



TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

WEDNESDAY, AUGUST 11, 2010

9:30 AM

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

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

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

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

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

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

VI. APPROVAL OF AGENDA

VII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 3-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Text of the Infrastructure Element (Section VI) of the Town of Palm Beach Comprehensive Plan as Last Amended on April 15, 2009 with the Adoption of Ordinance No. 6-09, by Amending Policy 12.3 to Include a 10-Year Water Supply Facility Work Plan, Pursuant to Chapter 163.3177(6)(C), Florida Statutes (Water Supply Planning Requirements); Providing for Severability; Repealing all Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; and Providing an Effective Date.
[John S. Page, Director of Planning, Zoning and Building]

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B. First Reading

1. ORDINANCE NO. 23-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, at Section 134-36 to Change the Use of the Term Building Official to Director of Planning, Zoning and Building and to Add a Provision Which Allows the Town Council to Waiver Certain Zoning Provisions in Chapter 134 for a Town Event, Public Rights-of-Way, Town Building, Town Structure or Town Property Provided Certain Conditions are Met; 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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VIII. DEVELOPMENT REVIEWS

A. Appeals

None

B. Time Extensions & Waivers

None

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business – Less than 15 Minutes

None

2. New Business – Less than 15 Minutes

- a. SPECIAL EXCEPTION #15-2010 The application of 2875 Investors LLC; relative to property commonly known as **2875 South Ocean Blvd.**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a Special Exception to permit the operation of a 4,004 square foot full service bank in the C-TS Zoning District and a Special Exception request to permit operation of 3 existing drive-thru lanes in support of bank use. [Attorney: Alfred J. Malefatto]

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- b. VARIANCE #13-2010 The application of Andres B. Fanjul and Catherine A. Fanjul; relative to property commonly known as **109 Wells Road**; described as Lot 2, LINDA VISTA; located in the R-B Zoning District. The applicant is requesting a variance to allow an unenclosed accessory structure to be constructed 5 feet from the side property line in lieu of the 10 foot minimum setback required. [Attorney: Peter S. Broberg]

- c. VARIANCE #14-2010 The application of South Ocean Boulevard, LLC, Thomas C. Iskalis, President; relative to property commonly known as **126 South Ocean Blvd.**; described as Lengthy Legal Description on File; located in the R-B Zoning District. The applicant is requesting a variance from the provisions of Section 62-38, 62-39 and Section 134-1701 which do not allow construction east of the bulkhead line. The variance is proposed to allow construction of a sheet pile toe wall 22 feet east of the Town's bulkhead line in order to protect the existing bulkhead. [Attorney: Raymond W. Royce]

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- d. VARIANCE #15-2010 The application of Flagler Drive Holdings, LLC, Thomas c. Iskalis; relative to property commonly known as **115 Flagler Drive**; described as Lengthy Legal Description on File; located in the R-B Zoning District. The applicant is requesting a variance from the provisions of Section 62-38, 62-39 and Section 134-1701 which do not allow construction east of the bulkhead line. The variance is proposed to allow construction of a sheet pile toe wall 22 feet east of the Town's bulkhead line in order to protect the existing bulkhead. [Attorney: Raymond W. Royce]

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3. Old Business – More than 15 Minutes

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- a. MODIFIED SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCES The application of Publix Super Markets, Inc. and Sunset Avenue Corp.; relative to property commonly known as **265, 255, 235, 231 Sunset Avenue and 240 Sunrise Avenue**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting Site Plan Review and Special Exception to construct a 53,272 (44,018 gross leasable) square foot one story grocery store on 4.36 acres. The new store will provide 201 off-street parking spaces. There is proposed to be an outdoor ATM and the grocery cart storage will be within the building. All of the proposed mechanical equipment will be contained within portions of the building and will not be seen as equipment on the roof. Part of the proposed design is to have two generators located on the southeast corner of the proposed store that will contain a 100 KW standby generator and a 500 KW main generator. There is proposed to be two loading areas within the loading dock on the east side of the building that will be screened. The proposed store will have a pharmacy, deli, bakery and a larger selection of food items and other products. Since the proposed grocery store is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is town serving. The following variances are being requested to construct the proposed one story grocery store: (a) to allow a building length of 257'-5" feet in lieu of the 150 foot maximum allowed; (b) to allow a front yard setback at the northwest corner of the proposed building of 6'7" feet in lieu of the 10 foot minimum required based on building height; (c) to allow a side yard setback of 3'9" feet in lieu of the 10 foot minimum required; (d) to allow two loading spaces in lieu of the three spaces required by code; (e) to allow the proposed building to be a total square footage of 53,272 square feet in lieu of the 15,000 square foot maximum allowed; (f) to allow a rear yard setback of 14'2" in lieu of the 15 foot minimum required; (g) to allow an architectural tower to be on the entry façade that is not permitted by Code; (h) to allow the height of the business identification sign to be 22 feet in lieu of the 15 foot maximum allowed; (i) to allow the height of the proposed one story grocery store to be 25 feet in lieu of the 15 foot maximum allowed; (j) to allow the overall height of the proposed one story grocery store to be 36 feet in lieu of the 20 foot maximum allowed; (k) to allow 201 parking spaces in lieu of the 220 required (a deficit of 19 parking spaces); (l) to allow a 4 parking spaces with a depth of 17'6" in lieu of the 18 feet minimum required.
- [Attorney: Maura A. Ziska, Esq.]

[ARCOM Recommendation: Defer to the August 25, 2010, ARCOM meeting.]
Deferred from the May 12, 2010, June 22, 2010, and July 14, 2010, Town Council Meetings (Special Circumstances).

4. New Business – More than 15 Minutes

None

D. Other

None

IX. ANY OTHER MATTERS

X. ADJOURNMENT

XI. PLEASE TAKE NOTE:

Note 1: If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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

Note 3: Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting on: August 11, 2010

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 3-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Text of the Infrastructure Element (Section VI) of the Town of Palm Beach Comprehensive Plan as Last Amended on April 15, 2009 with the Adoption of Ordinance No. 6-09, by Amending Policy 12.3 to Include a 10-Year Water Supply Facility Work Plan, Pursuant to Chapter 163.3177(6)(C), Florida Statutes (Water Supply Planning Requirements); Providing for Severability; Repealing all Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; and Providing an Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated July 20, 2010, from John Page
- Ordinance No. 3-10

TOWN OF PALM BEACH

Information for Town Council Meeting on: August 11, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: 10-Year Water Supply Facility Work Plan
Ordinance No. 3-10

Date: July 20, 2010

STAFF RECOMMENDATION

Staff requests that the Town Council review the proposed 10-Year Water Supply Facility Work Plan and necessary Comprehensive Plan amendments contained in Ordinance No. 3-10, adopt the Work Plan and Comprehensive Plan amendments on second reading, and submit these to the Florida Department of Community Affairs (DCA).

TOWN ATTORNEY REVIEW

Ordinance No. 3-10 has been reviewed and approved for legal form and sufficiency by the Town Attorney.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission, acting as the Local Planning Agency, reviewed the proposed 10-Year Water Supply Facility Work Plan and Comprehensive Plan amendments at its December 8, 2009 meeting, and unanimously voted to recommend approval of the Work Plan and Comprehensive Plan amendments as written.

GENERAL INFORMATION

Enclosed is the proposed 10-Year Water Supply Facility Work Plan, which was drafted to satisfy a recent State requirement, and was created using a template provided by the South Florida Water Management District (SFWMD). This plan is referenced in the Town's Comprehensive Plan by revisions to Policy 12.3 in the Potable Water subelement of the Infrastructure Element. The ordinance revising the Comprehensive Plan is also attached.

All counties and municipalities in the State of Florida are required to create this Work Plan to ensure that they are providing sufficient potable water to those they serve. It is also important for

water purchasers such as the Town of Palm Beach to create these Work Plans to show that they are coordinating with their water provider to ensure that their citizen's water needs are being met. Because all of the counties and municipalities within the SFWMD are using the template provided by the District, they are very similar in nature in terms of formatting and general information provided.

The Work Plan and Comprehensive Plan amendments were approved on first reading by Town Council at its April 14, 2010 meeting, and transmitted to DCA for their review. In a letter dated July 2, 2010, which served as DCA's Objections, Recommendations and Comments (ORC) Report, DCA stated that the Work Plan and Comprehensive Plan amendments are consistent with Chapter 163, Part II, Florida Statutes, and Rule 9J-5, Florida Administrative Code, and that DCA had no objections to the proposed Work Plan and Comprehensive Plan amendments.

Attachments

c: Peter Elwell, Town Manager
Paul Brazil, P.E., Director of Public Works
Jim Bowser, P.E., Public Works
Veronica Close, AICP, Assistant Director of Planning, Zoning & Building
John Lindgren, AICP, Planning Administrator

ORDINANCE NO. 3-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TEXT OF THE INFRASTRUCTURE ELEMENT (SECTION IV) OF THE TOWN OF PALM BEACH COMPREHENSIVE PLAN AS LAST AMENDED ON APRIL 15, 2009 WITH THE ADOPTION OF ORDINANCE NO. 6-09, BY AMENDING POLICY 12.3 TO INCLUDE A 10-YEAR WATER SUPPLY FACILITY WORK PLAN, PURSUANT TO CHAPTER 163.3177(6)(C), FLORIDA STATUTES (WATER SUPPLY PLANNING REQUIREMENTS); PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town proposes to amend its Comprehensive Plan in accordance with the requirements of the 1993 Local Government Comprehensive Planning and Land Development Regulation Act; and,

WHEREAS, the Town created the Town of Palm Beach Comprehensive Plan with the adoption of Ordinance No. 11-89, and last amended the Comprehensive Plan on April 15, 2009 with the adoption of Ordinance No. 6-09; and,

WHEREAS, the Town has created a 10-Year Water Supply Facility Work Plan, as required by Chapter 163.3177(6)(C), to ensure the availability of an adequate water supply; and,

WHEREAS, the Town is amending Policy 12.3 in the Infrastructure Element of the Town's Comprehensive Plan to reference the newly created 10-Year Water Supply Facility Work Plan; and,

WHEREAS, the Planning and Zoning Commission, acting as the Local Planning Agency (LPA), has reviewed and recommended approval of the 10-Year Water Supply Facility Work Plan and related Comprehensive Plan amendment of Policy 12.3 of the Infrastructure Element, and transmittal to DCA on or about December 8, 2009.

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

Section 1. INCORPORATION OF RECITALS

The above recitals are incorporated as fully set herein.

Section 2. FINDINGS

The proposed 10-Year Water Supply Facility Work Plan as more particularly described in Exhibit “A,” and the proposed Comprehensive Plan amendment as more particularly described in Section 3 below, have been determined by the Town Council to promote the public health, safety and welfare, and is consistent with the requirements of Chapter 163 Florida Statutes, Chapters 9J-5 and 9J-11 of the Florida Administrative Code, and all elements of the adopted Comprehensive Plan.

Section 3. AMENDMENT OF COMPREHENSIVE PLAN

The Infrastructure Element in the Town of Palm Beach Comprehensive Plan is hereby amended as follows:

POLICY 12.3

The Town, coordinating with SFWMD, created a 10-Year Water Supply Facility Work Plan in 2010 (incorporated and adopted herein by reference as Exhibit “A”) that takes into account the Lower East Coast (LEC) Regional Water Supply Plan. The Town shall send a letter to SFWMD with identified projects for future water supply needs of the Town. Projects must be selected from the LEC Regional Water Supply Plan or must have prior approval by SFWMD. The Town will coordinate with its water supplier, i.e. the City of West Palm Beach, in this regard. The Town shall address future updates by SFWMD within 18 months of adoption by SFWMD of a new LEC Regional Water Supply Plan, by revising the Town’s 10-Year Water Supply Facility Work Plan.

Section 4. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance for any reason, is held to be unconstitutional, void or otherwise invalid, the validity of the remaining portions of this Ordinance shall not be effected thereby.

Section 5. EFFECTIVE DATE

The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administrative Commission finding the amendment in compliance in accordance with Chapter 163.3187(3)(C), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

PASSED ON FIRST READING in a regular, adjourned session of the Town Council on the 14th day of April 2010.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council on the 11th day of August 2010.

Jack McDonald, Mayor

David A. Rosow, Council President

Gail Coniglio, President Pro Tem

William J. Diamond, Council Member

Richard M. Kleid, Council Member

Robert N. Wildrick, Council Member

ATTEST:

Joanna Cunningham, Town Clerk

EXHIBIT “A”

The Town of Palm Beach 10-Year Water Supply Facility Work Plan



TOWN OF PALM BEACH, FLORIDA

TOWN OF PALM BEACH 10-YEAR WATER SUPPLY FACILITY WORK PLAN

Prepared For:

Florida Department of Community Affairs

Prepared By:

Town of Palm Beach Planning, Zoning & Building Department

November 2009



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5.0 COORDINATION WITH WATER PROVIDER



1.0 INTRODUCTION

The purpose of the Town of Palm Beach Water Supply Facility Work Plan (Work Plan) is to identify and plan for the water supply sources and facilities needed to serve existing and new development within the Town's jurisdiction. Chapter 163, Part II, F.S., requires the Town to prepare, adopt and incorporate a Work Plan into its comprehensive plan within 18 months after the water management district approves a regional water supply plan or its update. The *Lower East Coast Water Supply Plan Update* was approved by the South Florida Water Management District (SFWMD) on February 15, 2007. Completion of the Town's plan was dependent upon the approval of the Town's water supplier's (City of West Palm Beach) Work Plan by the Florida Department of Community Affairs (DCA), and the final adoption and approval by DCA of the Town's Comprehensive Plan EAR-Based Amendments (process completed in October 2009).

Residents of the Town of Palm Beach obtain their water directly from the City of West Palm Beach, which is responsible for ensuring that enough capacity is available for existing and future customers.

The Town of Palm Beach Water Supply Facility Work Plan (Work Plan) references the initiatives already identified in West Palm Beach's 10-year Work Plan since the Town is a retail buyer. According to state guidelines, the Work Plan and the comprehensive plan amendment must address the development of traditional and alternative water supplies, bulk sales agreements and conservation and reuse programs that are necessary to serve existing and new development for at least a 10-year planning period. Because of the Town's relationship with the City of West Palm Beach, the Town's Work Plan has the same planning time schedule as the City of West Palm Beach's 10-year Work Plan.

The Town's Work Plan is divided into four sections:

Section 1 – Introduction

Section 2 – Background Information

Section 3 – Data and Analysis

Section 4 – Work Plan Projects/Capital Improvement Element/Schedule

The Town of Palm Beach's goals, objectives and policies that address potable water are found in the "Potable Water" subelement of the Infrastructure Element of the Town's Comprehensive Plan. Specifically, the policies in Objectives 9, 10, 11, and 12 in the Infrastructure Element detail how the Town coordinates with its water provider to guarantee a sufficient water supply for its residents in the most efficient and environmentally friendly way possible. Policy 12.3 in the Infrastructure Element references this water supply facility work plan.



1.1 Statutory History

The Florida Legislature enacted legislation in the 2002, 2004, and 2005 sessions to address the state's water supply needs. This legislation, particularly Senate Bills 360 and 444 (2005 legislative session), significantly changed Chapter 163 and 373 Florida Statutes (F.S.) by strengthening the statutory links between the regional water supply plans prepared by the water management districts and the comprehensive plans prepared by local governments. In addition, these bills established the basis for improving coordination between the local land use planning and water supply planning.

1.2 Statutory Requirements

Each local government must comply with the following requirements:

1. Coordinate appropriate aspects of its comprehensive plan with the appropriate water management district's regional water supply plan, [163.3177(4)(a), F.S.]
2. Ensure that its future land use plan is based upon availability of adequate water supplies and public facilities and services [s.163.3177(6)(a), F.S., effective July 1, 2005]. Data and analysis demonstrating that adequate water supplies and associated public facilities will be available to meet projected growth demands must accompany all proposed Future Land Use Map amendments submitted to the Department for review. The submitted package must also include an amendment to the Capital Improvements Element, if necessary, to demonstrate that adequate public facilities will be available to serve the proposed Future Land Use Map modification.
3. Ensure that adequate water supplies and facilities are available to serve new development no later than the date on which the local government anticipates issuing a certificate of occupancy and consult with the applicable water supplier prior to approving building permits, to determine whether adequate water supplies will be available to serve the development by the anticipated issuance date of the certificate of occupancy [s.163.3180 (2)(a), F.S., effective July 1, 2005]. This "water supply concurrency" is now in effect, and local governments should be complying with the requirement for all new development proposals. In addition, local governments should update their comprehensive plans and land development regulations as soon as possible to address these statutory requirements. The latest point at which the comprehensive plan must be revised to reflect the concurrency requirements is at the time the local government adopts plan amendments to implement the recommendations of the Evaluation and Appraisal Report (EAR).
4. For local governments subject to a regional water supply plan, revise the General Sanitary Sewer, Solid Waste, Drainage, Potable Water, and Natural



Groundwater Aquifer Recharge Element (the "Infrastructure Element"), within 18 months after the water management district approves an updated regional water supply plan, to:

- a. Identify and incorporate the alternative water supply project(s) selected by the local government from projects identified in the updated regional water supply plan, or the alternative project proposed by the local government under s. 373.0361(7), F.S. [s. 163.3177(6)(c), F.S.];
 - b. Identify the traditional and alternative water supply projects, bulk sales agreements, and the conservation and reuse programs necessary to meet current and future water use demands within the local government's jurisdiction [s. 163.3177(6)(c), F.S.]; and
 - c. Include a water supply facilities work plan for at least a 10-year planning period for constructing the public, private, and regional water supply facilities identified in the element as necessary to serve existing and new development. [s. 163.3177(6)(c), F.S.] Amendments to incorporate the water supply facilities work plan into the comprehensive plan are exempt from the twice-a-year amendment limitation. [s. 163.3177(6)(c), F.S.]
5. Revise the Five-Year Schedule of Capital Improvements to include any water supply, reuse, and conservation projects and programs to be implemented during the five-year period.
6. To the extent necessary to maintain internal consistency after making changes described in Paragraph 1 through 5 above, revise the Conservation Element to assess projected water needs and sources for at least a 10-year planning period, considering the appropriate regional water supply plan, the applicable District Water Management Plan, as well as applicable consumptive use permit(s). [s.163.3177 (6)(d), F.S.]

If the established planning period of a comprehensive plan is greater than ten years, the plan must address the water supply sources necessary to meet and achieve the existing and projected water use demand for established planning period, considering the appropriate regional water supply plan. [s.163.3167 (13), F.S.]

7. To the extent necessary to maintain internal consistency after making changes described in Paragraphs 1 through 5 above, revise the Intergovernmental Coordination Element to ensure coordination of the comprehensive plan with applicable regional water supply plans and regional water supply authorities' plans. [s.163.3177(6)(h)1., F.S.]
8. Address in the EAR, the extent to which the local government has implemented the 10-year water supply facilities work plan, including the



development of alternative water supplies, and determine whether the identified alternative water supply projects, traditional water supply projects, bulk sales agreements, and conservation and reuse programs are meeting local water use demands. [s.163.3191 (2)(1), F.S.]

2.0 BACKGROUND INFORMATION

2.1 Overview

The Town of Palm Beach was incorporated in 1911, making it the second municipality established in Palm Beach County. The Town is a 16-mile long barrier island with the Atlantic Ocean to the east and the Intracoastal Waterway to the west, which separates the Town from the Cities of West Palm Beach and Lake Worth.

The Town of Palm Beach is substantially built-out. The Town experienced its greatest growth between 1950 and 1970, when its resident population increased from 3,886 to 9,086. Since then, population growth has been less dramatic. The 2009 estimated population for the Town is 9,815, and over the next ten years the Town population is projected to grow to 10,080, which is only a 2.7% increase in population. Again, this relatively minor population growth is reflective of the fact that the Town is substantially built-out, with future development potential and population growth limited by the scarcity of vacant and developable land. Furthermore, the potential expansion of the Town's current boundaries through annexations is not possible because the Town is not physically connected to any unincorporated areas.

In 2009, an evaluation of existing gross acreage by land uses revealed that 1,614 acres or 78% of the total gross acreage in the Town is dedicated to residential use. The remaining gross acreages are allocated to non-residential uses such as private group use (11%), recreation (5%), commercial (5%); conservation (2%), and public use (0.002%). The private group use includes private clubs, golf and country clubs, houses of worship, museums and non-commercial recreation-type or cultural uses. In 2008, the Town's building records indicated that 21 permits were issued for new residential construction and only one permit for commercial construction. Many of the 21 new residential construction permits were in conjunction with a demolition permit, thereby allowing an existing home to be demolished and replaced with a new home. This information furthers the premise that the Town is essentially built-out.

2.2 Relevant Regional Issues

As the state agency responsible for water supply in the Lower East Coast planning area, the SFWMD plays a pivotal role in resource protection, through criteria used



for Consumptive Use Permitting. As pressure increased on the Everglades ecosystem resource, the Governing Board initiated rule-making to limit increased allocations dependent on the Everglades system. As a result, the Regional Water Availability Rule was adopted by the Governing Board on February 15, 2007 as part of the SFWMD's water use permit program. This reduced reliance on the regional system for future water supply needs, mandates the development of alternative water supplies, and increasing conservation and reuse.

3. DATA AND ANALYSIS

The Town of Palm Beach does not own or operate its own potable water supply system. Rather, potable water facilities and services are provided by the City of West Palm Beach. In addition to providing potable water to the Town of Palm Beach and its own residents, the City of West Palm Beach also provides potable water to the Town of South Palm Beach.

The City of West Palm Beach's water system includes a raw water supply, water treatment plant, storage reservoirs, and a distribution system. A 30-year renewable contract between the Town and the City was signed in 1965 (Resolution 3-65) and expired in 1995; however, the City continued to provide water to the Town as was required by the previous agreement. The Town subsequently renegotiated the contract with the City, and a new franchise agreement was signed on June 16, 1999 (Resolution 22-99), and is effective until 2029.

3.1 Population Information

The Town's existing and future population figures are derived from the US Census, the Bureau of Economic and Business Research (BEBR), and the Town's Planning, Zoning and Building Department. Between 1950 and 1970, the Town of Palm Beach population grew from 3,886 to 9,086, an increase of 134 percent. After this period, the Town's population was far less dramatic with an approximate population of 9,735 in 2005. The current (2009) population for the Town has been estimated at 9,815. By 2014, the Town's population is anticipated to increase to 9,947. In 2019 the population should reach 10,080, which represents an increase of 2.7 percent over the 2009 population. This relatively minor population growth is reflective of the fact that the Town is substantially built-out, with future development potential and population growth limited by the scarcity of vacant and developable land.



3.2 Maps of Current and Future Areas Served

The Town's water demand is met by the City of West Palm Beach, therefore the Town falls within the City of West Palm Beach's Utility Service Area, and is shown in the City's Potable Water Supply Service Area map found in the City's Comprehensive Plan Map Series.

3.3 Population and Potable Water Supply Demand Projections

The Town's population figures have been included in the City of West Palm Beach's 10-Year Water Supply Facility Work Plan, which also includes the population figures for the Town of South Palm Beach and the City of West Palm Beach. All of these population figures have been used to project future water demand in the Utility Service Area for the City of West Palm Beach, and are included in the City's 10-Year Water Supply Facility Work Plan in the City's Comprehensive Plan. In summary, the City's permitted allocation of potable water is 14,346 million gallons per year, while the demand from the Utility Service Area was 11,216 million gallons in 2008, and the projected demand for the Area is 13,664 million gallons in 2018. Therefore, the City of West Palm Beach can more than easily meet the water demands of the Town of Palm Beach for the next ten years.

3.4 Water Supply Provided by the City of West Palm Beach

The City of West Palm Beach's 10-Year Water Supply Facilities Work Plan is attached as Appendix A. The intent of the City's Work Plan is to meet the statutory requirements mentioned in subsection 1.2 of this plan and to coordinate the City of West Palm Beach's water supply initiatives with the SFWMD's *Lower East Coast Water Supply Plan Update*.

As stated earlier, the City of West Palm Beach's Utility Service Area includes all the land within the City's municipal boundaries, and also those areas within the municipal boundaries of the Town of South Palm Beach and the Town of Palm Beach. The City of West Palm Beach's supply system is detailed in the following subsections.

