



TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

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

AGENDA

SEPTEMBER 14, 2016

9:45 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

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. RECOGNITIONS

IV. PRESENTATIONS

A. Palm House Presentation - Cary Glickstein
John S. Page, Director of Planning, Zoning and Building

V. COMMENTS OF MAYOR GAIL L. CONIGLIO

VI. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VIII. APPROVAL OF AGENDA

IX. RESOLUTIONS

- A. **RESOLUTION NO. 182-2016** A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For 801 South County Road, Hereinafter Described And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V of The Code of Ordinances of The Town of Palm Beach, Relating To Landmarks Preservation And Titled "Tax Exemptions."
John S. Page, Director of Planning, Zoning and Building

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X. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeal (A-043-2016)
Landscape/Hardscape
135 Seagate Road
John S. Page, Director of Planning, Zoning and Building

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B. Time Extensions and Waivers

1. Extension of Time Schedule for Completion of Construction per Town Code
476 South Ocean Boulevard
John S. Page, Director of Planning, Zoning and Building
2. Construction Hours Work Extension: 2560 South Ocean Boulevard
Infinity Roofing and Sheet Metal
John S. Page, Director of Planning, Zoning and Building
3. Request for Extended Working Hours per Town Code Chapter 42, Section 42-199
50 Cocoanut Row, Suite S-100 (Royal Poinciana Plaza)
John S. Page, Director of Planning, Zoning and Building

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C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **SPECIAL EXCEPTION #17-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Terry R. Taylor; relative to property commonly known as **780 S. Ocean Blvd.**, described as lengthy legal description on file; located in the B-A Zoning District. The applicant is requesting a Special Exception with Site Plan Review to modify an existing 500 sq. ft. beach cabana with a 500 sq. ft. addition (1,000 sq. ft. total) in the Beach Area Zoning District. The following Variances are being requested in order to expand and modify the existing beach cabana: 1) to allow a front yard setback of 22.5 feet in lieu of the 35 ft minimum setback required; 2) to allow a 16.25 ft roof height in lieu of 16 ft maximum allowed, 3) to retain the existing 43 inch wall in lieu of a wall at the

required height of 30 inches in the beach vista area. The vista is required to be 75% of the lot width in this case. [Attorney: Peter S. Broberg, Esq.]

[Landmark Commission Recommendation - Implementation of the proposed variances will not cause negative architectural impact to the subject landmark property. Carried 7-0]

Deferred from the June 15, 2016, and July 13, 2016, Town Council Meetings

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

- b. **VARIANCE #12-2016** The application of Mitchell and Victoria Evans; relative to property commonly known as **168 East Inlet Dr.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to add a 1,595 square foot second story addition onto the existing one story residence. The proposed addition will not require the demolition of more than 50% cubic footage of the existing house. The following variances are being requested: 1) lot coverage of 37.8% in lieu of the 30% maximum allowed for a two story structure.; 2) cubic content ratio ("CCR") of 4.92 in lieu of the 3.21 existing and 3.99 maximum allowed. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Deferred the project to its October 26, 2016, meeting. Carried 7-0]

Deferred from the July 13, 2016, Town Council Meeting.

Request for Withdrawal Per Letter Dated September 1, 2016, from Maura A. Ziska.

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

- c. **SPECIAL EXCEPTION #20-2016 WITH SITE PLAN REVIEW AND VARIANCE** The application of SKIK, LLC – Zvenka V. Kleinfeld, Manager; relative to property commonly known as **232 Colonial Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting to allow 1) the construction of a 2,845.5 square foot two-story, single family residence on a non-conforming lot which is 75 feet in width in lieu of the 100 foot minimum required; 82 feet in depth in lieu of the 100 foot minimum required and 6,150 square feet in area in lieu of the 10,000 square foot minimum required; 2) To have a front yard setback for one story portion of the residence to be 23 feet in lieu of the 25 foot minimum setback required. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Deferred the project to the September 28, 2016 meeting. Carried 6-1.]

Deferred from the August 16, 2016, Town Council Meeting.

Request for Deferral to the October 13, 2016, Town Council Meeting Per Letter Dated August 26, 2016, from Zvenka V. Kleinfeld.

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

2. New Business

- a. **SITE PLAN REVIEW #09-2016** The application of 109 RPW LLC (Paul T. Jones); relative to property commonly known as **109 Royal Palm Way**, described as lengthy legal description on file; located in the C-B Zoning District. The applicant is requesting a site plan review to install a 150 KW generator in the southwest corner of the sub-basement/parking garage. No parking spaces will be lost due to the installation of the generator. [Attorney: Maura Ziska, Esq.]

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

- b. **SPECIAL EXCEPTION #22-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Harvey E. Oyer, Esq., on behalf of the Society of the Four Arts, Inc.; relative to property commonly known as **3 Four Arts Plaza**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval to rehabilitate the Gioconda and Joseph King Library ("King Library"). The design objectives of the King Library rehabilitation are as follows: maintain the public entrance facing Four Arts Plaza, maintain the first floor of the original Fatio Building as a library reading room, provide a Rare Documents Room that has proper ventilation and humidity and security, provide a meeting space on the second floor of the original Fatio Building, restore the exposed wood roof trusses on the second floor of the original Fatio Building, provide staff work stations and work space, provide accessible restroom facilities in accordance with ADA, and provide second means of egress from second floor. The following variances are requested for the new addition to the King library: 1) To reduce the required front yard setback for the King Library to 12.0 feet in lieu of 35 feet minimum required. A variance of 23.0 feet. 2) To increase the required angle of vision to 154 degrees for the King Library in lieu of 116 degrees maximum as required. A variance of 38 degrees. 3) To increase the required building height for the addition to the King Library to be 31.0 feet in lieu of 22 feet maximum as required. A variance of 9.0 feet. 4) To allow an overall building height for the addition to the King Library to be 35.50 feet in lieu of 30 feet maximum as required. A variance of 5.50 feet. 5) To have the building height plane for the King Library to be 11.0 feet in lieu of 61.5 feet maximum as required. A variance of 50.5 feet. 6) To eliminate the requirement to provide one (1) off-street parking space required for the 649 square foot addition to the King Library. [Attorney: Harvey E. Oyer, Esq.]

[Landmarks Commission Recommendation: Implementation of the proposed special exception, site plan and variances will not cause negative architectural impacts to the subject landmark property with the exception of the variance for the front staircase. Carried 6-1.]

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

- c. **SPECIAL EXCEPTION #23-2016** The application of PNC Bank

– successor by merger with Fidelity Federal Savings & Loan Association; relative to property commonly known as **240 Sunset Ave. & 245 Royal Poinciana Way**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is seeking to eliminate a condition that requires the Applicant to demonstrate on an annual basis not less than 50 percent (50%) of its customers are “town persons.” Each year since 2009, Applicant has provided a confirmation letter from a certified public accounting firm. Each year, that firm has reviewed Applicant’s customer base at this location to satisfy this criteria. Since 2009, that firm has provided the Town with confirmation that Applicant’s customer base has been overwhelmingly town serving and that customer base does not change significantly from year to year. [Attorney: Francis X. J. Lynch, Esq.]

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

d. **SPECIAL EXCEPTION #24-2016 WITH SITE PLAN REVIEW**

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The application of Brian Vertesch, SMI Landscape Architecture, Agent for the Preservation Foundation of Palm Beach; relative to property commonly known as **100 Bradley Place**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant requests to modify Bradley Park public open space as follows: 1) Removal and relocation of existing fountain centerpiece, located at south west area of Bradley Park. Demolition of existing fountain basin; 2) Construction of plaza and fountain basin adjacent to south side of existing structure at north/central property, often referred to as the “Tea House”; 3) Demolition of existing one story restroom and kitchen located directly east of the Tea House and the addition of a new public restroom; 4) Removal of asphalt parking adjacent to north side of existing bathroom; 5) Removal and partial replacement of sidewalks on north property line, Sunset Ave, and east property line, Bradley Place; 6) Addition of small overlook structure to the west of the existing pump house, adjacent to the proposed lake trail; 7) Addition of Town Lake Trail extension; 8) Addition of new park entry at north east corner of park; 9) Relocation of existing Bradley Park monument; 10) Addition of stabilized grass parking adjacent to S-2 pump station; 11) Addition of site furnishings including benches, bike rack, and low train sculpture; 12) Addition of sculpture pad to south of the Tea House; 13) Addition of 30” high decorative see through fence around perimeter of park at Sunset, Bradley Place, and Royal Poinciana Way. There will be openings into park with no gates; 14) Addition of stabilized decomposed granite pathways within the park; 15) Addition of landscape lighting; 16) Landscape improvements as graphically described on the plans and specifications submitted. [Attorney: John C. Randolph, Esq.]

[Landmarks Commission Recommendation: Implementation of the proposed special exception and site plan review will not cause negative architectural impacts to the subject landmark property

with the exception of the fence around the park. Carried 7-0]
John S. Page, Director of Planning, Zoning & Building

XI. ORDINANCES

A. First Reading

1. **ORDINANCE NO. 16-2016** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning As Follows: Section 134-893, Lot, Yard And Area Requirements By Creating Alternative Zoning Regulations That Could Be Used For Seaview Avenue, Seaspray Avenue And Seabreeze Avenue In The R-B Zoning District; Sections 134-1113, 134-1163, 134-1213 And 134-1308 By Exempting Sub-Basements From The Maximum Building Length Requirements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1611 By Creating Separate Zoning Regulations For Lot Coverage, Setbacks And Landscape Open Space Requirements For Sub-Basements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1516 By Providing Landscape Screening Regulation For Boxes Housing Essential Services; And Section 134-2327 By Eliminating A Specific Fee For Visitor/Service Permits; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

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

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XII. ANY OTHER MATTERS

- A. Planning and Zoning Commission Recommendations: Record and Report Exterior Lighting and Reasonable Accommodations

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

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XIII. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to

ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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

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

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 182-2016 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For 801 South County Road, Hereinafter Described And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V of The Code of Ordinances of The Town of Palm Beach, Relating To Landmarks Preservation And Titled “Tax Exemptions.”

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated September 1, 2016, from John S. Page, Director of Planning Zoning and Building**
- ▣ **Resolution No. 182-2016**
- ▣ **Aerial View of 801 S. County Road**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Tax Abatement: 801 South County Road
Resolution No: 182-2016

Date: September 1, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 182-2016, granting Tax Abatement to the property at 801 South County Road.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission has approved all changes to this property using the Secretary of Interior (Federal) Standards for Rehabilitation as required in the Tax Abatement program.

GENERAL INFORMATION

1. Project Summary: The above-mentioned applicant has applied for participation in the Town's Tax Abatement Program.

801 South County Road was designated as a Landmark of the Town of Palm Beach on June 11, 1990.

The Landmark Preservation Commission (LPC) approved the Tax Abatement Application in 2011. The improvements to the property include the restoration and renovation of the residence, installation of hurricane impact rated doors and windows, and the construction of an accessory garage structure. The completed work has been reviewed and found to be in compliance with the LPC approval.

2. Town Council approval is required to grant this abatement and forward same to Palm Beach County.

3. A written application for ad valorem tax exemption has been presented to Town staff as prescribed by Section 54-199 of Town Code. As additionally required by Section 54-200, the property owner must enter into a covenant or agreement with the Town, the form of which is established by the Department of State, requiring that the character of the property and the qualifying improvements be maintained during the exemption period. The covenant must be entered into prior to the submittal to the County and Property Appraiser's Office.

FUNDING/FISCAL IMPACT

Action will abate ad valorem Town of Palm Beach property tax increase (new incremental value only) for a period of ten years. Full value assessment will be applicable after the ten year program.

The estimated cost of the improvement as provided by the property owner is \$12,000,000. The Palm Beach County Property Appraiser will determine the value of the tax abatement using its own methodology.

TOWN ATTORNEY REVIEW

Resolution No. 182-2016 has been approved by the Town Attorney for legal form and sufficiency.

