



TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

JULY 16, 2014

9:30 AM

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

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
Robert N. Wildrick, President
William J. Diamond, President Pro Tem
Richard M. Kleid
Michael J. Pucillo
Penelope D. Townsend

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VI. APPROVAL OF AGENDA

VII. DEVELOPMENT REVIEWS

A. Appeals

1. Appeal of Architectural Commission's Decision Regarding B-009-2014, New Residence (167 Seagate Road), Per Letter Dated July 3, 2014, from Jorge L. Pinon, Esq. [Attorney: Jorge L. Pinon, Esq.]

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

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B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **SPECIAL EXCEPTION #6-2014 WITH VARIANCES** The application of Suntrust Bank; relative to property commonly known as **440 Royal Palm Way, Suite 102**; described as Lots 52, 53 and 61, together with the North 100 feet of Lot 54, Block C, REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA according to the Plat thereof recorded in Plat Book 4, Page 1, of the Public Records of Palm Beach County, Florida; located in the C-OPI Zoning District. A Special Exception is requested to open a new bank for "Suntrust Bank" which will be 5,964 sq. ft. gross leasable area in the previous location of Northern Trust Bank. Two variances being requested for signage are as follows: to allow a business identification sign on the west side of the building with no street frontage which is not permitted; and, to allow said sign at a height above the first floor at 27 feet in lieu of the 15 foot maximum allowed.
[Attorney: Maura Ziska]
Deferred from the May 14, 2014 and June 11, 2014, Town Council Meetings
John S. Page, Director of Planning, Zoning and Building

2. New Business

- a. **SITE PLAN REVIEW #6-2014 WITH VARIANCE** The application of James and Amelia Engel; relative to property commonly known as **176 Kings Road**; described as Lot 11, BOULEVARD ESTATES, according to the map or plat thereof as recorded in Plat Book 21, Page 96 Public Records of Palm Beach County, Florida; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 9,574 square foot two-story, single family residence on a non-conforming platted lot which is 74.79 feet in width (as measured at the arc) in lieu of the 125 foot minimum required in the R-A Zoning District. A variance is requested to allow a parapet on a pitched roof house with an overall height of 35 feet in lieu of the 30 foot maximum allowed when using parapets. [Attorney: Maura Ziska]
John S. Page, Director of Planning, Zoning and Building
- b. **SPECIAL EXCEPTION #11-2014 WITH VARIANCES** The application of Michael and Elizabeth Chu; relative to property commonly known as **102 Angler Avenue (formerly 1340 North Ocean Blvd.)**; described as Lengthy legal description on file; located in the R-B/B-A Zoning Districts. The applicant is requesting special exception with site plan review to construct a 138 square foot beach cabana on an ocean parcel with 50.61 feet of frontage across the street from the applicant's main residence. Variances are requested to construct a beach

cabana that is on a lot with frontage of 50.61 feet in lieu of the 100 feet of frontage required in the Beach Area district across from the R-B Zoning District; and, to allow the beach cabana to have a west setback of 1 foot from the property line in lieu of the 10 foot minimum required. [Attorney: Maura Ziska]

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

- c. **SPECIAL EXCEPTION #12-2014** The application of Maurizio Ciminella, Owner/Operator of Amici; relative to property commonly known as **150 Worth Avenue**; described as lengthy legal description on file; located in the C-WA Zoning Districts. The applicant is requesting a special exception for a new restaurant at 150 Worth Avenue, Suite 234 which will replace GiGi's Tap and Table Restaurant (formerly Cha Cha's). The new restaurant will occupy the same square footage (5,234) and have the same number of seats (151) as the prior restaurant uses at this location. The applicant agrees to be bound by all existing conditions of approval except that he is requesting 20 exterior seats instead of 14. The café will feature Italian food and include a wine room and sale of fresh fruits and vegetables, fresh bread, cold cuts, and other pre-packaged food and beverage items for carry out and delivery within the premises. The requested hours of operation are as follows: Opening 8:00 a.m. and closing per conditions in SE#17-2011 which is on file for review in the application in the Planning, Zoning and Building Department in Town Hall, 360 S. County Rd., Palm Beach. [Attorney: James M. Crowley]

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

- d. **SPECIAL EXCEPTION #13-2014 WITH SITE PLAN REVIEW AND VARIANCES** The application of Town of Palm Beach, Peter B. Elwell, Town Manager; relative to property commonly known as **2345 South Ocean Blvd.**; described as Lengthy legal description on file; located in the R-B Zoning District. A Special Exception with Site Plan Review is being requested to modify the Par 3 Golf Course parking lot, seating and hours of operation of the Club House restaurant and proposed addition of a new patio deck. The proposed modification is to widen the north side of the parking lot by approximately eighteen (18) feet, create tandem parking in that area of the lot and add additional parking on the south side of the lot. The request also modifies the parking vehicular circulation by creating one way drive aisle. The proposal would create twenty-six (26) additional parking spaces to the parking lot and allow valet parking in designated areas. In addition, the club house restaurant hours are proposed to change from 7:00 am – 10:00 pm to 7:00 am – Midnight with the proposed additional seventeen (17) more seats on the second floor outside verandas (total of 167 seats). In addition, request is to also add a 1,837 square foot patio on the south side of the clubhouse to allow the restaurant and golf course to

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host golf outings and other special events; install spot lights facing east to light the dune line and ocean surf, outside of turtle nesting season. Variances are requested to allow tandem parking for the valet parking area, which is not permitted by Code. The Code requires that off-street parking be arranged so that a vehicle does not have to be moved in order to move another vehicle; and, to allow three (3) parking spaces in the required front yard setback, which is not permitted by Code. [Representative: Jay Boodheshwar]

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

- e. **VARIANCE #28-2014** The application of Kenneth and Janet Himmel; relative to property commonly known as **102 Flagler Drive**; described as Lengthy Legal Description on file; located in the R-B Zoning District. The applicant is proposing to build a 589 square foot one story cabana addition on the north side of the property and a 38 square foot one story addition to the south side of the residence (total 627 square feet) that would result in a cubic content ratio (CCR) of 4.34 in lieu of the 4.15 CCR existing and the 3.97 maximum CCR allowed. [Attorney: Maura Ziska]
[Architectural Commission Recommendation: Implementation of the proposed variance will not cause architectural impacts to the subject property. Carried 7-0]

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

- f. **VARIANCE #29-2014** The application of Robb R. Maass and David R. Maass; relative to property commonly known as **149 Root Trail**; described as Lengthy legal description on file; located in the R-C Zoning District. The applicant is requesting permission for the addition of a small (6.33 feet by 9 inches) one story front façade improvement which requires the approval of the following variances: a front yard setback of 8.4 feet in lieu of the 25 foot minimum required; a side yard setback of 2.3 feet in lieu of the 10 foot minimum required; a lot coverage of 56% in lieu of the 55.8% existing and 30% maximum permitted. [Attorney: M. Timothy Hanlon]
[Architectural Commission Recommendation: Implementation of the proposed variance will not cause architectural impacts to the subject property. Carried 7-0]

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

- g. **VARIANCE #30-2014** The application of Nelson and Claudia Peltz; relative to property commonly known as **542 North County Road**; described as Lengthy Legal Description on file; located in the R-B Zoning District. The applicant is requesting a variance to add a 5,228 square foot second story addition onto the existing residence with a point of measurement of 9.43 feet National Geodetic Vertical Datum (NGVD) (below the existing house's floor elevation of 10.94 NGVD) in lieu of the 7.5 feet NGVD required for a through lot; and, a variance to allow

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second floor dormer windows in habitable space to be at a height of 25 feet in lieu of the 22 foot maximum building height allowed. [Attorney: Maura Ziska]

[Architectural Commission Recommendation: Defer to the July Architectural Commission Meeting to further study the roof. Carried 7-0]

Request for Deferral to the August 13, 2014, Town Council Meeting Per Letter From Maura A. Ziska.

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

- h. **VARIANCE #31-2014** The application of Rabbi Moshe Scheiner and Nechama Scheiner; relative to property commonly known as **230 Park Avenue**; described as Lot 47 and the East ½ of Lot 46 of BUNGALOW PARK, as recorded in the Plat Book 7, Page 26, Public Records of Palm Beach County, Florida; located in the R-C Zoning District. The applicant is requesting a variance to eliminate the required one car garage on the existing house to create living space. [Attorney: Maura Ziska]

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

- i. **VARIANCE #32-2014** The application of A. Richard Sloane and Carolyn J. Sloane; relative to property commonly known as **1564 South Ocean Blvd.**; described as Lengthy Legal Description on file; located in the R-A Zoning District. The applicant is requesting permission to allow a front yard setback for a swimming pool of 11.5 feet in lieu of the 35 foot minimum required; and, to allow a swimming pool in the street yard setback with a 30 inch hedge on the outside of the six foot high wall in lieu of the minimum 6 foot high hedge required. [Attorney: Guy Rabideau]

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

- j. **VARIANCE #33-2014** The application of Amy Saleeby and Nancy Llama, as Co-Trustees of the Amy Christina Saleeby Irrevocable Trust Number One dated December 27, 2012; relative to property commonly known as **359 South County Road**; described as Lengthy Legal Description on file; located in the C-TS Zoning District. The applicant has an existing nonconforming office use occupying the entire first floor of the building. A variance is requested to allow another office use to occupy a 342 square foot portion of the space which is not permitted by Code on the first floor as it does not meet the requirement that 50% of the uses within 300 feet of the proposed office use be offices. [Attorney: Guy Rabideau]

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

- k. **VARIANCE #34-2014** The application of Andrew Christian Anthony Thomka-Gazdik, Trustee; relative to property commonly known as **226 Via Linda**; described as Lot 21, ALLARD SUBDIVISION, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach

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County, Florida in Plat Book 23, Page 186; located in the R-B Zoning District. The applicant is proposing to construct a 362.1 square foot one story addition on the east side of the residence and a 274 square foot one story addition on the rear of the west side of the residence. The proposal requires the removal of the roof trusses which results in losing the cubic volume of the existing nonconforming house. The following Variances are required and are being requested: a west side yard setback of 7.7 feet in lieu of the 12.5 foot minimum setback required to keep the existing house setback and construct a one story addition; and, an angle of vision of 112 degrees in lieu of the 100 degrees maximum allowed to maintain the non-conforming front of the house and an addition to the east side of the house that will encroach into the angle of vision. [Attorney: Maura Ziska]

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

VIII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 9-2014 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Rescinding Ordinance No. 5-2013 In Its Entirety; Providing An Effective Date.

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

IX. ANY OTHER MATTERS

X. ADJOURNMENT

PLEASE TAKE NOTE:

Note 1: No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

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

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

Note 4: Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or

1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

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

Note 6: 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. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

OTHER AGENDA ITEMS:

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

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

TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 16, 2014

Section of Agenda

Appeals

Agenda Title

Appeal of Architectural Commission's Decision Regarding B-009-2014, New Residence (167 Seagate Road), Per Letter Dated July 3, 2014, from Jorge L. Pinon, Esq. [Attorney: Jorge L. Pinon, Esq.]

Presenter

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

Supporting Documents

- [Memorandum dated July 7, 2014 from John S. Page](#)
- [May Architectural Rendering](#)
- [June Architectural Rendering](#)
- [ARCOM Minutes May 28, 2014](#)
- [ARCOM Minutes June 25, 2014](#)
- [Letter Dated July 2, 2014, from William John Mikus](#)
- [Letter Dated July 3, 2014 from Jorge L. Pinon](#)
- [Letter Dated July 3, 2014 from Jorge L. Pinon](#)
- [Letter Dated July 3, 2014 from Jorge L. Pinon](#)
- [Application for Service Ann Vanneck](#)
- [Transcript of May 28, 2014 ARCOM Meeting](#)
- [Transcript of June 25, 2014 ARCOM Meeting](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: July 16, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: ARCOM Appeal (B-009-2014)
New single family home, landscape design, hardscape design (preliminary)
167 Seagate Road

Date: July 7, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council consider and rule upon the appeal of Mads Thomsen, owner of property at 167 Seagate Road, objecting to ARCOM's decision of June 25, 2014, disapproving the applicant's proposal to erect a two story, International style (a/k/a "modern") home at the site.

GENERAL INFORMATION

ARCOM first considered the subject home at its meeting of May 28, 2014. Concerns about the architecture and the landscape resulted in a one-month deferral. The project was presented to ARCOM again on June 25, 2014. The architecture remained unchanged, but hedge material surrounding the home had been increased in height to provide greater screening.

Commission deliberation lasted nearly two hours. Deviation from the immediate character of the surrounding homes became the primary issue of repeated discussion and concern, although the quality of proposed building materials was also criticized. Significant public input occurred before and during the meeting. Commissioners acknowledged receiving a variety of communications, mostly in opposition, to the proposed home. Several support letters were also read or acknowledged. Eight persons attended and spoke in opposition to the proposed home during the June 25 meeting.

There was discussion about applicable sections of Town Code outlining the criteria to be applied to the approval or denial of ARCOM applications. Following all deliberation, it was moved and seconded to disapprove the project because it failed to meet five different criteria outlined within Section 18-205 of the Code of Ordinances:

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

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

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

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

(6) “The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:

- a. Height of building or height of roof;
- b. Other significant design features including, but not limited to, materials or quality of architectural design.”
- c. Architectural compatibility.”
- d. Arrangement of the components of the structure.
- e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.
- f. Diversity of design that is complimentary with size and massing of adjacent properties.
- g. Design features that will avoid the appearance of mass through improper proportions.
- h. Design elements that protect the privacy of neighboring property.

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

SPECIAL CONSIDERATIONS

Division 2 (Architectural Commission) of Chapter 18 in the Code of Ordinances specifies that at least two members, but not more than three members, shall be registered architects in the state. ARCOM is currently short one architect. The recent resignation of architect Nikita Zukov (May, 2014) prompted the Town to immediately advertise for a new appointment. The application period closed on July 3, 2014, and it is expected that the Council will make the necessary appointment on July 15, 2014. The Town opted to continue holding ARCOM meetings in May and June rather than postponing the large number of pending projects until such time that a second architect was appointed. It should be noted that Richard Sammons, existing ARCOM member and registered Florida architect, attended both the May and June meetings.

Mr. Piñón, attorney for owner Thomsen, alleges this lack of a second architect created an error and is a basis for the Town Council to reverse the ARCOM action. The owner did not publically raise this concern until an initial motion to deny the application occurred following all ARCOM discussion on June 25 (see attached appeal letter). Division 2 of Town Code also requires that... “one member of such Commission shall be a landscape architect, if available. However, in the event a landscape architect is not available, then one member of such commission shall be a master gardener or someone with equivalent expertise in landscape.” Ann Vanneck currently serves as the member with equivalent expertise in landscape. The appeal letter questions her qualifications, and refers to the Vanneck appointment as “equally disturbing.”

Staff has attached an architectural rendering of the proposed home as it appeared in the applicant’s digital presentation materials, and the ARCOM minutes from May 28 and June 25, 2014. All other attached materials were presented by the applicant’s attorney.

Attachments

cc: ARCOM Members
Jorge Piñón, Attorney for Owner
John C. Randolph, Town Attorney



FROM MAY ARCOM PRESENTATION FILE



FROM JUNE ARCOM PRESENTATION FILE



MINUTES
ARCHITECTURAL COMMISSION
IN THE
TOWN COUNCIL CHAMBERS
2ND FLOOR, TOWN HALL
360 S. COUNTY ROAD, PALM BEACH

WEDNESDAY, MAY 28, 2014, 9:00 a.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Cindy Delp, Secretary to the Architectural Commission at (561) 227-6408. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

I. CALL TO ORDER: (09:00:00 a.m.)

Chairman Vila called the meeting to order at 9:00 a.m.

II. ROLL CALL: (09:00:19 a.m.)

Robert J. Vila, Chairman	PRESENT
Kenn Karakul, Member	PRESENT (arrived at Election of Vice Chairman)
Ann L. Vanneck, Member	PRESENT
Richard Sammons, Member	PRESENT
Peter I. C. Knowles II, Member	PRESENT
Martin D. Gruss, Alternate Member	PRESENT
Alexander C. Ives, Alternate Member	PRESENT
Michael B. Small, Alternate Member	PRESENT

Staff members present: John S. Page, Director of Planning, Zoning and Building, John Lindgren, Planning Administrator, and Cynthia Delp, Secretary to the Architectural Commission. Town Attorney John C. Randolph was present for part of the meeting.

Let the record show that two of the alternate members served as voting members today. Mr. Gruss was a voting member for all of the meeting. As for the other alternate member who was a voting member, this varied between Mr. Ives and Mr. Small, depending on which of them was present at the time.

III. PLEDGE OF ALLEGIANCE:

IV. ELECTION OF VICE CHAIRMAN: (09:00:39 a.m.)

Mr. Karakul nominated Mrs. Vanneck as Vice Chairman. That nomination was seconded by Mr. Knowles. There were no other nominations. Mrs. Vanneck is now the Vice Chairman.

V. **APPROVAL OF THE MINUTES FROM THE APRIL 23, 2014 MEETING:**
(09:01:30 a.m.)

**MOTION BY MR. KNOWLES FOR APPROVAL OF THE MINUTES.
MOTION SECONDED BY MRS. VANNECK.
MOTION CARRIED UNANIMOUSLY.**

VI. **APPROVAL OF THE AGENDA:** **(09:01:48 a.m.)**

**MOTION BY MRS. VANNECK FOR APPROVAL OF THE AGENDA.
MOTION SECONDED BY MR. KARAKUL.
MOTION CARRIED UNANIMOUSLY.**

VII. **ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY:**
(09:02:00 a.m.)

Mrs. Delp administered the oath at this time and throughout the meeting as necessary.

VIII. **OTHER BUSINESS:** **(09:02:15 a.m.)**

375 S. County Road - Bricktop's

Comments relative to sample awning lighting

Commission members had been asked to go by the Bricktop's location to view the sample awning lighting. Comments: Not attractive; industrial and contemporary; awning lighting is unnecessary.

**MOTION BY MR. KARAKUL THAT THE LIGHTING EXPERIMENT WAS NOT
SUCCESSFUL, AND THAT WE MOVE THAT THEY NOT PROCEED WITH ADDITIONAL
LIGHTING.**

**MOTION SECONDED BY MR. SAMMONS.
MOTION CARRIED UNANIMOUSLY.**

Staff clarified that the sample lighting is to be removed.

IX. **PROJECT REVIEW:** **(09:04:17 a.m.)**

A. **MAJOR PROJECTS-OLD BUSINESS:** **(09:04:21 a.m.)**

B - 009 - 2014 New Residence

Address: 167 Seagate Road

Applicant: Mads Thomsen

Architect: Mitchell O'Neill

Project Description: New single family home, landscape design, hardscape design (preliminary)

At the March meeting, the project was not heard and was deferred to the May meeting at the request of the applicant.

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

Town Attorney, John Randolph, advised the members as to what information should be included within ex parte disclosures.

ARCHITECTURAL PRESENTATION BY: Mitchell O'Neill

LANDSCAPE PRESENTATION BY: Robert Fleck, Paradelo & Fleck Landscape Design

ATTORNEY PRESENT: George Piñon, Attorney for the property owner

Mr. O'Neill presented the project in accordance with the submitted plans and as described above. He began by explaining the location of the property; by showing photos of the existing Palm Beach homes designed in the International style; and, by discussing the scale of the neighborhood. He explained that the design of the home focuses on views of the Intracoastal, with the front of the home designed for privacy. As such, most of the glazing is on the west and south elevations. Other design elements: White limestone accent wall dividing the L-shaped home into two sections; front door facing Seagate Road; pool behind high hedge and wall, double paned insulated glass; and some "green" features.

Commission comments: Changes made to the plans should have been more in keeping with the neighborhood; you have not addressed the neighbors' concerns; there is nothing that protects the people going down the street or the neighbors from the impact of this house, visually or aesthetically; concern for available views into the bathroom; no privacy for the public from this house; does not conform to Section 18-205 (a)... the proposed building or structure is not in harmony with the proposed developments on the land and the general area...; as to Section 6, the proposed building is very dissimilar in relation to any other existing structure; there is not architectural compatibility; the arrangement of the components of the structure is not pleasing; the appearance of mass from the street or from any perspective visible to the public or adjoining neighbors is not pleasing; the diversity of design that is complementary with size and massing of adjacent property...; the plan is not in conformity with good taste and design, and in general, does not contribute to the image of the Town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality; some nice features, but quite a substantial mass there on the street; issues with privacy; almost confrontational relationship to rest of street; the amount of glass is not shaded in any way, which lacks logic; a brise soleil might be welcome to break up the facade; the issue we have is that this is sited within this neighborhood...this is not the appropriate location for this particular structure; the structure is inappropriate in relation to the established character of this immediate neighborhood.

Mr. Fleck presented the landscape/hardscape in accordance with the submitted plans. He explained that the design scheme is for a tropical modern theme. Design elements include: staggered height Foxtail Palms, Clusia hedge, large specimen Sylvester Palm, Diamond Cashmere Soysia turf, other landscape material as presented; generator and enclosure in northeast corner; and, driveway gate.

Commission comments: No screening of glazing at master bath, except for Foxtails; landscape is not integrated with the design; create some mystery to be more successful; always refreshing to see projects in the Contemporary style, but the project would benefit from more camouflage.

Mr. Lindgren explained that neighbors have submitted letters and e-mails relative to this project, a series of correspondence (Round #1) based upon the original design, and more recent correspondence (Round #2) based upon the revised design presented today. Mr. Lindgren read the following Round #2 letters into the record:

1. Letter dated May 23, 2014 from Richard Holt, 156 Seagate Road, opposing the project.
2. Letter dated May 23, 2014 from Joanne Paladino, 148 Seagate Road, opposing the project.
3. E-mail dated May 23, 2014 from Sally Gingras, Reef Road, opposing the project.
4. Letter dated May 22, 2014 from Varick Foster, 162 Dolphin Road, supporting the project.
5. E-mail dated May 23, 2014 from Bill Sned, (address not listed), opposing the project.
6. Letter dated May 27, 2014 from Jeffery W. Smith, 119 Seagate Road, opposing the project. Also an included photograph showing another Contemporary home which does not respect its neighborhood (not located in Palm Beach)
7. E-mail handed to Mr. Lindgren (at ARCOM meeting) by Attorney Maura Ziska from Jeff and Katy Amling (address not listed) in opposition to the project.

Mr. Lindgren noted that the Round #1 letters were six opposed and two in support. Mr. Randolph noted that several of the letters cited an incorrect code section number

Chairman Vila called for public comment. The only person who rose to speak was Mr. Piñon, attorney for the property owner, who proceeded to address certain comments made and read into the record at this hearing. A sampling of his comments: It is not sufficient to merely say that it is not architecturally compatible...you have to say why; the first set of letters should not be considered by any members because the plans and architect have changed...they are simply not relevant here; Palm Beach encompasses many different styles; we have a solution...if you don't want to see the house, we can screen it with taller landscaping; this commission just approved a brand new modern structure of almost 10,000 square feet right on Ocean and Angler (Chu property); to address the comments about shade and privacy, the home is equipped with state of the art technology controlling shades; this is a fine example of the International style done by an award winning architect; and, the neighborhood is going to experience some transition due to expected demolitions and subsequent requests for new homes.

Mr. Randolph advised that the Commission can only consider the Round #2 letters received.

Commission comments: A world-class project, but the problem is concerned with the context and the neighborhood; a landscape solution is a viable one; members should remember that ARCOM has approved other Contemporary houses in town; the owner has a right to build a two-story house; the architecture is meritorious; having a bathroom on the second floor is not an issue...shades will take care of that; the popular thing to do is to deny, but the owner deserves better than that; if he is willing to place additional screening, the house will become virtually invisible from the street.

MOTION BY MR. GRUSS TO APPROVE AS PRESENTED, WITH THE CAVEAT THAT A 12 FT. HEDGE BE INSTALLED.

Under discussion, a 16-19 ft. Hedge would be better; it needs something more than just hedging.

MOTION RE-STATED BY MR. VILA FOR APPROVAL OF THE PROJECT WITH A DEFERRAL OF THE LANDSCAPE ARCHITECTURE, ASKING THAT A RE-DIRECTION BE TAKEN IN TERMS OF HEDGING AND CAMOUFLAGING THE SUBJECT HOUSE.

Commission comments: ARCOM has judged the merits of the architecture...the house should stand on its own, and the landscape should enhance it; Look at the architecture without the landscape; we have not been given sufficient details to consider this as meritorious architecture; it is wrong to dislike the architecture or the location of the architecture, but then say it is alright to just cover it up with landscaping.

Mr. O'Neill responded to the comment regarding insufficient details by providing some additional information relative to the material choices: Cut granite driveway in 4 x 4 sections, windows and door frames in anodized aluminum in a light grey finish, and, white limestone on the accent wall.

MOTION DIED FOR LACK OF A SECOND.

MOTION BY MR. IVES TO DEFER THE ARCHITECTURE AND THE LANDSCAPE FOR RE-STUDY TAKING INTO ACCOUNT THE COMMENTS OF THIS COMMISSION AND THE COMMENTS OF THE ATTORNEY FOR THE APPLICANT ON THE SIZE OF THE HEDGE AS WELL AS THE SCALE OF THE PROPERTY AND THE RHYTHM OF THE FACADE AND ITS WINDOWS.

MOTION SECONDED BY MR. KARAKUL.

MOTION CARRIED UNANIMOUSLY.



MINUTES
ARCHITECTURAL COMMISSION
IN THE
TOWN COUNCIL CHAMBERS
2ND FLOOR, TOWN HALL
360 S. COUNTY ROAD, PALM BEACH

WEDNESDAY, JUNE 25, 2014, 09:00 a.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Cindy Delp, Secretary to the Architectural Commission at (561) 227-6408. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

Acting Chairman, Anne Vanneck, made an announcement that the meeting would begin at 9:05 a.m., allowing additional time for members to arrive.

I. CALL TO ORDER: (09:05:00 a.m.)

Vice Chairman and Acting Chairman, Anne Vanneck, called the meeting to order at 9:05 a.m.

II. ROLL CALL: (09:05:33 a.m.)

Robert J. Vila, Chairman	ABSENT (pending classification)
Ann L. Vanneck, Vice Chairman and Acting Chairman	PRESENT
Kenn Karakul, Member	PRESENT
Richard Sammons, Member	PRESENT
Peter I. C. Knowles II, Member	PRESENT
Martin D. Gruss, Alternate Member	PRESENT
Alexander C. Ives, Alternate Member	PRESENT (arrived at 9:10 a.m.)
Michael B. Small, Alternate Member	PRESENT

Let the record show that all alternate members served as voting members for this meeting. Let the record show that a court reporter, Jill M. Felicetti with Pleasanton, Greenhill, Meek & Marsaa was present today for B-049-2014, 205 Worth Avenue.

Staff Members Present: John S. Page, Director of Planning, Zoning and Building, John Lindgren, Planning Administrator, Paul Castro, Zoning Administrator (for part of the meeting), and Cynthia M. Delp, Secretary to the Architectural Commission. John C. Randolph, Town Attorney, was present for most of the morning session.

III. **PLEDGE OF ALLEGIANCE: (09:05:49 a.m.)**

IV. **APPROVAL OF THE MINUTES FROM THE MAY 28, 2014 MEETING: (09:06:08 a.m.)**

**MOTION BY MR. KARAKUL FOR APPROVAL OF THE MINUTES.
MOTION SECONDED BY MR. SAMMONS.
MOTION CARRIED UNANIMOUSLY.**

V. **APPROVAL OF THE AGENDA: (09:06:22 a.m.)**

Please note that the Town had received requests to remove two items from the agenda.

**MOTION BY MR. KARAKUL FOR APPROVAL OF THE AGENDA, WITH THE
REMOVAL OF ITEMS B-066-2014, 350 S. OCEAN BOULEVARD AND A-023-
2014, 960 N. OCEAN BOULEVARD.
MOTION SECONDED BY MR. SMALL.
MOTION CARRIED UNANIMOUSLY.**

VI. **ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY: (09:07:01 a.m.)**

Mrs. Delp administered the oath at this time and throughout the meeting as necessary.

VII. **OTHER BUSINESS: (09:07:03 a.m.)** None

VIII. **PROJECT REVIEW: (09:07:09 a.m.)**

A. **MAJOR PROJECTS-OLD BUSINESS: (09:07:13 a.m.)**

B - 009 - 2014 New Residence

Address: 167 Seagate Road

Applicant: Mads Thomsen

Architect: Mitchell O'Neill

Project Description: New single family home, landscape design, hardscape design (preliminary)

At the March meeting, the project was not heard and was deferred to the May meeting at the request of the applicant. At the May meeting, a motion carried to defer the architecture and the landscape for re-study taking into account the comments of this commission and the comments of the attorney for the applicant on the size of the hedge as well as the scale of the property and the rhythm of the facade and its windows.

Call for disclosure of ex parte communication: Disclosures by several members

ARCHITECTURAL PRESENTATION BY: Mitchell O'Neill

LANDSCAPE PRESENTATION BY: Robert Fleck, Paradelo & Fleck Landscape Design

ATTORNEY PRESENT: George Piñon, Attorney for the property owner

OTHERS WHO TESTIFIED: Mads Thomsen, property owner; Patricia Wilson, Joanne Paladino, Ann and Bill Metzger, Maura Ziska, Jeffery Smith, Robert Moore and Louis Mrachek.

Ex parte declarations included declarations of received e-mails. As such, Attorney Randolph asked whether the applicant is aware of said e-mails. Mr. Lindgren responded that he forwarded the bulk of the opposition e-mails to the property owner, but two came in yesterday which were not forwarded due to time constraints. Mr. Randolph asked the commission if they were willing to base their decisions today, not upon ex parte communications, but upon the testimony heard today. Members answered affirmatively.

Attorney George Piñon, in his opening remarks, placed a diminished importance upon the letters received from the neighbors, and conversely, a marked importance on the opinions of the members of the Architectural Commission who were appointed to the commission because they had specialized knowledge making them capable of making such development related decisions. He maintained that ARCOM should not allow public opinion to do anything other than minimally influence decisions, if at all. Mr. Piñon stated that his client did his “due diligence” in meeting with Mr. Lindgren prior to purchasing the property. He learned that he could propose a modern home because other modern homes are scattered throughout the island. Mr. Piñon maintained that the goal of ARCOM is not to “preserve neighborhoods”; and, that the purpose of Section 18-146 is about change, about “communities created through a deliberate search for beauty”. He noted that his client objects to neighbors telling him what he can build on his own land. Mr. Piñon asked ARCOM to protect his client’s rights regarding his land. He alleged that complaints will always be more numerous than statements of support, and stated that public comments have no limiting constraints. Mr. Piñon noted that the record, as stated above, reflects that the applicant asked for a deferral, and that is not true. Sampling of other points made by Mr. Piñon: This is really not about the mass; it’s about whether a modern structure fits; do not single out my client...there are other homes inserted where there are no other similar homes within 200 feet; when viewing the house, as proposed, from Seagate Road, there is almost no impact due to increased landscaping; and, most of the houses around 167 Seagate Road are two-story homes, and some are massive in scale.