3.4.1 SFWMD Water Use Permit

The City obtained a 20-year consumptive use permit (CUP) from the South Florida Water Management District (SFWMD) on October 12, 2006. The details of the permit are as follows:



- CUP Number: 50-00615-W
- Raw Water Source:
 1. Ground Water Source: Floridan Aquifer System & Surficial Aquifer System
 2. Surface Water Source: Clear Lake
- Raw Water Allocation Information:
 - Annual Allocation: 14,346 Million Gallons (MG)
 - Max. Monthly Allocation: 1,339 Million Gallons (MG)
- Annual allocation includes 10,291 million gallons (MG) existing surface water withdrawal and 4,055 million gallons (MG), Alternative Water Supply that is made up of 365 MGY from the Renaissance Project and 3,690 MGY from the Wetland Based Reclamation Project.
- Average to Maximum Monthly Pumping Ratio: 1:1.12
- Specific Source Limitation:
 - Clear Lake Annual = 14,346 MG; Monthly = 1,339 MG
- Permit Expiration in 20 years: October 11, 2026.

3.4.2 Existing Withdrawal Facility

Source: Floridan Aquifer System

1 – X 1200' X 4861 GPM Well Cased to 985 feet

Source: Surficial Aquifer System

1 – X 18" X 152.5' X 2,790 GPM Well Cased to 82.5 feet

1 – X 18" X 153.5' X 2,790 GPM Well Cased to 83.5 feet

1 – X 18" X 154' X 2,780 GPM Well Cased to 84 feet

1 – X 18" X 163' X 2,780 GPM Well Cased to 93.5 feet

1 – X 18" X 166' X 2,780 GPM Well Cased to 96 feet

1 – X 18" X 170' X 2,780 GPM Well Cased to 100 feet

1 – X 18" X 150' X 2,780 GPM Well Cased to 80 feet

4 – X 18" X 150' X 2,780 GPM Well Cased to 80 feet

Source: Clear Lake

4 – X 14" X 100 HP X 8,400 GPM Turbine Pumps

1 – X 16" X 100 HP X 5,250 GPM Centrifugal Pumps

2 – X 18" X 125 HP X 10,500 GPM Centrifugal Pumps

1 – X 30" X 150 HP X 17,500 GPM Turbine Pumps

3.4.3 Alternative Water Supplies

The City's SFWMD consumptive use permit (CUP) requires that the City "use alternative water supplies to account for all increased demands from Clear Lake above the City's historic use in the 12-month period prior to April 2006 which equates to 10,291 million gallons per year (MGY)." The City has identified these



alternatives in Table 7 ("Service Area Water Demand Projections and Alternative Water Supply Sources") of their 10-Year Water Supply Facility Work Plan, which will allow the City to meet the water supply demand of its Service Area for the next ten years, including the water demands of the Town of Palm Beach.

3.4.4 Interconnects

The City also maintains interconnections with other public water suppliers including:

1. An emergency interconnection with Indian Trail Improvement District, for delivery of up to 0.15 MGD of finished water;
2. One emergency interconnection with the Village of Royal Palm Beach near State Road 7 and Okeechobee Boulevard for delivery of up to 2.0 MGD of finished water;
3. One interconnection with the Solid Waste Authority for delivery of up to 0.35 MGD of finished water;
4. One interconnection with Seacoast Utilities located at Northlake Boulevard, for delivery of up to 3.0 MGD of finished water as available within the capacity of the City's water system;
5. Three emergency interconnections with Palm Beach County at Bridgeman Road, Ernest Street and Jog Road; and
6. Two emergency interconnections with the City of Riviera Beach with one at Military Trail and one at Broadway Avenue.

3.5 Conservation

Currently, the Town's goal listed in the Comprehensive Plan is to reduce potable water consumption by 20% through the implementation of a water conservation program that includes education, requiring water saving devices in construction, requiring new automatic irrigation systems to include water sensors, the use of xeriscaping, and enforcement of SFWMD's irrigation restrictions.

To further the conservation of water, the Town will coordinate future conservation efforts with the City of West Palm Beach and the SFWMD to ensure that proper techniques are applied. In addition, the Town will continue to support and expand existing goals, objectives and policies in the comprehensive plan that promote water conservation in a cost-effective and environmentally sensitive manner. The Town will continue to actively support the SFWMD and the City of West Palm Beach in the implementation of new regulations or programs that are design to conserve water during the dry season.



3.6 Alternative Water Supply Projects & Reuse

State law supports and promotes reuse efforts. For the past several years, Florida's utilities, local governments, and water management districts have led the nation in implementing water reuse programs that increase the quantity of reclaimed water used and public acceptance of reuse programs. Section 373.250(1) F.S. provides that "water reuse programs designed and operated in compliance with Florida's rules governing reuse are deemed protective of public health and environmental quality." In addition, Section 403.064(1), F.S., provides that "reuse is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems."

The Town of Palm Beach supports all water reuse initiatives by its water provider, including those completed and operational, and those that are being developed. These water reuse initiatives include the following:

The Renaissance Project was completed by the City of West Palm Beach in 2002, which is a stormwater collection and reuse system that collects and treats stormwater normally discharged into a water body, for reuse in the City's potable water supply system. Currently, the Renaissance Project captures, treats, and stores approximately 365 million gallons of water per year (MGY), or one (1) million gallons per day (MGD). This reuse system greatly reduces stormwater that would be passed into a water body, and significantly reduces the need for the City to withdraw additional water from the regional water supply system.

In 2006, the City of West Palm Beach completed construction on the Wetlands Based Water Reclamation Project (WBWRP), which is another water reuse project that involves the discharge of highly treated effluent to an adjacent wetland area to restore and recharge the wetland and surficial aquifer. The City then has the ability to withdraw this water from the recharged aquifer and put it into its potable water supply system. This reclaimed water, up to 10 million gallons per day (MGD), is available to augment the City's potable water supply system, which reduces the City's dependency on the regional water supply system.

The City of West Palm Beach also recently completed an 8 million gallon per day (MGD) aquifer storage and recovery (ASR) well at its Water Treatment Plant. This well can store excess treated surface water during a heavy rainfall, then pump it into the upper Floridan Aquifer System, which can then be withdrawn to meet increased demands during dry weather. The City's ASR well is not currently operational, but is being evaluated for future use.



4.0 CAPITAL IMPROVEMENTS

The following are details of the City of West Palm Beach's treatment process for potable water, and what capital improvements will be necessary over the next ten years to provide potable water to those it serves, including the Town of Palm Beach.

4.1 City of West Palm Beach's Existing Water Treatment Plant Process

The City of West Palm Beach's Water Treatment Plant (WTP) was originally constructed in 1921, and later expanded in 1989, which increased capacity by 47 million gallons per day (MGD). In 1999, the treatment process at the facility was modified to include ferric sulfate-enhanced lime softening treatment. The City is currently evaluating water treatment alternatives, other sources of water, and possible plant locations; any future modifications or changes shall be reflected in this plan as it is amended from time to time.

Surface water is the primary source for the City's (and therefore the Town's) water supply system. Surface water travels through the City's M-Canal to the City's water supply lakes (Lake Mangonia and Clear Lake), and they come from the City's Grassy Waters Preserve. As mentioned previously, there are other sources of water that feed into the surface water system, including the Renaissance Project and the Wetlands Based Water Reclamation Project (WBWRP). Ultimately, the combined water from Grassy Waters Preserve, the Renaissance Project, and the WBWRP is pumped from Clear Lake into the WTP for treatment.

The following is a description of the water treatment process contained in the City of West Palm Beach's 10-Year Water Supply Facility Work Plan:

First, powdered activated carbon is added to control taste and odor. Next, the water enters two parallel rapid mix coagulation-flocculation-sedimentation treatment trains. Each treatment train operates independently of the other utilizing two different chemical treatment methods. The east train utilizes ferric-sulfate-enhanced lime softening (LS) and the west train utilizes enhanced coagulation using ferric sulfate (EC). Following chemical addition, both trains enter flocculation basins and then sedimentation basins where particles settle and are removed from the water. Water is collected at the end of the sedimentation basins and both trains are combined in a combined effluent channel. After recombining, caustic soda is added to raise the pH prior to filtration. The pH adjusted water is then filtered to remove any remaining particulates before the final process step of chlorination.



After chlorination, the water is pumped through three major transmission mains that pump to the east, south and north.

4.2 Capital Improvements Element/Schedule

The City of West Palm Beach's Five-Year Capital Improvements Schedule, which is adopted annually, details the capital improvements necessary to provide the various adopted levels of service (LOS) established by the City and those that they serve, including the Town of Palm Beach. As stated previously, the City is currently evaluating water treatment alternatives, sources of water, and future water treatment plant locations. After this evaluation is completed, the City will update its Five-Year Capital improvements Schedule to incorporate any necessary projects.

After the City of West Palm Beach reviewed current and projected water demands, and its water supply options, the City determined that no new infrastructure for potable water will be needed within the ten-year planning period of this water supply facility work plan. However, a permit modification to the City's Wetlands Based Water Reclamation Project (WBWRP) will be needed by 2014 to allow for an increase in quantity of water discharged to the wetlands reuse site above the current average daily flow of 6.0 million gallons per day (MGD) to 10.0 MGD.

5.0 COORDINATION WITH WATER PROVIDER

A representative from the Town of Palm Beach meets on a regular basis with a representative from the City of West Palm Beach to "assist the City in its efforts to establish priorities for replacement of, or corrections of, deficiencies to potable water quality, facilities, as well as provision for future potable water needs." (Infrastructure Element Policy 12.1). The Town has also created the Town of Palm Beach Water Committee that regularly meets to discuss water supply problems and issues, and possible solutions. Representatives from the City of West Palm often address this Committee, and this Committee is in constant coordination with the City to ensure that the Town's potable water needs are met.

The Town will amend this work plan to address any changes to the water provider, or if the Town assumes the responsibility of water provider.



Appendix A

The City of West Palm Beach 10 Year Water Supply Facility Work Plan

10 YEAR WATER SUPPLY FACILITY WORK PLAN SUBELEMENT

1.0 INTRODUCTION

1.1 Purpose and Objectives

The purpose of the City of West Palm Beach Water Supply Facility Work Plan (hereinafter the Work Plan) is to identify and plan for the water supply sources and facilities needed to serve existing and new development within the local government's jurisdiction. Chapter 163, Part II, F.S., requires local governments to prepare and adopt Work Plans into their comprehensive plans within 18 months after the water management district approves a regional water supply plan or its update. The Lower East Coast Water Supply Plan (LECWSP) Update was approved by the South Florida Water Management District on February 15, 2007.

Residents of the City buy their water directly from the City of West Palm Beach Public Utilities Department (PUD). Under this arrangement, the City's PUD ensures that enough capacity is available for existing and future customers and that supporting infrastructure, such as the water lines, are adequately maintained.

According to state guidelines, the Work Plan and the comprehensive plan amendment must address the development of traditional and alternative water supplies, bulk sales agreements and conservation and reuse programs that are necessary to serve existing and new development for at least a 10-year planning period.

The City's Work Plan is divided into the following four sections:

Section 1 – Introduction

Section 2 – Background Information

Section 3 – Data and Analysis

Section 4 – Work Plan Projects/Capital Improvement Element/Schedule

1.2 Statutory History

The Florida Legislature has enacted bills in the 2002, 2004, and 2005 sessions to address the state's water supply needs. These bills, especially Senate Bills 360 and 444 (2005 legislative session), significantly changed Chapter 163 and 373 Florida Statutes (F.S.) by strengthening the statutory links between the regional water supply plans prepared by the water management districts and the comprehensive plans prepared by local governments. In addition, these bills established the basis for improving coordination between the local land use planning and water supply planning.

1.3 Statutory Requirements

The following highlights the statutory requirements:

1. Coordinate appropriate aspects of its comprehensive plan with the appropriate water management district's regional water supply plan, [163.3177(4)(a), F.S.]
2. Ensure that its future land use plan is based upon availability of adequate water supplies and public facilities and services, [s.163.3177(6)(a), F.S., effective July 1, 2005.] Data

and analysis demonstrating that adequate water supplies and associated public facilities will be available to meet projected growth demands must accompany all proposed Future Land Use Map amendments submitted to the Department for review. The submitted package must also include an amendment to the Capital Improvements Element, if necessary, to demonstrate that adequate public facilities will be available to serve the proposed Future Land Use Map modification.

3. Ensure that adequate water supplies and facilities are available to serve new development no later than the date on which the local government anticipates issuing a certificate of occupancy and consult with the applicable water supplier prior to approving building permit, to determine whether adequate water supplies will be available to serve the development by the anticipated issuance date of the certificate of occupancy. [s.163.3180(2)(a), F.S., effective July 1, 2005.] This “water supply concurrency” is now in effect, and local governments should be complying with the requirement for all new development proposals. In addition, local governments should update their comprehensive plans and land development regulations as soon as possible to address these statutory requirements. The latest point at which the comprehensive plan must be revised to reflect the concurrency requirements is at the time the local government adopts plan amendments to implement the recommendations of the Evaluation and Appraisal Report (EAR).
4. For local government subject to a regional water supply plan, revise the General Sanitary Sewer, Solid Waste, Drainage, Potable Water, and Natural Groundwater Aquifer Recharge Element (the “Infrastructure Element”), within 18 months after the water management district approves an updated regional water supply plan, to:
 - a. Identify and incorporate the alternative water supply project(s) selected by the local government from projects identified in the updated regional water supply plan, or the alternative project proposed by the local government under s. 373.0361(7), F.S. [s. 163.3177(6)(c), F.S.];
 - b. Identify the traditional and alternative water supply projects, bulk sales agreements, and the conservation and reuse programs necessary to meet current and future water use demands within the local government’s jurisdiction [s. 163.3177(6)(c), F.S.]; and
 - c. Include a water supply facility work plan for at least a 10-year planning period for constructing the public, private, and regional water supply facility identified in the Element as necessary to serve existing and new development. [s. 163.3177(6)(c), F.S.] Amendments to incorporate the water supply facility work plan into the comprehensive plan are exempt from the twice-a-year amendment limitation. [s. 163.3177(6)(c), F.S.]
5. Revise the Five-Year Schedule of Capital Improvements to include any water supply, reuse, and conservation projects and programs to be implemented during the five-year period.
6. To the extent necessary to maintain internal consistency after making changes described in Paragraph 1 through 5 above, revise the Conservation Element to assess projected water needs and sources for at least a 10-year planning period, considering the appropriate regional water supply plan, the applicable District Water Management Plan, as well as applicable consumptive use permit(s). [s.163.3177(6)(d), F.S.]

If the established planning period of a comprehensive plan is greater than ten years, the plan must address the water supply sources necessary to meet and achieve the existing and projected water use demand for established planning period, considering the appropriate regional water supply plan. [s.163.3167(13), F.S.]

7. To the extent necessary to maintain internal consistency after making changes described in Paragraphs 1 through 5 above, revise the Intergovernmental Coordination Element to ensure coordination of the comprehensive plan with applicable regional water supply plans and regional water supply authorities' plans. [s.163.3177(6)(h)1., F.S.]
8. Address in the EAR, the extent to which the local government has implemented the 10-year water supply facility work plan, including the development of alternative water supplies, and determine whether the identified alternative water supply projects, traditional water supply projects, bulk sales agreements, and conservation and reuse programs are meeting local water use demands. [s.163.3191(2)(1), F.S.]

2.0 BACKGROUND INFORMATION

2.1 Overview of the City of West Palm Beach

The City, established in 1894, is the largest municipality within Palm Beach County and serves as the County seat. The City boundaries encompass approximately fifty-eight (58) square miles and are bounded by the Intracoastal Waterway to the east, the South Florida Water Management District C-51 canal to the south, the City's 19.3 square mile Water Catchment Area (WCA) to the west, and the Beeline Highway and 59th Street to the north. Located adjacent to the City are several municipalities including, the Town of Palm Beach, City of Lake Worth, Town of Mangonia Park, and City of Riviera Beach.

Although the City is substantially built-out, approximately 98%, between 1990 and 2000, the City population grew from 67,764 to 82,103, an increase of approximately twenty-one percent. This population growth is reflective of the fact that the City continues to experience infill and redevelopment within its limits.

In 2007, an evaluation of existing gross acreage by land uses revealed that 28.2% of the total gross acreage in the City is dedicated to residential use. The remaining gross acreages are allocated to non-residential such as recreation/open space (50%); commercial (5.4%); industrial (2.9%); and undeveloped (2%). The City does not anticipate substantial increases in land area in the near future, however the population projection indicates a continued modest growth for the City of approximately 3% for the next 10 years.

2.2 Relevant Regional Issues

As the state agency responsible for water supply in the Lower East Coast planning area, the South Florida Water Management District (SFWMD) plays a pivotal role in resource protection, through criteria used for Consumptive Use Permitting. As pressure increased on the Everglades ecosystem resource, the Governing Board initiated rule making to limit increased allocations dependent on the Everglades system. As a result, the Regional Water Availability Rule was adopted by the Governing Board on February 15, 2007 as part of the SFWMD's Consumptive Use Permit Program. This reduced reliance on the regional system for future water supply needs, mandates the development of alternative water supplies, and increasing conservation and reuse.

The intent of the City's Water Supply Facilities Work Plan is to meet the statutory requirements mentioned in subsection 1.2 of this plan and to coordinate the City's water supply initiatives with the Lower East Coast Water Supply Plan (LECWSP) Update, prepared by the South Florida Water Management District.

This Water Supply Facilities Work Plan details the facilities and proposed alternative water supply (AWS) projects that are planned and included in the LECWSP in order to assist the City in meeting the service area water demands through 2017~~8~~. These projects are expected to be completed in increments consistent with the projected growth set forth in the Plan. The AWS projects are included in the City's Capital Improvement Element.

3.0 DATA AND ANALYSIS

3.1 Service Area - Population Information

The City of West Palm Beach Potable Water Supply Service Area (Utility Service Area) includes the City of West Palm Beach, Town of Palm Beach and Town of South Palm Beach. The existing and future population figures for the Utility Service Area are derived from Palm Beach County Planning, Zoning and Building Department and the University of Florida Bureau of Economic and Business Research (BEBR). Between 1990 and 2000, the Utility Service Area grew from 78,937 to 93,310, an increase of approximately eighteen (18%) percent. In 2007~~8~~ the City's Utility Service Area population was estimated at 114,241. By 2012, the City's Utility Service Area population is anticipated to increase to 125,049; and in 2018 to 145,670; representing an increase of twenty (27.5 %) percent over the 2008 population. This population growth is reflective of the fact that the City continues to experience redevelopment and infill projects within its limits.

3.2 Service Area Map

The City Utility Service Area includes the City of West Palm Beach, Town of Palm Beach and Town of South Palm Beach. A copy of the City's Potable Water Supply Service Area map is provided in the Comprehensive Plan Map Series.

3.3 Population and Potable Water Supply Demand Projections

This section provides historical population projections from 2002 to 2007 and projected population projections from 2008 through 2018 for the City Utility Service Area. Population projections for the City and its Utility Service Area are provided by the Palm Beach County Planning Division. The Palm Beach County Planning Division establishes municipal projection figures by disaggregating county-level forecasts produced by the Bureau of Economic and Business Research analysis of the University of Florida.

3.3.1 Historical Population Projections for the Service Area

Historical populations for the City Utility Service Area are as shown below in Table 1.

Table 1 – Historical Population for City of West Palm Beach Water Utility Service Area

Year	2003	2004	2005	2006	2007
<i>City of West Palm Beach Population</i>	90,721	95,628	101,111	107,617	105,068
<i>Town of Palm Beach Population</i>	9,682	9,685	9,700	9,706	9,744
<i>Town of South Palm Beach Population</i>	1,533	1,532	1,532	1,526	1,528
<i>Unincorporated Palm Beach County</i>	270	270	270	270	273
Total Service Area Population	102,206	107,115	112,613	119,119	116,613

3.3.2 Future Population Projections for the Service Area

Future population projections for the City Water Utility Service Area are as shown below in Table 2.

Table 2– Future Population Projections for City of West Palm Beach Water Utility Service Area

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<i>City of West Palm Beach Population</i>	102,453	104,762	107,109	110,131	113,224	116,387	119,623	122,933	126,015	129,157	132,363
<i>Town of Palm Beach Population</i>	9,969	9,943	9,916	9,916	10,010	10,074	10,250	10,369	10,635	10,937	11,298
<i>Town of South Palm Beach Population</i>	1,546	1,540	1,534	1,533	1,545	1,553	1,579	1,596	1,636	1,681	1,736
<i>Unincorporated Palm Beach County</i>	273	273	272	272	270	271	270	271	270	272	273
Total Service Area Population	114,241	116,518	118,831	121,852	125,049	128,285	131,722	135,169	138,556	142,047	145,670

3.3.3 Historical Water Use

The City's Water Treatment Plant historic water production figures are provided below in Table 3 for year 2003 through 2007. As seen from the values in the Table, the City's water production, i.e., demand, significantly dropped in year 2007 due to the significant drought that affected the region and the effective implementation of water restrictions.

Table 3–Service Area Past Water Production and Demand

Year	Annual Finished Water Produced at WPB WTP (MGY)	Daily Finished Water Produced at WPB WTP (MGD)	Service Area Population	Per Capita Demand (GPCPD)
2003	10,171.37	27.87	102,206	272.65
2004	10,849.90	29.73	107,115	277.51
2005	10,924.60	29.93	112,613	265.78
2006	11,526.23	31.58	119,119	265.10
2007	9,670.89	26.50	116,613	227.21

3.3.4 Future Water Demand Projections

Future water demand projections were calculated using the City's service area population projections multiplied by its projected per capita demands. The projected per capita demands are listed as identified in the City's Water Use Permit. Table 4 below provides the projected finished water demand for the year 2008 through 2018 and the permitted allocation from the SFWMD. The City's permitted allocation of 14,346 million gallons per year includes 4,055 million gallons per year of water produced from alternative water supply sources.

Table 4–Utility Service Area Water Demand Projections

Year	Projected Population	Per Capita Demand (GPCPD)	Projected Annual Demand (MGY)	Permitted Annual Allocation (MGY)
2008	114,241	269	11,216.75	14,346.00
2009	116,518	269	11,440.32	14,346.00
2010	118,831	269	11,667.42	14,346.00
2011	121,852	262	11,652.71	14,346.00
2012	125,049	262	11,958.44	14,346.00
2013	128,285	262	12,267.89	14,346.00
2014	131,722	262	12,596.57	14,346.00
2015	135,169	262	12,926.21	14,346.00
2016	138,556	257	12,997.25	14,346.00
2017	142,047	257	13,324.72	14,346.00
2018	145,670	257	13,664.57	14,346.00

The City's projected annual demand ranges from 11,216 million gallons per year in 2008 to 13,664 million gallons per year in 2018.

Table 5 below summarizes the City's Bulk Service Agreements with local service providers and municipalities. The City has an additional bulk service agreement with Seacoast Utility Authority that provides for up to 3.0 mgd of water to Seacoast provided the City has the water available within in its permitted capacity. This agreement along with the emergency interconnect agreements with Palm Beach County, Indian Trail Improvement District and Riviera Beach are not included as a capacity reservation as they are, by definition, on an emergency basis or subject to system capacity capability at the time of request.

Table 5 – Bulk Service Agreements Capacity Reservation

Bulk Sale Agreements - City of West Palm Beach												
Utility/Agency Served		Quantity of Water (mgd)										
		2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Solid Waste Authority		0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35
Total		0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.350

The total quantity of water allocated through the bulk service agreements is combined with the City's projected annual demand and compared to the City's permitted annual allocation below in Table 6.

Table 6 – Total Service Area and Bulk Service Agreement Demand Projection

Year	Bulk Service Agreements (MGY)	Projected Service Area Annual Demand (MGY)	Total Service Area Demand with Bulk Service (MGY)	Permitted Maximum Allocation (MGY)	Surplus or (Deficit) of Permitted Allocation (MGY)
2008	127.75	11,216.75	11,344.50	14,346.00	3,001.50
2009	127.75	11,440.32	11,568.07	14,346.00	2,777.93
2010	127.75	11,667.42	11,795.17	14,346.00	2,550.83
2011	127.75	11,652.71	11,780.46	14,346.00	2,565.54
2012	127.75	11,958.44	12,086.19	14,346.00	2,259.81
2013	127.75	12,267.89	12,395.64	14,346.00	1,950.36
2014	127.75	12,596.57	12,724.32	14,346.00	1,621.68
2015	127.75	12,926.21	13,053.96	14,346.00	1,292.04
2016	127.75	12,997.25	13,125.00	14,346.00	1,221.00
2017	127.75	13,324.72	13,452.47	14,346.00	893.53
2018	127.75	13,664.57	13,792.32	14,346.00	553.68

Table 7 below identifies the Alternative Water Supply Sources that are utilized to meet the City's projected annual service area demand and bulk service agreement reservation.