Attachments

cc: John Lindgren, AICP, Planning Administrator
Emily Stillings, AICP, Murphy Stillings, LLC

RESOLUTION NO. 182-2016

801 South County Road

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR 801 SOUTH COUNTY ROAD, HEREINAFTER DESCRIBED AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Chapter 54, Article V, Code of Ordinances of the Town of Palm Beach, the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant of agreement with the Town for the ten year term for which the exemption is granted.

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

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed as a Landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Chapter 54, Article V.

Section 2. The landmark is owned by Palmieral Revocable Trust and is located at 801 South County Road, Palm Beach, Florida. The property is legally described as follows:

Tax Folio Number: 50-43-43-35-00-001-0040

Legal Description: 35-43-43, S 150 FT OF N 491.52FT, E 206 FT OF S 150 FT OF N 641.52 FT OF GOV LT 1 LYG E OF SOUTH COUNTY RD & S 300 FT OF N 641.52 OF GOV LT 1 LYG E OF OCEAN BLVD

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

Section 4. A copy of this Resolution with completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Chapter 54 of the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the Town of Palm Beach assembled this ____ day of _____ 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, President Pro-Tem

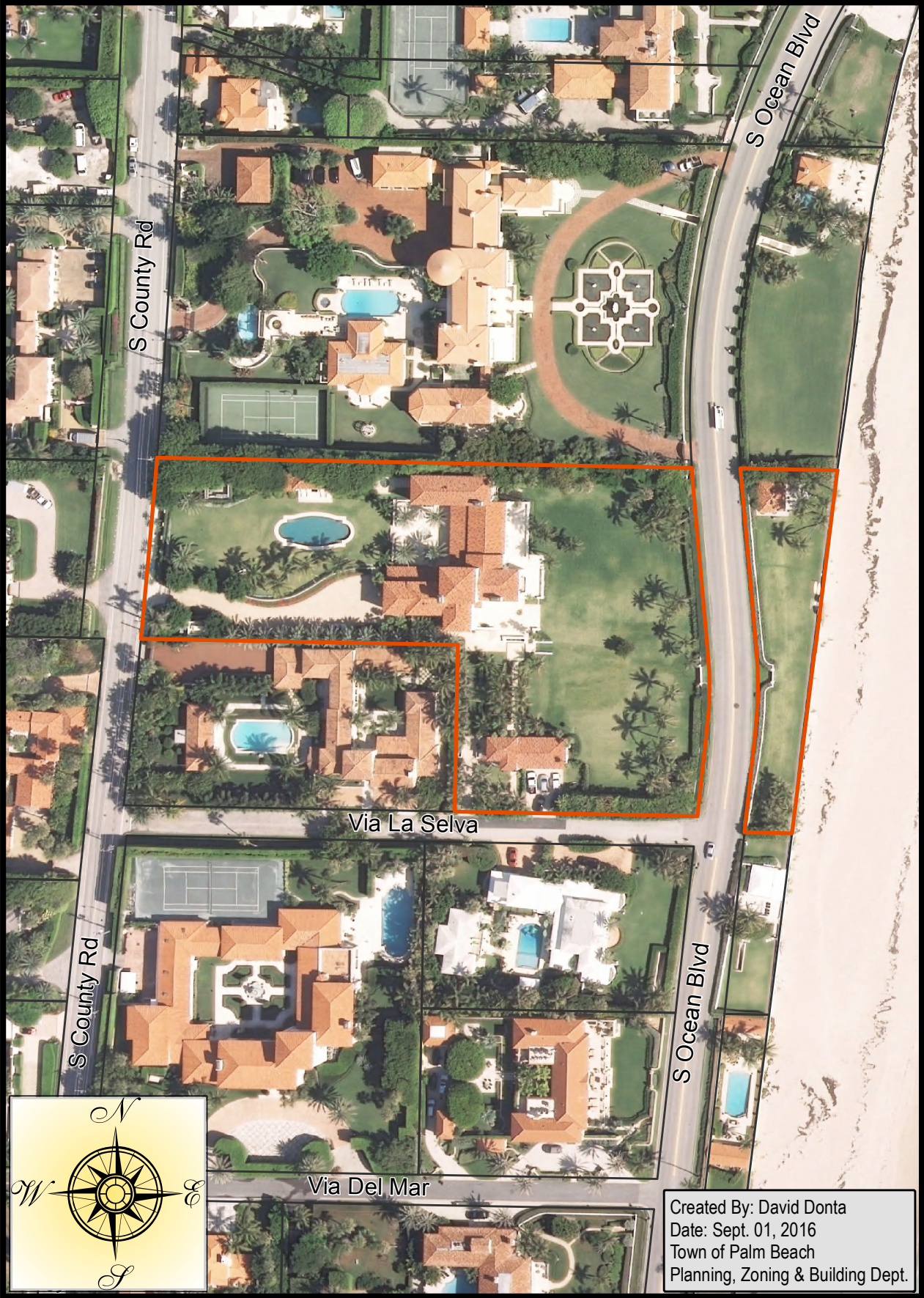
Bobbie Lindsay, Town Council Member

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret Zeidman, Town Council Member

801 S. County Rd.



Created By: David Donta
Date: Sept. 01, 2016
Town of Palm Beach
Planning, Zoning & Building Dept.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Appeals

Agenda Title

ARCOM Appeal (A-043-2016)

Landscape/Hardscape

135 Seagate Road

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated August 30, 2016, From John S. Page, Director of Planning, Zoning and Building**
- ▣ **Letter Dated August 29, 2016, from Khooshe Aiken**
- ▣ **Khooshe Aiken's Response to ARCOM Minutes of August, 24, 2016**
- ▣ **135 Seagate Road Landscape Rendering**
- ▣ **ARCOM Minutes Excerpt from August 24, 2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: ARCOM Appeal (A-043-2016)
Landscape/Hardscape
135 Seagate Road

Date: August 30, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider and rule upon the appeal of Khooshe Aiken (145 Seagate Road), objecting to ARCOM's decision of August 24, 2016, approving augmented landscaping at 135 Seagate Road (owners Nicholas & Caroline Rafferty). Please note that the appeal is specific to the common side lot line separating these two properties.

GENERAL INFORMATION

Owners Nicholas & Caroline Rafferty, 135 Seagate Road, made "original" application to ARCOM on May 27, 2015 for "Addition with style change to existing two-story home. Final landscape and hardscape" (B-055-2015). That application was approved, and owners proceeded with construction. The adjacent owner, Khooshe Aiken, expressed her concern to Town staff in the month of June 2016 that the landscaping buffer between the two properties was insufficient. At about the same time, the Rafferty's sought administrative approval for some landscaping revisions, including additional landscaping in the buffer area adjacent to the shared property line with Ms. Aiken. Given Ms. Aiken's concerns, staff required the landscape revisions to go before ARCOM for their review and approval, which led the Rafferty's to submit an application to ARCOM on August 24, 2016, for landscaping intended to provide additional screening between the two properties. For the record, it should be noted that there is no public record of an objection from Ms. Aiken for the "original" ARCOM approval.

Ms. Aiken was unable to personally attend the August 24, 2016 ARCOM meeting, but did engage Attorney Peter Broberg and landscape architect Nick Mihelich (Urban Design Kilday Studios) to represent her. Mr. Broberg and Mr. Mihelich attended the ARCOM meeting and advocated for Ms. Aiken's position. Upon hearing testimony from the Rafferty's professional (landscape architect Mario Nievera from Nievera Williams Design) at the ARCOM meeting of August 24, 2016, the Commission approved the application at hand. That approval authorized the revised landscaping presented with conditions that the 8 foot high Clusia hedge be grown and

maintained at a height of 12 – 14 feet, and that three additional 12 – 14 foot Foxtail Palms be added as shown on the elevation presented at the meeting (see attached). Further, if agreed to by both parties, two additional, taller palms may be placed on the neighbors (Aiken) property. The applicant, ARCOM, and all professionals present were intent on finding and approving additional landscaping that would be found satisfactory to Ms. Aiken..

The Planning, Zoning & Building Department received the attached Appeal letter from Khooshe Aiken on August 29, 2016. She objects to the additional landscaping as approved by ARCOM on August 24, citing several sections of Town Code (see attached appeal letter). Technically, the appeal satisfies Code requirements. It was submitted within 10 days of the ARCOM decision, and the letter sets forth the alleged inconsistency or nonconformity with ARCOM criteria outlined in the Code. Nevertheless, the single page appeal letter (with the required \$320 processing fee) is all that was submitted in support of the appeal. The appeal letter cites specific ARCOM Code criteria as “noncompliant”, and further states that the original applicant misrepresented the original approved ARCOM plans, but there is no further explanation or supporting documentation of any kind.

Staff is of the opinion that the owners at 135 Seagate Road complied with all ARCOM application, processing and hearing requirements, and that no substantive errors or omissions occurred on the behalf of the applicant, ARCOM, or staff.

Attachments

cc: Khooshe Aiken
Nicholas & Caroline Rafferty
Peter Broberg
Nick Mihelich, Urban Design Kilday Studios
John C. Randolph, Town Attorney
ARCOM Members

August 29, 2016

RECEIVED

AUG 29 2016

Town of Palm Beach
PZB Dept

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

Re: ARCOM approval of Project A-043-2016 on 24th August 2016

Dear members of Town Council,

I hereby file an appeal to ARCOM's final decision on Project A-043-2016 regarding the West Landscape Elevation and Plan for the following reasons:

1. Non-compliance of the Code of Ordinances as cited below:
 - a. Code of Ordinances Sec. 18-205.(a)(6)e:
"Appearance of mass from the street or from any perspective visible to the public or adjoining property owners."
 - b. Code of Ordinances Sec. 18-205.(a)(6)g:
"Design features that will avoid the appearance of mass through improper proportions."
 - c. Code of Ordinances Sec. 18-205.(a)(6)h:
"Design elements that protect the privacy of neighboring property."
2. The applicant misrepresented the original ARCOM approved Landscape and Hardscape West Elevation and Plan.

Thank you for your consideration in this matter.

Sincerely,



Khooshe Aiken
145 Seagate Road
Palm Beach, FL 33480
561.315.6901
khooshe@me.com

A-043-2016 Landscape/Hardscape

Address: 135 Seagate Rd.

Applicant: Caroline Rafferty

Architect: Mario Nievera/Nievera Williams Design

Project Description: Final landscape and hardscape plan.

In this meeting, the underlined information was presented inaccurately due to the landscape misrepresentations on ARCOM meetings on 5-27-2015 and 8-24-2016. Please see supporting documentation on the following pages.

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

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Page 2

Mr. Nievera presented the changes to the previously approved landscape plan. Mr. Nievera stated that they are proposing to increase the amount of landscaping on the property lines. He presented renderings of the currently proposed and the previously approved landscaping. Mr. Nievera presented a change to the front gate. Mr. Nievera stated he met with Mrs. Vanneck who suggested to add 3 more palm trees along the west property line. Mr. Nievera would like to use foxtail Palms due to the size of the root ball and to achieve a fullness in the palms to retain the desired coverage.

Peter Broberg, Attorney for neighbor Khooshe Aiken, stated Ms. Aiken's concern for the landscape buffer on the west property line and added her living space is on the east side of her property. Ms. Aiken is asking to have the 3 windows on the addition along with the balcony that faces her property be screened from her view. Mr. Broberg suggested that the client use fishtail palms rather than the foxtail palms.

Mrs. Vanneck stated that Ms. Aiken asked her for 3 foxtail palms to be planted on the west side of the property. She also stated that fishtail palms were not in keeping with the property and was concerned for the owner's children since fishtail palms cause skin irritations.

Mr. Nievera stated he agreed with Mrs. Vanneck and said the space in question was too small for fishtail palms. Mr. Nievera discussed the size of the current foxtails planted and the size of the new proposed foxtails.

Motion made by Mr. Small and seconded by Mr. Garrison to approve the project as presented, to include the 3 additional foxtail palms and that the hedge be maintained at a minimum height of 14-16 feet.

