss. 163.3177(6), Florida Statutes, (F.S.), to require a Property Rights Element. The statutory requirement stipulated that the Property Rights Element must be adopted by the earlier of the adoption of the next proposed plan amendment initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of the Comprehensive Plan pursuant to s. 163.3191, F.S. In accordance with the legislative intent expressed in ss. 163.3161(10), F.S. and 187.101(3), F.S., governmental entities must respect judicially acknowledged and constitutionally protected private property rights. As such, the Property Rights Element is intended to ensure that private property rights are considered in local decision-making.

Citizens rely on local government plans: In general, residents choose to live in a community based upon factors that local governments provide, such as the quality of housing, the condition of streets and parks, the proximity to daily needs, and community safety. Businesses locate in a community for its resources, for such assets as consumers and the labor force but also public infrastructure and the environment. Businesses rely on local government plans to ensure these resources will be available. Lastly, real estate investors study local government regulations to make financial plans and accurately evaluate investment opportunities. For investments in real estate to have low risk, local governments need to protect and improve the quality of a community over time.

Land values reflect how desirable a community is in many ways. Regulating land use and protecting property rights are not conflicting goals. Rather, local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights. A local government's process for regulating land greatly impacts real estate markets and property rights.

Transparency, predictability, and reliability are three (3) strategies for implementing land use regulations in a way that benefits the public and respects property rights.

1. *Transparency* means people can see and participate in processes for developing rules.
2. *Predictability* means a local government follows rules that are clear and unambiguous. Real estate investors should be able to read rules and know whether local government will permit a development proposal. Residents should be able to read rules and then know what kind of development will occur in their community.
3. *Reliability* means a local government follows through on its commitments. Cities and counties should make realistic plans and should follow them. And local governments should only change their plans after thorough consideration leads to strong support. When a government is reliable, people can make long-term investments in the community—one key to a successful local economy.

GOALS, OBJECTIVES, AND POLICIES

GOAL 1

**THE TOWN OF PALM BEACH SHALL RESPECT JUDICIALLY
ACKNOWLEDGED AND CONSTITUTIONALLY PROTECTED PRIVATE
PROPERTY RIGHTS IN ITS LOCAL DECISION-MAKING PROCESSES.**

OBJECTIVE 1

The Town shall ensure that private property rights are considered in local decision-making to the extent that they are protected through the legal system and the law and order of the government.

POLICY 1.1

The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

POLICY 1.2

The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

POLICY 1.3

The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

POLICY 1.4

The right of a property owner to dispose of his or her property through sale or gift.

From: [Wayne Bergman](#)
To: [Jennifer Hofmeister-Drew](#)
Subject: Fwd: Palm Beach Town 22-01ESR Proposed
Date: Friday, October 14, 2022 6:41:41 PM
Attachments: [Outlook-cid_image0.png](#)

Another one.

Wayne Bergman
Sent from my iPhone

Begin forwarded message:

From: Plan_Review <Plan.Review@dep.state.fl.us>
Date: October 14, 2022 at 6:02:38 PM EDT
To: Wayne Bergman <wbergman@townofpalmbeach.com>, dcpxexternalagencycomments@deo.myflorida.com
Cc: Plan_Review <Plan.Review@dep.state.fl.us>
Subject: Palm Beach Town 22-01ESR Proposed

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

To: Wayne Bergman, MCP, LEED AP, Director of Planning, Zoning, & Building

Re: Palm Beach Town 22-01ESR – Expedited State Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to Plan.Review@FloridaDEP.gov. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.

From: [Wayne Bergman](#)
To: [Jennifer Hofmeister-Drew](#)
Cc: [James Murphy](#)
Subject: Fwd: Town of Palm Beach 22-1ESR - FDOT District Four Review
Date: Thursday, October 13, 2022 10:51:24 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

FYI

Wayne Bergman
Sent from my iPhone

Begin forwarded message:

From: "Hymowitz, Larry" <Larry.Hymowitz@dot.state.fl.us>
Date: October 13, 2022 at 10:24:57 AM EDT
To: DCPexternalagencycomments
<DCPexternalagencycomments@deo.myflorida.com>, Wayne Bergman
<wbergman@townofpalmbeach.com>
Cc: "Stroh, Justin" <Justin.Stroh@dot.state.fl.us>, "Fasiska, Christine"
<Christine.Fasiska@dot.state.fl.us>
Subject: Town of Palm Beach 22-1ESR - FDOT District Four Review

*****Note: This email was sent from a source external to the Town of Palm Beach.
Links or attachments should not be accessed unless expected from a trusted source.
Additionally, all requests for information or changes to Town records should be
verified for authenticity.*****

I am writing to advise you that the Department will not be issuing formal comments for the proposed Town of Palm Beach comprehensive plan amendment with DEO reference number 22-1ESR relating to the Property Rights Element.

The Department requests a digital copy of all adopted comprehensive plan amendment materials, including graphic and textual materials and support documents.

Thank you.



Larry Hymowitz

Planning Specialist, Policy and Mobility Planning Section

Planning & Environmental Management - FDOT District Four

p: (954) 777-4663 f: (954) 677-7892

a: 3400 W. Commercial Boulevard, Ft. Lauderdale, FL 33309

e: larry.hymowitz@dot.state.fl.us w: www.dot.state.fl.us



Together our actions have the power to save lives!





NOTICE OF PUBLIC HEARING NOTICE OF THE SCHEDULED ADOPTION OF COMPREHENSIVE PLAN AMENDMENT TOWN OF PALM BEACH, FLORIDA

The Town Council of the Town of Palm Beach, Florida will review and consider the adoption of a new Comprehensive Plan Property Rights Element.

The Town Council will hold the second and final public hearing regarding the adoption of the Comprehensive Plan Amendment. The Ordinance Number and Ordinance Title are:

ORDINANCE NO. 015-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN OF PALM BEACH COMPREHENSIVE PLAN BY CREATING A PROPERTY RIGHTS ELEMENT IN ORDER TO MEET UPDATED STATUTORY REQUIREMENTS; MAINTAINING INTERNAL CONSISTENCY WITHIN THE COMPREHENSIVE PLAN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

The public hearing is scheduled for November 9, 2022, beginning at 9:30 a.m., or as soon thereafter at the Town of Palm Beach Town Chambers located at 360 South County Road, Palm Beach, FL 33480. To listen to the meeting audio, please go to the Town's website (www.townofpalmbeach.com), go to the blue tool bar and click on Meeting Audio, and then click on the meeting instructions to join the November 9, 2022, Local Planning Agency and Town Council hearings.

All interested persons are invited to attend and be heard. Written comments may be filed with the Town of Palm Beach for consideration. In accordance with the American with Disabilities Act, a person with disabilities needing any special accommodations to participate in the Town public meetings should contact the Clerk's office at Town Hall at (561) 838-5416.

General Information: Information on the above items is available at the Town of Palm Beach Town Hall, Planning, and Zoning & Building Department, located on the first floor of Town Hall. For further information, call (561) 227-6406 or email: jhofmeister@townofpalmbeach.com

Pat Gayle-Gordon, Acting Town Clerk
Publish: October 9, 2022