Architect Mitchell O’Neill presented the revised plans; addressed comments made at the last meeting regarding energy conservation issues; provided additional detailing; and, presented revised landscaping for additional privacy. He continued by reading the various criteria listed in Section 18-205, and provided justification as to how the project aligns with those ARCOM criteria.

Commission comments: Thank you for reading the code...we have not been as strict as we should be; questioning the charm of the proposed structure; questioning the proportions of the proposed structure; mitered stone was shown as a detail...you do not miter stone...it is a bad detail; happy to see the details, but “you are digging yourself deeper”; to the attorney’s point that opinions should not count, this is a democracy.

Attorney Randolph reminded ARCOM that this is a quasi-judicial hearing and ARCOM must apply the criteria of the code. While it is important to hear from the public, decisions are not to

be based upon popular or public opinion. They are to be based upon the criteria and competent substantial evidence.

A commission member asked the architect what design changes were made to the building since last month, other than providing additional details. Mr. O'Neill responded that he had made no changes to the building itself.

A commission member asked the architect, in reference to the code criteria in Section 18-205 (a) (6) and (a) (7), which structures within 200 feet of 167 Seagate are similar to it. He was unable to list any.

Commission comments: You have not changed anything other than raising the hedge to try to hide this building; not appropriate for the neighborhood; trying to hide it behind a hedge is not making it any better.

Mr. Piñon asked some follow-up questions to Mr. O'Neill relative to whether he was asked by the Commission to change the home; relative to listings of other modern houses in the town, and relative to "rhythm of the windows" wording included in the motion made last month.

Landscape Architect Robert Fleck presented the revised landscape plan in accordance with the submitted plans. He stated that the landscaping will root the house and property into the existing neighborhood surroundings. The design concept is for a lush tropical garden. The plans have been revised to include a taller, 12 ft. high Clusia hedge along the entire perimeter. That hedge along with a staggered row of 15-18 ft. clear trunk Foxtail Palms and other Foxtails, 12-15 ft. clear trunk, that surround the entire property will provide an "instant and long term visual screen". There are a total of 31 Foxtail Palms and 142 Clusia proposed.

Commission comments: Issue with the part of the site where the gate is located; the concept of creating good Contemporary architecture and then allowing the landscape to help in the mystery of it would be successful; re-study that part of the landscape...there is no additional softening or enhancing at the garage; more is needed there to make it more comfortable as a piece of new architecture; hard surface against hard surface is not good in this context or neighborhood...so you may not be doing it justice to feel more comfortable; that will be the most visible section and it does not complement the property properly, and you may be missing the mystery that, from the beginning, may have made this less complicated; that entire corner is completely exposed; you're letting the wrong piece exposed; as presented, it will encourage more controversy than necessary; it is not looking at the most attractive part of the house, and that whole courtyard needs to be studied; make it more handsome, unusual and special; you are on the corner...you have given yourself a bigger problem because it is a huge opening into the view of that house and the least attractive.

Mr. Piñon asked some follow up questions to Mr. Fleck regarding the 6 ft. wall in the area of concern and the views associated with it.

Mads Thomsen, property owner, offered his comments. He mentioned that he looks forward to living in Palm Beach and being a good neighbor; that he had spoken with Mr. Lindgren prior to

purchasing the property; that there are other modern homes on the island surrounded by different type homes; that he feels he has been discriminated against; that other homes in the area are not maintained well or have unsightly items in the public view; and, that he requests to build his home on his land and live in peace and enjoy the views.

Mr. Lindgren asked to read the e-mails into the record which encouraged some discussion. Mrs. Vanneck asked Mr. Piñon whether he wanted all of the e-mails read into the record. He did not. Mr. Randolph advised that any which were received, but not sent to the applicant or the members should be read aloud. Mr. Piñon registered his objection for the record. Mr. Piñon handed a letter of support from Mr. Huainigg to Mr. Lindgren for the record.

Mr. Lindgren stated that he had met with Mr. Thomsen primarily to discuss the demolition of the existing house on the lot, but did not recall discussing the style of the new house which was contemplated. Mrs. Vanneck asked Mr. Lindgren to recall the reason for the initial deferral of this project. He responded that the project did not meet code in numerous ways, thus the deferral occurred.

Mr. Lindgren read the following pieces of correspondence into the record: (1) correspondence from Anne and Bill Metzger, 277 Esplanade Way, in opposition to the project; (2) correspondence from Jeff and Katy Amling, 161 Seagate Rd., in opposition to the project; (3) Letter from Dr. Josef Huainigg, 152 Dolphin Rd., in support of the project; and (4) Letter from Javier DeOlaso, 1496 North Lake Way, in support of the project.

PUBLIC COMMENTS:

Patricia Wilson, 300 Arabian Road, spoke in opposition to the project: Chose Palm Beach because of community and sense of place; values of grace, elegance, symmetry, rhythm of windows should be maintained; wants community standards to stay the same; and, requests that the project be denied.

Joanne Paladino, 148 Seagate Road, spoke in opposition to the project: Not opposed because it is modern architecture, but because it is inappropriate and too dissimilar to the neighborhood.

Anne and Bill Metzger, 277 Esplanade Way, spoke in opposition to the project: The design is too dissimilar to the neighborhood.

Maura Ziska, 1500 North Ocean Boulevard, spoke in opposition to the project: Inappropriate for this parcel and this neighborhood; too dissimilar; the other approved modern houses were in areas that could stand that type of architecture; the Chu modern house, a client of Ms. Ziska, had 21 letters of support in the record; cited an example of when a Mediterranean style house was denied in a neighborhood of Bermuda style homes; spoke with Mr. Piñon months ago suggesting that the client re-design the house because she anticipated a problem; and, it seems like the applicant does not want to work with the design of the neighborhood.

Jeffery Smith, owner of property at 119 Seagate Road, spoke in opposition to the project: Stated he was on ARCOM thirty years or so, and he has never seen so much opposition to a

house...ever; the north end is a special place and it needs to be protected; the neighborhood is asking ARCOM to do its job and deny the project.

Mr. Randolph asked **Mr. Smith** to state his qualifications for the record, and he complied. Mr. Smith stated that there is not one structure within 200 feet of 167 Seagate that is compatible with this structure. "My opinion, as an architect, is that it does not meet the ordinance based on the letter I submitted last month about any properties within 200 feet of the property, per our code, and I was pretty detailed when I submitted my letter." "The only way that this house can be approved is to change the ordinance."

Robert L. Moore, 318 Bunker Ranch Road, West Palm Beach, spoke in opposition to the project on behalf of the neighbor to the east: Stated that he was the Director of Planning, Zoning and Building for the Town of Palm Beach for 25 years; there are no modern homes within 200 feet of 167 Seagate Road; explained the historical reason that this provision was placed in the code; with regard to the letter of support from Mr. De Olaso, ironically, the De Olaso house does not fit into the neighborhood either; your charge is to look at the substantial competent evidence, and look at the ordinance; in this case, it is very much too dissimilar; you have control over mass and how that mass is put on that property; and, you are looking at a classic case of denial for too dissimilar within the 200 feet.

Louis Mrachek, Attorney, spoke in opposition to the project: Recommended that ARCOM do the right thing in this case, which is denial on the grounds of compatibility; there is no way that this project is not incompatible; it is excessively dissimilar; look at the photos on pages 24, 25, 26, 29 and 30 of the applicant's presentation for the homes within 200 feet...a first grader could pick out what is dissimilar; 1% or less of the homes in Palm Beach are in the modern style, so they get approved 1% of the time; of the list of modern homes presented by the applicant, 19 of them are more than 1 mile away from the site, and 14 are more than 2 miles away...there is not one home within 1000 feet of the site that is an International or modern style; the Chu residence is more than 1000 feet away; nobody who has to live around this site, within sight of the home, has supported it; all the neighbors are against it on the grounds of compatibility which is well defined by the code and could not be a clearer standard; compatible means existing together in harmony; there is no way that this structure is harmonious, and it certainly doesn't make it harmonious to hide the structure; this is the Architectural Review Commission...not the hedge review commission; this building clearly does not meet the standards...there is substantial competent evidence in the record that it doesn't...look at the photographs; and, do the right and obvious thing.

Mr. Mrachek clarified that he represents Katy and Jeff Amling, who are the immediate neighbors to the east.

EXECUTIVE SESSION:

Commission Comments: I am persuaded by the evidence presented that this project should be denied as presented because of Section 18-205, (a) (4)...the proposed building is not in harmony, (a) (6)...is excessively dissimilar to existing structures within 200 feet and within one block, (a) (7) ...is not appropriate in relationship to the established character of the neighborhood, and the

project is disruptive to the harmony; this is a siting issue; this is not the proper location for this particular structure; we are directed to preserve, protect, and enhance the beauty, not in vacuum, but in context; this violates the harmony in context; support denial; it's not just the issue of the architectural style; there are other areas in which this building is not similar or excessively dissimilar to the area; other modern houses have been approved due to materials, arrangement of components of structure, the mass from the street; it's a disappointment that there are basically no changes to the architecture from what was presented last month; I don't understand why you did not come back to this meeting, when you were granted a deferral, which could have been a denial, without any new architecture; you've wrapped the building in a gigantic hedge, except for one area, which is also not the most attractive; willing to go along with the denial given no changes to the architecture; it fails to meet Section 18-205 (a) (1), (a) (5), (a) (6), and (a) (7) of the code; subjectively, I find this project to be not in good taste and poorly designed; good architecture has to fit into its surroundings and has to fit into the land in a good way; this project does not fit on the land or with its surroundings; I would deny it; the raising of the hedge and no change in architecture is not what we had in mind last month; diversity in our town is what makes it significant and special; lack of sensitivity to the particular site; a more substantial re-design would have been better; it does not meet the criteria; I would like to defend this project, but I cannot; the code actually says that we have been too lax; the building is to have a residential character, but this does not; I question whether this is high quality or not, with ¾" stone, mitered corners...it's like commercial construction...issue with quality of aluminum windows; I would have to go along with everyone else; we do not base our judgments on hedges; and, in complete agreement that this building does not meet the too dissimilar and harmonious criteria.

**MOTION BY MR. GRUSS TO DENY THIS APPLICATION ON THE GROUNDS THAT IT FAILS TO MEET THE REQUIREMENTS IN SECTION 18-205 OF THE CODE, PARAGRAPH (A) (1), (A) (5), (A) (6) AND (A) (7).
MOTION AMENDED BY MR. GRUSS ADDING (A) (4).**

Mr. Randolph interjected, before any vote, that the applicant's attorney has informed Mr. Randolph that he believes that since ARCOM does not have two required architects on the board at this time, his client may be prejudiced as a result of the vote today. Mr. Piñon told Mr. Randolph that he intended to appeal on this basis, and request a de novo hearing. Mr. Randolph advised that he would prefer that the applicant not be able to raise this issue upon appeal. As such, he favored a deferral today until such time as ARCOM has the required two architects.

MOTION WITHDRAWN BY MR. GRUSS.

Mr. Small commented that such an objection should have been raised either before the hearing, or much earlier during the hearing, and not wait until a motion was on the floor for denial. Mr. Small opined that Mr. Piñon has waived it procedurally, and asked that the commission recognize that it is a waiver. He stated that it is grossly unfair to have to compel all these people to have to come back again to a similar hearing simply to defer this for that reason. Acting Chairman Vanneck noted that at last month's hearing, there was likewise not a full complement of architects, and no objection was raised at that time either.

Mr. Randolph advised that the persons who testified today from the public would not have to return as their testimony is already on the record. He added that he is trying to avoid a procedural argument that could be raised, but noted that he was disappointed, as well, that this was not raised by the attorney earlier. Chairman Vanneck suggested that the Commission follow Mr. Randolph's advice, and requested a motion for deferral.

MR. GRUSS STATED, ONCE AGAIN, THAT HE WAS WITHDRAWING HIS MOTION.

Mr. Ives noted that such an argument may apply to all other agenda items of today's business. Mr. Randolph acknowledged that this might be the case if anyone might wish to raise such an objection. Mr. Randolph asked Mr. Piñon to state, for the record, that he feels prejudiced in regard to this, as a result of going forward with a board which does not have the full complement of architects.

Mr. Piñon responded that he had mentioned this to Mr. Randolph, both yesterday and today, and stated that he had made it clear in his remarks today that this board requires specialized personnel. He stated that it is unfortunate that this board does not exist in the way contemplated by the legislative unit that organized it. "I don't believe that there is a cognizable board at this time that could render any decision, and to the extent that the previous time, I was not aware that the board did not have...I believe that no decision that's come out of any board that did not have the required members is actually made a decision."

MOTION BY MR. KARAKUL TO DEFER THE PROJECT FOR FURTHER RE-STUDY IN TERMS OF SCALE, AND COMPATIBILITY WITH THE NEIGHBORHOOD.

Mr. Randolph advised to defer to a time certain. Mrs. Vanneck advised to defer it until there is a full complement of architects on ARCOM. Mr. Randolph added that the full complement should be in place by the next meeting, July 23, 2014.

MOTION BY MR. KARAKUL TO CORRECT HIS MOTION TO STATE DEFERRED UNTIL THERE IS A FULL COMPLEMENT OF TWO ARCHITECTS ON THE COMMISSION.

Mr. Ives commented that he is not in favor of acquiescing to this argument.

MOTION WITHDRAWN BY MR. KARAKUL.

Mr. Gruss asked that his original motion be re-read:

**MOTION BY MR. GRUSS TO DENY THIS APPLICATION ON THE GROUNDS THAT IT FAILS TO MEET THE REQUIREMENTS IN SECTION 18-205 OF THE CODE, PARAGRAPH (A) (1), (A) (5), (A) (6) AND (A) (7), AND (A) (4).
MOTION SECONDED BY MR. SMALL.
MOTION CARRIED UNANIMOUSLY.**

Let the record show that there was a short recess until 11:08 a.m. at which time the meeting reconvened.

Chairman Vanneck asked whether any other applicant objected to the fact that ARCOM does not have two architects on its roster. No one raised any objection.

Let the record show that Mr. Karakul had not yet returned to the meeting. As such, Mr. Silvin will vote.

WILLIAM JOHN MIKUS

July 2, 2014

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

Dear Palm Beach Town Council,

First, I want to thank you for your tireless efforts keeping our beautiful island a sanctuary in a world of uncertainty.

I am writing you in support of Mr. Mads Thomsen's plan to build a modern style house on his North End lot at 167 Seagate Road. I lived on the North End for over a decade and raised my daughter's on Ocean Terrace and Orange Grove. I have driven and walked up and down the streets of the North End thousands of times and believe that the North End is a beautiful piece of paradise, but it does not have many homes of architectural merit. What it does have, is a lot of teardowns, fixer-uppers and 1950s bungalows. The homes on the streets between the ocean and Lake Trail tend to be average, with a few exceptions.

I understand that Mr. Thomsen would like to build a modern house and I have seen his plans. His house in my opinion is quite impressive, though I personally prefer a more traditional style. I believe that its addition to the North End, and Seagate Road would be positive. There seems to be a common opinion among us Palm Beachers, that everything must stay the same, in order to keep our island the paradise we desire. I understand this sentiment, but am reminded of a line from my favorite movie, **The Leopard**, with Burt Lancaster. Mr. Lancaster plays the last in a line of minor princes in Sicily during the 1860s. He desperately wants things to stay the same, in a world that is uncertain and rapidly changing. A young nephew tells him, "For things to stay the same, everything must change." Palm Beach is going to change, whether we like it or not. Mr. Thomsen is proposing to build a beautifully designed, imaginative, architecturally significant, "Green" house on a lot that he purchased six months ago. Instead of deriding his design, ARCOM should be singing his praises and immediately approve his plans. Beautiful, well-executed homes, no matter what style, add value and richness to our community. An island with committee approved house designs is eventually, a recipe for esthetic disaster.

Sincerely,



William John Mikus
333 Sunset Avenue - 209
Palm Beach - FL 33480

The Law Office of
Jorge L. Piñón, P.A.
Attorney at Law

Sunset Oaks Building ▪ 9260 Sunset Drive, Suite 118 Miami, Florida 33173 ▪ Tel: 305-273-3901

July 3, 2014

SENT VIA EMAIL & FACSIMILE
@ 561-838-5417
sowens@townofpalmbeach.com

Susan A. Owens, Town Clerk
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, Florida 33480

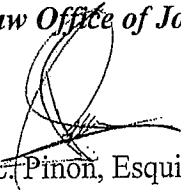
Re: *Appeal of ARCOM denial on Item number: B - 009 – 2014, New Residence;
Mads Thomsen, 167 Seagate Road
Date of Decision: June 25, 2014*

Dear Clerk Owens:

The undersigned represents Mads Thomsen in the above styled appeal. We recognize that our Appeal is due on July 5, 2014, that is, 10 days post decision. July 5 falls on Saturday, and Town Hall is closed from July 4 through July 6 to honor Independence Day and to observe the weekend. We opine that Appellant is entitled to supplement his appellant package at least until Monday, July 7, 2014 inasmuch as due dates are enlarged when the Court, or as here, Town Hall is closed. We have confirmed the closing of Town Hall as above and therefore reserve the right to supplement our appeal on Monday, July 7, 2014. Thank you for your anticipated cooperation in this regard.

Sincerely,

The Law Office of Jorge L. Pinon P.A



Jorge L. Pinon, Esquire

cc: John ("Skip") Randolph
John Lindgren

The Law Office of
Jorge L. Piñón, P.A.
Attorney at Law

Sunset Oaks Building ▪ 9260 Sunset Drive, Suite 118 Miami, Florida 33173 ▪ Tel: 305-273-3901

July 3, 2014

**Susan A. Owens, Town Clerk
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, Florida 33480**

**ORAL ARGUMENT
DEMANDED**

***Re: Appeal of ARCOM denial on Item number: B - 009 – 2014, New Residence;
Mads Thomsen, 167 Seagate Road
Date of Decision: June 25, 2014***

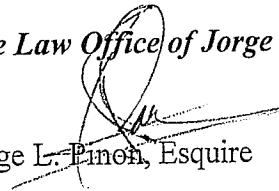
Dear Clerk Owens:

The undersigned represents Mads Thomsen in the ARCOM appeal cited. I will submit a copy of all the documents submitted into the record of this quasi-judicial proceeding before the Architectural Commission. We enclose an original transcript made from the May 28 2014 proceeding as well as an original transcript of the June 25, 2014 proceeding. Additional documents which are already of record are:

1. Thomsen Presentation booklet for June 25, 2014 hearing which includes photographs of homes designed and built in the International style and approved by ARCOM
2. Also to be considered are the audio transcripts of the May 28, 2014 and June 25, 2014 hearings.
3. The application of Member Vanneck for an ARCOM position is also enclosed as part of the record of this appeal.
4. The undersigned reserves the right to supplement the Record on Appeal upon notice and as needed.

Sincerely,

The Law Office of Jorge L. Pinon P.A


Jorge L. Pinon, Esquire

cc:

John C. "Skip" Randolph, Esq.
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Town Attorney
C/O Jones, Foster, Johnston & Stubbs, P.A.
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The Law Office of
Jorge L. Piñón, P.A.
Attorney at Law

Sunset Oaks Building • 9260 Sunset Drive, Suite 118 Miami, Florida 33173 • Tel: 305-273-3901

July 3, 2014

**ORAL ARGUMENT
DEMANDED**

Susan A. Owens, Town Clerk
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, Florida 33480

Re: *Appeal of ARCOM denial on Item number: B - 009 – 2014, New Residence;
Mads Thomsen, 167 Seagate Road
Date of Decision: June 25, 2014*

Dear Clerk Owens:

The undersigned represents Applicant Mads Thomsen regarding the above referenced building permit application. On June 25, 2014 the Architectural Commission (hereinafter "ARCOM" or the "Board") denied Applicant's proposal to erect a two story, **International** Style home on the property located at 167 Seagate Road. By this letter, the Applicant, Mads Thomsen seeks to appeal that denial and also requests a copy of that "written denial" signed by the chair as is required under section 18-205(b) Town of Palm Beach Code. All of the material designated by the undersigned as part of the record under separate cover are incorporated herein by reference the same as if fully copied and set forth herein at length.

Per section 18-177, Applicant alleges the following nonconformities or errors by ARCOM as a basis for the Town Council to reverse the June 25, 2014 denial. There was no ARCOM meeting on June 25, 2014 because absent architects, there was no ARCOM as defined by ordinance. The same applies to the May 28th meeting as well. That which sat in May and June 2014 is not ARCOM and decisions made by the non-existent are void. Alternatively, an improperly convened meeting has no authority except to postpone for want of required members. Note, these concepts relate to the definition of the Commission as defined by the Town Council through ordinance. They are totally separate and unrelated to the concept of quorum which is not an issue.

BACKGROUND

Mr. Thomsen purchased the property located at 167 Seagate Road in 2013 in order to build his home. He secured authority to demolish the then existing ranch-style building with the intent of replacing it with a two story, heavily landscaped home in the Modern or International Style home, a concept incorporated into many homes in town as early as the 1930's and accepted by ARCOM many times over and recently with the home of Elizabeth and Michael Chu located at 1340 N. Ocean Blvd.

Applicant made his presentation before the Board in May and June, 2014 **unaware and having no opportunity to become aware, that this assembly of individuals was not empowered to act as ARCOM for want of architects.** He addressed the concerns of ARCOM and those of his neighbors. He revised the project consistent with the ARCOM recommendations after the May meeting in order to meet the requirements of section 18-205. The final ARCOM session for this matter occurred on June 25, 2014. Mr. Thomsen submitted a 75 page presentation showing compliance with ordinance, now a part of the record as are previous written presentations and the official oral and written records of these meetings. The June 25, 2014 presentation was written to show the merits of the project to an entire Board, but particularly to the architects on the board, appealing to and evoking their specialized knowledge, as well as to those in attendance. It is undisputed fact that ARCOM either did not exist when these meeting occurred, alternatively, that it was improperly constituted.

Six points are covered. (1) ARCOM was not in existence under section 18-166 Town of Palm Beach Ordinance, either at the May 2014 meeting or the June 25, 2014, as the meeting lacked the required architect-members, alternatively, the meetings were improperly convened; (2) Any decision of a wrongly constituted Board is void; the non-existent have no decisions to make, (3) Section 18-205 is unconstitutionally vague, (4) Applicant has been the subject of disparate treatment, (5) Without waiving any of the above, the ARCOM decision showed that Applicant received disparate treatment, the decision was biased and not based on the competent substantial evidence before it. and (6)

The ARCOM decision violated Mr. Thomsen's Right to Equal Treatment and Protection under the United States and Florida Constitutions. References are made to the hearing transcripts in May and June, 2014. For ease of reference, citations to the May hearing will be designated with an "M" followed by "P" for page and "L" for line within the transcript. The same applies to the June hearing, using "J" for June.

Turning to these points:

I. ARCOM DID NOT EXIST IN MAY OR IN JUNE 2014.

Section 18-166 requires that at least two but no more than three members of ARCOM shall be registered architects in the state. In addition to the two registered architects, one member of the commission shall be a landscape architect, if available. However, in the event a landscape architect is not available, then one member of such commission shall be a master gardener or someone with equivalent expertise in landscape.

Section 18-167 requires all ARCOM members to be specially qualified by reason of training or experience in art, architecture, community planning, land development, real estate, landscape architecture, or other relevant business or profession, or by reason of civic interest and sound judgment to judge the effects of a proposed building upon the desirability, property values and development of surrounding areas.

Absent architects, there is no ARCOM because it has no existence apart from its legislatively created definition. Moreover, there is no waiver of this requirement as no one holding themselves out as a member of ARCOM or purporting to act on behalf of ARCOM informed the undersigned that there would be no architect present at the May meeting. Waiver can only exist if there is a legitimate body empowered to make decisions to which waiver could apply. By way of example, waiver may exist if instead of judge "1" a matter was heard by judge "2". But waiver can never exist if a matter was heard by a non-judge sitting on the judge "2"'s bench.

Town Attorney, John (Skip) Randolph **spoke to** the undersigned before the day of the June meeting confirming that there would be no member architects and could not guarantee that there would be an architect for the following month, i.e., July **and took no action until moments before the meeting concluded.** Thus, ARCOM did not exist and there was no way to know when, if ever, two but no more than three architects would be present, effectively creating ARCOM. The undersigned was faced with a dilemma- either proceed for the limited yet vague and unsupported purpose as planned knowing that other

homes in the Modern-International style were approved or asking for postponement without any way of knowing whether there would ever be an ARCOM before which a presentation could be made.

Equally disturbing is the fact that section 18-166, requires one landscape architect, if a not master gardener or someone with equivalent expertise in landscape. Obtained from public records and attached is Ann Vanneck's Application for Service on ARCOM. She is the person that purportedly fills that position yet her application reveals no such expertise. She was a self employed decorator for 30 years, now retired. She states in her application that she is a Garden Club member of Palm Beach and a "*avid gardener with good knowledge of tropical plants*".

Further, the town ordinances have no provision for waiver before a non-existent commission or alternatively, of an improperly convened Commission and because the reasons for the creation of ARCOM are fully embodied in section 18-146, the discretion of ARCOM is as a matter of law also governed by the standard of reasonableness in its determinations. Holiday Pines Property Owners Association v. Whetherington, 596 So. 2d 84, 87 (Fla. 4th DCA 1992), citing additional authority. Thus, there can be no waiver when a quasi-judicial body such as ARCOM either does not exist or alternatively is improperly constituted.

The ARCOM ordinances are specifically met to have the input of architects, at least 2 and no more than 3. It also required a landscape architect or someone fitting the alternate definition. The Applicant's written presentation including the testimony of his architect, Mitchell O'Neil met with listeners, but absent the required architects/master gardener's, no member present could have grasped the full impact of what Applicant proved.

II. ANY DECISION OF A NON-EXISTENT COMMISSION IS VOID

That section 18-166 requires architects on the Board and that none were present is enough to void the denial as discussed. One must exist before one can act. There is more. The presence of **the required membership** exists so that their special skills can be put to use and considered by the entire Board so that all will have an "objective" opinion as to whether the project meets the code criteria and also whether it has qualities demanded by ARCOM in section 18-146(d), specifically, to create "beauty, aesthetic order, or amenity".

Absent the required architects and qualified landscape architect/master gardener/or equivalent expertise, as here, the group holding itself out as ARCOM was presented with

clear and convincing, definite and objective evidence of architectural compliance with section 18-205. The problem is that no one was there to hear and interpret it for the other members. The decision of the Board was made improperly made without their input. No mandatory architectural understanding from the board was considered. Further, the denial lacks sustainable findings of fact and conclusions based on those facts. The denial is void.

III. SECTION 18-205 IS UNCONSTITUTIONALLY VAGUE; THIS POSITION IS VALIDATED BY THE BOTH THE UNITED STATES SUPREME COURT AND THE FLORIDA SUPREME COURT.

Section 18-205(b) is unconstitutionally vague and violates the Due Process Clause of the United States Constitution. Everyone is entitled to know what the government commands or forbids. *Stare Decisis* has long ago put the issue to rest.

An ordinance that “gives public officials the power to decide whether to permit [an] activity must contain precise and objective criteria on which they must make their decisions; an ordinance that gives too much discretion to public officials is invalid. Shuttlesworth v. City of Birmingham, 394 U.S. 147, 89 S.Ct. 935, 22 L.Ed. 162 (1969)

The Florida Supreme Court held that “... In order to settle the law on this subject in the interest of consistency and for the future guidance of the Bar as well as municipalities, we deem it advisable therefore to state the position of the court unequivocally on the problem at hand” “...An ordinance whereby the city council [here, ARCOM] delegates to itself the arbitrary and unfettered authority to decide where and how a particular structure shall be built or where located without at the same time setting up reasonable standards which would be applicable alike to all property owners similarly conditioned, cannot be permitted to stand as a valid municipal enactment. North Bay Village v. Blackwell, 88 So. 2d 524, 525- 526 (Fla. 1956).

The criteria contained within section 18-205 does not provide definite, objective criteria to guide [ARCOM] in making their decisions and are unconstitutionally vague. In order for ordinances which provide decisional authority to be constitutional, they must have mandatory objective criteria to be followed when making a decision. Friends of Great Southern, Inc. v. City of Hollywood, 964 So.2d 827, 831 (Fla. 4th DCA 2007), citing additional authority. See also Drexel v. City of Miami Beach, 64 So.2d 317, 319 (Fla. 1953); City of Miami v. Save Brickell Avenue, 426 So.2d 1100, 1104 (Fla. 3d DCA 1983); Pinellas County v. Jasmine Plaza, Inc., 334 So.2d 639, 640 (Fla 2d DCA 1976); University

Books and Videos, Inc. v. Miami-Dade County, 132 F.Supp.2d 1008, 1017 (S.D. Fla. 2001); Lady J. Lingere v. City of Jacksonville, 176 F.3d 1358 (11th Circuit 1999).

Section 18-205 is unconstitutionally vague in its entirety. The ordinance requires the Commission decisions to be based on “good taste”, “in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality”. This is taken from Section(18-205(a)(1), and as unequivocal **proof that there are no objective standards, one member of the public, Patricia Wilson went so far as to equate “charm” with “pornography”**, paraphrasing, she knows it when she sees it. (J. P.67, L. 14-19). 18-205(a)(2)- protection against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable; 18-205 (a)(3) a “structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.” These are but a few examples. This entire section, the section under which approval of new residential construction succeeds or fails, has no **objective standards** under which a project meets **ordinance criteria based on the evidence presented to an existing ARCOM**.

Vagueness is evident throughout the ordinances. Section 18-166(a) defines the Commission, in pertinent part as a group of 7 with no fewer than two but no more than three architects. Section 18-172 is a rule stating that “...four voting members shall constitute a quorum. The affirmative or negative vote of a majority of the entire membership of the commission shall be necessary for it to take action.” The two conflict on their faces. The expertise of architects is mandatory on the one hand and totally irrelevant on the other.