Table 7–Service Area Water Demand Projections and Alternative Water Supply Sources

Year	Clear Lake Allocation (MGY)	Renaissance AWS (MGY)	Wetlands Based Water Reclamation AWS (MGY)	Total Service Area Demand with Bulk Service (MGY)	Permitted Maximum Allocation (MGY)	Surplus or (Deficit) of Permitted Allocation (MGY)
2008	10,291.00	365.00	688.50	11,344.50	14,346.00	3,001.50
2009	10,291.00	365.00	912.07	11,568.07	14,346.00	2,777.93
2010	10,291.00	365.00	1,139.17	11,795.17	14,346.00	2,550.83
2011	10,291.00	365.00	1,124.46	11,780.46	14,346.00	2,565.54
2012	10,291.00	365.00	1,430.19	12,086.19	14,346.00	2,259.81
2013	10,291.00	365.00	1,739.64	12,395.64	14,346.00	1,950.36
2014	10,291.00	365.00	2,068.32	12,724.32	14,346.00	1,621.68
2015	10,291.00	365.00	2,397.96	13,053.96	14,346.00	1,292.04
2016	10,291.00	365.00	2,469.00	13,125.00	14,346.00	1,221.00
2017	10,291.00	365.00	2,796.47	13,452.47	14,346.00	893.53
2018	10,291.00	365.00	3,136.32	13,792.32	14,346.00	553.68

3.4 Potable Water Supply System

3.4.1 SFWMD Water Use Permit

The City received a twenty year water use permit from the South Florida Water Management District on October 12, 2006. Permit information is as follows:

- WUP Number: 50-00615-W
- Raw Water Source:
 - Ground Water from: Floridan Aquifer System and Surficial Aquifer System
 - Surface Water from: Clear Lake
- Raw Water Allocation Information:
 - Annual Allocation: 14,346 Million Gallons (MG)
 - Maximum Monthly Allocation: 1,339 Million Gallons (MG)
- Annual allocation includes 10,291 Million Gallons (MG) existing surface water withdrawal and 4,055 Million Gallons (MG), Alternative Water Supply which is made up of 365 MGY from the Renaissance Project and 3690 MGY from the Wetland Based Reclamation Project.
- Average to Maximum Monthly Pumping Ratio: 1:1.12
- Specific Source Limitation:
 - Clear Lake Annual = 14,346 MG; Monthly = 1,339 MG
- Permit Expiration: October 11, 2026.

3.4.2 Existing Withdrawal Facility

Source: Floridan Aquifer System

1-24" x 1200' x 4861 GPM Well Cased to 985 feet

Source: Surficial Aquifer System

1-18" x 152.5' x 2,790 GPM Well Cased to 82.5 feet

1-18" x 153.5' x 2,790 GPM Well Cased to 83.5 feet

1-18" x 154' x 2,780 GPM Well Cased to 84 feet

1-18" x 163' x 2,780 GPM Well Cased to 93.5 feet

1-18" x 166' x 2,780 GPM Well Cased to 96 feet

1-18" x 170' x 2,780 GPM Well Cased to 100 feet

1-18" x 150 x 2,780 GPM Well Cased to 80 feet

4-18" x 150' x 2,780 GPM Well Cased to 80 feet

Source: Clear Lake

4-14" x 100 HP x 8,400 GPM turbine pumps

1-16" x 100 HP x 5,250 GPM centrifugal pumps

2-18" x 125 HP x 10,500 GPM centrifugal pumps

1-30" x 150 HP x 17,500 GPM turbine pump

3.4.3 Alternative Water Supplies

The City's Water Use Permit requires the City to "use alternative water supplies to account for all increased demands from Clear Lake above the City's historic use in the 12-month period prior to April 2006 which equates to 10, 291 million gallons per year (MGY)". The City has approved alternatives, urban stormwater treatment via the Renaissance Project and wetland rehydration and aquifer recharge through the Wetlands Based Water Reclamation Project. Table 7 identifies the required alternative water supply demand needed to meet the projected water service area demand for year 2008 through 2018. A discussion of the City's alternative water supply projects can be found in Section 3.6 of this report.

3.4.4 Interconnects

The City maintains interconnections with other public water suppliers as follows:

- 1) An emergency interconnection with Indian Trail Improvement District, for delivery of up to 0.15 MGD of finished water;
- 2) One emergency interconnection with the Village of Royal Palm Beach near State Road 7 and Okeechobee Boulevard for delivery of up to 2.0 MGD of finished water;
- 3) One interconnection with the Solid Waste Authority for delivery of up to 0.35 MGD of finished water;
- 4) One interconnection with Seacoast Utilities located at Northlake Boulevard, for delivery of up to 3.0 MGD of finished water as available within the capacity of the City's water system;
- 5) Three emergency interconnections with Palm Beach County at Bridgeman Road, Ernest Street and Jog Road; and
- 6) Two emergency interconnections with the City of Riviera Beach with one at Military Trail and one at Broadway Avenue.

3.5 Conservation

The City developed and adopted a Water Conservation Plan in July 2005. The Water Conservation Plan elements include an aggressive approach to the development and implementation of several alternative water supply projects, water conservation based water rate structures, leak detection programs, an irrigation limitation ordinance, native vegetation landscaping requirements, ultra-low volume plumbing fixture construction code, rain sensor override requirement ordinance, and extensive public education programs. The City will coordinate future water conservation efforts with SFWMD to ensure that proper techniques are applied. In addition, the City will continue to support and expand existing goals, objectives and policies in the comprehensive plan that promote water conservation in a cost-effective and environmentally sensitive manner. The City will continue to actively support the SFWMD in the implementation of new regulations or programs that are design to conserve water during the dry season.

3.6 Alternative Water Supply Projects/Reuse

The City is committed to developing and implementing alternative water supply projects involving reuse. In 2002, the City completed the construction of the Renaissance Project, an innovative stormwater collection and reuse system that collects and treats stormwater normally discharged to tide, for reuse by the City in its potable water supply system. The Renaissance

Project, a \$17,600,000 project was completed with financial support from the Environmental Protection Agency, South Florida Water Management District, and Palm Beach County. The Renaissance Project became operational in September 2002 and it is estimated that between September 2003 and January 2004, over 340 million gallons of stormwater were pumped and treated through the Renaissance Pump Station. The Renaissance Project captures, treat and stores approximately 365 million gallons per year, (MGY) or one (1) million gallons per day (MGD). The Renaissance Project is intended to capture, treat and store stormwater that would normally be lost to tide and reduce the City's dependency on the regional water supply system.

In 2006, the City completed construction on the Wetlands Based Water Reclamation Project (WBWRP). The WBWRP is another innovative water reuse project involving the discharge of highly treated effluent to an adjacent wetland area to restore and recharge the wetland and surficial aquifer. The City's wellfield ultimately pulls water from this recharged aquifer and discharges the water to the City's potable water supply system. The reclaimed water, at up to 10 million gallons per day (MGD), is available to augment the City's water supply and again reduces the need to withdraw additional water from the regional water supply system.

The City has also completed construction of an 8 mgd aquifer storage and recovery (ASR) well at its Water Treatment Plant. The City's ASR well is designed to store excess treated surface water during period of heavy rainfall. The excess water is pumped into the upper Floridan Aquifer System and is recovered when the water is withdrawn to meet increased demands during dry weather. The City's ASR well is not operational at this time but it is being evaluated for potential use in the future.

4.0 WORK PLAN PROJECTS/CAPITAL IMPROVEMENT ELEMENT/SCHEDULE

4.1 Existing Water Treatment Plant Process

The City's Water Treatment Plant (WTP) was originally constructed in 1921. In 1989, the WTP was expanded to increase the facility design capacity to 47 million gallons per day (mgd) and in 1999, the City modified their treatment processes to include a ferric sulfate-enhanced lime softening treatment methodology. Currently, the City is evaluating several alternatives regarding future water treatment methods, future sources of water and location of future plant facility. The existing plant as it operates today is described herein, future modifications to the plant will be included in future amendments to this plan as these decisions are made, approved and implemented.

The primary source of the City's water supply is surface water. Surface water travels through the City's M-Canal to the City's water supply lakes, Lake Mangonia and Clear Lake, from the City's Grassy Waters Preserve, a 19.3 square mile aquatic preserve located in western West Palm Beach. Alternative sources of water that feed into this above-ground water supply system include the City's Renaissance Project and the City's Wetlands Based Water Reclamation Project (WBWRP). Ultimately, the combined contribution of source water from Grassy Waters Preserve, the Renaissance Project, and the WBWRP is pumped from Clear Lake into the WTP for treatment.

First, powdered activated carbon is added to control taste and odor. Next, the water enters two parallel rapid mix coagulation-flocculation-sedimentation treatment trains. Each treatment train

operates independently of the other utilizing two different chemical treatment methods. The east train utilizes ferric-sulfate-enhanced lime softening (LS) and the west train utilizes enhanced coagulation using ferric sulfate (EC). Following chemical addition, both trains enter flocculation basins and then sedimentation basins where particles settle and are removed from the water. Water is collected at the end of the sedimentation basins and both trains are combined in a combined effluent channel. After re-combining, caustic soda is added to raise the pH prior to filtration. The pH adjusted water is then filtered to remove any remaining particulates before the final process step of chlorination. After chlorination, the water is pumped through three major transmission mains that pump to the east, south and north.

4.2 Capital Improvements Element/Schedule

The City's financially feasible Capital Improvements Schedule, adopted annually, includes capital improvement projects necessary to maintain levels of service and provide for improved operational facility over the next 5 years. (See the Capital Improvements Element) The City is currently engaged in a comprehensive water supply planning effort to evaluate future water treatment methods, sources of water and location of water treatment plant facility. Upon completion of this planning effort, the City will incorporate any necessary capital improvement projects into the annual capital improvement schedule updates.

Upon reviewing the City's projected water demands, permitted allocation and alternative water supply projects, the City does not anticipate the necessity of additional capacity within the 10 year planning horizon. The City will continue to increase its operation of the WBWRP to meet increased demands through 2018. A permit modification to the City's WBWRP will be necessary in 2014 to increase the quantity of water discharged to the Wetlands reuse site above the current average daily flow of 6.0 MGD to 10.0 MGD. No modifications to the WBWRP advanced wastewater treatment plant are required as the WBWRP has a rated capacity of 10.0 MGD.

TOWN OF PALM BEACH

Town Council Meeting on: August 11, 2010

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 23-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, at Section 134-36 to Change the Use of the Term Building Official to Director of Planning, Zoning and Building and to Add a Provision Which Allows the Town Council to Waiver Certain Zoning Provisions in Chapter 134 for a Town Event, Public Rights-of-Way, Town Building, Town Structure or Town Property Provided Certain Conditions are Met; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated July 22, 2010, from John Page
- Ordinance No. 23-10

TOWN OF PALM BEACH

Information for Town Council Meetings on: August 11, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 134, Zoning
Ordinance No. 23-10

Date: July 22, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 23-10 on first reading of the Ordinance. The Ordinance amendment is intended to simplify zoning regulations as they apply to Town buildings, and to also allow public rights-of-way to be used for Town sponsored events.

PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY RECOMMENDATION

Ordinance No. 23-10 was reviewed and recommended for approval (7-0 vote) by the Planning & Zoning Commission/Local Planning Agency at its meeting of July 20, 2010. Staff explained that the impetus for the ordinance amendment came from the Civic Association, which has proposed that Centennial logo banners be hung from lamp posts for a four-month period beginning in January. Banners are not presently permitted by Code. Staff determined that a relatively simple amendment to the zoning ordinance could be made allowing the Town Council to waive certain zoning regulations for Town buildings and for Town sponsored events on public rights-of-way.

Commissioners expressed their understanding of the intent and the banners, but cautioned that the proposed language should be carefully worded in order to strictly control the types of events conceivably utilizing Town property. The Commission's vote of approval recommended that the words "non-commercial, non-political and non-religious" be added to the verbiage.

Important Note. The verbiage addition suggested above prompted staff to continue considering all potential consequences of the ordinance change. Upon further consultation with legal staff and the Town Manager's Office, it is recommended that the language be curtailed to reference "Town sponsored events" rather than specifying "non-commercial, non-political and non-religious." Although the language is slightly modified from that approved by the Commission, it

does meet their intention of narrowly-defining the use of right-of-way as vocalized at their July meeting. The newly proposed paragraph of concern now provided in Ordinance No: 23-10 reads as follows:

“The town council shall have the power to waive zoning provisions in Chapter 134 regulating the use of public rights-of-way to allow town sponsored events; and from the lot, yard, and bulk requirements for town buildings, town structures or town property, provided that the waiver is consistent with the town’s comprehensive plan and the permitted uses allowed in the zoning district, and further, that there is a favorable vote to grant the waiver by four members of the town council at a regularly scheduled town council meeting.”

GENERAL INFORMATION

In addition to the code change intended to streamline zoning approvals for Town sponsored events and other Town properties, the amendment corrects a house keeping item. The house keeping item is to correct the reference from Building Official to the Director of Planning, Zoning and Building, where applicable.

If you have any questions or comments about the ordinance please contact Paul Castro at 227-6406

TOWN ATTORNEY REVIEW

Ordinance No. 23-10 has been approved by Town Attorney Randolph for legal form and sufficiency.

Attachments

PBE:jsp:pc

cc: Planning and Zoning Commissioners
Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Joanna Cunningham, Town Clerk
Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building
Paul W. Castro, AICP, Zoning Administrator
John Lingdren, AICP, Planning Administrator
pf

ORDINANCE NO. 23-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, AT SECTION 134-36 TO CHANGE THE USE OF THE TERM BUILDING OFFICIAL TO DIRECTOR OF PLANNING, ZONING AND BUILDING AND TO ADD A PROVISION WHICH ALLOWS THE TOWN COUNCIL TO WAIVE CERTAIN ZONING PROVISIONS IN CHAPTER 134 FOR A TOWN EVENT, PUBLIC RIGHTS-OF-WAY, TOWN BUILDING, TOWN STRUCTURE OR TOWN PROPERTY PROVIDED CERTAIN CONDITIONS ARE MET; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

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

Section 1. Amend ARTICLE II, ADMINISTRATION, Section 134-36, Powers of building official; council order for issuance of building permits for variances and special exceptions, to read as follows:

Section 134-36, Powers of ~~building official~~; planning zoning and building director and town council and town council order for issuance of building permits for variances and special exceptions.

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

(b) The town council shall have the power to waive zoning provisions in Chapter 134 regulating the use of public rights-of-way to allow town sponsored events; and from the lot, yard and bulk requirements for town buildings, town structures or town property, provided that the waiver is consistent with the town's comprehensive plan and the permitted uses allowed in the zoning district, and further, that there is a favorable vote to grant the waiver by four members of the town council at a regularly scheduled town council meeting.

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

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

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

Section 4. Codification.

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

Section 5. Effective Date.

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

PASSED AND ADOPTED in regular, adjourned session assembled on first reading this 11th day of August, 2010, and second and final reading on this _____ day of _____, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: August 11, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

SPECIAL EXCEPTION #15-2010 The application of 2875 Investors LLC; relative to property commonly known as **2875 South Ocean Blvd.**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a Special Exception to permit the operation of a 4,004 square foot full service bank in the C-TS Zoning District and a Special Exception request to permit operation of 3 existing drive-thru lanes in support of bank use. [Attorney: Alfred J. Malefatto]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated July 22, 2010, from Ed Shipek

Royal Saxon

TOWN OF PALM BEACH

T63 7129

JUL 28 2010

Town Manager's Office

2840 South Ocean Boulevard
Palm Beach, Florida 33480

Phone (561) 582-0233 Fax (561) 582-0224

RECEIVED

JUL 27 2010

TOWN OF PALM BEACH
PZB DEPT

PBE
JP
PC
JC
PF
ZF

Town of Palm Beach
Planning, Zoning & Building Department
360 S. County Rd.
Palm Beach, FL 33480

July 22, 2010

Re: Zoning Case #15-2010

SE#15-2010

On behalf of the Royal Saxon Board of Directors, I am writing in response to the packet that we received regarding renovations to the property located at 2875 South Ocean Boulevard.

During the recent renovation of the Omphoy Hotel, we experienced a tremendous rodent problem that cost our association in excess of \$25,000 for extermination. While we welcome the idea of a bank re-opening at this location, we do not want to experience this same problem. Whenever there is construction in an area rodent activity seems to follow.

We would like some type of assurance that should we experience any rodent activity resulting from this refurbishment, we would be able to pass the expense for extermination to the responsible party.

We welcome the opportunity to discuss this issue in more detail.

Sincerely,



Ed Shipek, President
Board of Directors

TOWN OF PALM BEACH

Town Council Meeting on: August 11, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

VARIANCE #14-2010 The application of South Ocean Boulevard, LLC, Thomas C. Iskalis, President; relative to property commonly known as **126 South Ocean Blvd.**; described as Lengthy Legal Description on File; located in the R-B Zoning District. The applicant is requesting a variance from the provisions of Section 62-38, 62-39 and Section 134-1701 which do not allow construction east of the bulkhead line. The variance is proposed to allow construction of a sheet pile toe wall 22 feet east of the Town's bulkhead line in order to protect the existing bulkhead. [Attorney: Raymond W. Royce]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated August 4, 2010, from E. Llwyd Ecclestone

E. LLWYD ECCLESTONE
POST OFFICE BOX 3267
WEST PALM BEACH, FLORIDA 33402

V14-2010
V15-2010

TELEPHONE
561/686-2000
FAX
561/686-5553

August 4, 2010

HAND DELIVERED

Honorable David A. Rosow
President, Town Council
c/o Town Clerk
360 South County Road
Palm Beach, FL 33480

Dear Mr. Rosow:

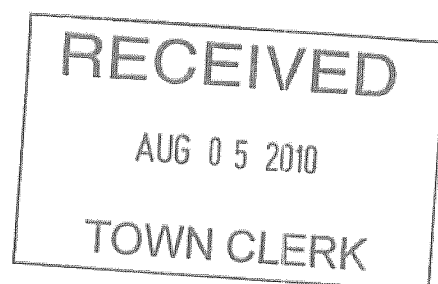
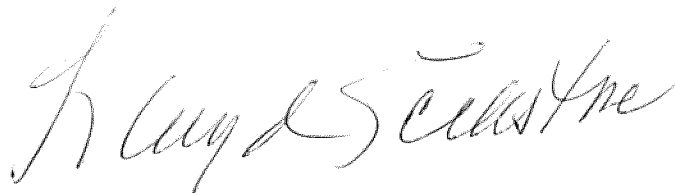
I understand that the Lauder brothers are applying for a variance to install a protective sheet piling just east of their existing seawall.

If the seawall ever fails, both of their houses become directly exposed to the fury of the ocean. By adding the additional sheet piling, it would provide protection to help keep the seawall in place.

Diana and I wholeheartedly support the Lauder's application for a variance for sheet piling seaward of both of their homes. The installation of the sheet piling should affect no one in the area but will protect two valuable homes in Palm Beach. The Ecclestons would appreciate your approval of this variance.

Thank you.

Sincerely,



TOWN OF PALM BEACH

Town Council Meeting on: August 11, 2010

Section of Agenda

New Business - < 15 Minutes

Agenda Title

VARIANCE #15-2010 The application of Flagler Drive Holdings, LLC, Thomas c. Iskalis; relative to property commonly known as **115 Flagler Drive**; described as Lengthy Legal Description on File; located in the R-B Zoning District. The applicant is requesting a variance from the provisions of Section 62-38, 62-39 and Section 134-1701 which do not allow construction east of the bulkhead line. The variance is proposed to allow construction of a sheet pile toe wall 22 feet east of the Town's bulkhead line in order to protect the existing bulkhead. [Attorney: Raymond W. Royce]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated August 4, 2010, from E. Llwyd Ecclestone

E. LLWYD ECCLESTONE
POST OFFICE BOX 3267
WEST PALM BEACH, FLORIDA 33402

V14-2010
V15-2010

TELEPHONE
561/686-2000
FAX
561/686-5553

August 4, 2010

HAND DELIVERED

Honorable David A. Rosow
President, Town Council
c/o Town Clerk
360 South County Road
Palm Beach, FL 33480

Dear Mr. Rosow:

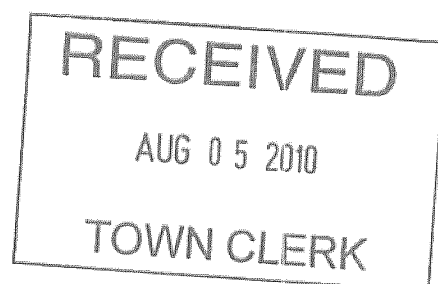
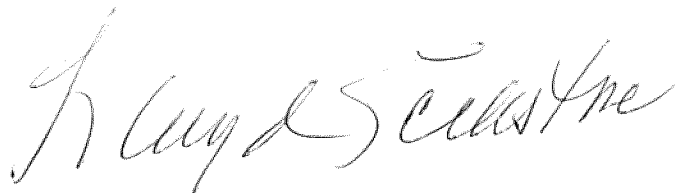
I understand that the Lauder brothers are applying for a variance to install a protective sheet piling just east of their existing seawall.

If the seawall ever fails, both of their houses become directly exposed to the fury of the ocean. By adding the additional sheet piling, it would provide protection to help keep the seawall in place.

Diana and I wholeheartedly support the Lauder's application for a variance for sheet piling seaward of both of their homes. The installation of the sheet piling should affect no one in the area but will protect two valuable homes in Palm Beach. The Ecclestons would appreciate your approval of this variance.

Thank you.

Sincerely,



TOWN OF PALM BEACH

Town Council Meeting on: August 11, 2010

Section of Agenda

Old Business - > 15 Minutes

Agenda Title

MODIFIED SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCES The application of Publix Super Markets, Inc. and Sunset Avenue Corp.; relative to property commonly known as **265, 255, 235, 231 Sunset Avenue and 240 Sunrise Avenue**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting Site Plan Review and Special Exception to construct a 53,272 (44,018 gross leasable) square foot one story grocery store on 4.36 acres. The new store will provide 201 off-street parking spaces. There is proposed to be an outdoor ATM and the grocery cart storage will be within the building. All of the proposed mechanical equipment will be contained within portions of the building and will not be seen as equipment on the roof. Part of the proposed design is to have two generators located on the southeast corner of the proposed store that will contain a 100 KW standby generator and a 500 KW main generator. There is proposed to be two loading areas within the loading dock on the east side of the building that will be screened. The proposed store will have a pharmacy, deli, bakery and a larger selection of food items and other products. Since the proposed grocery store is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is town serving. The following variances are being requested to construct the proposed one story grocery store: (a) to allow a building length of 257'-5" feet in lieu of the 150 foot maximum allowed; (b) to allow a front yard setback at the northwest corner of the proposed building of 6'7" feet in lieu of the 10 foot minimum required based on building height; (c) to allow a side yard setback of 3'9" feet in lieu of the 10 foot minimum required; (d) to allow two loading spaces in lieu of the three spaces required by code; (e) to allow the proposed building to be a total square footage of 53,272 square feet in lieu of the 15,000 square foot maximum allowed; (f) to allow a rear yard setback of 14'2" in lieu of the 15 foot minimum required; (g) to allow an architectural tower to be on the entry façade that is not permitted by Code; (h) to allow the height of the business identification sign to be 22 feet in lieu of the 15 foot maximum allowed; (i) to allow the height of the proposed one story grocery store to be 25 feet in lieu of the 15 foot maximum allowed; (j) to allow the overall height of the proposed one story grocery store to 36 feet in lieu of the 20 foot maximum allowed; (k) to allow 201 parking spaces in lieu of the 220 required (a deficit of 19 parking spaces); (l) to allow a 4 parking spaces with a depth of 17'6" in lieu of the 18 feet minimum required. [Attorney: Maura A. Ziska] [ARCOM Recommendation: Defer to the August 25, 2010, ARCOM meeting.]