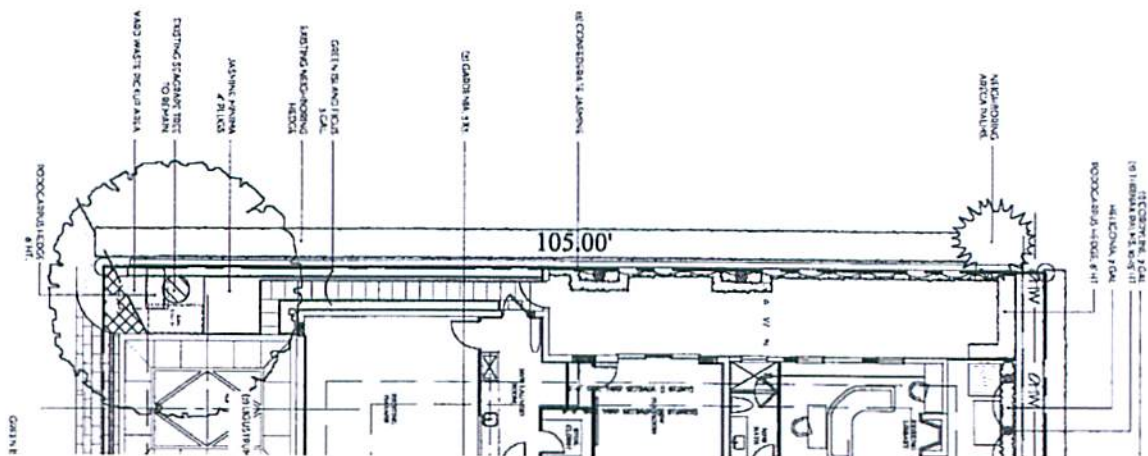
Nick Mihelich, landscape architect from Urban Design Kilday Studios and representing neighbor Khooshe Aiken, suggested that the newly proposed foxtail palms were small and would remain invisible for a long time. He suggested to increase the size of the palms and stagger them to create a dense buffer.

Mrs. Vanneck asked if a taller palm could be used in the center of the location. Mr. Nievera stated the size of the root ball was his concern. He stated if they shaved off too much of the root ball to fit them into the space, they could die.

Mr. Garrison proposed putting the suggested palms on the neighbor's property rather than the owner's, if there were no objection, if space is an issue. Mr. Nievera stated the owner

[illegible]

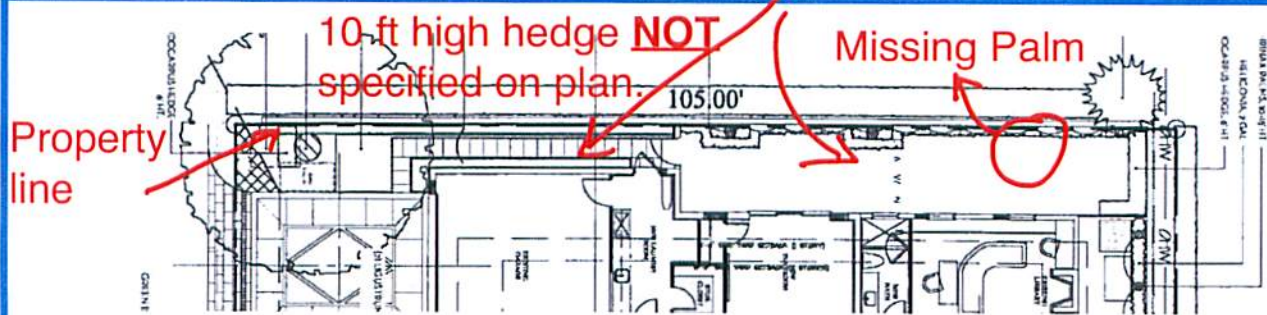
This PLAN was never presented to ARCOM on any date, based on the information that I have requested and given by the P&Z.



Page 2



This is the elevation that was approved by ARCOM on 5-27-2016



This is the west landscape plan that was approved by ARCOM on 5-27-2016

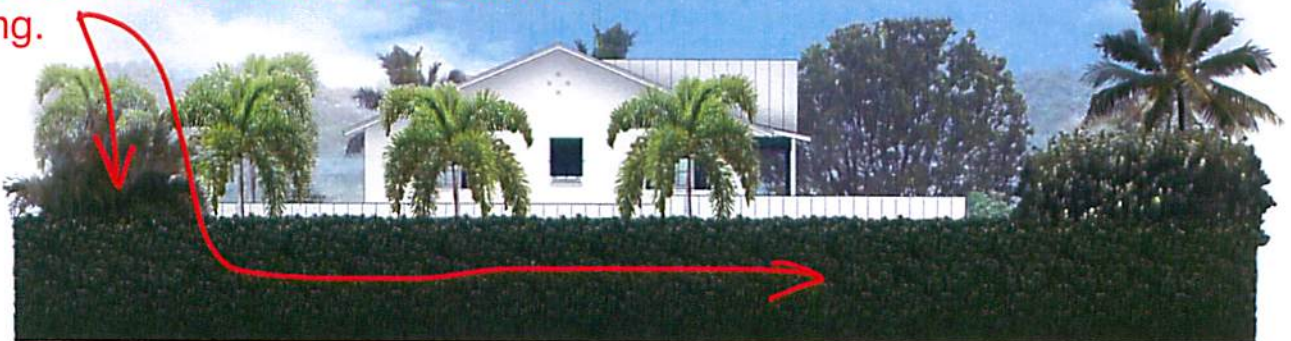
Note: As shown in above in red, there are two major discrepancies between the West Elevation and West Landscape plan approved by ARCOM on 5-27-2015. Further more, during the oral ARCOM presentation on 5-27-2015, Ms. Kaitlin Mitchell from Nievera Williams Design described this landscape buffer on the West side of the property as: *"To the west, the existing hedge will remain along the property line and we will be adding Foxtail Palms for additional screening ..."* (~ 6:11:00 Audio recording) These words neither present the plan, nor the elevation as shown above.



This elevation was presented to ARCOM on 8-24-2016 labeled as:
"WEST ELEVATION PRESENTED TO ARCOM 5-27-2015"

This Elevation was never presented to ARCOM on any date, based on the information that I have requested and given by the P&Z.

The ARCOM approved Palm trees and hedge were removed from the above drawing.



This is the elevation that was approved by ARCOM on 5-27-2016

Note: The 8-24-2016 west boundary proposal included misrepresentations.

In reality, the misrepresented elevation removed the ARCOM approved hedge and some ARCOM approved palms.

The applicant decreased the amount of ARCOM approved landscape material on their misrepresentation.

Page 4

This is NOT the ARCOM approved elevation of 5-27-2015



R-043-2019 2d.
 135 Seagate
 Preserves
 812116
 400096
 MARIANO

MARIO F. NIEVERA
 State of Florida
 Landscape Architect
 No. 13500
 400096

WEST ELEVATION COMPARISON RAFFERTY RESIDENCE

US SEAGATE, PALM BEACH, FL

21 JULY 2016
 20 JUNE 2016
 19 APRIL 2016
 10 MARCH 2016



NIEVERA WILLIAMS
 DESIGN

225 Sunset Avenue
 Suite 150
 Palm Beach, Florida 33480
 P: 561-699-2820
 F: 561-699-2105

NIEVERAWILLIAMS.COM

ARCOM 4-4-03-2006



WEST ELEVATION PRESENTED TO ARCOM 08-27-15

PROPOSED WEST ELEVATION

A-043-2016 Landscape/Hardscape

Address: 135 Seagate Rd.

Applicant: Caroline Rafferty

Architect: Mario Nievera/Nievera Williams Design

Project Description: Final landscape and hardscape plan.

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

Mr. Nievera presented the changes to the previously approved landscape plan. Mr. Nievera stated that they are proposing to increase the amount of landscaping on the property lines. He presented renderings of the currently proposed and the previously approved landscaping. Mr. Nievera presented a change to the front gate. Mr. Nievera stated he met with Mrs. Vanneck who suggested to add 3 more palm trees along the west property line. Mr. Nievera would like to use foxtail Palms due to the size of the root ball and to achieve a fullness in the palms to retain the desired coverage.

Peter Broberg, Attorney for neighbor Khooshe Aiken, stated Ms. Aiken's concern for the landscape buffer on the west property line and added her living space is on the east side of her property. Ms. Aiken is asking to have the 3 windows on the addition along with the balcony that faces her property be screened from her view. Mr. Broberg suggested that the client use fishtail palms rather than the foxtail palms.

Mrs. Vanneck stated that Ms. Aiken asked her for 3 foxtail palms to be planted on the west side of the property. She also stated that fishtail palms were not in keeping with the property and was concerned for the owner's children since fishtail palms cause skin irritations.

Mr. Nievera stated he agreed with Mrs. Vanneck and said the space in question was too small for fishtail palms. Mr. Nievera discussed the size of the current foxtails planted and the size of the new proposed foxtails.

Motion made by Mr. Small and seconded by Mr. Garrison to approve the project as presented, to include the 3 additional foxtail palms and that the hedge be maintained at a minimum height of 14-16 feet.

Nick Mihelich, landscape architect from Urban Design Kilday Studios and representing neighbor Khooshe Aiken, suggested that the newly proposed foxtail palms were small and would remain invisible for a long time. He suggested to increase the size of the palms and stagger them to create a dense buffer.

Mrs. Vanneck asked if a taller palm could be used in the center of the location. Mr. Nievera stated the size of the root ball was his concern. He stated if they shaved off too much of the root ball to fit them into the space, they could die.

Mr. Garrison proposed putting the suggested palms on the neighbor's property rather than the owner's, if there were no objection, if space is an issue. Mr. Nievera stated the owner

would not object to that possibility but they had been working on trying to solve the issue on their side of the property line.

The Commissioners agreed that Mr. Garrison had a good solution if the neighbor is amenable.

Mr. Small asked to amend his motion. **Amended motion made by Mr. Small and seconded by Mr. Garrison to approve the project as presented, to include the hedge be maintained at a minimum height of 12-14 feet and the 3 additional foxtail palms (12-14 ft) placed on the applicants property. Further, if agreed to by both parties, two additional, taller palms may be placed on the neighbor's property.**

Some discussion continued between Mr. Nievera and the Commission.

Motion carried with all in favor.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Time Extensions

Agenda Title

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

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated September 1, 2016, From John S. Page, Director of Planning, Zoning and Building**
- ▣ **Letter Dated July 29, 2016, From M. Timothy Hanlon**
- ▣ **476 South Ocean Boulevard Photograph**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

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

Date: September 1, 2016

STAFF RECOMMENDATION

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

GENERAL INFORMATION

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

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

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

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

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

SPECIAL CIRCUMSTANCES

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

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

Attachments

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

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

340 ROYAL POINCIANA WAY, SUITE 321

POST OFFICE BOX 431

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RAYMOND C. ALLEY (1893-1975)
HAROLD G. MAASS (1923-2006)
DOYLE ROGERS (1928-2016)
KAREN S. MARX (1964-1994)

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

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

July 29, 2016

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

Re: 476 S. Ocean Blvd.

Dear John:

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

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

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

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

If you have any questions, please contact me.

Sincerely,

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

M. Timothy Hanlon

NOTICE AFFIDAVIT

STATE OF FLORIDA
COUNTY OF PALM BEACH, TOWN OF PALM BEACH

BEFORE ME THIS DAY PERSONALLY APPEARED M. Timothy Hanlon WHO BEING DULY SWORN,
DEPOSES AND SAYS THAT:

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in Exhibit A; and
2. The accompanying Property Owners List is, to the best of his/her knowledge, a complete and accurate list of all property owners' mailing addresses and property control numbers dated no more than 90 days prior to the Town Council hearing at which the subject application will be heard, and as recorded in the latest official tax rolls for the subject property and all abutting properties of all contiguous property owned wholly or in part by the owner of the real property described in Exhibit A, if applicable; and
3. A copy of each page of the application plus supporting documentation is included in each envelope submitted for mailing, using the label provided by the Property Appraiser.

FURTHER AFFIANT SAYETH NOT.