IV. THOMSEN RECEIVED DISPARATE TREATMENT BEFORE A NON-EXISTENT COMMISSION

The Florida Supreme Court holds that where the rights of an individual are concerned, due process requires that he be given an opportunity to be heard and that he be given a fair hearing by an impartial body. Canney v. Board of Public Instruction of Alachua County, 278 So. 2d 260, 262 (Fla. 1973). Such a hearing would by its nature exclude disparate treatment. Applicant Thomsen did not have a hearing before a fair and impartial body as required by ordinance because the specialized knowledge of at least two architects were never available and a landscape architect/master gardener/or similar expertise individual was not present either. Further, he and his application were treated in a disparate manner both in May and in June, 2014. The transcript from the June 25, 2014 is filed

herein for the record. The transcript of the May 28th hearing is filed as of record and references to it are also detailed by page and line.

Disparaging comments and disparate treatment toward Applicant were freely tossed about. Member Vanneck was particularly predisposed to disparate treatment at the May 28th meeting and this continued into June.

- a) Member Vanneck stated for on the record (J.P.3, L.11) that Thomsen requested a deferment from May to June. This is false.
- b) Member Vanneck stated that deferral was party based on the statements of the undersigned as to “the rhythm of the facade” (J.P.3, L. 18). The is equally false.
- c) The sighting of other homes in the modern or international style, an important element of these proceedings, was under discussion when she suddenly demanded that the presentation be moved from that topic to the physicality of the home. (M P.9, L.15- P.10-L.21-24) Her reason was totally unrelated to the purpose of the hearing or permitting Applicant to make his presentation. She claimed that there was a [docket] overload. (M P.11, L. 3-4).
- d) She stated that she “expected the changes (ostensibly from March to May 2014) to be more in keeping with the neighborhood” and that the neighbors did as well (M P.16, L. 20-P.17, L. 4).
- e) Worse, at M.P. 17, L. 15-25, Member Vanneck vigorously complained that she and the neighbors would be disturbed seeing Mr. Thomsen taking a bath. She effectively called him an exhibitionist. There is no explanation for this conduct other than predisposition and disparate treatment. Others expressed concern about shading, but not to this extreme. Shading over the most private of areas is a given; not a source of artificially derived consternation.
- f) Member Small stated that the neighborhood does not want the Applicant’s home (P.22, L. 12-17), and that he has a “pretty good understanding” of the neighborhood. (P.22, L.18-P.23, L.1). Yet even this is disparate because an administrative hearing can, at the very most, be sensitive to public opinion and the politics that accompanies it, but it cannot ever be strongly influenced by them. INS v. Chadha, 462 U.S. 919 (1983).

- g) Member Small admitted that ARCOM has not followed the ordinances it was created to enforce. He now states that “ maybe we need to be very strict” (J.P.31, L. 5-8). He makes this statement when other International style homes abound in Palm Beach, but only the Thomsen project was before the Board for its consideration. One standard applied to other, a call for a stricter standard was made as to Thomsen.
- h) Alternate Member Gruss noted that ARCOM had not “disapproved an International styled home in several years, that Applicant has a right to build a two story home, that the architecture is meritorious and that the bathtub is not an issue” He moved to approve the home at the May 28th meeting (M, P.51, L.22-P.53, L.9). Yet, he voted vehemently against the project in June (J, P. 100, L.10). Most disturbing is that nothing other minor esthetic details to stone and a taller hedge was the only difference.
- i) The June hearing shows once more the disparate and predetermined treatment applicant received. For example, Member Sammons referred to the home as using low quality materials. He stated that the door and window frames were of *ionized* metal as would be found in a K-Mart store. The K-Mart comment is biased, insensitive and arrogant. No *ionized* material was ever proposed in this project, but **anodized** finishes are. Anodizing is an environmentally low-impact electrochemical process. It uses the aluminum alloy itself to create a thin, tough and corrosion-resistant finish which extends the life of the doors and window frames. This process protects and extends the life of satellites from the harsh environment of space.¹ Absent the disparate treatment Applicant had, this would have been fully explained by Applicant’s architect. In other words, Member Sammons would have been informed of the quality of the materials had he asked or more importantly, the presence of mandated architects would have shown him the quality of material instead of the conclusion he reached without fact. (J.P.88, L. 4, P.89, L.2). Sammons met Applicant’s architect prior to the first meeting and Sammons stated that he would not know how to criticize the home as he knew nothing about modern architecture. See attached affidavit of applicant and Architect O’Neill.
- j) Applicant’s presentation showed over 25 photographs of Palm Beach homes built in the Modern or International style. All were ignored here, but the presentations for those homes were examined thoroughly by ARCOM, as otherwise, no construction permit would have issued.

- k) Lastly, the banter and laughter exchanged between the Membership and the attending public at the end of the official recording of June 25, 2014 show conclusively that the holding, prohibiting adjudication to be strongly influenced by political considerations and public opinion, was ignored, in contravention of Chadha and appropriate government conduct.

V. WITHOUT WAIVING ANY OF THE ABOVE, THE ARCOM DECISION WAS BIASED AND NOT BASED ON COMPETENT, SUBSTANTIAL EVIDENCE

ARCOM, when it exists, or alternatively is properly assembled, is a quasi-judicial body. It is characterized by its obligation for notice and a hearing- i.e. a fact finding process pursuant to statutory (here ordinance) requirements. Arenas v. Department of Highway Safety and Motor Vehicles, 90 So.3d 828, 833 (Fla. 2012). A quasi-judicial body performs adjudicatory functions. Its decisions must be supported by competent, substantial evidence, free of political considerations and public opinion. Florida Power and Light Company v. City of Dania, 761 So. 2d 1089, 1093 (Fla. 2000), Chadha, supra.

Competent, substantial is often discussed by rarely defined. It does not relate to the quality, character, convincing power, probative value or weight of the evidence, but refers to the existence of some evidence (quantity) as to each essential element and as to the legality and admissibility of that evidence. "Competency" of evidence refers to its admissibility under legal rules of evidence. "Substantial" requires that there be some (more than a mere iota or scintilla), real, material, pertinent, and relevant evidence (**as distinguished from ethereal, metaphysical, speculative or merely theoretical evidence** or hypothetical possibilities) having definite probative value (that is, "tending to prove") as to each essential element of [as used herein, the ordinances] Lonergan v. Estate of Budahazi, 669 So.2d 1062, 1064 (Fla. 5th DCA 1996).

Here, the June 25, 2014 transcript read as a whole is conclusive. ARCOM rejected the testimony of Florida licensed architect Mitchell O'Neil without explanation, even though his was the **only** testimony presented, and offered the only evidence presented that constituted competent, substantial evidence. (J.P.20, L.21-J.P.30-L.13.

The Boad hinged on the words of Member Sammons who stated on the record (J.P.31, L. 16-19) that he read an architectural treatise by Le Corbusier. The treatise has not be substantiated as competent substantial evidence, nor can a simple read replace the special expertise of at least two architects on the Board. Member Sammons further substituted his personal preferences over evidence when he made it clear saying he did not

want to go “epileptic” because he believes stone is not to be mitered, adding without authority, that mitered stone is the “worst detail known to man” (J.P.32, L. 11-16).

Member Sammons, despite the Chadha decision, clung to the idea that he should be taking public opinion for more than what is allowed. (J.33, L. 16-23), despite the agreement of the Board as admonished by Attorney Randolph to base consideration only upon competent, substantial evidence. This admonition appears in various locations.

The Board improperly gave credence to Patricia Wilson ostensibly a member of the public voicing an opinion as such, but who testified that she was a historic preservationist and found the project inappropriate. (J. P. 66, L.18- P.67, L. 25. Historic preservation is irrelevant here. The lot is vacant. Like members of the public above and below, these opinions can not be strongly weighted in light of Chadha and the definition competent, substantial evidence.

Jeff Smith testified. He is a member of the public but began his opinion by reminding the Board that he was a 30 year ARCOM member recommending that the project be rejected as non-conforming. (J.P.70, L.20-P.72, L.3). He specifically stated that his testimony was in his capacity as an architect and that the project does not meet “the criteria of the code”. (J.P.72, L.12-P.73-L.21). He then added a legal opinion for which he was totally unqualified to make, stating that the only way the project could work is to change the ordinance.

Robert Moore, Esq. was retained by an “unnamed neighbor to the east”. There is no record evidence of who this parenthetical neighbor is or that he or she even lives in Florida, let alone the Town of Palm Beach. Mr. Moore testified as to his experience as Director of Planning, Zoning & Building for the Town of Palm Beach. (J. P.73, L. 23- P.77, L.19). This is wrong for the reasons stated above and because Mr. Moore is not a member of the Town of Palm Beach public. His past experience is a prejudicial and further, offers only his opinion, again, something the Board cannot strongly consider.

The same is said of Louis Mrachek, Esq. who quickly told the Board that he had in the past represented the Town of Palm Beach. He testified that he appeared to give “solace that if you [the board] do the right thing in this case -- which I think is deny on the grounds of compatibility -- you will be well received and treated over in our lovely courthouse.” (J.P.78, L.7-P.78-11). The implied meaning is abundantly clear- and improper. Then while giving the Town its legal advice, incorrectly announces that if you gave first graders certain of the pictures and asked that they pick out what is dissimilar, “this house does not belong with these houses” It’s simply that simple. Yet, this is not the code, the code with is unfairly and randomly applied, the issue brought forward by applicant, states that the

homes should not be "excessively dissimilar". Then he tells the Commission at J.79-23-J.80, L. 1-6) that the architect said that only true artists or true architects could recognize compatibility. There is no evidence on the transcripts of any such statements. That Mr. Thomsen was treated in a disparate matter and that the Board's decision was improperly is conclusive. Equally concerning is that this attorney had and referred to the materials tendered to ARCOM just days before.

VI. THE ARCOM DECISION VIOLATED MR. THOMSEN'S RIGHT TO EQUAL TREATMENT AND PROTECTION UNDER THE UNITED STATES AND FLORIDA CONSTITUTIONS

The Equal Protection Clause of the 14th amendment of the U.S. Constitution prohibits states from denying any person within its jurisdiction the equal protection of the laws. U.S. Const. amend. XIV, Fl. Const. Art.1 sec. 2, The same holds just as true under the Florida Constitution. In other words, the laws of a state [or here, a municipality] must treat an individual in the same manner as others in similar conditions and circumstances. A violation would occur, for example, if a town prohibited an individual from entering into an employment contract because he or she was a member of a particular race. The equal protection clause is not intended to provide "equality" among individuals or classes but only "equal application" of the laws. The result, therefore, of a law is not relevant so long as there is no discrimination in its application. By denying a municipality the ability to discriminate, the equal protection clause of the Constitution is crucial to the protection of civil rights.

The issue of whether the equal protection clauses have been violated arises because ARCOM granted a particular class of individuals (property owners) the right to engage in building a home on their lots yet denied Applicant that exact same right. After application of the "void for vagueness" cases in

CONCLUSION

ARCOM did not sit or exist at the time of the May and June Meetings. Alternatively, that which was present was improperly convened. Under either analysis, any decision made by this body is void because the ARCOM rules unequivocally state that at least 2 but no more than three architects **shall** be present. "Shall" is highlighted. It is a word of commandment, not suggestion or something that can ever be waived. That Mr. Thomsen was treated in a disparate manner is also set.

Section 18-205 is unconstitutionally vague according to long established case law. There are problems with this case. A general definition of beauty and aesthetic excellence is difficult to formulate. But perhaps there are generally accepted principles that can be used to achieve an understanding of design aesthetic consideration. Yet, they are not here and the ordinance would have to be revised and in effect prospectively only in order to cure the problem and would be inapplicable to Mr. Thomsen in any event.

A thorough appreciation of aesthetics must go well beyond first impressions. That has not happened here. Consider a Gothic cathedral. The first impression is that it is foreboding, gloomy and dark. Only after the visitor (or neighbors) sense its majestic proportions, notices the intrinsic beauty in the stained glass windows and the interplay of light with space, can one appreciate the superb structural system that permitted it builders to achieve their lofty goals.

That exact rationale applies to Mr. Thomsen. He was very particular with what he sought from his architect- an individual of renown. He was and remains very respectful and sensitive to the feelings of those whom he hopes will be his neighbors. The testimony from the public was improperly but strongly influential. But, the commenting public lacked the same through appreciation of the aesthetics that are built into this project, in the same way that our hypothetical cathedral visitors lacked. This home will prove to be an architectural gem over time, and even more, may be the impetus that propels the Council and ARCOM into fashioning the clarity of ordinance and application that the residents of the Town of Palm Beach are entitled to have.

Three solutions are open to the Council. (1) the Council can act upon the Thomsen application and approve it, (2) it can defer to the Planning, Building & Zoning Department which has already determined that the applicants home meets the applicable building code.; or (3) it can remand this matter to a different, newly and properly constituted ARCOM for a *de novo* adjudication, however, if option No.3 is implemented Mr. Thomsen will continue to incur further costs and damages because of undue delay.

Sincerely,

The Law Office of Jorge L. Pinon P.A

Jorge L. Pinon, Esquire

¹ http://www.anodizing.org/Anodizing/what_is_anodizing.html, last visited July 2, 2014

SERVICE LIST

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TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

ARCHITECTURAL COMMISSION (ARCOM)

Please complete the application by typing or printing legibly in ink. Applications should be submitted to the Town Clerk (360 South County Road, Palm Beach, FL 33480, via facsimile 561-838-5417, or via e-mail clerk@townofpalmbeach.com) no later than 5 p.m., 11 calendar days prior to the Town Council meeting in which the appointment will be considered. Completion of this application requires that applicant has reviewed certain Town documents as noted in this application. To review or obtain a copy of the documents please contact the Town Clerk's Office (561-838-5416). Please feel free to attach any additional background information to this application form. (Please be advised that members of the Architectural Commission must file an annual financial disclosure form per State law.)

Name: ANN VANNECK Residence Address: 217 W. INDIES DR
Mailing Address: Same Home Telephone: 561-881-5364
E-mail Address: avanneck@mac.com Work Telephone: /
Length of Residency 29 yrs I am a registered voter of the Town of Palm Beach QV (please initial)
Town of Palm Beach: 29 yrs Year of registration 1981

1. Why are you interested in serving on the Architectural Commission? (Please explain and attach additional pages if necessary)

I am passionate about Palm Beach and want to ensure that its beauty is here for the next generation. New structures need to be of the same quality as what was once there. Materials and architecture are foremost.

2. How many meetings of the Architectural Commission have you attended in the last year? 11

3. If you have served on any boards/commissions/committees in the Town of Palm Beach or elsewhere, please list them and include details such as length of service, attendance record, etc.

Landmarks - 8 yrs missed 8 sessions at the most
Arcom - 3 yrs - 3 sessions missed

4. Please indicate if there are any periods of time for which you will be unavailable for meetings.

None

RECEIVED

JAN 28 2011

TOWN CLERK

5. Do you have any personal experience with requesting approvals from the Town's Architectural Commission? (Please explain)

Not in 20 years.

6. Are you a member of any of the following organizations? (Check all that apply)

- ☐ Palm Beach Chamber of Commerce
☐ Palm Beach Civic Association
☐ Citizens' Association of Palm Beach

- ☐ Preservation Foundation of Palm Beach
☐ North End Property Owners Association
☒ Other

Garden Club of PB

7. Present occupation. decorator - retired No. of years. 30

Employer. Self

8. Past occupation(s). _____ No. of years. _____

Employer(s). _____

9. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

- ☐ Architecture
☐ Landscape Architecture/Design
☐ Architectural History

- ☐ History
☒ Design
☐ Building Construction

10. Please provide details regarding your educational background.

Connecticut College - Class of '74' - BA degree

Parsons School of Design - '81 - AAS degree Interior Design

11. Why do you feel that you are qualified to serve on the Town's Architectural Commission? (Attach additional page if necessary)

My years working in Palm Beach (30), collaborating with many of our finest architects, have given me an eye and appreciation for proportions and details. Also, I am an avid gardener with good knowledge of tropical plants.

Most of all, I do my "homework." and come prepared to each meeting.

12. To enable Town Council to consider potential conflicts of interest, please provide the following information regarding family members who live and/or work in the Town of Palm Beach, including your spouse, parents, siblings or children.

Family Member Name	Relationship	Address	Occupation	Employer
William Vanned	Husband	217 W. Indies	Investments	Equitable Holdings
Dr Sten hilja	Father	1330 N. Ocean B.	Ret. Metallurgist	N/A
Anne-Marie hilja	Mother	"	Housewife	N/A
Eva hilja	Sister	116 Ocean Terr	Travel Spec.	PB Int'l Travel

13. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations? NO

14. If you are currently serving on a Town board, commission, or committee, please identify it in the space below and check the box that indicates you will resign from that position if you are appointed to the position you are seeking in this application.

☒ I will resign from the ARCOM if I am appointed to the position I am seeking in this application.
board/commission/committee

The following information is required by Florida Statute 760.80. Please check one in each category.

RACE

☐ African American

☐ Native American

☐ Asian American

☒ Caucasian

☐ Hispanic American

☐ Not known

GENDER

☐ Male ☒ Female

PHYSICALLY DISABLED

☐ Yes ☒ No

I hereby certify that I have read the sections of the Town Code of Ordinances for the particular board/commission/committee that I have selected above and have noted the description of the board/commission/committee and its members' duties, and further I have read the regulations concerning absences and conflicts of interests. I certify the information given by me is true and complete to the best of my knowledge and belief. I understand that any falsification of material facts will be grounds for rejection of this application or dismissal after appointment.

SIGNATURE: [Signature]

DATE: 1-10-11

****Please note that Board/Commission applications will expire on September 30 of each year.**

ARCHITECTURAL COMMISSION (ARCOM)

ARCOM reviews and approves modifications to any existing structures visible from public rights-of-way, new construction, and landscaping. The seven members and three alternate members are Town registered voters appointed by the Town Council. Members are appointed on the basis of experience in art, architecture, community planning, land development, real estate, landscape architecture, or other relevant business, profession, or civic interest. At least two members, but no more than three members, of ARCOM shall be registered architects in the state.

TOWN OF PALM BEACH
ARCHITECTURAL COMMISSION



ORIGINAL

IN THE MATTER OF:

B - 009 - 2014: 167 SEAGATE ROAD

PLACE: 360 South County Road, Second Floor
Palm Beach, Florida

DATE: May 28, 2014

The above-entitled matter came on pursuant
to notice of agenda at 9:00 a.m.

1 APPEARANCES

2 On Behalf of the Architectural Commission:

3 JOHN RANDOLPH, II, ESQ.,
4 METTLER RANDOLPH MASSEY CARROLL &
5 STERLACCI
340 Royal Palm Way, Suite 100
Palm Beach, Florida 334806
7 On Behalf of the Applicant:8 LAW OFFICES OF JORGE L. PIÑON
9 9260 Sunset Drive
Suite 118
10 Miami, Florida 33173
BY: JORGE L. PIÑON11
12 MEMBERS

13 ROBERT J. VILA, CHAIRMAN

14 KENN KARAKUL, MEMBER

15 ANN L. VANNECK, MEMBER

16 RICHARD SAMMONS, MEMBER

17 PETER I. C. KNOWLES, II, MEMBER

18 MARTIN D. GRUSS, ALTERNATE MEMBER

19 ALEXANDER C. IVES, ALTERNATE MEMBER

20 MICHAEL B. SMALL, ALTERNATE MEMBER
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1 PROCEEDINGS

2 THE CHAIRMAN: PROJECT REVIEW: A. MAJOR
3 PROJECTS OLD BUSINESS: B - 009 - 2014: 167
4 Seagate Road.

5 Applicant: Mads Thomsen. Architect:
6 Mitchell O'Neill. Project Description: A new
7 single family home, landscape design, hardscape
8 design.

9 At the March meeting the project was not
10 heard and was deferred to the May meeting at
11 the request of the Applicant.

12 Ex-parte.

13 MR. RANDOLPH, II: No.

14 MS. VANNECK: I met with the landscape
15 architect about three months ago.

16 I met with several of the neighbors prior
17 to this month's meeting three months ago. I
18 have had numerous e-mails and correspondence
19 from neighbors for this meeting and I met with
20 the architect on site.

21 THE CHAIRMAN: I also have had quite a few
22 pieces of correspondence.

23 And I have revisited the site on numerous
24 occasions in the last few days.

25 MR. RANDOLPH, II: Mr. Chairman.

1 THE CHAIRMAN: Yes.

2 MR. RANDOLPH, II: Excuse me.

3 When we revealing ex-party communications
4 you indicate you have spoken with neighbors and
5 that sort of thing.

6 Although you don't need to go into detail
7 you should at least speak about what those
8 neighbors discussed with you.

9 For instance, whether they were in favor
10 of the project, opposed, etc.

11 MS. VANNECK: I would say 95 percent of
12 the people I spoke to or received
13 correspondence from were in opposition to the
14 project.

15 THE CHAIRMAN: I did not have any specific
16 contact with neighbors.

17 MR. SAMMONS: No. Except I received the
18 same e-mails I think that came from --
19 admitted.

20 THE CHAIRMAN: You --

21 Skip, you --

22 Skip, do we have to in ex-parte admit
23 these e-mails that come from Town?

24 MR. RANDOLPH, II: The --

25 You can just indicate in ex-parte that you

1 have reviewed the e-mails that have come in to

2 --

3 MR. SAMMONS: That's what I did.

4 THE CHAIRMAN: Mr. Gruss.

5 MR. GRUSS: I have reviewed the similar
6 e-mails from neighbors that were universally in
7 opposition to the project.

8 THE CHAIRMAN: Mr. Sammons said it very
9 well the same as him.

10 Mr. Chairman visited the site several
11 times and neighboring properties, reviewed all
12 the e-mails which overwhelming were in
13 opposition except for one.

14 Which said that if the property was
15 completely hedged so that it could not be seen
16 that neighbor would not have any significant
17 objections.

18 Do we need to read the correspondence that
19 has been received into the record before we
20 proceed with the presentation?

21 MR. RANDOLPH, II: No. You do not.

22 You may move forward with the
23 presentation.

24 THE CHAIRMAN: Thank you. Good morning,
25 sir.

1 MR. O'NEILL: Good morning --

2 Thomsen. The --

3 What I would like to start with is a
4 discussion of the context. That seems to be a,
5 of a concern of everybody concerning this
6 project.

7 It's in an RB zoning. We understand that.
8 But immediately to the west side of this
9 property is the Sailfish Club of Florida.
10 Which is a private group use zoning and is
11 essentially a commercial facility in that it
12 has restaurant facilities.

13 They have brought and according to their
14 website they have broaden their scope over the
15 last eight years.

16 They do weddings, banquets, chartible,
17 events, dinners. You can see from the, the map
18 that the property is substantial in size.

19 It has a parking, asphalt parking lot that
20 holds 100 plus cars. The entry ways on, are
21 easily visibly accessible as you drive up North
22 Lake Way.

23 The website also gives directions to the
24 facility. They take you up Ocean Boulevard
25 which is I assume for the -- the -- the view of

1 the ocean, the scenic route.

2 And then they take you down Seagate right
3 into the property. So the access way to the
4 property according to the website is down
5 Seagate.

6 And this would include, of course, service
7 trucks in addition to the -- the guests and the
8 members themselves.

9 So that to say that this is strictly an RB
10 zoning I think is incorrect. It is actually a
11 transitional zone between the Sailfish Club of
12 Florida and, and the RB neighborhood which is
13 predominantly to the east side of the property.

14 And now what I would like to do is as far
15 as in the same, in the same context discuss the
16 style of architecture of this house.

17 There are many international style houses
18 in, on Palm Beach. According to the --

19 According to the Town of Palm Beach's
20 literature and documents nearly two decades ago
21 guidelines approved by the Architecture
22 Commission in 1995 and amended in 1997
23 officially recognized the international style
24 as one of prevalent contemporary styles found
25 in Palm Beach.

1 And, of course, as -- as history goes on
2 you will find that there will be more
3 contemporary style.

4 It's just the nature of the way towns
5 progress and as the technology progresses. And
6 I will talk a little bit more about that as I,
7 as I go along.

8 These are some of the contemporary houses
9 that are in the neighborhood, that are in Palm
10 Beach -- international style.

11 It's not like this is going to be a alien
12 house to the neighborhood. There are plenty of
13 examples. Those are a few here.

14 This is just --

15 Some of these are in the immediate
16 neighborhood.

17 THE CHAIRMAN: When you say immediate
18 could you clarify that?

19 Is that within two hundred yards or two
20 hundred -- or within a block or and the corner?

21 MR. O'NEILL: You just approved a house I
22 believe at the last commission, at -- at the
23 last meeting which is on, on Ocean.

24 It's at the corner of North Ocean and
25 Angler. It's a ninety-five hundred square foot

1 ocean front international style home.

2 There is also, there is one that's
3 lakefront that's --

4 I am not sure if it's two hundred feet.
5 But it's, it's very close by. Let me --

6 Let me back up just for a bit here. If I
7 can --

8 Okay. Thanks. Go to the --

9 The first slide actually pinpoints --
10 These, these are all --

11 These marked X --

12 The color marks actually indicate some of
13 these contemporary homes at the north end of
14 the Island.

15 This is --

16 These have been indicated. The, the
17 subject property has the, has the pinpoint --
18 the purple pinpoint.

19 The, the two properties I just mentioned
20 are not indicated on, on the -- on the map.

21 MS. VANNECK: Mr. Chair, can we --

22 Because in light of the fact that we have
23 such a long agenda can we move on to the
24 architecture of the house itself?

25 THE CHAIRMAN: Yeah. Although I think

1 this is an important part of his presentation
2 context.

3 But we do have such an overload today that
4 I would urge you to get right to --

5 MR. O'NEILL: Okay.

6 THE CHAIRMAN: -- the nitty-gritty.

7 MR. O'NEILL: I am, I am sorry I can't --

8 My slide is, my image --

9 Oh. Hold on one second. Okay. These,
10 these are the two streetscapes. There, there
11 is North --

12 North Lake Way is, is indicated and also
13 Seagate. You can see that the -- the size and
14 cubic content relative to the adjoining
15 properties are within scale.

16 Again here is the --

17 Here is the map showing the, the property
18 below, below which portion --

19 I am sorry. The streetscape? Yeah.
20 Here. It's, this is it here. Let me, let me
21 just reduce this slightly.

22 This is the subject house here. And it's
23 indicated here on the --

24 This is the North Lake Way elevation.

25 This is the Seagate elevation. No. The

1 Sailfish Club is not indicated on --

2 Up here? This house here?

3 UNIDENTIFIED SPEAKER: Yes.

4 MR. O'NEILL: That house is --

5 Actually there is a extensive landscape
6 buffer that exists on that house that
7 completely obscures the, the, the view.

8 You cannot even see this house whatsoever.

9 THE CHAIRMAN: Yeah. I think it's safe to
10 say that most of the houses on the street,
11 Mr. Gruss, are of the small 1950s and '60s
12 scale.

13 Many of them are Bermuda style houses.
14 All of them are very nicely maintained and in
15 good condition.

16 So please let's proceed with the actual
17 house design.

18 MR. O'NEILL: All right. This slide shows
19 the, the, the organization of the house and --
20 and what promoted the design of the house.

21 Of course it's a corner lot. And the, the
22 north facade of the house and the east facade
23 of the house are designed for privacy.

24 There is very little fenestration as I
25 just mentioned. This property here is fully

1 landscaped.

2 There, there is virtually no view. There,
3 this, this --

4 The owner of the house to the north has
5 issued a letter. He is in --

6 He, he is very happy with the fact that
7 there is no windows facing his property. He
8 basically has a, has a private backyard.

9 The, the primary purpose of the design is
10 to capture the views of the Intracoastal which
11 are to the west. That's what I am indicating
12 here.

13 Most of the glass area is on the west and
14 on the south elevation. And there is very
15 little glass on, on the two property lines that
16 abut the neighboring houses.

17 This, this is an esthetic -- a diagram
18 depicting the esthetic device that was used for
19 the design which is a accent wall that
20 basically divides the house into two sections.

21 The house is L. shaped. The south wing
22 has a porch that you will see, a covered porch.
23 There is a cabana bath.

24 And then there is a guest office which is
25 on the south side, the open porch and then the

1 main body of the living space on the ground
2 floor.

3 The garage, two car garage is to the west
4 side. The front door of the house faces
5 Seagate Road.

6 This is the floor plan of the ground
7 floor. The second floor two, two master suites
8 again views out to the Intracoastal Waterway.

9 The, the top elevation is the east
10 elevation which faces the house. I mentioned
11 it has the extensive landscape.

12 You, you notice there is very little
13 fenestration. And the --

14 This facade has glass facing the pool
15 which is in the front yard area. This is the
16 north elevation.

17 Again little, little glass providing
18 privacy to the north and the dominant west
19 elevation showing the glass for both bedrooms
20 looking out to the West.

21 This is --

22 I have got two renderings. This rendering
23 is a view from the, from the southeast corner
24 looking northeast; from the southwest corner
25 looking northeast from North -- North -- North

1 Lake Way.

2 Showing the dividing wall which will be
3 clad in white limestone which I did provide a
4 sample.

5 The, the glass --

6 The, the glass used in the house will be
7 double pane insulated. The house actually has
8 some green features.

9 One of the --

10 One of the aspects of a international
11 style and contemporary house is that
12 technological advances fit into the design a
13 little easier than your traditional styles.

14 For example, the air conditioning units
15 that we are proposing normally would be a 16 to
16 18 energy efficient ratio which is considered
17 high.

18 In this particular house because we have
19 solar assisted air conditioning our energy
20 efficiency will be 26 SEER.

21 And there will be a few solar panels on
22 the roof which, of course, disappears because
23 of the flat roof design.

24 If this was on a traditional house I am
25 not quite sure how you would deal with the

1 visibility of those panels.

2 This, this is the south elevation facing
3 Seagate. Again the pool is, is behind the --
4 the high hedge and wall.

5 The, the glass is facing west and south.
6 There will be a entry gate that will open and
7 close for vehicular and pedestrian traffic to
8 the entry.

9 And with that I will --

10 Are there any questions regarding the
11 architecture of the house itself before --

12 THE CHAIRMAN: Will someone else be
13 presenting for the landscape?

14 MR. O'NEILL: Yes. For the landscape.
15 Yes.

16 THE CHAIRMAN: Okay. Why don't we then
17 ponder the architecture.

18 MR. O'NEILL: With the Council's
19 permission.

20 MS. VANNECK: As I --

21 On site when we met I had expected that
22 the changes would be more in keeping with the
23 neighborhood.

24 We have waited two months to see a new
25 project from what we were never presented to

1 first one, but many of us saw it.