Deferred from the May 12, 2010, June 22, 2010, and July 14, 2010, Town Council Meetings (Special Circumstances).

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Letter dated June 24, 2010, from Martin J. O'Malley, Jr.
- Letter dated July 27, 2010, from Jeffrey A. Rembaum, Esq.

TOWN OF PALM BEACH

JUL 22 2010

Town Manager's Office

Martin J. O'Malley, Jr.

67 Blue Spruce Way
Mashpee, MA 02649

cc: PBE
JSP
JL
JC
PF
ZF

Telephone No. (508) 420-2900
Email mjo@momalley.com

Facsimile 1-866-841-1558

June 24, 2010

SP# 4 - 2010 w/SE + V. Mares

Town of Palm Beach
Planning, Zoning & Building Department
PO Box 2029
360 County Road
Palm Beach, FL 33480

RECEIVED
JUL 26 2010
TOWN OF PALM BEACH
PLANNING, ZONING & BUILDING DEPT.

Attention Board Members:

Thank you for your June 17, 2010, an invitation to stakeholders of property on Sunrise. I am a unit owner at the Palm Beach Hotel Condominium. These are some of my thoughts which I hope you will introduce into the record.

First, the Royal Poinciana Mixed Use Overlay Area proposal contained many excellent ideas. My impression of this District is that it is tired and worn out in appearance. Palm Beach can do much better. This Overlay concept should be re-visited, it's important to the future of this community.

Second, the new Publix proposal pending before ARCOM is a critical component for this district. Listening to the comments on live stream internet is very informative. ARCOM criticisms about the size, unimaginative architecture and traffic are well founded and should be supported. Once Publix is approved, it will set the tone and be an anchor in the Royal Poinciana district.

Third, the new Publix must be more than another supermarket. PB residents and visitors alike want a space to meet their friends, sit and enjoy a coffee, an area for specialty take out retail such as its deli and bakery. The current Publix proposal contains a decorative wall on Sunrise. Sunrise needs more than a faux façade. ARCOM and the town should consider making this wall a functional pedestrian Arcade or Gallery with iconic architecture. Access to the Arcade from the interior of Publix and from Sunrise would work very well. It would mitigate the harshness of the additional 10,000 square feet of space proposed to the existing 44,000 square feet by Publix. The location of specialty retail, such as deli and bakery, off of the functional Arcade would be ideal in this area.

Fourth, make Sunrise, a secondary road, one way and create diagonal parking spaces on both sides of the street. This would make all of Sunrise more pedestrian friendly.

Fifth, provide for public transport and bikes. Convenient drop off and pick up points for public transit should be incorporated into the Publix parking lot along with bike racks. Tie in the existing bike path with the new Publix and a pedestrian friendly Sunrise. Off street parking lost by the Publix expansion, should be accommodated by Publix or the municipality. Otherwise, on street parking will become a serious issue if it isn't already. Mindful that by 2020, more motor vehicles will be tech smart, compact and electric, the planning for the parking configurations should anticipate and allow for such future adaptive uses.

Sixth, restore the small vehicle electric shuttle service that operated between Worth Ave and Sunrise. If properly promoted and operated, this will partially mitigate the 10% increase in motor vehicle traffic associated with the new Publix.

Seventh, historic preservation should be incentivized in this area. Several buildings in this area qualify, including the recent designation of the Palm Beach Hotel Condominium by the National Historic Trust. This building is an illustration of how better management, more long term residents and mixed housing retail use can improve a neighborhood. Private investment made by unit owners in the form of condo assessments rejuvenated an old tired property and preserved iconic Mediterranean Revival architecture. Fostering better mixed uses in buildings such as the Paramount Building would support the cost for improvements consistent with historic preservation.

Thank you for your consideration,

Very truly yours,

A handwritten signature in black ink, reading "Marty O'Malley". The signature is written in a cursive, flowing style with a large, stylized "M" and "O".

Marty O'Malley

LAW OFFICES

SIEGFRIED, RIVERA, LERNER, DE LA TORRE & SOBEL, P.A.

THE FORUM BUILDING | 1675 PALM BEACH LAKES BOULEVARD | SUITE 500 | WEST PALM BEACH, FL 33401
 WEST PALM BEACH 561.296.5444 | FAX 561.296.5446 | TOLL FREE 800.737.1390

JEFFREY A. REMBAUM
 JREMBUAM@SIEGFRIEDLAW.COM

REPLY TO WEST PALM BEACH OFFICE

July 27, 2010

TOWN OF PALM BEACH

JUL 27 2010

Town Manager's Office

Sent Via U.S. Mail and Facsimile

Town of Palm Beach, Town Council
 Town of Palm Beach, Architectural Commission
 Town of Palm Beach, Planning and Zoning Board
 c/o The Honorable Jack McDonald, Mayor
 c/o Joanna Cunningham, Town Clerk
 Mr. John Page, Planning and Zoning Director
 Mr. John Lindgren, Planning Administrator
 360 S. County Road
 Palm Beach, FL 33480

Re: Publix Super Markets
 Modified Site Plan Review # 4-2010 Zoning Application
 Our Client: **Palm Beach Hotel Condominium Association, Inc.**

Dear Mayor McDonald, the Town Council, the Architectural Commission, and Messrs. Page and Lindgren:

This Firm represents the Palm Beach Hotel Condominium Association, Inc. (the "Association"). As you are already aware, the condominium building is located at 235 Sunrise Avenue and is directly across the street from the Applicant's proposed location.

The Association has reviewed the latest proposed modifications to the Applicant's site plan to be heard by the Town of Palm Beach Architectural Commission on July 28, 2010. In that regard, the Association has the following concerns and comments:

1. **PARKING:** The Association remains gravely concerned that neither the Applicant, nor the Town of Palm Beach is addressing the shortage of off-street and on-street parking that the Applicant's proposed expansion will cause. The Association requests that the Town's Architectural Commission, Zoning Board, and Town Council begin focusing on this extremely troubling situation. At a minimum staff can be directed to commence reviewing various options such as on-street permit parking for existing residents, one way traffic along Sunrise Avenue to provide additional on-street parking, and/or the construction of a public/private parking garage to alleviate the situation.

Letter to the Town of Palm Beach
July 27, 2010
Page 2

2. **LANDSCAPING ALONG SUNRISE AVENUE:** The proposed site plans do not evidence sufficient landscaping along the Sunrise Avenue walkway/vestibule especially as compared to the remainder of the site. The Association requests that the Applicant increase the "landscaping along this walkway/vestibule so as to be more consistent with the overall site and to provide a more attractive buffer."
3. **WROUGHT IRON FENCE:** In regard to the low rise wrought iron fence (architectural feature) which abuts and runs parallel to the vestibule walkway along Sunrise Avenue, it is not possible to deduce from the Applicant's revised drawings/ renderings whether the fencing is on the exterior or interior of the vestibule walkway. Clarification is requested in this regard.
4. **GARBAGE PICKUP:** In Exhibit B, Section 3 of its revised Zoning Application, the Applicant provides that garbage collection may occur on both Sunrise and/or Sunset Avenues. The Association requests as a condition of approval that all garbage containers be located along Sunset Avenue and that garbage collection take place from Sunset Avenue as well.
5. **GARBAGE CONTAINER LOCATION:** Having reviewed the revised drawings submitted by the Applicant, the location of the trash "compactor" is clear. However, the location of large cubic yard trash containers is not identified. The Applicant should be required to identify the location and decorative design features necessary to hide them from view.
6. **WALKWAY FROM BRADLEY PLACE:** The Applicant needs to clarify whether the walkway from Bradley Place to the grocery store entry doors is still part of its overall site plan. In regard to the walkway from Bradley Place to Publix's entry doors, several of the drawings/rendering associated with the Applicants latest submittal showed the walkway as still existing and several other drawings/renderings did not. The Applicant should be required to ensure all design drawings accurately depict whether this feature is or is not included in its site plan
7. **LIGHTING:** Clarification is requested in regard to the height of all lighting and light poles along Sunrise Avenue. The Applicant's revised drawings/renderings evidence a fifteen feet (15') high light pole, while Exhibit C, Section 4F of the Applicant's Zoning Application evidences that the light poles will be twenty-three feet (23') high. As Sunrise Avenue is a residential corridor, the Association requests that i) the Applicant clearly identify exact height of all light poles, including the lighting fixture, ii) that all lighting along Sunrise Avenue is unidirectional, iii) that no light be permitted to bleed outside of the Applicant's

Letter to the Town of Palm Beach
July 27, 2010
Page 3

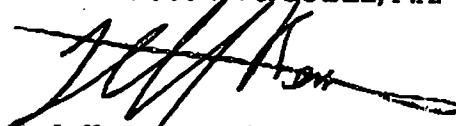
site, and iv) that along Sunrise Avenue no light pole, inclusive of its lighting feature, be higher than fifteen feet (15').

8. INGRESS / EGRESS: The Association is pleased that the Applicant's revised drawings/ renderings still evidence that the ingress/egress along Sunrise Avenue remains towards the west, and further away from the condominium building. The Association requests that the Town ensures that the Applicant's site plan remains consistent in this regard.

Please do not hesitate to contact the undersigned with any questions or comments, and on behalf of the Palm Beach Hotel Condominium Association, Inc.,

Very truly yours,

SIEGFRIED, RIVERA, LERNER,
DE LA TORRE & SOBEL, P.A.



Jeffrey A. Rembaum, Esq.

JAR/kmr

cc: The Palm Beach Hotel Condominium Association, Inc., c/o Board of Directors
Sexton Engineering for the Association
Maura Ziska, Esq. for Publix

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American Consulting Engineers of Florida, LLC

Submitted by
Paul Castro
8/11/10 JC mty

2818 Cypress Ridge Blvd, Suite 200
Wesley Chapel, FL 33544
Tel 813.435.2600 • Fax 813.435.2601
american@ace-fla.com • www.ace-fla.com

August 2, 2010

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

Re: Proposal for Professional Engineering Services
Project: Publix Traffic Circulation Plan Review
Location: Town of Palm Beach, Sunset/Sunrise Avenues
ACE Project No.: 5089725, Authorization #006

Dear Mr. Castro:

A review was completed of the Town of Palm Beach Publix Traffic Circulation plan for the proposed site redevelopment on the above subject project. Review comments are summarized below.

A review of each of the driveway accesses and parking lot area was performed using semi-trucks, cars, and single unit trucks (small delivery/garbage vehicles). Below are the analysis results of each vehicle type.

Semi-Truck (WB-65)

The proposed Publix site contains three entrances. One is on Sunrise Avenue and two are on Sunset Avenue, with the loading dock closest to the eastern entrance on Sunset Avenue. The design vehicle is a semi-truck and is shown below in **Figure 1**. Using a computer based program for AutoCAD called AutoTURN, the truck movements were checked with the geometry of the development.

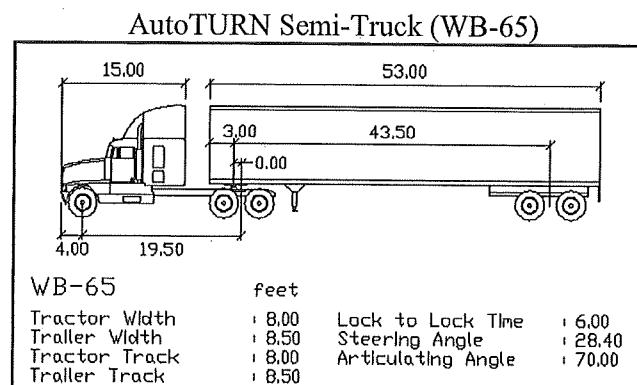
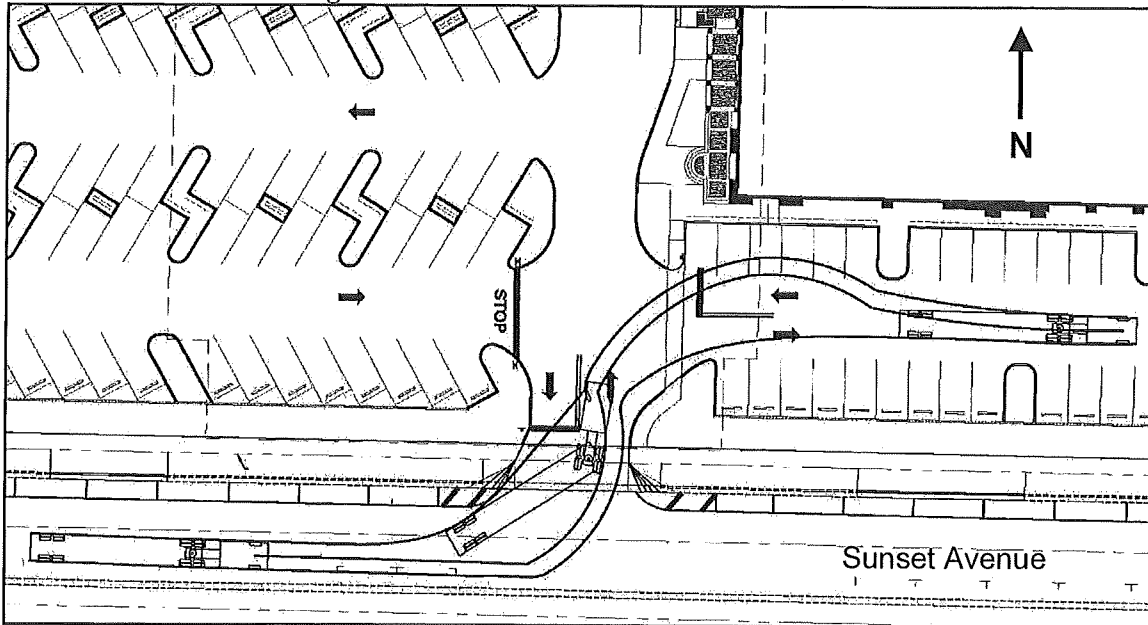


Figure 1

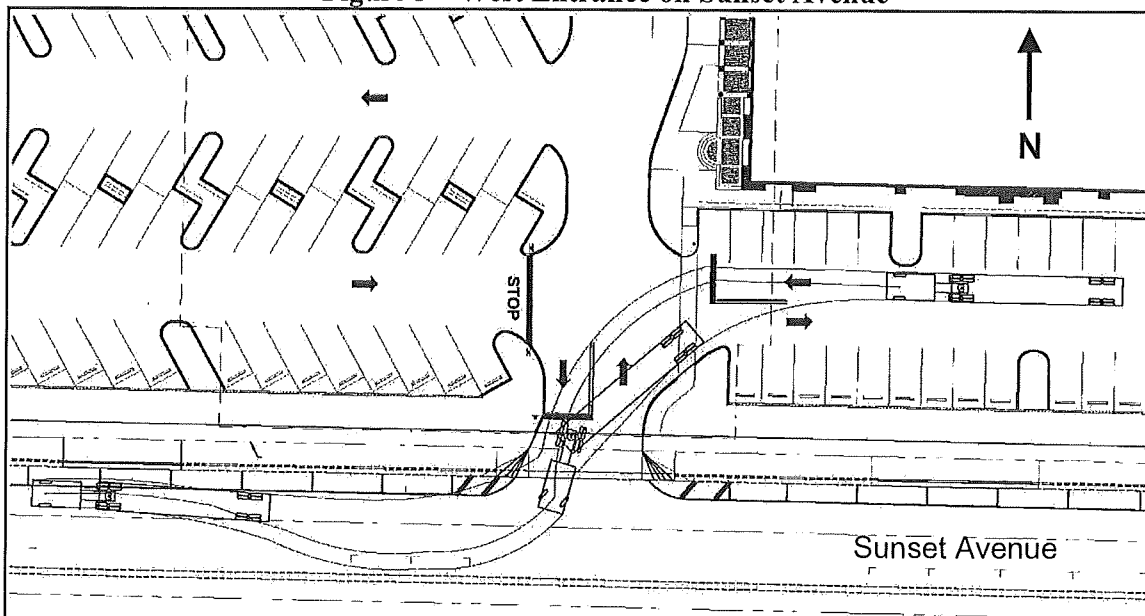
The possible semi-truck movements for the two entrances on Sunset Avenue are shown in **Figure 2** through **Figure 10** below.

Figure 2 – West Entrance on Sunset Avenue



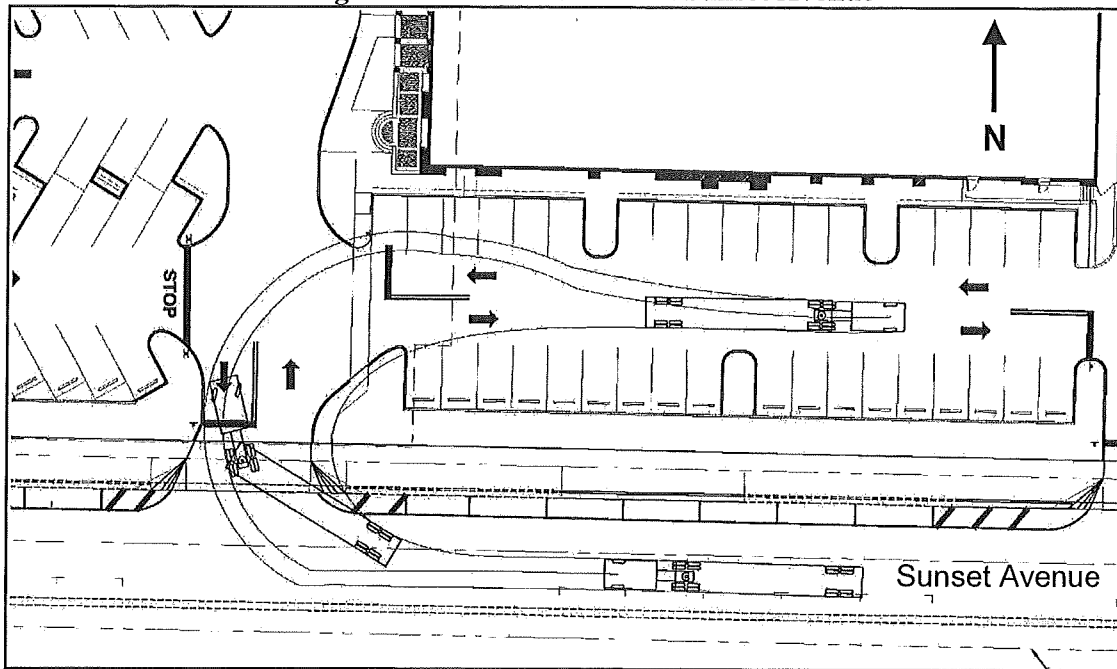
1. Entering (**Figure 2**): Sunset Avenue eastbound making a left into the entrance – The semi-truck is capable of making the left; however, the driver would need to use the opposing lane to perform this movement. The semi-truck is then capable of making an immediate right into the parking area south of the Publix building; however, vehicles would not be able to be parked in the six parking spaces against the building. This entrance would not be possible if the existing on-street parking is utilized, as the semi-truck needs this space to maneuver.

Figure 3 – West Entrance on Sunset Avenue



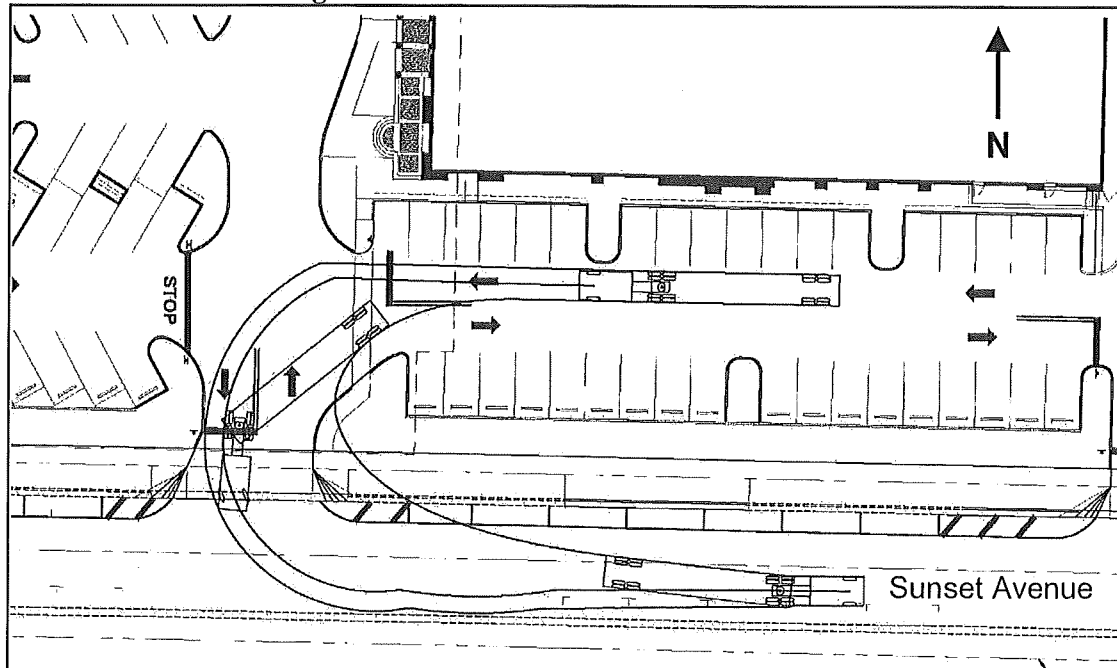
2. Exiting (**Figure 3**): South Parking Area making to westbound Sunset Avenue – The semi-truck is capable of making the left, however, it would need to use the opposing lane to perform movement. This exit would not be possible if the existing on-street parking is utilized, as the semi-truck needs this space to maneuver.

Figure 4 – West Entrance on Sunset Avenue



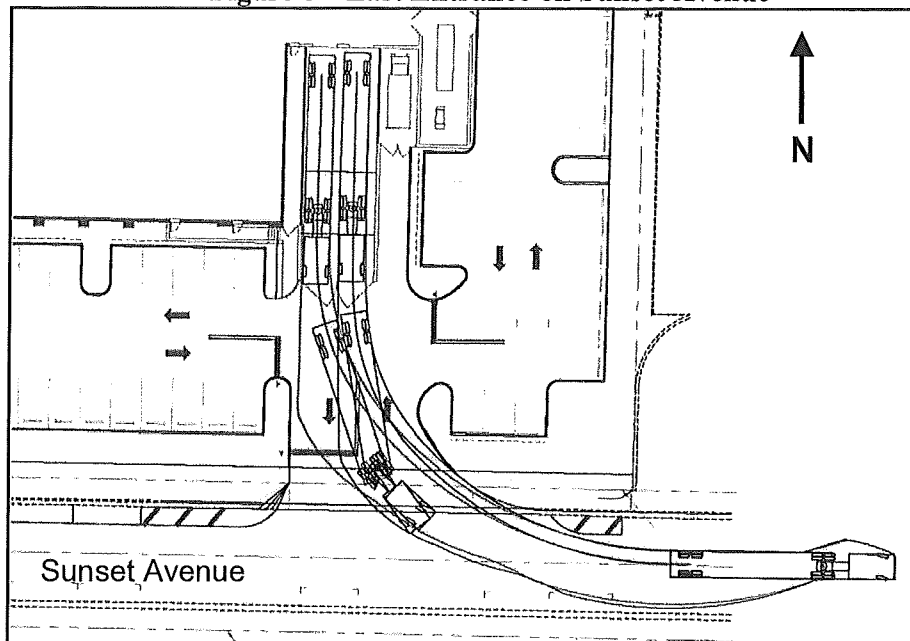
3. Entering (**Figure 4**): Sunset Avenue westbound making a right into the entrance – The semi-truck is not capable of making the turn, even from using the opposing lane to perform movement. This entrance would not be possible if the existing on-street parking is utilized, as the semi-truck needs this space to maneuver.