The foregoing instrument was acknowledged before me this 29th day of August, 2016, by
Month/Year

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

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

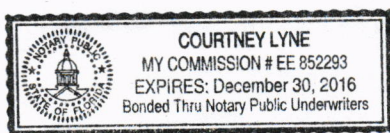
Courtney Lyne
(Signature of Person Taking Acknowledgment)

Courtney Lyne
(Printed Name of Acknowledger)

(Title or Rank)

(Serial Number, if any)

(Notary Seal)



M. Timothy Hanlon, as Trustee
Applicant's Signature

M. Timothy Hanlon
Applicant's Printed Name

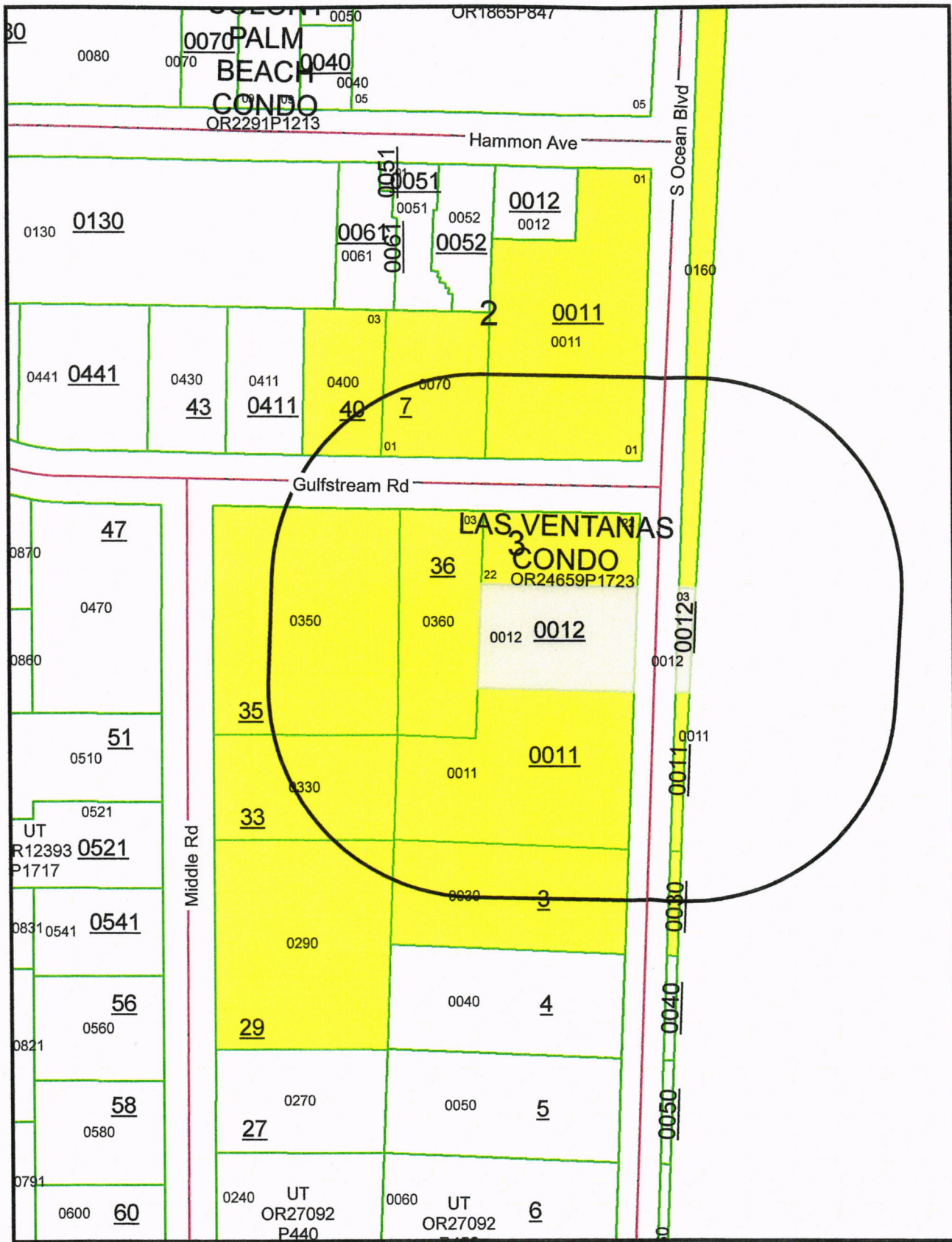
340 Royal Poinciana Way, Suite 321
Street Address

Palm Beach, FL 33480
City, State, Zip Code

(561) 659-1770
Telephone Number

Exhibit "A"
Legal Description

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



Gary R. Nikolits, CFA
Palm Beach County
Property Appraiser

Notes:

Location: Downtown Service Center

Map Scale

Key

 100	 300	 500
 Others	 200	 400

Produced on: 8/1/2016

8/1/2016

Property Appraiser GIS - Property Detail list by parcel control number

Buffer:

504343260300000012 RADTKE JANINA TRUST PO BOX 2558 PALM BEACH FL 33480 2558	Acres Value \$ 6,163,059.00 Taxbl \$ 5,656,595.00 Bldg \$ 0.00 Land \$ 6,163,059.00	0.38	Sales Instr Price \$0.00 Date 6/20/2007 Book 21998 Page 864	DT	MTG PUSE SINGLE FAMILY TaxDist 50417 NAV	SINGER ADDITION N 100 FT OF LT 1 & LAND E BET OCEAN BLVD & ATLANTIC OCEAN
Buffer: 200						
50434326000010160 PALM BEACH TOWN OF PO BOX 2029 PALM BEACH FL 33480 2029	Acres Value \$ 94,500.00 Taxbl \$ 0.00 Bldg \$ 0.00 Land \$ 94,500.00	0.40	Sales Instr Price \$100.00 Date 1/1/1975 1 Book 02480 Page 1095		MTG PUSE MUNICIPAL TaxDist 50417 NAV	26-43-43, TH PT OF GOV LT 1 LYG BET PROLONGATION EASTWARD OF S LI OF LT 1 BLK 1 & S LI OF LT 1 BLK 3 VILLA MARINE TO ATLANTIC OCEAN & TH PT OF GOV LT 1 LYG BET OCEAN BLVD &
Buffer: 200						
50434326010020011 BCD INVESTORS LLP 21136 SW RAINTREE ST DUNNELLON FL 34431 3460	Acres Value \$ 4,629,006.00 Taxbl \$ 4,629,006.00 Bldg \$ 625,498.00 Land \$ 4,003,508.00	0.84	Sales Instr Price \$10.00 Date 9/23/2004 Book 17749 Page 1990	WD	MTG PUSE RESTAURANT TaxDist 50417 NAV	VILLA MARINE BLK 2 E 70 FT OF LT 1 & LTS 2 THRU 4
Buffer: 200						
50434326010020070 BCD INVESTORS LLP 21136 SW RAINTREE ST DUNNELLON FL 34431 3460	Acres Value \$ 1,848,760.00 Taxbl \$ 1,848,760.00 Bldg \$ 0.00 Land \$ 1,848,760.00	0.32	Sales Instr Price \$10.00 Date 9/23/2004 Book 17749 Page 1990	WD	MTG PUSE VACANT TaxDist 50417 NAV	VILLA MARINE LTS 7 & 8 BLK 2
Buffer: 200						
504343260300000011 KAHN PATRICIA A 480 S OCEAN BLVD PALM BEACH FL 33480 4713	Acres Value \$ 8,957,492.00 Taxbl \$ 2,600,542.00 Bldg \$ 11,116.00 Land \$ 8,946,376.00	0.72	Sales Instr Price \$100.00 Date 6/1/1988 1 Book 05793 Page 1027	QC	MTG PUSE SINGLE FAMILY TaxDist 50417 NAV	SINGER ADDITION LT 1 (LESS N 100 FT), LT 2 & LAND LYG E THEREOF BETWEEN OCEAN BLVD & ATLANTIC OCEAN

Property Appraiser GIS - Property Detail list by parcel control number

50434326030000030 LEVY MARK & 500 S OCEAN BLVD PALM BEACH FL 33480 4715	Acres 0.55	Sales Instr	WD	MTG	SINGER ADDITION LT 3 & PAR LYG BET OCEAN BLVD & ATLANTIC OCEAN E OF & ADJ TO
	Value \$	10,871,527.00	Price \$11,000,000.00	PUSE SINGLE FAMILY	
	Taxbl \$	7,896,870.00	Date 7/19/2005	TaxDist 50417	
	Bldg \$	2,720,384.00	Book 18931	NAV	
	Land \$	8,151,143.00	Page 490		
504343260300000290 PRESTON JOHN & 25 MIDDLE RD PALM BEACH FL 33480 4711	Acres 0.78	Sales Instr	DT	MTG	SINGER ADD
	Value \$	10,719,106.00	Price \$7,800,000.00	PUSE SINGLE FAMILY	LTS 29 THRU 32
	Taxbl \$	6,599,970.00	Date 11/26/2003	TaxDist 50417	
	Bldg \$	3,614,596.00	Book 16243	NAV	
	Land \$	7,104,510.00	Page 1683		
504343260300000330 KELLOGG CYNTHIA & 17 MIDDLE RD PALM BEACH FL 33480 4711	Acres 0.40	Sales Instr	WD	MTG	SINGER ADDITION
	Value \$	5,149,451.00	Price \$4,150,000.00	PUSE SINGLE FAMILY	LTS 33 & 34
	Taxbl \$	4,978,358.00	Date 5/27/2011	TaxDist 50417	
	Bldg \$	1,476,551.00	Book 24558	NAV	
	Land \$	3,672,900.00	Page 1917		
504343260300000350 SAUNDERS THOMAS A III & 5 MIDDLE RD PALM BEACH FL 33480 4711	Acres 0.89	Sales Instr	WD	MTG	SINGER ADDITION
	Value \$	11,018,833.00	Price \$12,600,000.00	PUSE SINGLE FAMILY	LTS 35, 37, 38 & 39
	Taxbl \$	11,018,833.00	Date 6/24/2014	TaxDist 50417	
	Bldg \$	2,882,173.00	Book 26892	NAV	
	Land \$	8,136,660.00	Page 1623		
504343260300000360 WOOD ROBERT K 116 GULFSTREAM RD PALM BEACH FL 33480 4708	Acres 0.38	Sales Instr	WD	MTG	SINGER ADD
	Value \$	3,623,380.00	Price \$355,000.00	PUSE SINGLE FAMILY	LT 36
	Taxbl \$	967,785.00	Date 7/1/1986 1	TaxDist 50417	
	Bldg \$	639,752.00	Book 04941	NAV	
	Land \$	2,983,628.00	Page 0051		
504343260300000400 GIANGRANDE JEFFRY E 115 GULFSTREAM RD PALM BEACH FL 33480 4707	Acres 0.25	Sales Instr	QC	MTG	SINGER ADDITION
	Value \$	3,861,871.00	Price \$10.00	PUSE SINGLE FAMILY	LT 40 & E 1/2 OF LT 41
	Taxbl \$	3,326,883.00	Date 5/24/2013	TaxDist 50417	
	Bldg \$	1,616,761.00	Book 26054	NAV	
	Land \$	2,245,110.00	Page 411		

8/1/2016

Property Appraiser GIS - Property Detail list by parcel control number

504343262200000010	LAS VENTANAS CONDO UNIT A	MTG PUSE CONDOMINIUM TaxDist 50417	NAV
ZANA OCEANFRONT LLC			
PO BOX 2558			
PALM BEACH FL 33480 2558			
Acres 1.00	Sales instr	WD	
Value \$ 6,500,000.00	Price \$ 7,650,000.00		
Taxbl \$ 6,500,000.00	Date 7/16/2014		
Bldg \$ 6,500,000.00	Book 26921		
Land \$ 0.00	Page 1213		
504343262200000020	LAS VENTANAS CONDO UNIT B	MTG PUSE CONDOMINIUM TaxDist 50417	NAV
MORASSUTTI CAREN TRUST			
49 ST CLAIR AVENUE WEST			
THE LANE, TORONTO ON			
M4V 1K6 CANADA			
Acres 1.00	Sales instr	WD	
Value \$ 7,250,000.00	Price \$ 8,000,000.00		
Taxbl \$ 6,820,000.00	Date 12/10/2012		
Bldg \$ 7,250,000.00	Book 25651		
Land \$ 0.00	Page 1220		

NOTIFICATION TO PROPERTY OWNER

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

Subject Property Address: 476 S. Ocean Blvd.