2 I think the neighbors have been waiting
3 for also something that is more in keeping with
4 the neighborhood.

5 I don't think that you have addressed
6 those conditions. There are several well
7 designed modern houses international style in
8 Town.

9 They are few and far between and they are
10 sited in a certain fashion. There is nothing
11 that protects the people going down the street
12 or the neighbors from the impact of this house
13 visually or esthetically.

14 You have made --

15 Put it this way. If I were to live next
16 door and have to watch the man go take a bath
17 in his bedroom everyday it would be very
18 disturbing to me.

19 There is no privacy to the public. You
20 have not --

21 Your client is not concerned with privacy
22 for himself. The --

23 So that's my condition. I have several
24 items I would like to list that I think it does
25 not meet criteria wise.

1 And one is Section 18.205 Section A.:

2 "The proposed building structure --
3 building or structure is not in harmony with
4 the proposed developments on the lands and the
5 general area, with the comprehensive plan for
6 the Town and with any precise plans adopted
7 pursuant to the comprehensive plans."

8 Also in Section Six:

9 "The proposed building structure is not
10 excessively dissimilar in relation to any other
11 structure existing."

12 It is very much dissimilar. There is not
13 architectural compatibility. The arrangement
14 of the components of the structure are not
15 pleasing.

16 The appearance of mass from the street or
17 from any perspective visible to the public or
18 adjoining neighbors is not pleasing, the
19 diversity of design that is complementary with
20 size and massing of adjacent property and
21 design elements that protect the privacy of the
22 neighboring property.

23 There is one more that I --

24 Now these are, have been forwarded to us
25 by other architects. But I find that the plan

1 for the proposed building or structure is not
2 in conformity with good taste and design and in
3 general does not contribute to the image of the
4 Town as a place of beauty, spaciousness,
5 balance, taste, fitness, charm and high
6 quality.

7 Thank you.

8 THE CHAIRMAN: Thank you. Mr. Ives.

9 MR. IVES: I just wanted to -- if you will
10 pardon me -- just confirm a few things.

11 You have got that limestone section. But
12 the rest of the materials are, are stucco I
13 guess?

14 MR. O'NEILL: Yes. Smooth sand finished
15 stucco.

16 MR. IVES: And then on a variety of the
17 elevations there you show the expansion joints.
18 Can you --

19 MR. O'NEILL: Yes.

20 MR. IVES: -- walk me through those just a
21 little bit more if it's not --

22 I would like to get a better feel for
23 those.

24 MR. O'NEILL: Okay. They are a little
25 hard to see in the light.

1 MR. IVES: Uh-huh.

2 MR. O'NEILL: But this --

3 This north facade, for example, has -- has
4 a pattern of expansion joints. So it's not
5 just a, a large wall that has no pattern on it.

6 There are expansion joints break, breaking
7 up that wall. There, there is also a
8 downspout -- a rainwater layer that's
9 strategically placed.

10 And, of course, the -- the ribbon window
11 that opens into the two level living space
12 that, that is on both corners of the house.

13 You see it here on the east elevation
14 also. And --

15 MR. IVES: Okay. Well, I would --

16 I would echo many of now Vice Chairman
17 Vanneck's comments. I, I think -- you know --
18 there are some --

19 There are some nice features of this
20 house. But it is --

21 It's quite a, a, a substantial mass there
22 on the street. And though these --

23 Some of these images are lovely many of
24 them are kind of done from about 12, 13 feet of
25 an angle.

1 Which is not how this is going to be seen
2 on the street. And I think, you know, there --

3 Certainly there is issues of privacy. But
4 that is just a, a, a almost confrontational
5 relationship to the rest of the, the street.
6 Thank you.

7 THE CHAIRMAN: Thank you, Mr. Ives.

8 Mr. Sammons.

9 MR. SAMMONS: Well, my --

10 My major condition is just the amount of
11 glass that is not shaded in any way. You know,
12 it just seems to be -- lacks logic.

13 But it's the west and the south, you know,
14 where you get the most -- you know -- searing
15 sun.

16 I know that the, the --

17 You, you are going to beef up the air
18 conditioning considerably to get this thing to
19 work.

20 But it just --

21 You know, normally we try to shade this
22 stuff with some -- some device. Some sort of
23 re-soleil might be welcome in helps it may
24 break up the facade a little bit.

25 THE CHAIRMAN: Mr. Small.

1 MR. SMALL: Thank you, Mr. Chairman.

2 The, the issue I think that -- that we
3 have which is pretty clear is not one that is
4 always perhaps understood.

5 And that is if we were looking at this
6 perhaps in a vacuum the architecture would be
7 deemed to be outstanding.

8 Your reputation is fantastic, excellent.
9 It precedes you. I complement you. The
10 problem that we have is the second part of what
11 we are charged with.

12 And that has to do with siding. Some
13 locations are appropriate. Some are not. The
14 overwhelmingly feeling here I believe from the
15 neighborhood and what you have heard so far is
16 that this may not be an appropriate location
17 for this particular structure.

18 And the language and what we are charged
19 with is pretty clear on that. And this is how
20 I feel.

21 And that is that the structure is
22 inappropriate in relation to the established
23 character of this immediate neighborhood.

24 And I have lived in this particular
25 neighborhood for 43 years. So I have a pretty

1 good understanding of it.

2 So those are my feelings. And those are
3 what I share with you.

4 Thank you.

5 THE CHAIRMAN: Thank you, Mr. Small.

6 Mr. Karakul, did you have a comment?

7 MR. KARAKUL: I will wait for the general
8 landscape.

9 THE CHAIRMAN: Okay. Can we proceed then
10 if there are no other comments?

11 And I want to echo Mr. Small's comments
12 just now; very well said.

13 Can we proceed to look at the landscape,
14 please?

15 MR. FLECK: Good morning. I am Bob Fleck,
16 landscape architect --

17 THE CHAIRMAN: Please speak right
18 into the --

19 MR. FLECK: Oh. Good morning.

20 I am Bob Fleck, landscape architect for
21 the record. And let's see.

22 Let me --

23 Okay. This is, this is our site plan.

24 Which as you see has some serious hedging all
25 the way around it.

1 And that consists of --

2 I, I will walk you through from one side
3 to the other.

4 Let's see. First of all, I am going to
5 start off by saying the building design concept
6 is rooted in the tropical modern style which
7 originated in the '50s and '60s.

8 While the architecture is different than
9 Mediterranean revival of bungalow, bungalow
10 style it still has its place in the tropics.

11 The landscape plan concept is to follow
12 through with that tropical modern theme as we
13 see it.

14 Beginning at the intersection of Seagate
15 Road and North Lake Trail heading east there is
16 a proposed six-foot wall section with three
17 foot silver Buttonwood hedge in front.

18 This is bordered with pinwheel jasmine
19 shrubs in green island border. Crossing the
20 driveway to the east in front of a six foot
21 masonry wall is an eight foot tall clusia hedge
22 with 18 inch Xanadu shrub beds and green island
23 border.

24 Behind the south wall is a row of five, 10
25 to 12 foot clear trunk foxtail palms.

1 Beneath the palms are alternating beds of
2 dwarf Alocasia and red Congo philodendron. On the
3 east side of the driveway along Seagate will be a
4 six-foot masonry wall.

5 On the road side will be eight foot clusia
6 hedge with Xanadu border and a row of green island
7 ficus to create the tiered screen look.

8 On the west side of the property along the
9 neighbor's six-foot masonry wall is a long row of
10 staggered height fifteen to eighteen foot foxtail
11 palms along with ten to twelve foot clusia hedge.

12 In addition alternating rows of dwarf
13 Alocasia and red Congo philodendron form the basis
14 of that sideline.

15 Continuing along the north property line
16 outside of the utility easement is a six-foot wall
17 with staggered rows of foxtail palms, alternating
18 heights twelve to fifteen feet clear trunk and 15 to
19 18-foot.

20 In between palms will be staggered row of
21 40 dwarf clusias ten to twelve foot tall. As we
22 turn the corner to proceed south along the west
23 property line outside of the six foot wall will be
24 five 12 to 15-foot C. T. foxtail palms interplanted
25 with dwarf, dwarf Alocasia.

1 Anchoring the intersection of North Way,
2 North Lake Way and Seagate will be a specimen
3 Sylvester Palm 16 to 18 foot clear trunk
4 interplanted with blue tango bromeliads.

5 The primary turf grass proposed is the
6 beautiful diamond cashmere Zoysia turf. Surrounding
7 the garage are bits of foxtail fern with border of
8 green island.

9 Surrounding the north side of the main
10 structure is a bed of macho fern and green island
11 border.

12 The east side of the structure will
13 contain blue tango bromeliads beds will green island
14 border.

15 A four foot high Awabuki hedge will screen
16 the pool equipment on the east and west sides.
17 Familiar planting area between the pool area and the
18 driveway will be 8 foot small leaf clusia hedge.

19 Due south of the pool area buffer planting
20 is a bit of Jasmine minima with blue tango
21 bromeliads.

22 In the northeast corner will be the
23 emergency generator and an enclosure by code. Get
24 to the elevations.

25 So here is our North Lake or rather our

1 north elevation. As you can see we have got the
2 staggered rows of foxtail palms and the clusia
3 hedge.

4 The south elevation starting from right to
5 left you see the, the large Sylvester palm. There
6 is the, the gate that closes off the driveway.

7 Proceeding to the right are the foxtail
8 palms with the clusia hedge beneath and the border
9 plants below that.

10 On the east elevation we have the, the
11 double clusia hedge and, and the staggered heights
12 of the foxtail palms.

13 The west elevation is, is similar to the
14 others; same plant material. And you see that we
15 have our screening effect going with the -- with the
16 foxtails, the Sylvester, the clusia hedge.

17 And we are repeating that same material to
18 kind of keep within the modern look, the tropical
19 modern look.

20 Are there any questions?

21 THE CHAIRMAN: Can we get the lights back
22 on?

23 The, the hedge height along Seagate did
24 you say it was eight feet?

25 MR. FLECK: Yes.

1 THE CHAIRMAN: So there is effectively no
2 screening of the glazing along the south side
3 of the house which is the master bathroom area
4 except for the foxtail palms?

5 MR. FLECK: Yes.

6 THE CHAIRMAN: Yes.

7 Mr. Karakul.

8 MR. KARAKUL: I generally am a big fan of
9 the tropical modern look.

10 But I don't --

11 THE CHAIRMAN: Speak into the mic.

12 MR. KARAKUL: But I --

13 I don't understand that -- that the
14 landscape does not seem to be integrated with
15 the design, with the different elements playing
16 okay the stone and playing on the stucco and
17 not enhancing any vertical elements.

18 So it just --

19 It, it doesn't seem to me that there could
20 be some very interesting mystery created
21 surrounding this.

22 And, and that doesn't seem to be
23 effective.

24 And many of the tropical modern houses
25 have had mystery involved with them. And I

1 think that's made them very successful in our
2 Town.

3 THE CHAIRMAN: Okay. Thank you.

4 Any other comments from the Commissioners?

5 I will echo those remarks. It's always
6 refreshing to me to, to have a project
7 presented in this contemporary style.

8 And I, I --

9 I agree with Mr. Karakul that from the
10 perspective of, of your landscape design the --
11 the project would benefit from a, a bit more --

12 You are using the word mystery. I just
13 want to just use the word kind of camouflage.
14 However, we have heard repeatedly the comments
15 that have to do with the location.

16 I --

17 You know, when --

18 When I first looked at this I said:

19 "Oh. I wished they had a lakefront lot
20 some place as opposed to this very prominent
21 corner across the street from the Club."

22 There was a letter --

23 There are a number of letters that have
24 been written. But one of them is from
25 Mr. Smith, our former Chairman.

1 MR. LINGRIN: Yes.

2 THE CHAIRMAN: And I wondered if we might
3 want to read that into the record.

4 MR. LINGRIN: Well, I have several letters
5 that we typically read into the record for
6 projects like this.

7 THE CHAIRMAN: Okay.

8 MR. LINGRIN: I have a round one group of
9 letters from the original design.

10 THE CHAIRMAN: Right.

11 MR. LINGRIN: Those came in, too.

12 I don't know if we necessarily want to
13 read those because the design did change.

14 THE CHAIRMAN: Right.

15 MR. LINGRIN: So I, I can read the round
16 two letters that include Mr. Smith's as well.

17 Let's see here. The first letter is dated
18 May twenty-third of this year. And it's
19 addressed:

20 "Ladies and gentlemen. I have, I have
21 reviewed the most recent submitted plans by
22 Mads Thomsen the owner of 167 Seagate Road.
23 And the new revised plans are also very
24 dissimilar to any of the residential or club
25 structures to those on Seagate, Dolphin and

1 Reef Roads.

2 "I have been a resident/owner of 156
3 Seagate for the past 30 years.

4 "I again respectfully request that you do
5 not approve this resubmitted design and suggest
6 that it clearly violates the Town's Section
7 18-205 ARCOM criteria for a building permit for
8 the following reasons:

9 "A. The proposed building is clearly not
10 in harmony with the surrounding buildings and
11 architecture of the properties on Seagate Road,
12 Dolphin Road and North Lake Way.

13 "B. The proposed building is clearly
14 excessively dissimilar in relation to any other
15 structure existing within two hundred feet of
16 the proposed site.

17 "Furthermore, it clearly does not meet
18 Section 18-205 A, 6, B, C, D, E, F and H of the
19 Town's ARCOM criteria.

20 "This proposed structure does not belong
21 on Seagate Road. Sincerely, Richard Holtz."

22 This letter is also addressed to the
23 members of ARCOM dated May twenty-third of this
24 year.

25 "I am writing to express my strong

1 opposition to the revised plans for 167 Seagate
2 Road.

3 "This new plan has not addressed any of
4 the concerns, objections raised in
5 February 2014 letters to ARCOM regarding the
6 original plan.

7 "As a resident of one -- of 148 Seagate, a
8 member of the Sailfish Club and a dog owner I
9 walk by 167 several times a day.

10 "The proposed second design is as jarring
11 as the first. It is inappropriate, too
12 dissimilar to the established character of
13 other homes in the area and the appearance is
14 massive.

15 "Further, the landscape elements do not to
16 my eye protect the privacy of neighboring
17 properties.

18 "I hope the Review Committee will defer
19 this project for redesign, for a redesign that
20 would be more harmonious with the neighborhood
21 and in line with Section 18.295 6 of the Palm
22 Beach Building Code. Sincerely, Joanne
23 Paladino."

24 This is an e-mail dated May twenty-third
25 of this year.

1 "Dear Members of ARCOM:

2 "I am writing to express, express my
3 disapproval of the proposed new house to be
4 constructed at 167 Seagate.

5 "The design of this house definitely falls
6 into the category of excessively dissimilar in
7 relation to any other structure existing within
8 two hundred feet of the proposed site.

9 "I would specifically refer you to
10 subparagraphs A, C, D, E, F and H of the
11 Section 18.295 6 of the Palm Beach Code.

12 "There are no flat roof modern structures
13 anywhere close to this project. It's
14 appearance is too massive and is sighted with no
15 respect to its neighbors to the east and north.

16 "As 37 year old residents on Reef Road and
17 members of the Sailfish Club my husband, Paul,
18 and I do not wish to have to look at this house
19 everyday.

20 "We hope that you will defer this project
21 for complete redesign. Sincerely, Sally
22 Ingress, former member of Landmarks
23 Preservation Commission, former Chair of
24 ARCOM."

25 This letter is dated May twenty-second of

1 this year.

2 "Dear Sir or Madame:

3 "I am the resident to the north, to north
4 the proposed new house at 167 Seagate owned by
5 Mads Thomsen.

6 "Mr. Thomsen has sought my input on what
7 can be, what he can to ensure my satisfaction
8 with the proposed landscape design and the
9 effects it will have on the privacy and view of
10 my property -- from my property.

11 "I have reviewed the proposed landscape
12 design plans and feel they do an excellent job
13 of protecting the privacy of my backyard and
14 block any direct view of the proposed house
15 from my southern facing windows.

16 "Additionally I have noticed on the
17 building plans that there are no windows with a
18 direct view towards my property which I find
19 very considerate.

20 "Please feel free to contact me if I can
21 further help in this matter. Sincerely, Verek
22 Foster."

23 This is a e-mail received May twenty-third
24 of this year.

25 "I strongly object to the scale of this

1 house too large for the neighborhood. Also as
2 a member of the Sailfish Club very concerned
3 about ingress and egress to the Club. Line of
4 vision is limited.

5 "Hoping that the landscaping is set back
6 from the road. Thank you for your
7 consideration. Bill Sned."

8 And finally this is a letter that we
9 received yesterday afternoon.

10 "Dear Mr. Chairman and ARCOM Members:

11 "My family has owned the property at 119
12 Seagate Road for 44 years. We have watched the
13 gradual redevelopment of houses on the street
14 without incident.

15 "However, the proposed residence at 167
16 Seagate Road is out of context with the
17 immediate neighborhood which our code defines
18 as an area within 200 hundred feet of the
19 proposed development.

20 "I have been a member of the Architectural
21 Review Commission for 15 years, 7 of which I
22 was the chairman.

23 "I know you have a difficult job in front
24 of you every month. But you cannot lost sight
25 of our ordinances or your charge to enforce

1 them.

2 "I submit to you that this project does
3 not meet the letter of our code in the
4 following respects taken directly from the
5 language in our code of ordinances.

6 "Section 18.205 A. 4: The proposed
7 building and structure is not in harmony with
8 the proposed developments on land and in the
9 general area.

10 "Section 18-205 A. 6: The proposed
11 building or structure is excessively dissimilar
12 in relation to any other structure existing or
13 for which a permit has been issued or to any
14 other structure included in the same permit
15 application within two hundred feet of the
16 proposed sight in respect to the following
17 features:

18 "C: Architectural compatibility;

19 "D: Arrangement of the components of the
20 structure;

21 "E: Appearance of mass from the street or
22 from any perspective, perspective visible to
23 the public or from adjoining property owners;

24 "F: Diversity of design that is
25 complementary with size and massing of adjacent

1 properties;

2 "H: Design elements that protect the
3 privacy of neighboring property.

4 "Section 18.205 A. 7: A proposed building
5 or structure is inappropriate in relation to
6 the established character of other structures
7 in the immediate area or neighboring areas in
8 respect to significant design features.

9 "I have attached a recent award winner
10 from the 2014 A. I. A. Awards which clearly
11 illustrates the fact that a property can be
12 award winning on its own, but does not respect
13 the context of the neighborhood.

14 "It is fortunate that our Code includes
15 provisions that prevent this situation from
16 happening.

17 "Therefore, ARCOM must deny this project.
18 Respectfully submitted, Jeffrey W. Smith, A. I.
19 A."

20 THE CHAIRMAN: Is it possible to put that
21 up on the screen?

22 MR. LINGRIN: Yes, sir.

23 And I will note on the first round of
24 letters I, I -- I believe there were six
25 opposed and two that were in support of the

1 project.

2 MR. RANDOLPH, II: Mr. Chairman, I noted
3 in a couple of the letters that were read that
4 a wrong section number was read.

5 I don't know if that was read wrong or the
6 person that wrote the letter just didn't have
7 the right section number.

8 But it's eight --

9 The Section is 18-206 which should have
10 been referenced.

11 THE CHAIRMAN: 206, not 205?

12 MR. RANDOLPH, II: Well, 205 and 206 as in
13 this last letter was correct.

14 But in some of the previous letters --

15 THE CHAIRMAN: Okay.

16 MR. RANDOLPH, II: -- they had citations
17 that didn't conform to the Code.

18 THE CHAIRMAN: Okay. Thank you.

19 Yeah. I just wanted to see this that
20 Mr. Smith, this photograph that Mr. Smith --

21 I think it's in the community of La Jolla,
22 California. But it's a very good illustration
23 of what we are dealing with.

24 Are you finished?

25 Not to imply that this house in, in the

1 illustration is -- is similar to the proposed
2 house, but just it illustrates the jarring
3 impact in -- in a block of very traditional
4 bungalows.

5 Thank you.

6 Yes. Did you want to make further
7 comment, sir?

8 MR. FLECK: No. I am finished. Thank
9 you.

10 THE CHAIRMAN: Okay. Thank you very much.

11 MR. LINGRIN: Mr. Chairman, I was just
12 handed another e-mail that --

13 It's sort of hard to keep track of some of
14 these things. Apparently this came in Friday
15 or Thursday. But --

16 "To the Members of ARCOM:

17 "After reviewing the most recent proposed
18 plans for 167 Seagate Road we want to voice our
19 strong opposition to the structure.

20 "We live with our son at 167 Seagate Road
21 which is right next door on the east side. We
22 are also active members of the Sailfish Club.

23 "So we not only drive by 167 Seagate
24 daily. But we also walk by often with our
25 child, our dogs or on the way to the Sailfish

1 Club.

2 "Most homes on our street are tucked
3 neatly away behind very tidy hedges. They are
4 primarily one story.

5 "And the proposed two story is a drag,
6 dramatic change. It does not fit in, does not
7 fit in design. It is much taller than the
8 other houses on Seagate making it both
9 inconsistent with design and massing.

10 "Not only do the proposed plans for 167
11 Seagate not fit in with the neighborhood they
12 also are terribly imposing from all angles not
13 the least of which is our yard. Unfortunately
14 our view of the structure resembles a TV
15 station instead of a home.

16 "We can't urge you enough to please reject
17 completely the proposed plans. Best, Jeff and
18 Katie Amlin."

19 THE CHAIRMAN: Thank you.

20 Okay. Are there any other members of the
21 audience that have, that are here that want to
22 make any comments about this project?

23 Seeing none, are there any members of the
24 Commission that have any further questions or
25 would someone like to make a motion?

1 MR. RANDOLPH, II: I have got --

2 I see the attorney for the applicant has
3 raised his hand.

4 THE CHAIRMAN: Oh, thank you. I didn't
5 see him.

6 MR. PIÑON: How are you all doing today?

7 THE CHAIRMAN: Please step up.

8 MR. PIÑON: Jorge Piñon here on behalf of
9 Mr. Thomsen.

10 THE CHAIRMAN: Were you sworn in?

11 MR. PIÑON: Good morning, Chairman and
12 Commission Members.

13 Excuse me.

14 THE CHAIRMAN: Were you sworn in?

15 MR. PIÑON: I was not sworn in, but as an
16 attorney we are subject to a standard that we
17 don't have to swear in.

18 But if it makes all of more comfortable --

19 THE CHAIRMAN: It will make it more
20 comfortable.

21 MR. PIÑON: -- then I shall certainly
22 swear in.

23 THE CHAIRMAN: Thank you.

24 MS. VANNECK: Do you swear or affirm that
25 the testimony you are about to give is the

1 truth, the whole truth and nothing but the
2 truth so help you God?

3 MR. PIÑON: Always.

4 Well, let me address certain comments.
5 First of all, this is the window that my client
6 intends to use.

7 This is a gas insulated window. We are
8 talking about insulation qualities and the
9 concerns in terms of the environment.

10 This is a gentleman that was born in
11 Denmark. Minimalism is really what it's all
12 about over there.

13 So concerns for energy and the environment
14 that is the entire set of plans. That is what
15 it's all based upon.

16 But I would like to address the, the
17 comments one by one that I have heard so far.
18 So when we are talking about in keeping with
19 the neighborhood --

20 And we have, you know, basically come over
21 to the criteria for building permits under a
22 18.205 and just said:

23 "It, it doesn't work pursuant to 18.205
24 Section A., 6, C."

25 Well, you know, that's --

1 That's really not the way that it can
2 work. This is not a multiple guess question
3 where we just select them and that's it.

4 This is why your Board here you are
5 specialized. You are unbelievably important.
6 You are charged with a knowledge, a specialized
7 knowledge that others simply don't have.

8 This is why they assembled this, this body
9 to make decisions. Otherwise it would be the
10 realm of the judiciary.

11 But we are not as capable as all of you
12 are in this capacity. So when someone says:

13 "It's not architecturally compatible it's
14 not, it's sufficient to say:

15 "I check the C and that's the reason."

16 You have to say why. Otherwise all that's
17 been made here is a conclusion. All that's
18 been made is conclusion, but no facts support
19 that.

20 And I am not saying that there hasn't been
21 facts here that have not supported certain of
22 these statements.

23 But as a general rule I have heard these
24 letters as check-boxes.

25 "Doesn't meet A and B and C and D."

1 And that's just not legally sufficient.
2 But having said that let's talk about the first
3 set of letters.

4 And I think that many of you have seen
5 them. I want you to all know that those should
6 not be considered by any members here at all
7 because not only is it a completely and
8 entirely different set of plans, but it's a
9 completely and different architect.

10 This, this is not something that you all
11 should consider. And, in fact, from my point
12 of view it would prejudice these proceedings.
13 It would prejudice my client if any of you took
14 those letters into consideration.

15 They are simply not relevant here. And
16 that would be unjust. And although we are not
17 necessarily in a Court of law you are still
18 subject to certain quantum of proof that you
19 must have in order for this proceeding to have
20 value.

21 And I spoke to the City Attorney, to the
22 Town Attorney a little bit. And, you know, we
23 talked about what -- what that has to be.

24 So we go back to that same thing. So
25 no --

1 No conclusion, but substantial and
2 competent testimony and evidence based upon why
3 you find certain of these factors.

4 So having, having said that let's talk
5 about the code itself and what someone said two
6 hundred yards was later on I think more
7 correctly they spoke about two hundred feet.

8 Well, we know --

9 You all know how many structures are out
10 there that are modern. Now the interesting
11 thing about it is if we look at those modern
12 structures while I am sure that the comments
13 will be that many of them are on the ocean or
14 on the water, on the lake not all of them are.

15 And if we look as far back as 1937 with
16 the Reef Club this thing was injected into a
17 brand, brand new --

18 It was a brand new style for, for the
19 period of time. Palm Beach looking at the very
20 materials that the Historic Preservation
21 Society here brings out is a Town that
22 encompasses many different styles.

23 So Palm Beach is not a City of Coral
24 Gables, for example, where they are going to be
25 looking for one style. And anything that

1 doesn't fit that doesn't work.

2 In fact, it's a much more progressive
3 Town. We have seen that. We have seen that it
4 encompasses a variety of styles.

5 But having said that it has also
6 encompassed these styles where there has not
7 been another structure within two hundred feet.

8 So to apply the law now universally as
9 against or in other words specifically against
10 my client when it has not been universally
11 applied is simply not fair.

12 It is completely unfair and non American I
13 would say. But having said that I believe that
14 we have a solution that will take care of
15 everyone's desires.

16 Because what I am hearing from everybody
17 is they don't want to see the house. Well,
18 hedges can resolve that.

19 Clearly the Town permits incredibly tall
20 hedges. So the landscaper whom you have
21 already met can change that design to make them
22 substantially taller.

23 But what we do know is that not even a
24 block away we have a two story house amongst
25 those very old ranch style homes.

1 So the bottom line is that we can't say
2 everything is a single story so now they will
3 all be single stories because that means we
4 don't want change.

5 And the thing is is that history shows us
6 that the Town of Palm Beach is all about
7 change.

8 So the two story residence is right near
9 us. So yes. Someone might complain that they
10 have a two story residence. And everything
11 else used to be a one story.

12 But that's not the way it is now. Because
13 one block away almost directly in front of that
14 same Club, that Sailfish Club, there is a two
15 story residence.

16 It's not modern. So that means that it's,
17 that its roof is even higher than the proposed
18 roof of my client.

19 So this can all be solved as I said with
20 landscape. I, I don't see that -- that it's
21 going to be a problem for people to see the
22 home.

23 It's not, it's not a structure that is
24 appalling. And it's certainly not what was
25 brought up in that last statement in which we

1 had a number of very small homes and, and
2 something that goes way past modern and really
3 could be described as ultra modern -- well out
4 of character.

5 But we know that this Commission just
6 approved a brand new modern structure of almost
7 ten thousand square feet right on Ocean and
8 Angler. I believe the gentleman's name was
9 Chu.

10 And this is right down the street. And
11 this --

12 There is nothing else around there that is
13 modern. Again showing that Palm Beach is a
14 progressive Town.

15 It's a Town that admits change. And
16 change is really what life is all about.

17 Otherwise we would all still be
18 reinventing the wheel. But we don't. Someone
19 else came after that, figured out what to do
20 with it.

21 So another important aspect was this
22 concern about my client showering and people
23 seeing him.

24 Again, this is a -- a gentleman who
25 believes very much in energy conservation.

1 This home is state of the art in terms of
2 energy efficiency.

3 It is completely automated. So when the
4 sun hits the computer system knows to bring
5 down the shades.

6 And by the way my client has no interest
7 in showering in front of the neighborhood. But
8 having said that there are shades in the home.

9 And those will come down automatically as
10 some concern, were concerned about energy
11 efficiency.

12 But in any case almost every concern that
13 I heard can be resolved through the use of
14 hedges.

15 I -- I tell you all honestly the structure
16 is a fine, fine example of international style
17 done by an award winning architect.

18 And frankly, again, the neighborhood is a
19 neighborhood that is going to go through some
20 transition.

21 There are several homes there that when
22 purchased in all likelihood will be demolished.
23 And someone will be before this very Board
24 putting something else.

25 And in any case that's pretty much all I

1 have. If you all have some comments or
2 questions.

3 THE CHAIRMAN: Thank you. You make a
4 very, very good presentation.

5 And we are not in a Court of law. But
6 thank you for making all those points.

7 Are there any questions of the attorney?

8 And I, I have a question in terms of his
9 point about the letters. Can you help us out
10 with that?

11 MR. RANDOLPH, II: Well, I think that's
12 the reason that John Lingrin did not read the
13 original letters.

14 Because the, the ones that are applicable
15 are those in regard to the present application.
16 So I --

17 I think that you should consider the
18 letters relating to this particular design, not
19 necessarily the others unless there is
20 something in those letters that could relate to
21 this -- this application.

22 But all I heard read were the letters
23 regarding to this application and I think you
24 should consider those.

25 MR. CHAIRMAN: Thank you.

1 Okay. Are there any other comments or
2 questions from the Commission?

3 No. Well, I will --

4 I will just from my own perspective add
5 that everything that has been presented
6 indicates that this is, in fact, a word class
7 project.

8 And the, the --

9 The problem that all of us have has
10 everything to do with the context and the
11 neighborhood.

12 And that is the sticky wicket. The
13 solution of landscape architecture as opposed
14 to architecture is I suppose a viable one.

15 It exists all over town that we have
16 20-foot hedges that keep us from observing
17 pedestrian architecture as well as siding
18 architecture.