Figure 5 – West Entrance on Sunset Avenue



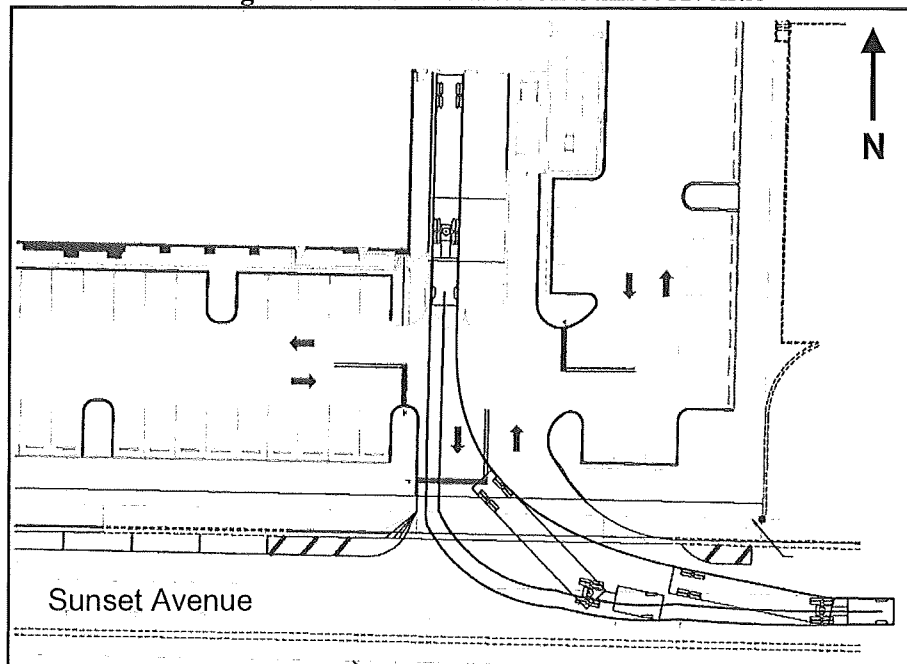
4. Exiting (**Figure 5**): South Parking Area to eastbound Sunset Avenue – The semi-truck is not capable of making the turn, even from using the opposing lane to perform movement. This exit would not be possible if the existing on-street parking is utilized, as the semi-truck needs this space to maneuver.

Figure 6 – East Entrance on Sunset Avenue



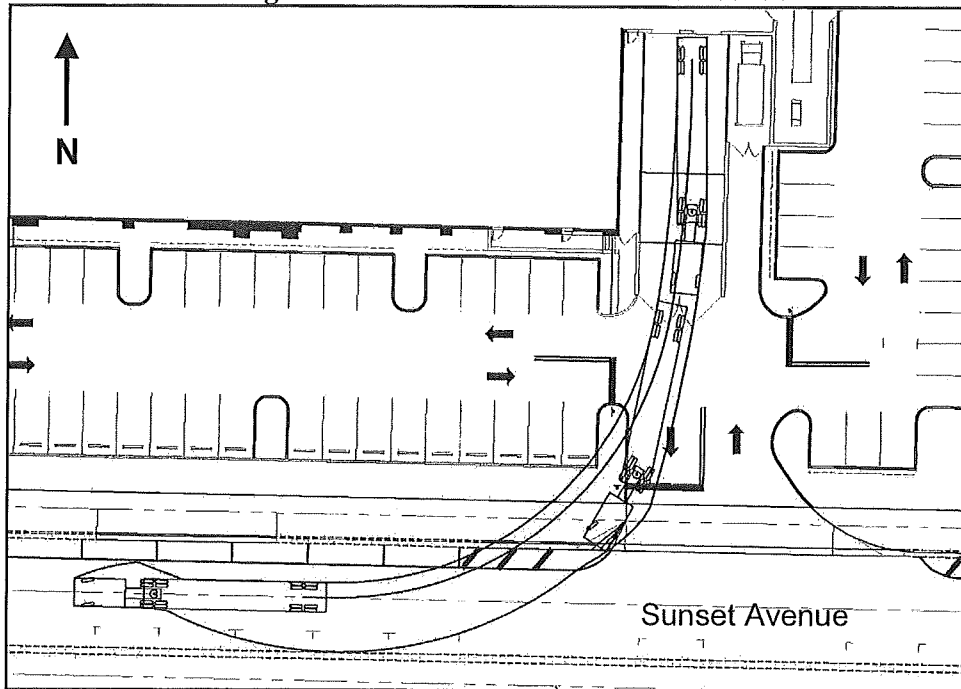
5. Entering (**Figure 6**): Sunset Avenue eastbound making a left into the entrance – The semi-truck is capable of making this maneuver, however, the driver would need to back-in, using both lanes and the existing on-street parking. Truck needs to reverse into Publix as to allow docking with loading bay. This maneuver allows for two trucks to dock at the same time. The maneuver could potentially lead to the mounting of the driveway curb.

Figure 7– East Entrance on Sunset Avenue



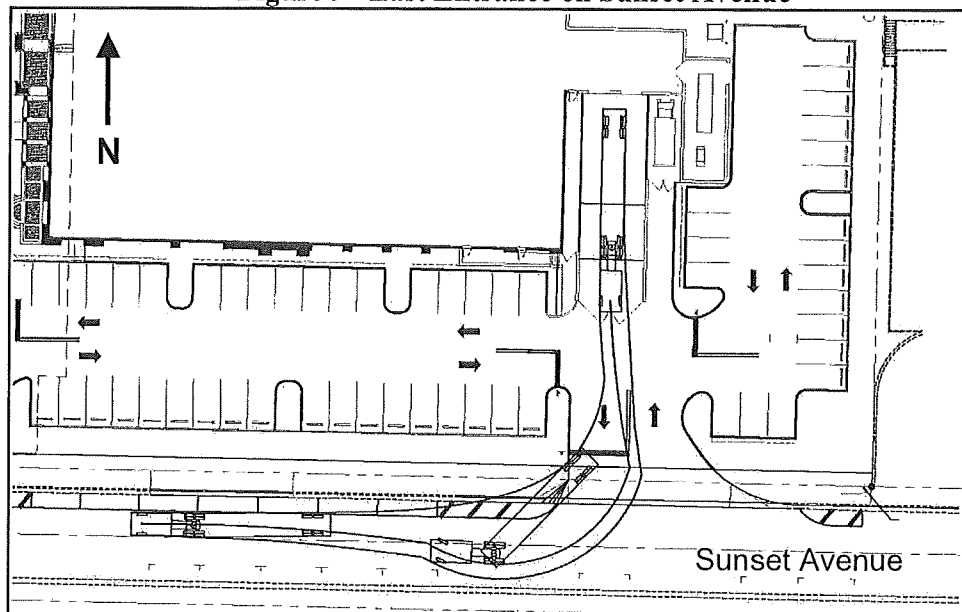
6. Exiting (**Figure 7**): Sunset Avenue eastbound making a left from the entrance – The semi-truck is capable of making the turn, but would need to use both lanes and the existing on-street parking to perform the movement.

Figure 8– East Entrance on Sunset Avenue



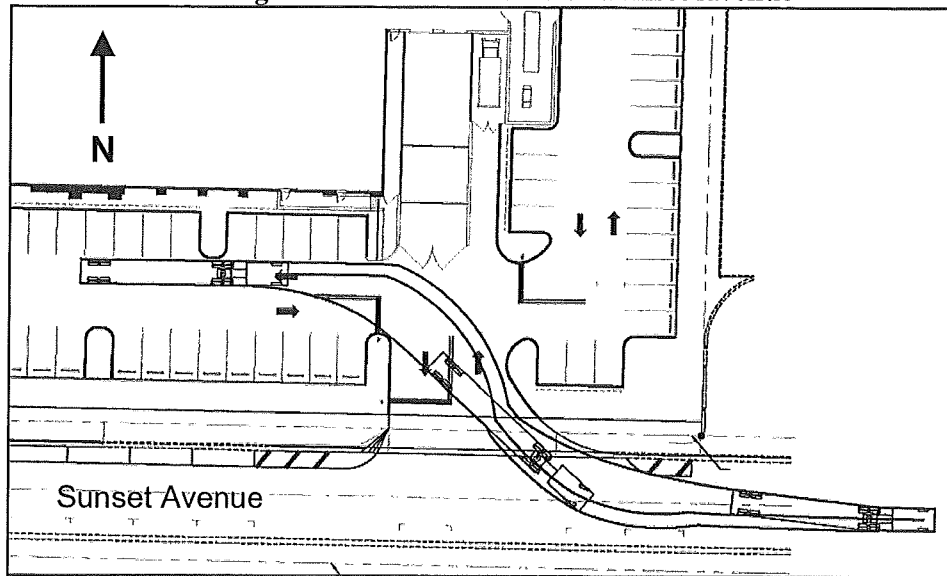
7. Entering (**Figure 8**): Sunset Avenue westbound making a left into the entrance – The semi-truck is not capable of making the turn, even from using both lanes and the existing on-street parking to perform the movement. Backing in from this direction is not possible as the driveway opening is not wide enough for the maneuver.

Figure 9– East Entrance on Sunset Avenue



8. Exiting (**Figure 9**): Sunset Avenue westbound making a right from the entrance – The semi-truck is not capable of making the turn, even from using both lanes and the existing on-street parking to perform the movement. Exiting westbound is not possible as the driveway opening is not wide enough for the maneuver

Figure 10– East Entrance on Sunset Avenue



9. Exiting (**Figure 10**): Sunset Avenue eastbound making a right then left from the entrance – The semi-truck is capable of making the turn, even from using the opposing lane to perform movement. This exit would not be possible if the existing on-street parking is utilized, as the semi-truck needs this space to maneuver. The maneuver shows that the semi-truck could potentially mount the parking curb and driveway curb when exiting.

Additional Semi-Truck Notes

1. East Entrance appears to be the only feasible location for trucks to dock.
2. Trucks must back-in in from Sunset Avenue to dock.
3. For trucks to back-in into the dock they must utilize both lanes of traffic on Sunset Avenue and any on street parking near the entrances. This may eliminate on-street parking.
4. The western side skew of the eastern Sunset Avenue driveway entrance is not wide enough to accommodate the turning maneuvers.
5. If trucks are in the loading/unloading bay, and other delivery trucks arrive, where do these trucks park to load/unload?

Car (P)

The proposed Publix site contains internal parking spaces, two-way and one-way circulation lanes. The design vehicle is a car and is shown below in **Figure 10**. Using a computer based program for AutoCAD called AutoTURN, the car movements are checked with the geometry of the development.

After performing a check of turning into parking spaces, maneuvering around island curbs and entering/exiting each entrance, all cars are capable of moving within the parking lot.

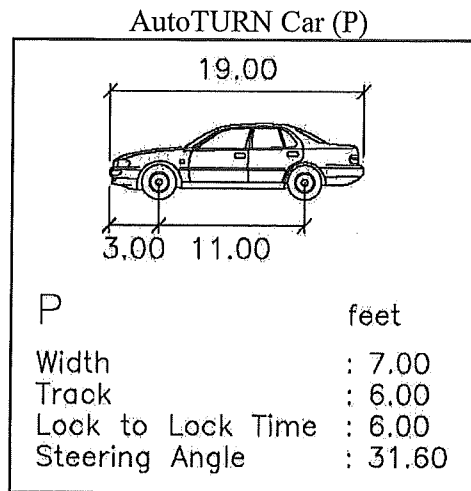


Figure 11

The possible car movements for the three entrances and the internal circulation are shown in **Figure 12** below.

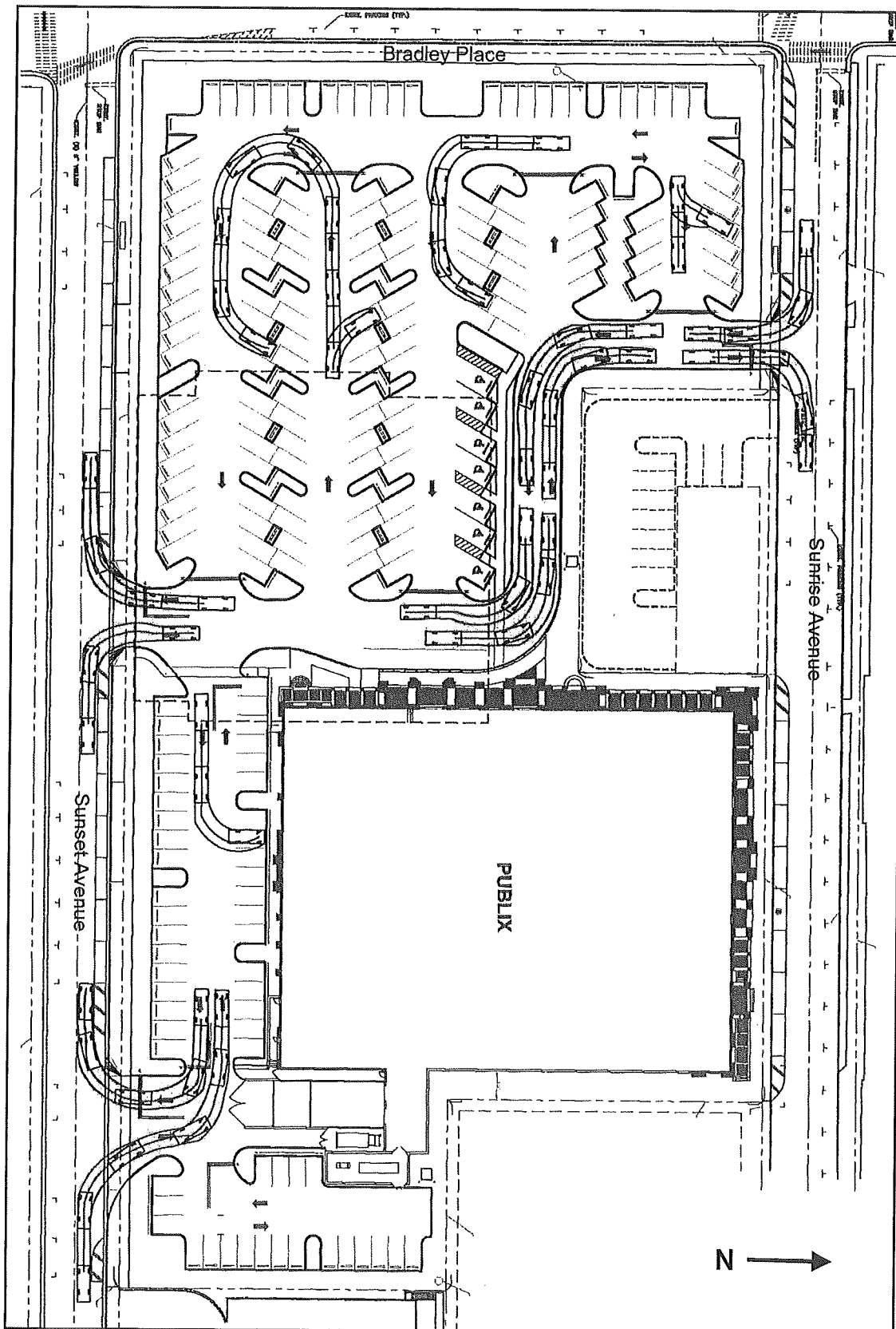


Figure 12

Figure 12 shows the results of performing AutoTURN on the internal circulation of the parking lot and the entering/exiting of the entrances. The car is capable of maneuvering within the parking lot and circulating in and out of the Publix site.

Single Unit Truck (SU)

The proposed Publix site contains three entrances. One is on Sunrise Avenue and two are on Sunset Avenue. The design vehicle is a small truck and is shown below in **Figure 13**. Using a computer based program for AutoCAD called AutoTURN, the small truck movements are checked with the geometry of the development.

After performing a check of maneuvering around island curbs and entering/exiting each entrance, minor limitations are put on the truck within the parking lot area.

AutoTURN Single Unit Truck (SU)

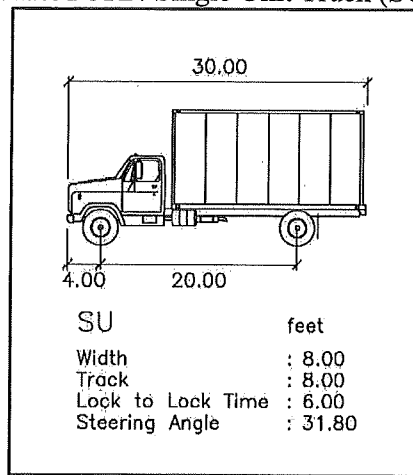


Figure 13

The possible single unit truck movements for the three entrances and the internal circulation are shown in **Figure 14** below.

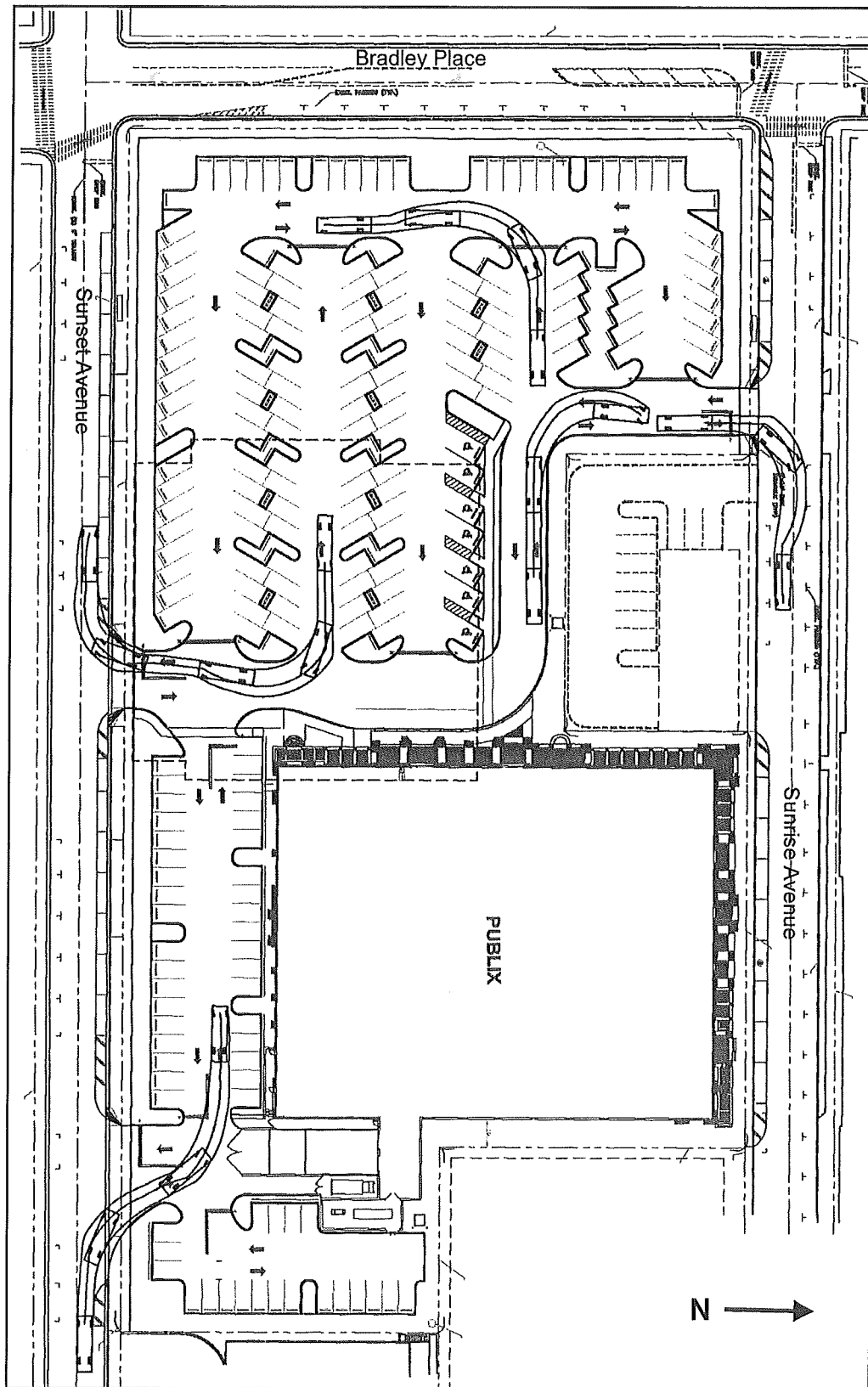


Figure 14

Figure 14 shows the results of performing AutoTURN on the internal circulation of the parking lot and the entering/exiting entrances. The single unit truck is capable of performing most maneuvers within the parking lot and entering/exiting the Publix site.

Additional Single Unit Truck Notes

1. Single Unit trucks are not fully capable of internal circulation without overtaking the opposing lane.
2. Single Unit trucks are not capable of turning left/right down the next immediate one-way isle.
3. There appears to be no parking area for delivery trucks without impacting on-street parking or internal parking spaces.

Conclusion

The internal circulation of the proposed site of Publix was performed using three different vehicle types: semi-truck, car and single unit truck.

The semi-truck (WB-65) contained loading/unloading difficulties. This would affect other vehicles on the road and any on-street parking on Sunset Avenue. Also, this could create a problem with other truck drivers waiting for the single dock to become available.

The car (P) contained no problems with entering or leaving the Publix site. Internal circulation within the one-way isles and use of parking spaces posed no issues.

The single unit truck (SU) contained some maneuvering difficulties, but can be accomplished if no parking was utilized on the site at the time of delivery. The truck leaving the entrances poses some problems with the curbing and on-street parking.

If you should have any questions, or require clarification on the above items, please feel free to contact David Long or Gareth Klotz with American Consulting Engineers of Florida, LLC at (813) 435-2600.

PROFILE
MARKETING RESEARCH

Paul Castro
TC Mtg 8/11/6

April 26, 2010

Kelly Underhill, Director of Tax and Treasury
Publix Super Markets
Tax and Treasury
P.O. Box 32018
Lakeland, FL 33802

Dear Ms. Underhill,

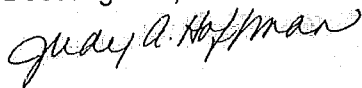
The following serves to confirm that Profile Marketing Research conducted a survey among Publix shoppers at Publix store 161, located at 265 Sunset Ave. Palm Beach, FL, between April 15 and April 21, 2010.

This survey was conducted per marketing research best practices. All aspects of survey work (data collection and data tabulation) were conducted and supervised by Profile Marketing Research staff members.

The report issued by Clifton Moore, Consumer Research Manager at Publix, and all information provided therein are accurate and reflective of the data collected and compiled by Profile Marketing Research.

Thank you for your consideration.

Best regards,



Judy Hoffman



To Kelly Underhill (Director of Tax and Treasury)
From Clifton Moore (Consumer Research Manager)
cc Karen Murino, Mark Irby
Date April 28, 2010
Subject **Palm Beach Customer Origin Survey Results**

Background

The Town of Palm Beach zoning ordinances require that 50% or more of a store's customers are "town persons". In order to renew the occupational license for Publix Store 161 (located at 265 Sunset Ave. in Palm Beach), the Town of Palm Beach is requiring Publix to provide evidence that at least 50% of this store's customers either live, work, or are staying in accommodations in the Town of Palm Beach.

Publix hired Profile Marketing Research (Lake Worth, FL) to conduct a survey of the store's customers to collect the information required.

Objectives

To determine what percentage of the customers for Publix Store 161:

- ☐ Live in the Town of Palm Beach (full-time or seasonally),
 - ☐ Work in the Town of Palm Beach, or
 - ☐ Are staying in accommodations located within the Town of Palm Beach.
-

Methodology

In-store intercept interviews were conducted with 700 customers April 15, through April 21, 2010, at Publix store 161 in Palm Beach. A stratified random sample design was used with quotas set for each hour of operation based on typical traffic volume. Customers were intercepted as they entered the store and were asked to participate in a two-minute survey. Customers were screened to make sure they were at least 18 years old. The sample size provides a "margin of error" of +/- 3.6% at the 95% confidence level. The questionnaire and sample plan are attached.

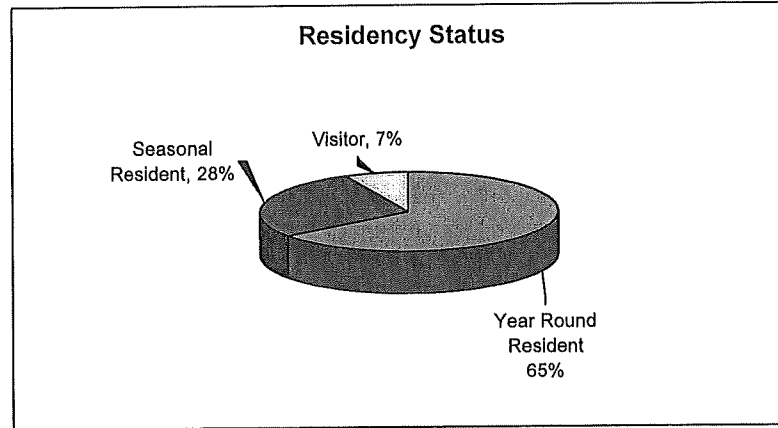
Key Findings

- The majority of this store's customers are "towns people" – 73% of shoppers at Publix store 161 in Palm Beach live, work, or are staying in the Town of Palm Beach.
 - Only 27% of shoppers at Publix store 161 do not live, work or stay in the Town of Palm Beach.
-

continued on next page

Area Residency Status

Approximately two-thirds of shoppers interviewed (65%) live in the area year round; 28% of respondents were seasonal residents.