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

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

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

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

LAW OFFICES

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

340 ROYAL POINCIANA WAY, SUITE 321

POST OFFICE BOX 431

PALM BEACH, FLORIDA 33480-0431

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ALAN LINDSAY
PAUL B. ERICKSON
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M. TIMOTHY HANLON
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RAYMOND C. ALLEY (1893-1975)
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KAREN S. MARX (1964-1994)

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

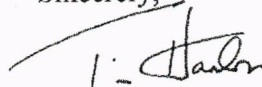
August 31, 2016

Dear Sir or Madam:

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

If you have any questions, please contact me.

Sincerely,



M. Timothy Hanlon

Revised Construction Schedule

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

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

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

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

January 15th – Glass and mirror, wood flooring, hardware complete.

January 31st – Job complete.

Proposed Insurance Mitigation

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



TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Time Extensions

Agenda Title

Construction Hours Work Extension: 2560 South Ocean Boulevard Infinity
Roofing and Sheet Metal

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated August 30, 2016, from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Letter Dated September 1, 2016, From John Mitala**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Request for Extended Working Hours per Town Code Chapter 42, Section 42-199
2560 South Ocean Boulevard

Date: August 30, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider a request for extending the daily working hours beyond the times specified in the Code for a project located at 2560 South Ocean Boulevard (extensive re-roofing project at a condominium building).

GENERAL INFORMATION

The applicant, Infinity Roofing and Sheet Metal Inc., in conjunction with the Condominium Association, is requesting a waiver of the current working hours for construction per Town Code 42-199. Town code limits construction to the hours of 8:00 AM to 6:00 PM Monday through Saturday, May - November. The applicant is requesting to begin construction at 6:00 AM and has submitted a request and explanation to the Building Official. Neighboring Condominium officials within 200' of the project were notified of the extension, including Town Council meeting details. The contractor anticipates that the project will be completed no later than November 30, 2016. A construction completion schedule has provided.

A construction permit, B-15-51203, has been issued and work has begun. The contractor has been advised, however that all work must comply with standard "building hours" unless Town Council authorization is granted for extended hours.

Attachments

JP/wcb

cc: John B. Mitala, Infinity Roofing and Sheet Metal
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Ben Alma, Code Enforcement Unit
2560 Condo Association

Town of Palm Beach
Attention: Mr. William C. Bucklew
360 S. County Road
Palm Beach Florida

September 1, 2016

Regarding: 2560 South Ocean Boulevard Condominium Association Roof
Replacement- **Permit # B-15-51203**

Mr. Bucklew:

Please accept this letter as my request to you for variance to Town Code Section 42-199 limits of times of construction work. I have formatted this letter to the “check list to request an extension of work hours” which I received from the Town of Palm Beach Building Department.

Reason for time extension:

A brief description of the reroof may be helpful in understanding the reason for my request. There are two roof types on this building that we will be replacing;

A tile mansard-We are removing and replacing the tile mansard which surrounds the flat roof.

A low slope roof -Specification requires us to remove two roof systems, install a new steel deck, two layers of insulation, and install three plies of modified. The entire low sloped roof area receives a flood coat of gravel in coal tar pitch.

The reason for this request is that the low-slope roof specification requires us to remove two existing roof systems, install new metal decking, and the specified roof system. These tasks require a minimum of eight hours of dry weather to make the building water tight. The summer climate does not comfortably allow us to work eight hours a day starting at 8:00 a.m.

Our request is to start construction earlier in the day so that we can place the building in water tight prior to the afternoon showers.

It was not 2560 Condominium Associations or our intention to complete the roof during South Florida’s rainy season. This project was scheduled to start in October of last year. Due to some design changes necessitated by unforeseen structural conditions, the project was delayed until the beginning of May 2016. Proper scheduling of the work mandated that we start the mansard first. We removed the tile and installed dry-in felts as permitted. Note; this partial work was inspected and approved by the City of Palm Beach.

Details of time extension:

The detail of our request for time extension is as follows;

- We would like to start construction at 6 am.- or as early as possible. This request is not for working past 6 pm.
- The request is for Monday thru Friday. It doesn't include weekends or holidays.
- We are requesting this time extension through November 30, 2016. We will complete all other parts of the roof system with-in the guidelines of the approved summer hours.

Thank you for considering this request and if I have misinterpreted any part of the check list or was vague in any of my answers, please contact me on my cell phone at 954-849-4778 or email at: jmitala@infinityrfg.com.

Sincerely



John Mitala
Qualifier, President

Construction Schedule for 2560 Condominium roof Replacement

The detail of our request for time extension is as follows;

- We would like to start construction at 6 am.- or as early as possible. This request is not for working past 6 pm.
- The request is for Monday thru Friday. It doesn't include weekends or holidays.
- We are requesting this time extension to November 30, 2016. We will complete all other parts of the roof system with-in the guidelines of the approved summer hours.

<u>Task</u>	<u>Approx duration in work days</u>
A. Mobilization	2 days
B. Remove flat roofs, install deck, insulation, and membrane	25 days
C. Install mansard tile	5 days
D. Install metal flashings	3 days
E. Membrane flash perimeter	2 days
F. Install flashings at penetrations	2 days
G. Install gravel	2 days
H. Clean –up Complete punch list items	2 days

Notes:

- **Bold tasks are tasks that we would like to start at 6 am**

Town of Palm Beach
Attention: Mr. William C. Bucklew
360 S. County Road
Palm Beach Florida

August 1, 2016

Regarding: 2560 South Ocean Boulevard Condominium Association Roof Replacement- **Permit # B-15-51203**

Mr. Bucklew:

Please accept this letter as our endorsement of Infinity Roofing's variance to Town Code Section 42-199 limiting the time of construction work. We have been trying to complete our roof / deck replacement project since late last year. Our project involves the following work:

A tile mansard-We are removing and replacing the tile mansard which surrounds the flat roof.
A low slope roof -Specification requires us to remove two roof systems, install a new steel deck, two layers of insulation, and install three plies of modified. The entire low sloped roof area receives a flood coat of gravel in coal tar pitch.

It is our understanding Infinity Roofing is requesting to start construction earlier so that we can place the building in water tight prior to the afternoon showers. Details of their request is as follows:

- Start construction at 6 am.- or as early as possible. This request is not for working past 6 pm.
- The request is for Monday thru Friday. It doesn't include weekends or holidays.
- They are requesting this time extension through November 30, 2016.

Thank you for considering this request;

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Greene', with a stylized, elongated horizontal stroke extending to the right.

Jeff Greene, President

To: Whom it May Concern

September 1, 2016

Please be advised that Infinity Roofing and Sheet Metal, Inc. are applying to the Town of Palm Beach for variance to Town Section 42-199. This Town Code limits the times in which construction can be completed.

Infinity Roofing is applying for this variance to replace the roof at:

2560 Condominium
2560 South Ocean Blvd
Town of Palm Beach

The Town Code currently approves construction to be completed from May 1st until November 30th with a start time of 8:00 A.M. and a completion time of 6 PM.

Infinity Roofing is applying for variance to the start time only. Infinity Roofing is applying for variance to start work at 6:00 a.m. The project will be completed no later than November 30th 2016. The reason for this is to install the roof prior to the early afternoon rain showers.

Please be advised The Town of Palm Beach Town Council is having a meeting on Wednesday, September 14th, 2016 at 9:30 a.m. regarding our request.

The address for the meeting is:

City Hall
360 S. County Road
Town of Palm Beach, Florida

The 2560 Condominium and Infinity Roofing appreciate your understanding with respect to this matter.

Please feel free to contact John Mitala (Infinity Roofing) at 954-917-7107.



John Mitala
President

Town of Palm Beach
Attention: Mr. William C. Bucklew
360 S. County Road
Palm Beach Florida

August 1, 2016

Regarding: Extension of work hours affidavit for roof construction at 2560 South Ocean Boulevard
Condominium Association Roof Replacement- **Permit # B-15-51203**

Mr. Bucklew:

Please accept this letter as my "Affidavit of notification to buildings within a 200 ft radius of 2560 Condominium."

On August 1, 2016 we provided notification to the condominiums located at 2545 and 2565 that we are applying for a variance to town code section 42-199. The following is details of our notification:

2545 : We personally posted a letter in the lobby of the condominium. We contacted the property manager, Associated Property Management- 8135 Lake Worth Rd. Suite B, Lake Worth, FL- Nadia. We informed her of our intent to petition the city for a start time of 6:00 a.m. to work on the roof at 2560 South Ocean Blvd. We provided written documentation of the same.

2565 : We posted a letter in front of the building in a weather proof clear envelope. We contacted the property manager, Associated Property Management- 8135 Lake Worth Rd. Suite B, Lake Worth, FL- Nadia. We informed her of our intent to petition the city for a start time of 6:00 a.m. to work on the roof at 2560 South Ocean Blvd. We provided written documentation of the same.

Attached: Letter of notification

Sincerely



John Mitala
Qualifier, President

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Time Extensions

Agenda Title

Request for Extended Working Hours per Town Code Chapter 42, Section 42-199
50 Cocoanut Row, Suite S-100 (Royal Poinciana Plaza)

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated August 31, 2016, From John S. Page, Director of Planning, Zoning and Building**
- ▣ **Letter Dated September 2, 2016, From Christopher C Harris**
- ▣ **50 Cocoanut Row Construction Schedule**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Request for Extended Working Hours per Town Code Chapter 42, Section 42-199
50 Cocoanut Row, Suite S-100 (Royal Poinciana Plaza)

Date: August 31, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider a request for extending the daily working hours beyond the times specified in the Code for a project located at 50 Cocoanut Row, Suite S-100 (Infinity Wellness).

GENERAL INFORMATION

The applicant, Anderson-Moore Construction Corp., is requesting a waiver of the current working hours for construction per Town Code 42-199. Town code limits construction to the hours of 8:00 AM to 6:00 PM Monday through Saturday, May - November. Construction hours are constricted from December through April as follows: 8:00 AM to 5:00 PM, quiet work only from 8:00-9:00 AM, with no work on Saturdays, Sundays or Town holidays. The applicant is requesting to extend the construction hours into the evening until 8:00 PM, Monday through Saturday, and has submitted a request and explanation for the request to the Building Official. Neighboring tenants and others within 200' of the project were notified of the request, including Town Council meeting details. The contractor requests extended work hours through December 23, 2016. A construction completion schedule has been provided.

A construction demolition permit for the interior demolition work has been issued, but no interior remodeling permit has been submitted as of the date of this request.

Attachments

JP/wcb

cc: Ronald Hostetler, Anderson-Moore Construction Corp.
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Ben Alma, Code Enforcement Unit



ANDERSON-MOORE
CONSTRUCTION CORP.

September 2, 2016

Mr. William C. Bucklew, Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Infinity Wellness, 50 Cocoanut Row, Suite S-100, Permit B-16-59298

Dear Mr. Bucklew:

This letter is written to request to be put on the agenda for the Town Council meeting on September 13-14, 2016 to consider our request for a waiver of Town Ordinance 42-199, Hours of Construction.

Due to delivery dates on specialized medical equipment, elevator and other deliverables, an accelerated construction schedule is necessary to meet the owner's schedule for opening their business this season. The dates for the extended hours being requested are September 15, 2016 through December 23, 2016. The specific hours requested are to extend each work day to 8 pm, Monday through Saturday. This project is an interior renovation and will be quiet work, so there will be no exterior work as part of this request.

Please contact me with any questions related to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "CCH", is written over the word "Sincerely,".

Christopher C Harris
President



ANDERSON-MOORE CONSTRUCTION CORP.

August 25, 2016

RECEIVED

AUG 26 2016

TOWN OF PALM BEACH
PBZ DEPT.

Mr. William C. Bucklew, Building Official
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Infinity Wellness, 50 Cocoanut Row, Suite S-100

Dear Mr. Bucklew:

This letter is written to explain the measures that Anderson Moore Construction will take to mitigate any complaints relative to working after hours if approved by the Town Council.