19 However, I am not sure how the
20 Commissioners feel about that as a solution.
21 Mr. Gruss.

22 MR. GRUSS: Thank you, Mr. Chairman.

23 I think the Commissioners should keep in
24 mind that, A., the Board did approve a lot of
25 international style homes elsewhere in Palm

1 Beach.

2 In fact, I don't recall that we have
3 disapproved one in several years.

4 Two, the homeowner in question has the
5 right to build a two story house.

6 Three, we also agree that this
7 architecture is meritorious. So we have
8 meritorious architecture. We have the right to
9 build a two story house.

10 I don't think the bathtub on the second
11 floor is really relevant here. I, I don't
12 think the Sailfish Club is going to turn out
13 its members to gawk every time the gentleman
14 takes a bath.

15 And I am sure the gentleman after time
16 will put shades up because he is going to find
17 that the western sun is terribly strong and
18 makes the house uncomfortable.

19 So the roof, the roof is what's the
20 popular thing to do in judging by the turn out
21 today?

22 The popular thing to do is to deny the
23 application. But I thought the owner deserves
24 better than this.

25 If he is willing to screen, put further

1 screening in the house will become virtually
2 invisible from the street.

3 And I think we should approve the design
4 with that caveat and 12-foot hedge.

5 THE CHAIRMAN: Are you making a motion,
6 sir?

7 MR. GRUSS: I will make a motion to
8 approve as presented with the caveat that a
9 12-foot, foot hedge be installed.

10 THE CHAIRMAN: A 12-foot ledge.

11 And the height of the building is -- is it
12 twenty-four?

13 MR. KARAKUL: Twenty-one. Twenty-two.

14 THE CHAIRMAN: Twenty-two. Twenty-two.

15 MR. GRUSS: Does anybody know what, what,
16 what the -- the permissible height of the
17 building is --

18 THE CHAIRMAN: No. That is perfectly
19 permissible.

20 The question is --

21 MR. GRUSS: Yes.

22 THE CHAIRMAN: -- is --

23 MR. KARAKUL: I am not sure if a 12-foot
24 hedge --

25 THE CHAIRMAN: That's my point.

1 I think, I think we are talking a 16-foot
2 hedge or an 18-foot hedge.

3 MR. KARAKUL: I think it deserves
4 something more interesting -- I am just
5 saying --

6 THE CHAIRMAN: Yeah.

7 MR. KARAKUL: -- than a hedge.

8 MS. VANNECK: Yeah.

9 MR. KARAKUL: And I think the architecture
10 could be enhanced.

11 MR. RANDOLPH, II: The microphone, Mr.
12 Karakul.

13 THE CHAIRMAN: Yeah. Speak into the mic.

14 MR. KARAKUL: It would certainly be --

15 I think we have seen examples where it can
16 complement, you know, a contemporary design.

17 THE CHAIRMAN: Okay. I think we have, it
18 needs restudying.

19 Yeah. We have a motion to approve the
20 project with the proviso or rather to defer the
21 landscape architecture asking that a, a kind of
22 a redirection be taken in terms of hedging and
23 camouflaging the subject house.

24 MS. VANNECK: Mr. --

25 THE CHAIRMAN: Yes.

1 MS. VANNECK: Mr. Chair, it has always
2 been the responsibility of the ARCOM Commission
3 to judge the merits of the architecture, not --
4 not that the landscaping should come secondary.

5 But the house has to be able to stand on
6 its own in that context and then the
7 architecture, I mean the landscape comes to
8 enhance it.

9 So we have to look at the architecture
10 without the landscape. It's two different
11 projects.

12 THE CHAIRMAN: Yes. Thank you.

13 We, we do have a motion on the floor. Is,
14 is there a second to Mr. Gruss' motion?
15 Mr. Sammons?

16 No. I am sorry. I saw your name on --

17 MR. SAMMONS: I, I just have a question.

18 THE CHAIRMAN: Please proceed.

19 MR. SAMMONS: You know, I don't know that
20 the architecture is meritorious or not because
21 I actually don't have --

22 You know, a lot of this depends on the
23 detailing. And you can be --

24 You know, I have no idea how the joints
25 are done and things of that nature. You know,

1 it --

2 It depends entirely on the, the quality of
3 the details. And when we look at traditional
4 architecture we always look at the details
5 very, you know, scrutinize them.

6 And here we, we really don't have anything
7 though to -- to -- to judge it in, in a way.
8 So I --

9 I don't know whether it's good, bad or
10 indifferent because I don't know how these
11 materials are, are actually fitted together.

12 We haven't been presented with anything
13 other than the glass sample. You know, so I am
14 not so sure that it's great. I just don't
15 know.

16 THE CHAIRMAN: Did the architect want to
17 address that point?

18 MR. O'NEILL: Yes. Yes. I, I will
19 address that.

20 As far as the materials go I have
21 submitted all the major materials that will be
22 used on this house.

23 The, the driveway is going to be a cut
24 granite into four by four sections. That's --

25 The, the windows and doors frames will be

1 a anodized aluminum finish similar to this
2 which is like a light gray.

3 THE CHAIRMAN: Would you mind passing
4 those up so we can get a, a better look at
5 them?

6 MR. O'NEILL: Sure.

7 THE CHAIRMAN: Thank you.

8 I think we all know what a Belgium paver
9 looks like. I am not sure we need to pass that
10 around.

11 MR. O'NEILL: This is the white limestone
12 that's going to be used on the veneer of the
13 main exit wall that is used on the house.

14 As far as detailing the, the, the
15 corner -- for example -- a corner 90-degree
16 corner will have the exposed edge of the stone.

17 So it will not be just one 90-degree
18 corner, but actually two 90-degree corners so
19 that the thickness of the stone is visible on
20 the corner if you understand what, what I am
21 trying to say.

22 These are some details that would be
23 normally done during the construction documents
24 phase.

25 Although I can certainly submit some of

1 these earlier. The -- the Spandrel Glass
2 that --

3 There is some Spandrel Glass that you can
4 actually see on this west elevation that is up
5 towards the very top of the roof. That will be
6 back painted.

7 And then the insulation is behind that.
8 And then the roof structure is, is, is behind
9 that.

10 All the railing, exterior railing in the
11 house is, is clear glass for the balconies.
12 Although this, this will not be visible at --
13 at --

14 It should not be visible anywhere from the
15 street whatsoever. But this is the, the pool
16 deck material, a --

17 It's a European material that is, is, is a
18 white --

19 THE CHAIRMAN: Is it stone or is it a
20 sprayed up material.

21 MR. O'NEILL: I believe it's a synthetic
22 material.

23 Is that, is that right? May I ask a
24 second?

25 It's a, it's a resin. It's a, it's a

1 resin material.

2 THE CHAIRMAN: Okay. Yeah. Thank you.

3 Did you have a question, Mr. Karakul?

4 MR. KARAKUL: Just a comment disagreeing
5 with my fellow Commissioner Mr. Gruss.

6 I think it's wrong to dislike the
7 architecture or the location of the
8 architecture, but say:

9 "It's all right if you cover it up with
10 landscape."

11 That's all I have got to say.

12 THE CHAIRMAN: Okay. I, I don't think he
13 said anything about disliking the architecture.

14 I think he said that it was with merit.
15 And I do have a motion on the floor. So that
16 from the perspective of having a motion on the
17 floor I need to get a second or the motion
18 dies.

19 Would anyone care to second this motion?

20 He can't second it. I am the Chair. So I
21 can't second it. And the motion dies. Great.

22 Is there any --

23 Anyone interested in making a different
24 motion then?

25 MR. IVES: I will make an attempt.

1 THE CHAIRMAN: Yes. Mr. Ives.

2 MR. IVES: I, I think that one of the
3 things that we got a little carried away with
4 as if, as if there is a -- a very strong push
5 and pull among the Commission on this.

6 I, I think it's important to remember that
7 we are not the Architectural Design Commission.
8 We are the Architectural Review Commission.

9 And so we --

10 I think there might be --

11 We might be getting close to something
12 just not at this meeting. And so I would like
13 to make a motion to defer the architecture and
14 the landscape for restudy taking into account
15 the comments of this Commission on the, and the
16 comments of the attorney for the applicant on
17 the size of the hedge as well as the scale of
18 the, of the -- the -- the scale of the property
19 and the I will say the rhythm of the facade and
20 its windows.

21 MR. KARAKUL: I will second that.

22 THE CHAIRMAN: Okay. We have a motion to
23 defer the project and it has been seconded.

24 We have heard from the attorney for the
25 project. So I am just curious --

1 MS. VANNECK: No. I just --

2 There was another letter from another
3 neighbor that inadvertently was missed that I
4 was going to read it.

5 But --

6 THE CHAIRMAN: Do we need to have that at
7 this point?

8 MR. RANDOLPH, II: Is that something
9 that's been presented to you previously?

10 You know, they are at --

11 They are at the Commission's
12 consideration.

13 THE CHAIRMAN: Yeah. Yeah.

14 MR. RANDOLPH, II: You, you have had an
15 opportunity --

16 THE CHAIRMAN: All right. We, we have a
17 motion. It's been seconded.

18 All in favor?

19 MR. GRUSS: Aye.

20 THE CHAIRMAN: Aye.

21 MR. SAMMONS: Aye.

22 MR. IVES: Aye.

23 MS. VANNECK: Aye.

24 MR. KARAKUL: Aye.

25 MR. KNOWLES, II: Aye.

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MR. SMALL: Aye.

THE CHAIRMAN: Opposed?

Project is deferred. Thank you.

Yeah. It was unanimous.

MR. PIÑON: Thank you all for your time.

THE CHAIRMAN: Thank you.

1 REPORTER'S CERTIFICATE

2
3 I, Elias Martinez, Reporter, hereby
4 certify that the foregoing transcript of 63 pages is
5 a complete, true and accurate transcript of the
6 audio of Town of Palm Beach, Architectural
Commission, in the matter of: B - 009 - 2014: 167
SEAGATE ROAD, held on May 28, 2014 at 9:00 p.m.

7 I further certify that this proceeding was
8 recorded by audio, and that the foregoing transcript
9 was prepared under my direction.

10 Date: June 10, 2014

11 Official Reporter: Elias Martinez

12
13
14
15 ELIAS MARTINEZ
16 Court Reporter
My Commission # EE 091152
Expires: June 6, 2015



ELIAS MARTINEZ
MY COMMISSION # EE 091152
EXPIRES: June 6, 2015
Bonded Thru Budget Notary Services

ORIGINAL

TOWN OF PALM BEACH
ARCHITECTURAL COMMISSION

IN THE MATTER OF:

B - 009 - 2014: 167 SEAGATE ROAD

PLACE: 360 South County Road, Second Floor

DATE: June 25th, 2014

TIME: 9:02 a.m.

APPEARANCES

1

2

3 For the Architectural Commission:

4

JOHN RANDOLPH, II,, ESQUIRE
JONES, FOSTER, JOHNSTON & STUBBS, P.A.
505 South Flagler Drive, Suite 1100
West Palm Beach, Florida 33401

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9 For the Applicant:

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JORGE L. PIÑON, ESQUIRE
LAW OFFICES OF JORGE L. PIÑON
9260 Sunset Drive, Suite 118
Miami, Florida 33173

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MEMBERS

15

16 ANN L. VANNECK, CHAIRWOMAN

17 KENN KARAKUL, MEMBER

18 RICHARD SAMMONS, MEMBER

19 PETER KNOWLES, MEMBER

20 MARTIN D. GRUSS, ALTERNATE MEMBER

21 ALEXANDER C. IVES, ALTERNATE MEMBER

22 MICHAEL B. SMALL, ALTERNATE MEMBER

23

24

25

PROCEEDINGS

1
2 THE CHAIRWOMAN: Major Projects-Old
3 Business, Item Number B - 009 - 2014, New
4 Residence. Address is 167 Seagate Road.
5 Applicant: Mads Thomsen. Architect:
6 Mitchell O'Neill. Project description: New
7 single-family home, landscape design,
8 hardscape design (preliminary).

9 At the March meeting, the project was
10 not heard and was deferred to the May meeting
11 at the request of the applicant. At the May
12 meeting, a motion carried to defer the
13 architecture and the landscape for re-study
14 taking into account the comments of this
15 commission and the comments of the attorney
16 for the applicant on the size of the hedge as
17 well as the scale of the property and the
18 rhythm of the facade and its windows.

19 Ex parte, please.

20 UNIDENTIFIED SPEAKER: Went by the site.

21 UNIDENTIFIED SPEAKER: Visited the site.

22 MR. KNOWLES: I have got numerous emails
23 copied from the town. I spoke to one of the
24 neighbors and listened to objection of this
25 house. And I haven't been by the site yet.

1 UNIDENTIFIED SPEAKER: Actually, a
2 neighbor called me.

3 MR. KNOWLES: Yes. I've had several
4 emails and calls.

5 THE CHAIRWOMAN: We have been bombarded
6 by emails, mostly opposing. I've met with a
7 neighbor in opposition. I have received two
8 emails in favor and I have received a
9 plethora of information from the -- from the
10 applicant.

11 MR. GRUSS: I too received numerous
12 emails. I visited the site, drove to the
13 neighborhood, met with an abutting neighbor.
14 I think that's about it.

15 MR. SMALL: I visited the site in the
16 entire block, the two adjacent blocks. I
17 spoke with one or two of the neighbors. I
18 received all of the emails and the
19 substantial presentation by the applicant in
20 writing.

21 THE CHAIRWOMAN: Are you ready to
22 present -- are you ready to present the
23 project?

24 MR. PIÑON: Yes, we are, indeed.

25 MR. RANDOLPH: Madam Chair, may I -- may

1 I ask a question before you go forward?
2 You've mentioned many emails. Are they part
3 of the package and has the applicant had an
4 opportunity to see the emails and would you
5 wish to see those emails? It -- it sounds
6 like several emails were received stating
7 objections that there was an email received
8 in favor, et cetera.

9 THE CHAIRWOMAN: All of these emails
10 have been forwarded to us via email from the
11 town. So they are -- they were --

12 MR. RANDOLPH: Okay.

13 THE CHAIRWOMAN: -- from the town and I
14 assume that they were forwarded.

15 MR. RANDOLPH: All right. And are
16 those --

17 MR. LINDGREN: We forwarded the -- or I
18 forwarded the bulk of the opposition emails
19 to the property owner. And I think there
20 were two maybe that came in yesterday that I
21 did not forward too. It was along the same
22 line, same arguments. I have all those --
23 there's 12. I have a total of 12
24 emails/letters that I received; 11 in
25 opposition, one in support of. There may be

1 some more, but those are the numbers that I
2 received.

3 MR. RANDOLPH: I just want to make sure
4 the applicant had an opportunity to see
5 those. That's the purpose of ex parte
6 communications, is to allow them to
7 understand what they received.

8 And I would ask one other question. In
9 spite of the fact that you have had ex parte
10 communications with other people, are you
11 willing to base your decision today based
12 upon not upon that, but upon the testimony
13 you hear today at this hearing? If I hear --

14 UNIDENTIFIED SPEAKER: Yes.

15 UNIDENTIFIED SPEAKER: Yes.

16 THE CHAIRWOMAN: Yes.

17 UNIDENTIFIED SPEAKER: Thank you.

18 MR. PIÑON: Good morning, Madam Chair
19 and members of the commission and members of
20 the public here today. Today --

21 THE CHAIRWOMAN: Please identify
22 yourself for the record.

23 MR. PIÑON: Indeed. Jorge Piñon,
24 architect for Mr. Mads Thomsen over here
25 behind me. Today testifying will be the

1 architect, Mr. O'Neill, and Mr. Fleck, the
2 landscape architect.

3 Now, we had a short conversation, the
4 attorney and I, about how we should handle
5 this having read through previous
6 transcripts. I understand that maybe we
7 might bore you all if I go ahead and conduct
8 a direct examination of the architect. It
9 might be just a bit long. Clearly, he's
10 going to tell you all that he believes that
11 18-205 has been met. He also has an
12 affidavit. If you all will accept that
13 document, then we can sort of not have to go
14 through all of it. But in any case, he's
15 prepared to read it. I'll give you all some
16 time to think about that.

17 Let's talk a little bit about, you know,
18 the neighbors' letters, these opinion
19 letters, because I think that that's real
20 important and I really appreciate the comment
21 made by the town attorney. But, you know,
22 bodies such as the ones that are assembled
23 here, all of you, this architectural
24 commission, are specialized bodies. You're
25 all charged with specialized knowledge and

1 that's why it's not anyone who can join.
2 There has to be very specific people who will
3 join. There has to be those people for this
4 to be that specialized body.

5 Now, you all, again, are a specialized
6 body. You're the ones that -- that -- are
7 the ones that are capable of making that
8 decision. So from that -- from that
9 theoretical point of view, you can understand
10 that it's all of you. But let's talk
11 about -- let's talk about that -- that --
12 that practical point of view of why we
13 shouldn't really allow public opinion to do
14 anything other than minimally, minimally
15 influence all of you. And I -- I submit to
16 you all that it should be minimally
17 influential, if at all.

18 Well, we have a June 18th letter. And
19 that June 18th letter we hear a little bit
20 about my client should have done his due
21 diligence before buying this property. Well,
22 you'll hear from my client shortly and you'll
23 hear that he visited with Mr. Lindgren and he
24 did do his diligence -- his due diligence.
25 He found out that, in fact, he could build a

1 modern home because there are modern homes
2 scattered throughout the island.

3 Another reason that's very important is
4 that nobody out there has waived the evidence
5 or is about to hear the evidence or has all
6 of that available. Only you all have that
7 information. They simply don't. That same
8 letter talked about the goal of ARCOM being
9 to preserve neighborhoods. Well, we know
10 that 18-146 of the code is very clear on what
11 the stated goal is. And you're a
12 quasi-judicial body. Your stated goal is
13 very narrow and you must follow it. But it
14 is not what that letter says and it says that
15 it's to preserve neighborhoods. That sounds
16 more in line with the landmarks, you know,
17 that type of a -- a scenario.

18 So when we do read through 18-146 and we
19 do see what the purpose is, that purpose is
20 about change. We see that there's
21 conversations about communities created
22 through deliberate search for beauty. That
23 doesn't mean we keep what's here. That means
24 we're creating more beauty, but doing new and
25 great things. And -- and that's -- that's

1 really what everything is about, except for
2 the preservation of historical homes. So
3 that letter doesn't make any sense, to tell
4 us that that's what it is. And this is
5 why -- another of the practical reasons why
6 we can't allow that.

7 But I submit to you that one of the
8 greatest ones, one of the greatest reasons
9 was given to me by my client when he asked
10 me -- he said, "Why should my neighbors be
11 able to tell me what I can build on my own
12 land?" And he's right. The neighbors do not
13 have a right to tell him what he can build on
14 his land. All of you do because you were
15 charged with that responsibility. You have
16 that specialized knowledge. It's you all who
17 make that right decision.

18 So another thing, how many times have we
19 all gone to a bad restaurant and told
20 everyone in the world that we don't like a
21 restaurant? Complaints are always going to
22 be more numerous than people who are in favor
23 of something. Go to a good restaurant and
24 might tell one or two people; go to a bad
25 one, you tell a hundred people. So the fact

1 that we're seeing so many -- and I believe it
2 was described as a plethora of complaints --
3 it's not surprising because those are the
4 people who take the time, usually, the people
5 who are offended by something. But you'll
6 hear from my client that some of those same
7 letters come from offended people with
8 barbecues in the middle of the driveway. I'm
9 shocked.

10 Now, I have to tell you, when my client
11 told me, "Why should" -- "Why should
12 neighbors tell me?" I thought to myself,
13 well, that's shocking, because this is
14 America, and the concept of my land is one of
15 the most profound concepts in our
16 constitution. And I ask all of you or I
17 would say to all of you to protect that, to
18 protect that right because it might not be my
19 client one day on -- on the side here. And
20 being exposed to the opinions of the public
21 is not what we do in the United States and
22 it's not what this quasi-judicial body is
23 charged with doing.

24 Now, another interesting point that I
25 would bring to you all is that, you know,

1 public comments are designed to influence.
2 And they do not -- they are not limited by
3 the same -- by the same constraints as all of
4 you are. I, as a member of the Florida Bar,
5 am constrained by the Florida Bar. So what
6 my conduct is has to be limited. Yours is by
7 a commission of ethics. But someone who goes
8 ahead and brings out a photograph of an
9 unbelievably immense property amongst small
10 properties is not limited by anyone.

11 It's his personal opinion. He wants to
12 get his own goal out there. He'll show us
13 something to influence the board. All of you
14 are not here to influence anything. You're
15 here to make a decision based on, again, that
16 specialized knowledge which means you all
17 have done the right thing.

18 So what I'm going to do now is, I'm
19 going -- I'm going to turn it over to the
20 architect so that we can go a little further
21 on -- on where we left off. And before I do
22 say that -- and I want to keep the record
23 clear -- I've read that we asked for a
24 deferment and I don't believe that that's
25 accurate. We -- we do have the transcripts

1 and we're certainly willing to share them
2 with all of you, but I don't believe that
3 that's the way that it went down and I think
4 that ultimately the record will speak for
5 itself.

6 But in any case, let me turn it on over
7 to Mr. Mitch O'Neill. And unless there's an
8 objection against my giving a small closing
9 at the end, I'll turn it over. If there is,
10 then I'd like to just continue at this point.
11 Might I be able to get a feeling?

12 MR. RANDOLPH: No. He should have a
13 chance for rebuttal after you've heard from
14 the other comments that may be made. So you
15 should make your full presentation, then
16 we'll hear from the public, and then you'll
17 have an opportunity for a rebuttal.

18 MR. PIÑON: Wonderful. Then let me
19 continue, with all due respect.

20 So I've turned a package over to you
21 all. And the purpose of this package -- and
22 let's -- I think looking at the scenario, I
23 think that -- and even with the conversation
24 with Mr. Lindgren yesterday, I think that the
25 big problem here is putting a modern

1 structure. It's not the mass. Even
2 Mr. Lindgren would agree that it's not the
3 mass. In fact, it's not a very massive
4 structure. So it's -- it's about whether a
5 modern structure fits. And I've read your
6 code.

7 But the bottom line is, is that there
8 are a tremendous number of homes inserted
9 where there were no other similar homes 200
10 feet away. So rather than going
11 house-by-house -- and you all might have seen
12 that I think we have well over 20 homes here
13 as examples of a modern structure inserted
14 directly where there are no other similar
15 structures. We would ask that -- that he --
16 my client not be singled out and his home,
17 his project not be singled out specifically
18 for reasons unbeknownst to me because we have
19 too many examples of homes that have not
20 been, who have been allowed to build homes
21 where there's nothing. And, of course, I
22 would refer to the Coral Way house as a
23 recent example. The gentleman Choo (ph), his
24 home, his very large home, as another
25 example.

1 And I would -- I would ask all of you to
2 take a look at that photograph that we see up
3 there now and -- and see that this is the
4 Seagate view. If we proceed down that road,
5 we run right into the Sailfish Club. So I
6 think that there's a really interesting
7 transition being made by the landscaper -- by
8 the landscaping. And again, that perspective
9 that we see is from the side of the road. So
10 there's almost no impact now with -- in terms
11 of, you know, neighbors not wanting to see a
12 modern structure. There's almost no impact.

13 But I'll also refer all of you to page
14 21. And we're talking about the house
15 referred to as number -- Number 1. I believe
16 that's 250 Angler Road. And if you look at
17 page 22, this is the view coming directly out
18 of our -- out of the Sailfish Club. So when
19 someone exits the Sailfish Club, the very
20 first thing they see is this structure. And
21 I don't have any problems with that
22 structure. And again, I'm not testifying, so
23 it doesn't really matter.

24 But my point is, is that if there is no
25 problem with the mass here, there should be

1 no problem with the mass of that structure.
2 The only thing that I can see that makes my
3 client's home different, keeping in mind that
4 his roof line is less than the roof lines of
5 all the surrounding homes, directly
6 surrounding homes, it's the fact that his
7 house is modern and that's it.

8 You know, if I can direct you all to
9 page 21, this is an excellent example of my
10 client's house in relation to the Sailfish
11 Club and in relation to the homes directly
12 next to his house. And as you can all see,
13 almost every home next to his house is a
14 two-story house. Almost each and every one
15 of them is. It's not to say that if you go
16 down the road you're not going to find single
17 stories. You will. But the houses that are
18 directly around his are these homes. And
19 with the exception of three homes, the
20 remainder are two-story homes. Some of these
21 are massive, literally massive in scale. And
22 importantly, the one labeled as Number 1 that
23 we just went through, just obviously recently
24 approved. It's under construction as we
25 speak now.

1 I'm going to -- I'm going to turn it
2 over to the architect, unless you all have
3 any particular questions for me at this
4 point.

5 MR. O'NEILL: Good morning. I'm going
6 to continue basically where we left off and
7 address the comments that were made at the
8 last meeting. Let me --

9 THE CHAIRWOMAN: You will need to
10 identify yourself.

11 MR. O'NEILL: Mitchell O'Neill. I'm the
12 architect representing Mads Thomsen at 167
13 Seagate.

14 Let me see. Okay. This -- this is a
15 summary of what we are -- what's been changed
16 and revised and what's going to be clarified.
17 Mr. Samson was -- was correct in that his
18 concern for energy conservation, providing
19 shade for the windows. We took a slightly
20 different approach, but achieving the same
21 energy conversation. I'll -- I'll show you
22 in slides that are to come that we show a
23 roof plan that will indicate the solar panels
24 that are well hidden on the flat roof, the
25 amount of energy savings with these panels.

1 We also have the high performance insulated
2 low-e glass, which I have a sample of, which
3 I'll pass around. We have the drop down
4 solar screens that are just inside the glass,
5 all the glass in the house. Gas water
6 heating, being the most efficient type of
7 heating. All of these contribute to energy
8 savings that we feel is important for the
9 design of the house.

10 There was also a request for additional
11 detailing. I'll show you that. The front
12 entry canopy, the way the stone veneer on the
13 accent wall was detailed, various wall
14 sections that show the curtain wall system
15 and the sliding glass doors, the interplay of
16 those elements, and then lastly, the
17 landscape design, the revisions that have
18 been made to the landscape design.

19 I won't rehash a lot that was gone over
20 at the last meeting. This is the site plan.
21 The site plan has not changed. The pool, the
22 footprint of the house, the privacy walls
23 basically have not changed. Here we have a
24 roof plan. This indicates the photovoltaic
25 panels that are on the roof. This is

1 indicating 12 panels that will provide
2 approximately 3 -- 3.6 kilowatts of power and
3 the energy savings is about \$700 a year and a
4 cost of these panels at about \$4,800. That's
5 a seven-year payoff. And this is a very
6 conservative number. I -- I suspect that the
7 savings will be more than 30 percent because
8 of the high quality of the materials used in
9 the house. The -- the doors and windows
10 being very airtight, this -- this -- the
11 envelope of the house will be extremely
12 airtight and it -- it -- this will be a very
13 energy-efficient home.

14 The floor plans basically have not
15 changed. I'm going to show you some
16 detailing of the facade and the elevations of
17 the house. I'll show you a detail of the
18 expansion joints that are used. These are
19 not standard expansion joints. Here is a
20 detail of the expansion joint which is
21 basically a reveal in -- in the stucco square
22 reveals that is a more pronounced detail than
23 what might normally be seen on -- for an
24 expansion joint.

25 And -- for example, this is the entry

1 canopy over the entry door. The accent wall
2 that is in limestone, it is penetrated by a
3 stucco cantilevered portion which, from a
4 design standpoint, appears to be the stucco
5 that's behind the -- the mass of the house
6 behind is kind of protruding out. There's a
7 reveal around that whole element, so it
8 appears to float as it projects out.

9 This detail here is the mitered, typical
10 mitered corner of the stone. I know last
11 time I mentioned a double corner that would
12 expose the edges of the -- the stone. I'm
13 rethinking this -- this detail. I think it's
14 more in keeping with the modern style to
15 miter these corners, keep them a little more
16 simple. And they will have great joints
17 between the -- between the -- the pieces of
18 stone. This is actually not the exact
19 dimension of the stone. They're -- they're
20 more linear in -- in -- in nature.

21 This -- this diagram indicates eye-level
22 view from increasing at the hedge height to
23 ten feet. And we've increased that height
24 from ten to 12 feet. This is a ten-foot
25 range here, a ten-foot height. A person who

1 is standing in North Lake Way looking back at
2 the house with a ten-foot hedge virtually has
3 no view of the house whatsoever, as you can
4 see from this diagram. And likewise, from
5 Seagate, if you are walking on the north side
6 of the road and Seagate along this hedge,
7 you'll have no site line to the house
8 whatsoever. If you're walking on the south
9 side of the road, you may see a little bit of
10 that south wing of the house at the very top
11 of the roof and that would -- that would be
12 all you would see.

13 Some additional detailing of the -- of
14 the house that shows the curtain wall system
15 in conjunction with the -- with the concrete
16 Juliet balconies, the clear glass railings,
17 probably a little more detail than you need
18 at this point, but it does show the -- kind
19 of gets into some of the construction of the
20 house. But for those who are interested in
21 the exact detailing, how this curtain wall
22 system is going to work, this illustrates it
23 here.

24 Additional details in plan view, I know
25 Richard Samson was a little more concerned

1 with some of these details and how some of
2 these joints and things were going to work.
3 I think you should have a clear understanding
4 looking at these drawings. This -- the
5 streetscapes which we reviewed last time,
6 this is a new rendering taken of more of an
7 eye-level perspective from -- from North Lake
8 Way looking east towards the house. And
9 again, this is from far across the street
10 looking back. Only the very top of the --
11 the house is visible. And from Seagate, the
12 same situation. The vast majority of the
13 house is hidden behind the hedge at the -- at
14 the ten-foot level.

15 I'd -- I'd -- I'd now like to go over
16 how we have -- how all the items in 18-203 --
17 I'm sorry -- 18-205 have been met. I know
18 this was of major concern, so let me go
19 through some of these. The plan for the
20 proposed building or structure -- this is
21 Number 1: The plan for the proposed building
22 or structure is in conformity with good taste
23 and design in general contributes to the
24 image of the town as a place of beauty,
25 spaciousness, balance, taste, fitness, charm

1 and high quality. The American Institute of
2 Architects is bestowed. I myself, nine
3 design awards including one for the entirety
4 of my work. Other registered architects
5 constitute the jury for these awards. Design
6 awards are received for projects that are of
7 good taste, beauty, balance, charm and high
8 quality. Those are the standards by which
9 those are given. So I -- I would suspect
10 this house will be in -- in the same vein as
11 my previous work.