This survey was completed near the end of the “peak season” before many winter residents have left Florida. The residency status for shoppers at this store has shown to vary significantly between peak season and off-season, with Year Round residents making up a much larger share of shoppers during the “off-season.”

Towns Person Status

The following table summarizes where respondents live, work, or are staying while visiting the area. Shoppers in the shaded cells are “towns people” based on the definition provided by the Town of Palm Beach. The percentages included represent the percentage of total customers.

	Live in Palm Beach		Do Not live in Palm Beach		Total	
	Count	Percentage	Count	Percentage	Count	Percentage
Work in Palm Beach	107	15%	145	21%	252	36%
Work elsewhere	38	5%	82	12%	120	17%
Not in workforce (Retired, Homemaker, Unemployed, etc.)	190	27%	92	13%	282	40%
Visitor staying in Palm Beach	N/A	N/A	32	5%	32	5%
Visitor not staying in Palm Beach	N/A	N/A	14	2%	14	2%
Total	335	48%	365	52%	700	100%

Approximately 48% of the store’s customers live in the Town of Palm Beach. An additional 21% work in Palm Beach, but live elsewhere. Roughly 5% of respondents were staying in Palm Beach while visiting the area. Overall, 73% of customers interviewed live, work, or were staying in the Town of Palm Beach (see shaded boxes in the table above). The remaining customers (27% - unshaded areas) did not live, work, or stay in the Town of Palm Beach.

2010 Publix Customer Origin Survey Quota Structure

Hourly Quotas

Total Sample Size **700**

Store Description	Hour Start	THURSDAY	FRIDAY	SATURDAY	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	Total
Store #161 - PALM BEACH	7:00 AM	4	4	3	3	4	4	4	26
Store #161 - PALM BEACH	8:00 AM	5	6	4	4	6	5	6	36
Store #161 - PALM BEACH	9:00 AM	6	6	6	5	6	6	6	41
Store #161 - PALM BEACH	10:00 AM	7	7	7	6	7	7	7	48
Store #161 - PALM BEACH	11:00 AM	9	9	8	8	9	9	8	60
Store #161 - PALM BEACH	12:00 PM	10	10	8	8	11	10	10	67
Store #161 - PALM BEACH	1:00 PM	9	9	8	8	9	8	8	59
Store #161 - PALM BEACH	2:00 PM	8	8	8	7	9	8	9	57
Store #161 - PALM BEACH	3:00 PM	9	9	8	8	10	9	9	62
Store #161 - PALM BEACH	4:00 PM	9	9	9	8	10	10	9	64
Store #161 - PALM BEACH	5:00 PM	9	9	9	8	10	9	9	63
Store #161 - PALM BEACH	6:00 PM	7	6	7	6	8	8	8	50
Store #161 - PALM BEACH	7:00 PM	4	4	4	4	5	5	5	31
Store #161 - PALM BEACH	8:00 PM	3	3	3	3	4	3	4	23
Store #161 - PALM BEACH	9:00 PM	2	2	2	1	2	2	2	13
Daily Totals		101	101	94	87	110	103	104	700

Store 161 Customer Origin Survey

Interviewer: _____

Date: __/__/2010

Time: __:__ AM PM

My name is _____, and I work for _____, a market research firm. We're doing a brief survey to understand this store's customers. May I ask you a few questions?

1. Are you over the age of 18?

- ☐ Yes
- ☐ No – THANK AND TERMINATE

2. Which of the following best describes your residency in this area?

(READ LIST. SELECT ONE ANSWER.)

- ☐ Year-round resident – CONTINUE
- ☐ Seasonal resident – CONTINUE
- ☐ Tourist or visitor – SKIP TO Q6

3. What is the ZIP code of your home address? (FOR SEASONAL RESIDENTS, RECORD ZIP CODE OF THEIR ADDRESS IN THIS AREA) _____

4. Which of the following best describes your work status? (READ LIST) (SELECT ONE ANSWER)

- ☐ Employed – CONTINUE
- ☐ Unemployed – THANK AND END
- ☐ Retired – THANK AND END
- ☐ Student – THANK AND END
- ☐ Homemaker – THANK AND END
- ☐ Refused – THANK AND END

5. What town or city do you work in?

(DO NOT READ LIST. MULTIPLE RESPONSES ARE ACCEPTABLE.)

- | | |
|--|--|
| ☐ Belle Glade | ☐ Loxahatchee |
| ☐ Boca Raton | ☐ North Palm Beach |
| ☐ Boynton Beach | ☐ Pahokee |
| ☐ Delray Beach | ☐ Palm Beach (Town of Palm Beach) |
| ☐ Greenacres | ☐ Palm Beach Gardens |
| ☐ Jupiter | ☐ Royal Palm Beach |
| ☐ Lake Park | ☐ Wellington |
| ☐ Lake Worth | ☐ West Palm Beach |
| ☐ Lantana | ☐ Other (specify) _____ |

6. [ASK ONLY OF TOURISTS AND VISITORS] What town or city are your accommodations located in?

- | | |
|--|--|
| ☐ Belle Glade | ☐ Loxahatchee |
| ☐ Boca Raton | ☐ North Palm Beach |
| ☐ Boynton Beach | ☐ Pahokee |
| ☐ Delray Beach | ☐ Palm Beach (Town of Palm Beach) |
| ☐ Greenacres | ☐ Palm Beach Gardens |

JEFFREY A. REMBAUM
JREMBaum@SIEGFRIEDLAW.COM

REPLY TO WEST PALM BEACH OFFICE

August 10, 2010

Sent Via U.S. Mail and Facsimile

Town of Palm Beach, Town Council
Town of Palm Beach, Planning and Zoning Board
c/o The Honorable Jack McDonald, Mayor
c/o Joanna Cunningham, Town Clerk
Mr. John Page, Planning and Zoning Director
Mr. John Lindgren, Planning Administrator
360 S. County Road
Palm Beach, FL 33480

Re: Publix Super Markets
Modified Site Plan Review # 4-2010 Zoning Application
Our Client: Palm Beach Hotel Condominium Association, Inc.
PROCEDURAL PRE-REQUISITES

Dear Mayor McDonald, the Town Council, and Mssrs. Page and Lindgren:

This Firm represents the Palm Beach Hotel Condominium Association, Inc. (the "Association"). This correspondence is supplementary to our correspondence sent/ faxed earlier today and also dated August 10, 2010. In short, unless the Applicant has complied with Sections 134-171 of the Town of Palm Beach Code of Ordinances, Publix's application is not ripe to be heard. Also, unless Publix has complied with Section 134-229(12), then Publix's application for Special Use cannot lawfully be granted.

Section 134-171 of the Town Code: Several of the parcels necessary for the Publix expansion are still owned by Sunset Avenue Corporation. Section 134-171 of the Town code requires

"applications for special exceptions and/or variances... shall be made by the fee simple owner. The fee simple owner may authorize a designee, agent or representative by power of attorney filed with the building official."

As yet we have not seen proof of this power of attorney in the Town's records. To the extent this requirement is not met, then the Town cannot proceed with Publix's request for variance at this time. I note that the Modified Site Plan Zoning Application submitted by

attorney Ziska for Publix includes a signature block for herself for Publix, and for Brad Bleefeld for Sunset Avenue Corporation, but that the Modified Site Plan Zoning Application IS NOT SIGNED by Ms. Ziska, by Publix or by any agent for Sunset Avenue Corporation. Moreover, even if the Modified Site Plan Review application were correctly executed, the Town Code clearly requires a power of attorney be filed with the Town's Building official.

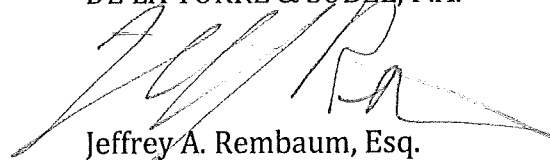
Section 134-229(12) of the Town Code provides, in relevant part, that in order for the Town to grant an Application Containing Special Exception request

“the applicant must submit evidence to the Town Council in support its contention which shall include credible data or information suitable for review by the Town. The data shall include types of information used, the methodology employed and must/shall include list of customer addresses or certification by a CPA approved by the Town, market studies or data from similar operations under the control of the applicant.”

Applicant Publix, in its Site Plan and Zoning Variance Application, sets forth that 80% of its customer base are “Town's Persons”. However, on multiple occasions the Architectural Commission requested evidence as to how Publix derived its 80% calculation. In short, Publix would not reveal that information. Therefore, unless and until Publix submits this information it would appear the Town Counsel is WITHOUT authority to grant the requested variances

Respectfully yours,

SIEGFRIED, RIVERA, LERNER,
DE LA TORRE & SOBEL, P.A.



Jeffrey A. Rembaum, Esq.
For the Firm

JAR/kmr

cc: The Palm Beach Hotel Condominium Association, Inc., c/o Board of Directors
Sexton Engineering for the Association
Maura Ziska, Esq. for Publix
Architectural Committee, Town of Palm Beach

THE FORUM BUILDING | 1675 PALM BEACH LAKES BOULEVARD | SUITE 500 | WEST PALM BEACH, FL 33401
WEST PALM BEACH 561.296.5444 | FAX 561.296.5446 | TOLL FREE 800.737.1390

JEFFREY A. REMBAUM
JREMBaum@SIEGFRIEDLAW.COM

REPLY TO WEST PALM BEACH OFFICE

August 10, 2010

Sent Via U.S. Mail and Facsimile

Town of Palm Beach, Town Council
Town of Palm Beach, Planning and Zoning Board
c/o The Honorable Jack McDonald, Mayor
c/o Joanna Cunningham, Town Clerk
Mr. John Page, Planning and Zoning Director
Mr. John Lindgren, Planning Administrator
360 S. County Road
Palm Beach, FL 33480

Re: Publix Super Markets
Modified Site Plan Review # 4-2010 Zoning Application
Our Client: Palm Beach Hotel Condominium Association, Inc.

Dear Mayor McDonald, the Town Council, and Mssrs. Page and Lindgren:

As I'm sure you may already be are aware, this Firm represents the Palm Beach Hotel Condominium Association, Inc. (the "Association")

IMPORTANT:

The Association, located at 235 Sunrise Avenue, as the immediate next door neighbor to Publix Supermarkets proposed expansion is asserting intervenor status in this matter. As such, the Association should be provided opportunity to cross-examine all witnesses testifying during quasi judicial hearings not limited to the August 11, 2010 Modified Site Plan Review #4-2010 with special exception and variances. Please be certain to address this matter prior to accepting any testimony.

The Association is pleased that Publix redesigned its site taking into account several of the Association's concerns. Nevertheless, prior to receiving any rights of approval, there

Palm Beach Hotel Condominiums Exhibit 1

JR

are matters which must be addressed by the Town. To that end, the Association brings the following to your attention:

I. PARKING:

Prior to receiving any variance approval, the on-street and off-street parking dilemma must be resolved. The Association remains gravely concerned that neither the Applicant, nor the Town of Palm Beach is addressing the shortage of off-street and on-street parking that the Applicant's proposed grocery expansion will cause. While the Applicant is not directly to blame for causing this problem, its plans for expansion certainly exacerbate it. Nevertheless, the remedy must lie with the Town. The Association requests that the Town Council concurrently focus on this extremely troubling situation.

To provide some, albeit minimal, short term and immediate relief, the Association requests that the Town provide for "permit parking" along Sunrise Avenue in tandem with the Applicant's request for variance. In addition, valet parking of any commercial entity with available parking only must be prohibited from parking in on-street parking spaces unless and until the entities' existing off-street parking is 100% full.

In regard to long term relief, staff can be directed to commence reviewing various other options such as one way traffic routing along Sunrise Avenue to provide additional on-street parking spots, and the construction of a public/private financed parking garage.

Regarding the Applicant's assertion in its application for variance that the location and use of the off-street parking will be substantially improved, it is offensive and shocking that the Applicant can assert such a statement when its expansion plans are causing the loss of approximately one hundred fourteen (114) or so otherwise existing off-street parking spots.

II. LANDSCAPING ALONG SUNRISE AVENUE:

The northern elevation of the proposed site plan, directly across the street from the Association's condominium building needs additional greenery and vegetation to be more consistent with the overall site plan and to provide a more attractive buffer.

III. TRASH LOCATION AND PICKUP:

The location of the Applicant's trash bins are not identified on its site plan. Trash and refuse vehicles' point of ingress and egress must be clarified in writing by the applicant or included as a part of the Town's conditions.

Despite raising this issue several times, Exhibit B, Section 3 of the Applicant's revised zoning application, provides that garbage collection may occur on both Sunrise and/or Sunset Avenues. Despite the Applicant's verbal representations made during Architectural Commission hearings that the garbage containers will be located along Sunset Avenue, in the area marked trash "compactor," the location of the Applicant's trash bins are not identified on its site plan. Moreover, the Applicant's application submitted to the Town still provides that garbage may be picked up along Sunrise and/or Sunset Avenue. The Association requests that the Town ensure Publix revise its application and site plan to reflect its previous verbal representations.

IV. CONDITIONS FOR ZONING VARIANCE ADDRESSING PART III OF APPLICANT'S ZONING APPLICATION:

- a. **Town serving:** Until the Applicant substantiates its assertion that eighty percent (80%) of its customer base will come from the Town of Palm Beach, the variances should not be granted. The Applicant has not substantiated its assertion with even so much as a single document. I have heard from numerous sources that numerous residents from outside the Town of Palm Beach specifically travel to the Town of Palm Beach Publix.
- b. **Benefit to the neighborhood:** Granting the Applicant's variance at this juncture is not beneficial to the neighborhood. There will be increased traffic and increased noise. Moreover, both the Town and Applicant have failed to address the need to replace on-street and off-street parking created by the Applicant's proposal. Prior to any variances being provided to the Applicant, the Town should first address the needs of its existing residents and ensure at least the most minimal parking spaces are available for the existing and commercial customers who will be negatively affected by the loss of parking.
- c. **Intensity of Use and/or Purpose:** The Applicant provides in its zoning application that the proposed grocery store will not significantly intensify the use over what exists today. Rather, the use of the grocery store must intensify. Profit is yielded through increased purchases and through increased customer traffic. To ignore the latter is to ignore reality.

V. REQUEST FOR VARIANCE CONDITIONS ADDRESSING EXHIBIT "C" OF APPLICANT'S ZONING APPLICATION:

In regard to Exhibit C, the REQUEST FOR VARIANCE, the Association has the following concerns:

1. CIRCUMSTANCES PECULIAR TO THE LAND, STRUCTURE OR BUILDING NOT APPLICABLE TO OTHER LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

There is no special condition or circumstance peculiar to the Applicant's land that are not applicable to other land, structures or buildings in the same zoning district. The Town should not be misled into believing that the configuration of the Applicant's site is irregular. The shape of the site is solely the result of the Applicant's parcel assemblage.

2. SPECIAL CONDITIONS AND CIRCUMSTANCES ARE A RESULT OF THE APPLICANT'S ACTIONS AND DECISIONS:

The special conditions of the property are solely created by Publix's assemblage of the various parcels necessary to accommodate its expansion. It is not as though Publix purchased an irregularly shaped singular lot and cannot build upon it without the variances. Rather, Publix chose to assemble each of the lots in the shape presented and maximize the density and lot coverage. It is the Applicant's singular act to maximize lot coverage far greater than that which is otherwise allowed by the Town code that causes its need for variances. Because it is patently clear that the Applicant's actions are the sole cause for its need for variances, the Town is well within its rights to deny the requested variances. Doing so would ensure additional parking spaces and thereby alleviate this worsening condition.

3. OMITTED.

4. LITERAL INTERPRETATION OF ORDINANCE WOULD NOT CAUSE A DEPRIVATION OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES:

The irregular shape of the site is solely caused by Publix's parcel assemblage decisions. A denial of the variance would not cause the Applicant a deprivation of rights commonly enjoyed by other properties. But, granting the variances requests would cause a

deprivation of rights to the adjoining and proximate commercial and residential owners who will no longer have available parking.

5. **DEMONSTRATE THAT THE VARIANCE REQUESTED IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE LAND, BUILDING, OR STRUCTURE:**

In no way are the variances requested by the Applicant, the "Minimum Variance that will make possible the reasonable use of the land, building, or structure." The size of the assembled lots clearly demonstrate that the Applicant can build its new grocery store without the need for any variances whatsoever.

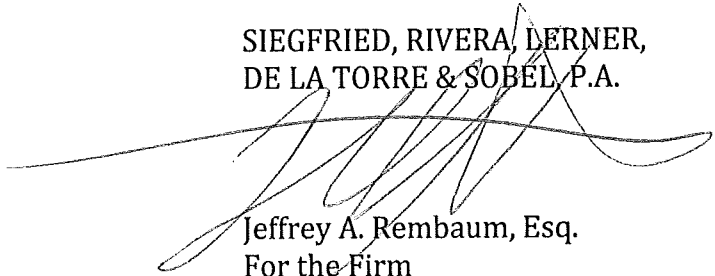
VI. OTHER PROCEDURAL MATTERS FOR CONSIDERATION:

It is indeed strange that the Applicant chose to have its zoning application heard by the Town Council prior to receiving approval from the Town's Architectural Commission. At the last Architectural Commission hearing, the Applicant pointed out that it does not believe its variance requests would change in light of the Architectural Commission's failure to approve its site plan. Nevertheless, the changes to the site plan certainly could cause a change to the Applicant's variance petition. Should that occur, and depending upon the nature of the relief requested, these hearings must commence anew.

To ensure a repeat of the conditions on the existing Publix site do not reoccur, all "i's" should be dotted and "t's" should be crossed. Should the Town permit the Applicant's application for variance to proceed prior to resolving all outstanding Architectural Commission issues, then there is little doubt that the chance of error is great. People will ask, "Why did the Town allow that to happen...again?"

Respectfully yours,

SIEGFRIED, RIVERA, LERNER,
DE LA TORRE & SOBEL P.A.



Jeffrey A. Rembaum, Esq.
For the Firm

JAR/kmr

cc: The Palm Beach Hotel Condominium Association, Inc., c/o Board of Directors
Sexton Engineering for the Association
Maura Ziska, Esq. for Publix
Architectural Committee, Town of Palm Beach

H:\LIBRARY\CASES\5478\2080368\2DF2380.DOC

Tc Mtg 8/11/10
Ionescu

DAN IONESCU | ARCHITECTS

www.diarch.net

37 WEST 28TH STREET
3RD FLOOR
NEW YORK, NY 10001
T 212.253.5577
F 212.683.1810

My name is Dan Ionescu and I am an owner and part time resident in the Palm Beach Hotel. I live and work in New York City and come to Palm Beach half a dozen times a year to enjoy the beauty and tranquility of this place, the weather, the landscape, the architecture and most importantly the exclusiveness. These are reasons for which local full time residents as well as part time residents decided to chose Palm Beach as home. Let's make no mistake this is a place of the locals as much as par-time residents like myself. I am also an architect by profession and I hold licenses to practice architecture in NY, NJ, CT, MA, TX, KS, IL and here in FL. I have been coming to the meetings of the Zoning and Planning committee for quite some time but I never voiced my opinion for one reason or another. However today I am here to speak as a private citizen, property owner and tax payer in this town. I am also here to voice my opinion as an architect and planner with over twenty five years of experience.

As an owner in the Palm Beach Hotel the enlargement of the supermarket across the street from us brings tremendous concerns to myself and the residents I share the building with. Decrease in property value, increase vehicular traffic and added pollution from more delivery trucks and visitors, less parking for us, more noise and odor from a potentially closer located loading dock and more garbage created in general and perhaps the danger of seeing some of the retail stores on the first floor of our building going empty.

After spending millions of dollars to bring up to date the interior and exterior of our building, the landscape and pool area, and finally being accepted on the National Register of Historic Places a bit of an odd ball our building faces the prospect of being downgraded again.

Losing the parking across the street to the Publix is a serious concern, having the loading dock closer to our property is a serious concern but ultimately having a 50,000 SF store in our town is the greatest concern of all. Nobody in a small quaint town with boutique stores and palm trees lined streets need to shop in a supermarket the size of Wal-Mart, especially when just minutes away over the bridge on Okeechobee Blvd. one can find the largest stores America has to offer.

As an Architect and Planner in addition to the concerns mentioned above I have some other concerns as well. It comes from watching with a professional eye the fabric of our small towns being affected by large box retail development. Large stores such as Publix already put out of business many small businesses across this country, leaving Main Street USA desolated. Volumes have been written and experts agreed unanimously on this subject. Palm Beach will be no exception to the rule. The convenience of one stop shopping is irresistible. The only way to counter that is through tough zoning enforceable laws we can count on that can protect the character of unique places like Palm Beach. Just like areas of the Hamptons in Long Island, the island of Nantucket and Martha's Vineyard, Carmel and Sun Valley in California, Historic Charleston to give just few examples, we need to maintain ourselves in a rarefied class of communities protected from senseless commercial growth, erasure of history and inconsiderate developments of thoughtless and needless sort.

The reason why Europe is so charming and everybody enjoys spending quality time in places like South of France or on the island of Capri for instance is because people resist the temptation of allowing the proliferation of large box retail expansions.

There are places where it makes sense to have a 50,000 SF plus store and places where doesn't. Palm Beach is just not that type of place. The Zoning resolution states that, and increasing the size of The Publix would be against every guideline of the resolution.

I was here just few weeks ago when again it was discussed the pros and cons of changing the zoning resolution in the Royal Poinciana district. Allowing the expansion of Publix into the two lots presently occupied by Parking on both Sunrise and Sunset Avenue will take away any opportunity for any sensible development within the Royal Poinciana Commercial district for ever, two valuable lots that can enrich Palm Beach variety of offerings, that can be perhaps developed as a small boutique hotels with 16 to 24 luxury units. If we are concerned about the small businesses in the district small boutique hotels is something should be contemplated, here and perhaps on the so debated Testa site. Small hotels will provide quality visitors with disposable income and appetite for shopping in small specialty stores, allowing Royal Poinciana to balance and complement Worth Avenue. Allowing Publix to expand will make this area the outskirts of Palm Beach the back of the town.

Voting in favor of the expansion of Publix will constitute an affront to all of us having property facing the development in question, an affront to property owners in Palm Beach in general. I just hope this does not become an excuse to compensate for the recent failure to find a viable solution to the Zoning and Development crisis of Royal Poinciana area.

And one more thing, as an Architect I have been on both sides of the fence and sat in many public hearings as this one. I just can not see anyone believing in the expansion of Publix (except the owners of the commercial enterprise of course) not even the architect who produced the design solution. It was just another job hired for.

RE: Publix responses to PB Hotel attorney

Jeff Rembaum

to:

'Maura Ziska'

08/10/2010 07:28 PM

Cc:

"CKleen@Townofpalmbeach.com", "JPage@TownofPalmBeach.com", "hank@tlpittman.com",

"peter@tlpittman.com", Woody Rayburn,

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History: This message has been forwarded.

I appreciate your comments. I truly do. But, unless the representation is actually in the plans or becomes a condition of approval then our email communications regarding the issue mean very little if anything as compared to the test of time. If the verbiage is a typo it should be corrected so that the approved plans correctly reflect the representations you made.

Thanks

Jeff Rembaum, Esquire

Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A.

1675 Palm Beach Lakes Boulevard, Suite 500, West Palm Beach, Florida 33401

Phone: 561-296-5444 Fax: 561-296-5446 Email: jrembaum@siegfriedlaw.com Firm Web Site: www.siegfriedlaw.com

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From: Maura Ziska [<mailto:MZiska@floridawills.com>]

Sent: Tuesday, August 10, 2010 6:04 PM

To: Jeff Rembaum

Cc: CKleen@Townofpalmbeach.com; JPage@TownofPalmBeach.com; hank@tlpittman.com; peter@tlpittman.com; Woody Rayburn;

Subject: RE: Publix responses to PB Hotel attorney

Jeff: The plans only show the trash compactor in the loading dock area and only accessible via Sunset. The verbiage in the zoning application is a typo and the plans and my statement that the trash is only to be picked up via Sunset governs. There is no way to access the trash area from Sunrise so it is a non-issue. tx Maura

Maura A. Ziska, Esq.