First, it is noted that this project is an interior renovation and all work associated with our afterhours request are confined within the existing space with no open windows or other openings to the outside. All noise and dust will be confined within the space.

We will have full time supervision on the site at all times to receive any notification of complaints and will address any complaint or issue immediately.

Regarding parking, there is dedicated parking on both sides of this building and any construction vehicles will be on the South side of the building and will not pose any conflicts to existing tenants at any time, including the afterhours work being requested.

Please let me know if there are any questions or any other areas of concern.

Sincerely,

Ronald C. Hostetler
Project Manager – Preconstruction Services



**ANDERSON-MOORE
CONSTRUCTION CORP.**

RECEIVED

AUG 26 2016

TOWN OF PALM BEACH
PBZ DEPT.

AFFIDAVIT

August 25, 2016

This affidavit it provided to confirm that all neighbors within 200 feet of the property have been notified through their respective management companies that Anderson-Moore Construction has requested a variance to the Town Ordinance 42-199, Hours of Construction. The notice contained the information that this request would be considered by the Town Council at the regularly scheduled meeting on September 13th & 14th and that they were invited to provide any input to our request at that time.

Chris C. Harris

Attested – Christopher C. Harris, President

8.25.16

date

STATE OF FLORIDA
COUNTY OF Palm Beach

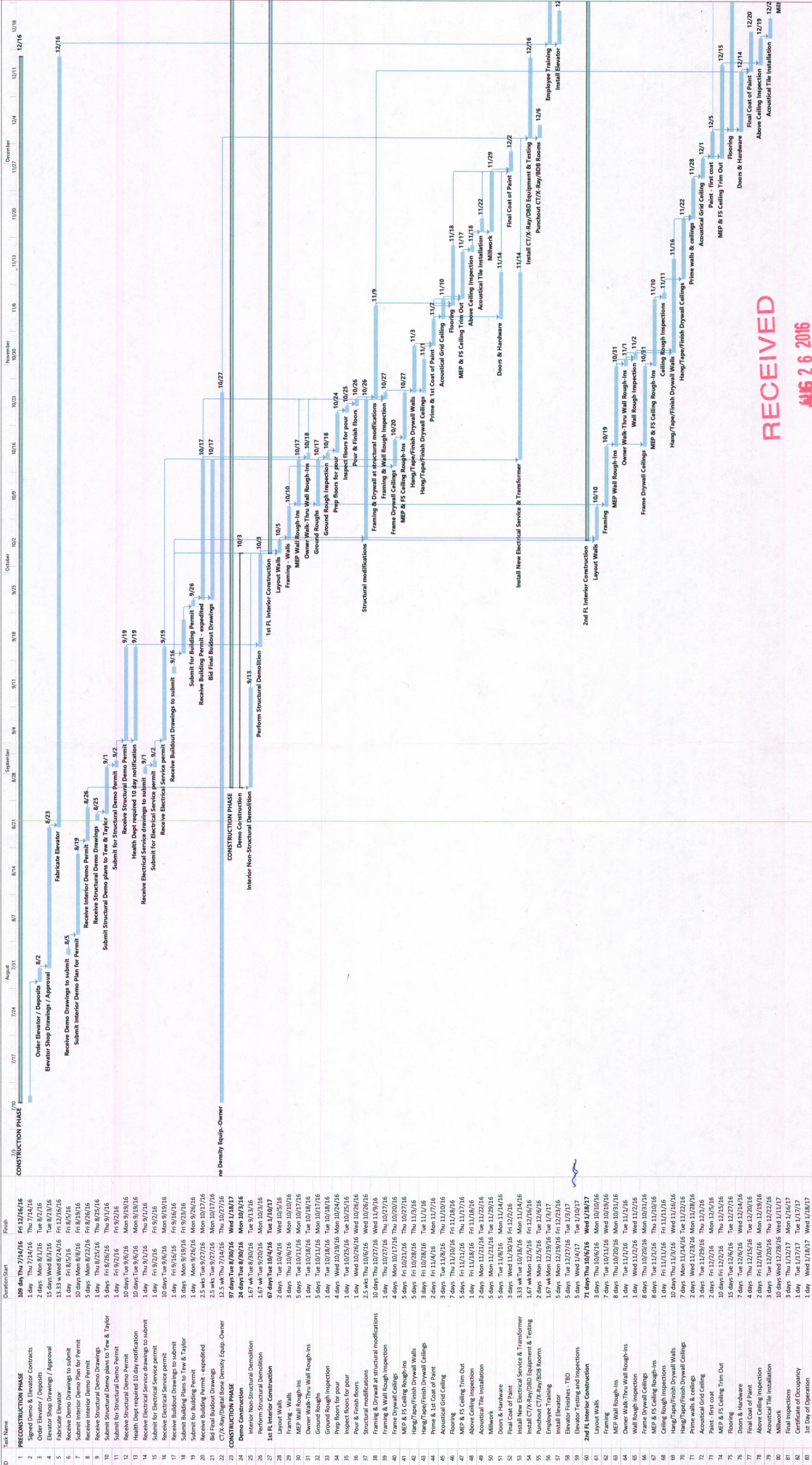
Sworn to and subscribed before me this 25th day of August, 2016, by Christopher C. Harris, who is personally known to me.

NOTARY:

Signature

date





RECEIVED

AUG 26 2016

TOWN OF PALM BEACH
PBZ DEPT.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

VARIANCE #12-2016 The application of Mitchell and Victoria Evans; relative to property commonly known as **168 East Inlet Dr.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to add a 1,595 square foot second story addition onto the existing one story residence. The proposed addition will not require the demolition of more than 50% cubic footage of the existing house. The following variances are being requested: 1) lot coverage of 37.8% in lieu of the 30% maximum allowed for a two story structure.; 2) cubic content ratio ("CCR") of 4.92 in lieu of the 3.21 existing and 3.99 maximum allowed. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Deferred the project to its October 26, 2016, meeting. Carried 7-0]

Deferred from the July 13, 2016, Town Council Meeting.

Request for Withdrawal Per Letter Dated September 1, 2016, from Maura A. Ziska.

Presenter

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

ATTACHMENTS:

- ▣ **Letter Dated September 1, 2016, from Maura A. Ziska**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel •

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

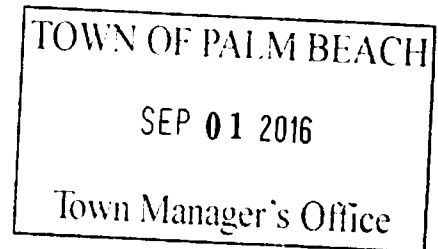
Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA FACSIMILE: 561-838-5411

September 1, 2016

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



RE: Variance 12-2016; 168 Inlet Drive, Palm Beach, Florida

Dear Mayor and Town Council:

Please **withdraw** the above referenced matter from the **TOWN COUNCIL** agenda. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Maura Ziska".

Maura A. Ziska

/maz

cc: architect
Paul Castro
00033046.DOC

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #20-2016 WITH SITE PLAN REVIEW AND VARIANCE The application of SKIK, LLC – Zvenka V. Kleinfeld, Manager; relative to property commonly known as **232 Colonial Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting to allow 1) the construction of a 2,845.5 square foot two-story, single family residence on a non-conforming lot which is 75 feet in width in lieu of the 100 foot minimum required; 82 feet in depth in lieu of the 100 foot minimum required and 6,150 square feet in area in lieu of the 10,000 square foot minimum required; 2) To have a front yard setback for one story portion of the residence to be 23 feet in lieu of the 25 foot minimum setback required. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Deferred the project to the September 28, 2016 meeting. Carried 6-1.]

Deferred from the August 16, 2016, Town Council Meeting.

Request for Deferral to the October 13, 2016, Town Council Meeting Per Letter Dated August 26, 2016, from Zvenka V. Kleinfeld.

Presenter

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

ATTACHMENTS:

- ▣ **Letter Dated August 26, 2016, from Zvenka V. Kleinfeld**

**Zvenka V. Kleinfeld
2636 N Glebe Road
Arlington, VA 22207**

VIA E-MAIL

August 26, 2016

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

RE: SE 20-2016 – 232 Colonial Lane

Dear Paul and Kelly:

Please defer the above referenced matter from the **September 14, 2016** Town Council agenda to the **October 13, 2016** Town Council agenda. The reason for the deferral is because ARCOM deferred the matter at the August 24, 2016 meeting. Please email me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Zvenka V. Kleinfeld

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #24-2016 WITH SITE PLAN REVIEW The application of Brian Vertesch, SMI Landscape Architecture, Agent for the Preservation Foundation of Palm Beach; relative to property commonly known as **100 Bradley Place**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant requests to modify Bradley Park public open space as follows: 1) Removal and relocation of existing fountain centerpiece, located at south west area of Bradley Park. Demolition of existing fountain basin; 2) Construction of plaza and fountain basin adjacent to south side of existing structure at north/central property, often referred to as the “Tea House”; 3) Demolition of existing one story restroom and kitchen located directly east of the Tea House and the addition of a new public restroom; 4) Removal of asphalt parking adjacent to north side of existing bathroom; 5) Removal and partial replacement of sidewalks on north property line, Sunset Ave, and east property line, Bradley Place; 6) Addition of small overlook structure to the west of the existing pump house, adjacent to the proposed lake trail; 7) Addition of Town Lake Trail extension; 8) Addition of new park entry at north east corner of park; 9) Relocation of existing Bradley Park monument; 10) Addition of stabilized grass parking adjacent to S-2 pump station; 11) Addition of site furnishings including benches, bike rack, and low train sculpture; 12) Addition of sculpture pad to south of the Tea House; 13) Addition of 30” high decorative see through fence around perimeter of park at Sunset, Bradley Place, and Royal Poinciana Way. There will be openings into park with no gates; 14) Addition of stabilized decomposed granite pathways within the park; 15) Addition of landscape lighting; 16) Landscape improvements as graphically described on the plans and specifications submitted. [Attorney: John C. Randolph, Esq.]

[Landmarks Commission Recommendation: Implementation of the proposed special exception and site plan review will not cause negative architectural impacts to the subject landmark property with the exception of the fence around the park. Carried 7-0]

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated September 1, 2016, From John S. Page, Director of Planning, Zoning and Building**
- ▣ **Bradley Park Rendering**
- ▣ **E-mail Dated September 7, 2016, from John David Corey**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Special Exception #24-2016 With Site Plan Review
100 Bradley Place (Bradley Park Improvements)

Date: September 1, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider recommendations from the Landmarks Preservation Commission regarding proposed improvements to Bradley Park.

GENERAL INFORMATION

The Town of Palm Beach, as owner/applicant, is desirous of completing improvements at Bradley Park that will be privately funded by the Preservation Foundation of Palm Beach. The project description, as noted on the Landmarks Preservation Commission Agenda of August 17, 2016, is as follows: "Modifications to Bradley Park that include: removal and partial relocation of existing fountain, plaza addition, demolition of existing restroom and addition of new restroom, removal of employee parking at north end of park, addition of overlook along seawall, lake trail extension, new park entry, relocation of Bradley monument plaque, addition of stabilized grass parking in place of existing asphalt, benches, low sculptures, low see-through perimeter fence, sculpture pad, new perimeter sidewalks adjacent to the park, additional plantings, landscape lighting, addition of compacted stone dust paths."

Parks are a permitted land use in the applicable R-B Zoning District, yet are required by Code to obtain Special Exception with Site Plan approval from the Town Council. In addition, because the Park is a local landmark, improvements must also be approved in the form of a Certificate of Appropriateness from the Landmarks Preservation Commission.

Amanda Skier (Preservation Foundation), Jorge Sanchez (SMI Landscape Architecture), and Mark Marsh (Bridges Marsh & Associates Architecture) all spoke in favor of the project. Commissioners were generally pleased with the proposed improvements, yet posed several questions about improvement details (all of which the presenters subsequently addressed). Architect Jeff Smith spoke critically about the aesthetics of the perimeter fencing. A single Town resident, Anita Seltzer, spoke in opposition to the project as a whole.