12 Number 2: The plan for the proposed
13 building or structure indicates the manner in
14 which the structure's are reasonably
15 protected against external and internal
16 noises, vibrations, and other factors that
17 may tend to make the environment less
18 desirable. There will be no excessive noise
19 emitting from this project. All the
20 glazings, insulated glass, using laminated
21 glass for the inside pane. This is
22 essentially the same type of glass used in
23 airports to deaden sound transmission. No
24 exterior noise or vibrations are anticipated
25 to -- to emit from the house.

1 Number 3: The proposed building or
2 structure is not in its exterior design
3 appearance of interior -- inferior quality
4 such as to cause the nature of the local
5 environment to materially depreciate in
6 appearance and value. According to the tax
7 appraiser's office, only 12 percent of the
8 appraised value of the houses on Seagate Road
9 are for the building value itself. The
10 remaining 88 percent of the value is in the
11 property. What this means is that more
12 buildings will be replaced in the future with
13 higher quality materials than what the old
14 existing buildings were built with. All
15 materials used in the construction of the
16 proposed house are of undisputed high
17 quality.

18 Number 4: The proposed building or
19 structure is in harmony with the proposed
20 development on the land and general area with
21 the comprehensive plan for the town and with
22 any precise plans adopted pursuant to the
23 comprehensive plan. This project meets the
24 town ordinance and zoning code and is thereby
25 in compliance with the comprehensive plan.

1 Number 5: The proposed building or
2 structure is not excessively similar to any
3 other structures nearby or for which a permit
4 can be issued or for any other structure
5 included in the same permanent application
6 within 200 feet of the proposed site in
7 respect to one or more of the following
8 features of the exterior design and
9 appearance: A, apparently visible identical
10 front or side elevations. All the elevations
11 of this house, as you just seen, are all
12 completely different. There's no -- there's
13 no duplicate of elevations; Number B,
14 substantially identical size and arrangement
15 of either doors or windows, particles or
16 other openings or breaks in elevation face
17 the street, including reverse arrangement.
18 And again, the house does not appear to have
19 the same windows, doors or other features as
20 others nearby. And that's -- that's fairly
21 evident; Number C, other significant
22 identical features of design such as those
23 not limited to material roof line and height
24 of other design elements. That basically is
25 the same as Number B.

1 Number 6: The proposed building or
2 structure is not excessively dissimilar in
3 relation to any other structure existing and
4 so forth. It's the same-exact verbiage as
5 the previous, except the difference is that
6 Number 5 says "the structure is not
7 excessively similar." And then in Number 6,
8 we say -- it says "the proposed building or
9 structure is not excessively dissimilar."
10 That -- that seems to me to be a
11 contradictory statement if we're -- we're
12 either -- if we're going to be dissimilar or
13 we're going to be similar, then where exactly
14 are we? We're in the middle somewhere, some
15 subjective point that is -- is -- is actually
16 a hard and a difficult decision and opinion
17 as I'm saying. It's a subjective conclusion
18 that one would make.

19 I'll continue on Number 6: The height
20 of building or height of roof. A, the height
21 of roof is 21-foot ten inches and is lower
22 than any other two-story house in the area;
23 Number B, other significant design features
24 including but not limited to materials or
25 quality of architectural design. This house

1 will be built from the highest quality
2 materials and will be of quality
3 architectural design; Number C, architectural
4 compatibility. What makes Irving
5 Environments dynamic is diversity. The
6 architectural design is compatible with the
7 surrounding environment. It is not the style
8 of the building that makes it good or not,
9 but the design itself. Only other architects
10 who produce works of great quality are in a
11 position to truly make this judgment. And
12 that's in light of an opinion there.

13 The arrangement of the components of the
14 structure. The arrangement of the components
15 of the structure are normal and typical
16 volumes that have been created for the
17 purpose of human habitations. The scale of
18 the form is as consistent with what is
19 generally thought to be at normal scale for
20 residential property. And as mentioned,
21 the -- the town ordinances and zoning code
22 pretty much dictate the maximum cubic content
23 as far as the massing.

24 Number 6E is basically -- goes over that
25 same issue, appearance of mass from the

1 street or any perspective visible to the
2 public or adjoining property. I'm trying --
3 F, Number F, diversity of design that is
4 complimentary to a size and massing of
5 adjacent properties. As mentioned, this
6 property will evolve and transform with
7 larger homes replacing the smaller homes as
8 time goes by, just by the virtue of the
9 property value versus the value of the
10 buildings that are on them. And as
11 mentioned, the zoning code restricts the
12 volume of -- of the house.

13 The design features that it will avoid
14 in the appearance of mass through improper
15 proportions: The design features appearance
16 of mass and proportion have been meticulously
17 studied and thought out. The home will be of
18 outstanding architectural quality. Design
19 elements that protect the privacy of
20 neighboring property, Number H. The north
21 and east elevations abutting the neighbors
22 have -- have very little window. There is
23 complete privacy. The neighbor to the north
24 has already indicated that he's -- he's very
25 happy with -- with the fact that there are no

1 windows facing his property. Likewise, the
2 west and south elevation have walls and
3 hedging up to 12 feet, providing complete
4 privacy.

5 Number 7: The proposed building or
6 structure is appropriate in relation to the
7 established character of other structures in
8 the immediate area and neighborhood, areas in
9 respect to significant design features such
10 as -- such as material or quality or
11 architectural design as viewed from any
12 public or -- or private way.

13 Number 7: Again, the material or
14 quality of architectural design viewed
15 from -- viewed from anywhere; however, it
16 will be very difficult to see from any public
17 or private way because of the extensive --
18 extensive hedging.

19 Number 9: The -- the project's location
20 and design adequately protects unique site
21 characteristics such as those related to
22 scenic views, rock, outcroppings, natural
23 vistas, waterways and similar features.
24 Obviously this -- this -- those that have
25 been to the site know that this site has no

1 unique site characteristics. It's basically
2 a flat unobstructed clean property with no
3 elements worthy of consideration for
4 maintaining.

5 That's basically all the relevant items
6 of Section 18-205 and how we have addressed
7 those items. You can also refer to page 21
8 and 33 of the package prepared by the
9 attorney that -- which indicates the modern
10 homes, all the modern homes that are -- that
11 are built on Palm Beach.

12 And with that, I'll turn it over to the
13 landscape architect, so he'll review the --

14 THE CHAIRWOMAN: Just a moment.

15 MR. O'NEILL: Yes. Sure.

16 THE CHAIRWOMAN: Mr. Sammons, do you
17 have a question?

18 MR. SAMMONS: Oh, yes. I can deal with
19 the architecture first, right?

20 THE CHAIRWOMAN: Right. Use your
21 microphone, please.

22 MR. SAMMONS: I'm going to wade in here
23 and -- I don't know whether it's proper or
24 not, but the attorney here will kick me if I
25 do anything out of line.

1 Thank you for reading the entire code
2 for us. It -- it -- I -- you know, it has
3 actually indicated that we've been actually
4 lax in recent years since I've been on
5 this -- you know, that we actually have not
6 been, you know, as strict as we should be.
7 And since you've read the code, I thought
8 maybe we need to be very strict.

9 Can I just ask the question whether your
10 intention of this building was that it would
11 be charming?

12 MR. O'NEILL: Well, that's -- that's --
13 sure. It's -- it's --

14 MR. SAMMONS: When I read Le Corbusier,
15 you know, five points, you know, charm has
16 never been part of the -- part of the mixture
17 there, has it?

18 MR. O'NEILL: Well, charm -- charm is
19 a --

20 MR. SAMMONS: When I -- when I hear
21 "fitness" and when I hear "proportion," you
22 know --

23 MR. O'NEILL: Okay --

24 MR. SAMMONS: They're actually talking
25 about proportion which is something I know a

1 little bit about. Is this -- is there a
2 proportional diagram on this building that
3 shows me how you portioned it?

4 MR. O'NEILL: I -- I could --

5 MR. SAMMONS: And I thank you for
6 providing the details.

7 MR. O'NEILL: No. I can go into a lot
8 of --

9 MR. SAMMONS: Because when I see mitered
10 stone, I want to go epileptic because you
11 don't miter stone. That's the worst detail
12 known to man, is mitered piece of stone. I
13 don't care how good the epoxy is today. It's
14 a bad detail.

15 How thick is the stone, may I ask?

16 MR. O'NEILL: I believe it's between
17 three-quarters of an inch and an inch.

18 MR. SAMMONS: Limestone density of
19 Baroque (ph) says two inches is the standard
20 for clouding, preferably four inches, so
21 there's two inches of cover on either side of
22 the clip.

23 MR. O'NEILL: Yeah. I'm not sure the
24 exact depth of the stone at this time. I
25 haven't selected the exact pieces, but --

1 MR. SAMMONS: So I'm happy that you
2 brought me details, but you're digging
3 yourself deeper.

4 MR. O'NEILL: No. That's -- that's a
5 personal opinion of yours as to mitered
6 corners being --

7 MR. SAMMONS: Oh, and also, I wanted to
8 talk about -- about opinion. Because
9 unfortunately we do live in --

10 MR. O'NEILL: Mitered corners are done
11 all the time. I mean --

12 MR. SAMMONS: I know they are.

13 MR. O'NEILL: -- cabinetry stone. Your
14 opinion is that they're not any good. That's
15 irrelevant.

16 MR. SAMMONS: Okay. And to the
17 attorney's point that opinions should not
18 count, you know, unfortunately this is a
19 democracy and democracy is nothing but
20 opinion. It's MAB rule (ph), you know. So
21 when I hear that somebody -- I should be
22 talking -- I should not be listening to
23 people's opinions -- I don't know. Okay.

24 MR. RANDOLPH: This is the time I will
25 kick you. Okay?

1 MR. SAMMONS: Okay. Backing off.

2 The -- the attorney -- remember, this is
3 a quasi-judicial hearing and you are here to
4 apply the criteria that are set forth in your
5 code as I've indicated to you in the past.
6 Because it's a public hearing, it is
7 important that you hear from the public and
8 have an opportunity to hear their opinions.
9 But your decision will not be based upon
10 popular opinion or public opinion. It will
11 be based upon those criteria.

12 So although folks have an opportunity to
13 get up and speak their peace, your decision,
14 when it's -- when and if it's reviewed by a
15 court, will be that they will look at
16 competent substantial evidence to see whether
17 or not -- what you've made your decision on
18 is based upon competence, substantial
19 evidence rather than simply public opinion or
20 what other people who are not necessarily
21 experts in the area feel. So I just wanted
22 to clarify.

23 UNIDENTIFIED SPEAKER: I'll stand
24 corrected.

25 MR. SAMMONS: That's why I want you.

1 THE CHAIRWOMAN: Mr. Ives.

2 MR. IVES: I just wanted to -- to
3 clarify for my own knowledge here. Compared
4 to the architectural presentation you gave
5 last month, the three architectural -- not
6 landscape, but three architectural changes
7 are the expansion joints have been redone,
8 the canopy and the roof's solar panels. Is
9 there anything else in there? Have I missed
10 anything?

11 MR. O'NEILL: The -- the corner detail
12 that we were just discussing. The -- the
13 curtain wall system is more detailed. The
14 diagram that shows the --

15 MR. IVES: I mean changes from what
16 you -- not just more detail, but actual
17 changes from your proposal last month to this
18 month.

19 MR. O'NEILL: I have -- I have -- I have
20 the materials. At the last meeting we
21 discussed the roll down shades. I mean, I've
22 got the material here that will -- will
23 provide the -- the shading of the windows. I
24 can -- I can --

25 THE CHAIRWOMAN: Are they interior or

1 exterior? I believe --

2 MR. O'NEILL: These are interior.

3 THE CHAIRWOMAN: We are mostly concerned
4 with exterior materials. And Mr. Ives is
5 asking if you have made any changes to the
6 building itself other than the corners and
7 changing a few of the details.

8 Have you made changes to the building
9 itself since last month?

10 MR. O'NEILL: No, not the building
11 itself.

12 THE CHAIRWOMAN: Okay.

13 MR. O'NEILL: Not the -- the design of
14 the arrangement spaces or anything like that,
15 no.

16 MR. IVES: Thank you for clearing the
17 record on that.

18 THE CHAIRWOMAN: Mr. Small, do you have
19 any comments?

20 MR. SMALL: Not at this time.

21 THE CHAIRWOMAN: Mr. Gruss?

22 MR. GRUSS: Well --

23 THE CHAIRWOMAN: You got to put your mic
24 on.

25 MR. GRUSS: Well, I think the question

1 has to do with Section 18-205, Number 6 and
2 Number 7. And the proposed building or
3 structure is not excessively dissimilar in
4 relation to any other structure within 200
5 feet of the proposed site.

6 So could you point out to us which
7 structure you feel or structures you feel are
8 within 200 feet and are similar?

9 MR. O'NEILL: That are similar or
10 excessively dissimilar?

11 MR. GRUSS: The proposed structure is
12 not excessively dissimilar in relation to any
13 other structure. So therefore, the way I
14 read it, there must be some homes here who
15 were similar.

16 MR. O'NEILL: Okay. The height of the
17 roof is 21 feet-ten, which is lower than the
18 other --

19 MR. GRUSS: That's --

20 MR. O'NEILL: -- two-story houses.

21 MR. GRUSS: That's what I'm -- that's --
22 that's not what I'm driving at. The -- I
23 guess it's architectural compatibility that
24 looks similar to this home in terms of
25 architectural expansion.

1 MR. O'NEILL: Well, if you're talking
2 about the architectural compatibility, C, or
3 other design, B, other significant features,
4 as is been previously pointed out, there are
5 scattered throughout the whole Palm Beach
6 area, modern homes that are --

7 MR. GRUSS: 200 feet.

8 MR. O'NEILL: Yeah.

9 MR. GRUSS: That's my question, within
10 200 feet.

11 MR. O'NEILL: There -- there are houses
12 all over Palm Beach that are modern that have
13 houses of different styles --

14 MR. GRUSS: Are there any houses within
15 200 feet which is similar to this house?

16 MR. O'NEILL: Similar in what way?

17 MR. GRUSS: Okay. I release the
18 microphone. We have to move on.

19 THE CHAIRWOMAN: Yeah. I think we need
20 to move on.

21 Mr. Knowles.

22 MR. KNOWLES: Yeah. I don't think we've
23 changed anything but raised the hedges to try
24 to hide this building. I still don't think
25 it's appropriate for the neighborhood. I

1 don't think trying to hide it behind the
2 hedges is making it any better.

3 You mentioned other places in Palm Beach
4 where there's a modern-style house that's not
5 near anything else similar. Well, just
6 because there was a mistake made in the past
7 doesn't mean we have to continue to make this
8 mistake.

9 THE CHAIRWOMAN: Thank you, Mr. Knowles.
10 Mr. Karakul.

11 MR. KARAKUL: No comment.

12 THE CHAIRWOMAN: And Mr. Sammons has
13 made his comments. I will refer -- refrain
14 from making any comments on the architecture
15 until after the presentation of the
16 landscape.

17 MR. KARAKUL: I have a questions for the
18 landscape.

19 THE CHAIRWOMAN: Yeah.

20 MR. PIÑON: I'd like to cross the
21 architect for a moment, if I could.

22 THE CHAIRWOMAN: It's your right.

23 MR. PIÑON: Did -- did you have a chance
24 to read through the transcripts --

25 UNIDENTIFIED SPEAKER: Can you all use

1 the mic so we can hear you?

2 MR. PIÑON: Oh, yes.

3 Did you have a chance to read through
4 the transcripts of the previous hearing?

5 MR. O'NEILL: Yes, yes.

6 MR. PIÑON: Do you recall, at any point
7 in that transcripts, being asked to change
8 the house?

9 MR. O'NEILL: No.

10 MR. PIÑON: Okay. You were asked a
11 second ago whether there were other similar
12 structures to this house. Do you recall
13 that?

14 MR. O'NEILL: At the last meeting?

15 MR. PIÑON: No. Right --

16 MR. O'NEILL: Right now, yes.

17 MR. PIÑON: And you referred to a
18 package or other houses, correct?

19 MR. O'NEILL: Yes.

20 MR. PIÑON: What -- could you describe
21 and tell us where you -- is there a package
22 or something else that would show us that?

23 MR. O'NEILL: Yes.

24 MR. PIÑON: Please --

25 THE CHAIRWOMAN: Mr. Piñon, would you

1 please speak directly into the mic when
2 you're asking these questions?

3 MR. PIÑON: Yes, yes.

4 MR. O'NEILL: Yes. This -- this -- this
5 package here entitled "Modern Homes Built on
6 Palm Beach," there's 18 listed and each --
7 each one of the homes also has the adjoining
8 houses listed. So you're seeing the houses
9 that are in the vicinity of -- of the -- of
10 the -- where a modern home is located.

11 MR. PIÑON: Would you tell me how many
12 examples are there?

13 MR. O'NEILL: There's 18 listed here.

14 MR. PIÑON: Was there another list --
15 was there another list that you read through?

16 MR. O'NEILL: Yes. There -- there's
17 another list, another booklet that I read
18 through and it's entitled "Modern Homes Built
19 on Palm Beach" and that list has 25 homes.

20 MR. PIÑON: What page is that located
21 on?

22 MR. O'NEILL: The Table of Contents is
23 on page 33.

24 MR. PIÑON: Okay. And what's the --
25 does that package have a -- a title?

1 THE CHAIRWOMAN: Mr. Piñon, you got to
2 use that --

3 MR. PIÑON: What's going on here?

4 THE CHAIRWOMAN: I think you must have
5 changed the --

6 UNIDENTIFIED SPEAKER: Maybe the
7 battery.

8 MR. PIÑON: Does that package have --
9 could you tell us what that package that
10 you're reading is?

11 MR. O'NEILL: The title is "Town of Palm
12 Beach Architectural Commission" June 25,
13 2014. And I'm reading from page 33, the
14 Table of Contents, "Modern Homes Built on
15 Palm Beach." There's 25 homes listed.

16 MR. PIÑON: Okay. Do you remember
17 being -- at the end of the meeting they
18 talked about the rhythm of the windows?

19 MR. O'NEILL: Yes.

20 MR. PIÑON: Do you recall any
21 conversation during the actual commission
22 meeting that would have given any indication
23 what "rhythm of the windows" meant?

24 MR. O'NEILL: No.

25 MR. PIÑON: In fact, isn't it true that

1 the only conversation of the windows referred
2 to the -- the fact that the client could be
3 seen through the windows while taking a
4 shower?

5 MR. O'NEILL: Yes.

6 MR. PIÑON: I thank you. No further
7 questions.

8 THE CHAIRWOMAN: Okay. Can we have
9 landscape presentation, please?

10 MR. FLECK: Good morning, everyone. My
11 name is Bob Fleck and I am landscape
12 architect, for the record.

13 The building design concept is routed in
14 the tropical modern style, which originated
15 in the '50s and '60s. It has its place in
16 the tropics, especially with this inherent
17 hurricane-resistant construction. I'm here
18 to reassure you that the landscape design
19 will help route the structure in the property
20 into the existing neighborhood surroundings.
21 Our concept is to create a lush tropical
22 garden, and we've looked to the Brazilian
23 modern landscape design for inspiration. The
24 design concept is to follow through with the
25 tropical modern theme, as we discussed at the

1 last meeting, and to incorporate the property
2 into the north end neighborhood fabric.

3 We have revised the plans to include a
4 taller, 12-foot high clusia hedge along the
5 entire perimeter. This hedge along with the
6 proposed staggered row of 15- to 18-foot
7 clear trunk foxtail palms. And the 12 to 15
8 clear trunk foxtail palms that surround the
9 entire property will provide an instant and
10 long-term visual screen. All in all, there
11 are 31 foxtail palms and 142 clusia plants
12 proposed.

13 In summation, this property will become
14 an asset to the neighborhood and will help
15 reinforce the notion that the Town of Palm
16 Beach has remained open to classic,
17 well-executed design.

18 Are there any questions or comments?

19 THE CHAIRWOMAN: Mr. Karakul, you had a
20 question, you said?

21 MR. KARAKUL: Yes.

22 Along the -- where the gate is --

23 MR. FLECK: Yes.

24 MR. KARAKUL: -- is there hedging in
25 that section as well?

1 MR. FLECK: Yes, there is.

2 MR. KARAKUL: And how high is it that?

3 Because that's kind of --

4 MR. FLECK: It's a -- it's a seven -- it
5 is a 36-inch high seven-gallon silver
6 buttonwood --

7 MR. KARAKUL: 36 --

8 MR. FLECK: -- in a raised planter.

9 MR. KARAKUL: So it's three -- I'm
10 just --

11 MR. FLECK: Yes.

12 MR. KARAKUL: -- saying that the concept
13 of creating good contemporary architecture
14 and then allowing the landscape to help in
15 the mystery of it, I think some -- there have
16 been some very successful projects --

17 MR. FLECK: Uh-huh.

18 MR. KARAKUL: -- combining that the --

19 MR. FLECK: Yes.

20 MR. KARAKUL: Because the concept of
21 someone being able to build on their property
22 what they like and their esthetic, you know,
23 and that if it's good quality and high
24 quality, those are all things that -- that we
25 encourage.

1 MR. FLECK: Uh-huh.

2 MR. KARAKUL: I think that the issue
3 with that particular portion of the landscape
4 needs to be studied because the -- the fact
5 that there's hard surface right up to the
6 garage doors, no additional softening there
7 and enhancement there, and then the fact that
8 that's a six-foot wall with a low -- it's
9 still going to be -- it's going to be less
10 mysterious than I imagined that would
11 complement and make it more comfortable as a
12 piece of --

13 MR. FLECK: Yes.

14 MR. KARAKUL: -- new architecture.

15 MR. FLECK: Yes.

16 MR. KARAKUL: So I think your issue
17 along that whole section and the relationship
18 with the hard surface meeting right up
19 against the hard surface would --

20 MR. FLECK: Yes.

21 MR. KARAKUL: -- be in this context --

22 MR. FLECK: All right.

23 MR. KARAKUL: -- of the neighborhood.

24 That's where I don't know that you're doing
25 it justice to make it feel more comfortable.

1 MR. FLECK: Okay. We do have a tall
2 Sylvester date palm directly behind that wall
3 that will --

4 MR. KARAKUL: But I -- you know, I think
5 that is probably not the prettiest part of
6 the architecture, you know, with that garage
7 extension and all those different things. So
8 I think that's -- that's going to be the most
9 visible section. And I don't know that that
10 is complementing the property properly.
11 That's where --

12 MR. FLECK: Okay.

13 MR. KARAKUL: I think -- and I think
14 that is going to still be very visible, the
15 way that that comes around there. And I
16 think that that's probably where you're
17 missing the mystery that might have, from the
18 very beginning, made this less complicated.

19 MR. FLECK: Okay. I see your point.

20 THE CHAIRWOMAN: Mr. Sammons.

21 MR. SAMMONS: I -- I just -- on that --

22 THE CHAIRWOMAN: Would you use your
23 mic -- microphone, please?

24 MR. SAMMONS: Sorry. Sorry.

25 You know, it does -- it -- that actually

1 brings up an interesting point because the
2 entire corner is completely exposed. So --
3 is that correct? Is that what I'm reading
4 here? So when you're standing -- when you're
5 driving down the road, you're basically
6 looking right through the corner and you're
7 seeing -- you know, the mass of the house is
8 not disguised at all from the principal view.
9 Is -- is that -- is that what I'm reading?

10 MR. FLECK: Well, yes, there's -- you
11 have a good point there in terms of that very
12 corner. But the whole resting -- the rest of
13 the property is -- is well, well screened.

14 MR. KARAKUL: But I'm not sure you're
15 highlighting the most attractive piece of the
16 property through that corner vision
17 because -- and, you know, we've seen many of
18 these really enhanced with a breaking up of
19 the hard surfaces, with, you know, grass in
20 between the pavers and things that make it
21 more part of the landscape and -- and part
22 of -- and I understand the indoor/outdoor
23 concept and I really applaud tropical-modern.
24 I think it can be very, very wonderful, you
25 know, for people. And I think we have some

1 good ones. I'm just not sure that you
2 studied that whole aspect of that and that
3 you will get the most benefit.

4 I think it -- I think accepting it as it
5 is presented will encourage more controversy
6 than necessary. You know what --

7 MR. FLECK: Yes.

8 MR. KARAKUL: -- I mean on that. And I
9 don't think that it's looking at the most
10 attractive part of the house. I think
11 that -- that whole courtyard and that needs
12 to be studied --

13 MR. FLECK: Okay.

14 MR. KARAKUL: -- much further. And I
15 think it could be much more handsome and
16 more, you know, part of the landscape if you
17 know what --

18 MR. FLECK: Okay. I understand, yes.

19 MR. KARAKUL: -- and more unusual and
20 special. That could be a really significant
21 additive to people feeling more comfortable.

22 THE CHAIRWOMAN: If I could add two
23 cents to that.

24 You have a problem because you're on the
25 corner and you have site --

1 MR. FLECK: Yes, uh-huh.

2 THE CHAIRWOMAN: -- plans. And it is a
3 problem. Even though it's a problem, you
4 have given yourself a bigger problem because
5 it is a huge opening into the view of that
6 house, as Mr. Karakul said, and the least
7 attractive.

8 Anyone else have a comment before we go
9 to public comments?

10 MR. RANDOLPH: They had some more on
11 their presentation before they -- before you
12 go to public.

13 THE CHAIRWOMAN: I thought you were
14 finished with your presentation.

15 MR. FLECK: Yes, I was.

16 MR. RANDOLPH: The architect's finished.
17 I think that the attorney said he perhaps has
18 someone else he would like to speak to.

19 THE CHAIRWOMAN: Sorry.

20 MR. PIÑON: I want to ask a couple of
21 quick questions.

22 On that -- on that -- on that corner,
23 there -- there is a wall. There is a wall
24 there; am I right?

25 MR. FLECK: Yes, there is.

1 MR. PIÑON: And how tall is that wall;
2 do you know?

3 MR. FLECK: The wall is four feet high.

4 MR. PIÑON: Are you sure it's not six --

5 MR. FLECK: I'm sorry. Six feet high.

6 MR. PIÑON: Okay.

7 MR. FLECK: Okay.

8 MR. PIÑON: So when you drive by -- so
9 when you -- when you drive, is it really
10 possible to see the entire house?

11 MR. FLECK: You'll be -- you'll be able
12 to see this one section here, yes.

13 MR. PIÑON: But the entire house?

14 MR. FLECK: No. You can't see the
15 entire house.

16 MR. PIÑON: And -- and right through
17 that, isn't that a one-story structure?

18 MR. FLECK: That is.

19 MR. PIÑON: What is that, the garage?

20 MR. FLECK: That is the garage, correct.

21 MR. PIÑON: And there's a gate?

22 MR. FLECK: And there's -- there is a
23 gate, yes.

24 MR. PIÑON: Right. That blocks the
25 view?

1 MR. FLECK: Exactly.

2 MR. PIÑON: Okay. And you do have some
3 plants in front of that -- that wall, is
4 that --

5 MR. FLECK: Yes, we do.

6 MR. PIÑON: Okay. All right. Thanks.
7 Thank you.

8 THE CHAIRWOMAN: Knowing that we have --
9 you are finished, correct?

10 MR. PIÑON: Yes.

11 THE CHAIRWOMAN: I open it up to public
12 comment.

13 MR. PIÑON: My client would like to
14 speak.

15 THE CHAIRWOMAN: Before or after public
16 comment? Whenever you want.

17 MR. PIÑON: I think that now would be an
18 appropriate --

19 THE CHAIRWOMAN: Fine. Mr. Thomsen,
20 please?

21 MR. THOMSEN: Good morning, yes, my name
22 is Mads Thomsen. I was born in Denmark and
23 moved to Florida four years ago. I want all
24 of you to know that I look forward to living
25 in this wonderful place and being your

1 neighbor. I also want you to know that
2 before I bought this home, I spoke with John
3 Lindgren via phone to find out if I can
4 demolish the previous home and build a modern
5 home. I was told that as long as I was
6 allowed to demolish, I could, as there was
7 numerous modern homes on the island.

8 At -- the recently approved modern home
9 on Coral Lane, the Chu house and countless
10 others are examples of modern homes
11 surrounded by very different-type homes.
12 Mine would be less impact into the neighbor
13 with its sophisticated screened-in
14 landscaping. This makes me feel very
15 discriminated against.

16 At least one of my neighbors who claims
17 that my home will not fit in has two
18 barbecues in his driveway and his home looks
19 like it has not been painted in years,
20 clearly visible from the street, yet he
21 writes that my home will not fit in. Others
22 have a boat parked in the driveway and
23 another has a stand-alone basketball hoop.
24 Why they would complain, I simply cannot
25 understand.

1 There are other similar examples of
2 those who have complained, but I'm here to
3 coexist with everyone as a good neighbor.
4 Live and let live. That's been my
5 philosophy. I simply ask that I can build my
6 home on my land, live in peace and enjoy the
7 views I've worked so hard to have. Thank you
8 very much.

9 THE CHAIRWOMAN: Thank you.

10 Public comment, please.

11 MR. LINDGREN: Ms. Chair, we have
12 several letters and emails that I have to
13 read into the record.

14 THE CHAIRWOMAN: Okay.

15 MR. LINDGREN: And I can do that quickly
16 here.

17 MR. RANDOLPH: Are they emails that they
18 have not seen?

19 MR. LINDGREN: No, sir. But typically
20 we read these into the record.

21 MR. RANDOLPH: Are they emails that the
22 applicant has seen and that they've seen?

23 MR. LINDGREN: The applicant, again, has
24 seen most of these. I think we had a couple
25 that came in yesterday that I did not have a

1 chance to forward to the owner. So --

2 MR. RANDOLPH: It's up to the Chair, if
3 you want to hear -- how many of them are on
4 there?

5 MR. LINDGREN: There's a total of 12.
6 Some are very short. Most of them are very
7 short.

8 THE CHAIRWOMAN: Would you care to have
9 all of the letters read into the record?

10 MR. PIÑON: I think we'd be prejudiced
11 by anything we haven't seen up till now. And
12 I reiterate my position that these -- these
13 public comments, we know where they're going
14 and where they're heading as a general rule.
15 And again, you should take them as even
16 Town's attorney said --

17 THE CHAIRWOMAN: Okay. Do you know
18 which ones you have not seen?

19 MR. PIÑON: I think Mr. Lindgren will
20 probably know.

21 THE CHAIRWOMAN: And that will suffice
22 versus reading all of them at the same time?

23 MR. PIÑON: What are you asking, to be
24 sure?

25 THE CHAIRWOMAN: I'm asking you if you

1 would like to have all of the emails read
2 into the record at this time.