Kochman & Ziska PLC

222 Lakeview Avenue, Suite 1500

West Palm Beach, FL 33401

561-802-8960 (telephone)

561-802-8995 (fax)

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RE: Publix responses to PB Hotel attorney

Jeff Rembaum

to:

'Maura Ziska'

08/10/2010 05:46 PM

Cc:

"CKleen@Townofpalmbeach.com", "JPage@TownofPalmBeach.com", "hank@tlpittman.com",

"peter@tlpittman.com", Woody Rayburn,

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History: This message has been forwarded.

Maura, thank you for your email below. Attached is the Association's correspondence to the Town Council faxed only moments ago. As I was preparing to email it to you I received your email and hit "reply" instead.

I believe that not too long ago the Association looked into Mr. Rill's lot and found the costs associated therewith it to be financially cost prohibitive. Regarding the additional on-street parking, two or three additional spaces will not change the fact that the Publix expansion plans will cause a devastating loss of both on and off street parking. If Publix really wants to be a good neighbor it would work out a nonexclusive revocable license/ easement for 40 or so parking spaces in its parking lot for co use by the Association. Given the existing conditions, I believe the Town would seriously consider a joint proposal from the Association and Publix in this regard. Even if staff did not support it, the Town Counsel might.

Regarding the landscaping along the northern side, it would be nice for Publix to take the initiative and increase the currently planned sparse vegetation rather than, as you suggest, be told by ARCOM to do so. It is this type of attitude that could easily be construed to evidence that Publix is only in this for itself and its profit margins and really does not care about the Towns residents.

In regard to your comments regarding "trash" the Site Plan Application submitted by Publix still fails to confirm your representations below. The last version I reviewed continued to provide that trash pickup could be along Sunrise and/ or Sunset Avenues. Unless and until the Applicant's plans are actually corrected to reflect your comments, this issue remains at large.

Jeff

Jeff Rembaum, Esquire

Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A.

1675 Palm Beach Lakes Boulevard, Suite 500, West Palm Beach, Florida 33401

Phone: 561-296-5444 Fax: 561-296-5446 Email: jrembaum@siegfriedlaw.com Firm Web Site: www.siegfriedlaw.com

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From: Maura Ziska [<mailto:MZiska@floridawills.com>]

Sent: Tuesday, August 10, 2010 2:55 PM

To: Jeff Rembaum

Cc: CKleen@Townofpalmbeach.com; JPage@TownofPalmBeach.com; hank@tlpittman.com; peter@tlpittman.com; Woody Rayburn;

Subject: Publix responses to PB Hotel attorney

RE: Publix responses to PB Hotel attorney

Maura Ziska

to:

Jeff Rembaum

08/10/2010 06:04 PM

Cc:

CKleen, JPage, hank, peter, "Woody Rayburn",

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Maura A. Ziska, Esq.
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222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401
561-802-8960 (telephone)
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From: Jeff Rembaum [mailto:jrembaum@sieqfriedlaw.com]

Sent: Tuesday, August 10, 2010 5:46 PM

To: Maura Ziska

Cc: CKleen@Townofpalmbeach.com; JPage@TownofPalmBeach.com; hank@tlpittman.com; peter@tlpittman.com; Woody Rayburn;

Subject: RE: Publix responses to PB Hotel attorney

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08/10/2010 05:46 PM

Cc:

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Jeff

Jeff Rembaum, Esquire

Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A.

1675 Palm Beach Lakes Boulevard, Suite 500, West Palm Beach, Florida 33401

Phone: 561-296-5444 Fax: 561-296-5446 Email: jrembaum@siegfriedlaw.com Firm Web Site: www.siegfriedlaw.com

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Subject: Publix responses to PB Hotel attorney

Jeff: I wanted to respond to your July 27th letter in writing, although I verbally answered your questions at the last ARCOM meeting.

RE: Second letter from Palm Beach Hotel Condominium Association for 8/11/10 hearing PUBLIX Special Use/ Variance Application

Maura Ziska

to:

Jeff Rembaum, CKleen, JPage

08/10/2010 09:07 PM

Cc:

"Kelly Rodriguez"

Show Details

Jeff: I You must not have a record copy of the modified zoning application but it is indeed signed by me and Brad Bleefeld. Also, there are two town serving marketing studies that are part of the record and were submitted to Paul Castro months ago that support the Town Serving requirement. Tx Maura

Maura A. Ziska, Esq.
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401
561-802-8960 (telephone)
561-802-8995 (fax)

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From: Jeff Rembaum [<mailto:jrembaum@siegfriedlaw.com>]

Sent: Tuesday, August 10, 2010 8:57 PM

To: CKleen@Townofpalmbeach.com; JPage@TownofPalmBeach.com

Cc: Maura Ziska; Kelly Rodriguez

Subject: Second letter from Palm Beach Hotel Condominium Association for 8/11/10 hearing PUBLIX Special Use/ Variance Application

Attached, please find a second letter from Palm Beach Hotel Condominium Association for tomorrows Publix 8/11/10 hearing.

This letter was faxed as well a few moments ago.

Jeff Rembaum, Esquire

Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A.

1675 Palm Beach Lakes Boulevard, Suite 500, West Palm Beach, Florida 33401

Phone: 561-296-5444 Fax: 561-296-5446 Email: jrembaum@siegfriedlaw.com Firm Web Site: www.siegfriedlaw.com

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From: Maura Ziska [<mailto:MZiska@floridawills.com>]

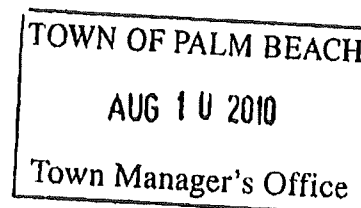
Sent: Tuesday, August 10, 2010 6:04 PM

**ROYAL PARK HOMEOWNERS' ASSOCIATION
P.O. BOX 368
PALM BEACH, FLORIDA 33480**

DELIVERED BY HAND

August 10, 2010

Honorable Jack MacDonald, Mayor
Mr. David Rosow, Palm Beach Town Council
Mr. Bill Diamond, Palm Beach Town Council
Mr. Bob Wildrick, Palm Beach Town Council
Mr. Dick Kleid, Palm Beach Town Council
Mrs. Gail Coniglio, Palm Beach Town Council



Dear Mayor and Town Council Members:

This note is on behalf of the Royal Park Homeowners' Association Board of Directors.

The P&Z staff, with the nominal approval of the Commissioners, but perhaps without approval of the Town's attorney, placed on the Town Council Agenda, for first reading, a proposed ordinance 23-10, which would amend the zoning code to "Waiver Certain Zoning Provisions in Chapter 134 for a Town Event, Public Rights of Way, Town Buildings, Town Structures, or Town Property, provided certain conditions are met."

We believe the P&Z Commission's approval may not have been thoroughly considered – plus, it is said to have been given despite unidentified reservations on the part of the Town Attorney, who was not present at the meeting.

We all need to know a great deal more before we can understand what is going on here, and certainly before any action takes place by the Town Council.

We urge the Town Council either to reject this proposal (our preference) or return it to P&Z for further study and justification, as to why this is seen as necessary or desirable.

Sincerely,

A handwritten signature in cursive script that reads "William Miller".

William Miller
Chairman
Advisory Committee



Alfred J. Malefatto
561-650-7908
MalefattoA@gtlaw.com

August 10, 2010

Via E-Mail & U.S. Mail

Mr. Paul Castro
Zoning Director
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

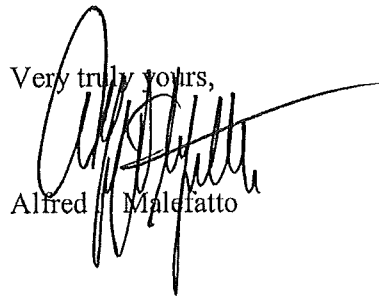
Re: Special Exception #15-2010, 2875 South Ocean Boulevard

Dear Mr. Castro:

Please be advised that on behalf of our client, we are hereby withdrawing our application for the subject special exception. Please remove this item from the Town Council Agenda for the meeting of August 11, 2010.

Please advise if you have any questions.

Very truly yours,

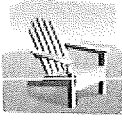

Alfred J. Malefatto

AJM/dlv

cc: Seth Behn, AICP
Ms. Ann Boyles (aboyles@townofpalmbeach.com)
Shannon Bothwell, Esq.

WPB 381,423,679v1 020821.014900

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DENVER
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LAS VEGAS
LONDON*
LOS ANGELES
MIAMI
MILAN**
NEW JERSEY
NEW YORK
ORANGE COUNTY
ORLANDO
PALM BEACH COUNTY
PHILADELPHIA
PHOENIX
ROME**
SACRAMENTO
SHANGHAI
SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO**
TYSONS CORNER
WASHINGTON, D.C.
WHITE PLAINS
ZURICH**



Fw: Proposed Ordinance 23-10

08/10/2010 10:57 AM

----- Forwarded by Cheryl Kleen/PalmBeach on 08/10/2010 10:57 AM -----

From: Doug Williamson <dfwilliamsonjr@gmail.com>
To: "Palm Beach, Town of (Council)" <council@townofpalmbeach.com>
Date: 08/10/2010 09:17 AM
Subject: Proposed Ordinance 23-10

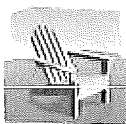
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"There have been situations where the Town has had to obtain variances or code amendments to accomplish work on public buildings or structures."

Well of course the Town should have to obtain variances or code amendments! There is no reason why the Town should be exempt from the policies, rules and restrictions embodied in the Comprehensive Plan, the zoning code and the regulations. If this is a principal motivation for the proposed change, as I suspect it is, it is terribly misguided and simply wrong as a matter of policy.

The proposal looks like an effort at a sneak end run around the Town's land use protections. Please reject it.

Douglas Williamson



Fw: Publix application

08/09/2010 09:30 AM

----- Forwarded by Cheryl Kleen/PalmBeach on 08/09/2010 09:28 AM -----

From: Anne Pepper <annepepper@mac.com>
To: Council@townofpalmbeach.com
Cc: pelwell@townofpalmbeach.com
Date: 08/06/2010 02:01 PM
Subject: Publix application

Dear Mrs. Coniglo, Mssrs Rosow, Kleid, Wildrick, Diamond,

Publix Corporation, after failing to make their case with ARCOM for a massive box store, is coming directly to you, hoping to make an end run around ARCOM recommendation. The Publix application seeks multiple variances to build a structure more than 50% larger than the present Publix (33,000 vs 51,000+sq ft proposed). The scale, size and design compatibility of the proposed building, landscape and site plan including traffic flow and parking are the important issues to consider in this application. Who better to do that than ARCOM-the commission specifically set up for this type of review? Among ARCOM's members are accomplished architects as well as knowledgeable residents. The majority said the Publix has not proven the need for such an enormous store in a town whose population is static and may even decline in the near future. Although many of you as business men may admire the Publix corporation, I have attended the meetings with ARCOM and the Publix and I have been deeply disturbed by Publix arrogance and their bullying attempts to get what they want from ARCOM. I perceived a sense of entitlement and an assumption when they threatened ARCOM that they would go around them directly to the Town Council and that they could 'handle' the Town Council. Were I in your position, this attitude of disrespect for the Town's commissions would NOT SIT WELL WITH ME. There are many in this town who do not even want the Publix to put up a new store. They do not want to be without an on-island market for the better part of a year. The size of this store is clearly meant to attract a lot of off-island shoppers. Publix's claim that they need 30% more selling space to provide more of the mix that Palm Beach wants are specious. They are giving lip service to more organics, prepared food etc. and will only increase the wine, pharmacy and long shelf life items that represent greater profits to them and are harmful to the small, independent pharmacies and liquor stores, food caterers etc. that we want to support and are in the scale of town. The latest store design is a 2.5 storey high store with a 1 storey function. The granting of variances for a store 3.5 times larger than the zoning permits (15,000 sq.ft) will encourage other big box types to make a run at the town zoning. This is not the kind of town Palm Beachers want. We are a residential town with a small amount of sustainable retail and business services. Please send Publix back to ARCOM with the clear directive to design a store worthy of Palm Beach and in a scale and design suitable for a town our size. If they do not, we can live with what we have and the Town Council should stand up to Publix in our defense and in support of ARCOM.

Sincerely,

Anne and Charlie Pepper
333Seaspray Ave.

From: "Emmy Wolbach" <seawind22@comcast.net>
To: <council@townofpalmbeach.com>,
Date: 08/07/2010 12:20 AM
Subject: Fw: Publix application

Dear Council,

I agree with everything in this letter.....Publix is crowded perhaps 4 times a year. The rest of the time no problem of overcrowding and summers you could shoot a cannon thru.

Thank you,

Sincerely,
Emma Crispin Wolbach
241 Plantation Road

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

From: Anne Pepper
To: Emmy Wohlbach
Sent: Friday, August 06, 2010 4:53 PM
Subject: Fwd: Publix application
My email to TC>

Begin forwarded message:

From: Anne Pepper <annepepper@mac.com>
Date: August 6, 2010 12:00:39 PM MDT
To: Council@townofpalmbeach.com
Cc: pelwell@townofpalmbeach.com
Subject: Publix application

Dear Mrs. Coniglio, Mssrs Rosow, Kleid, Wildrick, Diamond,

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Date: August 6, 2010 12:00:39 PM MDT

To: Council@townofpalmbeach.com

Cc: pelwell@townofpalmbeach.com

Subject: Publix application

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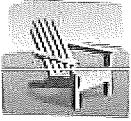
Anne and Charlie Pepper
333Seaspray Ave.

Publix
reed mary
to:
council
08/10/2010 09:13 PM
[Show Details](#)

To: The Town Council

Please do not even consider the Publix application and send it back to ARCOM where it belongs. Why do we have this commission, if not to follow their advice? Their members are qualified professionals and knowledgeable residents. We want a store that is in scale with the rest of Palm Beach and if Publix doesn't want to do this, then let's just keep what we have. Thank you very much.

Peter & Polly Reed
231 Chilean



Fw: Publix responses to PB Hotel attorney

Cheryl Kleen to: council

Cc: Peter B Elwell, jrandolph, Joanna Cunningham, Anne Boyles

08/11/2010 08:12 AM

----- Forwarded by Cheryl Kleen/PalmBeach on 08/11/2010 08:11 AM -----

From: Jeff Rembaum <jrembaum@siegfriedlaw.com>
To: 'Maura Ziska' <MZiska@floridawills.com>
Cc: "CKleen@Townofpalmbeach.com" <CKleen@Townofpalmbeach.com>, "JPage@TownofPalmBeach.com" <JPage@TownofPalmBeach.com>, "hank@tlpittman.com" <hank@tlpittman.com>, "peter@tlpittman.com" <peter@tlpittman.com>, Woody Rayburn <Woody.Rayburn@publix.com>, "wjd2332@aol.com" <wjd2332@aol.com>
Date: 08/10/2010 05:46 PM
Subject: RE: Publix responses to PB Hotel attorney

Maura, thank you for your email below. Attached is the Association's correspondence to the Town Council faxed only moments ago. As I was preparing to email it to you I received your email and hit "reply" instead.

I believe that not too long ago the Association looked into Mr. Rill's lot and found the costs associated therewith it to be financially cost prohibitive. Regarding the additional on-street parking, two or three additional spaces will not change the fact that the Publix expansion plans will cause a devastating loss of both on and off street parking. If Publix really wants to be a good neighbor it would work out a nonexclusive revocable license/ easement for 40 or so parking spaces in its parking lot for co use by the Association. Given the existing conditions, I believe the Town would seriously consider a joint proposal from the Association and Publix in this regard. Even if staff did not support it, the Town Counsel might.

Regarding the landscaping along the northern side, it would be nice for Publix to take the initiative and increase the currently planned sparse vegetation rather than, as you suggest, be told by ARCOM to do so. It is this type of attitude that could easily be construed to evidence that Publix is only in this for itself and its profit margins and really does not care about the Towns residents.

In regard to your comments regarding "trash" the Site Plan Application submitted by Publix still fails to confirm your representations below. The last version I reviewed continued to provide that trash pickup could be along Sunrise and/ or Sunset Avenues. Unless and until the Applicant's plans are actually corrected to reflect your comments, this issue remains at large.

Jeff

Jeff Rembaum, Esquire

Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A.

1675 Palm Beach Lakes Boulevard, Suite 500, West Palm Beach, Florida 33401

Phone: 561-296-5444 Fax: 561-296-5446 Email: jrembaum@siegfriedlaw.com Firm Web Site: www.siegfriedlaw.com

This e-mail, and any attachments thereto, are intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail and any attachments thereto, is strictly prohibited and you must delete it without reading it. This is an attempt to collect a debt and any information obtained may be used for that purpose. This is a communication from a debt collector.

From: Maura Ziska [<mailto:MZiska@floridawills.com>]

Sent: Tuesday, August 10, 2010 2:55 PM

To: Jeff Rembaum

Cc: CKleen@Townofpalmbeach.com; JPage@TownofPalmBeach.com; hank@tlpittman.com; peter@tlpittman.com; Woody Rayburn; wjd2332@aol.com



Fw: Publix Variances to go before Town Council this Wednesday

Jack McDonald to: Peter B Elwell, John Page, jrandolph, Joanna
Cunningham
Sent by: Cheryl Kleen

08/10/2010 04:20 PM

----- Forwarded by Cheryl Kleen/PalmBeach on 08/10/2010 04:10 PM -----

Publix Variances to go before Town Council this Wednesday

Alexander Ives to: Alexander Ives

08/10/2010 09:59 AM

This Wednesday, Publix will go before the Town Council of Palm Beach seeking approval for variances regarding its new store application. The meeting is set to begin at 9:30am, though the Publix is last on the agenda for the day.

<http://www.palmbeachdailynews.com/news/publix-to-seek-town-council-ok-on-variances-847100.html>

Publix Supermarkets are seeking to demolish their Palm Beach store and expand their size to the East, creating a larger store and more parking. The store will increase in size from 33,000 square feet to 44,000 square feet. An additional 7,000 square feet for outdoor loading docks, generator and other such service areas will be covered. On average, it will have a height of 30 feet. The parking will increase by approximately 100 spaces to a total of 218. The project would begin on April 25, 2011 and finish by December 18, 2011.

The Preservation Foundation of Palm Beach supports the concept of a new Publix. However, the Foundation does maintain some concerns, in particular with regard to refinements of the greenspace throughout the property, the extensive Southside wall, and the overall architectural detailing.

Overall, the Preservation Foundation of Palm Beach feels:

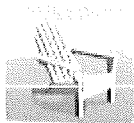
1. The Preservation Foundation does not find the current Publix a building of landmark criteria and, as such, holds no apprehensions over its demolition.
2. Though Publix is a commercial enterprise, the Preservation Foundation sees them as a town-serving commercial necessity. A market, unlike other enterprises, serves not as a luxury for, but rather as a requirement of a community. The Foundation considers a quality market an important part of the fabric of Palm Beach and well respects Publix's ability to provide that so well to the Town for some 40 years now.
3. A larger store will allow for better service during storms. The hurricanes which crisscrossed Palm Beach County in 2004 and 2005 clearly showed the importance of an in-town grocery market. The damage caused by these storms had the Town of Palm Beach without an in-town, easily accessible food and water source for as long as two weeks. This was one of the major reasons Publix began to look into redesigning its store. The new store will have a generator providing vital operational ability within 24 hours of a storm leaving the area. This generator setup is not possible with the current store due to

parking issues and limited space. Also to this point, the new, larger store will be able to hold more goods in times of crisis and need. Further, the new store's floors will be higher above sea level to better avoid flooding.

4. The demands of town residents for a better deli and pharmacy, as well as more diverse goods, including certain Publix Greenwise products will be met by a larger store. This will allow residents to be better served in Town instead of seeking out goods in communities to the North, West, or South.
5. In meetings with Publix officials the Preservation Foundation has advocated for the creation of a temporary store to service town residents while demolition and new construction are going on. The Foundation applauds Publix's efforts to seek out a temporary location for a basic needs and perishable items store.
6. The Preservation Foundation appreciates that the new store is not being built with the purpose of becoming a magnet store designed to pull from developing and surrounding communities outside of the Town of Palm Beach. The Palm Beach store project will begin just as a new 28,000 square foot store will be opening on Blue Heron Boulevard and US Highway-1 to serve the Riviera Beach and burgeoning Northwood communities. As well, the Cityplace Publix in West Palm Beach is set to increase its store size from 21,000 square feet to 33,000 square feet.
7. The Preservation Foundation has no major concerns over the size of the new store. The new Palm Beach store will be 44,000 square feet in size. For comparisons, the Publix located at Legacy Place in Palm Beach Gardens is 45,000 square feet in size and the Publix located in West Palm Beach on Southern Boulevard is 44,000 square feet in size.
8. The Foundation does recognize the need for several variances for the project to go ahead.
9. The Foundation feels that as much greenspace as possible to the parking lot should be added. The use of palm and shade trees should be maximized both around the building and throughout the parking lot. Vine on outside walls is also suggested. Further, as is the case with the current Publix, hedge and greenery should be used visually to divide the parking lot from the surrounding streets.
10. The Sunset Avenue, Southside of the new building will present over 200 feet of uninterrupted wall to passers-by. Any landscaping and/or greater architectural detailing which could aesthetically enhance or break-up this area is greatly welcomed.
11. The Foundation feels a greater design concern should be put towards the upper areas of the building, in particular the windows. Any efforts to make them less faux and work them in more naturally to the greater building are welcomed.

####

Alexander C. Ives
Director of Public Affairs
Preservation Foundation of Palm Beach
311 Peruvian Avenue
Palm Beach, Florida 33480
561.832.0731, ext.112
aives@palmbeachpreservation.org



Fw: Proposed Ordinance 23-10

Cheryl Kleen to council

Peter B Elwell, John Page, Anne Boyles, jrandolph, Joanna
Cunningham

08/10/2010 10:57 AM

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**Fw: Publix application**

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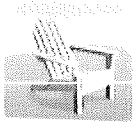
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Anne and Charlie Pepper
333Seaspray Ave.



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Cheryl Kleen to: council

Cc: Peter B Elwell, John Page, Jrandolph, Anne Boyles, Joanna Cunningham

08/09/2010 09:07 AM

----- Forwarded by Cheryl Kleen/PalmBeach on 08/09/2010 09:06 AM -----

From: "Emmy Wolbach" <seawind22@comcast.net>
To: <council@townofpalmbeach.com>, <pelwell@townofpalmbeach.com>
Date: 08/07/2010 12:20 AM
Subject: Fw: Publix application

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To: Emmy Wohlbach

Sent: Friday, August 06, 2010 4:53 PM

Subject: Fwd: Publix application

My email to TC>

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Cc: pelwell@townofpalmbeach.com

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Sincerely,

Anne and Charlie Pepper
333Seaspray Ave.



C	O	V	E	R
S	H	E	E	T

FAX

To: Town of Palm Beach,
Town Council

Fax #: 561-838-5411

Phone#:

To: Town of Palm Beach,
Town Manager

Fax #: 561-838-5411

Phone#:

To: Town of Palm Beach,
Town Clerk

Fax #: 561-838-5417

Phone#:

To: Town of Palm Beach,
Planning & Zoning Board

Fax #:

Phone#: 561-835-4621

From: Kelly Rodriguez for Jeff Rembaum, Esq.

Subject: Publix Super Markets Modified Site Plan Review

File #: 2080368

Date: August 10, 2010

Time: 4:58 pm

Pages: 6, including this coversheet

COMMENTS:

Please see the attached correspondence from Mr. Rembaum regarding Publix Super Market's Modified Site Plan Review.

Thank you.