Following all discussion, the Commission voted unanimously that implementation of the proposed special exception and site plan will not cause negative architectural impacts to the subject landmarked property with the exception of the perimeter fencing, which should be eliminated. If the Council should approve the special exception with site plan review, said final site plan will be re-presented one last time to the Landmarks Preservation Commission for formal Certificate of Appropriateness (COA) approval.

SPECIAL CIRCUMSTANCES

Council members should be aware of the following, additional notes:

- The single Park element disfavored by the Commission was the knee-height perimeter fencing. The Commission's final recommendation of approval included a condition of eliminating the fence.
- As design professionals present these improvements for your public consideration, Council members may want to develop a more complete understanding of sculpture plans, i.e., numbers, locations, size, interchangeability, etc.
- A sanitary sewer force main is located beneath the Park. Extreme care should be required to see that this public improvement is not damaged in any way as construction occurs.
- The replacement of an existing asphalt drive (leading to Town utility structures near the Lake) with "stabilized grass" should be subject to final approval from the Public Works Department to ensure its structural stability.
- SMI has reported to staff that the collective improvements result is no net increase to the amount of hardscape in the Park
- Professionals working in concert with the Preservation Foundation have verbally reported that the Miami Diocese (former owner with retaining ties to the Park's future) has reacted favorably to the proposed improvements. Written confirmation of same has been requested and should be received as a condition of approval (if the Council ultimately supports Park changes).

Attachment

cc: John C. Randolph, Town Attorney
Landmarks Preservation Commissioners
Amanda Skier, Executive Director, Preservation Foundation of Palm Beach
Jorge Sanchez, SMI Landscape Architecture
Mark Marsh, Marsh & Bridges Architects





SPECIAL EXCEPTION #24-2016 WITH SITE PLAN REVIEW

John David Corey

to:

Gail Coniglio, council

09/07/2016 08:47 PM

Cc:

JPage, Thomas G Bradford, Amanda Skier

Hide Details

From: John David Corey <johncorey84@gmail.com>

To: Gail Coniglio <mayor@townofpalmbeach.com>, council@townofpalmbeach.com

Cc: JPage@TownofPalmBeach.com, Thomas G Bradford

<tbradford@townofpalmbeach.com>, Amanda Skier <askier@palmbeachpreservation.org>

Dear Mayor and Town Council Members:

After speaking with Amanda Skier and conducting several site visits to Bradley Park, *Palm Beach Walks* will support the current plan that shows a 10' clear width of the Lake Trail connection along Lake Worth from Sunset Avenue to the new underpass of the new Flagler Bridge.

Please see our correspondence below to Ms. Skier. Thank you very much.

Sincerely,

John David Corey

Palm Beach Walks

www.facebook.com/palmbeachwalks.com


Begin forwarded message:

From: John David Corey <johncorey84@gmail.com>

Subject: **Bradley Park Lake Trail Connection**

Date: August 31, 2016 at 5:18:13 PM EDT

To: Amanda Skier <askier@palmbeachpreservation.org>

Cc: Jorge Sanchez <jorge@smila.net>, brian@smila.net

Dear Ms. Skier:

Thank you for talking the time to speak with me last week regarding the Preservation Foundation's plan for the renovation of Bradley Park. I would like to first offer a big thank you for the Preservation Foundation's effort to spearhead the project with both time and treasure.

As you know, my group *Palm Beach Walks* has been concerned that the Lake Trail connection was to be only to be 9' wide along the edge of the park when the predominant width in the area and under the new Flagler Bridge is or will be typically 12' wide. Thank you for clarifying that the limiting factor is the large shade tree that is along the west side of

the pump station. I made a site visit and do see the issue and have attached few a photographs below for reference. In the meantime, I understand that SMI Landscape Architects has already adjusted the Lake Trail width up to a minimum of 10' clear width.

Given the site conditions, it is also my conclusion that a 10' width at that particular location in question will be adequate in order to preserve the aforementioned shade tree.

Please let me know if I can be any assistance and I look forward to the completion of both the Flagler Bridge Lake Trail "underpass" as well as the new Lake Trail connection along Bradley Park in order to create a seamless, safe connection along Lake Worth.

Thank you again.

Sincerely,

John David Corey
Palm Beach Walks

www.facebook.com/palmbeachwalks.com



**THE NEW LAKE TRAIL CONNECTION WILL COME UNDER THE FLAGLER
BRIDGE AND BE 12' WIDE**



ALSO AS THE LAKE TRAIL CONNECTS AT SUNSET THE WIDTH IS 12' WIDE



ALONG THE PUMP STATION IT IS PREFERABLE TO KEEP THE SHADE TREE AND ADJUST THE LAKE TRAIL TO 10' WIDE



TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 16-2016 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning As Follows: Section 134-893, Lot, Yard And Area Requirements By Creating Alternative Zoning Regulations That Could Be Used For Seaview Avenue, Seaspray Avenue And Seabreeze Avenue In The R-B Zoning District; Sections 134-1113, 134-1163, 134-1213 And 134-1308 By Exempting Sub-Basements From The Maximum Building Length Requirements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1611 By Creating Separate Zoning Regulations For Lot Coverage, Setbacks And Landscape Open Space Requirements For Sub-Basements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1516 By Providing Landscape Screening Regulation For Boxes Housing Essential Services; And Section 134-2327 By Eliminating A Specific Fee For Visitor/Service Permits; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- **Memorandum Dated August 29, 2016, From John S. Page, Director of Planning, Zoning and Building**
- **Ordinance No. 16-2016**

TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council Meeting on:
September 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 134, Zoning
Ordinance No. 16-2016

Date: August 29, 2016

STAFF RECOMMENDATION

Staff recommends that the Local Planning Agency (LPA) consider Ordinance No. 16-2016, amending the Zoning Ordinance. The LPA should then make a recommendation on the proposed Ordinance to the Town Council for its consideration on first reading.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its January 19, February 16, March 22 and April 19 meetings made recommendations on the proposed Zoning Code modifications.

GENERAL INFORMATION

The Town Council considered the Planning and Zoning Commission's Record and Report at its May 11 and July 13 Council meetings. The Council directed Staff to draft the following Ordinance for consideration by the Local Planning Agency and Town Council. The proposed Ordinance does the following:

- Provides for alternative zoning regulations for the "Sea-Streets" by allowing for existing, nonconforming homes and accessory buildings to be rebuilt at the same approximate footprints as presently exist if certain conditions are met. When using these alternative zoning regulations, no variances for any new additions which add additional square footage or cubic content than existed prior to demolition of a single-family dwelling and/or accessory building(s) will be allowed.
- Eliminates the maximum linear dimension of a structure, if the structure lies entirely below grade (a sub-basement not visible above grade).

- Clarifies that open greenspace situated above a sub-basement shall count in the calculation for landscape open space requirements, and further that underground structures shall be allowed a maximum of 70% lot coverage.
- Requires that essential service boxes to be properly screened with landscaping.
- Changes Chapter 134 related to the on-street parking fee to cross reference the schedule of fees for on-street parking rather than have the specific fee in the Zoning Regulations

The proposed changes in attached Ordinance No.16-2016 are in add/delete format. If you have any questions about any of the attached information, please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

Ordinance No. 16-2016 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachment

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

ORDINANCE NO. 16-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING AS FOLLOWS: SECTION 134-893, LOT, YARD AND AREA REQUIREMENTS BY CREATING ALTERNATIVE ZONING REGULATIONS THAT COULD BE USED FOR SEAVIEW AVENUE, SEASPRAY AVENUE AND SEABREEZE AVENUE IN THE R-B ZONING DISTRICT; SECTIONS 134-1113, 134-1163, 134-1213 AND 134-1308 BY EXEMPTING SUB-BASEMENTS FROM THE MAXIMUM BUILDING LENGTH REQUIRMENTS IN THE C-TS, C-WA, C-OPI AND C-B COMMERCIAL ZONING DISTRICTS; SECTION 134-1611 BY CREATING SEPARATE ZONING REGULATIONS FOR LOT COVERAGE, SETBACKS AND LANDSCAPE OPEN SPACE REQUIREMENTS FOR SUB-BASEMENTS IN THE C-TS, C-WA, C-OPI AND C-B COMMERCIAL ZONING DISTRICTS; SECTION 134-1516 BY PROVIDING LANDSCAPE SCREENING REGULATION FOR BOXES HOUSING ESSENTIAL SERVICES; AND SECTION 134-2327 BY ELIMINATING A SPECIFIC FEE FOR VISITOR/SERVICE PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

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

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

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

Section 1. Article VI, DISTRICT REGULATIONS, Section 134-893, Lot, yard and area requirements – Generally, is hereby amended to include a new sub-section(a) to read as follows:

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

- (a) In order to protect the unique, residential character of Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets), partial or complete demolition and reconstruction of a single-family dwelling and/or accessory building(s) on a lot 75 feet or less in width are exempt from the lot, yard, and area requirements as set forth in this Section if redeveloped substantially on the same footprint, or at greater setbacks, as existed prior to demolition provided the following conditions are met:
1. The proposed single-family dwelling and/or accessory building(s) are of an architectural style consistent with the architecture of the single-family dwellings within the R-B zoning district on both sides of the subject street, between the intersecting streets in both directions, where the dwelling is situated, as determined by the Architectural Commission.
 2. The proposed single-family dwelling and/or accessory building(s) shall meet the requirements in Section 134-893(c).
 3. If the existing footprint of the single-family dwelling and/or accessory building(s) lay within 5 feet of a side or rear lot line, the replacement footprint must be shifted such that an absolute minimum 5 foot side and rear lot line setback is created, and further the redeveloped home must be situated at least 10 feet apart from any structure on a neighboring lot.
 4. The height and overall height from the point of measurement of the proposed single-family dwelling and/or accessory building(s) are no higher than the dwelling and/or accessory building(s) being demolished.
 5. Any square footage added to the proposed single-family dwelling and/or accessory building(s) shall meet all lot, yard and bulk zoning requirements in the Code.
 6. If using the provisions of this subsection (a) above, no variances can be requested for any new additions which add additional square footage or cubic content than existed prior to demolition of a single-family dwelling and/or accessory building(s).

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

Section 2. Article VI, DISTRICT REGULATIONS, Section 134-1113, Lot, yard and area requirements – Generally, is hereby amended at subsection (10) Length to include a new subsection c. to read as follows:

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

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

(10) Length.

- a. For one-story buildings, the maximum building length is 150 feet.
- b. For two-story buildings, the maximum building length is 150 feet.
- c. Sub-basements are exempt from the maximum building length requirement.

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

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

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

(1)...

(10) Length.

- a. For one-story buildings, the maximum building length is 150 feet.
- b. For two-story buildings, the maximum building length is 150 feet.
- c. For multi-family building maximum dimensions, see section 134-1871 et seq.
- d. Refer to the Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations
- e. Sub-basements are exempt from the maximum building length requirement.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Section 134-1213, Lot, yard and area requirements – Generally, to read as follows:

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

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

(10) Length.

- a. For one-story buildings, the maximum building length is 150 feet.
- b. For two-story buildings, the maximum building length is 150 feet.
- c. For three-story buildings, the maximum building length is 150 feet.
- d. Sub-basements are exempt from the maximum building length requirement.

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

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

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

(10) Length.

- a. For one-story buildings, the maximum building length is 150 feet.
- b. For two-story buildings, the maximum building length is 150 feet.
- c. Sub-basements are exempt from the maximum building length requirement.

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

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

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

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

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

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

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

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

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

(a) Lot coverage on a property, including a proposed sub-basement, shall not exceed a maximum of 70%. Said lot coverage shall be the lot coverage for all buildings and structures on a property above and below ground.

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

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

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

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

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

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

1. Boxes housing essential services in the front, street side and street rear yard setbacks shall be screened from view from the street in so much as possible by either a wall or hedge planted and maintained at a height the same as or greater than said essential service box. An essential service is defined in Sec. 134-2 of the Code.

2. At the time that any new buildings or structures are being constructed or located on any privately owned property or at the time that any existing buildings or structures on privately owned property are being reconstructed, substantially extended and enlarged or structurally altered, such buildings or structures shall have an entirely underground location for all utility service lines, electrical distribution systems, wires and cables, which connect to and service such buildings or structures.