3 MR. PIÑON: No. No, I wouldn't, if
4 you're asking me.

5 THE CHAIRWOMAN: But you have the right
6 to ask that.

7 MR. PIÑON: Yeah, no, I wouldn't. In
8 fact, as I said, I believe we'd be prejudiced
9 by material that we haven't had a chance to
10 see.

11 MR. RANDOLPH: And let me just state,
12 you have the bulk of these and the bulk of
13 these have been given to the applicant. I
14 suggest the two emails that the applicant has
15 not seen and that perhaps you have not seen
16 be read or at least summarized so that you
17 have that on the record.

18 THE CHAIRWOMAN: Thank you.

19 MR. PIÑON: While I understand your
20 position and the board is -- is at liberty to
21 do what it is, I want to lay my objection for
22 the record.

23 THE CHAIRWOMAN: I think that we should
24 hear the two.

25 MR. RANDOLPH: Did you present, as part

1 of your package today, a letter from a
2 neighbor who was in favor of the project?

3 MR. PIÑON: Did I present one today?

4 MR. RANDOLPH: No. As part of the
5 package that you had presented to this
6 commission, did you present a letter from a
7 neighbor who was in favor of the project?

8 MR. PIÑON: Yes. It's at the end of --

9 MR. LINDGREN: That was read into the
10 record. That was a previous letter.

11 MR. PIÑON: And for the record, there's
12 another letter that I believe Mr. Lindgren
13 had received that's in favor of the project.

14 MR. RANDOLPH: Good. So you should read
15 that as well if that's something that they
16 don't have.

17 MR. PIÑON: Well, again, I --

18 MR. RANDOLPH: You've made your point
19 for the record. I am indicating that for
20 your benefit and for the benefit of the
21 commission, that they not read into the
22 record emails that they have read already and
23 that you have read already.

24 MR. PIÑON: Wonderful.

25 MR. RANDOLPH: This is a public hearing

1 and a quasi-judicial hearing. They have the
2 right to hear emails they have not yet seen,
3 as do you. And you have the right to present
4 another email or letter that you might have
5 that they have not seen. So let's get it
6 all -- let's get it all on the record.

7 MR. PIÑON: My understanding is that
8 Mr. Lindgren would have a copy of this
9 letter, it was sent to him. Just to be sure,
10 does he have this June 21st letter from Mr.
11 H-U-A-I-N-I-G-G?

12 MR. LINDGREN: No, sir.

13 MR. PIÑON: May I hand this?

14 MR. LINDGREN: Sure. Thank you.

15 MR. PIÑON: Let the record reflect that
16 I've handed him that letter that he's about
17 to read in.

18 MR. LINDGREN: Okay. And I did have
19 conversations with the owner a while back.
20 His primary concern was the demolition
21 application. He had been in another
22 jurisdiction where he was unable to demolish
23 a house or got a lot of -- had a lot of
24 issues in trying to demolish that house. And
25 I explained to him it was a very clear-cut

1 process here as long as the criteria were
2 met. I honestly don't recall talking at that
3 stage about what type of home he was
4 proposing or looking at, but the bulk of that
5 conversation --

6 THE CHAIRWOMAN: Right. Mr. Lindgren,
7 didn't you place -- the first deferral was
8 done because the applicant's application was
9 not submitted in a timely fashion.

10 MR. LINDGREN: No, ma'am. That wasn't
11 the case.

12 THE CHAIRWOMAN: What was the case?

13 MR. LINDGREN: There was numerous issues
14 with the code. They didn't meet code --

15 THE CHAIRWOMAN: Okay, fine. So that's
16 why they were deferred the first time. I
17 just want to clear it up.

18 MR. LINDGREN: Right. And -- anyway,
19 moving on.

20 The first two are emails that I received
21 yesterday. What do we got here? The first
22 one, Dear John, please distribute this letter
23 to the ARCOM members in anticipation of
24 meeting tomorrow.

25 Dear Members of ARCOM, this is a letter

1 expressing our concern and disapproval for
2 the house proposed at -- for 167 Seagate
3 Road. The house is -- is extremely
4 dissimilar in relation to any other structure
5 within 200 feet. The appearance is too
6 massive. We live nearby on Esplanade Way and
7 also are members of the Sailfish Club. We
8 walk or ride our bicycle past the property
9 almost every day. Please defer this
10 unsuitable project again and ask the
11 architect to design a house that follows the
12 requirements of the town code. Sincerely,
13 Ann and Bill Metzger.

14 Then the second one here: To the
15 Members of ARCOM, we live at 161 Seagate
16 Road, just to the east of 167 Seagate Road,
17 the site for the proposed two-story
18 modern-style house. We purchased our home
19 over 12 years ago and have enjoyed living and
20 being a part of this community. We chose
21 this house designed by Chorlton and built in
22 1946 because of its classic Bermuda
23 architecture and its correct modest
24 proportions to the lot size. We especially
25 like that the entire street, both older and

1 newly-built homes, had similar designs and a
2 harmonious, friendly feel. Now for the first
3 time, we have proposed plans that, in our
4 view as well as that of several architectural
5 experts, are totally inconsistent and out of
6 context with the neighborhood.

7 We feel fortunate to have an astute
8 architectural review committee devoted to
9 preserving our neighborhood esthetic and
10 cohesiveness. Hedges and landscaping to
11 camouflage the project should not take
12 precedence over inappropriate and
13 inharmonious design, which will be 24 feet
14 high. This is a very special and unique road
15 where we look after one another in many ways.
16 It's been a wonderful experience raising our
17 son here and we'd like -- we'd like Seagate
18 Road to remain in harmony with both the
19 architecture and caring nature of its
20 residents. Please support us in our effort
21 to keep it so by enforcing your governing
22 language as intended. Thank you for your
23 time and consideration, Jeff and Katy Amling,
24 161 Seagate Road.

25 Here is the letter I was just handed.

1 It's dated June 21st of this year: Dear
2 Commissioners, we recently purchased a
3 residence at 152 Dolphin Road. And one of
4 the reasons we are invested in this area is
5 the beauty of the neighborhood architecture.
6 Especially in the north end area of Palm
7 Beach, the beautiful houses are subject to a
8 wide range of variety. This letter is in
9 support of the proposed new residence to be
10 located at 167 Seagate. We have reviewed the
11 plans and presentation and feel it would be a
12 good addition to the area because it
13 continues the effort to realize a high
14 quality of variety in the architecture in
15 Palm Beach north end.

16 A bit of diversity is a good thing.
17 Also, a contemporary architecture is a good
18 thing when it -- when it bases on a good
19 planning and relates to architectural basics
20 of the past without losing the focus to the
21 present and to the future as well as to the
22 surroundings. We feel that the 167 Seagate
23 project fulfills this demand. This is the
24 reason why we request that it be approved by
25 the commission. Kind regards, Dr. Joseph

1 Huainigg. That's H-U-A-I-N-I-G-G. I
2 apologize for mispronunciation.

3 Okay. And finally, this is a letter
4 dated June 23rd of this year: Dear Members
5 of ARCOM, I am -- I am a European architect
6 from Spain who resides at 1496 North Lake
7 Way, a few blocks north of the proposed home
8 on 167 Seagate. My work has been featured in
9 more than 30 books and magazines, including
10 publications in Italy, France, Spain, the
11 United States and the Scandinavian counties.
12 Earlier in my career, I designed many
13 traditional-style homes. I reached a point
14 where I realized I was not creating anything;
15 I was copying. I could not express my
16 creativity. It became very important for me
17 to design pure and contemporary architecture
18 that is of our present time. Twenty years
19 ago, I saw a home in Palm Beach that was the
20 work -- that was a work of art, Reef House by
21 Luis Fassio, a world renowned architect. I
22 learned the house was designed in the
23 mid-1930s in contemporary to the work of Le
24 Corbusier, a leading architect in modernism.

25 Some years later, I saw the house again

1 and was shocked to see what had been done to
2 the east facade. I could not understand who
3 had the audacity to judge this house and
4 disregard such excellent design to allow the
5 defacement of such a masterpiece of
6 architecture, a true work of art. I still
7 cannot understand why this building was not
8 designated as an historic landmark.

9 Along the same line, I cannot understand
10 why the Richard Meier-designed house at 958
11 North Lake Way is not on the list of landmark
12 buildings. This is one of the finest houses
13 by one of the very best architects alive in
14 the world today. It is beyond comprehension.
15 These houses designed by Fassio and Meier are
16 examples of important architecture. I like
17 everything exceptional, traditional or
18 contemporary as long as it is the best. The
19 most beautiful museums in the world have a
20 combination of both traditional and modern.
21 I.M. Pei's addition to the Louvre had to
22 respond to the time period in which it was
23 designed. The north addition to the
24 Metropolitan Museum in New York is a modern
25 addition that works in harmony with the

1 original neoclassical building.

2 I have attached photos of the Reef
3 house, the Meier house, and three modern
4 homes in the immediate neighborhood I feel
5 are very well done. They are excellent
6 examples of contemporary architecture. I
7 have also included a photo of the house under
8 construction at the corner of North Ocean
9 Boulevard and Arabian Road, an example of
10 what I consider fake architecture. The house
11 is not in proportion to the lot. It is my
12 idea -- it is not my idea of what traditional
13 architecture should be in accordance with
14 materials as well as proportion.

15 I support the residential design
16 submitted for the property at 167 Seagate
17 Road. The architecture and the landscaping
18 are outstanding. It would be a positive
19 addition to the neighborhood. I encourage
20 ARCOM to approve the projects. Sincerely,
21 Javier Alday Olasso, Architect.

22 THE CHAIRWOMAN: Thank you.

23 Can we now go to public comment, if
24 there's anyone who cares to make a comment?

25 MS. WILSON: Is it working?

1 We're going to make sure -- I'm going to
2 wade boldly into the territory Mr. Sammons
3 stuck a toe in.

4 THE CHAIRWOMAN: Name and address?

5 MS. WILSON: Sorry?

6 UNIDENTIFIED SPEAKER: Name and address?

7 MS. WILSON: I'm Patricia Wilson, 300
8 Arabian Road in Palm Beach. And my husband
9 and I are relatively new residents here. We
10 moved here about two years ago and chose Palm
11 Beach because of the community and the sense
12 of place. And those words can't be
13 overestimated. Sense of place is what gives
14 a community its integrity. And the values
15 that we have heard -- spoken of, the grace,
16 the elegance, the symmetry, the rhythm of
17 windows, it's the same as a piece of music.

18 And just a little background. I spent a
19 lot of time doing historic preservation work
20 in the State of South Carolina. Mapped out
21 two historic communities in Charleston and
22 the small town of Leesville. So I worked
23 with architects. Additionally, we built five
24 houses; two of which have been featured
25 architecturally for excellence. So there's a

1 little bit of personal desire to see our
2 community standards stay the same.

3 The houses that you look at when you
4 walk around Palm Beach, you feel this sense
5 of community and you want to meet the people
6 that live in those. And though they're not
7 for boating, they do have a sense of charm.
8 And "charm" is a word like "pornography."
9 You know it when you see it. And you do know
10 charm. And this is a personal opinion as
11 been dissuaded, but yes, charm is inherent,
12 it is important, and it's what gives Palm
13 Beach its unique sense of place and style.
14 So I respectfully request we decline this.
15 Thank you.

16 THE CHAIRWOMAN: Thank you.

17 MS. PALADINO: Members of the board, my
18 name is Joanne Paladino. I live at 148
19 Seagate Road. I've been there for the last
20 six years and just recently bought the house
21 in February. I'm opposed to the project, not
22 because it's modern architecture. I think
23 it's inappropriate and too dissimilar to
24 what's going on in the neighborhood. And you
25 use that language in the Code of Ordinances.

1 And I'll make it short and sweet and
2 that's it.

3 THE CHAIRWOMAN: Thank you.

4 Anyone else have a comment?

5 MS. METZGER: I'm Anne Metzger, this is
6 my husband, Bill Metzger. We live at 277
7 Esplanade Way. I've lived there for over 40
8 years and John just read my letter. I just
9 want to reiterate that I think the design is
10 too dissimilar to the neighborhood. Thank
11 you.

12 THE CHAIRWOMAN: Thank you.

13 MS. ZISKA: Good morning. Maura Ziska.
14 I live at 1500 North Ocean Boulevard in this
15 neighborhood, as well as a member of the
16 Sailfish Club. I too walk by this property
17 on a daily basis with my dogs, ride bikes, et
18 cetera. And I'm usually on the other side of
19 the aisle, trying to get projects approved,
20 but in this situation, I feel like this --
21 the design of this house, although it's a --
22 it's a nice design of a modern house, is
23 inappropriate for this parcel and this
24 neighborhood. It's too dissimilar. And the
25 other modern houses that have been approved

1 could -- the properties and the neighborhood
2 could stand that type of architecture. The
3 Chu projects who are clients of mine, they
4 had 21 letters of support of that project, a
5 vast difference than this project.

6 I also want to tell you a story about a
7 client that I had who bought a house on
8 Plantation. I think Ms. Vanneck may have
9 been on that commission. But it was several
10 years ago. It's a -- primarily all one-story
11 Bermuda style. It's on County Road in
12 Plantation on the southwest corner. And they
13 wanted to design a two-story
14 Mediterranean-style. We worked on the plans,
15 we came to ARCOM. That project was denied
16 eventually because they said that, although
17 it's on County Road and although there are
18 other Mediterraneans in the neighborhood, it
19 was too dissimilar to the neighborhood. It
20 was denied and it was redesigned to be a
21 Bermuda-style house and it fits very nicely
22 in what is there in the neighborhood now.

23 So -- and I did talk to Mr. Piñon months
24 and months ago and I suggested that his
25 client redesign the house. I said this is

1 going to be a problem. I told my clients the
2 same thing. If there's a vast difference in
3 the architecture, if there is neighborhood
4 opposition, you have a hurdle to overcome.
5 And it doesn't seem like the applicant wants
6 to work with the design of the neighborhood.
7 Thank you.

8 THE CHAIRWOMAN: Thank you.

9 MR. SMITH: Good morning. Jeff Smith.
10 I actually -- I own the property at 119
11 Seagate Road, just couple of houses from
12 here. We've owned -- my family's owned that
13 property for almost 45 years. And what I
14 want to say this morning is that, I've been
15 on ARCOM for 30 years. I started 30 years
16 ago. I've never seen so much opposition to a
17 house ever. And this is in -- we're in June.
18 I mean, we're not in the season where all
19 these people get rallied up. Okay? This is
20 a very tight community. The north end is a
21 special place. People that live there love
22 it and we need to protect them.

23 Now, the attorney for the applicant said
24 that no one takes the time to complain in --
25 you know, no one takes the time to

1 complain -- or everyone takes the time to
2 complain but not to support things. Well, no
3 one in Palm Beach takes the time to write
4 these letters as we know from being on this
5 commission until after the fact. We always
6 hear about after the fact. We never hear
7 about it before. Well, you're hearing the
8 neighborhood now saying, "Stop. Please do
9 your job."

10 This is very similar, I think, to a
11 demolition application where one comes before
12 you, you love the house, you can't save it.
13 You have no -- your job is to vote to approve
14 that demolition. You have no way to save it.
15 In this case, it's very similar that this
16 house does not fit in the neighborhood. You
17 must do your job and deny it.

18 MR. RANDOLPH: Excuse me. Mr. Smith,
19 will you please state your expertise and your
20 qualifications and do you have any comments
21 in regard to the architecture of this place
22 and how it fits in with the criteria and the
23 code?

24 MR. SMITH: I'm a registered architect
25 in the State of Florida and many other

1 states. I -- I could go on, probably about
2 six or eight. I have sat as the chairman of
3 this commission for, I think -- I wrote -- I
4 read it somewhere. I don't know how many
5 years, but at least eight, ten, 15. I'm not
6 sure. I wrote it -- I put it in my letter
7 that I submitted.

8 How this fits in the neighborhood, I
9 just believe it doesn't. My next is, the
10 applicant put this in his application. These
11 are the structures within 200 feet, the plot
12 plan. There's not one house there that is
13 compatible with this structure. Also, a
14 member of the Sailfish Club. And coming out
15 of the Sailfish Club, you're -- it's -- the
16 elevation is so much higher. All you're
17 going to be doing is looking into these
18 windows.

19 Let me see what else I have here, just
20 to make sure. Anything else?

21 MR. RANDOLPH: No. I just wanted to
22 find out if your opinion was based upon the
23 neighborhood not liking it or it was based
24 upon your opinion as an architect and
25 applying the criteria of the code.

1 MR. SMITH: My opinion as an architect
2 is, it does not meet the ordinance based on
3 the letter I submitted last month about any
4 houses within 200 -- any properties within
5 200 feet of the property per our code. And I
6 was pretty detailed when I submitted my
7 letter.

8 Finally, the only way that this house
9 can be approved is to change the ordinance.
10 Thank you.

11 THE CHAIRWOMAN: Thank you.

12 MR. MOORE: Hi. Robert L. Moore, 318
13 Bunker Ranch Road, West Palm Beach. I am
14 here to help the neighbor to the east. And I
15 have looked at the project. I've looked at
16 the session from last month. I was not here
17 for the initial presentation. My
18 qualifications to speak to you today, for the
19 record, were 25 years as Director of
20 Planning, Zoning & Building for the Town of
21 Palm Beach, predecessor to John Page.

22 I'm here to say to you that I've sat
23 where Mr. Randolph, Mr. Page, and
24 Mr. Lindgren have sat for many, many years.
25 I've been on both sides since I retired.

1 I've been -- I've been an advocate for a
2 project and I have been an opposition to a
3 project.

4 The original name for this group was
5 called the Art Jury. And anyone wishing to
6 take a look at the hallways down in the
7 building department, you'll see the original
8 members of the Art Jury are all architects
9 except for Mr. Inger who is the third --
10 first building official of the town.
11 Mr. Smith indicated to you and it has been
12 indicated to you and I think will be
13 indicated again, your jurisdiction in this
14 particular case is within the neighborhood
15 which is defined as 200 feet within the
16 ordinance. There are no contemporary homes
17 or modern homes, whatever -- whatever label
18 you wish to put on this design, that can be
19 found in this be particular area within
20 200 feet.

21 It's interesting that the reason that
22 that section was put into the ordinance many,
23 many years ago, before my time back in the
24 early '70s -- Mrs. Merricks would remember if
25 she was here to be able to speak to it -- was

1 because there was a development that you all
2 are familiar with along North County Road
3 called Los Incas, Via Los Incas. That is
4 full of contemporary and modern homes. If a
5 home was being torn down there and a
6 beautiful Mizner-style Mediterranean house
7 was going to be built in the heart of that
8 group of homes, I think you would probably
9 hear the exact opposite objection to the
10 Mediterranean being put in or Bermuda or
11 whatever style within that group of homes.

12 It was interesting, I believe, that one
13 of the letters that was read by Mr. Lindgren
14 was from an architect who lives further up on
15 North Lake way. And I believe he lives in
16 the intersection of Mediterranean and North
17 Lake Way in a modern house. Ironically, that
18 house does not fit in that neighborhood. And
19 I will tell you that those of you that live
20 in that area and have traveled that area know
21 very well what I'm referring to.

22 I would say to you, you're charged, as
23 Mr. Randolph said to you earlier, to look at
24 the substantial competent evidence regardless
25 of what the applicant's attorney has told you

1 about neighbors, whether they complain or
2 not. That -- that is a factor that you can
3 consider in your deliberations, but you are
4 actually charged with looking at that
5 ordinance. And looking at the ordinance in
6 this particular case with this style
7 architecture in this neighborhood as to
8 whether it is too similar or too dissimilar.
9 In this case, it is very much too dissimilar.

10 And one word about zoning. I've heard
11 that the zoning has been met in this
12 particular case. There are no guarantees in
13 the Town of Palm Beach's zoning code that you
14 can reach maximums or minimums. You have
15 control over mass and how that mass is put on
16 that property. You cannot tell someone they
17 can't build a two-story home, but you can
18 tell someone what that second story is going
19 to look like, where it's going to be on the
20 house and, in fact, what it's going to -- how
21 it would affect the neighbors. And you've
22 done that for many ways because you don't
23 want second stories peering down into
24 peoples' backyards.

25 So I'll conclude by simply saying that

1 I'll leave myself open to any
2 cross-examination that the -- that the
3 applicant's attorney may wish, but I will say
4 that you are looking at a classic case of
5 denial for too dissimilar within the
6 200 feet.

7 Any questions? I'll be glad to answer
8 them.

9 THE CHAIRWOMAN: Thank you. Ms. -- one
10 more.

11 MR. MRACHEK: I think -- I think I may
12 be the last and hopefully I'll be very, very
13 brief. My name is Louis Mrachek. I'm an
14 attorney. What qualifications do I have to
15 appear in front of you? Darn little. For 40
16 years, I've tried lawsuits over in Palm Beach
17 County Courthouse and throughout Florida;
18 sometimes against the town of Palm Beach and
19 a couple of times I've had the privilege of
20 representing the Town of Palm Beach.

21 I think I'm here to give you some solace
22 that if you do the right thing in this
23 case -- which I think is deny on the grounds
24 of compatibility -- you will be well received
25 and treated over in our lovely courthouse.

1 There is no way that this project is not
2 incompatible. It is excessively dissimilar,
3 to use the language of the code.

4 All you've got to do is look at the
5 pictures on pages 24, 25, 26, 29 and 30 of
6 the applicant's presentation. Those are the
7 homes within 200 feet. Take those pictures,
8 lay them beside the elevations for the
9 proposed structure at 167 and a first-grader
10 could pick out what is dissimilar. A
11 first-grader could say, "This house does not
12 belong with these houses." It's simply that
13 simple.

14 You've been given a list of some 25
15 modern homes in Palm Beach. As best as I can
16 figure out, there's probably 2,500
17 single-family residences in Palm Beach,
18 houses. So we're talking about one percent
19 or less are modern. That's a -- a difficult
20 hurdle to get over. If everybody in the
21 neighborhood supports it and -- and this
22 commission decides to go along with it, I
23 guess they can get approved now and then.
24 They get approved, I guess one percent of the
25 time, because that's all there are.

1 Of the list of those homes, 19 of them
2 are more than a mile away from the site; 14
3 of them are more than two miles away from the
4 site. Some of them are as far down as Ibis.
5 There is not one home within a thousand feet
6 of the site that is an international modern,
7 modernistic, modern home, contemporary home,
8 whatever you want to call it. That's the Chu
9 residence on North Ocean Boulevard. It's
10 more than a thousand feet away.

11 If you want to talk about distance, it's
12 interesting that the two original supporters
13 of the project that wrote letters, a lady
14 named Lisa Pillarts or Calhoun, she lived
15 about 2,000 feet away and the other lady,
16 Laura Evans, she lived in a Winthrop house
17 more than 4.76 miles away. Nobody who has to
18 live around the site within sight of the home
19 has supported it. All the neighbors are
20 against it on the grounds of compatibility,
21 which is well defined by the code and -- and
22 could not be a clearer standard.

23 You heard the architect when he got to
24 the portion of the code that required
25 compatibility say something that was a little

1 bit strange. I don't know if you caught it.
2 He said only true artists or no true -- only
3 true architects can recognize compatibility,
4 and I recognize it. Only he can recognize
5 it. Well, compatibility has a definition.
6 It's in the dictionary. You can look it up.
7 "Compatible" means existing together in
8 harmony. It has to be harmonious in
9 otherwise.

10 There is no way that this structure is
11 harmonious. And it certainly doesn't make it
12 harmonious to hide the structure. This is
13 the Architectural Review Commission. It's
14 not the Hedge Review Commission. You're
15 supposed to look at the structures and the
16 buildings, behind the hedges, to see if they
17 meet the standards. This building clearly
18 does not meet the standards. There's
19 substantial competent evidence in the record
20 that it doesn't. All you got to do is look
21 at the photographs. And we all know that
22 great difference is given to the decision of
23 a -- of a board like your own, whether it
24 goes up on appeal or not.

25 I thank you for your time and attention

1 and I encourage you to do the right and
2 obvious thing.

3 THE CHAIRWOMAN: Mr. Randolph, do you
4 have any comments?

5 MR. RANDOLPH: Only procedurally. If
6 there's no more comment from the public, then
7 you would hear rebuttal from the applicant.

8 MR. PIÑON: I have one -- one -- one
9 question. Was he an attorney for the -- for
10 the town here or was he a member of the
11 public expressing --

12 MR. RANDOLPH: You can ask him.

13 MR. PIÑON: -- a concern?

14 I'm not going to engage, you know, a
15 member of the public and --

16 MR. MRACHEK: I thought I -- and I'm
17 sorry if I did not speak loud enough. I
18 represent Katy and Jeff Ambling who are the
19 neighbors, the immediate neighbors to the
20 east of the proposed building.

21 MR. PIÑON: I'm sorry. Because I
22 thought I heard legal advice being given to
23 the town. I apologize.

24 THE CHAIRWOMAN: Thank you.

25 MR. MRACHEK: I give legal advice often

1 free and gratuitously.

2 THE CHAIRWOMAN: All right. Thank you,
3 gentlemen.

4 That being the end of the comments, we
5 will go into executive session.

6 MR. RANDOLPH: No. Was there -- did you
7 have -- excuse me, did you have rebuttal?

8 THE CHAIRWOMAN: No. That was his
9 rebuttal.

10 MR. RANDOLPH: Oh, that was your
11 rebuttal. Okay.

12 THE CHAIRWOMAN: Okay? I'll start --
13 I'll start again with Mr. Small, please.

14 MR. SMALL: Thank you.

15 In the way of perspective -- and I've
16 listened to all of the evidence. I've read
17 all the materials submitted by the applicant
18 and by the neighborhood. I lived in the far
19 north end, which I've historically defined as
20 the area north of the Kennedy Complex, for 43
21 years. So I have a very strong personal
22 background and familiarity with the far north
23 end where this property is located. I'm
24 persuaded, overly persuaded, by the neighbors
25 and by the evidence presented, that this

1 project should be denied and presented.

2 And the reason I say that is, again, in
3 compliance with Section 18.205 of the code,
4 in particular, A4, I find that the proposed
5 building is not in harmony; A6, I find that
6 the proposed building is excessively
7 dissimilar to existing structures within
8 200 feet and within one block; A7, I find
9 that the proposed building is not appropriate
10 in relation to the established character of
11 the neighborhood. And, in essence, I find
12 that the proposed project is disruptive to
13 the harmony.

14 I was quoted at the last meeting as
15 saying this is a siting issue. I believe it
16 is still a siting issue. I believe this is
17 not the proper location for this particular
18 structure. We look at these projects
19 because we are directed to preserve, protect
20 and enhance the beauty, not in a vacuum, but
21 in context. And this violates the harmony in
22 context. And I'm prepared to deny the
23 project.

24 THE CHAIRWOMAN: Thank you.

25 Mr. Ives.

1 MR. IVES: You know, there's been a lot
2 of talk about the modern design here and it
3 would be -- it would sadden me if a -- if the
4 international style of architecture and a
5 modern style of architecture that's, at this
6 point now, over almost a hundred years old is
7 something that we can't accept in this town.

8 That said, it's not just the issue of
9 the architectural style. There are other
10 areas in which this building is not similar
11 to what is or excessively -- I should say is
12 excessively dissimilar to the things of the
13 area. Those are the ways that other modern
14 projects have gotten past in this town in
15 their spots. And there's things like
16 materials, there's things like the
17 arrangement of the components of the
18 structure, the mass from the street. All
19 those things that we've heard read time and
20 time again this morning from the code here.

21 I'd also add that it's a
22 disappointment -- and that's why I tried to
23 clarify the record in the beginning -- that
24 there are basically no changes to the
25 architecture from what was presented last

1 month. We have right here and in the -- the
2 agenda item for today, a discussion of things
3 like size, scale, rhythm. It -- it's -- I
4 don't understand why you did not come back to
5 this meeting when you were granted a
6 deferral, which could have been a denial last
7 meeting, without any new architecture.

8 And Mr. Knowles and others were very
9 clear on, yes, I make the motion. You can
10 send me the landscaping, but don't just wrap
11 this building in a gigantic hedge, which
12 you've done except for one area which is
13 also, as Mr. Karakul pointed out, not the
14 most attractive. You were going to leave
15 something open or revealed, perhaps somewhere
16 else.

17 So I would be willing to go along with
18 the denial given the disappointment that I've
19 seen no changes in the architecture.

20 THE CHAIRWOMAN: Thank you.

21 Mr. Gruss.

22 MR. GRUSS: Thank you, Madam Chairman.
23 I too am in opposition to this project
24 objectively because it fails to meet Section
25 18-205, A1, A5, A6 and A7 of -- of the code.

1 Furthermore, subjectively, I find this
2 project to be not in good taste and poorly
3 designed.

4 A good architecture has to fit into its
5 surroundings and has to fit into the land in
6 a good way. This project does not fit on the
7 land. It does not fit with the -- with the
8 surroundings, in my opinion. And, therefore,
9 I would deny it for that reason as well.

10 THE CHAIRWOMAN: Thank you, Mr. Gruss.
11 Mr. Knowles.

12 MR. KNOWLES: Yeah. I think I've
13 already said what I thought about it and I'm
14 glad we're not the hedge-judging committee.
15 But I -- I think that the raising of the
16 hedge and no change to the architecture is
17 not what we had in mind last month.

18 THE CHAIRWOMAN: Thank you.
19 Mr. Karakul.

20 MR. KARAKUL: I am a big fan of
21 contemporary and international style and I
22 think the diversity in our town
23 architecturally is what makes it significant
24 and special. I think it's really sad that
25 as -- I really echo Mr. Ives' comments

1 because I think there -- there wasn't that
2 sensitivity, unfortunately, to the particular
3 site and to the relationship. And so I think
4 that had there been maybe a more substantial
5 redesign, it should not be an indictment on
6 the contemporary. It was as well on the
7 scale and then the -- with many opportunities
8 to come back and redefine it and redefine the
9 landscape. It -- it did not meet the
10 criteria.

11 THE CHAIRWOMAN: Thank you.

12 Mr. Sammons.

13 MR. SAMMONS: Well, I'd like to -- I
14 would like to defend this project --

15 THE CHAIRWOMAN: That's all right.
16 Please.

17 MR. SAMMONS: -- but I can't. And I'd
18 like to defend it for all the reasons that
19 you just said. You know, it's -- it would
20 be -- it would be nice to have some high
21 quality, you know. But as I read the code,
22 the code actually says we're -- you know,
23 we've been pretty loosey-goosey. And so I'm
24 very happy that we've had the code read
25 again.