HARD COPY:

☐ WILL NOT BE SENT
☒ REGULAR MAIL

☒ WILL BE SENT
☐ OVERNIGHT MAIL

THE INFORMATION CONTAINED IN THIS TRANSMISSION IS LEGALLY PRIVILEGED AND CONFIDENTIAL, INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVE THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE LISTED ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

Siegfried, Rivera, Lerner,
De La Torre & Sobel, P.A.
1675 Palm Beach Lakes Blvd., #500
West Palm Beach, Florida 33406

(561) 296-5444

Fax: (561) 296-5446

RECEIVED

AUG 11 2010

TOWN CLERK

LAW OFFICES

SIEGFRIED, RIVERA, LERNER, DE LA TORRE & SOBEL, P.A.

THE FORUM BUILDING | 1675 PALM BEACH LAKES BOULEVARD | SUITE 500 | WEST PALM BEACH, FL 33401
WEST PALM BEACH 561.296.5444 | FAX 561.296.5446 | TOLL FREE 800.737.1390

JEFFREY A. REMBAUM
JREMBaum@SIEGFRIEDLAW.COM

REPLY TO WEST PALM BEACH OFFICE

August 10, 2010

Sent Via U.S. Mail and Facsimile

Town of Palm Beach, Town Council
Town of Palm Beach, Planning and Zoning Board
c/o The Honorable Jack McDonald, Mayor
c/o Joanna Cunningham, Town Clerk
Mr. John Page, Planning and Zoning Director
Mr. John Lindgren, Planning Administrator
360 S. County Road
Palm Beach, FL 33480

RECEIVED

AUG 11 2010

TOWN CLERK

Re: Publix Super Markets
Modified Site Plan Review # 4-2010 Zoning Application
Our Client: Palm Beach Hotel Condominium Association, Inc.

Dear Mayor McDonald, the Town Council, and Mssrs. Page and Lindgren:

As I'm sure you may already be are aware, this Firm represents the Palm Beach Hotel Condominium Association, Inc. (the "Association")

IMPORTANT:

The Association, located at 235 Sunrise Avenue, as the immediate next door neighbor to Publix Supermarkets proposed expansion is asserting intervenor status in this matter. As such, the Association should be provided opportunity to cross-examine all witnesses testifying during quasi judicial hearings not limited to the August 11, 2010 Modified Site Plan Review #4-2010 with special exception and variances. Please be certain to address this matter prior to accepting any testimony.

The Association is pleased that Publix redesigned its site taking into account several of the Association's concerns. Nevertheless, prior to receiving any rights of approval, there

Letter to the Town of Palm Beach
August 10, 2010
Page 2

are matters which must be addressed by the Town. To that end, the Association brings the following to your attention:

I. PARKING:

Prior to receiving any variance approval, the on-street and off-street parking dilemma must be resolved. The Association remains gravely concerned that neither the Applicant, nor the Town of Palm Beach is addressing the shortage of off-street and on-street parking that the Applicant's proposed grocery expansion will cause. While the Applicant is not directly to blame for causing this problem, its plans for expansion certainly exacerbate it. Nevertheless, the remedy must lie with the Town. The Association requests that the Town Council concurrently focus on this extremely troubling situation.

To provide some, albeit minimal, short term and immediate relief, the Association requests that the Town provide for "permit parking" along Sunrise Avenue in tandem with the Applicant's request for variance. In addition, valet parking of any commercial entity with available parking only must be prohibited from parking in on-street parking spaces unless and until the entities' existing off-street parking is 100% full.

In regard to long term relief, staff can be directed to commence reviewing various other options such as one way traffic routing along Sunrise Avenue to provide additional on-street parking spots, and the construction of a public/private financed parking garage.

Regarding the Applicant's assertion in its application for variance that the location and use of the off-street parking will be substantially improved, it is offensive and shocking that the Applicant can assert such a statement when its expansion plans are causing the loss of approximately one hundred fourteen (114) or so otherwise existing off-street parking spots.

II. LANDSCAPING ALONG SUNRISE AVENUE:

The northern elevation of the proposed site plan, directly across the street from the Association's condominium building needs additional greenery and vegetation to be more consistent with the overall site plan and to provide a more attractive buffer.

III. TRASH LOCATION AND PICKUP:

Letter to the Town of Palm Beach
August 10, 2010
Page 3

The location of the Applicant's trash bins are not identified on its site plan. Trash and refuse vehicles' point of ingress and egress must be clarified in writing by the applicant or included as a part of the Town's conditions.

Despite raising this issue several times, Exhibit B, Section 3 of the Applicant's revised zoning application, provides that garbage collection may occur on both Sunrise and/or Sunset Avenues. Despite the Applicant's verbal representations made during Architectural Commission hearings that the garbage containers will be located along Sunset Avenue, in the area marked trash "compactor," the location of the Applicant's trash bins are not identified on its site plan. Moreover, the Applicant's application submitted to the Town still provides that garbage may be picked up along Sunrise and/or Sunset Avenue. The Association requests that the Town ensure Publix revise its application and site plan to reflect its previous verbal representations.

IV. CONDITIONS FOR ZONING VARIANCE ADDRESSING PART III OF APPLICANT'S ZONING APPLICATION:

- a. **Town serving:** Until the Applicant substantiates its assertion that eighty percent (80%) of its customer base will come from the Town of Palm Beach, the variances should not be granted. The Applicant has not substantiated its assertion with even so much as a single document. I have heard from numerous sources that numerous residents from outside the Town of Palm Beach specifically travel to the Town of Palm Beach Publix.
- b. **Benefit to the neighborhood:** Granting the Applicant's variance at this juncture is not beneficial to the neighborhood. There will be increased traffic and increased noise. Moreover, both the Town and Applicant have failed to address the need to replace on-street and off-street parking created by the Applicant's proposal. Prior to any variances being provided to the Applicant, the Town should first address the needs of its existing residents and ensure at least the most minimal parking spaces are available for the existing and commercial customers who will be negatively affected by the loss of parking.
- c. **Intensity of Use and/or Purpose:** The Applicant provides in its zoning application that the proposed grocery store will not significantly intensify the use over what exists today. Rather, the use of the grocery store must intensify. Profit is yielded through increased purchases and through increased customer traffic. To ignore the latter is to ignore reality.

Letter to the Town of Palm Beach
August 10, 2010
Page 4

V. REQUEST FOR VARIANCE CONDITIONS ADDRESSING EXHIBIT "C" OF APPLICANT'S ZONING APPLICATION:

In regard to Exhibit C, the REQUEST FOR VARIANCE, the Association has the following concerns:

1. CIRCUMSTANCES PECULIAR TO THE LAND, STRUCTURE OR BUILDING NOT APPLICABLE TO OTHER LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

There is no special condition or circumstance peculiar to the Applicant's land that are not applicable to other land, structures or buildings in the same zoning district. The Town should not be misled into believing that the configuration of the Applicant's site is irregular. The shape of the site is solely the result of the Applicant's parcel assemblage.

2. SPECIAL CONDITIONS AND CIRCUMSTANCES ARE A RESULT OF THE APPLICANT'S ACTIONS AND DECISIONS:

The special conditions of the property are solely created by Publix's assemblage of the various parcels necessary to accommodate its expansion. It is not as though Publix purchased an irregularly shaped singular lot and cannot build upon it without the variances. Rather, Publix chose to assemble each of the lots in the shape presented and maximize the density and lot coverage. It is the Applicant's singular act to maximize lot coverage far greater than that which is otherwise allowed by the Town code that causes its need for variances. Because it is patently clear that the Applicant's actions are the sole cause for its need for variances, the Town is well within its rights to deny the requested variances. Doing so would ensure additional parking spaces and thereby alleviate this worsening condition.

3. OMITTED.

4. LITERAL INTERPRETATION OF ORDINANCE WOULD NOT CAUSE A DEPRIVATION OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES:

The irregular shape of the site is solely caused by Publix's parcel assemblage decisions. A denial of the variance would not cause the Applicant a deprivation of rights commonly enjoyed by other properties. But, granting the variances requests would cause a

Letter to the Town of Palm Beach
August 10, 2010
Page 5

deprivation of rights to the adjoining and proximate commercial and residential owners who will no longer have available parking.

5. **DEMONSTRATE THAT THE VARIANCE REQUESTED IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE LAND, BUILDING, OR STRUCTURE:**

In no way are the variances requested by the Applicant, the "Minimum Variance that will make possible the reasonable use of the land, building, or structure." The size of the assembled lots clearly demonstrate that the Applicant can build its new grocery store without the need for any variances whatsoever.

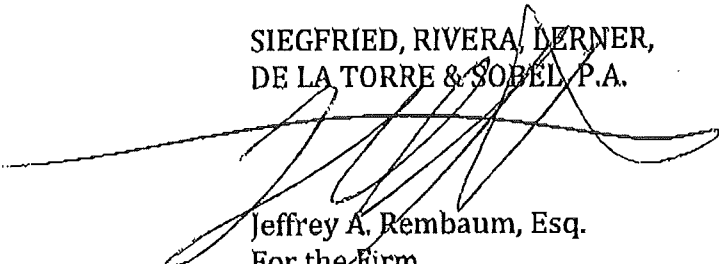
VI. **OTHER PROCEDURAL MATTERS FOR CONSIDERATION:**

It is indeed strange that the Applicant chose to have its zoning application heard by the Town Council prior to receiving approval from the Town's Architectural Commission. At the last Architectural Commission hearing, the Applicant pointed out that it does not believe its variance requests would change in light of the Architectural Commission's failure to approve its site plan. Nevertheless, the changes to the site plan certainly could cause a change to the Applicant's variance petition. Should that occur, and depending upon the nature of the relief requested, these hearings must commence anew.

To ensure a repeat of the conditions on the existing Publix site do not reoccur, all "i's" should be dotted and "t's" should be crossed. Should the Town permit the Applicant's application for variance to proceed prior to resolving all outstanding Architectural Commission issues, then there is little doubt that the chance of error is great. People will ask, "Why did the Town allow that to happen...again?"

Respectfully yours,

SIEGFRIED, RIVERA, DERNER,
DE LA TORRE & SOBEL P.A.



Jeffrey A. Rembaum, Esq.
For the Firm

Letter to the Town of Palm Beach
August 10, 2010
Page 6

JAR/kmr

cc: The Palm Beach Hotel Condominium Association, Inc., c/o Board of Directors
Sexton Engineering for the Association
Maura Ziska, Esq. for Publix
Architectural Committee, Town of Palm Beach

H:\LIBRARY\CASES\5478\2080368\2DF2380.DOC



Fw: Publix responses to PB Hotel attorney

Cheryl Kleen to council

Cc: Peter B Elwell, jrandolph, Joanna Cunningham

08/11/2010 08:15 AM

----- Forwarded by Cheryl Kleen/PalmBeach on 08/11/2010 08:15 AM -----

From: "Maura Ziska" <MZiska@floridawills.com>
To: "Jeff Rembaum" <jrembaum@siegfriedlaw.com>
Cc: <CKleen@Townofpalmbeach.com>, <JPage@TownofPalmBeach.com>, <hank@tlpittman.com>, <peter@tlpittman.com>, "Woody Rayburn" <Woody.Rayburn@publix.com>, <wj2332@aol.com>
Date: 08/10/2010 06:04 PM
Subject: RE: Publix responses to PB Hotel attorney

Jeff: The plans only show the trash compactor in the loading dock area and only accessible via Sunset. The verbage in the zoning application is a typo and the plans and my statement that the trash is only to be picked up via Sunset governs. There is no way to access the trash area from Sunrise so it is a non-issue.
tx Maura

Maura A. Ziska, Esq.
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401
561-802-8960 (telephone)
561-802-8995 (fax)

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From: Jeff Rembaum [mailto:jrembaum@siegfriedlaw.com]
Sent: Tuesday, August 10, 2010 5:46 PM
To: Maura Ziska
Cc: CKleen@Townofpalmbeach.com; JPage@TownofPalmBeach.com; hank@tlpittman.com; peter@tlpittman.com; Woody Rayburn; wjd2332@aol.com
Subject: RE: Publix responses to PB Hotel attorney

Maura, thank you for your email below. Attached is the Association's correspondence to the Town Council faxed only moments ago. As I was preparing to email it to you I received your email and hit "reply" instead.

I believe that not too long ago the Association looked into Mr. Rill's lot and found the costs associated therewith it to be financially cost prohibitive. Regarding the additional on-street parking, two or three additional spaces will not change the fact that the Publix expansion plans will cause a devastating loss of both on and off street parking. If Publix really wants to be a good neighbor it would work out a nonexclusive revocable license/ easement for 40 or so parking spaces in its parking lot for co use by the Association. Given the existing conditions, I believe the Town would seriously consider a joint proposal from the Association and Publix in this regard. Even if staff did not support it, the Town Counsel might.

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Jeff

Jeff Rembaum, Esquire
Siegfried, Rivra, Lerner, De La Torre & Sobel, P.A.
1675 Palm Beach Lakes Boulevard, Suite 500, West Palm Beach, Florida 33401
Phone: 561-296-5444 Fax: 561-296-5446 Email: jrembaum@siegfriedlaw.com Firm Web Site: www.siegfriedlaw.com

This e-mail, and any attachments thereto, are intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail and any attachments thereto, is strictly prohibited and you must delete it without reading it. This is an attempt to collect a debt and any information obtained may be used for that purpose. This is a communication from a debt collector.

From: Maura Ziska [mailto:MZiska@floridawills.com]
Sent: Tuesday, August 10, 2010 2:55 PM
To: Jeff Rembaum
Cc: CKleen@Townofpalmbeach.com; JPage@TownofPalmBeach.com; hank@tlpittman.com; peter@tlpittman.com; Woody Rayburn; wjd2332@aol.com
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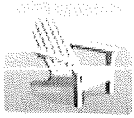
8) The site plan has not changed and the ingress and egress along Sunrise is to the west.

Please let me know if you have any questions with the foregoing or need any additional information.

Maura

Maura A. Ziska, Esq.
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561-802-8995 (fax)

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Fw: Publix

Cheryl Kleen to council

Cc: Peter B Elwell, John Page, jrandolph, Joanna Cunningham

08/11/2010 08:26 AM

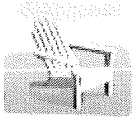
----- Forwarded by Cheryl Kleen/PalmBeach on 08/11/2010 08:26 AM -----

From: reed mary <wollyreed@mac.com>
To: council@townofpalmbeach.com
Date: 08/10/2010 09:13 PM
Subject: Publix

To: The Town Council

Please do not even consider the Publix application and send it back to ARCOM where it belongs. Why do we have this commission, if not to follow their advice? Their members are qualified professionals and knowledgeable residents. We want a store that is in scale with the rest of Palm Beach and if Publix doesn't want to do this, then let's just keep what we have. Thank you very much.

Peter & Polly Reed
231 Chilean



Fw: Publix responses to PB Hotel attorney

Cheryl Kleen to: council
Cc: Peter B Elwell, jrandolph, Joanna Cunningham

08/11/2010 08:21 AM

----- Forwarded by Cheryl Kleen/PalmBeach on 08/11/2010 08:21 AM -----

From: Jeff Rembaum <jrembaum@siegfriedlaw.com>
To: 'Maura Ziska' <MZiska@floridawills.com>
Cc: "CKleen@Townofpalmbeach.com" <CKleen@Townofpalmbeach.com>, "JPage@TownofPalmBeach.com" <JPage@TownofPalmBeach.com>, "hank@tlpittman.com" <hank@tlpittman.com>, "peter@tlpittman.com" <peter@tlpittman.com>, Woody Rayburn <Woody.Rayburn@publix.com>, "wjd2332@aol.com" <wjd2332@aol.com>
Date: 08/10/2010 07:28 PM
Subject: RE: Publix responses to PB Hotel attorney

I appreciate your comments. I truly do. But, unless the representation is actually in the plans or becomes a condition of approval then our email communications regarding the issue mean very little if anything as compared to the test of time. If the verbiage is a typo it should be corrected so that the approved plans correctly reflect the representations you made.

Thanks

Jeff Rembaum, Esquire

Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A.

1675 Palm Beach Lakes Boulevard, Suite 500, West Palm Beach, Florida 33401

Phone: 561-296-5444 Fax: 561-296-5446 Email: jrembaum@siegfriedlaw.com Firm Web Site: www.siegfriedlaw.com

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Sent: Tuesday, August 10, 2010 6:04 PM

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Phone: 561-296-5444 Fax: 561-296-5446 Email: jrembaum@siegfriedlaw.com Firm Web Site: www.siegfriedlaw.com

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Maura

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Re: Fwd: Publix application (Request from Anne Pepper to read her letter out loud) 

Peter B Elwell to: Anne Pepper
Cc: John Page, jrandolph, Joanna Cunningham

08/11/2010 07:58 AM

Anne -

Your letter is a part of the public record and has been distributed to all the elected officials for their consideration.

I don't know if they will choose to read it out loud at today's meeting. That would be very unusual. Nevertheless, so that they may know of your request, I am forwarding this to all six elected officials. I also will mention it to them if I see any of them before today's meeting.

- Peter

c: M&TC

Anne Pepper

Peter, I am requesting that my letter to the Town...

08/10/2010 07:58:09 PM

From: Anne Pepper <annepepper@me.com>
To: "pelwell@townofpalmbeach.com" <pelwell@townofpalmbeach.com>
Date: 08/10/2010 07:58 PM
Subject: Fwd: Publix application

Peter,

I am requesting that my letter to the Town Council be read out loud and into the record at tomorrow's hearing. I would like the residents attending this meeting to hear our point of view. We are out of own but the time and effort that is put into these letters is worthy of public dissemination.

Thank you,
Anne Pepper
Sent from my iPhone

Begin forwarded message:

From: Anne Pepper <annepepper@mac.com>
Date: August 6, 2010 12:08:07 PM MDT
To: jpage@townofpalmbeach.com
Cc: LLC Neighborhood Alliance of Palm Beach <napb33480@gmail.com>
Subject: Fwd: Publix application

JP,

Please see that ARCOM members get this email I sent to TC.
thank you,
Anne Pepper

Begin forwarded message:

From: Anne Pepper <annepepper@mac.com>

Date: August 6, 2010 12:00:39 PM MDT

To: Council@townofpalmbeach.com

Cc: pelwell@townofpalmbeach.com

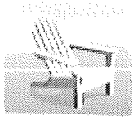
Subject: Publix application

Dear Mrs. Coniglo, Mssrs Rosow, Kleid, Wildrick, Diamond,

Publix Corporation, after failing to make their case with ARCOM for a massive box store, is coming directly to you, hoping to make an end run around ARCOM recommendation. The Publix application seeks multiple variances to build a structure more than 50% larger than the present Publix (33,000 vs 51,000+sq ft proposed). The scale, size and design compatibility of the proposed building, landscape and site plan including traffic flow and parking are the important issues to consider in this application. Who better to do that than ARCOM-the commission specifically set up for this type of review? Among ARCOM's members are accomplished architects as well as knowledgeable residents. The majority said the Publix has not proven the need for such an enormous store in a town whose population is static and may even decline in the near future. Although many of you as business men may admire the Publix corporation, I have attended the meetings with ARCOM and the Publix and I have been deeply disturbed by Publix arrogance and their bullying attempts to get what they want from ARCOM. I perceived a sense of entitlement and an assumption when they threatened ARCOM that they would go around them directly to the Town Council and that they could 'handle' the Town Council. Were I in your position, this attitude of disrespect for the Town's commissions would NOT SIT WELL WITH ME. There are many in this town who do not even want the Publix to put up a new store. They do not want to be without an on-island market for the better part of a year. The size of this store is clearly meant to attract a lot of off-island shoppers. Publix's claim that they need 30% more selling space to provide more of the mix that Palm Beach wants are specious. They are giving lip service to more organics, prepared food etc. and will only increase the wine, pharmacy and long shelf life items that represent greater profits to them and are harmful to the small, independent pharmacies and liquor stores, food caterers etc. that we want to support and are in the scale of town. The latest store design is a 2.5 storey high store with a 1 storey function. The granting of variances for a store 3.5 times larger than the zoning permits (15,000 sq.ft) will encourage other big box types to make a run at the town zoning. This is not the kind of town Palm Beachers want. We are a residential town with a small amount of sustainable retail and business services. Please send Publix back to ARCOM with the clear directive to design a store worthy of Palm Beach and in a scale and design suitable for a town our size. If they do not, we can live with what we have and the Town Council should stand up to Publix in our defense and in support of ARCOM.

Sincerely,

Anne and Charlie Pepper
333 Seaspray Ave.



Fw: Publix responses to PB Hotel attorney

Cheryl Kleen to council

Cc: Peter B Elwell, jrandolph, Joanna Cunningham, Anne Boyles

08/11/2010 08:12 AM

----- Forwarded by Cheryl Kleen/PalmBeach on 08/11/2010 08:11 AM -----

From: Jeff Rembaum <jrembaum@siegfriedlaw.com>
To: 'Maura Ziska' <MZiska@floridawills.com>
Cc: "CKleen@Townofpalmbeach.com" <CKleen@Townofpalmbeach.com>, "JPage@TownofPalmBeach.com" <JPage@TownofPalmBeach.com>, "hank@tlpittman.com" <hank@tlpittman.com>, "peter@tlpittman.com" <peter@tlpittman.com>, Woody Rayburn <Woody.Rayburn@publix.com>, "wjd2332@aol.com" <wjd2332@aol.com>
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Subject: RE: Publix responses to PB Hotel attorney

Maura, thank you for your email below. Attached is the Association's correspondence to the Town Council faxed only moments ago. As I was preparing to email it to you I received your email and hit "reply" instead.

I believe that not too long ago the Association looked into Mr. Rill's lot and found the costs associated therewith it to be financially cost prohibitive. Regarding the additional on-street parking, two or three additional spaces will not change the fact that the Publix expansion plans will cause a devastating loss of both on and off street parking. If Publix really wants to be a good neighbor it would work out a nonexclusive revocable license/ easement for 40 or so parking spaces in its parking lot for co use by the Association. Given the existing conditions, I believe the Town would seriously consider a joint proposal from the Association and Publix in this regard. Even if staff did not support it, the Town Counsel might.

Regarding the landscaping along the northern side, it would be nice for Publix to take the initiative and increase the currently planned sparse vegetation rather than, as you suggest, be told by ARCOM to do so. It is this type of attitude that could easily be construed to evidence that Publix is only in this for itself and its profit margins and really does not care about the Towns residents.

In regard to your comments regarding "trash" the Site Plan Application submitted by Publix still fails to confirm your representations below. The last version I reviewed continued to provide that trash pickup could be along Sunrise and/ or Sunset Avenues. Unless and until the Applicant's plans are actually corrected to reflect your comments, this issue remains at large.

Jeff

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From: Maura Ziska [mailto:MZiska@floridawills.com]
Sent: Tuesday, August 10, 2010 2:55 PM
To: Jeff Rembaum
Cc: CKleen@Townofpalmbeach.com; JPage@TownofPalmBeach.com; hank@tlpittman.com; peter@tlpittman.com; Woody Rayburn; wjd2332@aol.com

Subject: Publix responses to PB Hotel attorney

Jeff: I wanted to respond to your July 27th letter in writing, although I verbally answered your questions at the last ARCOM meeting.

- 1) Publix is happy to cooperate with the PB Hotel in an effort to find additional parking in the neighborhood. As you recall, Publix representatives facilitated a meeting with the Paramount church, although it turned out not to be feasible. Also, a few of the council members did mention they would look into permit parking on Sunrise so that may be an avenue to explore. Also, by the new plan eliminating the parking and curb cuts on the Sunrise side, the hotel will up a couple of on street parking spaces. Lastly, I know that Douglas Rill has a parking lot on Sunset Ave. behind the bike shop that is under contract and I am told they are looking for parking tenants so that may be another option.
- 2) The addition of the arcade along Sunrise Ave. was an idea suggested by ARCOM. It mirrors the arcade across the street, which does not have any landscaping. If ARCOM wants more landscaping and thinks that is a good thing, Publix will follow their guidance.
- 3) There is no fence on the north elevation, I believe you were looking at a handrail on the interior of the arcade.
- 4) Garbage pick up will only be on Sunset Ave., where the trash compactor is located.
- 5) The trash compactor is in the loading dock area on Sunset Ave.
- 6) The interior walkway from Bradley Place has been removed from the plan.
- 7) The lights now meet code and will only be 15 feet in height.
- 8) The site plan has not changed and the ingress and egress along Sunrise is to the west.

Please let me know if you have any questions with the foregoing or need any additional information.

Maura

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