Section 8. Article XI, ON-STREET PARKING PERMITS*, Sec. 134-2327, Issuance, is hereby amended to read as follows:

Sec. 134-2327. - Issuance.

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

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

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

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

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

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

Section 9. 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 10. 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 11. Codification.

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

Section 12. Effective Date.

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this _____ day of September 2016, and for second and final reading on this _____ day of _____ 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 14, 2016

Section of Agenda

Any Other Matters

Agenda Title

Planning and Zoning Commission Recommendations: Record and Report Exterior Lighting and Reasonable Accommodations

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated August 29, 2016, from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Exhibit A Planning and Zoning Commission Record and Report**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Planning & Zoning Commission Recommendations: Record & Report
Exterior Lighting & Reasonable Accommodations

Date: August 29, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council review and consider two newly proposed Zoning Code amendments in Exhibit A, Planning and Zoning Commission Record and Report, relative to 1) exterior lighting and 2) reasonable accommodation procedures, and to thereafter determine whether said amendments should be prepared for adoption in Ordinance format.

GENERAL INFORMATION

Exterior Lighting: Existing exterior lighting standards currently enforced in the Town are vaguely defined and are scattered throughout Town Code. No specific reference is made to “nuisance” lighting that can affect neighborhood property owners. This Department has encountered several overly-intense lighting situations in the past year. Each problem was eventually resolved, but the lack of Code-authority compounded a resolution in each case. This led staff to explore potential solutions that will, hopefully, prevent such future problems and create an enforcement tool for correcting “violations.” Staff prepared a draft ordinance that was initially reviewed at ORS. Although ORS supported changes, the Town Attorney subsequently advised that Code changes should be incorporated into the Zoning Code. Staff then presented the same draft Ordinance to the Planning & Zoning Commission.

Reasonable Accommodations Procedures: The proliferation of facilities for disabled persons within residentially zoned areas in South Florida prompted the Town Council to direct this issue to the Planning & Zoning Commission for review and recommendation. Attorney Randolph assisted by preparing a draft ordinance that requires any party desirous of creating or residing in such a facility to submit in writing a reasonable accommodation request form. The form would contain critical data regarding the applicant, address, contact information, description of the qualifying disability, the accommodation or procedure from which accommodation is sought, and reasons that the accommodation is necessary. All such requests would be acted upon by the Town Manager within 45 days of receipt. Note: The Americans with Disabilities Act and the Fair Housing Amendments Act prohibit local municipalities from disallowing such uses. If

adopted, however, the proposed amendment would create a database of facilities and augment “transparency” to the general public.

COMMISSION REVIEW

Exterior Lighting: The Planning & Zoning Commission met to consider draft ordinance changes on July 19, 2016. Although Commissioners understood and supported the notion of preventing overly-bright lighting from adversely affecting neighboring properties, it felt that other provisions in the draft could become cumbersome (minor exterior lighting improvements and fixture changes were cited as examples). As such, the Commission voted unanimously to adopt only Section 134-2117 (Light Trespass), thus focusing on the immediate problem at hand. All other proposed sections of the Code related to lighting would be struck. Staff agreed, at time of Commission consideration, that the more narrowly focused “light trespass” section alone, would be helpful/acceptable. The full draft of proposed lighting regulations, as originally presented to the Commission, is attached for your review in Exhibit A, Planning and Zoning Commission Record and Report.

Reasonable Accommodations Procedures: During the same Commission meeting of July 19, the Commission acknowledged that federal laws requiring reasonable accommodations for the disabled within residentially zoned areas must be respected. Making requests for reasonable accommodations, however, transparent to the general public was strongly supported by all Commissioners. The Commission recommended that the proposed new regulations be adopted in ordinance form, with an added provision for a broad notice requirement and notice to all property owners within a 300 foot radius of the subject property in advance of consideration of a pending reasonable accommodation request. Staff concurred with the recommendation, yet advised the Commission that the added notice provision would require scrutiny from the Town Attorney to make certain it does not run afoul of federal law. The Town Attorney subsequently agreed that this notification was reasonable. Again, the draft language as presented, modified and endorsed by the Commission is attached for your review in Exhibit A.

Staff requests that the Town Council determine whether or not one or both of these Code changes, as proposed in Exhibit A, Planning and Zoning Commission Record and Report, should be prepared in Ordinance format for consideration of the Local Planning Agency and first reading by the Town Council at a subsequent meeting.

Attachment

cc: Tom Bradford, Town Manager
John Randolph, Town Attorney
Planning & Zoning Commissioners
zf

EXHIBIT A: PLANNING AND ZONING COMMISSION RECORD AND REPORT

Proposed zoning regulations regarding exterior lighting

Recommendation:

The Commission recommended that of the originally proposed lighting regulations identified below that the new regulations related to light trespass in proposed Section 134-2117 be adopted by a vote of 7-0. Staff concurs with the proposed changes.

DIVISION 16. EXTERIOR LIGHTING REQUIREMENTS.

Sec. 134-2112. Purpose and intent.

It is the intent of this section to establish requirements for and provide guidance for design professionals regarding exterior lighting on private property.

Sec. 134-2113. Definitions.

Permanent exterior lighting, means lighting that is installed at a location that is intended to remain in place all year and be illuminated at any and all times required to meet the purpose of its function.

Seasonal exterior lighting, means lighting which is installed on a temporary basis surrounding legal and other holidays or for special events. Such lighting shall be removed within 30 days following the holiday or special event.

Sec. 134-2114. Permits required.

(1) All permanent exterior lighting installations on private property require a permit issued by the Town's Planning, Zoning and Building Department. This includes low voltage and high voltage electrical installations.

(2) Requirements for permit submission.

The following items shall be required to be submitted with the application for an exterior lighting permit:

For Permanent Exterior Lighting:

a. Cut sheets depicting lighting details for all of the different types of light fixtures to be used.

- b. Color coded schematic plan showing areas that will be illuminated, i.e., up and down lighting.
- c. A site or plot plan that shows the location of each fixture along with the type, maximum wattage, and wiring method.
- d. A completed Town of Palm Beach Exterior Lighting Requirements checklist form, signed and sealed by the design professional, if applicable, or signed and notarized by the designer if other than a licensed design professional.
- e. If the permit application is for a commercial use or occupancy, a photometric plan, signed and sealed by a design professional shall be included.

Sec. 134-2115. Design Requirements for Exterior Lighting.

The following items shall be incorporated into the design of permanent exterior and landscape lighting layouts:

- 1) No light bulb or source of illumination shall be visible while standing at or outside the property line. Wall sconces or column top fixtures are excluded. The light bulbs in eave fixtures must be shielded so that the lamp is not visible from off the property line. Decorative wall sconces that are visible from the street are allowed but shall be lamped with bulbs not exceeding 60 watts per bulb if single lamp fixtures, and not more than 15 watts per bulb for up to 4 bulbs per fixture. In no case shall exterior wall sconce lighting exceed 60 watts per fixture. If LED lamps/fixtures are used, the 60 watt incandescent equivalent shall be met.
- 2) No high-pressure or low-pressure sodium light bulbs can be used for landscape lighting.
- 3) Bulbs or sources of illumination in fixtures mounted in trees or above eye level on structures shall not be visible off property. Down lighting shall not exceed 2 ft. candles on residential property and 8 ft. candles on commercial properties as measured at ground level directly below the source of illumination. Down lighting scheme must be approved by Town Staff through Architectural Commission or Landmarks Preservation Commission administrative approval. The maximum wattage per acre for down lighting schemes shall not exceed 3,750 watts; however, shall not be counted as contributing to the total landscape (vertical illumination quantity) lighting system. The use of baffling, shielding techniques, internal louvers and screening should reduce the total output to 3,000 watts. Baffling, shielding, internal hex louvers and screening is required.
- 4) Maximum cumulative wattage of light fixtures using LED and/or fluorescent light bulbs supplied at 120 volts, 220 volts, 208 volts, and 277 volts is 5,000 watts per acre. The use of baffling, shielding techniques, internal hex louvers and screening is required.
- 5) For LED lighting the maximum number of Lumens per watt shall not exceed 60.

- 6) Maximum number of landscape lighting fixtures per acre is 150 regardless of wattage.
- 7) Illumination on the elevation of a residence or commercial building is discouraged unless architectural features and anchor points are the purpose of the illumination. Visible security flood lighting is prohibited unless approved directly by the Architectural Commission.
- 8) No more than one-half foot-candle of light may be reflected off of the property. No light shall be unshielded where the lighting element is visible in any fashion, such as wall packs and any approved security fixtures. Any light that egresses its property of installation must be shielded and directed to reduce light trespass to the satisfaction of the Architectural Commission, Project Coordinator or assigned staff.
- 9) Red, yellow, blue and green incandescent light bulbs that are visible from the street or public right-of-way are prohibited except during Town approved holiday intervals.
- 10) Mixture of Kelvin ratings by lamp types is discouraged where the difference is more than 25% (5,500 Kelvin and 4,100 Kelvin is permissible). Exceptions may be allowed in circumstances such as where incandescent lamps are used to illuminate sculptures or fountains.
- 11) Light fixtures mounted on the ground, unless decorative types, path lights or other approved ground type fixture, are to be hidden in landscape material and not visible from outside the property line.

Sec. 134-2116. Prohibited Lighting.

The following types of permanent exterior lighting fixtures and lamps are prohibited:

- 1) Mercury Vapor and Metal Halide lamps except those installed prior to this code revision.
- 2) Blinking, flashing, moving, revolving, flickering, changing color or intensity and chase lighting unless it is part of a seasonal display for temporary use.
- 3) Any fixture that may be confused with or construed as a traffic control device.
- 4) Any upward-oriented lighting unless otherwise approved.
- 5) Searchlights, beacons, and laser-source light fixtures.
- 6) Any lamp or bulb not within a fixture (except seasonal lighting).
- 7) Exposed or visible neon light tubing.

Sec. 134-2117. Light Trespass.

Light Trespass shall be defined as the poor control of exterior lighting that crosses property lines and detracts from property values and our quality of life.

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

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

Proposed regulations for reasonable accommodations

Recommendation:

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

DIVISION 17. REASONABLE ACCOMMODATIONS.

Sec. 134-2118. Reasonable Accommodation Procedures.

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

include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the Town, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The Town shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the Town for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the Town. The Town will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the Town shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.

- (4) The Town Manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation after a public hearing to receive comments, input and information from the public (provided, however, the Town Manager or designee shall not be required to render their decision at said public hearing). There shall be a minimum fifteen (15) day notice of the time and place of said public hearing in a newspaper of general circulation in Palm Beach or West Palm Beach, and to all property owners within three hundred feet of the property proposed for a reasonable accommodation. When a reasonable accommodation request form has been completed and submitted to the Town Clerk it will be referred to the Town Manager, or designee, for review and consideration. The Town Manager, or designee, shall issue a written determination within 45 days of the date of receipt of a completed application and may, in accordance with federal law: (a) grant the accommodation request; (b) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or (c) deny the request, in accordance with federal law. Any such denial shall be in writing and shall state the grounds therefor. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Town Manager, or designee, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the Town Manager, or designee, shall issue a written determination within 30 days after receipt of

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

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

- (a) The Town shall display a notice in the Town's public notice bulletin board (and shall maintain copies available for review in the Town Clerk's office), advising the public disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
- (b) A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.
- (c) The Town shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing etc. to ensure the process is accessible.

(10) Reasonable accommodation request form:

- 1. Name of Applicant:
- 2. Telephone Number:
- 3. Address:
- 4. Address of housing or other location at which accommodation is requested:
- 5. Describe qualifying disability or handicap:
- 6. Describe the accommodation and the specific regulation(s) and or procedure(s) from which accommodation is sought:
- 7. Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service:
- 8. Name address and telephone number of representative if applicable:
- 9. Other information:
- 10. Signature of Disabled Individual or Representative, if applicable, or Qualifying Entity:

Date:_____.

cc: Planning & Zoning Commissioners
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Veronica B. Close, Asst. Director of Planning, Zoning & Bldg.
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