1 There is something in here about
2 residential character, that the building
3 should have a residential character, which I
4 don't feel that it does and I don't feel that
5 the building we previously approved that I
6 didn't vote for had a residential character
7 either. But I also -- I -- I questioned the
8 nature of whether this is high quality or not
9 because when I see three-quarter inch stone,
10 mitered corners, you know, this is -- this is
11 like commercial construction. And then I see
12 ionized aluminum windows which is like -- you
13 know, Kmart has those, you know. It's not --
14 it's not -- they're bronze, yeah, that's high
15 quality; ionized aluminum, maybe not so much.

16 So I would -- I would have to go along
17 with everybody else. But I'd really, really
18 like to support it.

19 THE CHAIRWOMAN: Thank you.

20 I haven't said much today but I said
21 last month that a hedge is not what we judge
22 the building criteria on and whether it meets
23 our code. That being said, I am in complete
24 agreement with the rest of my commissioners
25 that this building does not meet the too

1 dissimilar and harmonious criteria and I will
2 welcome a motion.

3 MR. GRUSS: I'll -- in terms of
4 procedure, should we make a motion to first
5 approve it? We can make a motion to deny the
6 application.

7 UNIDENTIFIED SPEAKER: No. You have to
8 state the reason.

9 MR. GRUSS: Okay. So I think I can do
10 that.

11 I move to deny this application on the
12 grounds that it fails to meet the
13 requirements in Section 18-205 of the code.
14 And that it --

15 THE CHAIRWOMAN: You need to specify
16 which part of --

17 MR. GRUSS: Okay. Section 18-205 of the
18 code, paragraph A1, 5, 6 and 7.

19 THE CHAIRWOMAN: Okay. I have --

20 UNIDENTIFIED SPEAKER: Is it premature
21 or do you accept A4 as well?

22 THE CHAIRWOMAN: You said A1, A5, A6 and
23 A7, Mr. Gruss?

24 UNIDENTIFIED SPEAKER: Including A4, as
25 well.

1 MR. RANDOLPH: Before you vote on that,
2 I've had a conversation with the appellant --
3 excuse me, the applicant, who indicates that
4 he believes that because you do not have the
5 full complement of architects that are
6 required on the board, that he may be
7 prejudiced as a result of a vote today. I
8 would rather not give him the opportunity to
9 raise that on an appeal and have the Court or
10 the town defer this to your board when it has
11 a full complement of architects. I did not
12 hear him raise it, so if I were to go to
13 court, I would say he did not raise it during
14 the hearing, but I had just asked him if you
15 were going to appeal this decision and he
16 said "yes." I said, "Would you appeal it on
17 the basis that you don't have the full
18 complement of architects?" And he says, yes,
19 he's going to appeal it and ask for the
20 counsel to have a De Novo hearing on it.

21 I would suggest on that basis that -- to
22 avoid that type of complaint on appeal, that
23 you defer your final decision on this until
24 you have a full complement of architects as
25 required by your ordinance.

1 THE CHAIRWOMAN: Okay.

2 UNIDENTIFIED SPEAKER: I will make that
3 motion.

4 MR. GRUSS: I'll withdraw my motion.

5 MR. SMALL: Madam Chair, I'd like to
6 comment on that.

7 THE CHAIRWOMAN: Please.

8 MR. SMALL: My feeling initially is that
9 I'm a little nift by that. Counsel seems to
10 be particularly articulate and competent and
11 knows full well that if he had that
12 procedural objection, he should have raised
13 it either before the hearing, during the
14 hearing, and not wait until we have a motion
15 on the floor to deny it. I think he has
16 waived it procedurally and I would ask that
17 the commission recognize that it's a waiver.
18 I would like to hear any possible reason why
19 it would not be a waiver. I think it's
20 grossly unfair to compel all of these people
21 to have to come back again to a similar
22 hearing simply to defer this for that reason.
23 That's my feeling.

24 THE CHAIRWOMAN: I also would like to
25 point out that last month we did -- also did

1 not have to -- a full complement of
2 architects on this commission and that was
3 not --

4 MR. SMALL: Well put.

5 THE CHAIRWOMAN: It was -- no objection
6 was raised at that time --

7 MR. SMALL: That's correct.

8 THE CHAIRWOMAN: -- either.

9 MR. SMALL: That's correct. And it was
10 deferred at that time as well.

11 THE CHAIRWOMAN: And -- right.

12 That being said --

13 MR. GRUSS: May I restate the motion?
14 In my opinion -- well, let's forget my
15 opinion. Does counsel have -- want to
16 reconsider his advice?

17 MR. RANDOLPH: No. In response to
18 Mr. Small, these folks would not have to come
19 back to -- to another hearing. They -- you
20 have the record in front of you. You have
21 what they testified to and they can look at
22 that record as well.

23 MR. GRUSS: But the missing architect
24 doesn't have --

25 MR. RANDOLPH: He would only be -- the

1 missing architect would only be one vote and
2 if I -- if it were appealed I would probably
3 indicate that that architect only had one
4 vote. I'm just trying to avoid a procedural
5 argument later on that could be raised. I am
6 disappointed, as well, that this was not
7 raised by the attorney. But he raised it
8 with me. And as a result of raising it with
9 me, I felt compelled to advise you that he
10 was going to raise that as a point on appeal.

11 THE CHAIRWOMAN: Mr. Randolph, let me
12 say one thing. As much as I'd like to not
13 see this come back to us next month, I think
14 that we -- the town pays your salary for your
15 advice and to not follow it would be falling,
16 so I would entertain a motion to defer.

17 MR. GRUSS: I'll withdraw my motion to
18 defer.

19 THE CHAIRWOMAN: Go ahead.

20 MR. IVES: Would not this argument apply
21 to every single thing we have on the agenda
22 today?

23 UNIDENTIFIED SPEAKER: Yep.

24 MR. IVES: Why are we meeting?

25 MR. RANDOLPH: It would, if anyone would

1 wish to raise it. If anyone stated that they
2 felt prejudiced as a result of that -- you
3 know what I think. I think that you ought to
4 hear -- he has just stated to me -- this to
5 me as a sidebar. I would like to see whether
6 or not, indeed, he will say it on the record
7 that he feels prejudiced in regard to this as
8 a result of going forward with a board that
9 does not constitute the full implement of
10 architects as required by the ordinance.

11 MR. IVES: Thank you, Skip, and -- thank
12 you very much.

13 MR. PIÑON: I'm going to address this
14 board by saying the following, clarifying
15 certain facts. You and I spoke yesterday.

16 MR. RANDOLPH: And today, just now.

17 MR. PIÑON: And today, when you walked
18 over and asked to speak to me.

19 MR. RANDOLPH: Right.

20 MR. PIÑON: So you were aware of this
21 and I made it clear and my presentation
22 specified that this board requires, requires
23 specialized personnel. It's not anyone that
24 can get up here and just testify. It's
25 specialized personnel. So it's unfortunate

1 that this board does not exist in the way
2 contemplated by the legislative unit that
3 organized it. That's really as much as I'd
4 like to say about that.

5 MR. RANDOLPH: Well, it is unfortunate,
6 but --

7 MR. PIÑON: I certainly am not going to
8 sit here and be cross-examined or testify or
9 anything like that. And I don't mean any
10 disrespect by that, but, you know, as much as
11 other attorneys have given legal advice here,
12 I don't know, I don't believe that there is a
13 cognizable board at this time that could
14 render any decision and --

15 MR. RANDOLPH: So obviously on that
16 basis, you feel prejudiced by this board
17 going forward.

18 MR. PIÑON: Hold on. And to the extent
19 that the previous time I was not aware that
20 the board did not have -- I believe that no
21 decision that's come out of any board that
22 did not have the required members has
23 actually made the decision. And that's --
24 that's really the extent of my argument and
25 thank you all for your time.

1 MR. MRACHEK: Could you ask him when he
2 came to hearing or he walked into this
3 meeting knowing that he was going to make
4 this objection?

5 MR. RANDOLPH: Will you answer that
6 question that's been raised? Did you walk
7 into this hearing today knowing you were
8 going to make that objection?

9 MR. PIÑON: At this point -- at this
10 point, I really -- if there's a motion on the
11 floor, I'd like to hear it, respectfully, you
12 know, I have other things to do.

13 MR. MRACHEK: I gather that he's not
14 answering your question.

15 MR. RANDOLPH: It appears that he does
16 not want to answer that question. He says he
17 has other things to do. I don't know if you
18 all heard that.

19 THE CHAIRWOMAN: Okay. I'll entertain
20 the motion.

21 MR. KARAKUL: I would like to make a
22 motion to defer the project.

23 THE CHAIRWOMAN: On what grounds?

24 MR. KARAKUL: Further restudy, in terms
25 of scale and compatibility with the

1 neighborhood.

2 UNIDENTIFIED SPEAKER: I don't think we
3 really have a choice.

4 MR. RANDOLPH: And I think if you're
5 really going to defer it, it should be
6 deferred to a time certain. I believe that
7 at the next meeting, there will be a full
8 complement of architects. And if there's
9 not, you can defer it again. But I would
10 defer it to a time certain.

11 When is the date of the next meeting?

12 MR. GRUSS: I believe it's July --

13 UNIDENTIFIED SPEAKER: I'm pulling up a
14 calendar --

15 THE CHAIRWOMAN: I think it's July 23rd.

16 Mr. Karakul --

17 UNIDENTIFIED SPEAKER: July 23rd.

18 THE CHAIRWOMAN: I think that the motion
19 should be that we should defer it till we
20 have a full complement of architects and not
21 that we have further restudy.

22 UNIDENTIFIED SPEAKER: Okay.

23 THE CHAIRWOMAN: I think that that's
24 more --

25 MR. RANDOLPH: And that will be added to

1 the time certain on July 23rd. And
 2 certainly, if the applicant wishes to make
 3 some modifications, he can do that.

4 THE CHAIRWOMAN: That's correct. But --

5 UNIDENTIFIED SPEAKER: I would like to
 6 correct my motion to state deferred until
 7 there is a full complement of true
 8 architects.

9 THE CHAIRWOMAN: Okay. Do we have a --

10 MR. IVES: May I comment on that?

11 THE CHAIRWOMAN: Certainly.

12 MR. IVES: I hate to have us in this
 13 position procedurally, but I'm serious about
 14 I don't know why I'm here for every single
 15 other agenda item if this is what we're going
 16 to do on this. I don't know why I was here
 17 last month, and so -- I know that's a very
 18 strong statement, but I -- I have strong
 19 discomfort on that. If we needed to go
 20 through this procedural appeal and find out
 21 what this means, I think it's going to be
 22 good for the architectural commission so we
 23 know we don't have these confusions in the
 24 future. I think we're a little bit
 25 acquiescing to something that I know myself

1 and Mr. Small can agree with.

2 MR. KARAKUL: Then I withdraw my motion.

3 I want to make sure we're taking the right
4 approach.

5 UNIDENTIFIED SPEAKER: I agree with you.

6 THE CHAIRWOMAN: I still need a motion.
7 Okay. I don't have a gavel and I can't make
8 a motion.

9 MR. GRUSS: Well, should we hear my
10 motion again?

11 THE CHAIRWOMAN: Why don't we --

12 MR. GRUSS: Could you read back the
13 motion I made 20 minutes ago?

14 THE CHAIRWOMAN: Mr. Gruss' motion was
15 to deny the application because it fails to
16 meet the criteria listed in Section 18-205 of
17 the code, specifically A1, A5, A6, A7 and
18 then A4 added on.

19 MR. GRUSS: Correct.

20 THE CHAIRWOMAN: Do we have a second?

21 MR. SMALL: Second.

22 THE CHAIRWOMAN: All in favor?

23 UNIDENTIFIED SPEAKER: I.

24 UNIDENTIFIED SPEAKER: I.

25 THE CHAIRWOMAN: All against? Any

1 opposed? It's unanimous. Thank you.

2 MR. IVES: Does that mean we can go
3 home?

4 THE CHAIRWOMAN: I will say we can take
5 a ten-minute recess. We'll come back at
6 11:05.

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C E R T I F I C A T E

I, CHRISTINA SALVIETTI, a Court Reporter,
do hereby certify that I was authorized to and
did stenographically report the audio of Town of
Palm Beach, Architectural Commission in the matter
of B - 009 - 2014: 167 Seagate Road held on June 25th,
2014.

I further certify that this proceeding was
recorded, and that the foregoing transcript was prepared
under my direction.

DATED this 1st day of July, 2014.


CHRISTINA SALVIETTI
Court Reporter

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TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 16, 2014

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #13-2014 WITH SITE PLAN REVIEW AND VARIANCES

The application of Town of Palm Beach, Peter B. Elwell, Town Manager; relative to property commonly known as **2345 South Ocean Blvd.**; described as Lengthy legal description on file; located in the R-B Zoning District. A Special Exception with Site Plan Review is being requested to modify the Par 3 Golf Course parking lot, seating and hours of operation of the Club House restaurant and proposed addition of a new patio deck. The proposed modification is to widen the north side of the parking lot by approximately eighteen (18) feet, create tandem parking in that area of the lot and add additional parking on the south side of the lot. The request also modifies the parking vehicular circulation by creating one way drive aisle. The proposal would create twenty-six (26) additional parking spaces to the parking lot and allow valet parking in designated areas. In addition, the club house restaurant hours are proposed to change from 7:00 am – 10:00 pm to 7:00 am – Midnight with the proposed additional seventeen (17) more seats on the second floor outside verandas (total of 167 seats). In addition, request is to also add a 1,837 square foot patio on the south side of the clubhouse to allow the restaurant and golf course to host golf outings and other special events; install spot lights facing east to light the dune line and ocean surf, outside of turtle nesting season. Variances are requested to allow tandem parking for the valet parking area, which is not permitted by Code. The Code requires that off-street parking be arranged so that a vehicle does not have to be moved in order to move another vehicle; and, to allow three (3) parking spaces in the required front yard setback, which is not permitted by Code. [Representative: Jay Boodheshwar]

Presenter

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

Supporting Documents

- [E-mail Dated June 16, 2014, from Greg Silpe](#)



Fw: Zoning Application - Special Exception #13-2014 - Par 3 Golf Course

Peter B Elwell, John Page, Jay Boodheshwar,

Cheryl Kleen to: Patricia Gayle-Gordon, Susan Owens,
jrandolph

06/17/2014 07:45 AM

Cc: Anne Boyles

----- Forwarded by Cheryl Kleen/PalmBeach on 06/17/2014 07:45 AM -----

From: gsilpe@comcast.net
To: council@townofpalmbeach.com
Date: 06/16/2014 06:08 PM
Subject: Zoning Application - Special Exception #13-2014 - Par 3 Golf Course

Dear Town Council,

My name is Greg Silpe, I have been a seasonal visitor to Palm Beach for more than forty years and I currently live at 2500 S. Ocean Blvd. overlooking the Par 3 golfcourse. I just received the above captioned Zoning Application, I will not be in town on the scheduled date of the meeting, and I would like to lodge my initial objection to a very small but significant element of the proposed Special Exception. I am opposed to the installation of spotlights on the beach at the Par 3 golf course (II. B. 1. d of the Application). I have no objection to the rest of the application, and in fact I think the new facility is terrific and that the other proposed changes will enhance the operation. But I urge you not to approve the spotlight portion of the application.

The single greatest reason I purchased my home was because it overlooked the golf course and that there were no buildings or lights visible on the property day or night. I frequent the new restaurant and I agree that when seated under the lights of the veranda the course, the ocean and the sky meld into a sea of blackness with beautiful stars above - as nature intended it. I agree that some lighting is needed to make the surrounding area more appealing to diners, but I think that some soft, elegant up lighting on the palm trees and other features of the course would be far more appropriate, would give off very little light pollution, and would not disturb the neighbors.

Palm Beach County, Florida Fish & Wildlife, and a number of non-profit organizations are just starting to tackle the issue of light pollution in south Florida. I think that a quick review of the recommendations on their websites could yield some very useful solutions that would create a lovely view from the veranda without polluting the night sky or disturbing the neighbors.

Again, I am not opposed to any lighting, just the addition of spot lights to light up the beach. I think the Council should get out in front of the issue of light pollution and the impact it has on the quality of life in our community. The Par 3 is the last place in the south end of town that affords any break from the onslaught of light pollution. Please don't take that away from us.

Thank you for your service to the community.

Best regards,
Greg Silpe
(860) 805-1698

TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 16, 2014

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #29-2014 The application of Robb R. Maass and David R. Maass; relative to property commonly known as **149 Root Trail**; described as Lengthy legal description on file; located in the R-C Zoning District. The applicant is requesting permission for the addition of a small (6.33 feet by 9 inches) one story front façade improvement which requires the approval of the following variances: a front yard setback of 8.4 feet in lieu of the 25 foot minimum required; a side yard setback of 2.3 feet in lieu of the 10 foot minimum required; a lot coverage of 56% in lieu of the 55.8% existing and 30% maximum permitted. [Attorney: M. Timothy Hanlon]

[Architectural Commission Recommendation: Implementation of the proposed variance will not cause architectural impacts to the subject property. Carried 7-0]

Presenter

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

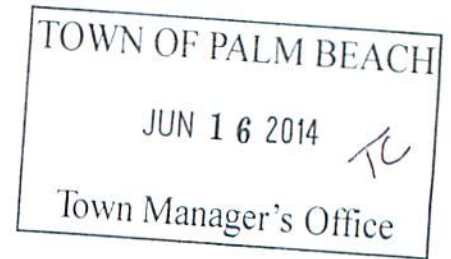
Supporting Documents

- [Letter Dated June 11, 2014, from Janet Promesso](#)

JANET PROMESSO

153 Root Trail Palm Beach, Florida 33480

June 11, 2014
Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480



Re: Variance #29-2014
149 Root Trail

Dear Mayor Coniglio, President Wildrick, President Pro Tem Diamond and Council Members:

I live at 153 Root Trail. I understand that my neighbor, David Maass, has applied for a variance to add a 9" façade to the front of his house at 149 Root Trail to improve the home's symmetry. I am writing in support of his application.

I believe that Root Trail is one of the most charming streets in the town. At heart it's a series of small early Florida cottages tumbling towards the beach. A good part of its charm comes from its small scale. The neighbors all know each other and get along well. I think part of this may be because of our close proximity to each other.

What contributes to the street's appeal, though, also makes it difficult or, sometimes, impossible to comply with current zoning. David has applied for variances to allow him to build up the western part of the front façade of his house 9", so that it would be on an even plane with the rest of the front. This minor change would restore the home's symmetry and, in my opinion, vastly improve its appearance. No interior space would be added, so there would be no increased intensity of use.

I support his application and applaud his efforts to improve his home's street appeal and contribute to Root Trail's unique charm.

Sincerely,

A handwritten signature in blue ink, appearing to read "JP", written over the word "Sincerely,".

Janet Promesso

Cc: ARCOM Members
Robert J. Vila, Chair
Kenn Karakul, Member
Peter I.C. Knowles, Member
Richard Simmons, Member
Ann L. Vanneck, Member
Martin D. Gruss, Alternate Member
Alexander C. Ives, Alternate Member
Michael B. Smith, Alternate Member
Cc: Peter Elwell, Town Manager
Paul Castro, Building Official

TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 16, 2014

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #30-2014 The application of Nelson and Claudia Peltz; relative to property commonly known as **542 North County Road**; described as Lengthy Legal Description on file; located in the R-B Zoning District. The applicant is requesting a variance to add a 5,228 square foot second story addition onto the existing residence with a point of measurement of 9.43 feet National Geodetic Vertical Datum (NGVD) (below the existing house's floor elevation of 10.94 NGVD) in lieu of the 7.5 feet NGVD required for a through lot; and, a variance to allow second floor dormer windows in habitable space to be at a height of 25 feet in lieu of the 22 foot maximum building height allowed. [Attorney: Maura Ziska]

[Architectural Commission Recommendation: Defer to the July Architectural Commission Meeting to further study the roof. Carried 7-0]
Request for Deferral to the August 13, 2014, Town Council Meeting Per Letter From Maura A. Ziska.

Presenter

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

Supporting Documents

- [Letter From Maura A. Ziska](#)
- [Letter Dated July 2, 2014, from Polly and Dennis Selkoe](#)

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA FACSIMILE: 561-838-5411

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

TOWN OF PALM BEACH

JUN 26 2014

Town Manager's Office

RE: Variance #30-2014 – 542 N County Road, Palm Beach, Florida

Dear Mayor and Town Council:

Please defer the above referenced matter from the July 16, 2014 TOWN COUNCIL agenda to the August 13, 2014 TOWN COUNCIL agenda. ARCOM, at its June 25, 2014 meeting, deferred the matter. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Maura A. Ziska

/maz

cc: Mindi Schwab
Debby Morakis
Paul Castro
00024145

Polly S. Selkoe
 Dennis J. Selkoe, M.D.
 216 Bermuda Lane
 Palm Beach, FL 33480

July 2, 2014

Gail L Coniglio, Mayor
 Robert J. Vila, ARCOM
 Robert N. Wildrick, Town Council
 Town of Palm Beach
 Palm Beach, FL 33480

RE: 542 North County Road, Variance #30-2014

Dear Mayor Coniglio, Chairman Robert Vila and President Wildrick:

We write to you as direct and impacted abutters of 542 North County Road. My husband and I are not opposed to the addition if the following mitigating conditions are attached to an approval, in order to minimize impacts to us:

1. All construction vehicles shall be parked on the subject property, and not South Woods Road, to minimize impacts to residential abutters. (Since it is such a large property, over 5 acres, this should not be a problem for the applicant. Additionally, within the past year they were granted permission to construct an asphalt parking lot (permit B-13-37337) on this property.
2. All construction vehicles shall enter the property from North County Road, a major street, rather than South Woods Road, a quiet residential street.
3. Prior to issuance of a building permit, the applicant shall apply for a permit for the basketball court that was built within the past year on the subject property under the permit cited in condition #1 above to construct a parking lot. (The basketball court is indicated on the site plan submitted for the current project and games have been audible from our property.)

Lastly, we rely on the design judgment of the Architectural Commission on the height issue for this “minimal kitchen addition” (as stated in the application under #5 of Exhibit B –Request For Variance). The applicant requests a 14’ ceiling height for this 5,035 s.f. addition, and we are not opposed to the granting of height relief, **if** the Commission finds that the extra height is necessary to provide the correct visual proportions to the ground story.

We appreciate that the Town has such a comprehensive approval process to evaluate proposals, and we thank you for your thoughtful consideration of our requests for conditions above.

Sincerely,

Polly S. Selkoe
Dennis J. Selkoe

cc: Virginia Strasser, attorney

TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 16, 2014

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #34-2014 The application of Andrew Christian Anthony Thomka-Gazdik, Trustee; relative to property commonly known as **226 Via Linda**; described as Lot 21, ALLARD SUBDIVISION, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida in Plat Book 23, Page 186; located in the R-B Zoning District. The applicant is proposing to construct a 362.1 square foot one story addition on the east side of the residence and a 274 square foot one story addition on the rear of the west side of the residence. The proposal requires the removal of the roof trusses which results in losing the cubic volume of the existing nonconforming house. The following Variances are required and are being requested: a west side yard setback of 7.7 feet in lieu of the 12.5 foot minimum setback required to keep the existing house setback and construct a one story addition; and, an angle of vision of 112 degrees in lieu of the 100 degrees maximum allowed to maintain the non-conforming front of the house and an addition to the east side of the house that will encroach into the angle of vision. [Attorney: Maura Ziska]

Presenter

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

Supporting Documents

- [Letter Dated June 5, 2014, from Lisa Konrad](#)
- [Letter from John & Heather Rogers](#)

***Lisa Konrad
242 Via Linda
Palm Beach, Florida 33480***

June 5, 2014

Town Council
P.O. Box 2029
360 S. County Rd.
Palm Beach, FL 33480

Re: 226 Via Linda, Palm Beach 33480

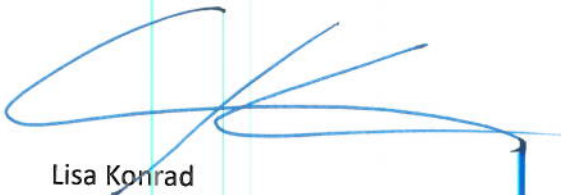
To whom it may concern:

As the current owner and resident of 242 Via Linda, I am pleased to welcome back Andrew Thomka-Gazdik as a new neighbor in his purchase of 226 Via Linda. My husband and I have known Andrew for years and saw his renovation of his prior residence, 250 Via Linda, which was a great improvement to his property specifically and the neighborhood in general. In fact, the quality of 250 Via Linda gave us comfort that we were making the right move in purchasing 242 Via Linda.

The property at 226 Via Linda is in dire need of updating and we have seen Andrew's ideas for the renovation, which, while not extensive, are well thought-out and necessary to improve the curb appeal and overall value of the property. We are confident that his improvements to the property will enhance property values and be additive to the community.

If you have any questions, please feel free to contact me at 917-744-7878.

Sincerely,



Lisa Konrad

**John & Heather Rogers
225 Via Linda
Palm Beach, FL 33480**

Town Council
P.O. Box 2029
360 S. County Rd.
Palm Beach, FL 33480

Re: 226 Via Linda, Palm Beach 33480

To Whom It May Concern:

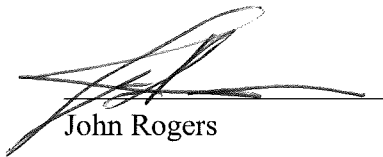
It is with great pleasure that we write this recommendation for Andrew Thomka-Gazdik and endorse his plans to renovate 226 Via Linda.

We have known Andrew for over ten years and as we have previously enjoyed being his neighbor, when he owned 250 Via Linda and 198 Via Linda, we look forward to having him back on the street.

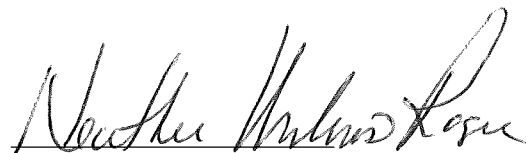
We are familiar with Andrew's prior renovations and know that he posses the commitment and know-how to ensure that the work is done to the highest standards. Andrew has shared with us his plans for renovating 226 Via Linda and we have no doubt that the final result will not only be more aesthetically in line with the rest of the homes on the street, but a great addition to our neighborhood.

We very much look forward to seeing the finished project and welcome Andrew back to Via Linda once again.

Kindest regards,



John Rogers



Heather Woolems Rogers

TOWN OF PALM BEACH

Town Council Meeting Development Review on: July 16, 2014

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 9-2014 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Rescinding Ordinance No. 5-2013 In Its Entirety; Providing An Effective Date.

Presenter

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

Supporting Documents

- [Memorandum Dated July 1, 2014, from John S. Page, Director of Planning, Zoning and Building](#)
- [Letter dated June 19, 2014 from Ana Richmond](#)
- [Ordinance No. 9-2014](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: July 16, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Ordinance No. 9-2014, Second Reading
PUD-5 Comprehensive Plan Amendment and Zoning Ordinance Rescission

Date: July 1, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 9-2014 on second reading.

GENERAL INFORMATION

Registered voters in the Town rejected PUD-5 zoning provisions in a general referendum on March 25 of this year. Election results prompted the Town Council (May 14, 2014) to approve first reading of Ordinance No. 9-2014 rescinding PUD-5 Comprehensive Plan changes. Ordinance No. 9-2014 was then properly transmitted to the Florida Department of Economic Opportunity (DEO) as required by State Code. The attached June 19, 2014 response letter from the DEO acknowledges the rescission being made to the Comprehensive Plan with “no comment,” clearing the Town to take final action.

Second reading, if approved, will once again be transmitted to the State DEO as required.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed Ordinance No. 9-2014 for legal form and sufficiency.

Attachment

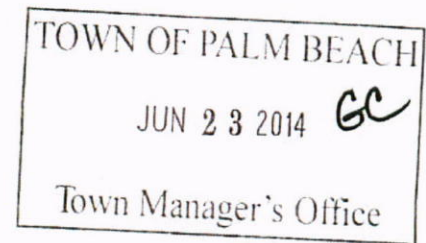
Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

June 19, 2014

The Honorable Gail L. Coniglio
Mayor, Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480



Dear Mayor Coniglio:

The Department of Economic Opportunity has completed its review of the proposed comprehensive plan amendment for the Town of Palm Beach (Amendment No. 14-1ESR), which was received on May 20, 2014. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comment related to important state resources and facilities within the Department's authorized scope of review that will be adversely impacted by the amendment if adopted.

The Town is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the Town. If other reviewing agencies provide comments, we recommend the Town consider appropriate changes to the amendment based on those comments. If unresolved, such comments could form the basis for a challenge to the amendment after adoption.

The Town should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held and the amendment adopted within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected party that provided comment on the amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment.

We appreciate the opportunity to work with the Town of Palm Beach on planning and community development issues. If you have any questions concerning this review, please contact Adam Antony Biblo, at (850) 717-8503, or by email at Adam.Biblo@deo.myFlorida.com.

Sincerely,

Ana Richmond, Chief
Bureau of Community Planning

AR/aab

Enclosure: Procedures for adoption of comprehensive plan amendments

cc: John Lindgren, AICP, Planning Administrator, Town of Palm Beach
Michael J. Busha, AICP, Executive Director, Treasure Coast Regional Planning Council

ORDINANCE NO. 9-2014

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF PALM BEACH, PALM BEACH COUNTY,
FLORIDA, RESCINDING ORDINANCE NO. 5-2013 IN ITS
ENTIRETY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Ordinance No. 5-2013 was adopted for the primary purpose of amending the Town's Comprehensive Plan so as to provide for a PUD-5 in the Town's Zoning Code as referenced in proposed Ordinance No. 6-2013; and

WHEREAS, the electors of the Town, at a referendum election held on Tuesday, March 25, 2014, failed to approve Ordinance No. 6-2013 which had been placed on referendum; and

WHEREAS, as a result of said election, Ordinance No. 6-2013 is deemed repealed; and

WHEREAS, as a result said repeal, Ordinance No. 5-2013 is no longer necessary and the provisions contained therein relating to the PUD-5 would be contrary to the vote of the electorate taken in the referendum election on March 25, 2014.

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

Section 1. Ordinance No. 5-2013 is hereby rescinded in its entirety.

Section 2. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided
by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 14th day of May, 2014, and for second and final reading on this _____ day of _____, 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, President Pro Tem

Richard M. Kleid, Town Council Member

ATTEST:

Michael J. Pucillo, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member